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**FIRMS, WELFARE, INSTITUTIONS:
EMPLOYERS' ASSOCIATIONS AND
LABOR MARKET REFORMS
IN GERMANY AND ITALY**

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EXECUTIVE SUMMARY

To what extent did globalization generate uniform employers' pressures for employment protection deregulation and welfare state retrenchment? Which institutional arrangements did employers support and how did they influence policy-making processes in comparative perspective? This work answers these questions by investigating the positions of peak employers associations in Germany and Italy with respect to the reform processes of employment protection legislation and unemployment insurance systems between 1990 and 2008. Building on a theoretical distinction of the policy preferences of different employers groups in postindustrial economies, this research finds that relevant intra-business divides emerged during key reform events mainly between employers in small firms and in the low-productivity sectors and core manufacturing producers. In both countries, the point of contention was not whether to change inherited 'industrial' institutions but rather *how* to change them. Everywhere, small-firm employers struggled to gain as low levels of job protection and contribution rates to unemployment insurance as possible, whereas core producers indeed tended to advocate for more moderate adjustments. Research findings emphasize the growing influence of small business demands as a consequence of postindustrial economic-structural changes, and suggests that dual reform outputs are intrinsically associated with the development of service-based economies. Two variables are however found shaping different policy arrangements mainly with respect to dismissal protection and unemployment insurance systems in Germany and Italy. On one side, the distributional outcomes of industrial policy structures spurred stronger discontentment with existing labor market institutions among German small-firm employers than among Italian employers. On the other hand, different peak associational systems were conducive to different capacities of employers to organize collective action. An *encompassing* system facilitated intra-business coordination and the predominance of a 'logic of influence' vis-à-vis other actors in Germany. By contrast, a *fragmented* associational system incentivized competing positions between different business segments in Italy and oriented them to pursue particularistic reform objectives, consistently with a 'logic of membership'.

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- BDA 2: former head of Department for Labor Market Policy, Berlin, 12.5.2011.
- DGB: head of Department for Labor Market Policy, Berlin, 27.4.2011
- Gesamtmetall: chief economic advisor, Berlin, 27.4.2011
- HDE: head of Department for Labor Market Policy, Brussels, 11.4.2012.
- Mittelstand Fraktion of the Christian Democratic Party (CDU): Berlin Office, 22.4.2011.
- Professor Werner Jann, member of the Hartz Commission, Potsdam, 15.4.2011
- Verdi: Department for Labor Market Policy, Berlin, 11.5.2011.
- ZDH 1: junior officer, Labor Market Department, Berlin, 3.5.2011.
- ZDH 2: senior officer, Labor Market Department, Berlin, 6.5.2011.

Italy

- CGIL 1: head of Department for Active Labor Market Policy, Rome, 22.6.2011.
- CGIL 2: former confederal secretary, Genua, 8.1.2012.
- CISL: deputy secretary general, Rome, 21.6.2011.
- CNA: former director, Department of Labor Market Policy, 13.12.2011.
- CNEL: prof. Franco Liso, former member of the National Committee of Economy and Labor, Rome, 14.12.2011
- Confartigianato: head of Department for Industrial Relations, Rome, 19.7.2011.
- Confcommercio: head of Department for Industrial Relations, Rome, 14.12.2011.
- Confindustria 1: former head of department for Industrial Relations and Labor Market Policy, Turin, 13.12.2011.
- Confindustria 2: head of Department for Organizational Services, Milan, 5.11.2011.
- Confindustria 3: deputy director of Department for Industrial Relations, Castellanza, 15.6.2011 and 2.12.2011.
- Nidil CGIL: former head of Nidil-CGIL, Bologna, 28.11.2011.

List of Abbreviations

ALG: Arbeitslosengeld

ALH: Arbeitslosenhilfe

BA: Bundesagentur für Arbeit (until 2003, Bundesanstalt für Arbeit)

BDA: Bundesvereinigung der Deutschen Arbeitgeberverbände

BDI: Bundesvereinigung der Deutschen Industrie

BF: bilateral funds (*enti bilaterali*)

CDU: Christlich Demokratische Union

CME: coordinated market economies

CIG: Cassa Integrazione Guadagni

DIHK: Deutscher Industrie- und Handelskammertag

DP: dismissal protection

EPL: employment protection legislation

FDP: Freie Demokratische Partei

FUB: indennità di disoccupazione a requisiti pieni

INPS: Istituto Nazionale per la Previdenza Sociale

LME: liberal market economy

MA: indennità di mobilità

MME: mixed market economy

NSW: non-standard work

PCI: Partito Comunista Italiano

PEA: peak employers associations;

PR: power resources

RUB: indennità di disoccupazione a requisiti ridotti

SPD: Sozialdemokratische Partei Deutschland

TAW: temporary agency work

UI: unemployment insurance

VoC: varieties of capitalism

ZDH: Zentralverband des Deutschen Handwerks

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CHAPTER 1

INTRODUCTION

*Businessmen do not get everything they want. But they get a great deal.
And when they do not get enough, recession or stagnation is a consequence.*
(C. Lindblom 1977: 187)

Profound changes during the last two decades have shaken the configuration of labor market institutions in Western Europe. A vast majority of countries have liberalized forms of non-standard employment, whereas dismissal protection rules have been under severe yet modestly successful attack; collective wage bargaining structures have undergone pressures towards decentralization; retrenchment, conditionality and risk privatization have characterized reforms in crucial welfare programs such as income maintenance and pension systems.

According to a scholarly interpretation, these developments may represent the quintessential reflection of what Charles Lindblom (1977) defined as the 'privileged power of business' in contemporary democratic politics. Following the power resources theory (PR, Korpi 1983), profit-seeking employers hold inherently 'negative' preferences (Korpi 2006: 171) towards institutions that set regulatory and financial burdens on the use of labor. This entails their unconditional support for the commodification of employment and social relations or, more simply, *liberalization* (Streeck 2009: 5). As domestic market disclosure to international competition, lagging economic growth, increasing unemployment levels and profound social changes inaugurated the era of 'permanent austerity' (Pierson 2001), employers associations came to constitute a 'driving force' (Streeck and Visser 2006: 252) behind the thrust for labor market flexibility, wage dispersion, and rollback of social policy that underpinned the past two decades of reforms (see Esping Andersen and Regini 2000, Streeck 2009, Baccaro and Howell 2011; Paster 2012). On the whole, the assault of business on 'thick' market-correcting institutions reflects an overall strategy aimed to aligning European social protection standards to the 'thin' liberal model of Anglo-Saxon countries.

Yet, to what extent did globalization generate uniform employers' pressures for employment protection deregulation and welfare state retrenchment? Which material institutional arrangements did employers support and

how did they influence policy making processes in comparative perspective? More generally, to put it with Hassel (2007), *'what does business want' with respect to labor market regulation in post-industrial economies?* This work seeks answers to these questions that require more thorough analysis than PR scholars have till thus far posited. In principle, employers exhibit a set of intra-business cleavages across firm size classes and economic sector. Crucial internal divides in social policy preferences may thus develop within business that affect their collective action during labor market reform processes. Accordingly, it is here argued that employers constituted a much less unitary block in favor of labor market liberalization than many scholarly accounts tend to believe. This work contributes to integrating the existing literature under three aspects.

First, in the comparative literature that analyzes the politics of labor market and social policy reforms employers have been considered a disregarded actor, despite noticeable exceptions in collective bargaining (Thelen 2001, Thelen and Kume 2006, Hassel 2007) and vocational training regimes (Thelen 2004, Culpepper 2008, Busemeyer and Trampusch 2012). For instance, Silja Häusermann and Bruno Palier (2008) only dedicate a few words to employers in their literature review on the politics of 'employment-friendly' welfare reforms while reporting numerous insights on political parties and unions. The collection of extensive empirical evidence allows us to go beyond stylized accounts of the employers' agency. Yet, it also calls upon new theoretical insights.

Second, a focus on employers' policy stances speaks to the unresolved theoretical tension between the PR approach and interpretations suggesting that business preferences toward social policy are more complex than outright antagonism. Through the Varieties of Capitalism (VoC) framework, especially, scholars contended that under certain conditions employers, or at least part of them, may find it beneficial to consent to particular institutional arrangements for labor market and social policy (Estevez-Abe et al. 2001; Mares 2003a, Iversen 2005). Put otherwise, employers exhibit different preferences for social policy across countries and/or production sectors depending on a set of factors that inform their cost-benefit calculation. Intra-business divides therefore constitute an inherent part of social policy making and are paramount to shaping policy outputs. However, in as much as this theoretical framework is contested with respect to its original application to the study of welfare state formation in the industrial age, light is still to be shed on its consistency during processes of institutional change in the *post*-industrial period.

In fact, prominent scholars have pointed towards organizational challenges of peak employers associations (PEAs) under globalization (Thelen and van Wijenbergen 2003, Streeck and Visser 2006), as well as at the association between the resilience of strong PEAs, the preservation of

corporatist structures (Traxler 2010) and vigorous social policy (Martin and Swank 2012). The literature has nevertheless left one blank spot. This work thirdly seeks to tackle the explicit consideration of *domestic economic structures* as an explanatory variable to cross-country institutional diversity. As Pontusson (1996: 495) and Iversen and Cusack (2000: 327-8) remarked, the institutionalist bias in the comparative political economy has often lead scholars to analytically treat the economic structure as virtually similar across most countries. Instead domestic economies considerably differ in terms of among others, average business size, production specialization and employment concentration in specific sectors, or territorial imbalances.

From this angle, the theoretical framework presented here builds on a quite structuralist premise. During the last decades, advanced Western economies have undergone twin processes of economic-structural change - conventionally referred to as *postindustrialism*, i.e. the decline of manufacturing employment (*deindustrialization*) and the rise of service sector employment (*tertiarization*). Postindustrialism can be strictly associated with internal transformations within relevant policy actors and, from a distance, with institutional developments. In the first stage, structural change spurs increasing heterogeneity of policy preferences within collective actors. Just like changing social class structures generated increasing diversification in the political preferences and social policy interests within the constituencies of parties (Kitschelt and Rehm 2006, Hellwig 2008) and trade unions (Ebbinghaus 2006, Häusermann 2010a, 2010b), postindustrialism is expected to produce a similar effect with respect to *intra-business cleavages* between employers of large- and small-firms, as well as manufacturing and in the services. Each of these employer groups developed different preferences towards labor market policy depending on an evaluation between the short-term costs of institutions and the possible benefits which they may draw from legislation in the longer run, in terms of market risk sharing and social conflict avoidance. The emergence of service economies finally altered the *membership basis* of PEAs by increasing the internal relevance of previously peripheral actors such as small-firm and service employers. The main hypothesis of this work is thus that to the extent by which these business segments gained importance within domestic economies, their policy preferences acquired saliency in the formation of employers' collective preferences, thus affecting their overall policy stances.

To test this argument, this work comparatively analyzes reform processes in employment protection legislation (EPL) and insurance-based income protection (unemployment insurance, UI) systems in Germany and Italy between 1990 and 2008, thus prior to the international financial crisis. EPL and UI represent two of the main objects of scholarly debate between competing approaches to employers' preferences (see Estevez Abe et al. 2001, Mares 2003a,

Palier and Thelen 2010, Emmenegger and Marx 2011, Paster 2012). Recently, their joint interplay came to constitute the backbone of the widely popular 'flexicurity' reform strategy (Wilthagen and Tros 2004). A strategy advanced inter alia by the European Commission (2007) as a policy model to more efficient and equal labor market arrangements under globalization. Discussed in more detail below, the choice of these two case studies allows us to understand employers' policy stances in two countries sharing an industrial inheritance of highly-regulated labor markets, Bismarckian welfare structures and that underwent similar trajectories of labor market 'dualization' (Emmenegger et al. 2012) or 'reforms at the margin' (Oechel 2006, Eichhorst and Marx 2011, Berton et al. 2012). However, this work emphasizes a set of significant cross-country differences that affected policy-making processes in comparative perspective: (I) *domestic economic structures*, Germany exhibiting a large-firm and Italy a small-firm dominated production system; (II) *inherited policy structures* of EPL and UI, Italy presenting a remarkable segmentation of costs for employers of large- and small-firms as well as for manufacturing and the services vis-à-vis Germany; (III) a *system of peak employers association*, whereby the encompassing representation offered by the German Confederation of German Employers stands in stark contrast with the organizational fragmentation of Italian employers. The joint interaction of these three variables contributes to understanding employers' positions on the development of 'flexicurity' reforms in these two countries.

The upshot is that small-firm sizes and a low-productivity economic sector are conducive to employers' preferences for minimal levels of EPL and UI. The more these business segments matter to the overall configuration of domestic economies and labor markets, the more 'thick' institutions will be challenged by employers' collective action. Peak associations' failure at composing intra-business divides ultimately contributes to explain a relevant part of dualization processes in Germany and, above all, Italy. The role of trade unions and political parties in influencing employers' agency is of course not ignored, yet no theoretical expectation is here advanced and the issue is left open to empirical analysis. At the same time, this work allows us to extend the insights of the employer-centered welfare literature from the dualism between Coordinated and Liberal Market Economies in Continental European and Anglo-Saxon countries towards the Southern European variant. The latter was variously defined in its hybrid nature as 'dysfunctional state capitalism' (Della Sala 2004) or 'mixed market economy' (Molina and Rhodes 2007, Schmidt 2008: 313-4). As a final remark, the study focuses on employers' policy stances as its dependent variable and thus does not seek to comparatively explain reform outputs. However, the process-tracing of employers behavior during policy-making events will allow to collect empirical evidence towards a more comprehensive theory on the impact of intra-

business cleavages on dualization processes.

The remainder of this chapter proceeds with a literature review of the main issues addressed so far. Section 1.1 describes the main features of dualization in Continental and Southern Europe and section 1.2 casts employers within the actor-centered literature engaged in understanding the politics of these processes. Section 1.3. takes stock of the scholarly debate on the sources of business preferences, and makes the case for a cross-sectoral approach (1.4), whereas section 1.5 justifies the selection of Germany and Italy as case studies. Section 1.6. illustrates the methodology adopted and section 1.7 concludes by providing a general overview of the work.

1.1. THE *DUALIZATION DISEASE* IN CONTINENTAL AND SOUTHERN EUROPE

Cross-country variance in the reform trajectories of labor market and welfare institutions in Europe provides a counterargument to the thesis of a worldwide convergence towards the Anglo-Saxon model of liberal capitalism (Thelen 2012: 210, Hall and Thelen 2009: 22-4; cf. Howell 2003, Streeck 2009).

In an ideal-typical tripartition of 'varieties of liberalization' (Thelen 2012: 210), the United Kingdom exhibits extremely low levels of EPL and minimum levels of unemployment protection, as a reflection of a long-term process of labor market '*deregulation*' started since the Thatcher era. However, in Scandinavian countries a similar thrust towards labor market flexibility via, among other things, the removal of most strictures to the use of non-standard work (NSW) was instead combined with profound welfare reforms which ensured the sustainability of extensive risk protection. A case in point for what was dubbed a type of '*socially embedded flexibilisation*' is the Danish 'flexicurity' model of conciliation between stark employment protection deregulation and the restructuring of UI in favor of high-risk discontinuous workers coupled with strong activation efforts for their quick reinsertion into the job market (Madsen 2004). More distinctive of Continental European countries such as Germany and France was their trajectory of liberalization as *dualization*: a process of 'increasing differentiation of rights, entitlements, and services provided to different categories of recipients' (Emmenegger et al. 2012: 10, Palier and Thelen 2010). In a nutshell, employment regulation and social protection standards were removed, or left unadapted, for a marginal share of the workforce with NSW contracts ('outsiders') while they were essentially kept intact for core workers with open-ended contracts ('insiders'). Albeit quite disregarded by the bulk of the comparative literature, such policies have also taken hold in Southern European countries, such as Italy (Jessoula et al. 2011, Berton et al. 2012) and Spain (Costain et al. 2010).

EPL generally defines that set of mandatory rules governing hiring and firing procedures, including the regulation of individual and collective dismissals and restrictions to the use of temporary, non-standard work (OECD 2004: 64; Cazes 2011). In the industrial age, Continental and Southern countries established stricter rules on both dimensions as opposed to Scandinavian and above all Anglo-Saxon countries (table 1). Precisely these regulatory rigidities underwent strong criticism as a result of mainstream economic consensus by the mid-1990s (Layard et al. 1991, Oecd 1994, Scarpetta 1996). By raising work turnover costs, EPL would hinder firms' responsiveness in adjusting the volume of the workforce to swinging market conditions with a negative effect in their capacity to reorganize and restore competitiveness. At the macro level, it turned to be an institutional culprit for the persistence of high levels of structural unemployment, for it would 'freeze' existing jobs while reducing workers' inflows from unemployment to work (Layard et al. 1994, Nickell 1997: 66) and efficient labor reallocation across sectors (Oecd 2004: 80).

Table 1.1. Employment Protection Legislation in Continental, Southern, Scandinavian, and Anglo-Saxon countries, 1990 and 2008 (cluster average)

	Continental		Southern		Scandinavian		Anglo-Saxon	
	<i>1990</i>	<i>2008</i>	<i>1990</i>	<i>2008</i>	<i>1990</i>	<i>2008</i>	<i>1990</i>	<i>2008</i>
Open-ended	2.52	2.46	3.18	2.68	2.46	2.22	1.27	1.36
Collective Dismissals	3.25	3.20	3.58	3.28	3.43	3.08	2.63	2.63
Temporary Work	3.18	2.04	4.32	2.15	3.03	1.34	0.23	0.5
TOTAL	2.85	2.25	3.75	2.69	2.74	1.78	0.76	0.93

Source: own calculations on Oecd EPL online database (0=lowest degree of regulation; 6=highest degree of regulation). Continental countries: Austria, Belgium, France, Germany, the Netherlands; Southern countries: Greece, Italy, Spain, Portugal; Scandinavian: Denmark, Finland, Sweden; Anglo-Saxon: Ireland, United Kingdom.

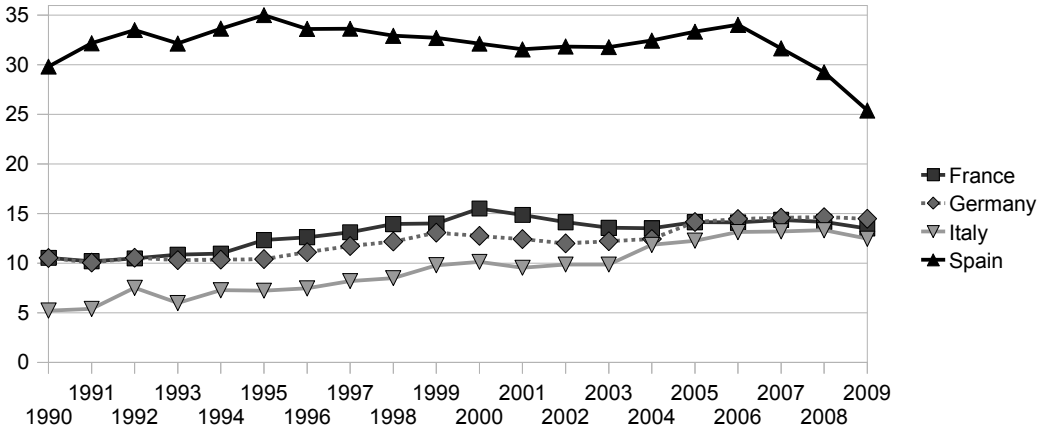
Although empirical evidence for such deleterious effects remained thoroughly contested (for a review, see Oecd 2004: 80-5), governments in Continental and Southern countries progressively deregulated strictures on the use of forms of NSW, such as fixed-term, part-time, temporary agency work contracts. Table 1.1 shows that the EPL index for temporary work contracts halved in Southern countries and consistently diminished in Continental ones between 1990 and 2008. By contrast, little to no changes affected rules on individual and collective dismissals in both clusters.¹ Accordingly, the share of temporary workers on total dependent employment has taken off most abruptly in Southern countries since 1990 (figure 1.1), with particular concentration on

¹ To be sure, the occurrence of important reforms to individual and collective dismissal protection rules in Austria and Portugal explain the decrease in the mathematical average within respectively the Continental and Southern clusters.

young people, women, and generally among low-skilled workers (Schmid 2010). In turn, the share of permanent workers decreased by circa -5% in both Germany and France, by -7% in Italy and by -2% in Spain during the same period.

While contributing to raise activity rates, NSW was nevertheless accompanied by increasing differentials in wage levels, entitlements to welfare schemes, exposure to income insecurity (or 'precariousness', Kalleberg 2009, Berton et al. 2012), and continuity of employment biographies with standard workers (Scherer 2004, 2005; for a review, see Davidsson and Naczyk 2009). In turn, employers generally benefited from the possibility to decrease the termination costs of employment relationships and, depending on domestic regulation, to pin down labor costs with respect to wages and social security contributions (Fink 2000).

Figure 1.1 Temporary workers as a % share of dependent employment in France, Germany, Italy and Spain, 1990 – 2009.



Source: Oecd online database, incidence of permanent employment.

Policy developments in income maintenance systems represent another relevant side of the dualization coin. Continental and Southern countries share common Bismarckian unemployment insurance (UI) systems chiefly characterized by status-preserving, wage-related, and contribution-financed benefits which have undergone a widely acknowledged crisis following postindustrial socio-economic transformations (Clasen and Clegg 2006, 2011). In the industrial period, social insurance mechanisms well adapted to then predominant occupational and economic conditions. UI schemes provided income protection to a mainly depended workforce concentrated in manufacturing sectors with relatively long job tenure during unemployment spells caused by cyclical, short-lived economic downturns (Clasen and Clegg 2006: 195). In this guise, as Clasen and Clegg (2011: 3) put it, contributory UI

not only responded to ‘moral economy’ imperatives but also encouraged people to enter into

such relationships in the first place and thus helped to stabilize the standard employment relationships on which intensive industrial production was built.

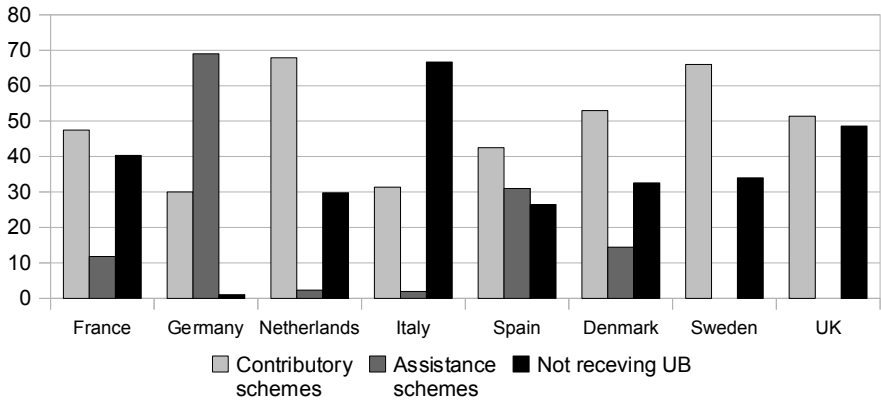
Since the mid-1980s, however, deindustrialization processes and repeated economic shocks implied that the progressive expulsion of the redundant manufacturing workforce and the consolidation of a structural type of unemployment resulted in higher levels of long-term unemployment (Blanchard 19-25). On one side, UI systems came to spur a 'vicious circle' (Streeck and Trampusch 2005: 175) between increasing welfare effort, raising social contributions on a shrinking employed population, and high non-wage labor costs negatively impacting on firms' propensity to hire. Moreover, the generosity of schemes in terms of wage replacement and benefit duration were increasingly believed to diminish work incentives by raising unemployed persons' reservation wage and to favor moral hazard (Nickell 1997: 67). On the other hand, the growth of service employment - typically characterized by shorter job tenure - was later accompanied by the above described expansion of NSW and the increase of self-employed workers. Remarkable coverage gaps have thereby emerged vis-à-vis dependent workers with discontinuous employment biographies who fail to meet the contributory record necessary to qualify for UI benefits (Leschke 2006, Berton et al. 2012) and self-employed individuals with no entitlement to social insurance schemes (Buschoff and Schmidt 2009).

In order to contain costs, during the last two decades governments especially in Continental countries such as Germany and France have implemented selective cuts to eligibility conditions and generosity peaks in benefit maximum duration, mainly by tightening the ratio between individual contribution records and withdrawal periods (Clegg 2007: 605, Arcanjo 2012). Such policy changes particularly affected new labor market entrants and individuals with long unemployment spells whose income support was progressively shifted towards means-tested, flat-rate, and tax-based assistance schemes. In addition, these countries increasingly espoused a workfare approach with the view to contrasting claimants' passive reliance on public income support (Clasen and Clegg 2007, Dingledey 2008). Activation policies comprised both 'punitive' measures, such as stricter job-search requirements and sanctions for claimants refusing suitable job offers, as well as 'enhancing' programs favoring recipients' quicker inclusion in the paid labor market, and the restructuring of public employment services (Eichhorst et al. 2009). With the noticeable exception of Spain, Southern European countries only partially faced similar problems, given typically lower unemployment expenditure and scarce generosity of general unemployment benefit schemes inherited from the industrial period (Ferrera 1996: 21, Arcanjo 2011). While seeking to improve protection levels and coverage, Southern European countries rather shared with all other countries the challenge of 'recalibrating' the functioning of

contributory schemes in order to extend their access to non-standard workers without undermining the financial sustainability of the system (Clegg 2007: 600). A successful redistribution of resources between workers with different risk profiles was achieved by the 'flexicurity' policies adopted in Scandinavia and the Netherlands. These countries relaxed eligibility requirements thus yielding access to earnings-related benefits to discontinuous workers, and increased the tax-funded share of expenditures in order to keep contributory costs low.

By contrast, dualization has characterized the reform trajectory of Continental and Southern Bismarckian systems. These governments have not reduced or explicitly sharpened differentiations in protection standards between standard dependent workers qualifying for *insurance* schemes; and long-term unemployed and atypical workers falling back on social *assistance* (Palier and Thelen 2010: 122) or wholly excluded from any income support. From this viewpoint, figure 1.2 provides an illustrative picture of country-specific dualization challenges. Scandinavian countries exhibit higher coverage rates of UI schemes than both Continental and Southern countries. On the other hand, Germany provides a striking example of the wide gap separating insurance and assistance claimants' shares, despite the universal coverage jointly provided by the two benefit tiers. Finally, Southern countries such as Italy or Greece exhibit a perverse combination between low coverage of contributory schemes and high levels of unemployed not receiving any unemployment support due to the lack of universalistic minimum income schemes. In these countries, dualization hence entails deep inequalities more akin under this aspect to the condition of the United Kingdom than to those of Continental European countries.

Figure 1.2. % of unemployed receiving contributory benefits and assistance benefits, and not receiving any income support in selected European countries, year 2008.



Source: ILO *World Social Security Report* 2010/2011: table 22a, p. 247-8.

Whereas a part of the scholarship deepened the empirical analysis of the multiple dimensions of dualization, another stream of the literature has recently devoted efforts to explaining the political dynamics underpinning its emergence and consolidation. Attention will now be paid to the latter.

1.2. THE POLITICS OF DUALIZATION: PARTIES, UNIONS...AND EMPLOYERS?

To a certain degree of simplification, the existing literature provides us with five main theoretical keys to understanding political determinants of dualization in EPL and UI: that is, power resources, insider/outsider divides, socio-economic changes, varieties of capitalism, and cross-class coalitions (cf. Thelen 2012, Marx 2011). On the grounds of different assumptions on employers' preferences for labor market and welfare institutions, these approaches come up with different conclusions concerning the role of business in shaping processes and outputs of reforms. For the sake of clarity this section will review the first three approaches in which employers' preferences play a minor explanatory role, while discussing the latter two in separate sections.

The above mentioned *power resources* (PR, Korpi 1983, 2006) and the *insider/outsider* theories (Rueda 2005, 2006, 2007) cast their attention towards trade unions and Social Democratic parties: while commonly emphasizing that 'business associations, like their political allies in the secular right, preferred as little legislation and as much flexibility in social and labor market policy as possible' (Huber and Stephens 2001, quoted in Mares 2003a: 249). In particular, empirical evidence of business hostility and active mobilization against EPL and UI were found by Kinderman (2005), Emmenegger and Marx (2011), Paster (2011a, 2012), and Brosig (2011) with respect to the German case. The difference between the two approaches lies instead on the role of organized labor and leftist parties.

According to PR, unions compactly resisted against deregulation and retrenchment pressures. Dualization essentially stemmed from the successful enterprise by unions to rescue the core of social protection institutions and their failure to impede liberalization of taking hold of the margins. By contrast, the insider/outsider theory attributes this to an internal divide within the constituencies of trade unions and Social Democratic parties between the employed workforce ('insiders') and the unemployed and marginally employed groups ('outsiders', see Lindbeck and Snower 1988, 2001, Saint Paul 1996). As the core membership of both actors is predominantly rooted among the insiders, and the latter hold different interests in labor market policy vis-à-vis the outsiders, Social Democracy in government *intentionally* prefer not to challenge unions and enact policies that do not affect insiders' rights to job and social security while allowing for

deregulation 'at the margins' of the labor market, among the outsiders. Despite criticisms on his assumption of diverging interests between insiders and outsiders (Emmenegger 2009b), Rueda's theory has the clear merit to disaggregate the supposed unity of interests within the workforce and to point at the emergence of collective action dilemmas for organized labor under globalization. However, none of the PR or the insider/outsider theories devotes efforts to gaining closer understanding of business preferences.

A more recent stream of scholarship has adopted a more seriously socio-economic *structural change* in order to understand welfare reform processes in the post-industrial age. Technological advancements in industrial production, the progressive development of service-based economies, and social changes e.g. in the family structure with the increasing feminization of employment led to greater diversification of occupational groups and social class structures (Esping Andersen 1993, Oesch 2006). On one side, the emergence of new risk groups challenged the effectiveness of welfare programs to respond to a greater range of social protection needs in the labor market (Esping Andersen 1999, Armingeon and Bonoli 2006). On the other hand, political parties and interest groups were called upon to adapt their policies in order to cater to and mediate between different, at times conflictual policy and political preferences within their constituencies with the view to extending their electoral and membership bases (Pontusson 1996, Kitschelt and Rehm 2006, Hellwig 2008, Häusermann and Schwander 2012).

From this perspective, Silja Häusermann (2010a) provided the most encompassing explanation for the impact of socio-economic changes on the reform of Bismarckian pension systems in France, Germany and Switzerland. Against earlier predictions of institutional stability in welfare states (Pierson 2001), she argues that reforms actually occurred because socio-economic structural change created the political conditions for policy makers to pass reforms without incurring heavy electoral losses. Industrial pension systems increasingly failed to provide adequate protection to occupational groups with heterogeneous risk profiles. There ensued a multifold variety of conflict lines to which, firstly, parties and interest groups responded by changing their policy positions; and from which, secondly, governments profited in order to shape broad political coalitions in favor of composite reform packages.

Drawing from analytical advancements on changing social class structure, Häusermann provides the most compelling insights with respect to parties and unions while elaborating less concerning employers. This is unfortunate, for the same linkage between structural change and actors' collective preferences may arguably apply also to employers associations. Endogenous processes of deindustrialization and tertiarization significantly reconfigured the structural landscape of domestic economies, as private service firms and small-size firms came to assume a

greater economic and employment role (Pontusson 1996). Not only did service economies make it increasingly difficult for governments to simultaneously achieve high employment rates, wage equality, and budgetary virtuosity, as in the policy 'trilemma' described by Iversen and Wren (1998). Changing economic structures coupled with the exogenous impact of international competition also created new intra-business cleavages between large manufacturing producers and small-firm and service business segments which likely entailed diverging preferences on labor market issues (Thelen 2012, Palier and Thelen 2010). In the political arena, therefore, peak employers associations faced increasing challenges to 'govern business interests' (Streeck and Visser 2006) and organize collective action (see e.g. Thelen 2001, Hassel 2007). In contrast with the assumptions by power resources and insider/outsider theories, postindustrialism may not have witnessed a compact business block striving for liberalization but rather a various set of employers' groups with a wider heterogeneity of policy preferences.

This work takes up this challenge, and more closely investigates infra-business preference divides. Yet, this kind of analysis requires a theoretical understanding about employers' possible sources of interests in social policy and of preferences conflicts between business groups. This was the object of employer-centered approaches to the study of welfare state development to which we now turn.

1.3. WHAT DOES BUSINESS WANT? THE CASE FOR A CROSS-SECTORAL APPROACH

Employer-centered approaches challenge the view that business exhibits flat preferences against social policy. Under certain conditions, rather, employers actively contribute to policy making 'not out of resignation but out of self-interest' (Swenson 2002: 293; cf. also Mares 2003a: 250). On this shared basis, scholars however developed two alternative theories with respect to the sources of employers' preferences and therefore of their role in social policy-making. According to Mares (2003b), Varieties of Capitalism (VoC) maintains that domestic political economic institutions spur employers' pro-active and favorable attitude towards social protection institutions, and that as a result businesses will behave differently *across countries*; on the other hand, the 'political coalitions' approach argues that 'the most significant variables explaining variation [...] are located at the *sectoral* level' (ibidem, 231) and that in each country social policy may be supported by some employers groups but not by others.

1.4. THE 'VARIETIES OF CAPITALISM' APPROACH

As is known, the VoC approach rests on a wider theoretical framework that seeks to account for

the resilience of institutional divergences between Western production systems, famously distinguished in the two ideal-types of Liberal Market Economies (LMEs, typically AngloSaxon countries) and Coordinated Market Economies (CMEs, including Continental European and Scandinavian countries as well as Japan, Hall and Soskice 2001). In this context, social policy is embedded within a set of 'complementary institutions' such as industrial relations, training and education systems. These institutions have a joint effect in providing domestic firms with crucial manpower resources through which they organize their production strategies between LMEs and CMEs differently and compete in international markets.

VoC scholars argue that employers in CMEs have a rational interest in supporting social policy because their production strategies require a highly-skilled workforce endowed with firm- or industry-specific skills (Iversen and Soskice 2001, Estevez Abe et al. 2001, Iversen 2005). This is ideally the case of German or Japanese manufacturing producers who typically center their international competitiveness on the marketization of high-quality goods. To these employers, institutions such as EPL and UI are functional to incentivize workers' continuous educational investments and high productivity in exchange for thick guarantees of job and income insulation from market risks. More specifically:

- high *EPL* assures highly-skilled workers 'that they can remain in the company for a long enough period to reap the returns on [educational] investments' (Estevez Abe et al 2001: 150) by sheltering them from redundancies during market downturns;
- *UI* with earnings-related benefits of long durations and coupled with low job search requirements allows workers to turn down under-qualified job offers and seek to redeploy their skills in high-paid occupations within the same industry. Besides, UI also supplies a high reserve wage from which employed workers benefit by keeping their wage levels up regardless of the market cycle (ibidem, 152);
- centrally coordinated *wage bargaining* creates long-term guarantees for skilled workers against radical drops in pay levels through the establishment of credibly collaborative relations with trade unions (ibidem, 154).

Unlike in Anglo-Saxon LMEs, 'social protection often stems from the *strength* rather than the weakness of employers' (Estevez Abe *et al* 2001: 181) in Continental European CMEs. Not only did employers in these countries play a pro-active and supportive role in forming the labor market and welfare institutions in the industrial age, but they also will 'not [be] motivated to engage in promoting the[ir] wholesale dismantling' (Iversen and Soskice 2009: 447) under globalization. Rather, they may tend to protect the beneficial returns they derive from 'complementary institutions or synergies that are of value to them' (Hall and Soskice 2001: 64).

VoC does not exclude that employers will advocate for reforms under changing market conditions, when 'an institution fails to serve those interests well' (Hall and Thelen 2009: 11). However, their reform instances will not aim to push through a 'paradigmatic' or 'third-order' institutional change (Hall 1993) towards an AngloSaxon type of liberalization, but rather to adjusting policy instruments and their settings in the context of an overall path-dependent institutional stability.

A complementary insight to VoC stressed the importance of organizational capacities by peak employers associations (PEA) to ensure the continuity of business support to high levels of social protection. Cathie Jo Martin and Duane Swank (2001, 2004, 2012) concede that not all domestic employers in CMEs need to offer social guarantees to a highly-skilled workforce and that there may be divergent interests within the business community. However, in countries such as Germany or Denmark large-firm employers used their superior resources to build and maintain strong PEAs. Employers manage to influence the process of collective preference formation vis-à-vis other business groups and persuades them on the long-term beneficial effects of cooperating with unions and the state instead of antagonizing them:

employers organized into centralized, encompassing groups tend to develop political positions that transcend the narrow, particularistic demands of individual firms or sectors and, in turn, focus on the collective concerns of their diverse membership (Martin and Swank 2004: 594).

Self-coordination and collective learning within and credible commitments between employers and unions have ensured the success of those tripartite social pacts. Governments thereby achieved the consensus necessary in order to pass important labor market and welfare reforms in a wide range of European countries throughout the 1990s (Pochet and Fejertag 1997, Ebbinghaus and Hassel 2000, Regini 2000, Rhodes 2001). The VoC argument implicitly suggests that labor market dualization occurred because of the defection by non-manufacturing employers from employers' autonomous coordination, especially in countries where business organization is low such as in the Southern European hybrid model of Mixed-Market Economies (MMEs, Molina and Rhodes 2007), and *despite* the will of manufacturing producers (Thelen 2001, Thelen 2012: 213).

Since the VoC argument holds that employers' rational stems from the structure of original institutions, it fails to account for the reasons employers, in the last decades, seemed to overtly challenge the very institutions they were supposed to support and in the very countries (e.g. Germany) that expected their political protagonist role. As Hacker and Pierson (2002: 283) pointed out:

a group's actions often will not reveal its preferences but rather its strategic calculations of what is the best that can be accomplished given existing circumstances. An actor's expressed policy preferences may in fact be 'induced' or 'strategic' - that is, they reflect accommodations to circumstances that constrain what can be achieved.

Power resources scholars therefore argued that employers do not cooperate during social policy making processes because they hold an intrinsic interest in social policy, rather because they react to pressure from unions and governments once political conditions make it impossible to avoid legislation (Korpi 2006, Paster 2012.² Other scholars instead suggested that the changing political economic context might spur change in endogenous preferences, as

actors are [...] engaged in a continuous reassessment of their own scope for action and the intentions of those with whom they are interacting. (Hall and Thelen 2009: 12).

This criticism is reasonable and calls upon a more in-depth process tracing that empirically proves the development of employers' positions during reform events.

Secondly, the VoC argument has the undoubted merit of placing cross-country differences in production systems at the center of analysis by attributing to them an explanatory potential for institutional divergences. The scope of the theory, however, is only partially analytical due to the fact that it neglects to consider the 'predominant type of firm' in domestic economies (Hall and Soskice 2001: 41). Typically, this category refers to large manufacturing producers, although Estevez-Abe (et al. 2001: 160) maintains that small-firm employers may tend to view EPL as an unnecessary financial burden. To date no theory has been formulated with regards to service sector employers that have become an essential business segment in postindustrial economies. The VoC seems ill-suited to capture the results of transforming composition of both countries' and peak employers associations membership.

These shortcomings are evident as the focus is shifted to Southern European MMEs, such as Italy or Spain. These countries exhibit broadly similar institutions as CMEs (e.g. high levels of EPL, Bismarckian UI institutions, and medium-high centralization of collective bargaining). On the contrary these countries exhibit dissimilar conditions with respect to the predominant type of firm, in MME being rather small labor-intensive than large firms, fragmentation of interest groups including employers, and a pervasive role of the state in the regulation of product markets and, frequently, industrial relations (see Molina and Rhodes 2007). Little empirical evidence is available on the specific role employers in social policy making, as scholarly works focus overwhelmingly on trade unions and parties in government (Ferrera 1993, Gualmini 1997,

² As Korpi suggests, VoC scholars should prove the counterfactual hypothesis that employers would have promoted social policy even in the absence of unions' or governments' proposals in this sense (2006: 181-2). Hence, the methodological hint is 'to observe the *time order* in which actors enter the policy-making process' (ibidem, italics added), and obviously in what direction they seek to push it.

Regini and Regalia 1997, Ferrera and Gualmini 2004, Molina 2005, Picot 2012). However, the systematic study done by Molina and Rhodes (2007) stresses that in a context of a fragmented production system, interest groups, including employers associations, will face 'a large number of differentiated demands' to accommodate (ibidem, 234). The study suggests that heterogeneous policy preferences exist between large- and small-firm employers. Due to strong veto powers of adversarial unions and the high permeability of the state towards vested-interest demands, institutional reforms can be explained through 'sectoral cross-class reform coalitions' rather than by the sole power of business (ibidem, 229).

To conclude, VoC provides us with powerful tools to cast the employers' role in the analysis of labor market reforms and to interpret their preferences towards social protection institutions. However, its deterministic idea of preferences, the disregard of internal heterogeneity of domestic economies, and the scarce applicability of its insights to non-CMEs require a more flexible theoretical approach in the light of postindustrial changes, that have arguably been provided by 'cross-sectoral' analyses.

1.5. CROSS-SECTORAL POLITICAL COALITIONS

In his study on national policy responses to the major economic crises throughout the Nineteenth century, Peter Gourevitch (1986: 220-3) noticed an empirical distinction between the positions of different employers' groups that he dubbed business 'conservatives' and business 'progressives'. The former opposed any policy that entailed an increase in labor costs and obstructed the emergence of structured industrial relations and corporatist modes of decision-making. The latter recognized the role of trade unions and formal industrial relations as legitimate, and consented to the introduction of Keynesian social policies. Conservative positions seemed prevalent among employers in firms with '*labour-intensive, high geographical concentration of labour force, less flexibility in shifting resources and high debt burden*' (ibidem, 223), such as iron and steel producers. Business progressive were instead to be found among employers in export-oriented, high-technology manufacturing sectors and the banking sector.

Albeit set in a different research context, Gourevitch's observations are emblematic of the cross-sectoral approach to the study of employers' preferences. The core intuition is that the micro-foundations of employers' interests in social policy reside in the structural characteristics of their firm, and therefore that their preferences will differ *across sectors* rather than across-countries (Mares 2003b). In the face of a 'highly composite [...] picture of employer interests' (Thelen and Kume 2006: 13), a number of intra-business divides underpin and complicate employers' collective action in domestic policy-making processes. Relevant empirical examples

were found in various institutional domains, such as collective bargaining (Swenson 1991; Pontusson and Swenson 1996; Thelen 2001; Thelen and Kume 2006), training systems (Thelen 2004; Culpepper 2008; Trampusch 2010) and various welfare programs (Mares 2000, 2003a; Swenson 2002).

Peter Swenson's works were path breaking to a theory of welfare state development as a product of *cross-class alliances* between segments of both capital and labor located in specific sectors, rather than as the outcome of class conflicts. Centralized collective bargaining structures in Denmark and Sweden in the 1930s as well as major welfare programs in Sweden and the New Deal in the United States owed their institutions to the convergence of interests and political agreements between class-divisive 'sectoral groupings that dominated employer and unions confederations (Swenson 1991: 514). Employers became aware of their own interests in social policy and actively contributed to its formation. Swenson claims that 'almost all capitalists pay lip service to free market ideology while actively seeking protective legislation' (Swenson 2002, 2004: 4). Labor market institutions can be wielded as instruments to 'regulate competition among capitalists in ways that protect the profits of a politically significant portion of them' (Swenson 2004: 3) at the expense of others. In Scandinavian countries, export-oriented metal employers supported centralized bargaining structures in order to prevent their counterparts in sheltered sectors from giving in to their unions' pressures for expansionary wage policy that would damage the former's international competitiveness (Swenson 1991: 520-3). Another example are the large manufacturing producers in America that found a common strategic interest with their unions to agree on company-level efficiency wages that remunerated their own investments in production and managerial technologies (Swenson 2002). In line with a similar 'segmentalist' strategy, these employers further backed the development of company-based welfare schemes with the view of upholding and institutionalizing the wage efficiency system (Swenson 2005: 6). These examples prove that employers did not ideological oppose social policies outright. Certain institutional arrangements can bear material advantages to the competition strategies of dominant business groups and it becomes convenient to support the adoption of social policies in response to but also independently from labor mobilization.

Isabela Mares (2003a, 2003b) provided a more formalized theory of the sectoral sources of employers' preferences towards social policy as opposed to Swenson. She argued that firm size and exposure to market risk constitute the most significant factors that inform employers' calculations over the costs and benefits gained through social policy. Firm size determines the degree of cost sensitivity, as smaller firms being less equipped than larger ones to pay high social insurance contributions. Exposure to international competition and workers' skill profile ('risk

incidence') affect the consideration of the possible benefits firms have from protecting their skilled workforce against market fluctuations and incentivize their educational investments. On the whole, the expected benefits for social policy 'can outweigh its costs' (Mares 2003b: 237) for large-firm employers with high risk incidence, while they do not for small-firm employers in sheltered and low-skill segments (Mares 2003a: 255). This intra-business divide proved crucial to the formation of social policy in the industrial age. Given the initial impetus of governing elites to propose legislation, the negotiating processes produced 'cross-class alliances' between segments of employers and unions whose sectoral composition profoundly affected social policy outcomes:

a cross-class alliance comprising large manufacturing producers and the most important sectors of labor [...] support[ed] the introduction of a contributory compulsory social insurance. Conversely, if the decisive cross-class alliance comprises labor and small firms, the resulting policy outcome [was] incomplete coverage and institutional fragmentation (Mares 2003a: 261).³

Differently from VoC, Mares does not assume a necessarily genuine interest of employers in social policy.⁴ She follows an empirically based framework to understand the reasons why and how certain business segments supported various types of institutional arrangements.

Mares' insights refer to the formational period of the welfare state. Her model of employers' preferences nevertheless constitutes a (often implicit) point of reference for those scholars that accounted dualization on the cross-sectoral, cross-class coalitions that underpinned the politics of institutional change. This model was most notably expounded in the thesis of Bruno Palier and Kathleen Thelen (2010). Palier and Thelen explained that sequentially dualistic reforms of EPL, UI and collective bargaining in Germany and France on the perduring axis between employers and unions in core manufacturing sectors were created in order to 'defend traditional institutions and practices for themselves' (ibidem, 120) and leaving liberalization to occur in the peripheral service sectors. In short:

the very same cross-class coalitions that have allowed the continental European countries to avoid succumbing to liberalization have also helped to promote dualization (ibidem).

The argument is based on the assumption that social actors', and thus also employers' policy preferences, are determined by a rational evaluation of single sectoral segments on the costs and benefits that institutions bear. More specifically, Thelen (2012: 216) puts forward that:

the shift in employment towards services upsets previous political dynamics because service-

³ For a similar argument on vocational training reforms, see Trampusch (2010).

⁴ For instance, Mares (2000: 228) claims that there is no need to 'assume or require a commonality among the interests of the actors *prior* to the bargaining process'. Social policy deals between unions and employers are struck '*despite a profound disagreement about basic issues* of institutional and policy design prior to the policy deliberations' (italics added).

sector firms make different kinds of demands on unions and on policy-makers than their counterparts in industry.

Unfortunately, the existing literature provides little theoretical specification about the kind of institutional preferences service employers have and the differences with manufacturing employers; the extent of the respective business segments in the composition of economic and employment structures in different countries; as well as the little empirical evidence about the actual role of each segment during policy making processes.

These points are therefore the objective of the present research. A cross-sectoral approach to the study of employers' social policy preferences appear better suited to understand the emergence of intra-business divides and their possible impact on reform outputs. In order to understanding dualistic policy outputs the existing literature exhibits a certain incompleteness in establishing theoretical and empirical linkages between economic-structural changes, intra-business preference divides, and collective action dilemmas for peak employers associations. Chapter 2 will provide a comprehensive framework of analysis to this objective. The next section is devoted to presenting the case studies of Germany and Italy and to justify their selection.

1.6. CASE SELECTION: COMPARING GERMANY AND ITALY

To return to our research question, which institutional arrangements for EPL and UI did different employers segments favor during recent reform processes? If relevant intra-business divides are observable, how did they influence dualization? This work answers these questions by focusing on a pair wise comparison between two highly representative countries of the Continental and Southern European clusters in that have seen a prominent development of dualization during the last two decades, that is, Germany and Italy. The choice of these two countries is based on the 'most similar systems' comparative design strategy (Przeworski and Teune 1970: 32-4). The strategy requires holding constant similar systemic characteristics and aiming to maximize the variance of the specific factors that are expected to explain the observed phenomenon best. Germany and Italy show a set of broad structural and institutional similarities, including a parallel trajectory of labor market 'liberalization at the margins'. These similarities allow for a minimal variance in contextual variables.

During the postwar period, the two countries progressively became the most industrialized nations in Western Europe. As late as 1980, the German and Italian share of manufacturing employment and value-added to the total economy was second to none, and they have maintained this position despite consistent deindustrialization since then. On the grounds of a strong manufacturing base, Germany and Italy have developed similar highly regulated labor

market regimes, industrial relations models, and Bismarckian welfare states during this industrial period. With respect to the highly regulated labor market regimes, section 1.1 showed that the two countries exhibited comparatively high level of EPL as a result of strict dismissal protection for individual and above all collective layoffs as well as high regulatory constraints on NSW. Furthermore, referencing Germany and Italy' insurance-based income maintenance systems comparative welfare research typically classify both countries within the group of Bismarckian (or conservative) welfare states (Esping Andersen 1990; Palier 2010), also (Clasen and Clegg 2011). Finally, the German and Italian industrial relations model were similarly characterized by high levels of workers' unionization, medium-high levels of centralization and coordination of collective bargaining structures, and high coverage rates of collective agreements. Below, Table 1.2 provides synthetic indicators for these characteristics.

In a dynamic perspective, post industrialism placed Germany and Italy under the same multitude of pressures. Common subjection to the process of integration into the European internal market, increasing international competition and technological change created a profound crisis and restructured both countries' manufacturing systems,. This restructuring gave rise to abrupt increases in unemployment rates peaking from 4.8 to 9.3% of the total workforce in Germany and from 8.9 to 11.3% in Italy between 1990 and 1997 with a strong incidence of long-term unemployment. Moreover, the budgetary strictures imposed by the 1992 Maastricht Treaty on the run to the European Monetary Union strongly constrained social expenditure in both countries with a view to decreasing public deficits and debt (Scharpf and Schmidt 2000). Finally, since the 1990 German reunification both countries were faced with high internal territorial imbalances, i.e. between the German Western and Eastern Länder, and the Italian Northern and Southern regions (Boltho et al. 1997; Sinn and Westermann 2000).

Table 1.2. Structural and institutional indicators in Germany and Italy, early 1990s and late 2000s

	Germany		Italy	
	1991	2008	1991	2008
Manufacturing % share of employment on tot. (1)	28.3	19.0	24.7	19.9
Manufacturing share of value- added on total economy (1)	29.2	22.7	23.3	18.1
EPL index, open-ended workers (3)	2.58	3.00	1.77	1.77
EPL index, temporary work (3)	3.75	1.25	5.38	2.00
Social contributions as a % of total social protection receipts (4)*	66.6	63.1	68.2	56.4
Social contributions rate, (% wage) (5)	36.32	39.92	55	41.7
Coordination collective bargaining (6)	4	4	3	4
Union density (7)	36.0	18.8	38.7	33.4

Sources: (1) Oecd Stan structural indicators; (2) Eurostat, year 2006; (3) Oecd Epl online database; (4) Eurostat Social protection expenditure and receipts, online database (5) Oecd taxing wages, 2009 edition; (6) Molina and Rhodes (2007: 252) on Oecd data; (7) Oecd online database. * For both countries, data refer to the years 1996 and 2006.

These common pressures prompted parallel reform processes in labor market and welfare institutions. With a specific focus on EPL and unemployment insurance (UI), table 1.3 provides an overview of the sequence of interventions that the German and Italian governments implemented with particular concentration between 1996 and 2005.

In Germany, imperatives to expenditure containment underpinned a sequence of small-scale adjustments to UI during the 1990s that entailed progressive cuts of replacement rates, tightening of eligibility criteria, and increasing job-search requirements. Moreover, marginal adjustments also affected individual dismissal protection rules and incremental liberalization of forms of NSW such as fixed-term contracts and temporary agency work (TAW). Between 2003-2005 the centre-left coalition government led by Gerhard Schröder implemented the well known Hartz reform package that, on the one side, created a strong liberalization of NSW contracts while only partially modifying dismissal protection rules; on the other hand, the laws restructured the income maintenance system by drastically reducing the duration of UI benefits and eliminating the earnings-related unemployment assistance tier that was merged with social assistance into a single tax-funded unemployment assistance scheme for needy jobseekers with flat-rate benefits.

Table 1.3. Overview of the main reforms of EPL and UI in Germany and Italy, 1990 – 2008.

	Germany			Italy	
<i>Year and govt coalition</i>	EPL	UI	<i>Year and govt coalition</i>	EPL	UI
1994 (C-R)	- extension of TAW regulation	- marginal cuts to UI and UA benefits; - tighter job seeking obligations.	1990 (C)	Regulation individual DP in small firms	
1996 (C-R)	- adjustments to individual DP; - liberalization of TAW		1991 (C)	Regulation collective dismissals	Reform of Wage Supplementation Fund (CIG)
1998 (C-R)		- tighter sanctions, availability and eligibility criteria for UI benefits	1993-1994 (non-partisan govmt)		- increase of replacement rates for UB; - selective extension o CIG coverage; - maximum cap to benefit amounts
1999 (C-L)	- Withdrawal of adjustments to DP; - restrictive regulation of marginal jobs and TAW;	- smoothing of availability criteria upon receipt of UI benefits.	1997 (C-L)	Liberalization of TAW	Increase of UB replacement rates
2003 (C-L)	- adjustments to DP; - further liberalization of TAW and marginal empl.	- stricter sanctions on UI	2003 (C-R)	- liberalization of fixed-term contracts (2001) - further liberalization of TAW; - regulation of free lance project contracts	
2005 (C - L)		- cut of duration of UB and stricter job search requirements; - merging of unemployment and social assistance.	2005 (C-R)		- increase of UB replacement rates; - institutionalization of bilateral funds in the artisanal sector
2008 (Grand coalition)		- marginal increase of duration of UB for older workers.	2007 (C-L)	- adjustments to TAW and fixed-term contracts	- increase of UB replacement rates

Sources: own compilation, drawing on Ebbinhaus and Eichhorst (2006: 9) and Berton et al. 2009; C-R= center-right government coalition, C-L: center-left government coalition; DP= dismissal protection; TAW=temp agency work; UB=unemployment benefits.

In Italy, the reform trajectory appears more complex. The early 1990s witnessed a set of expansive reforms in dismissal protection rules and UI. In particular, the Wage Supplementation Fund (*Cassa Integrazione Guadagni*) – a short-time work scheme compensating workers' wages for reductions in worked hours – was incrementally extended from core industrial firms to larger firms in some service branches, whereas wage replacement rates and the duration of

unemployment benefits also witnessed an increase from prior exiguous levels. The expansive reform trend was however inverted by the 1997 reform package implemented by the then centre-left government, which liberalized a number of forms of NSW while promoting a nevertheless unsuccessful restructuring of the UI system. A large-scale liberalization of NSW characterized the later 2003 reform by the centre-right Berlusconi government coupled with further increases in generosity and duration of unemployment benefits, though to a more modest extent than initially envisaged. Contextual attempt of the reforms at modifying dismissal protection rules was forcefully withdrawn following the massive mobilization of trade unions. Finally, the subsequent centre-left coalition slightly re-regulated some forms of NSW in 2007 and carried on further piecemeal increases in unemployment benefits generosity.

It may also be noticed from table 3 that the partisan composition of governments in both Germany and Italy did not fundamentally influence the overall direction of labor market reforms. The two countries have witnessed similar alternation between center-right (conservative) and center-left (liberal) coalition governments since the 1990s. However, the most relevant reforms of non-standard work liberalization were carried out by the Social Democrats in coalition with the Green party, i.e. a leftist coalition, in Germany, and both by the center-left coalition led by Romano Prodi in 1997 and the conservative Berlusconi government in 2003 in Italy. By the same token, there seems to be little incidence of partisan composition of government on both restrictive and expansive reforms of UI schemes.

Against this background, the present work instead emphasizes three main differences between Germany and Italy. These differences include the economic structure, policy structure of dismissal protection and unemployment insurance systems, as well as employers' collective organization. These factors are here treated as the independent variables to explaining employers' stances towards postindustrial labor market policy reforms.

First, commonly strong manufacturing sectors concealed a relevant difference in the *economic structure*, the most noticeable dimension being the employment distribution between large and small firms. Whereas the German economic structure has been centered on the predominance of medium-large firms, especially in manufacturing, the Italian production system has typically witnessed an overwhelming role of micro- and small-firms. Table 1.4 illustratively shows the remarkable differentials along the cross-cutting dimensions of firm size and economic sectors.

Table 1.4. Enterprise and employment distribution by firm size and sector in Germany and Italy, year 2000.

	Germany		Italy	
Firm size (n. of employees)	Industry and energy (Nace C – E)	Services (Nace G - K)	Industry and energy (Nace C – E)	Services (Nace G - K)
<i>% of total enterprises</i>				
Micro (2 to 9)	67.2	86.5	83.5	97.3
Small (10 to 49)	23.8	12.0	14.4	2.4
Medium (50 to 249)	7.	1.3	1.8	0.2
Large (250 and over)	1.9	0.2	0.3	0.0
<i>% of total employment</i>				
Micro (2 to 9)	7.2	29.9	24.5	24.9
Small (10 to 49)	14.5	26.1	30.7	22.5
Medium (50 to 249)	23.0	14.4	20.2	8.3
Large (250 and over)	55.4	29.6	24.6	17.4

Source: Eurostat Business Statistical Pocketbook 2004: 14.

Different economic-structural configurations in the two countries came to be reflected in the specific *policy structures* of labor market institutions which Germany and Italy developed during the industrial period. To take the cases of EPL and UI, in Germany dismissal protection rules had an extensive scope of application, as only firms with less than five employees were exempted. Although table 4 shows that micro firms constitute a large majority of total firms, their employment share is negligible in manufacturing yet higher in services. In Italy, higher dismissal protection standards conversely applied only to firms with over fifteen employees. As micro firms employ one fourth of the total workforce, one can safely assume that for about half of Italian dependent employees, only a basic floor of rights was in force, i.e. those mandatory dismissal protection rules (*tutela obbligatoria*) set by a 1966 law. Likewise, the German UI system includes all firms, regardless of size and sector, within an 'inclusive risk pool' that allow all firms to contribute to the same level, thus achieving high levels of inter-sectoral risk redistribution. On the other hand, in Italy the main income protection scheme has typically been the Wage Supplementation Fund (CIG), a short time work scheme mainly limited to large industrial firms and their workers. Until recently, CIG provided workers with remarkably more generous benefits than general unemployment benefits. Due to this particular arrangement, however, the bulk of risk redistribution has mainly developed within a 'segregated risk pool' comprising the core business segments and excluding small-firm and service sector employers from the financial burden.

Third, the traditional fragmentation of interest groups in Italy stands in sharp contrast with

the unitary organization of German employers and unions. In particular, German employers are organized in a single, centralized and encompassing peak association that has membership extending across all sectors and size classes, albeit with a predominant role for larger firms. Stronger degrees of employers coordination is positively associated with higher coordination of collective bargaining, capacities to solve collective action problems for the provision of collective goods, and cognitive effects on members favoring the attitude to social policy (Martin and Swank 2012). Conversely, Italian employers have witnessed a high level of organizational fragmentation. The stronger association of industrial employers *Confindustria* has been typically sided by no less than twelve competing organizations representing small-firm business segments such as commercial, artisanal and cooperative firms, that have further divided across partisan affiliation during the postwar period (Lanzalaco 1997, Vatta 2007). Consistently with the scholarly depiction, such degree of interest fragmentation is conducive to lesser capacities to solve collective action dilemmas for the autonomous provision of public goods and to an unstable framework of interaction in the policymaking system (Molina and Rhodes 2007: 231, Regini 1997: 110). Table 1.4 sketches a synoptic picture of the mentioned differences.

Taken together, economic structure, design of formal political economic institutions, and interest group organization represent three essential features of the categorization advanced by the Varieties of Capitalism literature (Hall and Soskice 2001, Hancké et al. 2007) of Germany as a Coordinated Market Economy (CME) and of Italy as a Mixed-Market Economy (MME). According to the compelling analysis by Molina and Rhodes (2007), the Southern European variant to the CME model essentially stems from the structural fragmentation of the Italian and Spanish production systems. The predominance of small-firm segments lies at the heart of the failure of disarticulated interest groups to ensure similar degrees of autonomous coordination as CMEs in the provision of public goods both at local and national level. As the state is then called upon to pervasive intervention in order to mediate distributive conflicts, political economic institutions reflect underlying micro cleavages in the production system with the result of reinforcing and perpetuating them. On the whole, Molina and Rhodes (*ibidem*, 247) argue, Southern European MMEs are 'more likely than [liberal] and coordinated market economies to experience inter-class conflict' in a period of intense policy adjustment. The hypothesis of the present work is that these countries will also be exposed to salient *intra*-class divides, and less equipped than CME to solve related conflicts.

Table 1.5. Comparative institutional features of the main independent variables of analysis

	Germany	Italy
Economic Structure	Industry-based, medium-large firm size	Industry-based, micro-small firm size
System of Peak Employers Association	Encompassing, one large association	Fragmented, ca. twelve associations
Dismissal Protection Rules	High and extensive, applicable to firms with over 5 employees	High but segmented, applicable to firms with over 15 employees
Unemployment insurance	Bismarckian, inclusive risk pool across sector	Bismarckian, segmented risk pools across firm size and sector
Varieties of Capitalism	Coordinated Market Economy	Mixed-Market Economy

1.7. METHODOLOGY

The present work investigates the preferences of different employers groups towards two institutional domains of labor market regulation: employment protection legislation and unemployment insurance. The stated positions of peak employers associations during policy-making processes hence constitute the dependent variable of the analysis. In order to discern possible intra-business divides, it is however necessary to extend the range of observation beyond the largest representative peak associations. In fact, the German Confederation of Employers Associations (BDA) and the Italian Confindustria are cross-sectoral associations and represent the interests of a plurality of sectors comprising both manufacturing and services, and large and small firms. It is well known to researchers in the field that employers associations are quite reluctant to hand out internal documents and meeting reports concerning recent events. Therefore, the policy preferences of employers in small firms and service sectors will be analyzed mainly through the positions of their most representative associations, that is, artisanal associations for the former and commercial associations for the latter group. Unless empirical evidence proves otherwise, the largest peak employers associations will be considered as the expression of larger manufacturing firms that nevertheless constitute the more influential group within both the BDA and Confindustria.

In addition to cross-country comparison, this work considers another source of variation by analyzing two different policy types: employment protection legislation – a regulatory policy - and unemployment insurance – a redistributive policy. Regarding employment protection legislation, the research will consider both reform events concerning dismissal protection as well as two relevant forms of non-standard work, namely temporary agency work and 'very atypical' contractual forms (Eurofound 2010). Very atypical forms of employment are considered marginal (or minor) work contracts in Germany – so called, *mini-jobs* – and free-lance 'project

work contracts' in Italy. Not only have temp agency work and very atypical contractual forms represented two of the most contentious cases of liberalization in both countries. The use of such contracts have also exhibited a marked sectoral bias, since temp agency work has mainly spread in (medium-large) manufacturing firms and more limitedly diffused into service sectors, whereas the reverse is true of very atypical contracts that have predominantly been adopted in service firms. The assumption can be made that either contractual forms possess particular characteristics that spur the interests of different business segments. With concern to unemployment insurance, the analysis primarily focuses on unemployment benefits. However, given the domestic peculiarities of the German and Italian systems, further schemes will be considered on the grounds of their policy and political relevance in the two countries, i.e. unemployment assistance (*Arbeitslosenhilfe*) in Germany and short-time work schemes (*Cassa Integrazione Guadagni*) in Italy.

The analysis covers the years between 1990 and 2008. During this period, both countries implemented the most significant 'dual' reforms in employment protection legislation and unemployment insurance, as shown in table 3 above. The last two decades have also witnessed the final transition from industrial to postindustrial economic structures, due to the crisis and restructuring of large manufacturing firms and the progressive increase of service employment in both Germany and Italy. An analysis of developments in the membership of peak employers associations will yield a proxy to measuring the impact of economic-structural changes on employers' collective representation. Recent policy developments in response to the 2008-2009 financial crisis are instead excluded from the core analysis, as no major structural reform had been adopted with respect to the two domains under observation in both countries.⁵ Some brief remarks will nevertheless be made with respect to employers' stances on the temporary adjustments to short-time work schemes adopted in both countries between 2009 and 2010 in response to the occupational crisis triggered by the Great Recession (Sacchi et al. 2011).

In order to take into account all contextual factors that informed employers' preferences towards labor market reforms, this work adopts a historical institutionalist approach (Mahoney and Rueschmeyer 2003). This thesis conducts a detailed *process tracing* of employers' as well as of other relevant actors' positions, including trade unions and parties in government. This method yields a better understanding of the sequencing of events (George and Bennet 2005; Gerring 2007) and help to reconstructing the strategic context of employers' action. Qualitative evidence

⁵ At the moment of writing, the Italian parliament is discussing a draft 'flexicurity' reform comprising relevant modifications to both employment protection legislation and the unemployment insurance system. Since the law-making process is still ongoing, only limited reference will be made to the negotiation process between the social partners and the government that took place prior to the presentation of the draft legislation.

is drawn from a variety of sources, including parliamentary hearings, associational documents and press releases, quality newspapers articles and a set of eight interviews per country with employers and union's representatives, and national policy experts.

1.8. AN OVERVIEW OF THE WORK

This research is structured as follows. *Chapter 2* sets the theoretical framework of the analysis. It designs a heuristic typology of firms in postindustrial economies in order to formulate theoretical expectations on the preferences of different employers segments towards employment protection legislation and unemployment insurance in large and small firms, and high-and low-productivity sectors. Moreover, the economic-structural changes and functional pressures that may affect employers' preferences in the transition to post industrialism will be analyzed. Finally, the role of different systems of peak employers associations in governing intra-business divides and organizing collective positions in policy-making processes will be considered.

Chapter 3 provides an empirical picture of the independent variables in Germany and Italy. First, the post-industrial developments in the economic and employment structures of the two countries with particular regard to occupational shifts between large and small firms and manufacturing and services during the period 1990 to 2010 will be analyzed. Second, a comparative description of the policy structures of dismissal protection, non-standard work and unemployment insurance systems will be offered. Third, focusing on their main organizational features and evolutionary dynamics of their membership and leadership will look at the domestic systems of peak employers associations by focusing on their main organizational features and evolutionary dynamics of their membership and leadership. Specific attention is also drawn on the sectoral organization of trade unions in Germany and Italy.

The remaining chapters deal with single case studies. *Chapters 4* and *5* are devoted to the analysis of employer's positions on the reform of employment protection legislation in respectively Germany and Italy. As previously mentioned, the observations cover policy making processes regarding both dismissal protection as well as two forms of non-standard work, these include temporary agency work and very atypical work contracts. *Chapters 6* and *7* will focus on the reforms of the unemployment insurance systems in the two countries. Each case study proceeds in chronological order by tracing the positions of different employers groups.

Chapter 8 concludes with a comparative assessment of the empirical findings of the policy case studies, and a discussion of the contribution of the findings to the existing literature on employers preferences and dualization processes.

CHAPTER 2

ON FLEXIBILITY AND SECURITY: AN INTERPRETATION OF EMPLOYERS' PREFERENCES

Which factors comparatively explain the policy positions of employers' associations towards labor market institutions in post-industrial economies? Which intra-business preference divides underpin employers' collective action and how do they concretely affect the political behavior of peak employers associations during policy-making processes? To put it otherwise, how did intra-business divides impinge on dualization processes in employment and unemployment protection institutions during the transformation to service-based economies? This chapter provides an analytical framework to answer these questions with a specific focus on dismissal protection (DP), non-standard work (NSW), and unemployment insurance (UI).

The chapter is structured as follows. Section 2.1 disentangles the concepts of 'interests', 'preferences', and 'positions'. The empirical observation of actors' positions in the political arena requires a closer theoretical understanding of their policy preference which in turn develop out of actors' underlying interests. On these grounds, section 2.2 advances a heuristic model of intra-business cleavages which allows us to formulate theoretical expectations with respect to the policy preferences of different business groups across the interweaving dimensions of firm size and economic sector. The model is then applied to the cases of employment protection legislation, comprising DP and NSW (section 2.2.1), and unemployment insurance (section 2.2.2). Section 2.3 discusses how economic-structural transformations accompanying postindustrialism in domestic economies likely affected the policy preferences of single employers' groups and empowered small-firm and service sector employers vis-à-vis large manufacturing producers. Section 2.4 formulates theoretical hypotheses with respect to the role of different systems of peak employers associations (PEA) in organizing employers' collective action and composing intra-business divides. Section 2.5 concludes by wrapping up the theoretical model and specifying the research hypotheses to be tested through empirical analysis.

2.1. GROUP INTERESTS, POLICY PREFERENCES AND STRATEGIC POSITIONS

Institutional change strictly depends on actors' preferences and their interactive behavior in the political arena. The analytical treatment of this proposition grounds the 'actor-centered approach' (Scharpf 1997) to the study of institutions which this work adopts.⁶ It is however remarkable that divergent interpretations of employers' role in social policy development have been grounded on different approaches with respect to the theoretical distinction between three building blocks in institutionalist analysis, that is 'interests', 'preferences', and 'choices'.

Varieties of capitalism scholars argue for a 'genuine interest' of business on social policy. They do so by mainly adopting a rational choice approach that leads them to deduct actors' preferences from the material benefits which these can gain out of a certain situation (Estevez Abe *et al.* 2001; Iversen 2005). Upon the assumption of 'thin rationality' (Elster 1983), they make little distinction between interests and preferences. Within a set of possible policy options actors will choose the one that maximizes their economic utility, i.e. that provides them with the greater degree of expected economic return. When applied to employers preferences for labor market policy, the main problem with this approach surfaces once scholars impute on employers an interest in the protection of skilled labor, because they then evaluate policy outcomes 'as if' all observed actions necessarily originated out of that one interest. To put it with Levy (1997, quoted in Thelen 1999: 375), since 'whatever people do is a *revealed preference*', these scholars deliberately exclude *a priori* all other possible interests which may simultaneously compete when employers develop their social policy preferences. These may be, for instance, the will to avoid industrial conflict with organized labor or the possibility to trade concessions on social policy with public interventions in other policy areas. Moreover, in the perspective of a rational choice approach, actors' interests are fixed, that is, they do not change over time. Significant variations in actors' behavior is accounted on exogenous shocks - such as a change of parties in government or economic challenges - that modify the strategic context and complicate the straight application of the original interest during decision making episodes. A rational choice approach hence does not allow us to understand endogenous sources of interests change in response to transformations in the political economic and ideational context in which they are embedded.

Therefore, critics to the varieties of capitalism thesis have deemed the adoption of a historical institutionalist approach more apt to the analysis of employers' stances and their variation over time (see e.g. Hacker and Pierson 2002, Thelen 2004, Paster 2012). Historical institutionalism

⁶ As Fritz Scharpf puts it (2000a: 764; 1997), it is 'actors and their interacting choices, rather than institutions' that 'are assumed to be the proximate causes of policy responses, whereas institutions [...] are conceptualized as remote causes'.

espouses a more complex view of 'thick rationality' making the issue of 'how individuals and groups define their self-interest [...] problematical' (Thelen and Steinmo 1992: 8; Thelen 1999). In this perspective, interests and preferences lie on two different levels of abstraction. To put it succinctly, interests are ideal state-of-the-world related to the very societal nature of individual and collective actors, whereas preferences are positional, that is, they are located in a well-defined historical context of space and time.

Interests constitute the material motivation underpinning preferences. In capitalist economies, to assume that the rawest interest of business is profit maximization, and therefore that employers' preferences for labor market regulation are informed by the will to minimize labor costs, is a safe bet as much as to assume that workers aim to maximize labour income via upward wage pressures and higher social protection standards. In the real world this assumption does not however allow us to understand why in policy making processes employers support certain policy options more than others. By the same token, one needs a broader causal chain – that is, employers' will to avoid the breakout of social conflict and consequent fall in labor productivity - in order to explain German employers' interest in 'social pacification' and 'political accommodation' when consenting to the introduction of labor market and industrial relations institutions in the immediate post-war period (Paster 2012: 369). In sum, a number of factors actually concur to shaping what actors perceive to be in their interest. Since the latter may cater to different objectives at the same time, social scientists dispose of no better investigation tool than formulating deliberate assumptions and then observing actors' real behavior in order to test the actual relevance of their assumptions.

Building on this perspective, we may borrow from Cornelia Woll (2008: 77-80) a finer analytical distinction between 'universal' and 'subjective' interests. *Universal interests* reflect the broader societal nature of actors as businessmen, workers, politicians etc. In the study of labor market politics, scholars frequently choose to impute one single interest to employers because of their belonging, respectively, to one social class or national production regime. However, more specific individual and group identities (or situations in the world) filter universal interests. Woll dubs *subjective interests* individual actors' own translations of the universal interest in relation to their particular identity (ibidem). Hence, one can disaggregate the employer camp into multiple units depending on the structural factors we assume that matter most in constituting actors' identity. Quite simply, employers may be divided into Italian or German employers, in small- or large-firm employers, manufacturing producers or service providers, etc. There is no way in telling *a priori* what factors really shape one actor's subjective identification of his own interest, e.g. whether a small-firm employer identifies his/her subjective interest in labour market

regulation as a function of the size of his/her firm, of the economic branch of the latter, or out of his/her belonging to a social class opposed to workers.⁷ In this work, it is an explicit analytical choice to assume that employers' subjective interests on labor market institutions rest on their firm's characteristics.

Preferences instead represent the object of empirical observation in this work. *Policy preferences* represent the material expression of a set of beliefs about different courses of public action which actors deem necessary in order to achieve their interests in the face of context-specific challenges. We may understand policy preferences as pre-strategic (or 'genuine'), as they primarily refer to the nature of the specific problem to be tackled. Existing institutions (*policy legacies*) shape policy preferences because their distributional effects ('policy feedbacks', following Pierson 2000) largely influence the nature of policy problems. In a wider sociological sense, inbuilt norms also shape the cognitive orientations of actors (Scharpf 2000a: 767; Streeck and Thelen 2005). In domains in which individual actors enjoy a higher degree of autonomy, say, large-firm employers in firm level wage bargaining, policy preferences reflect individual orientations about what to do. By contrast, in the political realm where problems and their solution require collective action, policy preferences are the result of an identification process by individual actors of a collective group interest and of their coalescing in favor of a common response to a shared problem. In other words, as Woll (2007: 79) puts it, 'groups are not defined by their interest in maximizing profits, but rather by the concrete policy choices they adopt or support'.⁸ Therefore, for the sake of the present analysis policy preferences are inferred from the analytical definition of *subjective group interests*, that refer to particular segments sharing common firms' characteristics. In contrast with the formulation of assumptions on business universal interest, subjective group interests allow a more accurate mapping of different policy preferences within one collective actor.

The political context finally shapes actors' *policy positions*. In this work the concept of 'position' is used in order to distinguish the material content from the political act of 'choosing', and thus

⁷ We apply the same distinction with respect to workers when we identify their socio-structural belonging to white-collars or blue-collars etc.; permanent and temporary; even workers from different geographical locations. We do not know whether a permanent worker identifies his/her subjective interest in labour market policy as a function of his/her labour contract, of the territory he/she lives in and so on. Precisely due to the analytical arbitrariness of researchers' choice, any categorization of groups' interests is always contestable. See for instance Emmenegger's (2009b) critique on Rueda's (2006) assumptions on the preferences of labour market insiders and outsiders.

⁸ Organized groups and 'advocacy coalitions' (Sabatier 1993) develop similar policy preferences by grouping actors with diverse material interests that nevertheless converge on the identification of a policy instruments necessary to solve a commonly perceived problem. In this sense, Baumgartner and Leech (1998) would rather speak of 'policy preference coalitions' as a more appropriate concept, yet they resort to the term 'interest coalitions' because of the more immediate efficacy.

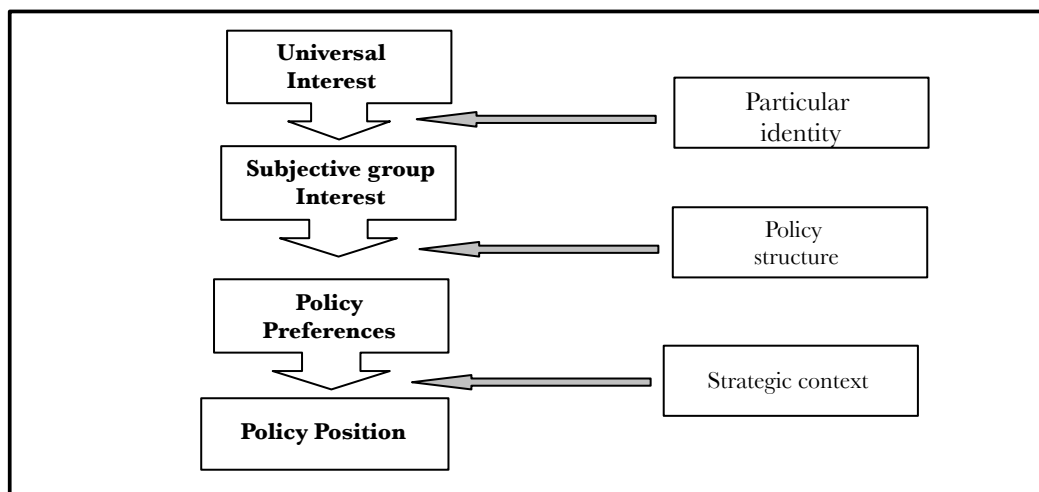
clarify the dependent variable of analysis.⁹ On the basis of the multifold policy preferences of its constituent groups and of the material and cognitive resources at hand, political interaction with unions and governments determines the strategic policy positions which peak employers associations will seek to push through in the political arena. Strategic interaction both between different employers groups and between employers and other policy actors requires PEAs to adapt and 'bend' to some degree their original preferences as a strategic reaction to the political context. In the case indicated above drawing on Paster (2012), German employers acquiesced to social policy in the post-war because the specific circumstances of that historical period made them perceive social pacification with organized labor and political accommodation with political parties as a higher interest than keeping labor costs low.

Figure 2.1 provides a graphical overview of the adopted analytical approach to the distinction of and connections between subjective group interests, policy preferences and strategic positions.

The bottom line of this theoretical distinction is that inferring employers interests on labor market regulation from stated positions risks missing out the complex mechanisms of preference formation within collective interests groups. On one side, strict assumptions concerning universal and subjective group interests downplay the role of endogenous variables that shape the process of identification of collective interests within heterogeneous groups. On the other hand, as the next sections will clarify, exogenous variables such as policy feedbacks and political interaction with unions and governments set a strategic context that likely activates intra-business preference divides. PEAs are then called upon to governing heterogeneous preferences with the view to ensuring effective political action.

⁹ Simply said, actors choose positions on the basis of preferences. Rational choice scholars investigate the strategic motives of choices, whereas the present work investigates the economic and strategic sources of the *content* of choices.

Figure 2.1. Process of formation of employers policy positions and sources of variation



Source: own adaptation based on Woll (2007: 83)

2.2. LABOR MARKET INSTITUTIONS AND INTRA-BUSINESS CLEAVAGES IN POSTINDUSTRIAL ECONOMIES

Postindustrial economic structures are largely *heterogeneous*, and so will be employers groups interests and, accordingly, their policy preferences. The present section advances a parsimonious typology of employers groups which allows us to formulate theoretical predictions with respect to their preferences towards labour market institutions. The first subsection discusses employers' universal interests with respect to employment regulation and labor market policy, whereas the second one proposes a heuristic distinction of subjective group interests.

2.2.1. COST MINIMIZATION, RISK SHARING, CONFLICT AVOIDANCE: EMPLOYERS INTERESTS

As noticed in the introductory chapter, the existing literature has developed competing visions on the microfoundations of business interest in labor market institutions. To simplify, power resources theories argue that employers only consider the negative effects of institutions, whereas varieties of capitalism infer employers' interests from the productivity benefits which they may draw from regulative arrangements. This work adopts an 'agnostic' approach vis-à-vis both theories. In other works, it ponders how three different universal interests of employers, namely cost minimization, economic risk sharing, and social conflict avoidance, may affect their general orientation towards social protection institutions.

That profit-seeking firms aim at *minimizing labour costs* – broadly intended as administrative, wage and social insurance contributions costs - is quite straightforward an argument. Whereas

regulatory and social insurance costs impinge on employers' profits (Korpi 2006: 199), social policy arguably 'strengthens the worker and diminishes the absolute authority of the employer' by providing workers with alternative income sources (Esping Andersen 1990: 22), and establishes constraints that may diminish overall work productivity (Paster 2012: 28-9). Therefore, we may expect that employers show a high interest in the lowest possible degree of employment regulation and non-wage labor costs. This prediction does not however excludes that employers may discount the immediate costs of social policy, if the latter provides them with certain benefits in the long term. Which are these benefits?

First, as Mares (2003a) suggested, social protection institutions provide employers with the means to *share* the *economic risk* of market uncertainties associated with their human resources. On one side, it is possible that employers acknowledge, for instance, the beneficial value of DP in incentivizing core workers to invest in skill upgrading by endowing them with the guarantee that they will be not dismissed during economic downturns (Estevez Abe *et al.* 2001). Likewise, the 2009 Great Recession has shown that short time work schemes have consented employers to hoard their skilled workforce in a period of profound conjunctural crisis with the view to achieving a quick recovery of production activities (Crimmann *et al.* 2010; Sacchi *et al.* 2011). On the other hand, earnings-related and fairly long-lasting UI benefits help avoiding the dispersion of the more skilled workers and consent a better allocation of the skills supply vis-à-vis labour demand (Iversen and Soskice 2009: 556; OECD 2010: 190-1). Moreover, UI as well as early retirement schemes allow employers to socialize the costs of manpower downsizing within wider risk pools. Compulsory insurance against unemployment risks provide compensations for workers and may diminish severance pay levels which employers disburse out of their own pockets.

Second, labor market regulation and social protection schemes allow employers to avoiding or cushioning social conflict with workers and their organizations that negatively affect productivity. We may thus label this factor *social conflict avoidance*, or 'social pacification', to put it with Paster (2012). Employers are aware that risk-averse workers place utmost importance on the stability of their job and income, and will be thus likely to organize in order to defend their rights. Therefore, employers may acquiesce to paying higher labor costs in return for institutions that reduce the risk of strikes at firm level and, more generally, in the industrial relation system, thus minimizing interruptions in production activities. For instance, DP rules institutionalize negotiating procedures and set certain levels of severance pay which reduce the transaction costs stemming from unregulated confrontation with trade unions in case of redundancies. In turn, the availability of generous unemployment benefits endows employers with a currency of

exchange for workers in order to facilitate corporate reorganization processes (Mares 2001, 2003a). In sum, employers may be inherently interested in preserving social rest for political reasons but also, in more utilitarian terms, to ensure continuity in production processes.

Cost minimization, risk sharing and conflict avoidance therefore constitute universal interests of employers which inform their policy preferences. Without assuming an *a priori* ranking between them, we may posit that contingent problem pressure activates employers' evaluation of the balance between costs and benefits, if particular challenges emerge. For instance, during periods of conjunctural market crisis employers may consider whether risk sharing schemes represent a source of problem, due to their impact on labor costs, or a resource for social conflict avoidance in order to dampen unions' resistances to labor shedding processes. Conversely, strong business advocacy for the liberalization of DP rules induces to presume that labor cost minimization turned to one capital employers' need in the face of global competition. We will return to the role of problem pressure in section 2.4. Instead, the next section addresses the most fundamental question of this work, that is how these assumed universal interests are translated into subjective group interests and thus into policy preferences of different segments of employers.

2.2.2. A HEURISTIC TYPOLOGY OF INTRA-BUSINESS CLEAVAGES

Firms' structural characteristics represent good predictors of the interests of different employers segments and of their policy preferences. Building on this assumption, what are then the main cleavages within the business community in service economies? This work focuses on two cross-cutting dimensions, namely firm size and economic sector.

Firm size – defined in terms of number of dependent employees¹⁰ - constitutes a widely acknowledged dimension of analysis (cf. Mares 2003a; Thelen and Kume 2006; Trampusch 2010). In the first place, size is associated with labor-intensive production organization. Since labor represents the main cost item in total production costs, smaller firms will be very sensitive to variations in labour costs. By contrast, large firms tend to be more capital intensive, and nevertheless hold stronger market power. Therefore, they can sustain higher labour costs, as these are more easily to be shifted on consumer prices or on subcontractors (Loveman et al. 1990: 34). With regard to risk sharing, small firm size is a typical predictor of higher sensibility to the economic cycle, i.e. of risk exposure. Not only do smaller firms display both high birth and mortality rates than larger ones, but they also tend to exhibit higher rates of worker

¹⁰ As I will show below, the standard classification introduced by the European Commission and the OECD defines firm size by coupling the number of employees with the size of annual turnover. For the sake of simplicity, and consistently with this analysis, I will define firm size by the number of employees only.

turnover (Bartelsman *et al.* 2005).¹¹ It follows that risk-sharing institutions are likely to be more costly for smaller than for larger firms, if their costs are not spread within broader risk pools that offset self-selection. Finally, organizational and historical reasons associate workers' unionization levels with larger production units (Ebbinghaus and Visser 1999: 138; Ebbinghaus *et al.* 2011: 112). Hence, large firms may have a stronger interest in social conflict avoidance due to higher unionization of their workers, whereas smaller firms may tend to boycott institutions that bureaucratize arm-length labour relationships and that bears the side-effect of supporting unions organization.

In brief, just because firm size seems a crucial cleavage to employers subjective interests, we may expect substantial divides between the policy preferences of large- and small-firm employers. Whereas their capital intensiveness renders large-firm employers more likely to discount the costs of risk-sharing institutions and regulations, higher unionization and degree of risk incidence may create triggers to consider the beneficial returns of institutions. In contrast, labour costs will constitute a predominant factor to small-firm employers' evaluation because of higher work turnover and relative indifference to issues of social conflict avoidance.

The *economic sector* constitutes a second essential intra-business cleavage. Some authors have identified different conditions of exposure to international markets as shaping the policy preferences of employers with special respect to wage bargaining (Swenson 1991, 2002; Pontusson and Swenson 1996). It is however arguable that following the progressive liberalization of services within both the World Trade Organization and the internal market of the European Union (Dolvik and Visser 2009), manufacturing and grand part of service firms tend to be increasingly similar in their levels of exposure to international competition, except perhaps locally consumed services such as retail trade, hotels and restaurants and personal services (Ferrera *et al.* 2001: 171-2).¹² Therefore, in the postindustrial context, scholars have rather tended to neatly distinguishing between high-productivity, high-skill manufacturing producers from low-productivity, low-skill service providers (Eichhorst and Marx 2010: 3; Palier and Thelen 2010; Thelen 2012: 213). Empirical referents for the former group are identifiable in traditional metalworking or chemical branches, whereas the latter represent a subsection of the

¹¹ In many countries the creation of more constant flux between job destruction and job creation is also associated to the threshold of application of EPL. In firms below the size class of 15 employees (Italy), or 10 employees (Germany, since 2003) market mechanisms apply to hiring and firing procedures, thus increasing the likelihood of workers' rotation vis-à-vis larger firms.

¹² As an illustrative example, the worst fears of downward social dumping in high-standard Western European countries following the opening to Eastern European markets were represented by a typically low-productivity, low-skill service profession such as the 'Polish plumber'. By the same token, since the mid 1990s the 'sheltered' market position of retail commerce has been eroded by the diffusion of large commercial stores, including those chains belonging to multinational corporates. Therefore, at least in formal terms, many services branches have become as much exposed to international competition as manufacturing.

wider service universe, such as retail trade, hotels and restaurants, and social services (e.g. care, health and education). As Iversen and Wren (1998) elaborated in the much-quoted 'service economy trilemma', grand part of those service branches that have driven employment growth in advanced economies since the 1980s are structurally unable to achieve similar productivity gains as manufacturing (see also OECD 2005a: 33).¹³ Labor-intensive employment creation in personal service branches is intrinsically associated to lower work productivity, lower skills of the workforce, and thus inequalities in wage levels and working conditions vis-à-vis manufacturing (cf. Eichhorst and Marx 2012). It follows that the interests of employers on labor market policy are expected to diverge between high-productivity manufacturing and low-productivity service sectors, this constituting a structural precondition to labor market dualization (Palier and Thelen 2010).

Given lower work productivity, service employers will have a higher interest than manufacturing producers to keep regulatory and non-wage labor costs low (see Scharpf 2000b: 197-9, OECD 2005b), and thus to lead demands for labor market deregulation and welfare retrenchment.¹⁴ Moreover, generally lower and substitutable skills of their workers will tend to decrease incentives for low-productivity employers to invest in instruments of skill protection, as they are less exposed than manufacturing producers to the risk of dispersion of skilled human resources and of skill shortage. Finally, low levels of labor organization in service sectors will provide for lower interests in social conflict avoidance than in manufacturing, in which higher union density (Ebbinghaus 2006a; Schnabel 2003) represents a trigger for employers to have instruments available to preserve social rest.

It is nevertheless remarkable that productivity differentials are observable both within the manufacturing and the service sectors. As for manufacturing, table 2.1 below provides selected indicators that show how the textile and food branches *inter alia* displayed below-average productivity and lower investments in human resources than core motor vehicles producers (see also Bugamelli et al. 2010: 38). In turn, transports and communications, wholesale trade, and the financial intermediation sector (yet not represented in the table) may be assimilated to core

¹³ In fact, the 'service economy trilemma' builds on the so called 'Baumol's paradox (or disease)'. According to Baumol (1967), services face greater difficulties than manufacturing to raise productivity through technological innovation and economies of scale. As Iversen and Wren (1998: 511-2) put it, 'teachers can serve more students, nurses more patients, and waiters more customers, but this is not easily achieved without a decline in the quality of services'. However, the demand for services is strongly responsive to the increase of wealth in domestic economies. In order to satisfy growing demand, therefore, service providers predominantly resort to an increase of labor. The paradox identified by Baumol consists in the observation that constant demand growth for services leads to a labor-intensive growth, but is not conducive to overall growth in domestic economies given lower productivity. For an in-depth discussion, see D'Agostino et al. 2006, Fernandez and Palazuelos 2012).

¹⁴ More specific effects of single labor market institutions on services will be elaborated in the sections below.

manufacturing branches in terms of work productivity and investments in human resources.¹⁵ Beyond the nominal belonging to either the manufacturing or service sector, we may thus expect that the productivity cleavage is the most relevant one in shaping employers' interests on labor market institutions, as low-productivity manufacturing producers and service providers share similar conditions in the use of labor that jointly differ from employers in high-productivity sectors.

Table 2.1. Indicators for business and employment growth, labor productivity and skill investments in selected industry and services branches, EU27 average, years 1999 - 2007.

	Abs. Change in number of enterprises	Abs. change in number of employees	Apparent labor productivity	Investment per person employed*
	In millions units	in millions units	€ per person employed	€ per person employed
Motor vehicles	1,281	687	58.53	12.83
Textile	-7,196	-3,106	25.06	3.84
Food and Beverages	11,182	1,524	39.71	7.27
Tot. Manufacturing	127,119	-341	46.47	6.71
Wholesale and retail trade	883,643	60,403	32.75	4.15
Hotel and restaurants	354,905	19,376	19.25	3.55
Transport, storage and communication	157,895	13,454	50.54	13.78
Business services	2,195,332	77,773	47.76	11.87

Source: Eurostat European Business online dataset, own calculations. * data available for the period 2003 – 2007.

To sum up, therefore, firm size and economic sector, and within the latter different degrees of productivity seem, important dimensions of intra-business differentiation.¹⁶ Building on the above discussion, table 2.2 crosses the two dimensions in order to develop an articulated typology of different employers segments in post-industrial economies.

¹⁵ At the end of a thorough empirical analysis on the employment and productivity dynamics within the service sector in Europe, Fernandez and Palazuelos (2012: 246) conclude by identifying a 'dual nature of the branches that comprise the service sector'[...]: a minor part (transports and communication, financial services and wholesale trade) work in conditions similar to those typical of the industrial sector: larger establishments, higher capital intensity and openness to worldwide competition'. On the other hand, 'the channels through which demand drives growth in productivity operate quite modestly in most other service activities'.

¹⁶ This is not to exclude the theoretical relevance of a fourth dimension of intra-business cleavage, that is the territorial one. Especially large countries witness essential differentials in the development and efficiency within sectors, also with a view on the variety of local production systems across Europe (Crouch *et al* 2001, 2004). However, for the sake of parsimony, territorial cleavages are excluded from the present analysis.

Table 2.2. A typology of different business segments in post-industrial economies

		Sector			
		Manufacturing		Services	
Size	Large	High productivity <i>(metalworking, energy)</i>	Low productivity <i>(food and beverage)</i>	High productivity <i>(banking, insurance)</i>	Low Productivity <i>(wholesale trade)</i>
	Small	High productivity <i>(industry crafts)</i>	Low Productivity <i>(textile, clothing)</i>	High productivity <i>(business s., ICT)</i>	Low Productivity <i>(retail, personal services)</i>

To the analytical objectives of this work, we may however rely on a more parsimonious heuristic that merges high-productivity manufacturing and service employers and low-productivity manufacturing and service employers within a dichotomous category of high-productivity and low-productivity producers on the horizontal dimension. Table 2.3 shows the ensuing 2x2 matrix that represents a typology of employers group interests with respect to labor market institutions.

Table 2.3. A heuristic model of subjective interests of different employers segments with respect to labor market institutions in post-industrial economies.

		Sector			
		High-productivity Manufacturing and Services		Low-Productivity Manufacturing and Services	
		<i>Characteristics</i>	<i>Expected interest</i>	<i>Characteristics</i>	<i>Expected interest</i>
Size	Large	- high capital intensity - high workers' skills - high union density	→ LCM (-) → ERS (+); → SCA (+)	- varying capital intensity - dual workers' skill (both high and low) - medium/high union density	→ LCM (^); → ERS (^) → SCA (^).
	Small	- high labour intensity - high workers' skills - medium/low union density	→ LCM (+) → ERS (+) → SCA (^)	- high labour intensity - low workers' skills - low unions density	→ LCM (+); → ERS (-); → SCA (-)

Legend: high interest (+); medium interest (^); low interest (-). To be intended: LCM - (low interest in labor cost minimization; ERS + (high interest in economic risk sharing); SCA ^ (medium interest in social conflict avoidance).

On one side, *large high-productivity* employers in manufacturing and services represent the traditional bearers of social protection institutions (top-left in table 2). Given high workers' unionization, capital intensity, and skill requirements from their core workforce, these employers are expected to be more prone to accept higher labour costs in order to sustain institutions providing for risk redistribution and collaborative relationships with unions. On the contrary, *small-firm* employers, most notably in *low-productivity* service sectors (bottom-right quadrant)

present the opposite conditions, as they are likely to place very little value on the benefits of social protection in terms of economic risk sharing and social risk avoidance, whereas labour cost minimization constitutes a key factor to profit-maximization and market survival. In contrast, *small high-productivity employers* – such as industrial crafts - and *large low-productivity employers* for instance in wholesale commerce represent hybrid cases. Whereas the former (bottom-left) share a priority preoccupation for labour costs minimization with small low-productivity firms, higher skill-intensiveness of their workforce may instead generate a higher interest for risk sharing schemes. As Estevez Abe (*et al.* 2001: 160) hypothesize, these employers will be therefore interested in institutions maintaining incentives for workers to invest in specific skills but under the condition of consistent cost subsidization. Employers in large low-productivity firms (top-right) share with their high-productivity counterparts the capacity of offsetting high labor costs through economies of scale and face higher union density. Yet, their skill profile does not allow for clearcut predictions on their skill protection interest.

From the above picture we may hence expect that the combination between small firm size and a low-productivity sector hold a stronger potential for pushing policy preferences in favor of liberalization and welfare retrenchment on the part of relative employers segments. By contrast, large firm size and a high-productivity sector render employers preferences more careful at weighting the costs and benefits they derive from existing institutions.

If this general analysis is correct, we can apply this heuristic model to develop an articulated picture of employers preferences with respect to two of the most contentious institutions in the transition to mature industrialism, employment protection legislation and unemployment insurance. This is the object of the following sections.

2.3.1. EMPLOYERS POLICY PREFERENCES: EMPLOYMENT PROTECTION LEGISLATION

Employment protection legislation (EPL) includes the regulation of individual and collective dismissals (DP) and of non-standard work contracts (NSW, cf. chapter 1).

Power resource scholars argue that employers share an overwhelming interest in the minimization of labor costs and thus hold uniform preferences for a fully-fledged deregulation of hiring and firing rules (Esping Andersen and Regini 2000, Emmenegger and Marx 2011). The argument is consistent with an approach that infers employers policy preferences from mainstream economics in the 1990s (OECD 1994, Layard et al. 1994, Nickell 1997). Strict regulation of DP and NSW constrain firms' possibility to adjust the quantity of labour force in response to volatile market conditions, raise worker turnover costs, and limit organizational

flexibility in firms' internal labor markets. According to power resources, the imperatives of global competition will therefore push employers to advocate for an Anglosaxon type of deregulation with respect to both DP and NSW. Albeit compelling at first sight, this approach does not sufficiently explain sectoral differentials in the use of NSW by firms. Even though cross-country analyses did not show uniform trends, temporary work contracts appear more diffused in 'wholesale and retail trade, restaurants and hotels, business services and social (especially health) services' (Schmidt 2010: 22-3) than in manufacturing. The former sectors are also those resorting to a workforce with lower skills (Berkhout and van den Berg 2010: 111). Finally, power resources downplay the possible tension arising especially for high-productivity employers 'between the need for flexibility in the use of labor and the need to obtain (or not to prejudice) workers' commitment' to the firm (Regalia 2007: 246).

On the other hand, varieties of capitalism maintains that high-productivity manufacturing producers hold a pro-active interest in higher levels of DP as an instrument to 'increase workers' dependence on particular employers' (Estevez Abe et al. 2001: 181). Employers who invest more in on-the-job training for their workers with the view to increasing work productivity may regard DP as a tool to ensure core workers' commitment to invest in skills by insuring them against the risk of job and income loss during market fluctuations (cf. also Pissarides 2001, Regalia 2007).¹⁷ In large high-productivity firms employers are expected to favor the stability of DP for core workers while concentrating flexibility needs on marginal workers, this providing the main motivation to advocate for NSW. By contrast, there are few expectations that employers in low-productivity sectors will support DP in order to uphold their own skills investments. Rather, the possibility to drastically diminish labor costs for a predominantly low-skilled, highly substitutable workforce may provide a powerful incentive to advocate for strong deregulation of NSW.

In partial contrast with the varieties of capitalism approach, this work hypothesizes that employers preferences towards DP will only diverge between large and small firms, whereas sectoral distinctions will be observable with respect to the type of NSW favored by employers in high-productivity and low-productivity sectors. Table 2.4 illustrates the hypothesized distribution of employers' preferences towards employment protection legislation across different segments.

The minimization of turnover costs obviously constitutes a subjective interest of all employers groups. Yet, DP represents a regulative obstacle more for small-firm than for large-firm employers. Given their higher sensibility to variations in product demand and higher work turnover, small-firm employers face higher risks of incurring those labor costs that ensue from

¹⁷ This aspect was also acknowledged by the OECD itself in its 2004 Employment Outlook, in which it is argued that 'EPL may foster long-term employment relationships, thus promoting workers' effort, cooperation and willingness to be trained, which is positive for aggregate employment and economic efficiency (OECD 2004: 63)

administrative procedures for layoffs as well as from the direct costs of trial expenses and statutory severance pay. This negative impact of DP on small firms is likely to cut across both high- and low-productivity sectors, although its relevance may be particularly strong for services that employ unskilled workers (OECD 2005b: 16). Conversely, employment relationships in larger firms tend to be more stable, also because employers have more options available to limit redundancies during downturns via forms of organizational flexibility, such as adjustments in working time. Moreover, large-firm employers may accept to live with higher DP, if this is perceived to minimize recruitment and training costs and support core workers' investment in skills especially in high-productivity sectors. They will recur to NSW or outsourcing in order to decrease costs for marginal labor-intensive tasks (Fernandez and Palazuelos 2012: 245). Finally, the incidence of DP in terms of severance costs has less an impact as such on larger corporations. Therefore, large-firm employers facing higher labor organization may deem sustainable the costs of DP in return for a regulatory framework that ensures predictable negotiating patterns with unions during downturns and that avoid the risk of prolonged strikes and falls in productivity. In turn, more personal relationships between employers and their workers in small firms render the former more exposed to the risk that regulation bureaucratizes manpower management and favors workers' collective organization or trade unions' interference.

Table 2.4 Hypothesized employers' preferences for dismissal protection (DP) and non standard work (NSW)

	High productivity sectors	Low Productivity sectors
Large	<i>Negotiated Flexibility</i> → DP stability; → negotiable forms of NSW.	<i>Dual Organization</i> → DP stability; → cheap forms of NSW.
Small	<i>Negotiated Deregulation</i> → DP deregulation; → negotiable forms of NSW.	<i>Deregulation</i> → DP deregulation; → cheap forms of NSW.

The prediction that large-firm employers may have stronger preferences for DP stability does not however exclude that they do not advocate for given regulatory adjustments, such as a revision of statutory severance pay levels or easier layoffs procedures. Yet, larger producers are less likely than small-firm employers to advocate for the dismantlement of DP.

For what concerns NSW, the existing literature instead provides us with less theoretical insights to develop strong hypotheses. NSW actually responds to diverse flexibility needs of firms: it reduces the costs of uncertainties when hiring new workers ('screening device'); reduces labor costs on external flexibility in front of upward or downward fluctuations in product demand

('buffer'); and allows employers to introduce differentiated wage and working conditions vis-à-vis their standard workforce (Berton et al. 2012: 31-2). There is therefore little reason to assume that some employers' segments have stronger preferences for NSW than others. Firms' structural characteristics may however turn useful with the view to identifying *which forms of NSW* different employers segment may support, depending on the possible role assigned to temporary workers in the organization of production.

In this light, Ida Regalia (2007: 246-7) introduces a useful typology of different managerial approaches to NSW by crossing two dimensions of employers' interests: firms' needs for flexibility in the use of labor and their need 'to obtain (or not to prejudice) workers' commitment'. Her two analytical dimensions arguably resemble the concepts of labor cost minimization and skill protection. Building on her insights, we thus obtain a four-fold distinction of employers' preferences for NSW.

First, Regalia argues that employers adopting 'post-Fordist' management strategies have the highest interest in NSW for they invest little in workers' long-term commitment to the firm and make systematic use of flexible employment primarily in order to save labor costs. In our model, we may especially relate this case to small low-productivity employers, such as personal and low-skill business services (e.g. cleaning or maintenance services), that tend to favor greater availability of '*cheap forms of NSW*' (King and Rueda 2008) in order to decrease labor and turnover costs. The same type of cheap NSW can be also of interest, secondly, of employers in large firms in the low-productivity sectors. Given standardized and systematic production processes, these employers make sporadic use of temporary work, but when they do it is because of an opportunistic need to diminish labor costs on new entrants or marginal activities within the internal corporate organization. A third type of 'dualistic organization model' may be identified which we may refer to small high-productivity industrial crafts or IT service branches. Higher investments in core workers' skills are coupled with high use of flexible work primarily because of both high demand volatility and high cost sensitivity. These employers may therefore be expected to favor '*negotiable forms of NSW*', such as temp agency work or apprenticeship. The use of these contractual forms is subject to regulation by collective agreements through which managers and core workers negotiate the maximum number of non-standard workers admissible within firms and training opportunities for marginal workers with the view to their future incorporation into firms' structure. This characteristic may prove attractive both for core workers, who gain control on the entry of non-standard workers, and for employers, who avoid awakening fears of downward wage competition in the core skilled workforce. Finally, high-productivity employers in large firms are those who show the least interest in NSW because they

rather tend to resort to forms of internal flexibility in concert with their unions. This employer group may hold preferences for regulated forms of NSW that allow to introduce limited flexibility features within corporate organization, yet without implying under-investments in human capital formation.

To sum up, different employer segments will develop specific policy preferences towards employment protection regulation depending on the structural characteristics of their firms. In this model, large firm size is associated with stronger propensity to support or tolerate higher levels of job protection legislation, whereas small firm size is expected to determine preferences for as low job protection as possible. In turn, the high-productivity of the sector will be conducive to employers' preferences for negotiable forms of NSW and relatively scarcer use of non-standard work to cover production peaks or diminish labor costs on marginal activities. Employers in low-productivity sectors are instead expected to make more systematic use of NSW and thus to favor the liberalization of cheap contractual forms in order to achieve more substantial levels of labor costs savings.

2.3.2. EMPLOYERS POLICY PREFERENCES: UNEMPLOYMENT INSURANCE

Unemployment insurance (UI) systems are those national regimes for the support of workers' income during unemployment spells whose functioning mechanisms are centered on the payment of wage-linked contributions by employers and employees.¹⁸ Social contributions determine the *extent* of protection, as workers' eligibility to unemployment benefits depends on the amount of contributions paid while in employment. In Bismarckian regimes, contributions determine the *level* of protection, as they entitle eligible workers to receive wage-related benefits for a duration that also typically reflects workers' own contribution record.¹⁹ The payment of contributions shapes the *scope of risk sharing*: firms and workers are compulsorily included into given risk pools within which the costs and benefits of unemployment protection are redistributed. Finally, the payment of contributions confers *resources ownership* rights to both employers and employees. Social partners are typically included into corporatist structures for the management of unemployment funds that yields them a higher degree of control on expenditures.

Isabela Mares (2003a; 2000) provides a well-defined theoretical model to understanding the

¹⁸ For a comprehensive analysis on the functioning of unemployment compensation systems (both insurance- and assistance-based), see Schmid and Reissert (1996). On the comparative characteristics of Bismarckian welfare systems see Palier (2010), and Clasen and Clegg (2011) specifically on unemployment insurance in Europe.

¹⁹ By contrast, flat-rate benefits level in Beveridgean systems such as in the United Kingdom render workers' previous wage irrelevant to the determination of benefit replacement rate and duration (Schmid and Reissert 1996; Leschke 2006: 14-5).

policy preferences of different employer groups towards UI. She basically distinguishes between two polar types of firms. Large-firm employers with a highly skilled workforce – here conceptualized as employers in high-productivity sectors - hold stronger preferences for insurance-based unemployment benefits than for minimum unemployment assistance. The reason, she argues, is that these employers expect to gain enough benefits from pooling the risk of skill dispersion during downturns to offset the high non-wage labor costs required to finance contributory schemes. Insurance-based unemployment protection schemes are conducive to the formation of highly-redistributive risk pools on which employers more exposed to market risks can spread the costs of ensuring more generous protection standards to their employees (Mares 2003a: 255, see also Swenson 2002: 393). Workers in turn gain wage-related benefits and low job-search requirements that reproduce existing wage structures, and allows them both to uphold their reservation wage and to turn down jobs that fall outside of their specific professional competences for a reasonable period (Estevez Abe *et al* 2001: 152). On the whole, large-firm employers in high-productivity sectors have a precise economic rationale to prefer UI over minimum assistance in order to reinforce investments in jobs with higher productivity and to sustain an overall high-skill, high-wage production structure (Acemoglu and Shimer 2000). By contrast, Mares argues that small-firm employers especially in low-skill, low-productivity sectors are more likely to oppose social insurance arrangements because of the clear disadvantages they derive from the augmentation of non-wage costs and workers' reservation wage. As a general rule, she posits, small firm size is associated with employers' preferences for minimum assistance policies or to no social policy at all (Mares 2003a: 255; 2000: 299).

Mares' insights are compelling. Since her model is devoted to studying the formative period of the welfare state in the industrial period, amendments are required in order to adapt it to a postindustrial context. During the last decades, UI systems have gone through a number of relevant changes following with the emergence of functional pressures such as structural unemployment, increases of non-wage labor costs, and the diffusion of non-standard work (Clasen and Clegg 2006, 2011). The dynamic impact of these pressures will be thoroughly discussed in the next chapter. It seems here necessary rather to observe that employers preferences developed with reference to what Häusermann (2010a) defines a 'multidimensional' reform agenda, that is, to a number of interrelated policy adjustments tackling different aspects of complex social programs. Drawing inspiration from Clegg (2007), and Clasen and Clegg (2011: 7-10), we may identify three relevant reform dimensions of UI systems: (1) cost containment; (2) activation; and (3) risk redistribution (or recalibration).

To begin with, *cost containment* refers to the policy goal of diminishing overall expenditures –

what Pierson (1994) dubbed 'retrenchment' - and involves mainly cuts to wage replacement rates and benefit duration, and restriction of eligibility rules (Clegg 2007: 601). Upon the emergence of strong spending pressures, we may expect that labour-intensive small and low-productivity employers hold stronger preferences than larger and high-productivity entrepreneurs for minimizing contributory costs to UI, due to their limited room to offset labor costs through productivity gains or increase consumer prices.²⁰ This prediction is also in line with the observation by the OECD (2005b: 16) that 'the personal services sector is likely to be the most affected by high tax rates, as it relies disproportionately on workers with elastic labor supply (e.g. low-skilled workers and second income earners)'. Moreover, a higher reservation wage of benefit claimants inhibits occupational mobility from manufacturing towards labor-intensive, low-wage services (Streeck and Trampusch 2005: 175; Clasen and Clegg 2011: 8) and thus limits the availability of labor supply for these employers. By contrast, larger high-productivity employers are not only less cost sensitive and more interested in keeping high protection standards for their core skilled workforce. But they will be also predictably confronted with stronger tensions with their unions in case of radical benefit cuts.

By the same token, small and low-productivity employers may also favor a decisive shift of UI towards *activation*. To the purposes of the present analysis, we understand activation mainly as the tightening of job-search requirements, the definition of stricter criteria for suitable job offers, and higher sanctions upon job refusal for benefit recipients.²¹ We could here expect a preference divide especially between high- and low-productivity employers. In order to allow more efficient job-matching processes, the former are likely to show weaker preferences for policies forcing skilled workers to take up jobs outside their professional competences, whereas the latter are interested in weakening workers' possibilities to turn down low-paid job offers.

Finally, *risk redistribution* (or recalibration) addresses the interrelated questions of the redefinition of scope and mechanisms of UI in the face of non-standard work; and of the reassessment of the financing system between earmarked contributions and tax-funded resources for firms (cf. Manow 2010). Again we expect an opposition mainly between the polar models of large-firm, high-productivity and small-firm, low-productivity employers. Consistently with the hypothesis stated in the section above, the former employer group tends to make relatively little use of non-standard work and will thus have little interest in extending UI protection towards

²⁰ Although social contributions for unemployment represent a minority share of total non-wage labour costs, as pensions and health care normally make up the lion's part, they nevertheless augment firms' outlays by a not exiguous percentage, particularly for higher wages.

²¹ Other relevant dimensions of activation policies are thus excluded, such as the development of employment services, or the provision of training schemes or subsidized employment creation (for a comprehensive overview of in Europe and in the United States, see Eichhorst *et al.* 2009).

atypical workers. Above all, large manufacturing employers are unlikely to be willing to modify the contribution-based, earnings-related structure of unemployment benefits in order to favor a category of workers that is marginal in their firms. Nor will they want to undermine the stability of a contributory financial structure through which they maintain control over expenditures. Small-firm low-productivity employers employ a higher share of non-standard workers. Even assuming that these employers face pressures from their workers to endorse the scope of unemployment protection, their predominant interest in minimizing non-wage labor cost will push them to favor a more substantial shift of unemployment protection revenues from social contributions to general taxation. In this way, small-firm employers avoid the burden of paying proportional costs to the labor market risk which they generate.

Table 2.5 summarizes the hypothesized configuration of employers policy preferences on UI. The strongest divide is expected between the preferences of small-firm, low-productivity entrepreneurs favoring *strong retrenchment* including benefit cuts, activation and stronger tax-based financing; and of large-firm, high-productivity endorsing measures of *social insurance consolidation*, comprising qualified cost containment, selective activation measures on the low-skilled and conservation of the contribution-based financing structure.

Table 2.5. Hypothesized employers' preferences for unemployment insurance

	High productivity Manufacturing and Services	Low Productivity Manufacturing and Services
Large	<i>Social insurance consolidation</i> → qualified cost containment → moderate activation; → contribution-based financing	<i>Social insurance consolidation</i> → moderate/high cost containment; → moderate/high activation; → contribution-based financing
Small	<i>Moderate Retrenchment</i> → qualified cost containment; → high activation → tax-based financing	<i>Strong retrenchment</i> → high cost containment; → high activation; → tax-based financing.

Less strong hypotheses are developed with respect to the hybrid models of small-firm high-productivity and large-firm low-productivity employers. The former group is represented for instance by craft employers (bottom-left quadrant). High cost sensitivity leads us to assume that these employers favor a stronger role for tax financing, even though they may support only moderate benefit cuts (cost containment) in order to ensure relatively high protection standards for their skilled workforce.²² The latter group (top-right) is likely to be less sensible to contributory

²² This is also in line with what Estevez Abe and colleagues (2001: 160) argue with respect to small firms interest in 'generous and publicly financed unemployment benefit' that 'allows small firms to park some of their skilled workers in the unemployment benefit system during downturns, without undermining the incentives of workers to invest in relevant skills' (italics added).

levels on the basis of large firm size, but may not have the same interest of high-productivity employers in defending generous arrangements, e.g. high wage replacement ratio and long benefit duration, from cost containment efforts.

2.4. ECONOMIC-STRUCTURAL CHANGE UNDER POSTINDUSTRIALISM

Scholars of comparative political economy have traditionally associated postindustrialism with two sets of challenges. One stream of scholarship emphasized the exogenous impact of global competition on the restriction of governments' social spending capacities (Scharpf and Schmidt 2000, Garrett and Mitchell 2001; Schwartz 2001) and on firms' need for quicker adaptation of production factors, including labor, to market conditions (Esping Andersen and Regini 2000). In turn, other scholars analyzed how endogenous transformations within domestic economies and labor markets generated new sources of social risk and risk profiles (Esping Andersen 1999, Armingeon and Bonoli 2006). Arguably, both factors – exogenous and endogenous transformations – have a causal potential to explain employers' preferences for labour market and social policy in the postindustrial age.

Unedited levels of international competition in product and capital markets, including the completion of the internal market in the European Union, challenged the financial viability of European welfare states since the early 1990s. Whereas conditions of 'permanent austerity' (Pierson 1996, 2001) imposed strict budgetary restraints on governments' social spending, firms were confronted with the imperative to reduce production costs in order to stand increased international competition from the emerging Eastern European and South-East Asian countries (Sapir 2006, Sinn 2007). Open markets for goods and services primarily generated direct labour cost pressures on manufacturing sectors exposed to low-cost foreign competition and volatile product demand. Chain-effects of increased market competition subsequently impacted on sub-contractors in the manufacturing as well as on firms supplying services to larger corporations. As Scharpf (2000b: 198) effectively summarized:

private sector firms are now much less able and willing to cross-subsidize less profitable lines of production, or less productive jobs. [...] Most obviously [within the European Monetary Union], each product – and, in the extreme, each job – must now earn its full costs of production plus an adequate rate of return on capital.

Common cost pressures however implied different challenges for the manpower strategies of distinct business segments. To schematize a bit, high-productivity employers especially in the manufacturing had the option of increasing investments in new technologies in order to favor product innovation. Technological innovation forced firms to invest in the upgrading of the skills

of their core workforce. Moreover, larger firms could liberate themselves from redundant business activities such as in-house service provisions by enacting a 'vertical disintegration' of their supply chain (Herrigel and Zeitlin 2010, Herrigel and Wittke 2006) and/or by outsourcing parts of the production to low-cost countries (Scharpf 2000a: 197-9, Sinn 2005). By contrast, low-productivity industries and services branches mainly operating in domestic markets could survive or prosper under the new market conditions only by slashing production costs, and more immediately *labour* costs (Iversen and Wren 1998). Table 2.6 provides an illustrative example of the remarkable cross-sectoral and cross-country differences in firms' investments in research and development between high-productivity manufacturing branches, low-productivity manufacturing and, above all, services during the period under consideration.

Table 2.6. R&D intensity in high-, low-technology manufacturers and services, as a % of total value added, average 1995-2005.

	High-technology manufacturers	Low-technology manufacturers	Services
France	31,7	1,2	0,2
Germany	23,9	0,8	0,2
Italy	12,3	0,25	0,15
UK	22,8	n.a.	0,35
U.S.	29,9	n.a.	0,8

Source: OECD, Stan online database, own calculations.

Beside changing market conditions, the 1990s also witnessed the intensification of the structural transition in advanced Western countries from industrial to *postindustrial* economic structures. Postindustrialism entailed two interrelated though separate phenomena. First, we refer to *deindustrialization* to denote the increasing, for some countries irreversible decline of the manufacturing sector as a source of both employment and of value added to the formation of gross domestic product in the West starting from the mid-1980s. Table 2.7 below shows an illustrative picture of the extent of deindustrialization in cross-country perspective. In the highest industrialized countries – Germany, Italy, and to a lesser extent France – the employment share of manufacturing almost halved between 1980 and the present, and even more noticeably shrank in the Anglo-Saxon world, most notably in the United Kingdom. A number of endogenous factors contributed to this decline, such as saturation of consumers' demand for manufacturing products and technological change diminishing the labor-intensiveness of production (Iversen and Cusack 2000, Kollmeyer 2009) as well of exogenous factors, such as

shifts in trade patterns and outsourcing of production to Eastern Europe and Asia.²³ The fact is nevertheless that the economical and employment weight of manufacturing remarkably receded during the last three decades.

Table 2.7. Incidence of manufacturing as a share of total employment and added value to total economy in selected OECD countries (% data, years 1980, 1995, 2008)

	Employment	Value added	Employment	Value added	Employment	Value added
	1980		1995		2008	
MANUFACTURING						
Germany	31.2	31.0	28.3	22.6	19.0	22.7
Italy	29.1	28.9	23.2	22.2	19.9	19.9
France	22.8	21.6	16.4	16.7	12.3	11.9
UK	24.7	26.3	15.9	21.2	9.8	12.4
USA	19.1	20.9	13.9	16.8	9.6	12.5
BUSINESS SERVICES						
Germany	31.2	36.6	36.5	44.4	42.3	47.3
Italy	27.2	42.3	33.8	46.6	39.4	50.0
France	32.6	44.0	38.0	47.8	42.2	52.9
UK	38.0	34.7	45.3	45.3	49.0	52.7
USA	38.9	45.4	44.0	50.6	46.0	53.5

Source: OECD STAN online database

The flip side of deindustrialization in advanced economies was the dramatic growth of services as a source of employment and total value added, i.e. *tertiarization*. Private business services make up today averagely half of total value added and over 40% of total employment in the countries represented in table 5. The United Kingdom and the United States can be rightfully labeled 'service-based economies' as business services account for more than half of total value added and about the same proportion of total employment. Germany, France but also Italy experienced remarkable increases in service employment between 1980-2008, albeit not to the same extent as Anglo-Saxon countries.

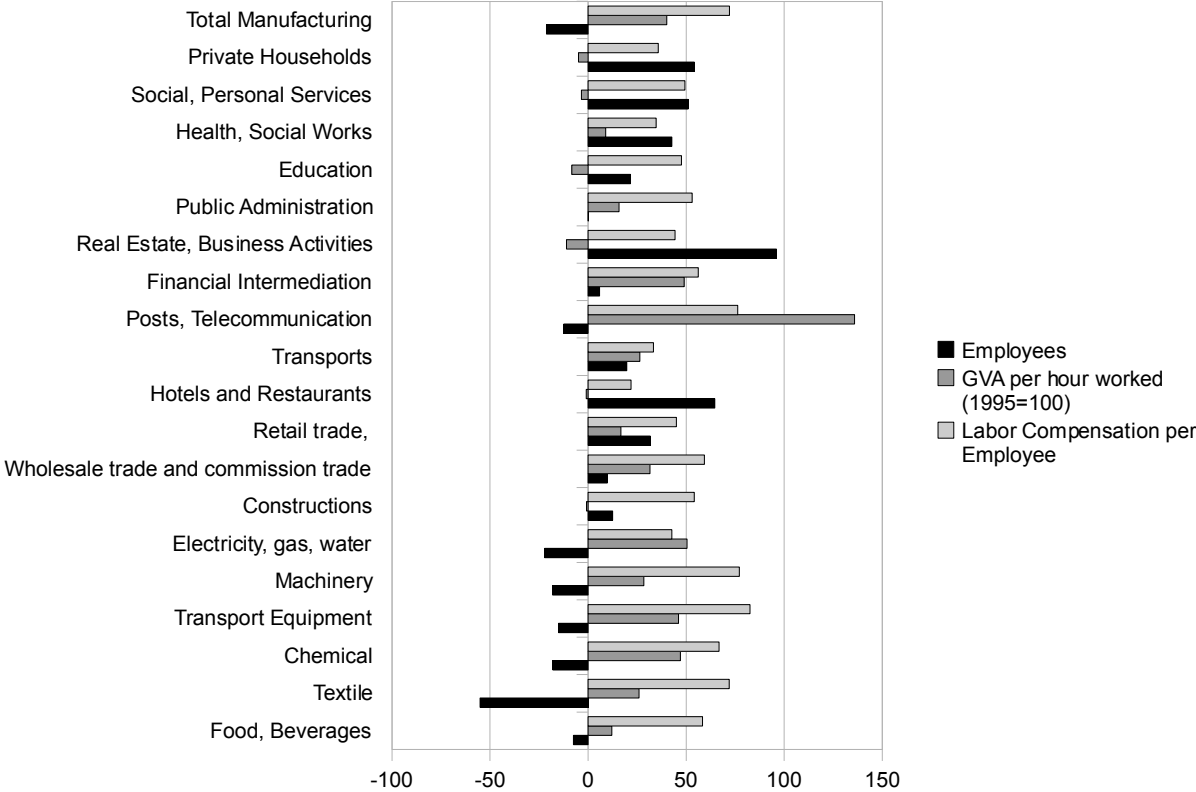
With a focus on Western Europe (EU-15 countries), between 1990-2007 manufacturing branches lost 7.7 jobs whereas private services created 53.8 millions jobs.²⁴ More in depth, figure 2.2 shows the labor intensive growth of most service branches in the EU15 during the last two

²³ In 1980, Germany and Italy represented the first two 'industrial' countries as for the share of manufacturing employment. Whereas by 1990 Italy had given way to South Korea and Estonia and occupied the fourth position in the rank, since 2000 it was placed in position number six and Germany in position number nine to the advantage of East European countries such as Slovenia, Czech Republic and Hungary. Both Germany and Italy still represent the two West European countries with the highest industrial employment share in 2008, but they account only for the ninth and tenth positions behind all of the East European countries and Turkey.

²⁴ Own calculation on EUKLEMS database for EU 15 countries.

decades. Beside strong employment declines in manufacturing (-21% during the same period) - particularly evident in the textile branch priced out by Asian competition - employment gains were concentrated particularly in low-productivity service branches such as hotels and restaurants (64.6%), private households (52.2), and personal and social services (51.0). Financial services such as banking and insurance represent a relevant exception, given higher work productivity, measured in terms of gross value added per hour worked.

Figure 2.2. % Change in Employment, Gross Value Added per Hour Worked, and Labor Compensation in Manufacturing and Service Branches, EU 15, years 1990 – 2007



Source: EUKLEMS database, own calculations.

Moreover, the transition to postindustrial economies also generated an overall diminution of the average size of production units (Stenkula 2006, Palmieri 2007). As shown in table 2.8, especially micro firms (those employing less than 10 employees) witnessed an overall increase in Western European countries that paralleled the contextual diminishing of larger firms with over 250 employees between 1990 and 2001.

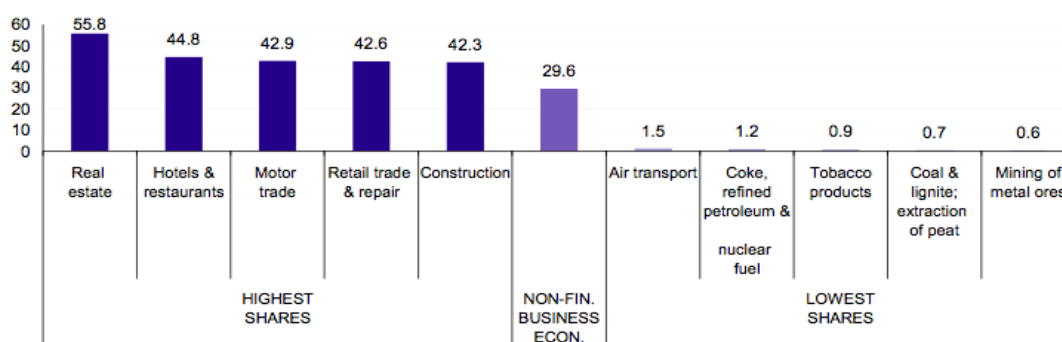
Table 2.8. Employment distribution by firm size, % change 1990 - 2001, in selected EU countries.

	< 9	10-49	50-249	> 250
France	0.0	-0.4	-0.5	0.9
Germany	2.1	0.7	-0.4	-2.3
Italy	1.4	-0.3	-0.7	-0.4
The Netherlands	0.5	0.3	-0.2	-0.6
Spain	0.1	-0.2	-0.3	0.4
Sweden	0.3	-0.1	-0.1	-1.6
UK	1.6	0.1	-0.2	-0.6
EU - 14*	1.4	0.1	-0.4	-1.1

Source: Stenkula (2006: 19) on EIM data. * Luxembourg excluded

This phenomenon occurred not only as a consequence of the downsizing and outsourcing practices by large firms, but also as an inherent feature of the development of service branches such as real estate, hotels and restaurants, and retail trade, that are overall associated with micro firm size (figure 2.3, see also Bartelsmann et al. 2005, Eurostat 2007, Fernandez and Palazuelos 2012: 240).

Figure 2.3. Micro enterprises – highest and lowest shares in sectoral employment, EU-27, 2005 (%)



Source: Eurostat (2008: 4)

The next section will discuss how such changes in domestic economic structures affected employers' perception of existing labour market institutions. The point stressed here is instead that the changing configuration of domestic production systems, and the country-specific pace of the transition, altered the functional and political equilibrium on which 'industrial' institutions rested (Hall and Thelen 2009). Generally speaking, the functional side of this effect is captured by the well-known trilemma of post-industrial economies illustrated by Iversen and Wren (1998).

Because service employment has become so preponderant within domestic economies – they argue - governments will not be able to sustain policies that negatively affect these sectors, such as uniform and wage levels as well as strong taxation on consumptions (ibidem, 512). Therefore, politicians are compelled to leave behind one of the three strategic corners: wage equality, by decentralizing wage negotiations; full employment, by renouncing to the use of public sector employment to compensate for jobs losses in private-sector; budgetary restraint, by decreasing expenditures on labour market policy and welfare and diminishing labour taxes.

Building on these insights, the first research hypothesis is a quite structural one. Postindustrial economic-structural changes increased the relevance of those business segments that exhibit the more hostile preferences towards 'industrial' labor market institutions, in particular small-firm employers in low-productivity sectors. Accordingly, we expect that increased weight of small-firm and service employment will empower the position of related employers groups both within peak employers associations and in the political arena. In other words, the more economically relevant these segments become, the less core manufacturing producers and governments will be able to ignore or withstand their policy demands on labor market institutions. To put it formally:

Hypothesis #1: the stronger small-firm and low-productivity segments within domestic economies, the higher the political pressures to modify industrial labor market institutions

This argument is in line with recent findings by Silja Häusermann (2010: 56) with respect to trade unions and political parties: 'conflict lines in decision-making processes change because the constituencies of political parties and interest organizations change'. On the whole, we may expect that retrenchment pressures by small-firm employers possibly create intra-business divides with core employers as long as the latter identify some beneficial returns from exiting institutions and do not advocate for radical policy change.

Yet, as shown in the next section, the saliency of intra-business divides is shaped by the legacies of existing institutions and the distribution of costs and benefits which they generate on different employers segments.

2.5. INDUSTRIAL HERITAGES: POLICY LEGACIES

A traditional claim of historical institutionalist literature is that institutions are not neutral but rather reflect 'particular patterns of power distribution in politics' (Thelen 1999: 394) at the time of their establishment. In his influential contributions, Paul Pierson (1996, 2001) maintained that given institutional arrangements tend to generate 'increasing returns' on those coalitions of actors that created them. *Policy legacies* determine a certain allocation of costs and benefits which favor 'early winners' in a way that these actors will be unlikely to discard, thus producing well-

known effects of 'path dependency' (Pierson 2000). Yet, the meanwhile voluminous literature on institutional change (Thelen 2004, Streeck and Thelen 2005, Hall and Thelen 2009, Mahoney and Thelen 2010) pointed at opposite effects of policy legacies. First, they are likely object of contestation on the part of the 'losers' of particular arrangements. To the extent by which structural or political changes alter the power relationships within and between 'early winners', for instance by gradually modifying the constituencies of parties and interest organizations (Häusermann 2010: 56), the coalitional bases supporting existing institutions shift, thus opening a window of opportunity for reform (Thelen 2004: 33; Hall and Thelen 2009). Secondly, policy legacies are subject to a sort of entropic process by which exogenous socio-economic developments progressively erode the costs and benefits 'early winners' themselves derive from certain institutional arrangements (Häusermann 2010: 82). Therefore, actors are called upon a continuous reassessment of the fit of institutions to their interests, this paving the way to ceaseless processes of reinterpretation and manipulation of policy instruments over time (Thelen 2009: 491; Mahoney and Thelen 2010).

In this light, so the contention of this work, policy legacies have an explanatory power on employers' preferences in the transition to postindustrialism because of the inbuilt distributional patterns that given institutional arrangements generate. On one side, the policy structure of existing 'industrial' institutions – in our case, dismissal protection (DP) and unemployment insurance (UI) – informs the most typical class conflict between labour and capital with respect to the adaptation of institutions to mutated market conditions. Under permanent austerity conditions, unions will oppose regulatory liberalizations and benefit cuts in order to protect workers from increased market turbulence. As discussed above, we expect especially large-firm and manufacturing employers to be more sensible in evaluating the costs and benefits of existing institutions by taking into account their functionality to avoid social conflicts with organized labor. On the other hand, policy legacies may activate salient *intra-business preference divides* to the extent by which existing institutions provide different sorts of returns to various business segments. Building on the hypothesis 1 stated above, we may expect such divides to characterize the different policy preferences of the two 'poles' of postindustrial economies: large- high-productivity employers, e.g. in manufacturing, and small low-productivity employers, e.g. in personal services. It is the second research hypothesis that:

Hypothesis # 2: the material configuration of domestic policy arrangements in the main institutional domains create specific sources of intra-business divides, depending on the way different employers perceive the distribution of costs and benefits as serving their group interests.

With respect to *DP*, for instance, the size threshold of application significantly affects job flows

across firm size and country (Haltiwanger et al. 2006, Boeri and Jimeno 2003), thus constituting a major point of interest for small firms. Depending on its high or low level, we expect these employers to mobilize for extending the exemption to a wider range of firms. In turn, the definition of the criteria for unlawful dismissals, including unions participation and sanctions, and the levels of severance pay and notice periods affect those adjustments that larger firms are most likely to tackle. A potential intra-business conflict thus arises from the choice of what policy position to advocate in the policy-making process, whether one aiming at extending exemption for smaller firms or one engaging in more complex redefinition of sanctions for unlawful dismissals.

Given its redistributive nature, UI entails possible conflict lines on the inter-sectoral distribution of protection costs, i.e. on the risk-sharing dynamics (Mares 2003a). Open redistributive pools including production branches with different risk profiles are exposed to the contestation by low-risk, labour-intensive employers when social insurance costs increase. Ensuing demands for their diminution via substantial benefit cuts could however encounter the opposition of high-productivity firms, if cuts undermine the skill protection function of UI. On the latter point, *par contre*, even high-productivity employers may perceive generosity peaks in duration or wage replacement ratio as distorting the original intent of UI, thus generate demands for their remodulation in a more selective sense. In this vein, loose eligibility rules, generous wage-replacement ratios and benefit duration periods, and low activation measures will not be forcefully interpreted by skill-intensive employers as indicators of more effective skill protection effects. Under changing economic conditions, employers will evaluate the risk redistribution effects of existing institutions and thus reinterpret the very nature of those institutions and the possible available options for reforming their mechanisms.

Finally, we may deem employers preferences for the liberalization of NSW as a by-product of the joint interaction between DP and social insurance costs in the sense that employers may favor the kind of regulation that help them circumventing the most unfavorable aspects in the regulation of standard employment. Following a widely-accepted definition, the standard employment relationship includes '*a stable, socially protected, dependent, full-time job...the basic conditions of which (working time, pay, social transfers) are regulated to a minimum level by collective agreement or by labour and/or social security law*' (Bosch 1986: 165). Alongside collective bargaining that fixes minimum wage levels, DP determine conditions for dismissals and UI contributes to the total amount of non-wage labour costs. To the extent that each of these institutions generate decreasing returns on different production segments, employers will shed on forms of NSW their preferences for reforms. To simplify considerably, low-skill services and small employers' preference for NSW

regulation might be affected by the interest to minimize non-wage labour costs. Their policy position will thus tend to achieve diminished social insurance costs on NSW and bypasses to collective agreements on wages. In turn, high-productivity and large employers may develop preferences for circumventing job turnover costs on their marginal workforce, thus be primarily concerned with regulatory aspects of NSW, such as decreasing limitations on the maximum duration and repetition of temporary employment contracts. On a more abstract level, NSW stands in a relationship of institutional complementarity to both DP and UI from employers' point of view in the sense intended by Hall and Thelen (2009: 21) that 'institutional arrangements in one sphere of the political economy condition the positions that actors take on institutional reform in other spheres'.

On the whole, as Häusermann (2010) noticed with respect to pensions systems, policy legacies within single institutional domains contain 'multidimensional' adjustment options, that is a plurality of settings which policy-makers can variably tackle during decision-making processes in order to achieve the consensus of determinant interest groups over a certain distribution of costs and benefits. We may hence expect policy legacies in single policy areas (DP, non-standard work, UI) to create specific sources of intra-business friction and heterogeneity of policy positions. However, as the next section clarifies, analyzing each policy domain in insulation may lead to partial readings of employers' own preferences and strategic challenges in the political arena.

2.6. PEAK EMPLOYERS ASSOCIATIONS AND THE MAKING OF POLICY POSITIONS

Policy-making is about collective political agency, and collective agency is to a good degree about organization, especially for interest groups. The third hypothesis of this work thus focuses on the capacities of diverse *systems of peak employers associations* (PEA) to aggregate the preferences of their constituencies and organize collective action by formulating common policy positions and pushing them forward in the political arena. PEAs are 'organizations that are not affiliated to any higher-level body, have national scope and organize employers in more than one economic sector'²⁵ (Eurofound 2010: 3). We may thus define a system of PEAs as 'the *set of associations* that represent employers on a given territory or for a similar production activity, and the type of *relationships* these hold with each other' (Schmitter and Streeck 1981, quoted in Lanza-Laco 1992: 55). PEAs matter to the policy-making process as the interaction with their constituency very much resembles what international relations scholars labeled a *two-level game* (Putnam 1988, see

²⁵ By focusing on the national level, the definition obviously leaves out the higher level of peak employers associations in the European Union that however lies outside the scope of this research.

also Moravcsik 1998) between national governments and international organizations in diplomatic negotiations:

at the national level, *domestic groups* pursue their interests by pressuring the government to adopt favorable policies, and politicians seek power by constructing coalitions among these groups. At the international level, *national governments* seek to maximize their own ability to satisfy domestic pressures, while minimizing the adverse consequences of foreign developments (Putnam 1988: 434, italics added)

Read otherwise, within the employer community PEA leaderships maximize their power by collecting the preferences of individual firms and sectoral associations, and formulating policy positions that are responsive to their preferences. At a later stage in the political and/or collective bargaining arena, PEA will pursue policy outputs that encounter the preferences of their constituency and minimize the externalities of political negotiations.

Yet, unlike Putnam's model, studies on employers' collective action have pointed out that strong PEAs hold considerable power in actively shaping the policy preferences of their lower levels. With respect to sectoral associations, PEAs dispose of consistent technical expertise that support internal deliberations with more complete information about policy details and feasibility of alternative options (Streeck and Kenworthy 2005: 450). Moreover, higher decision-making discretion of their leaderships adds broader strategic considerations with respect to the relationships with unions and parties in government, with a crucial view on wider political exchanges across policies (*ibidem*). On the other hand, the inclusivity of their membership domain allows PEAs to articulate a wider set of preferences stemming from a variety of sectors and territories (Lanzalaco 1992: 34-5) and in turn empowers the demands of business segments with minor market and political power resources.

Most notably, these insights have informed scholars' theoretical distinction between *(neo)corporatist* and *pluralist* systems of interest organizations, whereby the former are characterized by more inclusive and organizationally stronger PEA and the latter by fragmented and weaker PEA systems (Streeck and Schmitter 1981, 1999). Moreover, to expand the extension of the concepts of corporatism and pluralism to the type of relationships between governments and the social partners (Lehmbruch 1977, 1979), in neocorporatist systems governments provide PEA and unions with a monopoly (or oligopoly) over the representation of their respective interests and systematically include them in the decision-making process over labour market and welfare issues (see Molina and Rhodes 2002 for a review). Privileged and selective access to the political level strengthens PEA vis-à-vis their affiliates in that it provides incentives to the latter to join PEA in search of guaranteed level of *influence* on decision-making, whereas state support to

corporatist structures generate stable returns on membership.²⁶ *Par contre*, governments profit from the possibility of achieving more moderation in policy positions of labor and capital, this strengthening the potential for consensus-building (Streeck and Kenworthy 2005: 451; Traxler 2010). The tripartite 'social pacts' that characterized the capital decisions of welfare reform during the 1990s mainly in European countries with neocorporatist systems witnessed the most striking example of the beneficial returns of high concentration of representative power for the success of complex negotiations.

Notwithstanding pluralist systems, even countries with corporatist interest representation structures displayed considerable variance in the organization of PEA systems. To follow the typology put forward by Lanzaalaco (1989, 1998), we may distinguish two ideal types of peak employers associational systems (see Lanzaalaco 1989, 1998):

- a) *encompassing systems* (Germany, Austria, Sweden): a single PEA with encompassing membership and strong organizational resources tend to hegemonize the representation of employers interests, albeit sided by minor organizations;
- b) *fragmented systems* (Italy): a plurality of associations with lower organizational resources compete for employers representation, their membership being circumscribed across multiple cleavages.

In this perspective, we can apply the well-know categories introduced by the seminal work of Streeck and Schmitter (1981; 1999), albeit bearing in mind that their intention was actually to distinguish the logic of business collective action in corporatist and pluralist countries. In fragmented associational systems, competitive relationships between a plurality of associations with well-defined membership domains lead each association to follow a predominant *logic of influence* vis-à-vis politics. While emphasizing 'the authentic representation of members' interest perception and articulated demands' (Streeck and Kenworthy 2005: 451), fragmented systems set each associational leadership under the pressure of striving for policy outputs that closely resemble the preferences of their constituencies in order to legitimize themselves. We can thus expect the policy positions of EAs in *fragmented systems* to be narrowly focused on pursuing particularistic benefits that 'externalize' the costs associated with policies on the other EAs and political actors (Lanzaalaco 1992: 35).

Conversely, countries with encompassing and strongly organized EAs induce more cooperation

²⁶ The beneficial returns of corporatist structures on the maintenance of high degree of interests association is also witnessed by the relationship between self-management of unemployment insurance funds by the social partners and sustained levels of unionization in Northern European countries with Ghent UI systems (Ebbinghaus et al 2011: 120, Lind 2010). The prospect of accessing to unemployment benefits keep constant incentives for workers to join trade unions, and in turn spur the stickiness of support by union leaders to sustain policy stability as a means to the self-preservation of labour organization.

among employers in that they provide peak leaderships with a wider set of means to incentivize compliance among affiliates such as higher power resources vis-à-vis unions and parties in government and encompassing benefits. An accordingly stronger *logic of membership* theoretically characterizes the process of policy positions formation in inclusive EA systems, whereby employers likely internalize eventual intra-sectoral conflicts in the pursuit of a higher collective interest (*ibidem*).²⁷

In this respect, the basic insight to be maintained is that:

'it is not the *strategy* of an organization [...] that determines the *structure* of the latter, but rather the structure poses constraints to strategy. And frequently the structure of associations and of interest representation systems is *given*' (Lanzalaco 1992: 36, own translation, italics in the original).

To the extent that the policy preferences of diverse business segments diverge over labour market policy, the third research hypothesis therefore goes as follows:

Hypothesis # 3: encompassing associational systems incentivize intra-business coordination of policy preferences via more intense internal negotiations prior to political negotiations, whereas fragmented associational systems encourage intra-business competition and differentiation between the particularistic preferences of different employers segments.

Before passing to the empirical analysis, the next section reviews the theoretical framework of this work.

2.7. AN OVERVIEW OF THE THEORETICAL FRAMEWORK

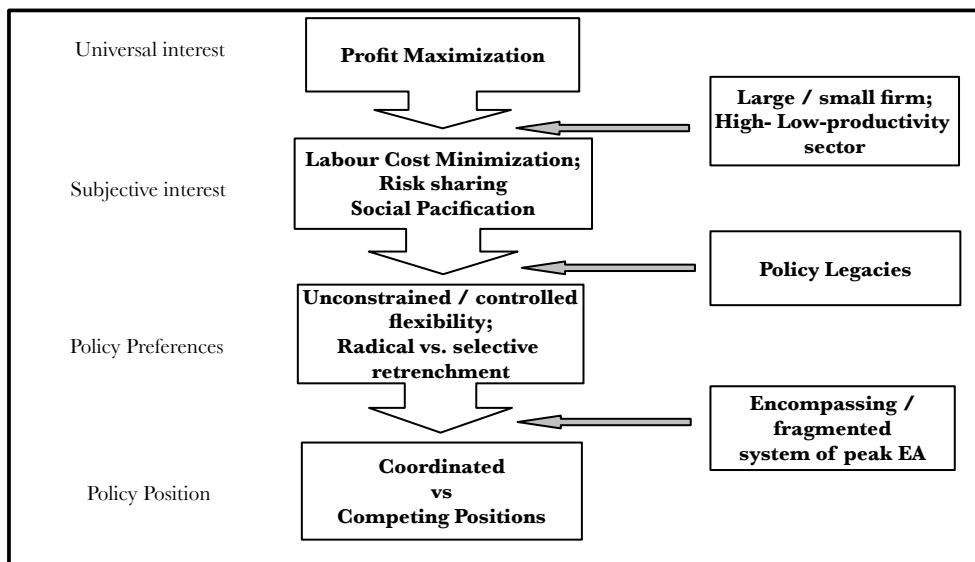
Which factors explain the positions of employers on employment protection regulation and unemployment insurance in the transition to post-industrial economies? Building on a cross-sectoral approach, this work assumes that firms characteristics are determinant of employers preferences and that structural intra-business divides underpin the formation of common policy positions. Relevant cleavages can be identified in firm size (large/small) and production sector (high-/low-productivity). Small firm size is intrinsically associated with higher labour

²⁷ It also seems remarkable to clarify that this literature seeks to explain cross-national variations in the capacity of peak business interest and employers associations to organize collective action, and not the actual degree of business influence on policy outputs. Said otherwise, the argument is not that employers in countries with fragmented EA systems are less influent in the policy-making process than in countries with inclusive systems. On the contrary, one may hypothesize that fragmented systems generate a plurality of veto points which politicians are to overcome while attempting to introduce reforms, and thus increase the possibility for EA to trade consensus for particular(istic) benefits. Moreover, the strains cutting across large EA in the face of increasing intra-business conflicts under globalization and their diminishing organizational power even in former neo-corporatist strongholds such as Germany or Sweden (Traxler et al. 2001, Traxler 2010; Streeck and Visser 2006) witness the fragility of compliance with social norms of 'membership' among different business segments, as well as the inherently political nature of employers coordination over time (Thelen 2009, Hall and Thelen 2009).

intensiveness, thus with the imperative of labour costs minimization. Low-productivity sector relates both to the generality of core workers' skills and to a sheltered market position, as in the case of personal services, and is conducive to employers low propensity for risk sharing. By contrast, capital intensiveness, higher asset-specificity of required skills, exposure to market competition, and higher unionization of workers pull employers of large size and in high-productivity sectors to consider the positive returns of social protection institutions in terms of market risk-sharing and social pacification. Therefore, whereas the preferences of small and low-productivity employers expectedly favor low levels of both employment (unconstrained liberalization) and unemployment protection (minimum assistance), large and high-productivity employers may instead consent to controlled liberalization of employment protection and selective retrenchment of unemployment insurance.

Figure 2.4. provides a graphical overview of the sequencing of these variables in the process of collective preferences formation. Starting from a common universal interest by all employers in profit maximization, the structural identity of individual segments shapes the way employers evaluate labour market policies against their interests, and turn them into policy preference with reference to the available policy means. The political context ultimately mould the transposition of ideal policy preferences into strategic policy positions.

Figure 2.4. The formation process of employers policy positions.



On these grounds, so the argument of this work, three main variables affect the formation of employers policy positions in the political arena: (1) economic-structural changes in domestic production systems; (2) the distributive effects of the particular institutional design of policy legacies; (3) the systemic organization of peak employers associations. Let us summarize the

main research hypothesis:

- *H #1*: the stronger small-firm and low-productivity segments within domestic economies, the higher the political pressures to modify industrial labor market institutions;
- *H # 2*: the material configuration of domestic policy arrangements in the main institutional domains create specific sources of intra-business divides, depending on the way different employers perceive the distribution of costs and benefits as serving their group interests;
- *H # 3*: encompassing associational systems incentivize intra-business coordination of policy preferences via more intense internal negotiations prior to political negotiations, whereas fragmented associational systems encourage intra-business competition and differentiation between the particularistic preferences of different employers segments.

Structural economic changes intrinsically underpin the transition of domestic production systems to mature post-industrialism, which we may define as deindustrialization and tertiarization. Overall, these imply the decline of the economic and employment share of industrial sectors in face of the rise of service sectors, and a general diminution of the average size of firms. Structural changes represent an endogenous source of pressure on the other independent variables over time. In the first place, they undermine the functioning of existing institutions by upsetting the socio-economic distribution of their effects and generating heterogenous issues of contestation and precise reform demands by actors. Secondly, (socio-)economic changes diversify the risk profiles within the population, thus creating new social needs, and alter the constituency both of political parties and unions, thus forcing them to evolve their policy positions accordingly. Likewise, and more critically, deindustrialization and tertiarization alter the constituency of employers associations by empowering the policy demands of certain segments over others, and challenge peak employers associations to coordinate possible divides.

The *policy structure of existing institutions* mould the ideal preferences of different actors and turn them into specific policy demands. Both employment protection regimes and UI systems are complex institutional creatures. DP often present a firm size threshold below which employers are exempted from the application of firing rules. Moreover, they establish different criteria and procedures for lawful dismissals, and the nature of sanctions as well as setting statutory levels of notice period and severance pay. Finally, labour law places a number of regulative constraints on the use of various forms of NSE and sets social protection rights that affect the costs of temporary employment. In turn, the financing system of UI generates specific patterns of risk redistribution, thus impinging on the non-wage costs employers pay for each labour unit. Finally,

wage-replacement ratios and duration of benefit withdrawal determine the reservation wage of the unemployed with an end-effect on wage levels. Specific institutional arrangements create increasing and decreasing returns on institutional stability and actors preferences.

To the extent that the institutional design of 'industrial' policy legacies generate negative feedbacks on a growing share of employers segments, distributional conflicts may activate intra-business divergencies in policy demands. In this perspective, the *encompassing* or *fragmented organization of PEA systems* hold a crucial explanatory power on the ultimate definition of employers policy positions and negotiating behavior in the political arena. The organizational properties of encompassing PEA systems lead employers to internalize hypes in intra-business distributional conflicts and bargain coordinated policy positions that strike a common consensus within their heterogeneous constituency (logic of membership). By contrast, in countries with fragmented systems competitive relationships between EAs representing specific business segments more likely lead employers to externalize distributional conflicts on the political level, each EA pursuing the particularistic benefit of their constituency.

CHAPTER 3

SO FAR, NO MATTER HOW CLOSE. POSTINDUSTRIAL CHA(LLE)NGES IN GERMANY AND ITALY

Germany and Italy share a number of broadly similar structural and institutional features. On the basis of commonly strong manufacturing sectors, high labor organization prompted the consolidation of extensive, voluntaristic systems of industrial relations and medium-high levels of corporatism, as well as highly-regulated labor market regimes and Bismarckian welfare systems. Yet, as noticed, relevant differences are to be found with respect to the composition of their economic structures, organizational degree of interest associations, and – consistently with the scope of this research – the structure of employment regulation and income maintenance systems. These factors are hypothesised to be of great relevance in shaping employers' preferences and positions on the reform of labor market and unemployment protection institutions during the transition to postindustrial economies. This chapter provides a more detailed analysis of these contextual factors and their changes in the two countries.

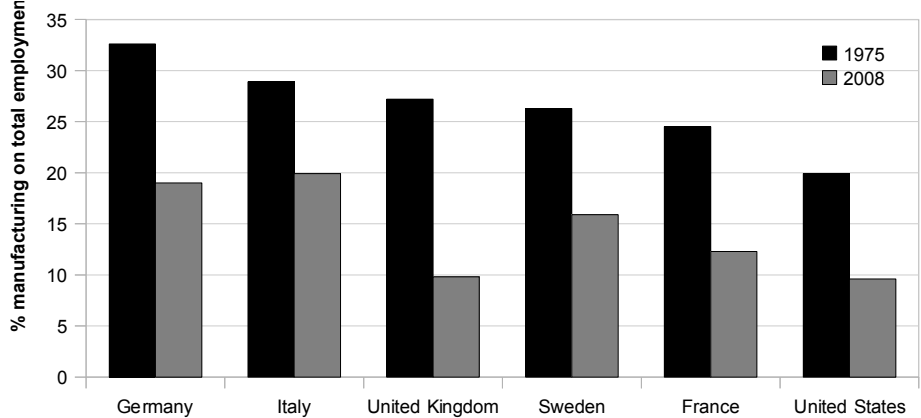
Section 3.1 analyses the dynamics of deindustrialization of the German and Italian production systems, by focusing both on the employment shifts between manufacturing and various service sectors and on the relationship between large and small firms. Section 3.2 looks into the structure of peak employers associations and questions to what extent existing employers organizations organized to include small-firm and emerging service employers within their representational domain in two different systems. Finally, section 3.3 turns to investigate how institutional arrangements of employment protection and income maintenance systems inherited from the industrial period impacted on different employers segments in the two countries.

3.1.THE TRANSITION TO POST-INDUSTRIAL PRODUCTION SYSTEMS

At the height of the 'industrial age' during the 1970s, Germany and Italy figured as the two

most industrialized countries in the Western world. To take an illustrative indicator, in 1975 not even the United Kingdom matched the concentration of 32.6% of the German workforce and 27.6% of the Italian in the manufacturing sector (figure 3.1), whereby the latter's share of value added accounted for, respectively, 44.3 and 40.2% of the total. Figure 1 also provides a telling picture of the extent of deindustrialization during the last decades. By 2008, Germany and Italy still maintain their ranking in Western Europe as for the employment share in manufacturing, especially if compared with the UK. However, employment figures have dramatically fallen to 19% in Germany and 19.9% in Italy, whereas industry makes up for respectively 29.8 and 27% of total value added in the domestic economies. In turn, the share of service employment has grown from 51 to 73% in Germany and from 45.5 to 68.3% in Italy between 1975 and 2008.

Figure 3.1. Manufacturing share of employment on total employment in selected OECD countries (% data, years 1975 and 2008).



Source: Oecd STAN online database

Notwithstanding similar levels of industrialization, the German and Italian production systems have traditionally differed from each other with respect to one particular feature *inter alia*, that is the average size of domestic firms (see also Loveman and Sengenberger 1990). The extent of the difference in business average size at the beginning of the 1990s is observable by comparing business census data for West Germany in the year 1987 and Italy in the year 1991 (table 3.1).²⁸

²⁸ Figure 1 does not include constructions, and merges data for different service branches.

Table 3.1. Number of enterprises and employees in West Germany (year 1987) and Italy (year 1991), breakdown by sectors and size classes (% share of row).

Firm size (n. employees)	West Germany - 1987								
	Micro (1 - 9)		Small* (10 - 49)		Medium* (50 - 249)		Large* (over 250)		
	<i>Firms</i>	<i>Employees</i>	<i>Firms</i>	<i>Employees</i>	<i>Firms</i>	<i>Employees</i>	<i>Firms</i>	<i>Employees</i>	
Industry	73.9	10.2	13.0	6.8	12.6	36.1	0.5	46.9	
Services	90.6	24.8	5.2	7.8	4.0	25.9	0.2	38	
Total	82.3	17.5	9.1	7.3	8.3	31	0.4	42.5	
Firm size (n. employees)	Italy - 1991								
	Industry	82.3	23.7	10.4	14.4	7.0	33.7	0.3	28.2
	Services	97.1	58	1.9	7.7	1.0	13.9	0.0	20.4
	Total	94.1	45.4	3.7	11.1	2.1	21.9	0.1	21.6

Sources: Statistisches Bundesamt and ISTAT. * In Germany, medium-sized firms are defined those employing between 20 and 499 employees, and large firms those with over 500 employees. For the sake of comparability, Italian data for firms between 20-49 and 50-249 are merged into a unique 'medium-sized' class. Large firms in Italy are classified as those employing more than 250 employees.

Note: industry includes sectors C, D, E according to the NACE classification. Services comprehend NACE sectors G, H, I, K.

In terms of number of enterprises, micro and small firms were numerically preponderant in both countries and in all production sectors. Yet, in terms of employment, table 1 clearly shows the strong predominance in Germany of medium-sized and large firms with over 500 employees in manufacturing (46.9% of total employment, with peaks of 78.1% e.g. in the chemical industry). Instead, Italy presented the opposite situation. Some 48% of total industrial employment was concentrated in micro and small firms and only 28.2% in large firms.²⁹ On the other hand, in both countries the employment share of larger firms sensibly dropped in the service sector, though to a wider extent in Italy than in Germany. Large firms would dominate transports and communications (64% of employment in the branch in both countries) and the financial sector (53.4% in Germany and 63% in Italy), arguably due to the role of publicly-owned companies and scarce competition prior to the implementation of the EU internal market. However, especially in commercial branches such as wholesale and retail trade, employment resulted extremely fragmented across micro production units in Italy (97% of total enterprises and 75.2% of employees), with no counterpart in Germany (90.6 of

²⁹ Note that in the Italian classification, large firms are those employing more than 250 employees rather than 500 as in Germany. It is therefore to expect that if Italy had adopted the German classification the employment size proportion of large corporates the figure would have resulted even lower.

enterprises for 37.6% of employees).

This picture broadly reflects the kind of postwar development of the German and Italian production systems. The German 'decentralized industrial order' (Herrigel 1996) developed out of state-enabled cooperative relationships between a strong layer of export-oriented large corporates, characterized by Fordist mass production and 'diversified quality production' strategies which built on a highly-trained workforce (Streeck 1991, 1997); and a dense network of small-sized high-productivity subcontractors in industrial craft sectors pursuing flexible specialization strategies within local-based industrial districts (Sabel 1989, Herrigel and Sabel 1997, Hancké 2002: 195). Small-sized flexible specialization in local industrial districts, such as those of the 'third Italy' (Bagnasco 1977, Trigilia 1990, Burroni and Trigilia 2001) also constituted one crucial feature in the development of the Italian 'regionalized capitalism' (Burroni and Trigilia 2009). However, neither did large Italian manufacturing and service corporates manage to revert their decline after the 1970s, also due to the inefficiencies generated by the pervasive role of the state in inhibiting competition and enact a coherent industrial policy (see De Cecco 2007: 774-77). Nor did grand part of the overwhelmingly family entrepreneurship in micro and small enterprises demonstrate willing or able to invest on capital-intensive product innovation and high-quality competition strategies, given the lack of targeted state policies but also the perverse incentives provided by typically broad supply of unskilled labor, protected market niches and large rooms left for voluntaristic regulation, e.g. in the industrial relations domain (Regini 1997: 103-5, Traù 1999: 41-55).

To what extent and how did the German and Italian economies change during the last two decades?³⁰

During the early 1990s, the joint impact of market opening and technological change prompted a profound restructuring process in the manufacturing sector that was thus accompanied, as widely known, by a stark employment contraction in both countries. Between 1991 and 1997, Germany lost 2.5 millions job in manufacturing and Italy some 500 thousands. Clearly, the extent of German deindustrialization was magnified by the transition to a market economy of the former Democratic Republic and the ensuing reconversion of its manufacturing sector but profound restructuring occurred also among Western corporates

³⁰ Where not otherwise indicated, the following analysis is based on the EUKLEMS dataset that provides detailed information on the development of all economic branches in the European Union between 1970 and 2007 (O'Mahoney and Timmer 2009).

whose international competitiveness eroded over the 1980s and 1990s due to a host of organizational (Herrigel and Sabel 1997), macro-economic and institutional factors (Streeck 1997). Branches such as chemicals, machinery and electronic production underwent an abrupt downsizing phase in Germany that involved some 500 thousands employees each during the 1990s. In turn, the volume of manufacturing employment losses was more contained in Italy, also due to the massive state subsidization of short-time work schemes which contributed to artificially uphold employment levels. Nonetheless, in branches such as textiles, leather, and furnitures that became exposed to low-cost international competition, predominantly small firm size determined severe employment consequences in the long run (Bank of Italy 2008: 24, Burrioni and Trigilia 2009: 642). In both countries, on the other hand, service sectors contributed to progressively absorb the expulsion of the industrial workforce throughout this period. Whereas in Germany 1.4 millions jobs were created in the service sector between 1991 and 1997 and 2.2 millions during 1998 and 2007, in Italy these were merely 203 thousands during the former period but around 2.5 millions during the latter period. It follows that the tertiarization process of the German labor market occurred earlier and to a stronger intensity than in Italy.

Table 3.2 provides some selective indicators for a more detailed analysis with respect to Germany following the reunification. The drastic decline of manufacturing employment between 1991 and 2007 (-7.1% as a share of total employment) was accompanied by strong productivity - here measured in terms of gross value added (GVA) per hour worked - and wage compensation increases for remaining employees. Labor productivity arguably constituted one of the essential factors that upheld the value added share of the sector which diminished only by 3% during the last two decades. If German manufacturing firms have thus undertaken a capital-intensive reorganization - accompanied by investments in product innovation³¹ - grand part of employment growth relied on labor-intensive service branches such as finance intermediation, business and personal services. In deed, productivity and wage increases show much inferior in these branches than those in manufacturing. This notwithstanding, their employment and economic share on the total economy has grown to a challenging extent vis-à-vis manufacturing.

³¹ Firm's expenditure on research and development in Germany accounted to 6.7% of value added in 1995 and 8.1% in 2008, as for manufacturing as a whole (Oecd STAN indicators).

Table 3.2. Contribution of manufacturing and services to gross value added, employment, in Germany (1991 – 2007), breakdown by branch.

	GVA at current basic prices (% share of total economy)		Employment share (% share of total employment)		GVA per hour worked (% change)	Compensation per Employee (% change)
	1991	2007	1991	2007	1991-2007	1991 - 2007
Years						
MANUFACTURING	23.1	20.1	24.8	17.7	46.6	66.0
<i>Chemicals</i>	2.7	2.4	2.1	1.3	116.8	73.1
<i>Machinery</i>	7.6	7.8	7.6	5.9	50.3	87.2
<i>Electronics</i>	4.4	3.6	6.6	4.3	129.1	65.5
CONSTRUCTION	6.0	4.1	7.3	5.0	-7.4	31.8
DISTRIBUTION	14.2	19.7	18.6	19	38.4	34.9
<i>Trade</i>	10.7	10.1	14.0	14.7	28.2	34.7
<i>Transports, storage</i>	3.5	3.9	4.5	4.4	68.1	36.8
FINANCE AND BUSINESS	14.5	17.3	8.7	15.4	-12	29.7
<i>Business Services</i>	9.9	13.3	5.6	12.4	-23	36.5
PERSONAL SERVICES	6.1	6.7	7.7	10.9	-9.1	15.5
<i>Hotels and Restaurants</i>	1.4	1.7	2.6	4.2	-7.2	1.6
<i>Community and Social Services</i>	4.4	4.6	3.7	4.8	-8.9	25.5
NON MARKET SERVICES	24.9	29.2	22.2	25.4	33.9	34.3
TOTAL INDUSTRY	1,392,680	2,176,570	35,101*	35,288*	31.8	38.9

Source: own calculations on EU KLEMS data; * data in thousands.

In Italy, the employment and value added relevance of manufacturing has persisted to higher levels than in Germany (table 3.3). Neither values have showed abrupt decreases between 1991 and 2007. Manufacturing still accounts for about one fourth of gross value added and one fifth of total employment in Italy. However, its total and branch growth clearly developed in a much more labor-intensive way than in Germany (cf. also Faini and Sapir 2005). Despite two decades of wage moderation, labor productivity has not kept pace with wage growth. The labor intensiveness of the development in the manufacturing sector can be in great part attributed to the small size of Italian firms and their related minor capacity of capital investments (Istat 2008: 59 ff).³² In the face of poor productivity in manufacturing, the Italian

³² According to OECD data (STAN online database), Italian firms have been one of the lowest spenders in research and development during the last two decades. The share of R&D expenditure on total value added

tertiarization process has grown stronger in those service branches such as distribution, business and personal services (e.g. the key touristic sector) with minor capacities to achieve productivity gains.

Table 3.3. Value added, employment, labor productivity and compensation in Italy, 1991 to 2007, breakdown by sector and selected branches.

	GVA at current basic prices (% share on total economy)		Employment share (% on total economy)		GVA per hour worked (% change)	Compensation per employee (% change)
	1991	2007	1991	2007	1991-2007	1991 - 2007
MANUFACTURING	26.8	23.8	24.8	20.1	23.6	73
<i>Chemicals</i>	1.6	1.2	1.5	1.1	31.1	81.1
<i>Machinery</i>	2.5	2.7	5.1	4.6	15.4	70.8
<i>Textile</i>	3.4	2.0	5.7	3.2	25.5	77.0
CONSTRUCTIONS	6.2	6.1	6.2	6.8	-18.2	53.6
DISTRIBUTION	19.0	16.6	13.5	19.1	14.2	54.8
<i>Trade</i>	14.2	11.3	9.6	10.5	23.8	59.9
<i>Transports, Storage</i>	4.9	5.3	3.9	4.3	20.5	47.2
FINANCE AND BUSINESS	11.9	15.8	8.7	12.7	-14.3	42.0
<i>Business Services</i>	6.9	10.5	5.4	9.8	-25.8	60.1
PERSONAL SERVICES	7.0	7.7	11.7	15.9	-7.7	50.7
<i>Hotels and Restaurants</i>	2.9	3.8	2.7	4.4	1.2	51.8
<i>Community and Social Services</i>	3.3	2.9	3.3	3.9	-14.4	37.9
NON MARKET SERVICES	25.6	28.2	24.8	22.3	13.5	74.3
TOTAL INDUSTRY	694,927	1,379,675	16,707*	19,115*	14.8	60.5

Source: own calculations on EU KLEMS data; *data in thousands.

Vis-à-vis the German counterparts, labor productivity growth showed low in distribution sector (14.2% against 38.4%), in the financial sector – with a particular drag-down effect exerted by business services (-25.8% against 23%) – and even in non-market services such as the public administration, education and health (13.5% against 33.9%). Similarly as manufacturing, however, wage levels dynamics grew largely unrelated to real productivity in these branches, thus impinging on consumer's prices.

did never surpass 0.7% between 1995 and 2008 vis-à-vis averagely 1.9% in Germany. More particularly yet, manufacturing firms have witnessed persistently low figures (from 2.2% in 1995 to 2.8% in 2008), by more than 4% inferior than their German counterpart.

Manufacturing restructuring and the progressive emergence of services also brought along an average diminution of firm size in terms of employment distribution over the last two decades (table 3.4). The decrease of large firms' employment share appears more remarkable in Germany (-4.6% between 1994 and 2005) also given previously higher levels.³³ By 1997, large firms witnessed a 10% employment loss vis-à-vis the early 1990s that was only partially recovered in the subsequent period, but only in West Germany (Bauer et al. 2008: 22). Yet, the employment share of small- and medium-sized firms has grown to an appreciable extent (respectively 1.7 and 2.1), and balanced overall employment distribution vis-à-vis large firms. In Italy, change results admittedly milder as for the retreat of large-firm employment, but still confirms the predominant role of smaller firms.

Table 3.4. Employment % distribution in Germany and Italy, total economy, breakdown by firm size (early 1990s and late 2000s).

	Early 1990s		Late 2000s	
	Germany (1994)	Italy (1991)	Germany (2005)	Italy (2007)
Small (1 to 49)	40.1	66.7	42.8	67.7
Medium (50 to 249)	24.9	11.7	27.7	12.5
Large (250 and over)	35	21.6	30.4	20.1

Source: for Germany, Bauer (et al. 2008: 29) on IAB-Betriebspanel data; for Italy, own calculation on INPS Business Census data, various years.

To deepen our observation of the specific situation in each country, table 3.5 shows an up-to-date picture of employment distribution in Germany. Large firms predominate in manufacturing and energy production³⁴ and are well balanced with small and medium enterprises in distribution services (e.g. trade and transports), albeit to a lesser extent. In turn,

³³ In fact, the German Federal Statistical Institute has collected very little data on company size and employment in different size classes and sectors, the last head count being done in 1987 (Gröte and Lang 2005: 100). Moreover, Germany has traditionally employed a different methodology to classify small and medium-sized firms, as the *Mittelstand* comprehends firms with up to 499 employees (IfM 2004: 3). As a consequence of a lengthy period of statistical adaptation to the classification method adopted by Eurostat and the Oecd, the latter databases started providing comparable data for Germany only since 1999 and appears largely incomplete until 2003.

³⁴ It is worth noticing however that it is particularly the energy production branch that contributes skewing the proportion towards large firms. If we only take into account manufacturing large firms make up for 55.9% of employment and micro and small firms together for 20.6%. In contrast, energy production witnesses an overwhelming predominance of large firms (87.2% of employment) and a residual share of micro/small firms (together 1.9%).

business services and personal services (not represented here) are skewed towards micro and small size class that account for the greatest employment share in these sectors. It is therefore the growth of the latter sector in the total share of employment that explains good part of the average diminution of firms size in the total economy.

Table 3.5. Germany, employment distribution by sectors and size class (year 2008, % data on total row).

<i>Sector (NACE)</i>	<i>Size Class</i>	Micro	Small	Medium	Large
Manufacturing and Energy (C-E)		2.9	8.4	17.2	71.5
Constructions		36.3	38.8	16.6	8.3
Trade		23.2	22.3	19	35.4
Transports and Communications		10.3	21.3	19.8	48.6
Business Services		59.6	14.8	11.4	14.3
TOTAL		26.5	21.1	16.8	35.6

Source: Statistisches Bundesamt (<https://www.destatis.de/DE/ZahlenFakten/GesamtwirtschaftUmwelt/UnternehmenHandwerk/KleineMittlereUnternehmenMittelstand/KleineMittlereUnternehmenMittelstand.html>, last consulted 23.3.2012).

More precisely, as recent studies have argued, the reconversion of the East German economy was accompanied by consistent downsizing of existing large industrial structures towards a marked specialization in low-productivity services of small size (Bechmann et al. 2010: 30; Bauer et al. 2008: 15-6). Lower productivity increases shown by East German firms during the last decades are therefore associated to the minor capacity of this now predominant service segment to match capital investments and productivity levels of larger Western firms (Bechmann et al. 2010: 32-33). Weak economic robustness of smaller firms, especially in the East, would also explain lower job tenure (Bauer et al. 2008: 20) and higher work turnover not only with respect to large firms but also vis-à-vis firms of similar size in West Germany (Wagner 1997: 412-7; Bechmann et al. 2010: 39-45).³⁵

In Italy, employment distribution by firm size appears persistently skewed towards micro and small firms in both manufacturing and services with particular peaks in constructions and

³⁵ According to data provided by Bauer, job tenure in a large West German firm would averagely amount to 11.2 years between 1994 and 2005, and 7.3 years in a large East German firm. In turn, employment relationships would averagely last 4.8 years in small Western firms and 3.5 in East small firms.

all service branches except for transports (table 3.6). On one side, such perduring fragmentation can be accounted on the crucial contribution of typically small-size business and financial services to total employment and valued added growth since the late 1990s (Istat 2007: 58). Small firm size remains overwhelming also in high-productivity manufacturing, however, due to a host of interacting factors, such as diffuse family ownership of firms, lack of managerial ability, and perverse institutional incentives for employers to remain under certain size threshold in order to avoid adversarial industrial relations typical of medium-large firms as well as labor market and fiscal regulations (Traù 1999: 41-53, Onida 2004; Bugamelli et al. 2008: 8).

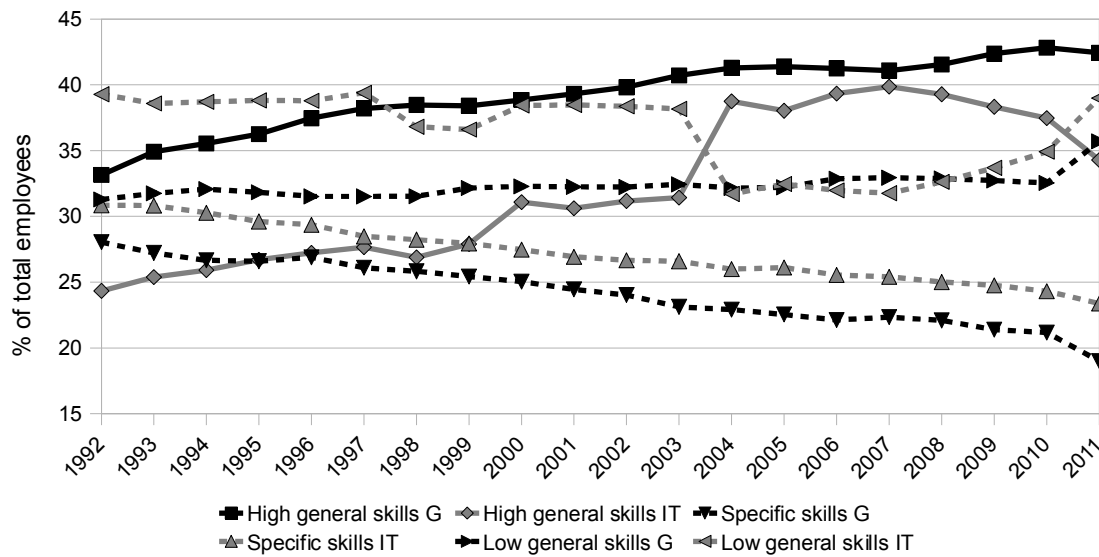
Table 3.6. Italy, employment distribution by sector and size class, year 2007 (% data on total row).

	Micro	Small	Medium	Large
Manufacturing and Energy (C-E)	23.4	30.9	21.5	24.3
Constructions (F)	63.5	27	6.8	2.8
Trade (G)	62.9	17.5	7.4	12.2
Transports and Communication (H,J)	26.2	16.7	15	41.3
Hotels and Restaurants (I)	68.9	21.8	5.8	10.8
Finance and Business (K - N)	50.6	10.1	9.6	0.3
Personal and other services (O - S)	61.9	14.6	13.2	10.3
<i>TOTAL</i>	46.3	20.4	12.5	20.1

Source: own calculations on ISTAT data (*Archivio Statistico delle Imprese Attive*).

Finally, as a reflection of their economic structure, Germany and Italy developed different skill equilibria in their workforce. Following Fleckenstein and Seeleib Kaiser (2011: 140), we may identify three main skill groups on the basis of the ISCO-88 classification of occupations, namely workers with *high general skills* (comprising legislators, senior officials and managers; professionals; and technicians and associate professionals, ISCO groups 1-3); *specific skills* (craft and related workers; and plant and machine operators and assemblers, groups 7-8); and *low-general skills* (clerks; service workers and shop and market sales workers; elementary occupations). Figure 3.2 provides an according picture of skill composition in Germany and Italy and their evolution between 1992 and 2011.

Figure 3.2. Employment by skills in Germany and Italy, 1992 – 2011.



Source: Eurostat, employment by occupation, online database, own calculations

In the beginning of the 1990s, Germany and Italy witnessed an inverse equilibrium between high general skills (the largest group in Germany) and low general skills (the largest group in Italy). This is arguably associated both with the large firm/small firm divide in the two countries, as German larger firms created more managerial job positions than small Italian firms,³⁶ as well as with the relevance of low-productivity manufacturing and service sectors in Italy. In turn, the two countries exhibited similar shares of manual manufacturing jobs with specific skills, whereby this group seems to be far from predominant in Germany, contra the assumptions of the VoC literature (Estevez Abe et al. 2001, cf. Fleckenstein and Seeleib-Kaiser 2011: 142). During the last two decades, however, cross-country differences have considerably reduced. Italy has progressively caught up with Germany in the share of jobs requiring high general skills, at least until the 2009 financial crisis, whereas the expansion of low-productivity service sectors explains the moderate increase of low general skills in Germany. Finally, both countries exhibited a parallel shrinkage of manual jobs with specific skills, whose contraction is especially noteworthy in Italy.

³⁶ It is also to be noticed that Italy has traditionally exhibited much higher rates of self-employment (accounting for 28.7% of civilian employment in 1990 and 26.4% in 2007) than Germany (9.8% in 1990, and 12% in 2007). Whereas in Germany professionals and technicians tended to be employed within firms on a stable basis, in Italy these tasks instead turned to be frequently occupied by self-employed (cf. Berger 1980), this also constituting an explanatory factor for the relevant difference in the share of high general skills between the two countries.

To conclude, therefore, structural transformation to service economies did witness both continuities and changes in Germany and Italy. Despite perduring production specialization in manufacturing, both countries were characterized by a constant increase of low-productivity service employment, which took hold earlier in Germany than Italy but led to a similar development trajectory. On the other hand, the dimensional cleavage still appears overwhelming in Italy, where the predominant position of small firms was further reinforced by the emergence of new service branches beside the perduring fragmentation of the manufacturing segment. Most noticeable was however the German case, in which large-firm employment witnessed declining figures during the last two decades and left room to the development of small-sized service sector particularly in the East. To be sure, there are little signs of convergence in the economic structure of the two countries towards, respectively, large-firm or small-firm dominated production systems. Yet, transformations seem significant enough to investigate to what extent structural changes have turned into political changes, especially on the side of business.

3.2. PEAK EMPLOYERS ASSOCIATION UNDER POSTINDUSTRIALISM

As discussed in the previous chapter, the combined effect of globalization, structural change, and the decline of corporatist institutions has put the main peak employers associations (PEAs) under severe pressures. Throughout the last two decades, both the German *Bundesvereinigung der Deutschen Arbeitgeberverbände* (henceforth, BDA) and the Italian *Confindustria* underwent similar challenges which are worth analyzing in the following.

Table 3.7 provides a synoptic summary of indicators of organizational developments in selected European PEA's from 1980 to 2003, which is the latest available data in the comparative literature (Traxler 2010: 152). Albeit to a much stronger extent in the BDA, both of them sensibly enlarged the number of member firms, especially vis-à-vis the benchmark Swedish and British counterparts. However, unlike the latter cases, their associational density – that is, the ratio between member and total firms – drastically declined by over -20% during this period, this reflecting the long wave of a 'flee from associations' that affected especially the German BDA during the 1990s (Silvia 1997). As Traxler (2010: 167) noticed, public policies favoring individual wage bargaining have also undermined incentives for firms – as well as for workers - to join collective association and pay related membership fees. The Swedish (plus the

Austrian) cases seem to witness that where statutory mechanisms were maintained that extend collective agreements to unaffiliated employers associational density remained stable over time (ibidem).

Table. 3.7. Selected Indicators of developments in PEA's in selected countries, 1980-2003

	Density		Membership (.000)		Associational Affiliates	
	1980	2003	1980	2003	1980	2003
Germany (BDA)	80.0	59.0	12,800	15,094	59	68
Italy (Confindustria)	66.0	38.0	3,300	4,297	204	215
Sweden (SN)	56.0	60.0	1,318	1,497	36	48
UK (CBI)	64.0	52.0	9,828	9,966	192	150

Source: adapted from Traxler 2010: 153; Density is calculated as the ratio of number of employees actually covered to the number of employees demarcated by the association's membership domain.

Moreover, an increase of internal heterogeneity can be observed by looking at the number of associational affiliates from single sectors and territories. In Germany, this can be also accounted on the inclusion of new associations from the Eastern *Länder* in the BDA. Yet, following the liberalization of former publicly-owned enterprises in the provision of general services such as energy, telecommunications, and public transportation, as well as the emergence of branches such as temporary agency work, new associations formed and joined PEAs during the 2000s. To what extent representational developments challenged the primacy of manufacturing employers on the leadership of peak associations in Germany and Italy is object of empirical observation in the following paragraphs.

Remarkably, however, the systemic structure of PEAs in the two countries witnessed a substantial stability throughout this period. Germany is characterized by an *encompassing* system, in which the BDA provides an encompassing representation of employers' interest in the industrial relations and labor market and social policy domains across all business sectors and size classes. In contrast, Italy presents a *fragmented* system in which employers representation in the industrial relations and political spheres is persistently divided between a plurality of peak organizations targeting different sectors – most notably, manufacturing, trade and services, and artisanship – and size classes.

3.2.1. GERMANY: AN ENCOMPASSING ASSOCIATIONAL SYSTEM

Three main factors contribute to the definition of the German system of PEA as an *encompassing* one. First, the *Confederation of German Employers Associations* (BDA) occupies a monopolistic position on the representation of employers' interests in the labor market and social policy domains. Since the post-war, the German system of business organization has been centred on four peak associations: the BDA, the *Confederation of German Industry* (BDI), the *Federation of Industry and Commerce Chambers* (DIHK), and the *Central Association of German Artisans* (ZDH). A strict division of functions underpins the interplay between these peak associations. The BDA constitutes the only *employer* association, tasked with representing firms with respect to the labor market and social policy domains, including labour law, wage bargaining, welfare programs, and vocational training at domestic and EU level. It coordinates employers representation and action in the domestic and EU political arena; assists and broadly coordinates wage bargaining rounds, including possible conflict mediation³⁷; appoints business representatives to corporatist welfare structures such as the Federal Agency for Labor. In turn, the BDI constitutes a 'pure' economic interest association that comprehensively represents all industrial branches. That is, it holds a formal stake in the policy making process in all of those domains that concern firms as producers, such as infrastructures, environmental and fiscal policy. Finally, the DIHK and ZDH rule over the twin chamber systems of respectively commerce and industry, and artisanship. These are a regional-based organ of public law with compulsory membership mainly tasked with the registration of firms, production standard-setting, certification of skills in the vocational training system, and consultancy to firms on fiscal and legal issues (Groser et al. 2010). Only the ZDH combines the functions of interest representation and collective bargaining coordination for artisanship in various branches. In the latter function, it has a direct affiliation to the BDA, thereby directly participating to its decision-making processes.³⁸

Second, also by virtue of this institutional monopoly, the BDA presents an encompassing representation domain across all sectors and firm size classes. Building on voluntary

³⁷ Remarkably, territorial and sectoral affiliates hold an exclusive competence for wage bargaining, and the coordination of strike funds and lockouts. By statute, the BDA cannot sign own wage agreement nor wield any veto on the wage bargaining conditions of its associates. It can only intervene if explicitly demanded to from the parts (Golden 1999: 216).

³⁸ In fact, it is the *Unternehmenverband Deutsches Handwerks* (UDH) that accounts for the representation of artisan employers within the BDA. Yet, since the UDH is itself member of ZDH and organizational structures and personnel basically overlap (ZDH 1, interview), reference will be henceforth made only to the latter.

membership, the BDA is configured as an 'association of associations' (Schröder 2010: 29), including 14 territorial associations at Land level (*Landesvereinigungen*) and, by 2010, 58 sectoral associations (*Bundesfachverbände*). The latter are further grouped into seven macro-sectors, as shown in table 3.8. Such partition is basically functional to the proportional distribution of seats in the organs of the Federal organisation, as shown more in detail below.

Table 3.8. Sectoral organisation of the BDA (year 2010).

Economic Sector	Affiliated associations	Examples
Industry and Constructions	21	- Metalworking and Electronics (Gesamtmetall) - Chemical (BAVC); - Constructions (Hauptverband der Deutschen Bauindustrie).
Trade	3	- Wholesale and External trade (BGA); - Retail trade (HDE).
Financial Services	2	- Insurance firms (AGV); - Private banks (AGV Banken)
Transports	5	- Air Transportation (Arbeitsgeberverband Luftverkehr); - Railways (AGVDE).
Artisanship	2	- Craft Firms (UDH); - Construction firms (ZDB);
Agriculture	2	- Bundesvereinigung Garten-, Landschafts-, und Sportplatzbau; - GV der deutschen Land- und Fortwirtschaftlichen ArbVerb
General Services	19	- Care services (AGV Pflege); - Posts (AGV Postdienste); - Temporary Agency Work (BZA, IGZ, AMP); - Hotels and Restaurant (DEHOGA).

Source: BDA (<http://www.bda-online.de/www/arbeitgeber.nsf/id/13C4948D0DD34D96C1256DE70069F2E1>)

To reprise our categorisation of firm types, therefore, the BDA alone includes in its representational domain all of the different combinations of size classes and sectors, with the sole exception of free professionals (*Freie Berufler*) since self-employed do not sign collective agreements nor participate to social insurance funds. As mentioned, the ZDH is the only affiliate with overlapping business interest and employer functions.

Third, on a more systemic level of analysis, internal decision-making processes on labor market issues within the employers' camp are characterized by a *consensus* orientation that underpins cooperative relationships between the BDA and the other three peak associations. Although it is the BDA the sole actor to conduce political negotiations, the BDI, DIHK and ZDH actively participate to the formulation of employers' common policy positions. Whereas

the latter holds direct membership, competent working groups within the BDA circulate draft position papers on given law proposals to both the BDI and DIHK to be jointly discussed and possibly amended before a common statement is issued.³⁹ Cooperative interaction is not only due to the fact that policy implementation may frequently be demanded to the chamber systems, as in the case of vocational training or be deemed as affecting the overall economic interests of producers. The achievement of common positions by all institutional representatives of 'the *Wirtschaft*' – as peak associations name themselves - is considered as enhancing the degree of political pressure on parties and the public opinion with the view to influencing policy outputs on critical issues.⁴⁰ Only in case of important intra-business divides, BDI, ZDH and DIHK file own policy documents to members of the Parliament and the Federal government, and issue press statements in order to emphasize their specific position also vis-à-vis their own members.⁴¹

Given this broad systemic picture, however, the twin pressures of globalization and economic-structural change have had a noticeable impact on the representational dynamics within the BDA since the 1990s.

In the first place, it is a widespread result of scholarly analyses that the main sectoral associations especially in core manufacturing branches have witnessed decreasing membership rates (Silvia 2010: 175-9). An indicative case is often found in the key association of metalworking and electronic employers, *Gesamtmetall*. Between 1990 and 2009, *Gesamtmetall* lost about 4,500 member firms in West Germany and 1,000 in the East (table 3.9), of which grand part is concentrated in East Germany and in the *Mittelstand* (Völkl 2002).

³⁹ BDA 1, ZDH 1, own interviews. If anything, interaction is facilitated by the fact that BDI and DIHK share a joint seat with the BDA in the 'Haus der Wirtschaft' in Berlin.

⁴⁰ BDA 1, ZDH 1, *Gesamtmetall*, own interviews.

⁴¹ As one interviewee at ZDH puts it, '*it depends on the associational leadership whether we want to intervene on an issue on our own or to delegate the BDA in full. You may want to try to distinguish yourself frequently in order to show your members that their association is politically active and to make sure that your specific stance be properly considered. This is certainly even more important for those associations whose membership is voluntary than for us or the DIHK, but it is generally important to constantly remind politicians that laws have disproportional impacts on different firms, especially on smaller ones*'. (ZDH 1 interview).

Table 3.9. Membership of Gesamtmetall (West and East Germany, 1990 – 2009).

Year	Member Firms			Employees	
	West	East	With no Tarifbindung (East)	Covered by collective bargaining (W + E), in .000	Not covered by collective bargaining (East), in .000
1990	8,173	1,192	-	3,881	-
1995	7,094	792	-	2,353	-
2000	5,825	426	-	2,122	-
2006	4,189	240	1,899 (7)	1,779	224 (0.5)
2009	3,577	212	2,545 (85)	1,729	318 (8.8)

Source: Gesamtmetall (2010)

Grand part of this phenomenon was accounted on the well-known discontentment of the latter segments with the wage levels agreed by large-firm associational leaderships during the mid-1990s (Silvia 1997, Silvia and Schröder 2007). Through the institution of a special membership status which allows firms not to be bound by wage levels set through collective agreement (so called *Ohne Tarifbindung, OT-Verbände*), employers seemed to dampen the most serious consequences of the flee from association (Schröder 2010: 35-7). On the other hand, it is to be noticed that membership crisis did not obviously impact on those associations with compulsory membership such as DIHK and ZDH⁴², nor affected other voluntary associations in relevant sectors such as chemicals (BAVC) and banking that have instead maintained rather constant rates of (high) associational density (Silvia 2010: 175-6).⁴³ On the whole, as Silvia himself puts it (ibidem, 180-1),

many employers associations actually witnessed membership losses that diminished their associational density. Although membership figures generally retreated, associational density remained rather stable. Adjustments to membership costs and related services largely explain different membership trends.

On the other hand, economic-structural change reflected in the membership of the BDA through the increase of associations of emerging service branches, as table 3.10 shows. Whereas in 1995 there were only eight general service sector associations, in 1998 they became thirteen. By 2010, they are nineteen vis-à-vis twenty one manufacturing associations.

⁴² The DIHK claims 3.6 millions affiliated firms, whereas ZDH increased its membership from some 739,000 firms in 1991 to 967,200 in 2008. Compulsory membership was however itself a controversial point for firms during the early 1990s, as employers contested the high costs of membership, the low quality of services, and the perception of a weak association's power in the political arena (Handelsblatt 5.9.1994, Silvia 2010: 174).

⁴³ Not only remained association density in the chemical sector constant at about 71%, but it also showed slight increases in membership between 1995 and 2007 (Silvia 2010: 177).

Table 3.10. BDA, number of member associations, breakdown by sectors (1995, 2000, 2010).

Macro-sector	1995	2000	2010
Industry	26	27	21
Craft	2	2	2
Transports	3	4	5
Commerce	4	4	3
Banking and Insurance	2	2	2
General Services	8	13	19
Agriculture	1	1	2

Source: BDA, various year report (1996, 2000, 2010)

The liberalisation of former state monopolies in the energy, post and telecommunication sectors gradually led to the incorporation of the respective associations, thus redressing the numerical balance vis-à-vis traditional manufacturing sectors. Also as a reflection of ample intra-sectoral heterogeneity, service employers however witness a greater tendency to associative fragmentation. It is the case, for instance, of the 'dense network' of organizations representing temporary work agencies and IT communication (Menez 2010: 199 ff.). Also small and medium enterprises strove to coordinate their representational and lobbying efforts between the about nine organizations targeted at *Mittelstand* firms, such as ZDH, retail trade (*Handelsverband Deutschland*, HDE), and touristic sector (*Deutsche Hotel- und Gaststättenverband*, DEHOGA) employers, in order to counterbalance the influence of large firms on the political level (Krickhahn 2010: 102).⁴⁴

It could be argued that these changes have likely implied a more careful balance of different preferences between various economic segments in the articulation of common policy positions. However, if we were to test the impact of structural economic change on the composition of BDA executive organs, we would find little significant changes. Larger corporates and associations from core manufacturing sectors maintain an undisputed leadership. Not only has the former president of Baden-Württemberg *Gesamtmittel*, Dieter Hundt, occupied the presidency of the BDA uninterruptedly since 1996. Also the sectoral

⁴⁴ Examples of this coordinating efforts between associations of small and medium enterprises could be regarded the 'Mittelstand Work Community' (*Arbeitsgemeinschaft Mittelstand*) and the *Mittelstandsverbund*. The former constitutes an informal forum bringing together eight associations such as ZDH, DIHK, BGA (wholesale trade, *Bundesverband Großhandel, Außenhandel, Dienstleistungen*), HDE, and DEHOGA, in order to discuss and take common positions on the most important political issues in the labour, social, vocational training, and fiscal policy domains. The latter represents a formal member association of the BDA uniting a heterogenous bunch of small and medium firms from various sectors with a common constitutive element in their size class.

distribution of vice-presidents and offices in the executive committee has exhibited little changes during the last decade (table 3.11). As for the vice-presidency, both in 2001 and in 2010, the great majority of components are selected from core associations such as Gesamtmetall, BAVC (*Bundesarbeitgeberverband Chemie*, chemical employers), and service sector corporates such as Deutsche Telekom, whereas ZDH stands out as the only representative of smaller firms. In the 2010 executive committee two members from temp work agencies associations sit aside of representatives of the main German enterprises such as Siemens, Deutsche Bahn, BMW, Lufthansa, and Telekom.

Table 3.11. BDA vice-presidents and executive committee components by sectoral provenience (2001, 2010).

	2001	2010
President	Metalworking (D. Hundt)	Metalworking (D. Hundt)
Vice-presidents	4 industry (Gesamtmetall, BAVC, Daimler-Chrysler) 1 telecommunications (Deutsche Telekom) 1 insurance (Versicherungsunternehmen) 1 trade (HDE) 1 crafts (UDH)	3 industry (Gesamtmetall, BAVC) 1 insurance (Versicherungs...) 1 wholesale trade (Metro AG) 1 territorial association (Rheinland Pfalz) 1 crafts (UDH)
Executive Committee*	14 industry; 2 commerce; 3 transportations; 4 general services.	11 industry; 3 commerce; 2 transportations; 7 general services; 9 Land associations

Source: BDA year reports (various years); * note: only members explicitly identified as members of a particular associations are calculated. Members of the executive committee such as professors, experts, and honorary members are thus excluded.

The stability of large-firm and manufacturing dominance on the governing organs of the BDA seems largely explainable through two statutory mechanisms.⁴⁵ First, larger associations - measured in terms of employment – are endowed with a larger share of votes within the General Assembly (*Mitgliederversammlung*), i.e. the 'parliament' of the BDA that elects the president and grand part of the executive board. Each affiliate association obtains one representative every 100,000 employees, whereby sectoral associations enjoy a primacy over territorial ones.⁴⁶ Since all decisions are then voted by simple majority, sectors with an higher

⁴⁵ For the sake of the present analysis, we limit to sketch the main organizational traits. More detailed accounts can be found in Bunn (1984) and Schröder (2007). Remarkably, the BDA organization has witnessed strong continuity since since the 1980s, and only underwent some minor modifications after reunification.

⁴⁶ Firms may freely decide whether to join a territorial or a sector-specific association, and become

presence of large corporates are more likely to influence the composition of the BDA executive branches than small-firm sectors. Second, manufacturing producers hold a statutorily higher quota of own representatives within the Executive Committee (*Präsidium*) and the Presidency (*Vorstand*). As for the former, which decides over the main strategic guidelines of the association and whose members take part to issue-specific working groups, out of approximately 36 members, seven have to be part of manufacturing affiliates, and five to each remaining sectors (BDA Statute 2002, § 18). In turn, out of eight vice-presidents, at least three should belong to manufacturing (*ibidem*).

To conclude, increasing tertiarization of the German economy and the mobilization of smaller firms have had a certain incidence in the internal organization of an encompassing peak association such as the BDA. Service sector associations progressively gained a numerical balance with traditional manufacturing affiliates, yet the latter retain substantial control over the executive organs of the BDA, this confirming the scholarly depiction of a large-firm dominated PEA (Swank and Martin 2012, Thelen 2012).

3.2.2. ITALY: A FRAGMENTED ASSOCIATIONAL SYSTEM

The fragmented structure of the Italian system of PEAs and ensuing weakness of business collective action have long haunted the country's industrial relations (Martinelli and Treu 1984; Lanzalaco 1992; Alacevich 1996: 48-9, Regini 1997: 110-1). Differently from Germany, Italian PEAs combine the functions of business interest and employers representation. However, the systemic fragmentation ensues from three relevant aspects: the number of associations, the multifold cleavages cutting across employers' organization, and the competitive relationships between different peak associations.

The first characteristic is immediately observable. No less than twelve associations signed the main tripartite agreements on labor market and welfare policy in Italy between 1993 and 2007 (see Vatta 2007: 208). Not all of them are equally relevant in numerical and political terms, of course. The *General Confederation of Italian Industry* (Confindustria) constitutes the largest cross-sectoral association, and it is thus generally regarded as the most influential political actor in the Italian corporatist system (cf. Molina and Rhodes 2007; Traxler 2010). It

automatically members of both. Yet, in the electoral system of the BDA general assembly, the employment share of territorial organizations is calculated by excluding those firms already represented by their respective sectoral association.

represents about 150 thousands firms accounting for 5.5 millions employees, organized in 18 regional associations, 25 sectoral federations plus 21 aggregated members with a special membership status, and 101 branch associations. It is Confindustria the leading bargaining partner in the industrial relations and labor market policy spheres as well as the association whose membership employers consider as a matter of 'social prestige' (Ferrante 1998: 108).

Table 3.12. List of main peak employers associations in Italy, year 2012.

Representational Domain	Name of Associations
Cross-sectoral (manufacturing-based)	Confindustria, Confapi
Artisanship	Confartigianato, Conferenza Nazionale Artigianato (CNA), Confederazione Libere Associazioni Artigiane Italia (CLAAI), Casartigiani
Trade, transports and tourism	Confcommercio, Confesercenti
Cooperatives	Lega Cooperative, Confcooperative
Banking and Insurance	Associazione Bancaria Italiana (ABI), Associazione Nazionale Italiana Assicurazioni (ANIA)
Transports	Associazione Generale Italiana Trasporti e Logistica (Confetra)
Agriculture	Coldiretti, Confagricoltura

Source: own compilation

Unlike Confindustria, the remaining associations have a narrower representational scope in that they mostly target specific sectors (such as trade, agriculture, banking), small firms (*Confederazione Italiana Piccola e Media Industria*, Confapi), or other forms of business (i.e. artisanship, cooperatives). In terms of membership, the most relevant are Confcommercio (*Confederazione Italiana del Commercio*) for the trade and touristic sectors (about 700 thousands member firms and 2 millions employees), Confartigianato (*Confederazione Italiana dell'Artigianato*) and CNA (*Conferenza Nazionale dell'Artigianato*) for artisanship, and ABI (*Associazione Bancaria Italiana*) and ANIA (*Associazione Nazionale Assicurazioni*) in the banking and insurance sectors (table 3.12).⁴⁷

A multiplicity of cleavages hence cuts across the system of employers representation in Italy.

⁴⁷ To the scope of this analysis, the two associations of agricultural employers (*Confagricoltura* and *Coldiretti*) are excluded. Moreover, until the early 1990s publicly-owned enterprises were organized in two important associations namely *Asap* and *Intersind*, that constituted relevant part of the backbone of the Italian industrial relations system after the postwar (Sapelli 1996). After the privatization of key service sectors such as air and railway transports, telecommunications, gas and electricity supply, the two associations were dismantled and the new corporates joined Confindustria.

Sectoral and size class divisions undoubtedly reflect the structural fragmentation of the production system and the ensuing need to defend particularistic business interests in a number of critical policy domains, including the labor market. To apply our heuristic model, we may in fact identify for each business segment one or more distinct peak associations (table 3. 13).

Table 3.13. Business segments and peak employers associations in Italy

	Manufacturing	Services
Large size	Confindustria, ABI	Confindustria, Confcommercio
Small size	Confindustria, Confapi, Confartigianato, CNA	Confcommercio

Yet, it has to be further noticed that Confindustria as well as most artisanship and trade associations share a predominance of territorial over sectoral associations (Alacevich 1996: 49). As financial and organizational resources frequently flow from the periphery to the center instead of the other way around, cross-sectoral associations at the local level greatly affect the distribution of offices at the national level and strongly condition internal decision-making processes (Ferrante 1998: 102-4, Zan 1992). Thirdly, associational dualism in trade, artisanship, and farming represents the inheritance of the postwar partisan polarization between Communists and Christian Democrats, as political parties directly shaped the formation of and retained tight political bounds with own business representations especially in small-firm sectors (so called '*collateralismo politico*').⁴⁸ The fall apart of the postwar party system in the early 1990s reduced yet not eliminated the saliency of such partisan cleavage, even though Confindustria took care to emphasize its independence from partisan ties since then (Castronovo 2010).

As a result of these cleavages, finally, Italian PEAs have tended to develop competitive relationships with each other. Peak industrial relations and concertation practices developed on the centrality of manufacturing, thus attributing to Confindustria a largely hegemonic role while relegating all other associations to a lower position in the hierarchy of tripartite

⁴⁸ Whereas Confesercenti (trade), CNA (artisanship), Confagricoltura (farming) and Legacooperative (cooperative) accounted as direct emanations of the Communist Party, Confcommercio, Confartigianato, Coldiretti, and Confcooperative tied to the Christian Democrats. In turn, Confindustria tended to develop a strong political affinity with the smaller Liberal Party (Lanzalaco 1989).

bargaining with unions and government. As an officer of the artisan association CNA describes the typical unfolding of the policy-making process on the labor market reforms:

the core of tripartite agreements is based on bargaining between Confindustria and the three main unions confederations, CGIL-CISL-UIL. Only thereafter, there opens a channel of communication with the government, in which you must be skillful at sneaking your specific topics of interest into the agenda (CNA, interview).

Therefore, scarce incentives ensue for Confindustria to organize prior consultations and coordination with the other associations on a stable basis (Confindustria 1 and 2, interviews), if not only to avoid political ruptures in case of stark conflict (CNA, interview).

Upon these systemic bases, important changes were observable during the last two decades with special regard to Confindustria. In the first place, its membership increased from some 110,000 firms with 4.2 millions employees in 1990 (Alacevich 1996: 52) to 146,000 firms with 5.5 millions in 2010.⁴⁹ To take into account the whole economy, the density ratio remains exiguous in terms of firms (3.2% of total) though much more consistent in terms of employees (45.7%) in 2010, with an increase of 0.5% as for firms and +15.9% as for employment since 1990. As shown below, such discrepancy between firms and workers is due to weak representativeness among micro and small firms. The representational stronghold of Confindustria undoubtedly resides in the manufacturing sector – in particular the metalworking branch (see table 3.14) - which accounts for about 40% of total member firms (57.6% in terms of employment) by 2010.⁵⁰ With respect to the total industry including energy and constructions, the density ratio remains quite high at about 64.8% in terms of employment (6% in terms of firms, though). As for 2002, Vatta (2007) reported a density figure of about 59.4% in the industry.

⁴⁹ Dichiarazione di Rappresentatività Sistema Confindustria, 2010.

⁵⁰ The following calculations are based on data kindly provided by Confindustria.

Table 3.14. Members of Confindustria, 2000 and 2010, firms and covered employees, breakdown by sector.

	2000		2010	
	Firms	Employees	Firms	Employees
Manufacturing: of which	53,014	3,021,220	43,522	3,099,895
<i>metalworking</i>	19,064	1,374,634	17,829	1,369,880
<i>textile</i>	9,580	448,100	8,444	420,924
Constructions	10,907	222,988	6,444	112,830
Transports	6,985	341,303	7,994	509,938
Tourism	20,890	336,389	21,564	313,419
General Services	16,726	371,117	39,350	941,308
TOTAL	111,049	4,222,235	146,046	5,439,195

Source: Dichiarazione di rappresentatività Confindustria, 2000 and 2010. *includes

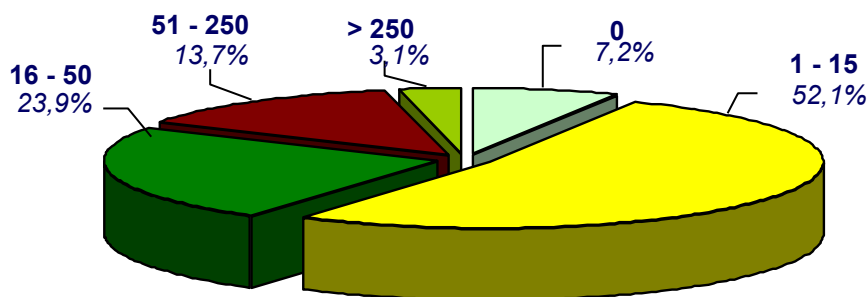
Yet the 2000s have witnessed an incremental process of membership expansion towards non-manufacturing sectors, as table 15 shows. Service employers have generally tripled their numbers between 2000 and 2010, and so did those in the transport sector albeit to a lesser extent.⁵¹ Service employers are grouped within three main sectoral federations, namely culture (*Confindustria Cultura*), digital technologies (*Confindustria Digitale*), and innovative and technological services (*Servizi Innovativi e Tecnologici*, including outplacement, legal consultancy, marketing, and other business services). It is nevertheless remarkable that among the 21 sectoral federations only three pertain to services in 2010, whereas the associational core remains anchored within manufacturing and construction sectors. It is thus little surprise that all presidents of Confindustria since 1990 have been selected among the latter.⁵²

On the other hand, it was small-firm employers that gained an increasing weight within Confindustria. Despite its media portrait as the expression of large corporates, small firms with less than 50 employees constitute 76.0% of total member firms in 2010, whereas firms with more than 250 employees make up for only 3.1% of the total membership base at national level (figure 3.3). According to data provided by Vatta (2007) as for 2002, small firms nevertheless lost weight (- 5%) apparently to the advantage of self-employed (not registered in 2002), whereas the proportion of medium-sized and large firms kept stable.

⁵¹ Data gently provided to the author by Confindustria.

⁵² At the moment of writing (March 2012), Confindustria elected its new president, Giorgio Squinzi, former president of the association of chemical employers. His main competitor – Alberto Bombassei – was in turn member of the metalworking association *Federmeccanica*.

Figure 3.3. Member firms of Confindustria by firm size, % data, year 2010.



Source: Confindustria

In fact, the numerical predominance of small firms does not provide a historical novelty given the configuration of the Italian production system. Yet, not only has the competition with Confapi significantly reduced since the late 1990s as a consequence of merging processes in some relevant territories such as the Veneto and the Emilia-Romagna regions (Confindustria 2, interview). Between 1992 and 2004, small-firm employers also managed to elect three own representatives to the presidency of Confindustria.⁵³ Their election represented a strategic choice concerted with large-firm sponsors, most notably the management of the automobile corporate FIAT, in order to attract small-firm employers into the Confindustria orbit (Confindustria 2, interview; Lanzalaco 2000: 676-7).⁵⁴ Through the 1991 and 2002 reforms of the internal statute, furthermore, Confindustria oriented towards incorporating small firms and emerging sectors into its organizational structures in the face of the economic decline of large manufacturing firms.⁵⁵ It facilitated the free enrollment of smaller firms within both territorial and sectoral branches; introduced an *ad hoc* Committee for Small Industry (*Comitato Piccola Impresa*) tasked with developing targeted policies and services - whose president is compulsory member of the Vice-presidency at national level; devolved a number of key

⁵³ These were Luigi Abete (in office between 1992 and 1996), Giorgio Fossa (1996-2000) and Antonio D'Amato (2000-2004). The election of the latter was the only one determined by an explicit contention between small-firm and large-firm employers, also due to the explicit support given by the then newly reelected prime minister Berlusconi on the grounds of political affinity (Lanzalaco 2000).

⁵⁴ It is also to be considered that the bribe scandal (*Tangentopoli*) that led to the breakdown of the party system in 1992 also affected some relevant part of the management of large corporates with leading positions within Confindustria (Castronovo 2010). The election of small-firm employers – less involved in the scandal – also stemmed out of the necessity of refreshing the public image of the peak association.

⁵⁵ The preparatory 'Mazzoleni' report emphasized that 'the objective of Confindustria should be that of representing not only the effective members but also the entire Italian production system. [...] It should thus tend to extend its representativity in line with the other European peak associations. It is therefore necessary to create organizational forms that take into account the specificities of sectors which do not belong to the typical activity of manufacturing firms' (*Rapporto per la riunione della Commissione Mazzoleni*, 15.3.1990, p. 21).

competences to regional associations – in which smaller firms are more likely to be better represented; and opened the election of the President of the association to a fully electoral competition, thereby dismantling the former system based on nomination by a committee of 'senior members' (*Comitato dei Saggi*).

Finally, the latest period has witnessed increasing cooperation between the remaining peak associations in trade and artisanship, although associational separation was not overcome. Five associations (Confcommercio, Confesercenti, Confartigianato, CNA, and Casartigiani) started coordinating their policy stances and lobbying activities in 2006 on the grounds of common opposition to a penalizing fiscal reform promoted by the then Prodi government. In 2010, they instituted an 'umbrella association' - *Rete Imprese Italia* - that aims to strengthening the representation of small and medium enterprises, enhancing their public visibility and collective action potential, and rebalancing the business representation system with respect to the evolution of domestic economy and peak political bargaining equilibria (*Rete Imprese Italia 2010, Zan 2011*). Although it may be too early for evaluating its actual impact on policy formation and industrial relations, *Rete Imprese Italia* certainly constitutes one crucial novelty with the view to reducing the systemic fragmentation of PEAs in Italy.

To conclude, the transformation of the Italian production system during the last two decades has been accompanied by a number of relevant changes in the main PEAs, albeit within the limits of a persistently fragmented system of representation. Especially within small-firm and service employers gained an increasing role. Whereas the former segment has consolidated its traditional position, the latter process proceeded more slowly also due to the competition with existing peak associations such as Confcommercio and the newly established *Rete Imprese Italia*.

3.3 POLICY LEGACIES: INDUSTRIAL LABOR MARKET INSTITUTIONS

Material arrangements of labor market institutions in domestic contexts – so the second hypothesis of this work – greatly contribute shaping employers' policy preferences in different business segments. This is because each business group will evaluate how existing policy structures impinge on their subjective interests for cost minimization, economic risk shift and social conflict management. In this section we turn to analyze how specific arrangements for dismissal protection, non-standard work, and the income maintenance systems in Germany

and Italy likely shaped the policy preferences of employers at the beginning of the observation period in the early 1990s.

In line with Continental and Southern European labor market regimes and Bismarckian welfare states, both Germany and Italy would present comparatively strict levels of dismissal protection, high regulatory constraints on the use of temporary work contracts, and insurance-based income maintenance systems with contribution-based earnings-related benefits (Clasen and Clegg 2011). Despite of such broad similarities, as the remainder of this chapter will show, the two countries presented crucial differences to the formation of employers preferences.

3.3.1. EMPLOYMENT PROTECTION LEGISLATION

In the postwar period, both the German and Italian labor market regimes have developed on the primacy of the 'standard employment relationship' - generally intended as dependent, open-ended, full-time jobs fully included within collective wage bargaining structures and social insurance schemes (Mückenberger 1985; Ichino 2008; cf. Bosch 2004: 618-9). To uphold job stability and protect unionized workers from arbitrary dismissals, both countries erected comparatively strict provisions regulating individual and collective dismissals which constrained employers' freedom to fire 'at will'. By the same token, legislation limited possibilities for employers to hire personnel on a temporary basis and thus circumvent the social standards and costs attached to 'typical' employment.

At a first glance, dismissal protection rules built on a similar model in the two countries. According to the German 1952 Dismissal Protection Act (*Kündigungsschutzgesetz*) and the article 18 of the Italian 1970 Workers' Charter (*Statuto dei Lavoratori*), employers had to justify individual dismissals for three possible reasons, namely personal misconduct, lack of individual ability by the worker to perform his/her task, and economic motivations for the firm. Employees could however take legal action to contest the validity of the reasons for their dismissals. If the judge ruled the dismissal unlawful, sanctions would ensue (see table 3.15).

Sanctioning mechanisms constituted one source of dismissal costs that differed in comparative perspective. In Germany, the judge was to decide on a case-to-case basis whether there were the conditions for reinstating the worker on his/her job or the work contract could be dissolved upon the disbursement of severance pay by the employer, which actually resulted

the most frequent solution (Alewell et al. 2009: 681). However, given the absence of statutory limits to the level of severance pay, courts established own juridical practices which progressively came to unpredictably differ across various Länder and sectors in case (*ibidem*). Much stricter was instead the Italian legislation. In case of unlawful dismissals, judges were to automatically order the *reinstatement* of the affected employee, this including the payment of all monthly wages and social contributions lost from the day of notice to court's ruling (so called *tutela reale*). It was the employee who could decide whether to trade reinstatement with a severance pay of up to 15 months of pay. Also given long trial periods frequently exceeding one year, monetary compensations were reportedly the most diffused option (Ichino 1996).

Not all employers were nevertheless subject to equal firing costs, as dismissal protection rules applied only beyond certain firm size thresholds in both countries. Germany developed the most extensive regime, as only firms with less than 5 employees were exempted. To take the share of micro firms with less than 9 employees as a proxy indicator (see table 2 above), only 17.8% of total firms were affected by dismissal protection rules, yet these employed 81.5% of the workforce in 1987. Small German firms proved worst off than their Italian counterparts. In Italy the size threshold had been set to production units with over 15 employees or to enterprises with more than 60 employees at national level. Given that only micro firms with less than 10 employees amounted to about 94% of firms and employed 45% of the workforce in 1991 (table 2 above), the Italian legislation left ample rooms for external flexibility to small-firm employers while concentrating regulatory costs on 6% of larger firms covering little more than half of the domestic workforce.

Table 3.15. Individual and Collective Dismissal Protection in Germany and Italy, year 1990.

	Germany	Italy
<i>Individual Dismissals</i>		
Valid Reasons for Dismissals	- personal misconduct (<i>verhaltensbedingte Kündigungen</i>); - inability to perform work tasks (<i>personenbedingte K.</i>); - urgent business needs (<i>betriebsbedingte K.</i>)	- personal misconduct (<i>giusta causa</i>); - inability to perform work tasks (<i>giustificato motivo soggettivo</i>); - business economic needs (<i>giustificato motivo oggettivo</i>)
Sanctions for unlawful dismissal	- severance pay (no statutory limits) - judges decides possible employment continuation	- automatic reinstatement (<i>reintegrazione</i>) - worker may opt for severance pay up to 15 months of pay
Firm Size Threshold	Firms over 5 employees	Production units with more than 15 employees
EPL score (1990)	2.58	1.77
<i>Collective Dismissals</i>		
Mandatory Procedures	- respect of social selection criteria; - possibility for work councils to negotiate a 'social plan' (firms with more than 20 employees)	- validity only for large industrial firms; - mandatory consultation with unions; - intensive use of structural short time work to postpone redundancies.
EPL score (1990)	3.75	4.88

Did dismissal protection entail also beneficial effects for affected employers in terms of economic risk avoidance and social conflict management? In Germany, employers were required to comply with 'social selection' criteria (*Sozialauswahl*) such as worker's age, tenure, and alimony obligations, when identifying workers to be dismissed for economic reasons. Contra the assumption of Estevez Abe et al. (2001), this provision had however the explicit aim to ensure that

'[employees] groups with greater economic and social strength on the labor market be dismissed before those with less economic and social strength' (Alewell et al. 2009: 673).

In other words, the inbuilt ratio of the German dismissal protection system was not necessarily an economic one of skill protection, but rather a *socially-oriented* seniority rule sheltering older and probably less productive workers from losing their job. As for social pacification, in turn, legislation endowed work councils with the right to negotiate a 'social plan' (*Sozialplan*) for collective dismissals in order to bargain the social selection of workers and establish ad hoc compensations for affected employees, such as higher severance pay or training opportunities. The rule applied to firms with over 20 employees. Whether employers considered it a beneficial effect is a matter of empirical analysis.

On the other hand, Italy codified procedures for collective dismissals only in 1991 (see

chapter 6). Until then, only the industrial sector had put in place a voluntaristic regulatory regime through a peak collective agreement signed in May 1965, which established procedures of unions consultation and joint management of firms crises (CNEL 1985: 738-9; Persiani 1992: 213).⁵⁶ Following the drive of large manufacturing employers, especially at the automobile group FIAT, to de-escalate social conflict (Locke 1995: 78-9), a public structural short time work scheme⁵⁷ was developed between 1965 and 1975 that institutionalized a 'political exchange' (Pizzorno 1978) between concerted decision-making on the management of restructuring, reorganization or reconversion processes in firms over 15 employees and the concession of benefits to workers for virtually unlimited periods. This program facilitated large-firm employers, unions and governments to achieve social pacification by masking actual redundancies (Gualmini 1997a).

Conversely, fixed-term contracts as well as other forms of non-standard employment were subject to restrictive conditions of use in both countries that were only partially shattered during the 1980s in the aftermath of the second oil shock (Tàlos 1999, Ebbinghaus and Eichhorst 2006, Berton et al. 2012: 41-4).

In Germany, temporary agency work (TAW) had been introduced already in 1975. However, only permanent employment contracts were allowed, assignments could not exceed a duration of three months, and agencies could neither re-employ workers more than once ('re-employment ban') nor synchronize the duration of the work contract with their employees to the duration of assignments (Antoni and Jahn 2009: 233). The 1985 Employment Promotion Act allowed the stipulation of fixed-term contracts, especially for new hirings, up to a maximum duration of 18 months, and extended the maximum period of assignment for temp agency workers to six months. Italy had in turn introduced fixed-term contracts already in 1962, albeit limited to the replacement of absent workers and to seasonal activities, such as in the farming and tourist sectors. Such limits were partially relaxed in 1977 and 1983, as the employment fixed-term contracts were extended to all sectors and allowed to cover 'extraordinary production peaks' of activities, yet under prior mandatory authorization of public authorities (Berton et al. 2012: 44). In contrast, TAW was wholly prohibited in Italy due a 1960 law inhibiting any form of labor intermediation and the state monopoly on placement

⁵⁶ Courts had nevertheless underpinned the voluntaristic nature of this regime by extending the applicability of individual job security regulation to collective dismissals.

⁵⁷ The *Cassa Integrazioni Guadagni Straordinaria*, CIGS, see below.

services.

Finally, both countries had introduced 'very atypical contractual arrangements' (Eurofound 2010) during the Golden Age. In Germany, since 1945 marginal employment (*geringfügige Beschäftigung*) had constituted a form of part-time work targeted at married women and occasional workers with fixed maximum working time (15 hours per week) wage ceiling (DM 250) and reduced social insurance contributions (Weinkopf 2009: 181, Eichhorst and Marx 2011: 77). In Italy, civil law had introduced 'continuous and coordinated collaborations' as a form of self-employment work, thus excluded from all labor law provisions tailored on dependent employment including social insurance, since 1975. However, it was not until the 1990s that German and Italian employers chiefly in low-productivity services started systematically adopting these contractual forms with as a by-pass to the regulatory and financial costs of standard employment, as shown in the next chapters.

To sum up, broadly similar employment protection regimes in Germany and Italy concealed different configurations of costs and benefits to employers segments. In particular, small German firms were subject to more rigid individual dismissal protection than their Italian counterparts, as the latter were wholly exempted – until 1990 – from whatsoever regulation. Conversely, collective dismissal procedures arguably entailed more unpredictable outcomes for Italian large-firm employers, given a state-assisted yet largely voluntaristic regulatory regime. In Germany, thick procedures of social selection and involvement of work councils at firm-level clearly set regulatory and financial obstacles to employers. However, their institutionalization may also facilitate the reduction of transaction costs of starting collective bargaining anew during redundancy events. Finally, strict regulation of forms non-standard work such as fixed-term contracts and temp agency work provided little opportunities for employers to bypass regulatory and financial costs of standard employment, albeit to a wider extent in Italy. However, the presence of 'very atypical' or 'cheap' forms such as marginal employment in Germany and collaborations contracts in Italy also constituted a resource which low-productivity and small-firm employers would learn to discover through time.

3.3.2. UNEMPLOYMENT INSURANCE

Throughout the postwar period, Germany and Italy developed broadly similar income

maintenance systems sharing all those typical traits of Bismarckian welfare states unemployment insurance, such as contribution-based, wage-linked benefits, predominance of passive measures, and corporatist management structures (Clasen and Clegg 2006a, 2011). Upon these shared bases, however, the two countries witnessed quite strong differentials as the systemic structure of income maintenance (Sacchi et al. 2011), the interplay between different layers of benefits (Schmid and Reissert 1996: 237), and 'segmentation' in social rights between different categories of workers (Picot 2012: 31-43), which are here conceptualized as *infra-sectoral redistributive arrangements*.

To start from a systemic perspective, Germany and Italy developed different configurations of income maintenance schemes. Until the 2003 reform, the German system articulated on three main layers of benefits (table 9), namely a core contribution-based, earnings-related unemployment insurance tier (*Arbeitslosengeld*, ALG), a tax-funded, earnings-related, means-tested unemployment assistance (*Arbeitslosenhilfe*, ALH), and a residual citizenship-based social assistance scheme (*Sozialhilfe*). For the sake of comparability, however, we will also focus on a fourth, frequently less regarded short-time work scheme (*Kurzarbeitergeld*, KuG, see Mosley and Kruppe 1996) yet more relevant to employers, while excluding social assistance from the analysis.

ALG arguably represented the chief unemployment benefit scheme. It provided employees with at least one year of job tenure with comparatively generous benefits in terms of replacement rates (63% of the former wage, 68% for workers with children, until 1993) and withdrawal duration especially for older workers (from 6 up to 32 months for workers aged over 54).⁵⁸ Upon exhaustion of ALG benefits, long-term unemployed could rely on a further status-preserving scheme yet means-tested such as ALH, which could be also accessed by discontinuous workers with insufficient contributory record for unemployment benefits (so called 'original ALH'). Unemployment assistance expenditures were charged on the Federal budget. Finally, KuG provided employers facing conjunctural contractions in product demand or structural corporate crises with the possibility to hoard labor by compensating employees for reductions of work hours. Workers would gain a replacement of 63% of the wage for fallen work hours up to full working time for a maximum statutory duration of 6 months, which was however frequently extended to 12 and even 24 months in some sectors such as

⁵⁸ Data refer to the last expansive reform of ALG in 1987. Prior, the maximum duration had been set at 24 months for older workers (Steffen 2008: 10-11).

steel, upon the occurrence of severe crises (Brenke et al. 2011: 3).

Table 3.16. Institutional Features of the German Income Maintenance System, year 1992.

	Unemployment Insurance <i>(Arbeitslosengeld)</i>	Unemployment Assistance <i>(Arbeitslosenhilfe)</i>	Short Time Work <i>(Kurzarbeitergeld)</i>
Coverage	Dependent employees with 12 months of contributions within last 3 years	Workers exhausting ALG benefits and not eligible for ALG. Means-tested	Dependent workers all firms, if at least 1/3 of workers with loss of 10% monthly wage
Wage Replacement	63% of former gross wage (67%, if with children)	53% of former wage (57%, if with children)	63% of wage for fallen work hours
Duration	From 6 to 32 months for workers aged over 54	Unlimited	Six months, extensible to 24 for structural schemes.
Financing	6.5%, all firms	Federal budget	Included within ALG contribution

With respect to Germany, the Italian income maintenance system developed in a fragmented fashion and strictly centered on insurance-based mechanisms. Until the 2000s, unemployment benefits with full requirements (FUB) represented a comparatively underdeveloped scheme, with high eligibility requirements, low replacement rates (flat-rate until 1988, 6.5% of the former wage thereafter), and of short duration (180 days, see table 3.17). A special scheme with reduced eligibility requirements (RUB) for discontinuous workers was introduced in 1988 which provided for even lower benefits and duration. In turn, the 'fragmented' and 'corporatist' structure (Ferrera 1996: 21) of the 'social shock absorbers' (*ammortizzatori sociali*) system was mainly reflected in the organization of the mobility allowance (MA) - an unemployment benefit with longer duration - and above all of the conjunctural (CIGO) and structural (CIGS) short time work schemes (*Cassa Integrazione Guadagni*).

All three programs mainly covered industrial firms and their workers, yet CIGS and MA especially targeted firms with more than 15 employees. They also provided higher wage replacement (up to 80% of the wage for fallen work hours) and far longer duration (up to four years for MA) than FUB. Yet most importantly, CIGS developed as a 'functional substitute' (Sacchi et al. 2011: 472) for unemployment benefits, in that it allowed to postpone redundancies in large manufacturing firms by keeping employees officially employed for up to 4 years. MA would then support the income of employees ultimately affected by collective

dismissals. In turn, Italy never put in place any means-tested unemployment assistance scheme.

Table 3.17. Main institutional feature of the Italian income maintenance scheme, year 1991.

	Full and Reduced Unemployment Benefits (FUB, RUB)	Mobility Allowance (MA)	Conjunctural Short-Time Work (CIGO)	Structural Short-Time Work (CIGS)
Coverage	FUB, RUB: 2 years insurance seniority, plus FUB: 52 weeks within 2 years; RUB: 78 days	Open-ended employees with at least one year of tenure Manufacturing firms with more than 15 employees.	Employees in manufacturing firms, regardless of size	Employees with 90 days of tenure Manufacturing firms over 15 employees and related crafts; commercial firms over 200 employees.
Wage Replacement	FUB and RUB: 6.5% of former wage	80% of former wage during first year, 60% thereafter	80% of former wage for fallen work hours up to the full working time	80% of CIGO benefits, up to full working time
Duration	FUB: 180 days RUB: up to 120 days	Between 12 and 48 months, depending on age and geographical location	3 continuous months. Max 12 months within 2 years.	Depending on cause. Up to 48 months for restructuring, including prorogations
Financing	All firms: 1.3%	Covered firms only: 0.30% Upon usage: 6 months of benefits	Covered firms only Firm with more than 50 employees: 2.20% (upon usage 8% of benefits) Smaller firms: 1.90% (upon usage, 4%)	Covered firms only: 0.90% (upon usage 8%)

On these grounds, we may better understand the comparatively different arrangements of infra-sectoral redistribution generated by the two systems.

The uniformity of the contribution rate to the unemployment fund across all sectors and size classes essentially characterized the German system as an *inclusive risk pool*, in which

'since there is no differentiation [...] by sector or firm that reflect the frequency of dismissals, sector and firms with high employment protection and tenure (classical manufacturing) subsidize sectors and firms with frequent unemployment spell through their unemployment insurance contributions' (Ebbinghaus and Eichhorst 2006: 30).

If the above mechanism held true under conditions of manufacturing prosperity, however, it caused remarkable problems with the beginning of West German deindustrialization in the 1980s and German reunification after 1991. As a consequence of labor shedding from manufacturing firms, ALG and KuG claimants nearly doubled between 1980 and 1990 and so

did contribution rate (from 3.0% in 1980 to 6.8% in 1991, cf. Streeck and Trampusch 2005: 177). Hence, an inclusive risk pool turned more beneficial for the relevant share of large manufacturing firms in crisis than for smaller and service sector firms. The former could spread the costs of higher market risk and compensation of high-wage employees on a wider contributory basis, whereas contribution costs would disproportionately impinge on total labor costs for labor-intensive, low-productivity sectors. The rise of contribution rates were however mitigated by the obligation for the Federal government to cover budgetary imbalances of the unemployment insurance fund through fiscal resources (Schmid and Reissert 1988: 129).

Different contribution rates - with special regard to the financing of CIG - would instead generate *segregated redistributive pools* between large manufacturing firms and the rest of small-firm segments in Italy. Table 3.18 provides a synoptic view of the 'contributory jungle' financing the Italian income maintenance system. Although data refer to 2011, it seems worthwhile noticing that little modifications occurred since 1991. Infra-sectoral redistribution was hence very low. Larger firms in high-productivity manufacturing and commercial sectors shared their high economic risk within closed redistributive pools by paying higher non-wage labor costs which they could sustain. Therewith they gained an important instrument for social conflict management during downturns, also given high employment protection levels. Instead, small-firm employers particularly in low-productivity services were in turn exempted from the high labor costs attached to CIG and only contributed to the general unemployment insurance fund. What followed, on the whole, was a strong segmentation in workers' rights to income protection (Ferrera 1996: 21, Picot 2012) and low coverage rates, with particular regard to workers with discontinuous employment biographies who would fail to meet contributory requirements for neither FUB nor RUB (Berton et al. 2012).

Table 3.18. Contribution rates (%) for income protection schemes applied to different types of firms, Italy 2011.

Type of firm (number of employees)	CIG		UB	Mobility	Total contributions for UI	
	<i>CIGO</i>	<i>CIGS</i>	<i>including 0.30 for training fund</i>		<i>Employers</i>	<i>Employees</i>
Manufacturing < 15	1.90	-	1.61	-	3.51	-
Manufacturing 15-50	1.90	0.90	1.61	0.30	4.41	0.30
Manufacturing > 50	2.20	0.90	1.61	0.30	4.71	0.30
Crafts < 15	-	-	0.80	-	0.80	-
Crafts > 15*	-	0.90	0.80	0.30	2.00	0.30
Commerce < 50	-	-	1.61	-	1.61	-
Commerce > 51	-	0.90	1.61	0.30	2.51	0.30

Source: INPS; * only in the manufacturing sector, construction crafts are included into related schemes, which are here not considered.

To sum up, the German and Italian income maintenance systems provided domestic employers with different configurations of costs and benefits. Large manufacturing producers had more instruments available to shift the economic costs of downturns and dampen social conflict in Italy through CIGS than in Germany through ALG and KuG, yet to the price of higher non-wage labor costs in quiet times. Small and low-productivity segments would be worst off within the German inclusive redistributive pool, in which they shared economic risk with larger capital-intensive firms, than in Italy where segmented pools imposed little labor costs. However, the German system provided better means for economic risk avoidance to labor-intensive high-productivity artisanal firms, whose workers could rely on generous unemployment benefits than in Italy, in which the same segment faced lower non-wage costs and yet was excluded from access to an instrument of labor hoarding during crises such as CIG.

3.4. CONCLUSIONS

During the industrial period, as this chapter showed, Germany and Italy tended to establish a reflexive equilibrium between the structure of their production systems, systems of peak employers associations, and labor market and income maintenance regimes. In Germany, the economic and occupational strength of large manufacturing firms was associated both to extensive employment protection and an inclusive redistributive pool in the income

maintenance system as well as to an encompassing PEA system, centered on the representational monopoly of the BDA in the industrial relation domain. Given the stronger predominance of small firms in Italy, instead, labor market institutions assumed segmented characteristics so as to exempt small-firm segments from the regulative and financial costs attached to employment protection and unemployment insurance. By the same token, small-firm employers in non-manufacturing sectors created separated peak associations, thus contributing to the formation of a fragmented PEA system Italian larger firms did not have similar strength.

Deindustrialization did not fundamentally shake this equilibrium but was nevertheless accompanied by significant transformations. With respect to the economic structure, low-productivity services progressively emerged as one of the main source of employment, in the face of manufacturing retreat in both countries. This entailed more visible changes in Germany than Italy, as smaller firms acquired a more prominent numerical weight in the total economy. Two-fold were the implications. On one side, small-firm employers especially in service sectors would be more likely to witness decreasing returns from the costs of extensive employment protection and inclusive risk pools in Germany than under the fragmented Italian regime. On the other hand, service-sector employers significantly augmented their membership share within the German peak association BDA, although they did not develop enough power resources to challenge the leadership of large manufacturing producers. In Italy, Confindustria strove to enlarge its representational basis towards small firms and services without however succeeding to overcome the legacy of associational fragmentation with competing small-firm peak associations in crafts and trade sectors.

What consequences did these changes entail with respect to the formation of employers positions on labor market reforms in the two countries? The next chapters turn to address this question with respect to employment protection legislation and income maintenance systems.

CHAPTER 4

GOING DUAL: GERMAN EMPLOYERS AND THE REFORM OF EMPLOYMENT PROTECTION LEGISLATION

There is widespread consensus in the literature about the 'dual' character of the German trajectory of reform to employment protection legislation (Ochel 2008, Palier and Thelen 2010, Eichhorst and Marx 2011). Whereas little changes have affected dismissal protection rules attached to open-ended work contracts, the last two decades have witnessed an incremental liberalization process of non-standard work contracts which culminated in the 2003 'Hartz' reform package passed by the red-green coalition government between the Social Democrats and the Green party. The consequent augmentation of temporary workers from about 10.1 to 12.8 million units between 2003 and 2008 certainly contributed to consistently diminish unemployment rates that fell from 10.5% to 7.8% of the civilian workforce during the same period. Yet, the increase of workers employed on fixed-term, temporary agency work, and minor employment contracts over open-ended workers led many scholars to speak of 'erosion of the standard employment relationship' (*Normalarbeitsverhältnis*) and employment 'precarization' in Germany (Oschmiansky 2007, Brehmer and Seifert 2007, Streeck 2009).

More contested is instead the political interpretation for such dual development with special regard to the role of employers. Building on the Varieties of Capitalism approach, prominent scholars maintained that the stability of job protection rules has depended on a cross-class alliance between unions and employers in the core manufacturing sector in order to defend the basic political economic institutions underpinning the German Coordinated Market Economy (Palier and Thelen 2010). In line with a power resources approach, another stream of scholarship instead argued for employers' clear orientation against the rigidities set by dismissals protection and their forceful push towards an Anglo-Saxon type of fuller liberalization of hiring and firing rules (Streeck 2009, Emmenegger and Marx 2011).

This chapter provides empirical evidence to this debate. It does so by investigating the

policy positions of German employers with respect to the reform process of dismissal protection (section 4.1) and two relevant forms of non-standard work, i.e. temporary agency work (section 4.2) and minor - or marginal - employment contracts (so called *mini jobs*, section 4.3), between 1991 and the present. In line with the adopted cross-sectoral approach to the study of employers, closer attention is dedicated to the policy preferences of various business groups in large and small firms and manufacturing and service sectors for specific institutional arrangements.

4.1. UNITED IN DIVERSITY: GERMAN EMPLOYERS AND THE ASSAULT TO DISMISSAL PROTECTION

Dismissal protection (*Kündigungsschutz*, henceforth DP) has remained object of fierce contention for German employers both during the transition to and after the consolidation of a postindustrial economy. To take the surveys conducted on 20,000 employers by the peak association of the Chambers of Industry and Commerce (DIHK) as an illustrative example, the percentage of respondents arguing that DP hinders job creation remained quite stable, if not slightly increased, between 2003 and 2009 (45 against 48%, DIHK 2003a, 2009). The material motivations underpinning employers' responses underwent little changes also. It is primarily a matter of 'legal uncertainty' (*Rechtsunsicherheit*) over the conditions for lawful dismissal, duration of trials, and severance costs in case of lawsuit by workers to inform overall business dissatisfaction with the institution (cf. DIHK 2003a: 9-10; BDA 2008a: 8 – 10). Under the existing legislation, German employers argue, 'the higher the costs associated with dismissals the higher the expected productivity of workers should be in order for firms to profit from his or her hiring' (BDA 2008a: 10, own translation).

As we shall see in the following, all employers groups increasingly manifested their discontent with DP arrangements for different reasons. The development of business stance should be however understood against a precise economic background, that is the long restructuring phase which the German economy underwent between the mid-1980s and the early 2000s.

It was the peak business interest association BDI that firstly expressed manufacturing employers' unease with 'social compensation plans for collective redundancies and the overly complex regulation of job security' (BDI 1990: 65, quoted in Emmenegger and Marx 2012).

Between 1987 and 1994, manufacturing firms with over 500 employees lost about 400,000 jobs, with particular concentration in East Germany where the share of total employment in large firms plummeted from 24% in 1994 to 16.5% in 2000 (Bauer *et al* 2008: 16).⁵⁹ In this context, the motivation of larger manufacturing producers' preferences for softer regulation are quite clear to see, as DP significantly augmented the costs of restructuring. Yet, as Paster (2011: 11) notices, the BDI could afford more confrontational stances because of its functional exclusion from the constraints of social partnership. In fact, a regulatory reform did not figure as a priority for the peak association entitled to conduce negotiations on labor market issues – the BDA - during the first half of the 1990s.

Two factors informed the policy preferences of large manufacturing producers. First, this business group identified the primary sources of comparative disadvantage for the German production system in the labor costs imposed by expansive contribution-based social expenditure. Therefore, they directed their primary political pressures to achieve comprehensive reforms in the main welfare programs (BDA 1994, Paster 2012: 319-20, see chapter 6). Second, unlike small firms, larger producers were called upon to negotiate restructuring processes with their work councils that set obvious constraints to downsizing as a crisis management tool. Not necessarily out of spontaneous will, large firms could then use their organizational leverage to avoid redundancies and rather resort to alternative flexibility measures such as strong wage moderation and working time reductions, as exemplified by the 1993 agreement at Volkswagen engineered by the then manager Peter Hartz (Jürgens 2000: 90 – 4). In short, even though large-firm producers would have certainly profited from softer dismissal procedures, the availability of alternative flexibility options as well as their interest in avoiding the risk of social unrest during a moment of deep occupational crisis led the BDA to refrain from demands for radical deregulation.

The scenario was instead different for the *Mittelstand*. Given the crisis of large manufacturing, small firms came to enjoy the status of 'job engine' during the early 1990s. Employment in artisanship augmented by over 1.6 millions units between 1991 and 1996 (ZDH 2001: 22), whereas micro firms with up to 10 employees increased their employment share from 17.9% in 1994 to 18.8% in 1998 in the West, and from 17% to 20.4% in the East (Bauer *et al* 2008:

⁵⁹ On the whole, the total share of dependent employment in firms with more than 500 employees diminished from 25% in 1994 to 20.8% in 2000, whereas employment rates in medium-sized firms remained quite stable in both West and East Germany during the same period (*ibidem*).

16). Following the overall worsening of labour market conditions, the belief spread within the conservative coalition in government that the employment performance of micro firms with less than five employees was associated with their exemption from DP.⁶⁰ In the face of 2.4 millions unemployed by 1994, any means was justified in order to reduce unemployment levels, including the reform of those social rights which apparently resulted more detrimental than 'protective' towards labour market outsiders. As the then christian-democratic labor minister Norbert Blüm came to state:

what does a jobless person gain from dismissals protection? He gets a whole lot of nothing out of it (quoted by Zohlnhöfer 2001: 287).

Therefore, the Labor Minister managed to insert a revision of certain features of dismissal protection among the topics of discussions of the first 'Alliance for Work' (*Bündnis für Arbeit*) between the government and the social partners, launched in January 1996 upon the initiative of the metalworkers' union IG-Metall Klaus Zwickel (Binspick and Schulten 2000: 6-7). According to the programmatic document, more consideration was to be paid to '*entrepreneurial necessities*' [...] '*especially in the social selection of workers*' during economic-related dismissals (JWB 1996: 30). As for small firms, the document envisaged the elevation of the threshold for dismissals protection and the 'careful' re-assessment of the computation of part-timers for calculating the firm's size threshold (quoted in Zohlnhöfer 2001: 277).

The planned adjustments on DP remarkably hinted at the needs of, respectively, large and small firms. The wholesale exemption of small firms had become object of intensive lobbying by the junior coalition party, the FDP, and the liberal faction of the Christian-Democrats, in the belief that 'who wants new jobs, he has to significantly reduce insertion risks for *Mittelstand* firms' (Frankfurter Rundschau, 22.3.1996). In fact, their position supported demands by ZDH to elevate the threshold up to 20 employees (ZDH 1995: 96-8; Zohlnhöfer 2001: 278).⁶¹ Arguably, liberal politicians were well aware of the fact plainly stated by the BDA president Klaus Murmann, as negotiations seemed to stagnate on the issue, in June 1996:

the planned relaxation of dismissal protection and easier accessibility of fixed-term contracts are particularly requested in the *Mittelstand* domain (BDA year report 1996: 38).

⁶⁰ After the 1994 elections, the FDP repeatedly called for the exemption from of dismissals protection for firms below eight or nine employees or for low-skilled workers, as well as the extension of fixed-term contracts (Zohlnhöfer 2001: 274), grounding such demands on the protection and development of the *Mittelstand*.

⁶¹ The level of the threshold to be applied remained a topic of discussion within the government coalition until the very last stage of the law-making process. Whereas the 'liberal wing' of the CDU supported its setting at 15 employees, the FDP remained faithful to its proposal for its elevation to 20 employees.

In fact, the elevation of the threshold as 'the most important' measure, and the specificity of employment relationships in small firms were held high by the ZDH representative at the Bundestag hearing during the law-making process:

small firms normally have less financial liquidity than large firms [...]. For small firms, there is often little possibility to sustain trials, to hand out severance pay, and to take up other administrative burdens.⁶²

Against such attempts at deregulation trade unions opposed the opposite proposal: dismissal protection should be extended to firms of all sizes, as the 'firing at will' principle favoured 'paternalistic relationships' in small firms rather than more human contact, as ZDH maintained, and the bad economic conjuncture would set workers under blackmail if rejecting, for instance, to work overtime.⁶³ Also the so called 'social faction' (*Arbeitnehmerflügel*) of the CDU manifested caution in front of radical proposals, both for own social concerns and not to risk compromising the general agreement with trade unions. Its veto eventually succeeded in limiting the elevation of the size threshold up to 10 employees only (Zohlhörer 2001: 279-280).

On the other hand, the peak association BDA witnessed its interest for two further regulative aspects of DP which were of more direct concern for medium and large firms: first, the clarification of severance pay levels as a compensation to unlawful dismissals; second, the simplification of the criteria for the social selection of workers to be made redundant, including compulsory social plans in case of restructuring.⁶⁴ According to the then legislation, collective agreements and courts enjoyed wide discretion to set standards on both aspects on sectoral and territorial basis. With respect to severance pay, for instance, the metalworking branch had come to establish an amount of about half a monthly pay per year of firm seniority, albeit with consistent variation across geographical areas and size classes.⁶⁵ In turn, firms were compelled to take into great account 'social aspects' (*soziale Gesichtspunkte*) when

⁶² Statement by Theelen, ZDH, Bundestag Hearing of 10.6.1996, Protokoll n. 60, p. 62-3.

⁶³ 'I wonder what it is going to be, if an employer says to his employees, all of a sudden: please, give up 10% of your wage and work 40 hours per week, without overtime payments. If you do not want it, you can go as well. He does not even need to give a reason why he fires people', Statement by Engelen-Kefer, DGB, Bundestag Hearing of 10.6.1996, Protokoll n. 60, p. 66, own translation.

⁶⁴ Note that the obligation to draw a social plan in case of collective dismissals fell on firms with more than 20 employees.

⁶⁵ Statement by Hinrichs, IG Metall, Bundestag Hearing of 10.6.1996, Protokoll n. 60, p. 51. However, unions lamented that this level had been basically halved with respect to the 1970s, as it amounted to one full month of wage per seniority year.

selecting workers to be dismissed. Yet, given the absence of a statutory definition of related criteria and their ranking, the BDA lamented that courts would rule the lawfulness of dismissals with wide case-by-case variance, thus increasing firms' uncertainty on the ultimate amount of termination costs (Arbeitgeber 3/49, 1997: 57). Finally, the BDA demanded that corporate restructuring processes could be carried on independently from the proceedings of 'interest conciliation' (*Interessenausgleich*) with work councils, as the legal provisions in the firm constitutional law (*Betriebsverfassungsgesetz*) allowed them to significantly retard firms' reaction.⁶⁶

The law-making process underwent strong political contestation both within and outside the parliamentary arena, though mainly referred to the cuts to unemployment benefits and sickness pay which trade unions famously dubbed a 'social clearance' (*sozialer Kahlschlag*).⁶⁷ As a reflection of contrasts within the government coalition itself, the reform of DP approved in October 1996 (*Arbeitsrechtliches Beschäftigungsförderungsgesetz*) was actually quite limited, as it established:

- the elevation of the size threshold to 10 employees;
- the computation of workers within the threshold in proportion to their actual working time;⁶⁸
- the definition of three statutory 'social selection' criteria for employers to respect when selecting workers to be made redundant, i.e. worker's tenure, age, alimony obligations.

Therewith, the issue was only partially settled. Trade unions complained that the plan for 'growth and employment' passed by the conservative government had only resulted in the 'abolition of dismissals protection for some 8 millions workers' beside other cuts to welfare benefits, instead of spurring concrete investments.⁶⁹ However, critiques stemmed also from business side. ZDH welcomed the reform, with the caveat that small firms would have

⁶⁶ 'We would greatly appreciate if interest conciliation could be separated from social plans, and employers could already start with restructuring, if interest conciliation has been already attempted and work councils have been informed', statement by Heise, BDA, Bundestag Hearing of 10.6.1996, Protokoll n. 60, p. 59.

⁶⁷ Sickness pay assumed a capital importance in the labour market debate of the early 1990s. As existing laws required employers to pay 100% of the wage to workers up to 6 weeks during sickness periods, especially small firms had made of it one of the crucial instances for a reduction of labour costs, also due to reported abuses by workers. The 1996 law reduced replacement rate to 80%, but the law-making process was tainted by an astonishing degree of conflict between the social partners (Zohlhöfer 2001).

⁶⁸ By taking a maximum 40-hours week as a point of reference, part-time workers up to 10 weekly hours (i.e. marginal employees) were assigned a value of 0.25, as opposed to 0.5 to workers with up to 20 weekly hours, and 0.75 to workers with up to 30 hours per week of working time.

⁶⁹ DGB, "Dieses Paket löst keine Probleme, sondern schafft nur neue", 12.09.1996, http://www.dgb.de/presse/++co++3f60b6e0-1550-11df-4ca9-00093d10fae2/@/@index.html?search_text=Kündigungsschutz&start_date=1996-03-01&end_date=1996-11-30

preferred a further elevation of the threshold to 20 employees for individual dismissals and from 20 to 50 employees for the obligation to draw social plans (ZDH 1996). From the results of a 1997 internal survey of the BDA showed in table 4.1, small-firm employers mainly held perduring concerns with the uncertainty of the costs associated with severance pay – which the new law had not eventually addressed – , whereas larger firms rather criticized the influence of work councils on dismissal procedures, also in the face of unfavourable social selection criteria (Arbeitgeber 4/49, 1997).

Table 4.1. Particular reason of critique to dismissals protection, breakdown by size class (% of firms within each size class, N = 450).

	Firm Size Class				Total
	1-49	50-99	100-499	> 500	
Too high severance pay for older workers	28.3	19.8	32.0	19.8	100
Legal clarity of social selection criteria	20.0	23.5	32.2	24.2	100
Lack of ceiling to severance pay	31.7	26.2	26.8	15.3	100
Too strong an influence by work councils	20.0	24.7	33.3	22.0	100

Source: Arbeitgeber 5/49, 1997: 130-1.

With the view on the incoming 1998 elections, the SPD committed to revert the 'wrong decisions' (*Fehlentscheidungen*) of the previous government with respect to a number of labor market policy issues, including dismissal protection. After a few months in office, in December 1998, the new Red-Green government coalition passed the Act of Correction to Social Insurance and to the Security of Workers' Rights' (*Gesetz zu Korrekturen in der Sozialversicherung und zur Sicherung der Arbeitnehmerrechte*), through which it sank the threshold of application of DP back to 5 employees - albeit excluding marginal employees from the computation of the threshold as a partial concession to employers - and eliminated the statutory social selection criteria starting from January 1999. Vehement protests by business followed with respect to the unilateral decision-making method adopted by the government, which approved the provision without prior consultation with employers associations, as the ZDH president Dieter Philipp publicly remarked on the newspaper 'Die Welt' (9.12.1998).⁷⁰ Business was also predictably

⁷⁰ The provisions on DP were skilfully included within a broad reform package featuring regulations to

compact to criticize the content, as employers warned that '*the broader the scope of dismissal protection, the stronger its effect as an employment barrier, in that it lowers firms willingness to hire*' (BDA 1998: 37). Whereas the 1996 reform had contributed to ameliorate 'legal certainty' (*Rechtsklarheit und Rechtssicherheit*) – employers maintained - its reversal would instead result 'counterproductive and employment-unfriendly' (Arbeitgeber 7/50, 1998: 18).

In fact, the positive economic conjuncture between 1999 and 2001 seemed to prove employers wrong, as unemployment levels sank below the 4-millions threshold, despite the 'regulatory turn' in labour market policy. However, in the aftermath of 9/11 of 2001 and the ensuing international instability, occupational problems reappeared with renewed intensity. The structural persistence of negative employment conditions hence convinced German employers to propose more decisively the issue of an 'overly-regulated labour law' as one of the most urgent features to be tackled on the political agenda.⁷¹ In 2001 the BDA elaborated a detailed proposal for the reform of DP with its Pro-job Initiative, besides the deregulation of non-standard employment, working time flexibility, and the reform of the unemployment compensation system (Arbeitgeber 10/53, 2001: 8-9). The main weakness of the existing legislation was identified in the 'subtle and at times opaque jurisprudence' (*Rechtsprechung*). The practical impossibility to 'proceed with redundancies in a certain and calculable way' turned dismissal protection from an instrument of workers' job protection into a 'barrier to new hirings' (Arbeitgeber 9/54, 2002: 21). A regulatory modernization would therefore forcefully include, according to the BDA (*ibidem*):

- a. the substitution of court trials with a severance pay, whose amount could be agreed by the social partners 'prior' to the beginning of an employment relationship (so called *Abfindungsoption*);⁷²
- b. the enter into force of dismissal protection only after a probationary period of two years;
- c. the elevation of the firm size threshold to 20 employees;
- d. the reduction of social selection criteria to tenure, age, and alimony obligations.

counteract false self-employment, a reform of the law on posted workers, as well as adjustments to pensions and the reversal of 1996 sickness pay reform. Thereby, dismissals protection legislation was overwhelmed within the parliamentary discussions, and decided without any targeted public hearing.

⁷¹ See, for instance, the editorial of BDA president Dieter Hundt on Arbeitgeber (11/52, 2000).

⁷² The crucial point was for employers to offset the unpredictability of termination costs ensuing from legal expenses for 'trials that in the grand majority of the cases ended up with severance pay anyway' (BDA 2, own interview), and the arbitrary severance pay levels.

Remarkably, this proposal incorporated the preferences expressed by small-firm artisans as well as by services associations. A 2003 survey by the Chambers for Industry and Commerce emphasized that *Mittelstand* employers witnessed the highest rates of dissatisfaction (52% of respondents in the size class between 20 and 199 employees) with the status quo as for DP, given their exposure to economic fluctuations and higher cost-sensitivity (DIHK 2003: 9-10). On its part, the employers association of retail trade (*Handelsverband Deutschland*) reassured that

'our critique to dismissal protection is not related to its existence. It solely addresses those opaque rules, reinforced by jurisprudence, that provide firms for no exact prognosis whether an announced dismissal will then be effective' (HDE 2003: 22).

However, it also defined the existing duration of a probationary period of 6 months 'too short' and advanced its extension to two years; moreover, it also demanded the striking of 'age' from social selection criteria, as it made the job position of older workers basically 'untouchable', thus hindering their hiring (*ibidem*, 23). Yet more radical seemed BDA's proposal for the *Abfindungsoption* that constituted at all effects an attempt to replace DP rules with an individually bargained contractual provision voluntarily agreed by employers and employees (see also Emmenegger and Marx 2011: 752), in line – so the BDA (2008a: 19-22) put it – with the Danish model. In fact, the Chamber of Commerce in Hamburg had put forward an alternative and bolder reform proposal, the so called 'three-step-model' (*Dreisprungmodell*). The model aimed at 'simplifying' dismissal protection by eliminating both the requirement to indicate the reasons of dismissals and unemployment insurance and replace them with a wage allowance (*Entgeltfortzahlung*) of equal amount as unemployment benefits (60%) to be paid directly by the firm to the worker for a duration up to 12 months but strictly depending on workers' tenure (Handelskammer Hamburg 2002: 25-9). Through the obligation of severance pay (*Abfindungsobligation*), proponents argued, employers would incur into perhaps higher yet certain costs.⁷³ Yet, automatic mechanisms would endow employers with more external flexibility, employees with the certainty of benefits, and both parts with the avoidance of trial expenses and the elimination of non-wage costs associated with unemployment insurance (*ibidem*, 28). The proposal was considered 'attractive' by large-firm employers (BDA 2008a: 18), who could in this way privatize the risk of shedding labor but was instead rejected by small-firm employers that deemed such system too costly precisely because it burdened them

⁷³ A special regime was envisaged for smaller firms that could establish a solidarity fund akin to that existing for sickness pay in order to keep costs lower.

with the direct costs of dismissals (*ibidem*, 19).

On these grounds, the BDA set the bulk of its negotiating strategy within the Hartz commission, instituted in 2002, on '*bringing a reform of dismissal protection back home*' (BDA 1, interview). Although unions' opposition would make it politically unfeasible for any government to commit to far-reaching reforms, employers positively evaluated the acceptance by all the main political parties – most notably the SPD – to include the flexibilization of DP among the priorities of their manifestos for the following 2002 elections (*Arbeitgeber* 9/54, 2002: 20). In fact, the newly re-elected Schröder government consequently introduced it among the objects of the Hartz reform in June 2003.

The government proposal rested on three main pillars:

- flexibilization of the size threshold, thereby excluding new hirings on a temporary basis from the computation of total employees for firms up to 5 employees;
- re-introduction of four criteria for the social selection of redundant workers (age, tenure, alimony obligations, and individual disabilities), yet counterbalanced by the possibility for employers to retain specific workers on the grounds of entrepreneurial needs;
- introduction of the possibility for employers to handle a severance pay with statutory levels (half a month of monthly pay per seniority year) to workers renouncing to lawsuit in case of economic-related dismissals.⁷⁴

During the parliamentary hearing in September 2003, the BDA deemed the law proposal as heading in the 'right direction', but suggested some 'ameliorations' (BDA 2003b: 33): first, it insisted for elevating the threshold up to 20 employees – a detail left blank by the law proposal; second, it proposed to prolong the probationary period up to 36 months; third, it demanded to lower the statutory level of severance pay to 0.25 of monthly wage per year against the 'clearly too high' level proposed by the government; fourth, it required a better legislative framework to ensure the exclusion of skilled workers from social selection criteria:

'in the [social] selection, those workers shall be excluded whose employment continuity remains within the interest of the enterprise, because of his/her knowledge, skills, and performances or in order to protect or to favour a balanced structure of the personnel' ⁷⁵.

⁷⁴ Bundestag DS 15/1204, 24.6.2003, p. 8-9.

⁷⁵ '*Bei der Auswahl können diejenigen Arbeitnehmer unberücksichtigt bleiben, deren Weiterbeschäftigung, insbesondere wegen ihrer Kenntnisse, Fähigkeiten und Leistungen oder zur Sicherung oder Schaffung einer ausgewogenen Personalstruktur des Betriebes, im betrieblichen Interesse liegt*'.

The latter point is arguably a crucial one. Contra the assumption of Varieties of Capitalism, employers did not perceive existing DP as sheltering skilled workers from the risk of market fluctuations. The rationale of social selection criteria in individual and collective dismissals was, in fact, a social one, namely to prevent the layoff of older, more costly and less productive employees who would be the first left out, according to a purely productivity-based selection. In deed, by balancing social criteria with firm-related concerns, employer precisely attempted to restore an economic rationale in dismissal protection and avoid to sacrifice younger workers with more up-to-date skills when proceeding with redundancies. This argument is corroborated by unions' reaction to that specific point. Not only did they deem a broad range of social criteria necessary to cushion the 'multi-dimensional impact of redundancies' on workers' living conditions. Privileging workers' skills in a logic of balanced personnel structure also implied that

employers can also fire older workers with longer seniority, although redundancies should normally affect young employees with shorter seniority [...]. By favouring the dismissals of older employees, it is unlikely to meet the objective of high employment levels, for those workers will put the labour market under stress once dismissed, instead of unburdening it (DGB 2003: 7-8).

The rearrangement of social selection criteria thus represented one important point characterizing the preferences larger, high-productivity firms especially in manufacturing, even though the BDA also had to take into account the interest of small firms. As one of the leading negotiators for the BDA puts it:

the firm size threshold certainly played a relevant part. Yet more important points were the amelioration of the method of calculation of severance pay and the smoothing of social protection criteria, for these aspects would basically affect all firms – starting from manufacturing - and not only small ones (BDA 1, interview).

By contrast, small-firm employers considered the full exemption from the regulatory and financial burdens of dismissal protection their best-preferred strategy, in line with the traditional demands of ZDH:

for us, employment protection was primarily a matter of the costs associated with trials. [...] From the point of view of ZDH, it would have been extremely helpful that the size threshold be set at 20 employees – some services associations even demanded 50 – in order to comprehend more firms which are right on the line. However, the political constraints

were so many that we had to content ourselves with 10, and we were actually glad that the issue had been moved at all” (ZDH 1, interview).

The losers of the political deal clearly resulted the trade unions, in turn. Severance pay – they argued - could represent no substitute for legal protection: first, it allowed employers to offer employees a monetary compensation for redundancies on the basis of an arbitrary evaluation of trials risk;⁷⁶ second, it disproportionately affected hard-to-place employees with less probability of being re-employed who would be better off with job security, instead (*ibidem*).⁷⁷ However, the policy preference shift of their traditional political ally – the Social Democrats – left them with little power resources to contrast the policy output.

Hence, the Hartz III law approved in September 2003 re-introduced many of the 1996 provisions with respect to the firm size threshold (10 employees) and social selection criteria (age, tenure, alimony obligations), to which the new legislation added further protection for persons with disabilities yet balanced with the aforementioned safeguard for skilled workers. Moreover, it introduced the possibility for employers to offer severance pay (0.5 monthly wage per seniority year up to 18 months) in order to avoid trials. Finally, it provided start-ups to employ workers on a fixed-term basis with no objective justification for a period up to 4 years.

Albeit not enthusiastic about the final policy output (BDA 2, ZDH 1, interviews), employers acknowledged that the government had succeeded to defying unions' 'sacred cow' (BDA 1, interview) and focused their attention on parallel negotiations for the liberalization of forms of non-standard work, as the next section shows. All in all, employers witnessed a certain contentment with the reform of dismissal protection: in a 2005 survey by the BDI, 54.5% of respondents declared themselves satisfied with the new regulation, that made it the most-favoured act within Chancellor's Schröder's Agenda 2010 program (IfM 2005: 9).

Despite the modifications introduced and the subsequently good performance of the German labor market since 2005, including the 'job miracle' through the Great Recession (Krugman 2009), DP regulation has remained a contentious issue in Germany. The 2005 coalition agreement between the Social and the Christian Democrats envisaged to extend the trial period for new hirings from 6 to 24 months, thus postponing the enter into force of

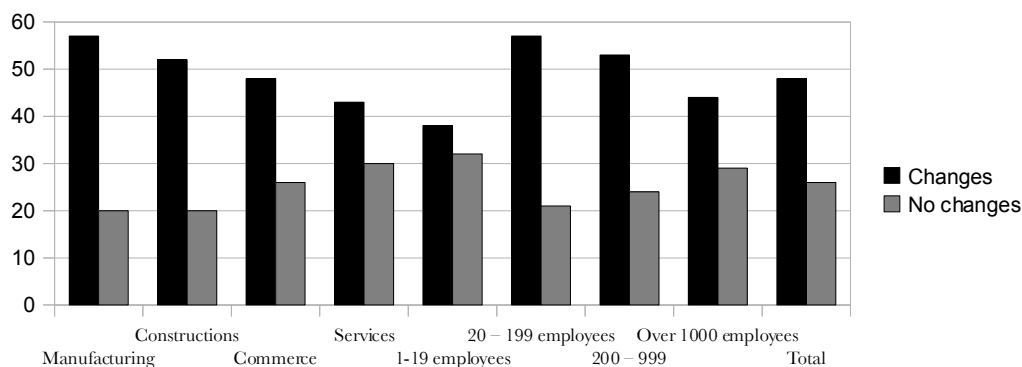
⁷⁶ “In this form, the possibility to choose allows employers to unilaterally decide whether to offer employees severance pay, on the basis of what they evaluate being the contingent risk of a trial. [...] But he can also offer a lower severance payment” (DGB 2003: 9, own translation).

⁷⁷ Remarkably, DGB took the Italian case as a virtuous example of coupling severance pay with an additional possibility of legal protection (DGB 2003: 9)

dismissal protection, in exchange for a regulatory stricture on the use of fixed-term contracts (SVR 2007: 412). Moreover, the Council of Economic Experts (*Sachverständigenrat*, SVR) has advocated for an automatic replacement of DP for economic reasons with severance pay, on the grounds of unpredictability of trials outcomes for firms and the *de facto* transformation of the institution as 'severance pay trade' (*Abfindungshandel*) that incentivize workers to lawsuit in order to reap higher benefits (ibidem, 414).⁷⁸ To business dismay, the lack of problem pressure eventually led the coalition partners in government not to tackle such a controversial issue for trade unions and for the SPD itself.

It is a perduring argument by the BDA that existing DP legislation does not fulfil those criteria of 'comprehensibility', 'calculability', and 'law certainty' that would offset its negative effects as an 'obstacle to employment' (*Beschäftigungshemnis*, BDA 2010). In 2009, a survey by the DIHK found that 48% of employers considered a further reform of DP one of the most appropriate measures for employment creation (DIHK 2009, also quoted in Emmenegger and Marx 2012: 752). As figure 4.1 shows, particular criticisms against existing legislation were registered among manufacturing producers (57%) and medium-sized firms (likewise 57%). By contrast, small- and large-firm as well as service employers expressed lower degrees of dissatisfaction, most likely also due – as the next sections will show – to greater use of non-standard work.

Figure 4.1. Percentage of employers favourable or unfavourable to changes to DP, breakdown by sector and firm size (N= 20,000), year 2009.



Source: own adaptation to DIHK (2009: 3-4). Note: more answers possible, therefore percentages do not equal to 100%.

⁷⁸ On the other hand, the proposal envisages that dismissal protection remains in place for dismissals related to personal misconducts (*verhaltensbedingte Kündigung*) and individual responsibilities (*personenbedingte Kündigung*). The Council of Economic Experts takes stock that only 15% of dismissed workers file a lawsuit to contest dismissals, nevertheless it exhorts 'not to downplay the amount of the figure' because 'ensuing costs are remarkable' and 'they cost jobs' (ibidem).

Therefore, German employers stick with long-standing demands for the elevation of the firm size threshold of application from current 10 to 20 employees, the extension of DP-free period from 6 to 24 months, and the introduction of the *Abfindungsoption*, that is, as shown above, the replacement of dismissal protection with severance pay through individual contractual provisions (BDA 2008a: 19 – 22, BDA 2010). If German employers ever identified beneficial returns from providing core workers with job protection guarantees by legislative means, these advantages seem to have vanished under postindustrialism.

4.2. TEMPORARY AGENCY WORK: A BYPASS TO DISMISSAL PROTECTION

In the face of political constraints to consistent changes in DP, the liberalization of temporary agency work (TAW) has turned out to be one of the best-preferred policy option in order to achieve an adequate degree of numerical manpower flexibility. As shown in the following, this has proven true especially for manufacturing producers during the last two decades.

Although the Labor Placement Act (*Arbeitnehmerüberlassungsgesetz*) had allowed temp work agencies to operate already since 1972, four main imperatives restricted its use by the early 1990s (cf. Antoni and Jahn 2009: 233-4). First, trade unions' veto had imposed a strict time limitation to the duration of assignments with the view to preventing downward wage pressures and threats to the stability of standard workers (Eichhorst and Marx 2011: 84). Whereas the 1972 law had originally set a 3-month limit, the 1985 Employment Promotion Act had doubled it to 6 months. In order to uphold temps' rights and employment continuity, moreover, agencies could neither hire temps on a fixed-term basis (*besonderes Befristungsverbot*), nor re-recruit more than one time workers they had already dismissed before (*Wiedereinstellungsverbot*), nor synchronize the duration of an employment contract with a temp to that of the first assignment (*Synchronizationsverbot*). Finally, TAW had been prohibited in the construction sector since 1982.

It is thus of little surprise that TAW made up only 0.49% of total employment (ca. 150,000 individuals) in 1994. Within that narrow segment, TAW was mainly associated with the recruitment of workers with technical skills such as mechanics (24.9% of all assignments in 1994), electricians (10.9%), and metalworkers (5.3%).⁷⁹ From the beginning, therefore, TAW constituted a phenomenon mainly circumscribed to manufacturing branches that would

⁷⁹ Bundesagentur für Arbeit, Arbeitnehmerüberlassungsstatistik.

thereby expand their room of numerical flexibility in the face of high levels of employment protection for their core workforce. During the reconstruction of East Germany, manufacturing producers and constructors within the BDA pressed the government to extend the maximum duration of assignments to 12 months, abolish the ban in the construction sector, and facilitate the exchange of workers within joint ventures between Western and Eastern firms (BDA 1991: 73, 1992: 76). However, due to the fierce opposition by manufacturing trade unions,⁸⁰ the government limited legislative intervention to extending maximum duration to nine months since 1994, and to allowing the BA to recur to work agencies to employ hard-to-place workers.

The mounting problem pressure of unemployment and high non-wage labour costs in the late 1990s constituted an incremental but crucial trigger to the deregulation of TAW as well as of fixed-term contracts in Germany.⁸¹ This was especially true from the point of view of employers, which explicitly turned to push through the liberalization of TAW once it became clear that those institutional factors raising up German labour costs in international comparison – namely, dismissals protection and social security contributions - would not undergo any substantial reform anytime soon.

Therefore, in the general struggle to slash those financial and regulative costs, employers in manufacturing increasingly identified TAW as the appropriate tool for circumventing existing regulation when facing unpredictable production peaks or in order to outsource low-skilled activities. On the other hand, the perduring employment crisis provided business with the argument that TAW represented a private alternative to placement services in order to counteract joblessness. Not only would state expenditure for active policies diminish in favour of costless and productive options, but also more efficient labour market outcomes would ensue, due to the better interplay between profit-oriented actors, i.e. temp agencies and user firms.

In this respect, a first milestone was cast in 1997, when parties in government set the aim of creating 2 millions jobs by 2000, in front of the critical labour market situation and with a view on the incoming 1998 elections. As shown in the previous section, business had

⁸⁰ The BDA dubbed trade unions negotiating approach to TAW as “in many ways dogmatic, confused, and emotional”. Also the “scepticism and rejection” to the liberalization of placement services by the BA found no other justification, according to employers, than its fear of losing an exclusive privilege (BDA 1994: 8-7).

⁸¹ In 1997, unemployment overcame the 4-million threshold peaking from 9.6% in 1994 to 11.4%, and skyrocketing non-wage labour costs, as contribution rates overcame 40% of the wage in 1996.

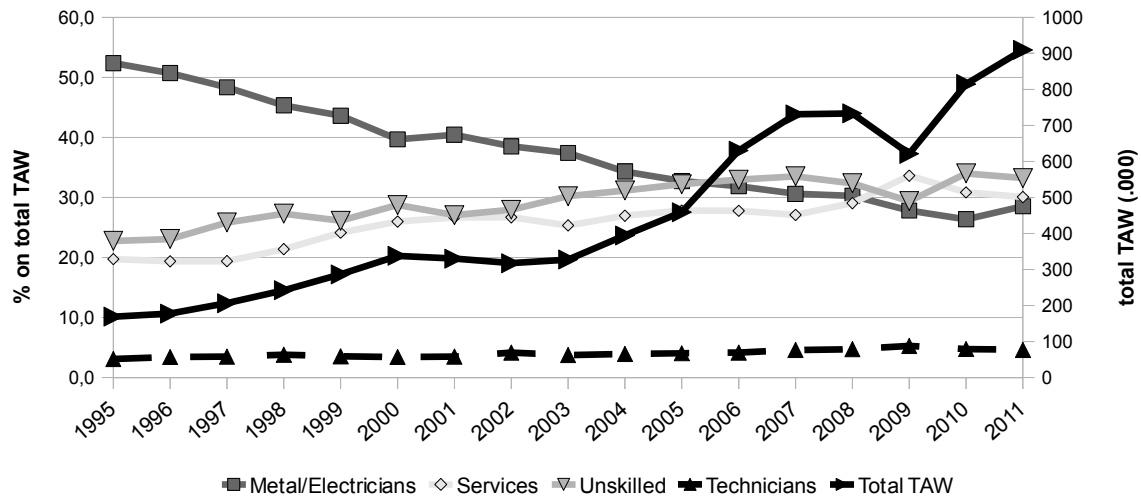
demonstrated a growing malaise for the increase of non-wage labour costs and the little adjustments achieved on dismissals protection. Hence, the BDA put the conservative government in front of a clear reform imperative:

those willing to bring the jobless back on their feet, they must worry that labour costs decrease and labour law becomes more flexible (interview of BDA president Dieter Hundt to Handelsblatt, 19.2.1997).

Problem pressure and electoral concerns definitely weakened those internal resistances to welfare retrenchment and employment deregulation especially of the social faction within the CDU. Under the motto 'only what creates employment is social' (*sozial ist, was Arbeit schafft*), the government included TAW among the objectives of the 1997 Employment Promotion Act. The act's main objective actually focused on the structural reform of active labour market policies, including job creation measures and sanctions on unemployment benefits recipients (see chapter 5), that absorbed an overwhelming part of the political discussion. Hence, TAW found very little resonance in the political debate, and no specific mention was made during the parliamentary hearing with the social partners (DS 13/5936). This notwithstanding, the regulatory adjustments introduced were not of marginal importance: the maximum duration of assignments was extended to 12 months; the synchronization ban was lifted for the first assignment; and temp work agencies were allowed to stipulate fixed-term contracts that could be renovated three times up to a duration of 24 months.

It was signally this reform that disclosed the advantageous potential of TAW for German employers. After a long stagnation, TAW witnessed a continuous increase between 1996 and 2003, as socially-insured temps doubled from 175,000 to 316,600 on yearly average, thus making up for a shift from 0.78% of total employment in 1997 to 1.28% in 2001 (Jahn and Wolf 2005: 2). Demand resulted highest in metalworking firms that employed 39% of total temps and in business services (20%) in 1998 (BA 2008: 9), whereby in the latter TAW made up only for 0.5% of total employment and in manufacturing branches 1.5% (Bellmann and Kühl 2007: 15).

Figure 4.2. Temp agency workers in Germany, yearly average stock (in .000) and breakdown by job tasks (% on total TAW), years 1995 - 2011



Source: own calculations on *Arbeitnehmerüberlassungsstatistik*, BA. Note: total TAW, right-hand scale.

Building on the extensive study by Promberger (2006: 86-110), especially larger manufacturing firms would increasingly manage production fluctuations through the coupling between 'flexible schedule' (e.g. overtime work) for core and high-wage workers engaged on skilled tasks, and systematically rely on TAW - instead of proceeding with new hirings - for unskilled positions with the view to diminishing labor costs (see also SVR 2008: 447). Because of the organizational room available, table 4.2 shows a stronger concentration of TAW use in medium and large firms.

Tab 4.2. Use of TAW, breakdown by firm size on total (%), years 1998, 2002, 2006)

Firm size	1998	2002	2006
1 to 9	10.0	9.9	4.4
10 to 49	17.1	19.8	16.3
50 to 249	36	35.5	34.4
Over 250	36.9	36	44.8
Total	100.0	100.0	100.0

Source: SVR 2008: 447.

Instead, Promberger accounts the residual penetration of TAW in smaller firms and high-productivity service sector such as finance intermediation to the preference by the former for

the exhaustion of overtime and work time accounts for permanent workers, and the recourse by the latter to other contractual forms (e.g. own-account workers) in order to hire highly skilled temporary staff for given project (ibidem, 92-94, 98-99).

Given encouraging results, during the early 2000s the BDA started an intensive campaign towards its associates in favour of TAW (Arbeitgeber 1/52, 3/52, 2000; 1/54 2002). TAW was advertised as an instrument allowing firms to manage production peaks; replace missing workers due to sickness, formation, or military service; and fulfil temporary projects requiring particular skills, with 'particular advantages for small and medium firms' (DIHT 2000). Accordingly, the position of the BDA rapidly shifted towards the advocacy for a fully-fledged liberalization which implied the extension of maximal duration of assignment from 12 to 36 months, and the abolition of the bans on synchronisation and repeated fixed-term assignments (Arbeitgeber 1/52, 2000: 8-9). Among general flexibility objectives, the BDA also represented the interest of the temp agencies employers associations, such as the BZA (*Bundesverband Zeitarbeit*), for the equalization of entrepreneurial conditions to those of all other production branches: “*the conclusion of fixed-term contracts is much more strictly regulated for temp work agencies than for all other employers*” (Arbeitgeber 3/52, 2000: 30).⁸²

If policy-makers would increasingly regard TAW as an effective active labour market policy alternative to expensive state-funded employment creation measures, trade unions decisively rejected any change to the status quo. Not only had reforms to fixed-term contracts already provided firms with 'generous flexibility options', which made further reforms to TAW unnecessary for creating jobs.⁸³ Existing legislation would ensure that employers bear economic risk for temporary agency workers. According to DGB, the reform endorsed by business would “shift employers' risk onto the social protection system”, in the form of unemployment assistance compensating for short assignment periods.

Therefore, the reform law advanced by the SPD-Greens government in 2001 did not bear but marginal adjustments in employers' view. Within the context of a further readjustment of active labour market policy instruments, the 2002 Job-AQTIV law substantially extended the maximum duration of assignments up to 24 months. However, it also reinforced the principle

⁸² Employers grounded this instance with the dubious motivation that “fixed-term TAW is anyway better than unlimited unemployment” (Arbeitgeber 1/54, 2002, p. 29).

⁸³ According to unions' own calculations, the duration of 60% of assignments lasted for periods inferior to 3 months. DGB, “Keine Ausweitung der Leiharbeit”, 19.4.2000, http://www.dgb.de/presse/++co++a31b3cd0-1552-11df-4ca9-00093d10fae2/@/@index.html?search_text=Leiharbeit&start_date=2000-01-01&end_date=2001-12-31

of *equal treatment* with comparable workers in user firms by imposing equal work conditions after 12 months of continuous employment, with particular reference to wage levels. Whereas the government arguably intended to anticipate the terms of the directive under negotiation at European Union level (Nedergaard 2007), it also aimed at avoiding radical disruptions with trade unions. As a result, the proposed law discontented both social partners though for opposite reasons.

Trade unions, especially in manufacturing branches, lamented that the extension of assignment duration did not put a halt to the ongoing process of substitution of core workforce with low-protected workers (IG Metall 2001).⁸⁴ Moreover, the enter into force of wage equality after 12 months eroded the effectiveness of collective bargaining, as it paved the way to segmented wage structures within firms (*ibidem*). By contrast, employers lamented the “irrelevance” of the reform, due to its scarce applicability in the praxis (DIHK 2001: 10). In particular, the association of employers in temp work agencies protested against the discrimination of their branch vis-à-vis all others. Legal intervention on wages and working conditions would limit the wage bargaining freedom in the sector as well as “entrepreneurial freedom of action and options” (BZA, 2001: 52). Moreover, the implementation of wage equality would require temp agencies both to strike “hundreds” of bilateral conventions in order to tune up wage levels with the collective agreements of different branches, and to charge user firms with higher tariffs, thus diminishing TAW market and employment potential (*ibidem*). The resilient strictness of TAW regulation thus resulted from the unwillingness of the government to defy trade unions and the need to accommodate the pending EU directive.

However, dramatic unemployment figures by 2002 strengthened employers' dissatisfaction with the 'apparent reform' ('*Scheinreform*', Arbeitgeber 1/54, 2002: 29). Decisively, the head of the commission for labour market reform, Peter Hartz, put enormous emphasis on TAW as key to modern placement services. In his view, precondition to the better functioning of labour intermediation was the removal of restrictions for firms in the use of TAW:

firms will be able to fully test potential candidates before they hire one employee. If the candidate is not fit enough, he is simply returned to the agency (interview to Peter Hartz, Der Spiegel, 32/2002: 43, own translation).

During the preparation of the Hartz report and of the relative draft legislation proposal,

⁸⁴ “The real relationships in the TAW branch call for more protection of agency workers as well as of ordinary workers in the user firms” (IG Metall 2001: 46).

employers turned to the liberalization of TAW as a crucial element in the political exchange between the maintenance of relatively strict DP and the need for contractual flexibility:

we had one main objective, and that was to soften dismissals protection procedures. [...] But we also deemed the full liberalization of TAW as an equivalent compensation to the fact that DP could not have gone further for political reasons. When we understood that for DP there was very little chance of progress then we set all of our cards on TAW. In practice, the liberalization of TAW bypassed DP and it was key to the liberalization of the labour market, although we had to remain within the boundaries of principles such as equal pay (BDA 2, own interview).

Interview partners highlight the concentration of the interest in TAW liberalization in industrial firms, which other production branches generally favoured in exchange for support on other issues, such as minor employment (see section below):

[TAW] was one of the traditional topics for the BDA. It was evident that especially the industry had made great use of TAW also in order to substitute workers for long periods and decrease labour costs. On the contrary, TAW was much less used in the craft sector, basically only for real occasional events such as substituting maternities or sick workers. Therefore, since the BDA had so strong an interest for deregulation, and the expansion of a low-wage sector was consensually acknowledged as the only way out of mass unemployment, we just followed on that specific topic” (ZDH 1, own interview).

Drawing on the report of the Hartz commission, the government advanced a paradigmatic reform of TAW based on a decisive trade-off between a full-fledged liberalization which eliminated all existing bans including any limitation to assignment duration, and the introduction of the equal treatment principle in wage and working conditions from day one. Only exceptions to the latter were wage collective agreements between authorized social partners in the branch, as well as for the employment of previously jobless persons to which a six-week exemption period applied during which pay could match the level of unemployment benefits. In order to provide for further legitimization of TAW, public temporary work agencies (Personal Service Agenturen, PSA) were established which were to mediate the insertion of the gravest cases of hard-to-place workers as part of the modernization of public employment services.

The deal appeased the most controversial points for unions, which had grown acquainted with the idea that some concessions had to be made to counteract long-term unemployment,

upon the conditions that collective bargaining be reinforced and the principle 'equal pay for equal job' be applied.⁸⁵ The application of equal treatment from day one would avoid that “revolving door effect” (*Drehtüreffekt*) by which firms would dismiss workers just before the thirteenth month, as the existing law set the enter into force of the principle (DGB 2003: 27).

On the other hand, employers manifested their discontent with respect to the application of equal treatment principle from day one, which the BDA had better favoured from the thirteenth month onwards. Employers' position was foremost driven by associations in the temp agencies which lamented an increase in bureaucracy, due to the need of tuning up work contracts to the conditions set by the collective agreements of all branches, with a deleterious impact on the effectiveness of temp agencies in sustaining employment levels:

We estimate that we are going to lose some 100,000 workers [...] We have to get our clients used to [the new regulation], thus we need to restructure the whole branch. Hence, we will experience a strong fall in demand, this is my prognosis.⁸⁶

Such demands were ultimately rejected, both in order to protect the bulk of the agreement and to move forward with the wide-ranging political deal contained in the Hartz reforms. In deed, the reform of TAW was the first act to be approved through the Hartz I act, passed in January 2003. Despite of the undoubted liberalization of TAW, firms did not show much appreciation for the reform. In a survey led by the DIHK on 2,300 firms, 66% of respondents deemed the new act making TAW less attractive due to the increase of regulations and costs. Dissatisfaction with the reform peaked among small firms with up to 15 employees (78% vis-à-vis 45% in firms with more than 500 employees), and in commercial (64%) and craft (82%) sectors, which especially turned against the equal treatment principle (DIHK 2003: 11). The BDA spoke of a 'missed opportunity' for a reform in favour of low-skilled workers and long-term unemployed, due to the “collective agreement diktat” (*Tarifdiktat*) that implied significant cost augmentation as well as increased bureaucracy (Arbeitgeber 1-2, 2003: 15).

Despite such outcries, TAW experienced an enormous growth since 2003. Not only have temp work agencies tripled in the period between 1992 to 2007, peaking to 16,115 firms by

⁸⁵ “We welcome the provision contained in this law proposal that TAW firms have to comply with the principle equal pay for equal work from day one. [...] We deem that this is a real chance for the TAW branch to gain a secure future in Germany through this regulation [...]. We even know that we will need to make concessions in order to ensure the placement of jobless and long-term unemployed, and I can guarantee that on the part of DGB we are ready for those concessions via collective agreement”, statement by Sommer, DGB general secretary, Committee for Labour and Social Affairs, Wortprotokoll 15/4, Berlin, 12.11.2002, p. 32.

⁸⁶ Statement by Enkerts, BZA, Committee for Labour and Social Affairs, Wortprotokoll 15/4, Berlin, 12.11.2002, p. 34.

June 2010 (in 2006 they were 12,550).⁸⁷ Also workers in the branch have doubled from 330 to 721 thousands on yearly average between 2003 and 2007, although their share on the total workforce did not overcome 1.8% in 2007 (SAV 2008: 443). A further look to tab 2 above shows that TAW remains predominantly concentrated in medium and large firms, in which TAW makes up for some 2.1% of total employment (*ibidem*, 447). Moreover, the use of TAW remains a phenomenon strictly associated to the manufacturing sector, in which temp workers made up 3.8% of total employment in 2006 (it was 1.6% in 2003) vis-à-vis services (0.7% in 2006, Bellmann and Kühl 2007).

To conclude, it is not surprising that BDA recently depicted TAW as an 'important job engine' for the German labour market, as this is proof of the fact that 'more flexibility can create employment' in the face of strict dismissal protection (BDA 2008b).⁸⁸ More provokingly still, the metalworking employers association *Gesamtmittel* (2010) held that TAW mainly allows producers to save resources on low-skilled labour in order to concentrate investments on the highly skilled workforce, such as engineers and researchers. Put this way, TAW may perhaps come to be regarded as an instrument of skill protection by other means. More certainly, following this conception of manpower management, TAW is contributing to the consolidation of an insider-outsider divide within the workforce based on skills.

4.3. MINOR WORK CONTRACTS: THE GERMAN POLITICS OF CHEAP JOBS

Whereas manufacturing producers were protagonists of the liberalization of TAW, German service employers concentrated their political pressures on the defence of an existing contractual form allowing a strong reduction in labor costs, that is, minor employment contracts (*geringfügige Beschäftigungsverhältnisse*). These contracts had been introduced as early as in 1945 in order to provide low-cost employment opportunities to occasional workers, such as housewives and students (Weinkopf 2009: 181, Eichhorst and Marx 2011: 77). Until its first reform in 1999, this contractual form was characterised by a maximum wage fixed yearly by statutory rules and a normal working time of up to 15 weekly hours.⁸⁹ Beside the salary, a

⁸⁷ Source, BA, Zeitreihe Arbeitnehmerüberlassung.

⁸⁸ 'Against the background of the over-restrictive and inflexible German labour law, TAW represents a way out. It is especially job security legislation that make firms scare in front of hiring own workforce in the uncertainty over future economic developments. The evolution of the TAW branch shows that more flexibility creates and secures jobs, for firms can timely react to changing market conditions' (BDA 2008: 4).

⁸⁹ Marginally employment also embraced forms of occasional work for individuals working less than 50 days per year, also within a weekly limit of 15 hours.

crucial cost advantage was constituted by their exclusion from social insurance schemes, as employers were subject to the payment a flat-rate 20% tax. Minor employees were thus socially-insured through their partners or parents, or through the primary labour market. Finally, minor employees underlie a total freedom of dismissals. Taken altogether, these factors contributed to making of minor employment contracts a 'cheap' (King and Rueda 2008) form of employment from which especially labor intensive and low-productivity employers could profit in order to achieve substantial labor cost savings.

By the early 1990s, the diffusion of this contractual form started assuming consistent contours: in 1992, 2.9 millions individuals exclusively worked on minor employment contracts out of a total of 4.4 millions holding such contracts.⁹⁰ The bulk of minor employment was concentrated in low-productivity service sectors, most notably in cleaning services (64% of total dependent employment in the branch), hotels and restaurants (48%), and retail commerce (15%) (Apel *et al* 1999: 43, see tab. 4 below). Employers' motivations for the use of minor employment, thus their preferences for the status quo, emerged clearly during the parliamentary debate forced by the SPD – then in the parliamentary opposition - in March 1994 through its legislative initiative to 'prevent abuses of the minor threshold in social insurance'.⁹¹ Backed by unions in branches such as retail commerce, banking and personal services, the SPD aimed at including minor employees in old-age, health care and unemployment insurance through the introduction of a (reduced) contribution on employers.⁹²

The initiative incurred in the readily mobilization of employers in service branches which raised three main objections against the regulation. The first regarded the impact of labour costs in labour-intensive sectors. Due to high contributory levels for standard employment and firms' lock-in within domestic labour regulation, employers in hotels and restaurants (DEHOGA) and retail commerce (HDE) lamented having no room for managing activity

⁹⁰ Until the late 1990s, statistics remained controversial, depending on the data source (administrative registration or census). The reported data is drawn from a 1992 investigation commissioned by the Labour Ministry (quoted in Neuhold 1999: 43).

⁹¹ *Gesetz zur Beseitigung des Mißbrauchs der Geringfügigkeitsgrenze in der Sozialversicherung*, DS 12/7108. In fact, the Greens re-proposed a similar law again in 1996 (DS 13/4969) which was similarly turned down.

⁹² In fact, the aim of the law proposal appeared less that of ensuring effecting social protection than the elimination of cost advantage for employers and generating new revenues to social insurance funds. True, marginal employees would become insured for health care also if not protected through family members. However, the payment of contributions to unemployment insurance, for instance, would explicitly exclude any entitlement to unemployment benefits for these workers, if not in the form of a minimum allowance (*Unterhaltsgeld*). On the whole, the main systemic advantage was expected from the augmentation of revenues to various insurance funds in the total amount of circa DM 6.9 billions (DS12 / 7108, p. 12).

peaks beside ordinary part-time work, which was however subject to full social contributions. As DEHOGA put it:

our services does not have the possibility of outsourcing abroad as the industry. We are stuck here within a framework that, in the present situation, allows us for no further increase of labour costs for our personnel⁹³

Secondly, labour costs coupled with a peculiar work organization vis-à-vis the industry that impeded the transformation of marginal jobs in regular full-time jobs not only because of the concentration of activities such as newspaper delivery, cleaning services, and seasonal jobs in well-determined periods of the day, but also due the smaller entrepreneurial size of services:

the reality in micro and small firms is that they have to rely on a regular use of minor employment. The proposed legislation would not affect large firms that are certainly not first in line with minor employment, but rather those firms and branches whose regular employees do not want to show up on weekends to help us coping with touristic-related urgent labor needs.⁹⁴

Finally, employers found little sense in paying contributions to which corresponded little or no benefits for employees, as in the case of unemployment insurance. As many of them reported, it was actually employees themselves who voluntarily requested being employed on marginal jobs in order to get higher net gains from work. Therefore, this provision would have gone counter the very interests of those social groups it intended to serve.⁹⁵ Employers and the conservative coalition then in government thus retained job destruction or the inflow in the black labor market as the most likely outcomes to be expected from the law. On these grounds, the proposal was rejected.

Yet, employers were to suffer a major drawback in 1999. After winning the elections, the SPD and the Green party in the coalition government favoured a regulation of minor employment. They also did as the problem pressure had significantly increased. The share of marginal work contracts had kept on augmenting up to 16% of total employment in 1997

⁹³ Statement by Hartges, DEHOGA, Wortprotokoll n. 127 of Committee for Labour and Social Affairs, 28.6.1994, p. 20.

⁹⁴ Statement by Hartges, DEHOGA, Wortprotokoll n. 127 of Committee for Labour and Social Affairs, 28.6.1994, p. 20. The same argumentational line is followed by Wassmann, HDE, p. 19, and Hagedorn, BDA, p. 18.

⁹⁵ 'As your main complain refers to scarce employment security, I do not deem this law proposal very coherent, with special respect to unemployment support. If you impose a one-sided contribution on employers with no correspondent benefit, I fear that we will have to engage in a broader discussion on uninsured forms of work further ahead'. Statement by Bungarts, Employers' Association for Cleaning Services, p. 22.

(table 4.3), with particular concentration in service branches. Those 'usual suspects' had been thus confirmed that minor employment had turned into a 'strategic option [for employers] to establish a low-cost segment by circumventing social insurance contributions' (Eichhorst and Marx 2011: 78).

Table 4.3. Diffusion of minor employment in Germany (1992 and 1997), breakdown by sector, and % of employment in the branch.

Branch	1992		1997	
	Absolute n. (.000)	% of employment	Absolute n. (.000)	% of employment
Cleaning services	199	64	321	n.d.
Retail Commerce	673	15	960	19
Hotels and restaurants	457	48	713	63
Manufacturing	643	4	699	6
Banks and insurance	113	9	115	9
Agriculture	123	9	71	7
Transports	121	5	255	13
Total economy	4,453	12	5,634	16

Source: Apel *et al* (1999: 43)

In January 1999, the government advanced a law proposal that set a fixed and uniform wage threshold (monthly DM 630) below which employers were to pay a flat-rate contribution of 22% to old-age pensions (12%) and health care (10%) funds.⁹⁶ Within that wage limit workers' earnings remained tax-free, provided that they had no other income sources. However, such low level of social contributions was not designed to give workers an entitlement to neither pensions benefits nor health care treatment. In the case of pensions, only the voluntary payment of an extra-contribution of 7.5% would activate a proper right to future benefits. Such opt-in provision was designed in order to mitigate the regulatory impact especially for women that constituted 71% of total minor job-holders, and could thereby build own social rights to old-age protection independently from the social insurance position of the partner. On the whole, as in 1994, the act's objectives remained suspended between the aims of balancing cost competition with “more orthodox” forms of insured employment and of

⁹⁶ Entwurf eines Gesetzes zur Neuregelung der geringfügigen Beschäftigungsverhältnisse, DS 14/280, 19.1.1999.

countering the erosion of social insurance revenues.

The law proposal was criticized under many aspects. Albeit sharing the regulatory objective, trade unions deemed the wage threshold 'decisively too high' for the sake of contrasting the expansion of minor employment (DGB 1999: 1). Particularly in East Germany – they argued – averagely lower wages required an inferior wage threshold in order to prevent the erosion of fully-insured employment. Moreover, the DGB advocated for the wholesale extension of social insurance entitlement for marginal employees, if necessary through the compulsory payment of full contribution rates. Not only did unions hardly accept such a remarkable deviation from the validity of the solidarity principle for one segment of the workforce. Higher net wages admittedly resulted attractive to marginal workers – especially younger people – and unions meant to exert a sort of pedagogic function with respect to risk-neutral individuals.⁹⁷ As a general point, however, unions considered that the new regulation could hardly prevent the erosion of standard employment because, firstly, employers incurred into little change in labour costs⁹⁸; secondly, ordinary part-time resulted far less attractive for workers as social contributions would disproportionately affect low wages and render minor employment more remunerative on the short run (DAG 1999: 33).

On the other hand, employers in low-productivity service sectors rejected the law proposal by lamenting the negative impact of regulative costs on that kind of labour flexibility that was intrinsic to their production activities. The level of social contributions would not substantially increase from the existing tax rate, as commercial employers themselves admitted (HDE 1999: 32). However, firms would be compelled with paying full contribution costs once minor employees' earnings trespassed the maximum threshold. As employers in hotels and retail commerce reported, grand part of their workforce would be employed on minor work contracts as a side-job and would thus be likely to be subject to full labor taxation under the

⁹⁷ 'It is not acceptable that these contributions do not lead to any benefit entitlement and that we set aside the principle of half division in the payment of contributions to the social insurance system, and thus the solidarity principle' (DGB 1999: 2, own translation). 'Young employees have much more interest in having cash at hand. They do not realize that retirement age will once come, and he does not calculate other risks. He is thus not ready to voluntarily pay contributions. This is a duty of law-makers, and this is why we demand a compulsory social insurance', statement by Engelen-Kafer, DGB, Wortprotokoll 752-2401, Committee of labour and Social Affairs, 10.2.1999.

⁹⁸ According to the previous regulation, employers paid a lump-sum tax set at an equal level (20%, plus 2% additional contributions) and unions contended that the lack of a fixed wage ceiling allowed employers to shift taxation costs on workers' wages. Therefore, the new law only marginally changed labour costs for employers, while only diverting the destination of related revenues from the general budget – as in the existing system - to social insurance funds, as the new regulation envisaged.

new legislation. Therefore, these employers associations claimed that the reform would have discouraged these individuals to take up minor jobs, thus shrinking labor supply.⁹⁹ Moreover, small firms with no human resource office would witness an augmentation of administrative charges stemming from the equalization of registration procedures of minor and standard employment, and from the obligation to deliver fiscal declarations certifying all additional earnings of their minor employees.¹⁰⁰ All in all, so commercial employers concluded:

the new regulation will in most cases lead in an increase of labour costs [...] This is especially the case for small retail firms, as peaks in labour demand will be hardly manageable through internal changes in working time, as in the case of larger firms [...].

Retail commerce is more likely to recur to minor employment (HDE 1999: 31).

By contrast, the BDA expressed little interest in the issue. Large firms expressed one sole concern for a provision that empowered work councils to control (and possibly oppose) the expansion of minor employment contracts within establishments with the view to preserving a 'balanced personnel structure'. Not only did employers reject the vagueness of the formulation, but the BDA also contested the 'systemic rupture' (*Systembruch*) of allowing workers to have a say on a matter against which unions manifested a prejudicial adversity:

for seasonal activities or for firms that greatly depend on minor employment, the hiring of minor employees can be as much justifiable as the hiring of full-time workers. Unions' claims are based on assumptions that evidently do not reflect the reality.¹⁰¹

Despite a general agreement on hindering abuses to the use of marginal employment, employers did not advance significant counterproposals, thus manifesting an overall propensity for the status quo which provided especially labour-intensive branches with a 'flexible reserve' of low-wage workforce (Arbeitgeber 10/53, 2001: 9). In March 1999, the law was finally passed with minor adjustments.

Although DEHOGA claimed 'catastrophic consequences' for the touristic sector entailing a 92% of minor employees among total dismissals, reduction of opening times, and forced changes in the functioning of activities,¹⁰² research did not actually prove but marginal augmentation in minor employment as exclusive occupation between 1999 and 2000, and a

⁹⁹ Statement by Hartges, DEHOGA, Wortprotokoll 752-2401, Committee of labour and Social Affairs, 10.2.1999, p. 20.

¹⁰⁰ See statement by Heinen, Employers Association of Newspaper Publisher, p. 23.

¹⁰¹ Statement by Wisskirchen, BDA, Wortprotokoll 752-2401, p. 25.

¹⁰² Statement by Hartges, DEHOGA, Wortprotokoll 14/25, Labour and Social Committee, 29.9.1999, p. 9.

decrease of less remunerative side-jobs (Magvas 2001). Yet, the association of craft employers ZDH interpreted and led the general dissatisfaction of service branches when contesting the 'unreasonable charges' falling on employers that represented an 'evident contradiction' with the aim of absorbing unemployment via the development of a low-wage employment sector (ZDH 2001: 61). Therefore, it formulated a reform proposal to raise the maximum wage threshold from € 325 to € 600, and let firms be exempted from pensions contributions in exchange for health care and long-term care – remarkably less costly (*ibidem*).

What was perhaps an isolated demand soon turned out to be a real policy option as Chancellor Schröder instituted the Hartz commission in 2002. In the face of unemployment levels peaking to nearly 4.7 millions individuals and the willingness to slash the number of unemployment assistance recipients, the expansion of the low-wage sector became a priority aim in order to create employment.¹⁰³ Within the commission, the only official representative of employers association was ZDH general secretary Schleyer who carried on the above mentioned reform option (ZDH 1, interview). Due to unions' opposition, however, the commission limited to suggesting the elevation of the maximum wage threshold to € 500 and the diminution of social security contributions to 10%, with a further restriction of its application only to household-related services (Hartz Commission 2002: 169-170).

Building on the Hartz Commission's proposal, parties in government submitted an according draft legislation in November 2002. It was however in the parliamentary debate in the lower-chamber *Bundesrat* that the CDU/CSU-led Bavarian government put forward an alternative 'mini-job' model which sensibly expanded the scope of application of minor work contracts beyond private households to the whole economy, thus partially uploading the demands of ZDH.¹⁰⁴ Beside elevating the maximum wage threshold to € 400 and keeping employers' payroll tax at 20%, the CDU proposed the institution of a 'contribution scale' (*Gleitzone*) up to monthly € 800 wages within which workers paid progressively increasing levels of own social insurance contributions until reaching a full rate. As the CDU controlled the *Bundesrat*, it forced the *Bundestag* and the government to strike a negotiation in the Conciliation Committee by the end of December 2002, from which the final law actually

¹⁰³ 'There is also a right to simple jobs. Many people either do not want or cannot be trained further' (Hartz Commission 2002: 41).

¹⁰⁴ Deutscher Bundesrat (2002): „Entwurf eines Gesetzes zur Aktivierung kleiner Jobs (Kleine-Jobs-Gesetz)“, Bundesratsdrucksache 803/02; CDU, Entwurf eines Gesetzes zur Aktivierung kleiner Jobs, Bundestagdrucksache 15/23.

originated.¹⁰⁵

The Hartz II act (*Zweiten Gesetz für moderne Dienstleistungen am Arbeitsmarkt*) entered into force in April 2004. Four major points characterized the new regulation:

- the definition of mini-jobs was restricted to the sole criterion of the maximum wage threshold, that was elevated to monthly € 400. The reference to maximum working time of 15 hours per week was eliminated;
- within the minor wage limit, employers total contribution rate was increased from 22 to 25%, this comprising contributions for pensions, health care, and work accidents insurance as well as a flat 2% tax. Mini-job holders remained however excluded from unemployment insurance and long-term care;
- two special treatments were allowed. First, private households employing minor employees (e.g. for cleaning and baby-sitting jobs) would pay a diminished contribution rate up to 12%. Second, no labor tax would be applied on mini-jobs for workers combining more than one minor work contracts or one mini-job and a fully-insured work contract in the primary labour market;
- through the creation of *midi-jobs*, employers and workers were provided with an option to agree on raising maximum wage levels and gaining full social insurance. In the wage scale between monthly € 400 and € 800, employees could pay step-wise higher contributions up to the full rate and thus gain full social insurance coverage, including unemployment insurance and long-term care. Employers would instead pay their normal contributory share (20.85% in 2003). For private households the midi-job threshold applied from monthly € 500.

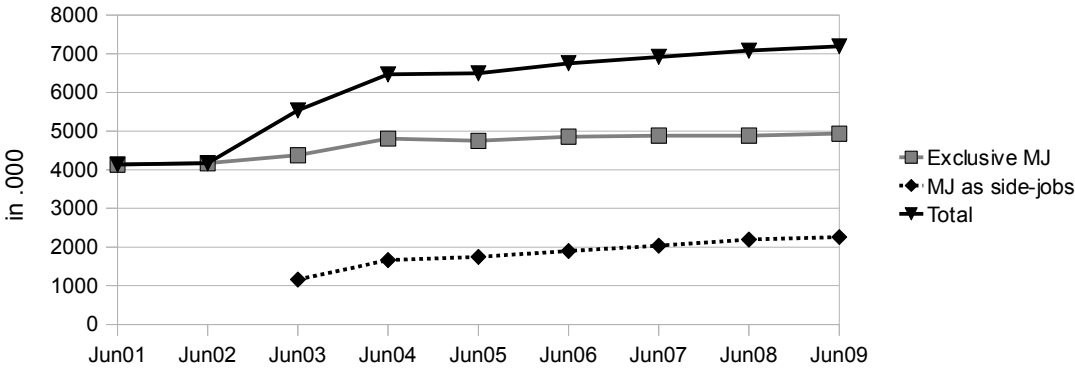
On one side, the new legislation explicitly aimed to incentivizing unemployment benefit claimants and discontinuous workers to take up jobs in the formal labor market by offering work contracts free from taxes and social contributions for employees. At the same time, it sought to ameliorate the social insurance position of mini-jobbers by raising contributions rates paid by employers. While improving future pensions and health care benefits for workers exclusively employed on mini-job contracts, the legislation rendered these contracts more costly for employers vis-à-vis other forms of employment in terms of non-wage labor costs

¹⁰⁵ Remarkably, the parliamentary hearing in November 2002 discussed the Hartz suggestion of a reform limited to household-related services, which the BDA representative defined as 'fully insufficient' to 'really boost low-wage employment in the private sector', statement by Christoph Kannengießer, BDA, Wortprotokoll 15/4, Committee for Economy and Labour, 12.11.2002.

with the aim of counteracting abuses. Despite higher taxes, the elimination of the working hours cap nevertheless provided employers with the possibility to make virtually unlimited use of contracts associated with a fixed wage ceiling and falling out of the scope of collective wage bargaining. The latter point constituted the primary reason for why especially small-firm and commercial employers hailed the Hartz II act as a 'successful reform', although both business segments contended that the wage threshold could rather have been elevated to € 600 and social contributions diminished (ZDH 2003: 68; HDE interview).¹⁰⁶

In fact, minor work contracts witnessed continuous expansion throughout the following years (figure 4.3). Whereas in 2002 there were circa 4.1 millions mini-jobbers in 2009 these increased up to over 7 millions, about 64% of which being women (Wagner 2010: 46). Except for an abrupt increase in the year following the Hartz reform, workers exclusively employed on minor work contracts stabilized at around 4.8 millions between 2004 and the present. The lion's part of this growth is however to be accounted on the stark increase of workers employed in mini-jobs as a side job (+1.1 millions between 2003-2009), particularly in East Germany where lower job opportunities in the primary labor market tends to lead workers to combine a plurality of minor contracts at the same time (*ibidem*).

Figure 4.3. Registered mini-jobs in Germany as exclusive work contract, as side-job and total, 2001 – 2009.



Source: Bundesagentur für Arbeit

As shown in table 4.5, marginal contracts have remained predominantly concentrated in low-

¹⁰⁶ See also the similar position of hotel and restaurants employers, 'Mini-Jobs: Dehoga unterstützt Hart-Kommission', 25.7.2002 http://www.cafe-future.net/gastro/branchennews/pages/Mini-Jobs-Dehoga-unterstuetzt-Hartz-Kommission_2592.html

productivity service sectors, such as business services (e.g. cleaning), retail trade, hotels and restaurants together accounting for about two thirds of total minijobs over the last decade. Although the use of mini-jobs has also quantitatively grown in core manufacturing, construction and credit sectors, table 4.4 shows that their ratio against total employees has remained negligible vis-à-vis low-productivity sectors, in which mini-jobs make up for over 30% of total employment. Here, unions denounced an increasing substitution effect taking place between standard and mini-job contracts (Ver.di, own interview)¹⁰⁷, and demanded *inter alia* the reintroduction of the working time limitation, full social insurance contributions as well as the introduction of a statutory minimum wage to avoid wage dumping (DGB 2012).

Table 4.4. Mini-job distribution, absolute numbers and percentage share of total employees, breakdown by selected sector, years 2003, 2007, 2010.

	2003		2007		2010	
	<i>Abs. n. (.000)</i>	<i>% on total sectoral employment</i>	<i>Abs. n. (.000)</i>	<i>% on total sectoral employment</i>	<i>Abs. n. (.000)</i>	<i>% on total sectoral employment</i>
Business Services	1,137.3	30.0	1,425.6	32.5	1,211.5	32.7
Trade	1,142.8	21.4	1,329.4	25.6	1,360.9	33.2
Manufacturing	673.1	7.3	756.1	8.6	606.5	9.6
Hotels, Restaurants	507.4	37.9	651.6	43.9	771.1	50.8
Health Services	514.3	14.5	651.5	17.6	686.9	19.3
Constructions	194.3	10.2	249.6	14.2	276.9	17.5
Education	123.3	5.8	154.9	7.0	208.9	18.6
Credit, Insurance	62.7	5.6	68.7	6.5	73.1	7.2
Private Households	5.8	0.9	8.8	1.3	8.4	0.8
TOTAL	5296.4	20.5	6527.5	24.8	6826.2	24.3

Source: own calculations on the basis of Minijobzentrale data, quarterly reports, various years, EU Klems and Bundesagentur für Arbeit. The ratio is calculated as the % of minijobs over insured employees in the sector.

In fact, cost and regulatory advantages are acknowledged by employers themselves. According to the HDE (2005), in the retail sector mini-jobs are employed for 'unattractive work tasks' such as filling market shelves before shop opening or covering sale peaks during the day or

¹⁰⁷ See, for instance, Ver.di, 'Branchenreport belegt: Hunderttausende von sozialversicherungspflichtigen Arbeitsplätzen im Einzelhandel zu Gunsten von Minijobs vernichtet', press release, 19.3.2004, (<http://www.verdi.de/presse/pressemitteilungen/++co++e31f7468-4708-11d9-530a-003048429d94>), and HDE, 'Hde contra Verdi: Mini-Jobs sichern Beschäftigung', press release, 19.1.2005, (<http://www.einzelhandel.de/pb/site/hde/node/7261/L.de/index.html>).

particular periods, e.g. during pre-Christmas sales. By the same token, Dehoga (2010) maintains that:

when a hotel or restaurant owner needs workers in holiday resorts, to strengthen the bar teams, or to do catering during trade fairs, he does not have the alternative to employ full- or part-time workers on a permanent basis. The work hour volume does not allow such extension. For such demand peaks minijob workers indispensable.

According to these employers associations, the availability of mini-jobs instead contribute to securing the jobs of standard employees, as they avoid work overload for the permanent staff and ensure business cost sustainability (HDE 2005, Dehoga 2010, cf. also Wagner 2010: 54-5). Manufacturing producers in turn emphasize the general labor market policy effects of activating unemployment assistance recipients and of inclusion of the low-skilled in the formal, instead of the black labor market (BDA 2011, Gesamtmetall, interview).

On these grounds, German employers have strenuously defended existing legislation since 2003, more recently as the Social Democrats in the grand coalition government unsuccessfully sought to pass a regulation to reintroduce the 15 hour per week limit in January 2008 (BDA 2008). Except for the raise of the contribution rate to 30%¹⁰⁸ forcefully decided in 2006 by the CDU-SPD government in the face of the progressive erosion of the pensions and health care funds revenues, the regulation of minor work contracts has undergone no further strictures. Insofar as the German labor market has witnessed continuously improving performances even throughout the 2009 'Great Recession', there has seemingly been little convenience for parties in government to challenge the preferences of the numerous small-firm employers group.

4.4. CONCLUSIONS

The empirical evidence presented in this chapter documented the strive of German employers for the liberalization of employment protection legislation starting from the mid-1990s. All business segments manifested policy preferences for more lax regulation of both dismissal protection rules for open-ended work contracts and of non-standard forms of employment, such as temp agency work and minor work contracts. The encompassing peak employers association BDA went along with the orientation of its constituency and formulated according policy positions during the main policy making processes. Business unity arguably increased its

¹⁰⁸ The increase in contribution rates affected pensions (from 12 to 15%) and health care (from 11 to 13%) within the context of a general augmentation of the respective contribution rates.

influence in the political arena, as parties in government mostly tended to give in to employers' demands, despite notable though limited exceptions.

Against this general background, the theoretical framework of this work however provided us with a deeper understanding of employers' preferences in the context of the transition to a postindustrial economy. The analysis emphasized four main theoretically relevant findings.

First, contra the prediction of Varieties of Capitalism, large manufacturing employers did not only engage to diminish regulatory constraints on the use of the marginal workforce through TAW but also demanded substantial changes to DP for standard employees. Such overt challenge to the stability of a core political institution in the German CME may be accounted on two interrelated factors. On one side, this segment underwent a process of profound restructuring during the 1990s, both in the Western and, more considerably, in the Eastern Länder. Economic-structural change eroded the beneficial returns of existing DP legislation insofar as the latter negatively affected corporates' reorganization efforts by augmenting their costs and constraining managements' ability to steer the relaunch of their firms' international competitiveness. In fact, secondly, employers' discontent with DP mainly directed against those arrangements such as social selection criteria and unions' veto power which bound their discretion to select their future workforce on the basis of social rather than economic considerations. In practice, existing legislation seemed to protect from redundancies more senior workers with outdated specific (manual) skills in the context of technological change and outsourcing strategies than younger workers, e.g. those with high general skills more apt to perform the work tasks required in that phase. It is by placing the policy preferences of manufacturing producers in their specific historical context that we gain a more apt understanding of the factors informing their political agency through time.

Second, closer empirical investigation allowed to shed light on the demands advanced by a more radical segment, that is small-firm employers. Regardless of the production sector, these producers struggled to gain a wholesale exemption from DP rules by raising the firm size threshold of application and to ensure the availability of cheap labor, most notably through minor work contracts. In the face of large firms' downsizing, small business sectors – in particular branches such as business, personal and touristic services - have stood out as the main vehicle of job creation since the early 1990s. Economic-structural change thus raised the political relevance of these employers' demands for diminishing work turnover costs and

overall labor costs in labor-intensive sectors characterized by higher business volatility, low work productivity, and low general workers' skills. As noticed, small-firm employers' preferences gradually yet decisively informed the common positions of the peak association BDA and thus influenced the decisions of both conservative and progressives government coalitions. The spread of very atypical marginal employment (mini-jobs) can be thus correlated with the diminishing returns of the high constraints set by standard employment regulation and costs on expanding low-productivity business segments.

Thirdly, this chapter emphasized the role of an encompassing business organization in governing heterogeneous policy preferences and pursue reform objectives from which all employers' groups might benefit. On DP, the BDA did not only advocate for higher size threshold, as small firms demanded, or smoother social selection criteria in favor of large firms. It primarily pressed to change severance pay arrangements for economic-related dismissals which implied cross-cutting beneficial effects across all types of firms. On non-standard work, in turn, the BDA successfully combined advocacy for the liberalization of TAW, particularly favored among manufacturing and larger service employers, and the defense of low regulatory standards for minor work contracts of which mainly service employers would make use. Albeit in the face of low preference divides, intra-business solidarity increased the power resources of employers and allowed them to achieve significant influence on final reform outputs.

What lessons can we finally learn about the coalitional bases of dualization processes as for employment protection? Empirical evidence lends little support to the existence of cross-class political alliances between core manufacturing employers and unions in favor of the resilience of DP. Neither did employers refrain from advocating for substantial reforms, nor did unions openly endorse the liberalization of non-standard work in order to protect insiders. Rather, small-firm and service employers seemed relevant co-protagonists of policy-making processes, although their political participation was mediated by the large-firm BDA leadership. In turn, unions' political influence was on one side severely weakened by the persistence of high unemployment levels, which forcefully imposed the adoption of supply-side policy measures by governments with the view to achieving immediate employment returns. On the other hand, the predominant manufacturing basis of German unions perhaps impinged on their cognitive capacities to acknowledge the scarce effect of traditional labor market institutions in

emerging low-productivity service sectors. As unions failed to proposing alternative policy arrangements to employment regulation under postindustrialism, they may have implicitly yet not strategically paved the way to dualization. As we will see in chapter 6, such unintended outcome manifested also with respect to the reform of unemployment insurance.

CHAPTER 5

EMPLOYERS AND THE CONTENTIOUS POLITICS OF LABOR MARKET FLEXIBILITY IN ITALY

'Labor market flexibility' has become a recurrent instance of Italian employers since the mid-1990s. In the aftermath of the 1992-3 international crisis, the domestic economy fatigued to recover from the decline of large manufacturing companies, the state budgetary stricture during the run up to the European Monetary Union sealed high levels of taxation, and unemployment rates persisted over 11%. It was in this context that employers matured their interest in the liberalization of non-standard work by espousing the view that the lagging growth of the Italian economy had well-defined roots in strict job protection institutions (De Nardis and Galli 1997). Heavy DP rules instituted a 'job property regime' – employers argued - that placed serious constraints to workforce innovation for larger firms and in turn discouraged the predominant segment of small firms from pursuing business development strategies aimed at dimensional growth in order not to incur in the regulatory strictures applying to larger firms. By the same token, strict regulation of non-standard work was deemed impeding job creation and firms' production modernization under globalization, also favoring undeclared work.

Similarly as Germany, Italy embarked in a process of 'liberalization at the margins' between 1997 and 2003, as both center-left and center-right government coalitions passed two crucial labor market reforms which remarkably diminished regulatory constraints on the use of non-standard forms of employment. Unlike in Germany, as shown below, the opposition of trade unions to the modification of DP arrangements proved however unsurmountable in Italy. More importantly, the reform proposal advanced in 2002 by the conservative Berlusconi government prompted a high degree of social conflict which proved determinant to the emergence of a noticeable divide between large- and small-firm employers over the opportunity whether to protract or abandon reform instances. Such business split makes the

Italian case particularly interesting in comparative perspective, because it emphasizes the incidence of wide differentiations in the economic and institutional structures on employers' policy preferences. Against this background, it also stresses the little capacity of fragmented peak employers associations to compose intra-business divides and achieve commonly favorable results.

This chapter traces policy-making processes with respect to the attempted reforms of DP (section 5.1) and the regulation of two important forms of non-standard work, namely TAW (5.2) and project work contracts (5.3), between 1990 and the beginning of the 2009 financial crisis.

5.1. DISMISSAL PROTECTION: THE MOTHER OF ALL STRUGGLES

As discussed in chapter 3, the bulk of the Italian DP legislation is constituted by the article 18 of the 1970 Workers' Charter (*Statuto dei Lavoratori*, henceforth *art. 18*) that sanctions firms unlawfully dismissing a worker to 'reinstate' the latter on his or her job. It is nevertheless renown that lawsuits frequently end up with the payment by employers of a monetary compensation (Ichino 1996).¹⁰⁹ It is however not possible to understand the political relevance of art. 18 without prior reference to its strongly symbolic importance to Italian trade unions. Given its genesis as a means to protect unions' members from firings due to their political militancy, unions have traditionally conceived of art. 18 both as a fundamental principle stating the policy priority of job protection and as a legal guarantee against employers' arbitrariness in managing employment relationships.¹¹⁰ Another crucial feature of art. 18 is that it only covers only workers in larger firms with over 15 employees, thus creating a strong protection differential between large and small firms. Before analyzing the attempt at regressive reform of art.18, the next section turns to a previous expansionary intervention aimed to enlarging its coverage which gave birth to the 1990 law setting DP rules in small

¹⁰⁹ There is an extraordinary paucity of empirical research on the actual occurrence of reinstatement as the final outcome of lawsuits. A provisional proxy can be found in the data provided by the Labor Ministry with respect to obligatory conciliation attempts to DP-related disputes. In the year 2010, out of 11,686 cases only 488 ended with workers' reinstatement (4.2%, more than one third of which in manufacturing firms) whereas the remaining ones were solved with the disbursement of severance pay by employers (Relazione Generale sulla Situazione Economica del Paese, 2010, p. 112).

¹¹⁰ Telling of unions' approach is the reply of CGIL secretary general Camusso to government's reform plans in the Winter 2011: '*Art. 18 is a norm of civilization which states that no employer can fire a worker because he does not like him or her, because he or she holds an opinion, is involved into politics or is a union member. Art. 18 has a power of deterrence. This is the reason why it is adversed and why we deem important that it remains as it is*' (ADN Kronos, 19.12. 2011).

firms.

5.1.1. THE LAST EXPANSIVE REGULATIONS: THE EARLY 1990s

As mentioned, small firms with up to 15 employees had not only been excluded from the application of art. 18 but also exempted from whatsoever regulation of dismissals. Simply stated, during the postwar period small Italian firms had enjoyed full freedom of firing at will with no obligation of written motivation or notice period. To correct this status quo, since 1982 the far-left party Proletarian Democracy had sought to promote a public referendum in favor of the wholesale extension of art.18 to workers in small firms. This initiative reflected a dominant idea among unions' hard-liners that these workers were subject to an 'unacceptable disparity' in labor rights, which exposed them to the absolute market power of their employers (*L'Unità*, 31.7.1989). In 1989 the Constitutional Court judged the exemption of smaller firms in breach of article 3 of the Italian constitution¹¹¹ and declared the referendum admissible. Under the threat of the consultation planned for June 1990, political parties and the social partners rushed to regulate the issue by legislative means.

Small-firm employers forcefully opposed the extension of the reinstatement obligation. Crafts employers deemed the initiative in 'contradiction to the flexible nature and occupational dynamics in these firms', also because of the vilification of previous efforts at establishing negotiated agreements over layoffs through sectoral collective bargaining (*La Repubblica*, 7.6.1989). They emphasized the intrinsic specificity of employment relationships in a context of tight personal bonds between employers and employees within plants.¹¹² Since mutual trust constituted an overwhelming element in micro and small firms, it was practically unfeasible – they argued - to reinstate a worker with whom such trust had been broken for whatever reason (CNA, interview; Mortillaro 1997: 287). However, under the threat of the referendum and its worst possible scenario, especially those organizations politically close to the Communist Party (PCI) such as CNA and Lega Cooperative managed to mediate with politics and unions on behalf of other employers associations, willing to concede the written

¹¹¹ According to this article, it is a duty of the state to 'remove obstacles of economic and social nature that [...] hinder the [...] effective participation of workers to the political, economic, and social organization of the country'.

¹¹² As an interviewee of a craft organization puts it, for instance, 'during collective bargaining rounds at local level, we would have crafts firms' employers and their workers rotating to participate to the meetings on behalf of one firm. The point is that their interests were identical! [...]. Our main concern was not to import industrial conflict into small plants' (CNA, own interview).

notification of dismissals and 'affordable' levels of severance pay (CNA, interview).

In the parliament the mediation of PCI, the main opposition party, proved crucial. Its draft legislation text was endorsed by significant parts of CGIL and provided a compromising solution with the Christian Democrats and the Socialists in the governing coalition (*La Repubblica* 11.5.1990). With the approval of law 108 of 1990, small firms were obliged to justify their motives when dismissing workers and disburse a rather low severance pay in case of unlawful dismissals, but were exempted from reinstatement obligations.¹¹³ Despite reiterated critiques by Confindustria (Mortillaro 1997: 299) and grand part of small firms' organizations, the act proved a stable solution. While allowing parties to avoid the blame by either workers or employers for their positioning on a referendum on the short term, it actually filled an evident legislative void with a reasonable compromise which employers seldom questioned thereafter.

There was yet another reason for large producers not to contest such agreement further. By 1990, parliamentary negotiations seemed to take a positive turn with respect to a long awaited reform of the *Cassa Integrazione Guadagni*, which was finally approved in July 1991 (law n. 223). Given its closer focus on income maintenance schemes, the policy-making process is analyzed more in depth in chapter 7. For what pertains DP, however, such reform also entailed a significant though limited liberalization of collective dismissals. The government had in fact managed to push through an '*ante-litteram* flexicurity exchange' (CNEL, interview) between unions' acceptance of layoffs and strong income protection for redundant workers.¹¹⁴ Although unions succeeded to imposing a number of severe constraints to layoffs procedures, Confindustria saw a precious chance of breaching previously insurmountable vetoes (Confindustria, interview). It thus achieved a result of capital strategic importance especially for large manufacturing firms which had started undergoing an internationally-driven economic crisis. As table 5.1 shows, the early 1990s were characterized by major employment losses particularly affecting large manufacturing firms, which smaller firms would partially help absorbing.

¹¹³ Trainees and fixed-term workers with contracts with less of nine months do not count for the size threshold.

¹¹⁴ In fact, the approval of the law had been prompted by a ruling of the European Court of Justice, which had condemned Italy for its non-compliance with CEE Directive 129/1975. Prior to 1991, the regulation of collective dismissals rested on the extension of art.18 to more than one dismissal and on the principles set by a collective agreement at national level of May 1965.

Table 5.1. Rates of Job gains and losses in the Italian manufacturing sector (average, 1990-1995)

<i>Size Class</i>	Net job gains/ job losses <i>Annualized rate</i>	Job turnover <i>annualized rate</i>	Contribution to Gross Job Gains	Contribution to Gross Job Losses
20-45	1.2	6.5	27.7	15.9
50-99	1.5	7.1	21.0	11.5
100-199	0.1	6.4	14.5	11.8
200-499	- 0.5	6.8	15.5	15.0
500-999	- 1.9	7.5	7.9	10.6
+ 1000	- 4.0	7.9	13.9	35.2

Source: OECD 2000: 215 on sample data.

Law 223 of 1991 did not actually deliver an optimal result to employers. On one side, it factually allowed collective dismissals for firms with more than 15 employees, which were counterbalanced by the institution of a special unemployment benefit for affected workers ('mobility allowance', see chapter 7). On the other hand, the act set three basic constraints to collective dismissals procedures:

- obligation to consult unions prior to the identification of workers to be made redundant. In case of non-agreement between employers and unions, local labor offices were tasked with promoting further negotiations and eventually authorizing redundancies;
- firms' economic motivations were balanced by two social selection criteria of workers to be made redundant, namely alimony obligations and individual seniority;
- individual DP rules applied for workers willing to contest the justifiability of their own dismissal;
- firms would pay up to seven months of full mobility allowance for all workers made redundant.

In this light, it is quite unsurprising that employers forcefully contested the act, whereas most parties and unions greeted the reform as a remarkable political achievement (*La Repubblica* 1.6.1991). Unions maintained an unsurpassable veto power to influence the actual quantity of redundancies as well as to retard processes conclusion; layoffs were eventually allowed only after all possible attempts by employers at retaining their workforce through structural short

time work schemes; finally, workers could nevertheless contest the application of social selection criteria to their individual case and force firms to juridical disputation (Mortillaro 1997: 259-85).¹¹⁵ With hindsight the then chief negotiator of Confindustria however recognizes the capital importance of that act that nonetheless allowed large firms to use external flexibility in order to manage the grave occupational crisis which affected Italy during 1992-3 (Confindustria 1, interview).

The institutional arrangements devised in 1990-1 proved to form a stable equilibrium. This is also witnessed by the fact that employers did not even raise the issue during the two important tripartite agreements of July 1993 and of September 1996 (Confindustria 1, interview). This does not imply, however, that reform instances on dismissal protection entirely disappeared from employers' agenda during that period. Between 1994 and 2000 unemployment rates remained constantly two-digits (peaking to 11.3% in 1998). Both the 1994 OECD Job Study as well Italian scholars' works on the negative effect of employment protection institutions on employment performance (Bertola et al. 1995; Boeri 1997) and the farraginous judicial procedures generated by art.18 (Ichino 1996) had great resonance among employers. In a 1997 study of its Research Unit (*Centro Studi Confindustria*), Confindustria remarked that the 1991 act had 'consolidated unions' role in decisions over layoffs and rewarded those redundancies achieved through collective agreements through the concession of mobility allowance' (De Nardis and Galli 1997: 15). This equilibrium would firstly 'disadvantage smaller employers with minor bargaining power' (*ibidem*, 16). Secondly, as a paradoxical result, Confindustria observed that during the 1990s

'over a certain threshold of union density, the stronger unions are within firms, the more consistent collective redundancies become, especially in the mechanical sector, this turning upside down the traditional inverse correlation between union density and firings' (*ibidem*).

Therefore, whereas large manufacturing producers managed to restructure through downsizing coupled with strong state interventions via early retirements or assisted placement for redundant workers, employers in medium size firms felt a strong hindrance either to do the

¹¹⁵ The then president of the metalworking employer association Federmeccanica ironically noticed that 'the severe mobility procedures magically soften whenever there is unions' consent. The overall objective is clearly to restore unions' power of interference by making procedures considerably smoother and less expensive in case of unions agreement. With full awareness that unions agreement on redundancies issues is either extremely difficult or extremely costly to be gained' (Mortillaro 1997: 290-1).

same due to the stronger impact of associated costs or to grow by hiring new workers (Confindustria 2003a), this remarkably constraining labor market flows and the restructuring of Italian firms to changing market conditions.

5.1.2. EMPLOYERS' FRONTAL ATTACK TO ART. 18

Since the late 1990s, employers developed two different strategic postures. A more negotiating approach was that adopted for instance by Confapi – the organization of small manufacturing firms – which proposed to replace the reinstatement obligation of art.18 with a monetary compensation system. The idea centered on unloading the conflictual character of dismissals in Italy by reassuring that:

'firms resort to layoffs only if they cannot do otherwise, but when this occurs, certainty of timing and costs are needed. Employees need to be granted a reasonable degree of stability, but they do not hold any property right on their jobs (Confapi 1997: 119).

Confapi voiced widespread critiques among employers about the functioning – not the existence - of individual DP, namely the haziness of the legal definition of 'just cause' and 'justified motive' which left ample room to judges' discretion, thus representing a noticeable source of uncertainty;¹¹⁶ the slowness of trial proceedings articulated across three judicial levels, each frequently exceeding one year before the issue of definite ruling; high costs on firms in case of unfavorable verdict; and the uniqueness of worker's possibility to choose between severance pay or reinstatement that would 'increase the incentives to litigation instead of negotiated conciliation between the parts' (ibidem, 121-2). In line with several draft proposals that members of the then ruling centre-left coalition advanced between 1996 and 1997 but never formally taken up by the government,¹¹⁷ Confapi advanced a matrix of severance pay levels (table 5.2) to be paid in case of unlawful dismissals for economic reasons.

¹¹⁶ As one of the remarkably few empirical research works on the actual functioning of art.18 rules found, judges' decisions are highly influenced by local labor market conditions (Ichino et al. 2003). In territories where unemployment is higher, judges tend to solve litigations in favor of the worker, thus protecting their jobs, whereas this seems to occur less frequently in Northern Italian regions, where unemployment is lower.

¹¹⁷ See especially the 1997 draft bill by senator De Benedetti (Left Democrats), who put forward to abolish the reinstatement obligation for economic reasons (thus leaving unaltered art. 18 for unlawful dismissals due to disciplinary reasons) and substitute it with a severance pay amounting to 'as many wage months as worker's seniority years plus a fixed costs of six wage months up to thirty wage months (ddl 2075, p. 6). Since its draft bill was aimed to reunify legislation also for firms below 16 employees, the latter would pay half of this amount.

Table 5.2. Scheme of calculation of severance pay, Confapi 1997 reform proposal

Firm size Worker's seniority	< 10	10-50	50 - 250	> 250
< 5	2	3	4	5
5-10	3	4.5	6	7.5
10-20	4	6	8	10
> 20	6	9	12	15

Source: Confapi (1997: 122)

On the contrary, there emerged several segments within Confindustria espousing a more adversarial stance against art.18, of which they demanded a radical reform with the implicit intent of challenging unions' veto power on the whole of labor market regulation. Public claims for 'free individual and collective dismissals' (*La Stampa* 18.3.1997, *La Repubblica* 5.7.1997) and in favor of abandoning the 'culture of lifetime jobs' (*L'Imprenditore* 9/1999: 7) were voiced by Confindustria during the presidency of Giorgio Fossa. He accounted as the first president of direct expression of Northern small manufacturing firms (Castronovo 2010: 652).¹¹⁸ Although the approval of the 1997 Treu Package temporarily dampened radical instances, subsequent failures by the centre-left coalition to tackle further reforms, most notably the reduction of non-wage labor costs and fiscal pressure, as well as the conflicts provoked by the Communist Refoundation (RC) party in the majority coalition over the introduction of a statutory working time of 35 hours per week significantly exasperated employers' positions. By the 2000 a relevant faction of Confindustria membership pleaded for an explicit axis with centre-right parties and their liberal agenda in the view of the 2001 elections. As widespread acknowledged, Berlusconi intensively campaigned to promote the election of Antonio D'Amato – a medium-sized manufacturing employer from Naples - as a new president of Confindustria in 2000 in order to consolidate such axis (Lanzalaco 2000, Confindustria, CNA, interviews).¹¹⁹

¹¹⁸ Himself owner of a medium-sized mechanical enterprise in the Lombardy region, Fossa had previously chaired the committee of Small Industry within Confindustria (*L'Imprenditore* 3/96, p. 6).

¹¹⁹ Initially considered an outsider condemned to defeat, D'Amato won Confindustria presidency over the candidate explicitly supported by large manufacturing firms, most notably FIAT, Carlo Callieri. According to Lanzalaco (2000), the turning point to D'Amato's election was constituted by the support of small manufacturing employers in Northern East with close political ties to the Northern League, which was becoming Berlusconi's key partner in the centre-of-right coalition. In brief, the election of D'Amato represented a breakthrough under two aspects. First, it led to the (temporary) abandonment by Confindustria of the strategic equidistance from political parties adopted since the early 1990s with an outspoken support to Berlusconi's coalition. Secondly, it marked an extraordinary defection of smaller firms from a traditional

A first test board for employers' positions on art. 18 was provided by referendum for its wholesale abolition which the opposition Radical Party promoted in 2000 out of a provocative initiative in order to challenge unions' veto power in the political arena. Although the consultation failed due to scarce electoral participation (32.7%), the issue was thoroughly discussed in the political arena and revealed those positions which would then consolidate in the following years. All unions confederations aligned on the 'nonnegotiable' character of dismissals protection (*La Repubblica* 27.9.2000), whereas Confindustria strongly campaigned in favor of the abolition of art. 18 arguing that 'it would remove firms' uncertainties over the costs of new hirings' (*La Stampa* 18.5.2000) and thus enhance employment creation.

At the same time, in the view of the 2001 elections, Confindustria issued an own platform of 'Actions for Competitiveness' (Confindustria 2001), which put forward a comprehensive liberalization plan and public investments for the Italian economy with the purpose of removing the barriers to the competitiveness of Italian firms in globalized markets. Labor market rigidities – it was argued – had the effect of retarding firms' innovation processes:

'we have a higher level of technical immobilizations vis-à-vis our competitors [...] which retard product innovations, entry into new markets, and accordingly employment growth. [...] When we demand more labor market flexibility, we do not do it only in order to have more governable plants, but also because more rigidity means minor innovation capacities, hence a progressive detachment from markets, and finally a lower level of competitiveness (Confindustria 2001: XVI).

An explicit linkage was moreover provided between the scarce dimensional growth of small firms and labor market regulation levels:

for a long time, the need to be sheltered from labor market rigidities has forced many firms to remain small in order to be flexible and competitive. This has been, and still is, a pathological situation. It must be an employer's choice to decide over his firm's dimensional growth rather than systemic constraints (Confindustria 2001: XIX).

Confindustria's consequent call for a 'reassessment of the legal framework regulating hirings and firings flexibility' (*ibidem*, 5) - balanced by the strengthening of placement services and active labor market policies - turned into a precise demand of reform of art. 18 to the new

political equilibrium within Confindustria based on the leadership of large manufacturing firms. This also led, as shown in chapter 2, to significant reforms of Confindustria statute in favor of a stronger role of small firms within the association's management and the opening of the electoral procedure to the association's presidency.

Berlusconi government, which took office in June 2001.¹²⁰ With the issue of a White Book in October 2001 (Ministero del Lavoro 2001), the new labor minister Maroni put forward his plans for a comprehensive reform of labor market institutions.

Whereas the White Book did not even mention a possible reform of dismissal protection, the government sneaked the issue into draft law n. 848, presented to the Senate in November 2001, which delegated the government to legislate over a number of distinct labor market issues. In fact, the draft bill did not directly tackle art. 18. With the stated purpose of 'employment promotion' it sought to introduce an 'experimental' derogation for a four year period for firms with up to 15 employees in economically disadvantaged areas willing to proceed with new hirings or to stabilize temporary workers with open-ended contracts. Solely for such new hirings the reinstatement obligation was replaced by a monetary compensation in case of economically motivated dismissals, thus maintaining art. 18 validity for disciplinary reasons (art. 10).¹²¹ On its part, Confindustria saw the concrete opportunity of stabilizing the effects of the 'temporary experimentation' well beyond the envisaged limit. During parliamentary auditions in January 2002, it proposed amendments aimed at permanently excluding from the application of art. 18 all new hirings achieved through the experimentation in order not to lose its beneficial occupational effects.¹²²

Such mischievous move profoundly upset unions and broke an already precarious trust in government's objectives. Whereas the union confederations CISL and UIL refused to tackle the issue at least before agreeing on a reform of the unemployment insurance system,¹²³ the CGIL secretary Cofferati interpreted the move as unveiling government's and Confindustria's real intents, that is the pursuit of a neoliberal agenda aiming in the first place to hit union's political position. As Baccaro and Simoni put it (2003: 17), the strenuous defense of art. 18

¹²⁰ According to the then CGIL secretary general Cofferati, reform instances on art.18 originated directly from Confindustria's presidency and the government responded to the stimulation (CGIL, interview).

¹²¹ The Berlusconi government actually built on earlier drafts for a 'Works Charter' which had been advanced by the centre-of-left government during the previous legislature but never formally entered the government's agenda. The draft envisaged the non-application of art. 18 to firms hiring on an open-ended basis workers of disadvantaged categories, namely young people aged up to 32, workers in Southern Italy, and temporary workers with less than two years of seniority (see Treu 2001: 341-2).

¹²² *'Occorrerebbe stabilire che la deroga all'applicabilità dell'art. 18 permane per l'intera durata dei singoli rapporti di lavoro in essere al momento della scadenza del periodo di sperimentazione [...] Infatti, se al termine dovessero venire meno gli effetti prodotti dalla sperimentazione, sarebbe elevato il rischio di perdere quell'incremento occupazionale conseguito in virtù della nuova disciplina'* (Audition of Confindustria to the Labor Commission of the Senate, on Draft Law 848, January 16, 2002: 87).

¹²³ Especially UIL general secretary took a more dialoguing position on a possible reform of dismissals protection towards the German model (that is, without reinstatement) coupled with generous income protection (Angeletti, 'Ispiriamoci a Svezia e Germania', *Rassegna Sindacale*, 17.1.2003, URL: <http://archivio.rassegna.it/2003/lavoro/articoli/art.18/referendum3.htm>).

against any possible modification by CGIL assumed the function of a 'powerful evocative symbol' to 'preserve workers' dignity', this implying the identification of job and income protection with a broader set of fundamental – and constitutionally anchored – individual rights. In political terms, unions considered that if they had given in such creeping reform of art.18, they would have surrendered to a political strategy aimed at diminishing unions' overall stakeholder position on labor market and social policy.

Following a general strike in April 2002, the government repealed dismissals protection from its draft law, and to shift it to a separate draft bill (ddl 848bis) which was to simultaneously tackle dismissals protection and the reform of unemployment compensation (*La Repubblica* 18 April 2002). Accordingly, the contested provision also disappeared from the text of the Pact for Italy, signed in July 2002 by all employers' and workers' organizations with the noticeable exception of CGIL. Whereas other confederations had actually decided to accompany the decision-making process in order to be able to steer it and to emphasize their adherence to the principles of social dialogue (interview to CISL secretary Pezzotta, *La Repubblica* 13 June 2002), CGIL opted for a wholesale opposition. With the purpose of consolidating such opposition, the Communist Refoundation party took the initiative of calling a new referendum for 2003 to abrogate any size threshold and exemption to the application of art. 18. The referendum appeared as a clear political move in order to counteract Berlusconi's labor market policy strategy with a provocative initiative.¹²⁴

Such strongly adversarial context bore the side-effect of breaking up the employers camp, too. Even though D'Amato managed to align all employers associations against the referendum, he started suffering the first defections from his hard-line strategy. Mostly remarkable was Confcommercio position, whose president Billé repeatedly called for abandoning the 'useless crusade'¹²⁵ against art.18:

'we cannot hang ourselves on the modification of one norm, as if the future of the

¹²⁴ Both moderate left parties and the CGIL found the referendum an inappropriate response to real labor market problems. Whereas the former readvanced plans for a Works' Charter which left the possibility for judges to decide whether to reinstate workers or refund them with a severance pay, CGIL put forward three legislative initiatives aiming at re-regulating the position of independent contractors (see par. below), augmenting the severance pay of unlawfully dismissed workers in small firms from 15 up to 24 months of pay, and shortening the duration of labor trials (Allewa, "Per la dignità del lavoro." *Rassegna sindacale* (on line), No. 9, 6-12 marzo 2003, <http://archivio.rassegna.it/2003/lavoro/articoli/proposte-cgil/alleva.htm>).

¹²⁵ 'Riformiamo il mercato del lavoro', Speech by Sergio Billé, on January 30th 2002, URL: http://www.confcommercio.it/home/ArchivioGi/2002/GEN-2002/turismo-lavoro.doc_cvt.htm, lastly consulted on January 4th, 2011.

Italian economy would solely depend on it. [...] The truth is that many mistakes were made in conducting this negotiation. We have endowed CGIL and the other unions with a power which until three months ago they did not even dream of (*La Repubblica* 26 February 2002)

Not only were commercial as well as crafts employers more interested in the liberalization of other contractual forms such as part-time and apprenticeship and in strengthening income protection schemes (CNA, interview). Small-firm employers also feared that a poisoned political climate would harm social peace within their establishments:

'we did not oppose Confindustria's strategic objective but rather its form. Its confrontational stance was not going anywhere politically, but it had noticeable repercussions for our members. In small firms, employment relationships are based on trust. If you start introducing the idea among employees that you want to change dismissal protection legislation at any cost, it means that you're willing to fire people, and you completely screw up the climate within firms. The issue is to be tackled very carefully' (Confcommercio, interview).

Albeit under different conditions, the harmfulness of the confrontation to social peace also worried large manufacturing producers within Confindustria, whose leading representatives cast doubts whether the strategy could be conducive to any result:

I fear that a new conflictual period is about to start. Firms need social rest within plants. A further wave of strikes and ruptures would be extraordinarily grave especially now, because we would risk not to catch up with the international economic recovery (*Corriere della Sera*, 8.12.2002).

The referendum of June 2003 on art.18 miserably failed because of massive abstention (electors' participation was 25.7%). Yet, the Berlusconi government succeeded in passing law 30 and the legislative decree 276 during 2003 on the liberalization of non-standard work (see paragraphs below). The discussion of law 848bis was reprised in 2004 under more favorable economic and employment conditions. Despite government's insistence on the modifications to dismissals protection, social partners' negotiations rather focused on the reform of unemployment insurance (*Sole 24 Ore*, 25 October 2004). Confindustria's push in this direction also weakened following the expiration of D'Amato terms in office and his replacement with Cordero di Montezemolo (then chief executive officer at FIAT), supporter of a moderate bargaining strategy. Therefore, as the government pushed forward adjustments to

unemployment benefits, Confindustria refrained from supporting any provision concerning art. 18, and the proposal was lastly abandoned.

After 2004, employers have grown extremely cautious at raising the issue of reforming dismissals protection legislation. This is certainly due to the fact that Italy underwent a period of employment expansion following the 2003 liberalization of non-standard work until the beginning of the Great Recession in 2008. Due to diminishing problem pressure, the political agenda rather shifted to issues of social protection, scarce labor productivity and wage growth. However, it is also beyond doubt that employers' position on art.18 is the outcome of a *strategic restraint* in the face of unions' susceptibility rather than a genuine preference:

firms have matured the belief that they have to put up with the impossibility of layoffs.

We almost have the mathematical certainty that art. 18 will never be changed, especially until there will not be that cultural change that persons have a lifetime right on their jobs, as if firms were immune from market risks (Confindustria interview 3).

It is therefore the awareness of the ideological strength of the capital-labor conflict attached to art.18 that determines moderate positions of large-firm employers. Yet, Confindustria has rather opted to support more pragmatical policy options aimed at tackling single problems related to art. 18 with a view on identifying 'better forms of [employment] protection without ideological closures nor faithful beliefs' (Confindustria 2010a: 11). A case in point has recently been Confindustria's favor to the unsuccessful attempt by the Berlusconi's fourth government to delegate to an arbitration board the ruling over labor disputes, thus circumventing the lengths of ordinary justice and statutory provisions (law 183 of November 2010). In employers' view, the provision would help firms coping with 'the critical state of the art of labor justice', exemplified by the about one million and half pending trials, the opening of 400 thousands new proceedings per year, and the 900 days of average wait before first grade rulings (Confindustria 2010b: 3). Since the President of the Republic rejected the provision on the grounds of constitutional objections, it is to expect that the struggle over art.18 will keep on poisoning the Italian labor market politics in the nearest future.

5.2. THE LIBERALIZATION OF TEMPORARY AGENCY WORK

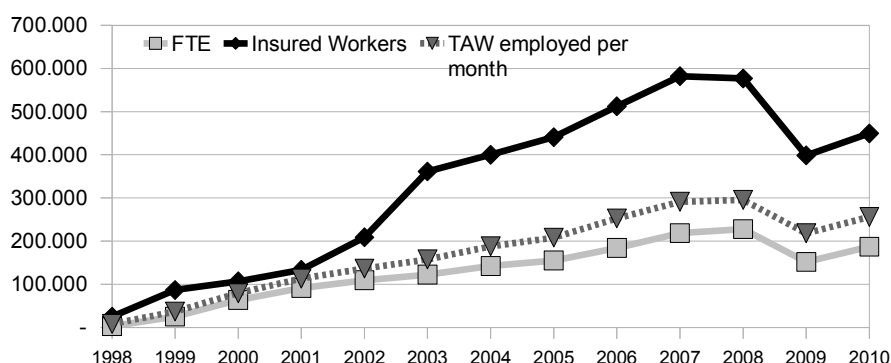
Given political hurdles to the reform of DP, the liberalization of temporary agency work (TAW) has come to be seen as a sort of 'foot in the door' for the deregulation of the Italian labor market. Governing elites and academics considered its employment creation potential to

revert the occupational crisis of the early 1990s. In turn, especially larger manufacturing employers considered TAW halfway between a symbolic challenge to the modernization of Italian labor law to post-industrial conditions and a source of flexibility. By the same token, the circumvention of standard employment regulation explain grand part of unions' strenuous aversion to TAW. As shown below, unions' resistances led to retarding the liberalization process from the Tripartite Agreement of July 1993, which firstly envisaged a draft legislation, to the 1997 'Treu Package', which managed to introduce a path-breaking, yet quite restrictive regulation.¹²⁶ On these grounds, the subsequent Berlusconi government pushed through a more complete liberalization with law 30 of 2003, whose framework has since then remained basically unchallenged in spite of minor adjustments passed by the newly elected centre-left coalition in 2007 (law n. 247).

The high contentiousness of the issue might seem surprising in the view of the 'exiguous' development (Ministero del Lavoro 2008: 126) of the TAW branch during the 2000s. Similarly as in Germany, despite a stark overall increase during the 2000s, temp work agencies employed approximately 290 thousands workers by 2011, after recovery from the Great Recession, this amounting to circa 2% of total dependent employment (Ebitemp 2011: 3). In fact, figure 5.1 shows a remarkable mismatch between the number of insured workers – calculated as the number of individuals who worked at least one day on TAW - peaking to 600 thousands in 2007, and full-time equivalents (300 thousands in the same year). This is chiefly due to the short duration of missions, seldom exceeding one month (Ministero del Lavoro 2008: 126).

¹²⁶ The approval of law n.196 of 1997 followed three unsuccessful attempts by the Ciampi (ddl 3638 of 1993), Berlusconi (ddl 2031 of 1995), and Dini (ddl 232 of 1995) governments, mainly due to the short life of the respective governments and the concentration of political efforts on pensions reforms. For the sake of brevity, this chapter will only make limited references to these reform attempts, which nevertheless all built on the 1993 tripartite agreement.

Figure 5.1. Number of insured temp agency workers, in full time equivalents (FTE), and workers averagely employed per month, Italy (1998-2010).



Source: Ebitemp Observatory, elaborations on INAIL data (<http://ebitemp.it/osservatorio-centro-studi/categorie-progetti-e-ricerche/ricerche-note-e-approfondimenti>)

However, one should not underscore the mere fact that, prior to 1997, TAW was wholly banned in Italy, due to the permanence of a 1960 law inhibiting any form of labor intermediation and the state monopoly on placement services, which the 1997 and 2003 reforms progressively abolished. Such *ex novo* character of TAW not only created cognitive uncertainties over the real growth chances of the sector, but also increased the symbolic value of the institution for actors as a challenge to the primacy of 'standard' employment.

As mentioned, it was the Tripartite Agreement signed by employers, unions and the then Ciampi government in July 1993 that established the overarching principles for a regulation of TAW on which the 1997 'Treu Package' explicitly drew its legitimacy:¹²⁷

- delimitation of TAW to medium-high skilled job positions, and exclusion of low-skilled positions as well as agriculture and construction sectors from the scope of legislation;
- application of TAW contracts limited to temporary organizational needs of firms, substitution of absent workers, and specific cases identified by collective agreements, in line with the then existing regulation of fixed-term work contracts;
- delegation to collective bargaining for issues concerning incentives to the continuity of employment relationships, the provision of a guaranteed minimum wage for periods of non-assignment, and the safeguard of equal work conditions with workers in user firms;

¹²⁷ Audition of the labor minister Tiziano Treu on the pact for employment between the government and the social partners, Chamber of Deputies, October 2nd, 1996, p. 148.

- subjection of temp work agencies to the authorization and monitoring of the labor ministry.

Strict regulatory conditions had been necessary for the labor minister Giugni to obtain unions' consensus to accept the introduction of TAW into the comprehensive labor market reform for which the 1993 agreement laid the political foundations. Despite the personal credit of the minister,¹²⁸ unions remained generally hostile to TAW which they considered a form of employment exposed to abuses by employers (Giorgioni and Ricciardi [CISL] 1995). The strongest opposition stemmed from CGIL that conceived of TAW as a Trojan horse for future extensions of non-standard work, this representing both a threat to permanent employment and synonym for employment 'precariousness' (Saleri 1995 [CGIL]: 105).¹²⁹ The compromise with unions hence built on meeting their demands for a 'rigorous discipline' grounded on a set of binding limits that aimed at avoiding '*any distortion to the organization of the labor market, and to the social protection and control instruments associated with the model of open-ended employment*' (CGIL, CISL, UIL 1994: 19). Unions advocated a pervasive regulation on the activities of authorized agencies; exemptions and specific income protection instruments aimed at sheltering weaker occupational segments from downward pressures on labor rights; and the retention of strong unions control over the inflow of TAW into firms both through national and firm-level collective agreements (ibidem, 20 ff.) in order not to undermine the position of core employees .

Unions' resistances also counterbalanced the strong interest manifested by employers. During the economic crisis of the early 1990s, they predominantly sought flexibility valves in alternative to the massive use of short-time work. TAW directly responded especially to firms' need for organizational flexibility during seasonal peaks in production activities or, as a leading figure of the metalworking association Federmeccanica put it, a means to '*buy* the devolution of the entrepreneurial risk of not using labor during certain periods to temp work agencies by paying them a higher compensation than actual labor costs' (Mortillaro 1997: 337). More

¹²⁸ As a labor law scholar, Gino Giugni had been the material extensor of the 1970 Workers' Charter. Hence, he enjoyed strong credibility for unions when, as a labor minister, he argued in favor of TAW by claiming that it 'could prove much useful especially for given occupational groups that can take advantage from an institution offering job chances.[...]We cannot be conservative on this issue because of the fear of novelties' (Audition of Gino Giugni to the Labor Commission of the Chamber of Deputies, May 26th 1993, p. 159).

¹²⁹ This position had actually been reflected in the 1993 agreement, which explicitly stated that the regulation 'has to offer adequate guarantees in order to avoid that [TAW] could represent a means of deconstructing permanent jobs'.

broadly, all employers associations agreed on the innovation potential of TAW in challenging the 'obsolete' inhibition of labor intermediation and state monopoly on placement (Confindustria 1994: 3; *Sole 24 Ore*, 18 February 1995). The French regulatory model came to be seen as an explicit point of reference both for employers associations, as it left considerable regulatory discretion to collective bargaining (Confindustria 1994: 3, Confapi 1994: 9), but also for CGIL because it limited agencies' role to the sole intermediation function and established only temporary employment relationships between agencies and workers (Caravella et al. 1997: 45-6).

Confindustria promoted the 1993 compromise with a broader strategic view on initiating a process of labor market modernization in the face of growing international competition. According to the then chief negotiator of Confindustria, the agreement bargained by the social partners had focused on preparing the Italian workforce to eschew the low-cost competition with emerging Eastern European economies by coupling organizational flexibility for firms with stronger investments on training and lifelong learning schemes for workers.¹³⁰ Moreover, the liberalization of TAW allowed employers to widen the debate over flexibility 'without remaining stuck on the sole aspect of DP' (Confindustria 1, interview):

what was important to achieve, in my view, was the exhaustion of all those legal forms of employment – then inexistent in Italy – that could provide us with the amount of flexibility which we needed in a moment of acute crisis (ibidem).

As a result, Confindustria was ready to accept even an unfavorable compromise provided that this served the broader strategic objective of steering the policy course in the right direction. However generally agreeing with these considerations, small-firm employers witnessed two primary preoccupations, that it the excessive costs of TAW ensuing from a pervasive regulation and the concentration on high-skill positions. The former aspect, it was argued, would 'be specifically penalizing for smaller-size firms' (Confapi 1995: 11). In order to avoid temp agency firms to pay for the income protection of temp agency workers and shift the costs on user firms, smaller manufacturing producers argued for an expiration limit of six months

¹³⁰ 'Confindustria's idea – which we largely shared especially with the then CGIL secretary Trentin – was that flexibility was to be 'filled up' with professional contents. We could only compete with emerging Eastern European countries by coupling a more flexible workforce with serious training schemes, in order to provide a real added value in an epoch of extraordinary transformation due to the pervasive diffusion of digital technology. That kind of trained labor force would not enter a cost competition with emerging countries for it would become – as it in fact did – a battle that Italy could not win. The problem was that politics took longer than five years to implement TAW and seven years for a reform of training schemes, and flexibility ended up with a massive flow into fake free-lance contracts' (Confindustria 1, interview).

to contracts between agencies and workers, and for a maximum monthly wage cap of about € 528 in current prices (£ 500,000) in case of non-assignment (ibidem; Confcommercio 1994: 14). By the same token, employers agreed that temp agency workers were to be exempted from the contributory duties attached to the Wage Supplementation Fund and mobility allowance. Secondly, especially commercial employers adversed the exclusion of low-skill job positions from the discipline, due to the prevalence of the latter in commercial and touristic sectors, and the setting of minimum duration limits (Confcommercio 1994: 14), which would harm the expected seasonality of missions, also typical of their sectors (*Sole 24 Ore*, 18.2.1995).

On this point, employers' conception of TAW clashed with unions position, which instead aimed at preventing downward wage pressures on the lowest skill job positions within firms, and argued for a skill complementarity between fixed-term and TAW contracts:

'we believe that TAW should integrate fixed-term contracts for medium-high skilled tasks, where the saturation of the workforce is generally incomplete. Basically, in case of need, firms will be able to hire on a fixed-term basis for low-skilled positions and use TAW for medium-high skilled tasks' (interview to the CGIL secretary general, Sergio Cofferati, *L'Imprenditore* 10/1996: 15).

Building on these positions, the centre-left government which took office in May 1996 was able to finally bring its legislative initiative to a successful end. Having made of employment creation a 'political priority' of government's action, the labor minister Tiziano Treu elaborated a comprehensive reform package aimed at balancing a 'consensually regulated' labor market flexibility with investments in education and training, and a prospective reform of unemployment insurance.¹³¹ While moderating expectations on its job creation potential,¹³² Treu rather tended to depict TAW as a means to the emersion of a phenomenon already present in Italy, although in illegal form.¹³³ The real innovative effect was that the liberalization of TAW opened placement services to private agencies, thus also stimulating a

¹³¹ Audition of the labor minister Treu to the Labor Commission of the Chamber of Deputies on the guidelines for its ministry, June 19th, 1996, p. 3.

¹³² "Many myths have been created on TAW both from the right and the left: the former seem to believe in its miraculous effects, whereas it would rather contribute to the emersion of that existing 1-1.5% share of black labor market; to respond to the latter, surveys by employers associations demonstrate that firms' need for such work contracts is extremely limited", audition of labor minister Treu to the Labor Commission of the Chamber of Deputies, July 3rd, 1996, p. 42.

¹³³ Treu himself recalls in an interview that 'in 1995 or 1996, on the Yellow Pages in Rome or Milan one could find dozens of 'selection agencies' that instead supplied temporary work. They only did it illegally. [...] If you have such a large gap between institutional rules and *de facto* conditions, it occurs that somebody will anyway offer what rules inhibit. In this sense, TAW came late, I would rather have it introduced sooner' (Marmo 2008: 13).

contextual reform of the public system.

Therefore, the liberalization of TAW constituted one of the main pillar of the 'Pact for Employment' (*Patto per il Lavoro*) signed by 21 employers and workers organizations in September 1996. Whereas this text remained quite vague about details and limited to confirm its close reference to the 1993 agreement, the draft bill proposal (ddl S1918/1996) introduced two remarkable novelties. First, it allowed the stipulation of both fixed-term and open-ended employment relationships between workers and temp work agencies, and delegated the decision on issues such as working time, guaranteed minimum wage, training measures, and minimum duration of missions to collective bargaining in the TAW branch, instead of imposing statutory arrangements. Secondly, it considerably tightened the capital requirements for temp work agencies for authorization (Pritoni 2010: 97), with a view on preventing abuses and restricting market access to financially solid companies. After a fierce parliamentary struggle, law n. 196 was passed in June 1997.

Under the veto of Communist Refoundation party, the government did confirm many of the restrictions of which employers demanded the removal. Explicitly forbidden remained TAW for low-skilled jobs, although limited experimentations were allowed in the agricultural and construction sectors. Most importantly, law n. 196 did not abolish the state monopoly on placement services, and only allowed temp work agencies to operate on labor intermediation. Agencies were exempted from social contributions for short-time work schemes and mobility benefits but paid a specific 5% contribution to a dedicated fund for training and income support measures. User firms were bound to the equal treatment of temp agency workers with comparable standard workers with respect to wage levels, information, and labor rights. Finally, for the authorization agencies were required to be active in at least four Italian regions, have a consistent minimum enterprise capital, and pay a deposit for the first two years (table 5.3).

Table 5.3. Main regulative aspects of TAW in the 1997 Treu and 2003 Biagi laws.

	Treu Package 1997 (Budget Law, 2000)	Biagi Law (d.lgs. 276/ 2003)
Reach of Liberalization	Excluded low-skill positions, experimentation in agriculture and construction sectors (since 2000, inclusion of low-skill)	All job positions and sectors
Use conditions	- cases identified by sectoral collective bargaining; - substitution of absent workers; - job positions not foreseen by collective agreements.	- cases identified by sectoral collective bargaining; - technical, productive and organizational motives, also referred to the ordinary activity of firms.
Social protection	- 'not less favorable' conditions (wage, labor rights) with workers in user firms; - social protection delegated to sectoral bilateral fund (5% contribution, 4% since 2000)	unaltered
Staff leasing	Not allowed	Allowed for a list of specified cases (e.g. software development and assistance, cleaning, marketing, call centers etc.)

The first collective agreement for TAW signed in April 1998 added further provisions. It allowed for a 8% maximum share of TAW on the total workforce in manufacturing firms and a maximum of four renovation of fixed-term contracts within a temporal limit of 24 months, in line with fixed-term contracts in the other sectors. Moreover, it established a guaranteed minimum wage of about € 361 (£700 thousands) for open-ended temps during periods of non-assignment. Finally, it instituted an occupational bilateral fund (*Ebitemp*) jointly managed by employers and unions tasked with collecting contributory resources and administrating training, sickness and income protection schemes (L'Imprenditore 7/8, 1998: 12).

Especially small-firm employers voiced their disappointment for the exclusion of low-skilled positions – 'those which are mostly sought in this production segment' (*Sole 24 Ore* 27.4.1998)¹³⁴ - and the heavy social charges on firms which rendered TAW too costly for economically weaker firms, especially in Southern Italy (*Sole 24 Ore*, 14.2.1997; *Repubblica* 24.6.1997). Furthermore, employers contended that the proportion was unjust for smaller firms which were only allowed to hire few TAW workers regardless of the actual workload during production peaks (L'Imprenditore 1-2, 2000: 26). On their part, temp agency employers maintained that legal restrictions led to an under-supply of TAW vis-à-vis the demands, thus

¹³⁴ Interview to Mario Casoni, president of the Committee for Small Firms of Confindustria.

inhibiting the development of the branch (*Sole 24 Ore* 30.3.1999).

In fact, the first phase of implementation witnessed a significant expansion of the TAW market. Between 1999 and 2002, agencies grew from 40 to over 2,000 and initiated up to 400 thousands missions in 2000 with respect to less than 200 thousands in 1998 (CNEL 2002: 192). However, the number of estimated workers in full time equivalents scarcely overcame 100 thousand units, mostly focused on young male and educated individuals (*ibidem*, 193-4). Such residual character was on one side due to the short duration of assignments and the experimental attitude by firms. However, it also reflected a strong concentration of TAW user firms in manufacturing branches, and accordingly in Northern Italian regions, with a parallel scarce development in the South and the tertiary sector (*ibidem*).

To employers' eyes, this was an empirical proof of the legal constraints and costs imposed by law n. 196. Confindustria and Confcommercio remarked how detailed use conditions proved 'extremely reductive and of uncertain application', whereas the permanence of the ban for temp work agencies to offer placement services impeded the efficient development of the placement system (*L'Imprenditore*, 1-2, 2000: 15, *La Repubblica* 26.2.2002).

With the Budget law for 2000, the centre-left coalition partially accepted these demands by abolishing the ban on low-skilled positions and diminishing from 5 to 4% the contribution rate for TAW agencies. Such unilateral action was arguably driven by the government's willingness to boost TAW numbers before the 2001 elections in order to prevent criticisms on the scarce scope of labor market liberalization (CGIL, interview).

This notwithstanding, a greater liberalization of TAW fully adhered the *competitiveness-oriented* strategy inaugurated by D'Amato since 2001. Not only did it with respect to the opening of the placement system to private competition, with a view on increasing the number of authorized agencies (Confindustria 2001: 56). Most importantly, Confindustria's strategy especially aimed at directly challenging both the cultural and legal centrality of open-ended employment relationship – which it considered a cause to the fact that new forms of employment were regarded as a 'dangerous anomaly to be contained' rather than an 'opportunity for job creation' (*ibidem*, 51); and the pervasive type of regulation affecting all forms of employment 'suffocating' firms' room for organizational flexibility and stimulating the black labor market (*ibidem*). Confindustria thus pleaded for a type of 'legislative labor market flexibility':

the simplification of the legislative framework should be no secondary objective in the view of a transition from the layering of binding law principles to a set of few 'soft norms', with significant room for collective and foremost individual bargaining (*ibidem*, 53).

After Berlusconi's electoral victory in 2001, the political climate turned extremely favorable to the fulfillment of such demands. A first sign was given by the controversial reform of the regulation of fixed-term contracts (leg. decree n. 368), which the Berlusconi government passed in September 2001 to implement the related EU directive.¹³⁵ By abolishing its previously exceptional nature *vis-à-vis* open-ended relationships, it allowed the stipulation of fixed-term contracts for an undefined set of 'technical, production, organizational or substitutive motives'. The cancellation of detailed use conditions significantly facilitated employers' use of fixed-term contracts, this spilling over to TAW whose regulation had been closely associated to the former.

This was indeed one of the reform instances put forward in the 2001 White Book issued by the labor minister to pave the way to a comprehensive reform touching upon a number of contractual forms of employment beside TAW, that is part-time, apprenticeship, and freelance contracts. While stating its continuity with the Treu legislation on TAW, the government intended to overcome three of its main limitations (Ministero del Lavoro 2001: 69-70):

- abolish detailed use conditions, to be replaced by a 'general cause', in line with fixed-term contracts;
- full delegation to collective bargaining to decide over quantitative limits to TAW;
- wholesale abolition of the ban for temp work agencies to perform placement services, and introduction of *staff leasing*, i.e. assignment of workers to a user firm on a permanent basis.

By abolishing barriers to the operations of the newly created Work Agencies (*Agenzie per il Lavoro*), the government aimed both at creating more employment chances and at providing an adequate regulatory framework to processes of production outsourcing, given their centrality in the new economy (Tiraboschi 2004: 14). Yet, it also led a battle of *cultural legalization* of

¹³⁵ Despite the stated intent to find a common solution, both CGIL and Confcommercio defected social partners' agreement. Whereas the former claimed employers' strive to a 'wild liberalization of temporary contracts' and a top-down decision-making mode, Confcommercio also protested against Confindustria's tendency to exclude the other associations from conducting negotiations and pointed at CGIL defection as an evident shortcoming of such centralized negotiating strategy (*Corriere della Sera*, 28 April 2001).

TAW with the purpose, as one of the key expert to the Ministry put it, 'not only to suppress all those rules exclusively targeted at constraining TAW as an end in itself [...] but also to overcome the disvalue associated with genuine processes of labor outsourcing' (*ibidem*, 15). The strategic aspect of the introduction of *staff leasing* in the Italian labor law, beside the removal of other constraints to TAW, was greatly shared especially by Confindustria (Confindustria 2002b: 103), which exerted a leadership on all other employers associations on this particular issue (Confcommercio, CNA, interviews).

Confindustria's interest in a wider liberalization of TAW was three-fold. First, employers remained extremely critical of the 'unsatisfactory functioning of public placement services', even after their 1997 reform (Confindustria 2002b: 99). Therefore, they regarded the liberalization of private agencies as an injection of competition which was expected to 'modify the conditions of inefficiency' of public structures (*ibidem*). Secondly, Confindustria remarked the strong concentration of TAW in manufacturing sectors and a scarcer development in advanced tertiary branches, which it considered 'in the light of their organizational needs, the elective sector of TAW' (*ibidem*, 102). On these grounds, manufacturing producers appeared as that which could more extensively benefit from a lighter regulation. This was all the more true, thirdly, for temp work agencies of which a relevant associational share was member of Confindustria and thus pressed the associational leadership from within.¹³⁶ In order to incentivize the usage of TAW by smaller firms, Confindustria particularly pleaded for halving the contribution rate to Ebitemp to 2%. On their part, while generally supportive on liberalization intents, the remaining associations expressed little interest on TAW, which especially crafts deemed 'more apt to the work organization of large firms' (Amadei 2004: 906), and rather invested efforts on the liberalization of other forms of non-standard work, such as apprenticeship (crafts) and part-time (commerce).¹³⁷

The final issue of legislative decree n. 276 in September 2003, setting the new regulatory discipline for TAW met the partial consensus of CISL and UIL between unions, and the fierce

¹³⁶ From 2006, three previous associations of temp work agencies employers merged into Assolavoro and joined Confindustria, albeit with a special status of 'aggregation'.

¹³⁷ Interviews at Confcommercio recall that especially large commercial employers were rather interested in TAW, but that during meetings with associates officers faced much skepticism among their rank-and-files: 'the common judgment was clear, either we had a much lower cost regime or the mark-up by agencies did not make it profitable for a small or medium-sized retailer to employ TAW, unless for urgent needs. Moreover, for more general skills, the greatest part of associates would tell that personal ties proved far more efficient in finding suitable workers than agencies!'

opposition of CGIL. The former generally accepted the strive to modernize Italian labor law by regulating the phenomena which the new economy had given rise to, and the ample room left for collective bargaining to regulate specific provisions. What they preoccupied of, instead, was to bargain the certainty of social protection measures via the strengthening of the bilateral fund, the maintenance of high contributory level, and the extension of social protection duties to staff leasing agencies (Bonanni 2004: 828-9). By contrast, CGIL fiercely contested the overarching 'neoliberal ideology' underpinning the whole reform (Treves 2003: 785), of which the new regulation of TAW represented the quintessence, as it

envisages a drastic expansion of TAW, a strong segmentation of the production cycle, of industrial and employment relations, savings on labor costs, and the alteration of basic labor rights by equalizing employment relationships to commercial contracts (*ibidem*, 792).

Among other things, CGIL criticized the extension of fixed-term TAW relationships to all phases of firms' production processes, this paving the way to the replacement of standard workers with TAW ; the exclusion of temp agency workers from solidarity schemes such as Wage Supplementation Fund and from income protection in case of collective dismissals; and the scarce guarantees provided to workers' stabilization within user firms (*ibidem*, 790).

The wholesale abrogation of the 2003 law became since then a repeated instance by CGIL and radical left parties. Contra the worst-possible scenario, however, TAW stabilized as a residual form of employment chosen by firms during the subsequent years, as confirmed by a detailed report by *Ebitemp* (Altieri et al. 2005). Interviews with employers witness an occasional use of TAW for short-term missions, which rarely overcome 6 months (table 5.4). Missions remain mainly associated with the coverage of production peaks and substitution of absent workers for quite short assignments, especially in commercial and touristic branches, with the notable exception of the public administration, which instead increasingly relied on TAW for ordinary tasks. Moreover, the distribution of TAW remained highly skewed on larger firms (over 50 employees) which constitute 61% of total user firms in 2010 (3.7% of total dependent workforce, *Ebitemp* 2011).

Table 5.4 Duration of TAW assignments, breakdown by sector, year 2005.

	Agriculture	Manufacturing	Commerce	Other services	Total
Up to 3 months	16.0	52.3	60.4	44.5	45.7
3 to 6 months	69.0	31.1	28.1	31.0	34.6
7 to 12months	15.0	16.6	2.0	11.0	12.8
13 to 24 months	-	-	-	13.6	6.2

Source: Altieri et al. 2005: 34, on ISTAT data

In turn, table 5.5 shows the predominance of manufacturing firms especially in the metalworking branch among the users, albeit progressively counterbalanced by the growth of firms in the IT and firm-related service sectors. Such trend is in great part associated with the high mark-up costs associated with TAW, which make of the latter an useful instrument only for those firms with enough productivity gains to offset its labor costs (Confcommercio, interview).

Table 5.5. % distribution of TAW user firms on total (full time equivalents) in Italy, 2003-2010, breakdown by sector

	2003	2005	2007	2008	2009	2010
Tot manufacturing, <i>of which,</i>	57.42	54.41	57.97	56.13	43.03	47.1
metalworking	11.45	10.89	12.66	12.43	7.35	8.82
Constructions	1.69	2.06	2	2.36	3.34	3.29
Retail Commerce	4.96	5.02	5.83	5.53	6.89	6.39
Wholesale Commerce	4.3	4.22	4.42	4.49	4.73	4.4
Hotels & Restaurants	2.56	2.4	2.67	2.68	3.63	3.4
IT and firm-related services	9.99	10.73	10.66	11.87	16.13	16.25
Public Administration	2.57	2.71	2.47	2.36	3.73	3.46
Total (abs. Number, FTE)	113,916	154,457	232,648	247,024	157,067	186,636

Source: Ebitemp, own calculation

Therefore, when the centre-left coalition returned to government in 2006 it only intervened on TAW by abolishing the more sensational, yet less harmful aspect of the discipline, namely permanent staff leasing (law 276 of 2007).¹³⁸ Even though Confindustria opposed the

¹³⁸ On the other hand, the centre-left government tightened the use conditions of fixed-term contracts by stating the primacy of open-ended contracts as the 'normal form of employment', imposing 'objective economic and production motivations' for the stipulation of fixed-term contracts, and setting a maximum duration limit to 36 months. The subsequent fourth Berlusconi's government however repealed this provision in 2008.

cancellation of what it deemed one of the principal innovations introduced in 2003, it is also true that the institution had not met with particular favor of firms, either because of a 'preference for traditional forms of outsourcing' or because of the resistance by unions at firm level (Altieri et al. 2005: 206).¹³⁹ However, the most decisive explanatory factor for the scarce development of TAW in Italy is consensually identified by all interviewees in the competition with another contractual form which has ensured a decisive diminution in labor costs for Italian firms, and to which we now turn, that is free-lance *project contracts*.

5.3. REGULATING PROJECT WORK CONTRACTS

In the Italian debate independent contractors (IC) have become the most popular emblem for the growing precariousness in the working conditions especially of younger and educated workers.¹⁴⁰ Given their hybrid legal status of semi-employees (*parasubordinati*) with close boundaries with self-employment, these workers are excluded from a relevant share of social protection rights granted to dependent employees, most notably income maintenance and collective wage bargaining.¹⁴¹ In turn, IC benefit from a lower fiscal wedge on the wage due to reduced contribution rates as well as, in principle, considerable autonomy in work execution without being subject to the managing power of employers, e.g. in terms of working time and place of work. Their quantitative diffusion since the late 1990s intensified political pressures to introduce more stringent regulation of use and increase workers' protection level in order to counteract abuses. Following the failed regulatory attempt by the centre-left government at the end of the 1990s, the centre-right cabinet finally achieved a contested regulation in 2003 by instituting the labor law figure of 'project contracts' which has henceforth provided the main regulatory framework in spite of subsequent increases in the social contributions levels (figure

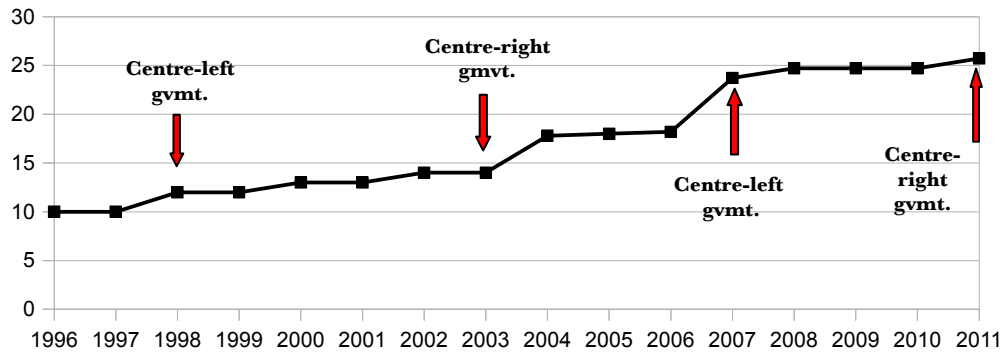
¹³⁹ In a 2008 audition, Confindustria blamed the scarce development of staff leasing on the steady resistance by CGIL to allow the stipulation of such contracts in collective agreements ('at the moment of closing negotiations at whatever level, [unions] asked to introduce the explicit clause that in that sector staff leasing would never be used'). Moreover, Confindustria expressed the suspect of unions' opposition to staff leasing also in order to avoid the competition with workers' cooperatives close to organized labor which had traditionally performed similar tasks as staff leasing. Audition of Confindustria to the Labor Commission of the Senate, 'Indagine Conoscitiva sul Funzionamento delle Agenzie del Lavoro', November 18th, 2008, p. 11.

¹⁴⁰ By 2007, 63.5% of total IC was aged less than 35 (of which 42.8% aged less than 30). In turn, 82.3% held an upper secondary diploma or more. Despite very heterogeneous situations, the grand majority of IC can be considered in a condition of economic dependency, as about 71% of them worked exclusively for one employer (*monocommittenza*), whereas the average income amount to € 15,230 with noticeable gender inequalities (Ministero del Lavoro 2008: 134).

¹⁴¹ IC have also access to minor protection in case of maternity and sickness as well as low expected old-age pensions benefits, given reduced contribution rates. For a comprehensive analysis, see Berton et al. (2012: chapter six).

5.2).

Figure 5.2. Contribution rate for IC, 1996 – 2011.



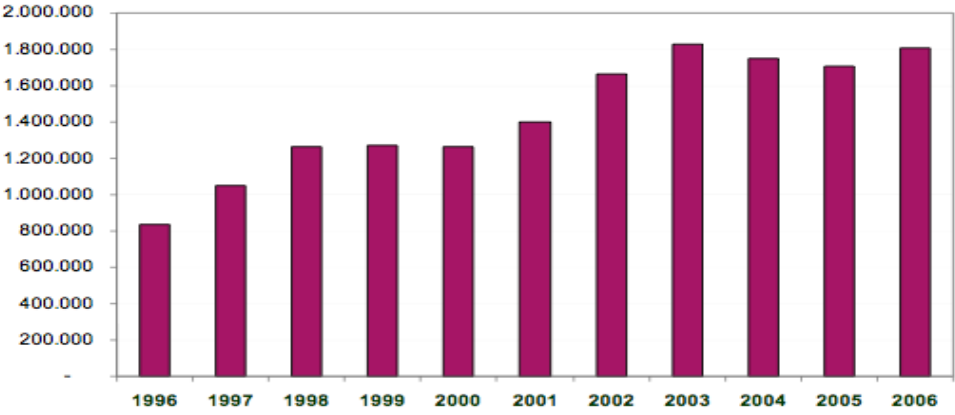
Source: INPS.

Until 2003 the only regulation concerning IC merely tackled their fiscal and welfare positions. In fact, 'coordinated and continuative collaborations' (henceforth, *co.co.co.*) had been introduced in 1973 as part of civil law. In 1986, decree n. 917 had expanded self-employment earning tax to *co.co.co.* in order to counteract fiscal elusion phenomena. Yet, this provision had also had the side effect of signaling the presence of a relevant number of IC, with particular concentration within the public administration (Nidil, interview). The turning point came with the 1995 pension reform (law n. 335), as the then Dini government agreed with the social partners to include IC within compulsory old-age insurance by establishing a separated fund (*Gestione Separata*) at the National Social Insurance Institute targeted at contractors, as distinguished both from employees' and self-employed funds. The contribution rate was set at 10% of declared earnings. The trigger had been mainly constituted by the need of extrapolating additional financial resources for the welfare state by extending the contributory basis.

In fact, the 1995 act had three unintended consequences. First, it forced policy-makers to provide a more precise legal definition of a then largely unknown phenomenon. The act explicitly targeted professional administrators including city majors and auditors, newspapers collaborators, and members of public and corporate committees, plus a residual category of *co.co.co.* Such definition reflected a general understanding of IC as mainly highly-skilled professionals which therefore ruled out the need for comparable levels of social protection

with dependent employees, given ICs' higher risk propensity.¹⁴² Secondly, it prompted the distinct mobilization of those associations such as commercial and crafts organizations whose membership mostly included self-employed persons vis-à-vis manufacturing employers and unions. Small-firm employers conceived of the 10% contribution as a fiscal burden unduly penalizing self-employment activities in their sectors without correspondent pensions benefits to be expected in the future (*Sole 24 Ore*, 18 November 1993).¹⁴³ Finally, the 1995 act had a third effect in drawing unions attention, for the first time, on an aspect of the Italian labor market which they had hitherto wholly ignored. After the first publishing of data concerning subscribers to the separated fund in 1996, what had been estimated as a phenomenon involving some 200 thousand individuals (Nidil, interview) in fact it was found involving over 800 thousands (figure 5.3).

Figure 5.3. Subscriptors to the INPS separate fund (1996 - 2006)



Source: Ministero del Lavoro 2008: 133

Beside unexpected numbers, unions had to acknowledge the fact that IC were far from being solely high-income professionals. INPS data also pointed at the covert stratification of a noticeable segment of economically-dependent workers with highly heterogenous positions mainly concentrated in industry-related services such as emergent IT experts (e.g. web-

¹⁴² As an influent labor law scholar put it, 'for a relevant part – if not even the majority [of IC], it is precisely the worker to be interested in being exempted from the payment of social insurance premium and to share the ensuing cost advantages with the counterpart' (Ichino 1996: 27, own translation).

¹⁴³ As reform drafts had originally planned the contribution to be set at 15% of earnings, the main newspaper of reference for crafts firms, *Italia Oggi*, dubbed the government's endeavor no less than a 'coup d'état' (quoted in Ichino 1996: 189). Due to their fierce resistance, the contribution rate was ultimately lowered.

designers) and commercial sectors (table 7) and by 70% in Northern Italy (INPS 2004: 19). In other words, IC had grown to such an unexpected extent also in sectors and territories where lowest was union density.

The phenomenon generated a lively internal debate within unions. As the founder of the CGIL organization for 'new forms of employment', Nidil, resumes:

within CGIL there was a minority of people who argued that IC represented the future of labor in post-fordism and thus thought that it was necessary to set up a representation for these workers and see what we could do for them. However, the grand majority of manufacturing unions held that IC were all false self-employed, simply an abuse to be regulated. We should not have represented them, they maintained, but rather 'educate' them, bring them back to standard dependent employment (Nidil, interview).

The late 1990s witnessed the foundation of specific organizations within all major unions confederations aimed at representing the heterogenous universe of atypical workers. Unionization rates remained however extremely low in all cases (Leonardi 2003: 13).¹⁴⁴

The unexpected expansion of IC did not only draw unions' attention, however. On the contrary, the first organization to openly discuss the phenomenon and present possible regulatory options was Confindustria as late as May 1996 (CNEL 1997). In the words of its then vice-president Callieri,

we are not among those who believe that everything should remain unregulated. We are among those who believe that there should be an intelligent rationalization for new phenomena in order to provide sufficient certainties both for firms and individuals (CNEL 1997: 35).

Building on the intense juridical debate emerging in those years, Confindustria espoused the view that IC should be established as a *tertium genus*, i.e. a third way between self- and dependent employment. In their view, collaborative work relationships were characterized by: (a) an elevated degree of functional interdependence between the worker and the firm albeit without stringent managerial power by employers; (b) a continuative type of work relationship; (c) workers' autonomy in the execution of the job in terms of times and modes, within the limits of the objectives fixed by the employer; (d) result-oriented monetary compensation.¹⁴⁵ According to Confindustria, this justified the exclusion of IC both from the stringencies of

¹⁴⁴ In 1998 independent workers made up only 1.6% of total union members with particular concentration within UIL (5.7%) as opposed to the irrelevant 0.2% within CGIL (CESOS 1998).

¹⁴⁵ Report by Raffaele De Luca Tamajo at CNEL (1997: 65 ff.).

collective agreements concerning wage levels and from the whole set of risk protection schemes granted to dependent employees, a minimum level of statutory protection being nevertheless admissible.

Such conception was however underpinned by an interpretation of IC as highly-skilled professionals with an own specific know-how that 'could hardly fit the traditional logic of subordinated incorporation within firms organizations' (CNEL 1997: 66). Despite of the minor relevance in manufacturing firms,¹⁴⁶ Confindustria witnessed a strategic interest in regulating IC in order to promote a more general rethinking of Italian labor law. Employers could not avoid remarking that the undue expansion of *co.co.co.* reflected a condemnable yet unavoidable drive by individual firms to escape existing high labor costs and regulative constraints on standard labor:

nobody ever thought that all labor could be *cococo-izable*. Yet, regulating this form of employment could be the trigger to the overall modernization of labor law (Confindustria 1, interview).

On the other hand, Confindustria's strategic considerations were too elaborated for crafts and commercial employers, who instead insisted on the strict adherence of IC to the realm of self-employment.¹⁴⁷ What crafts employers named 'semi-self employed' (*para-autonomi*) needed, in their view, as little regulatory limits as possible, including as regards to social insurance, policies for business development and legal guarantees on the certainty of payments by larger firms which outsourced activities (Nidil, CNA interviews). By the same token, Confcommercio emphasized that possible abuses to real self-employment originated from two predominant problems of existing labor law for the tertiary sector, namely labor costs and dismissal protection (Confcommercio, interview). Hence, excessive augmentations of social contributions would wrongfully hit actual self-employment without tackling the real problem sources.

Unions' position starkly differed from both employers' proposals. Despite internal resistances, organized labor did not wholly reject the distinction between dependent and semi-dependent

¹⁴⁶ As an interviewee nevertheless points out, 'also manufacturing firms have always worked by projects, for instance when hiring high-skilled professionals to develop new products and associated marketing strategies. Since the mid-1990s, the outsourcing of such phases has greatly augmented and many former employees of one firm have become self-employed' (Confindustria 1, interview).

¹⁴⁷ For instance, the crafts organization CNA instituted an own association for contractors ('CNA in proprio') in order to provide a representation to 'real IC', whom an interviewee defines as *enterpriseless entrepreneurs*, a 'modern form of that high-skilled self-employment with no fixed working time and discipline constraints which lies at the basis of crafts' (CNA, interview).

employment. Yet, unions' main aim was to avoid that IC would turn out as a Trojan horse for a comprehensive revision of labor rights.¹⁴⁸ Therefore, they rejected Confindustria's thin regulatory approach by arguing that this was too skewed in favor of the highly-skilled IC. Particularly CGIL aimed at introducing a minimum floor of rights, 'beginning especially with the formalization of contracts and some forms of social protection' (Nidil, interview), from which the weakest segments among IC could immediately benefit.

The center-left governing coalition backed CGIL arguments. In May 1997 it started negotiations with the social partners over the 'Smuraglia' draft legislation (after the name of the first proponent). The Smuraglia draft was the text closest to unions positions¹⁴⁹ and envisaged a number of stringent provisions which are resumed in table 5.6 below. The main pillar was the written form of contracts to which a set of statutory labor rights were attached, in particular rights of workers' information, collective bargaining, and severance pay (*Trattamento di Fine Rapporto*). Moreover, it set statutory minimum standards with respect to duration (no less than 3 months) and wage (IC would respect sectoral wage minima, and be paid 'in proportion to the quantity and quality of the work done'). Thirdly, social rights such as maternity and sickness leave were extended and financed by an increase in social contributions. Finally, the draft aimed at instituting a collective agreement for IC tasked with organizing training and work accidents schemes, regulating working time and severance pay, and providing a dispute-settlement council.

¹⁴⁸ In line with the development of juridical reflections at European level (Supiot 1999), mainstream Italian labor law scholars headed by the then labor minister Treu had informally circulated an ambitious proposal of reform of the 1970 'Workers' Charter' towards a 'Works Charter' (*Statuto dei Lavori*). In the words of one of its intellectual fathers, Marco Biagi, 'by any means' the new charter would have substituted the old one. However, it aimed at tackling the issue of new forms of employment 'from the side of social protection rather than from that of the definition of employment relationships' (Biagi 2001: 275). The point was to enucleate a 'core (and limited) set of binding rights and principles of law applicable to all work relationships' and to 'leave broad room for collective bargaining' to establish additional protection in stricter adherence to the particular 'relative' conditions of each sector' (ibidem). The strongest opposition to this endeavor came then – and still does - from CGIL who considered it an 'interesting' discussion but deemed 'indigestible' the fact that the strategic intent of 'reducing existing rights for more protected workers instead of augmenting social protection for less protected segments' (Benini and Giovannini 1999: 119). In the aftermath of the 1996 tripartite agreement, the centre-left government attempted to officially start a negotiation over the Works' Charter, but unions' resistances convinced the labor minister to abandon the idea and give way to the Smuraglia draft bill, also not to endanger negotiations on the 'Treu Package'.

¹⁴⁹ In fact, the more liberal parts within the centre-left coalition (such as the liberal wing of the Left Democrats and former christian-democrats) presented three different draft legislation proposals during the 1996-2001 legislature. The latter envisaged less stringent provisions than the Smuraglia bill, which was instead supported by radical left parties and the social wings within the Left Democrats.

Table 5.6.. Main regulatory arrangements for IC in Italy, Smuraglia draft (and amendments during the centre-of-left government) and law n. 30/2003

	Smuraglia draft (subsequent amendments)	Project contract - law n. 30 and d.lgs. 276 of 2003
Scope of legislation	All contractors (exclusion of administrators and managers from legislation)	Exclusion of highly-skilled groups such as regulated professions, members of administrative committees, commercial agents; exclusion of workers in the public administration, for which the existing discipline of co.co.co. remain valid
Duration	Statutory minimum limit: 3 months	'determined or determinable' from a minimum of 30 days within one year; association to a determined project or program, or specific phases of it.
Wage settings	Minimum wage levels determined by sectoral collective bargaining; wage levels proportional to the 'quality and quantity' of the work done. (no sectoral minimum wage)	No minimum wage; wage levels 'adequately and sufficiently' proportional to tariffs of self-employed activities in the 'place of work' (d.lgs. 276/2003)
Labor and social rights	Written form of contracts, right of information about training opportunities, preferential lane for employment vacancies; Statutory severance pay, maternity leave, sickness allowance. Increase of pensions contributions	Written form of contracts containing the exact description of the project and the monetary compensation; unpaid suspension of contracts in case of sickness, maternity (180 days), and work accidents.
Collective bargaining	Institution of nation-level collective bargaining for the sector for working time, training and work accident schemes, severance pay; sectoral bilateral fund tasked with administrating of training schemes, contract certifications, and dispute-settlement.	none

The draft legislation presented a number of highly controversial issues to employers, first of all because of the perceived government's intention to assimilate IC's labor and social rights to dependent employment in order to deter their further expansion (De Luca Tamajo 2003: 9). Vehement opposition stemmed from Confindustria and crafts organizations, which rejected the vague definition of IC – thus, its potentially extensive applicability –; the 'irrealistic' attempt at 'copying and pasting' employees' statutory working conditions with respect to wage levels, severance pay, and minimum contractual duration; and unions' strive to capture collaborators' representation through collective representation rights, instead of leaving individuals free to decide whether to join unions or an employer organization (*Sole 24 Ore*,

10.9.1999; 19.10.1999).

However, employers gave in to the government's 1997 decision of raising contribution rates for IC from 10 to 13% from 1998 with prospecting increases up to 19% to be achieved within 2018 (law n. 449 of 1997). The measure had actually been strongly favored by INPS in order to dampen the loss of resources of the public pension fund originated by the increase of IC (*Sole 24 Ore*, 3.12.1997).¹⁵⁰ The 1997 act also devoted 0.5% of the increased contribution to fund the extension of maternity leave for female collaborators. This concession could however appear as a currency of exchange for employers to dampen bolder unions' instances, such as quantitative limits to IC within firms to be established by collective agreements and the extension of strike and other collective representation rights.

Divergencies in social partners' positions spilled over to the law-making process and provoked remarkable conflicts within the centre-left coalition in the parliamentary arena. Radical left parties menaced to veto the amendments made by the more liberal parts of the majority coalition which excluded administrators and managers from the scope of application, and abolished statutory provisions over working time and minimum wage levels (*Sole 24 Ore*, 26.9.2000). Despite successive parliamentary re-readings up until the end of the legislature, the draft bill remained stuck on wage issues and sanctions mechanisms, about which employers and unions decisively polarized (*Sole 24 Ore*, 18.1.2001). The government eventually abandoned attempts at pushing through the bill, also with a the view on the incoming 2001 elections (Nidil, interview).¹⁵¹

The regulation thus ended up constituting one salient piece of the 2003 'Biagi' reform enacted by the subsequent centre-right Berlusconi government. In its 2001 White Book (Ministero del Lavoro 2001: 73), the government laid down its proposal to introduce a new contractual form, i.e. the 'project contract' (*contratto a progetto*). This implied a crucial novelty, since it provided a positive definition of IC anchored to the participation of contractors 'to

¹⁵⁰ According to the rapporteur of the undersecretary for labor, the government planned increases of contribution rates up to 20% not only in order 'to provide more protection to atypical workers which will not suffer very exiguous old-age pension benefits in the future' but also to 'ensure the stability of the whole pensions system, given that IC keep on growing' (*Sole 24 Ore* 2.9.1999).

¹⁵¹ 'The government traded the abandonment of the Smuraglia law with the finalization of the act on cooperatives associates [law 142 of April 2001]. My own opinion is that by 2000 leftist parties had realized that they would lose the incoming elections, most notably due to the loss of consensus among bourgeois segments in Northern Italy. They thought that the Smuraglia act would accentuate the latter's annoyance and therefore withdrew it from the agenda in favor of law n. 142 which appeared less risky, electorally speaking' (Nidil, interview).

one work project or parts of it'. The 'delimited or delimitable' nature of the latter would pose an intrinsic time limitation to the relationship, though with no upper limits, thus abolishing its previous 'continuative' character. All relationships grounded on insufficiently clear projects were sanctioned with their conversion into standard employment relationships. Thereby the government intended to preclude room for abuses by formalizing the specific characteristics of contractors and protecting their economic dependency (Tiraboschi 2004a: 18). On the whole, the intent of the regulation, in the government's opinion, was a restrictive one aimed at stabilizing continuative contracts into standard employment relationships and allowing collaborations only for clearly limited scope and duration (*Corriere della Sera* 18.6.2003).

Table 8 above resumes the salient traits of the new regulation. Project contracts did not apply to high-skilled professionals and commercial agents nor to the public administration in which the former co.co.co. remained valid.¹⁵² Low minimum duration limit (thirty days within one year)¹⁵³ were provided; no minimum wage was established, except for the provision of 'adequately and sufficiently' levels proportional to tariffs of self-employed activities in the 'place of work'¹⁵⁴; and specific social protection rights were introduced, most notably unpaid suspension of contracts in case of sickness, maternity, and work accidents. Social protection rights were enforced via the abrupt raise of social contribution levels to 19%. Given these basic limits, the regulation pursued the objective of maximizing 'the contractual autonomy of the parts', that is to exclude IC from the reach and strictures of collective bargaining and interest organization.¹⁵⁵

The latter point met employers' greater favor, for they argued that collective bargaining provisions would complete the assimilation with dependent employment (Confindustria 2002a: 85). In fact, all peak employers associations expressed strong criticisms about project contracts. Confcommercio and crafts organization claimed that the regulatory definition

¹⁵² The exclusion of the latter from the scope of project contracts was one of the most controversial points. IC in the public administration amounted to about 85,000 individuals in 2002 (Altieri 2006: 41), 12% of total IC (INPS 2004: 55). As critics noticed, the public administration would have been first in line to be sanctioned for the unlawful use of co.co.co to substitute standard employees (*Corriere della Sera* 31.8.2003). Its exclusion was thus due to the enormous costs that the regularization of atypical workers would have implied for public finances, especially at the local level (Altieri 2006: 42-3).

¹⁵³ Below this time limit (and up to a remuneration of € 5,000 per year), law 30 of 2003 introduced a further contractual form, i.e. occasional work.

¹⁵⁴ Such was the ultimate formulation set by legislative decree 276. In fact, law n. 30 of 2003 established that compensation levels should be 'proportional to the quality and quantity of the work'.

¹⁵⁵ Proponents of the new legislation rejected unions' claims of weakening the bargaining autonomy of social partners by arguing the impossibility of structuring an unique collective agreement for 'a *undistinguishable set of labor relationships generically unified only by their economic dependency to the employer*' (Tiraboschi 2004: 19).

tightened constraints on the activities of self-employed individuals. Whereas commerce organizations pointed at the harmful effect of increased contributions on professionals' net incomes, crafts organizations emphasized how the regulatory tightening on project contracts would primarily affect highly-skilled professionals exerting collaboration activities (Amadei 2004: 915). Yet, it was Confindustria to take employers' leadership in the protest against 'excessively severe and disproportional' provisions on firms with the likely effect of increasing undeclared labor (Confindustria 2003b: 172, *Corriere della Sera* 18.6.2003). Instead of pointing at social contribution costs, Confindustria demanded the elimination of a number of statutory guarantees protecting contractors over firms with respect to (a) contractual suspensions due to sickness, maternity and accidents, which Confindustria had rather left to individual bargaining to decide¹⁵⁶; (b) freedom of contract termination following only notice periods; (c) the conversion of abused collaborations into fixed-term, instead of open-ended employment relationships (Confindustria 2003b: 193-4).

The latter points however found no application in the final legislative decree, mainly because of the strenuous unions' opposition to excessively liberal measures. Whereas CISL and UIL deemed a priority to prevent abuses by establishing a clear set of usage conditions, and contented with the introduction of a floor of rights – to be nevertheless balanced by an increase in social contribution rates (Bonanni 2004: 833-4), CGIL deemed such enthusiasm 'undoubtedly excessive' (Treves 2004: 815). Not only were wage levels floating with no anchoring to comparable standard employees, but the priority accorded to individual bargaining negatively affected the possibility for collective bargaining to maintain control over the outsourcing of production activities (*ibidem*, 816). Finally, CGIL also demanded that low-skill jobs be excluded from the scope of application, and more opportunities be granted at least as for the access to training schemes.¹⁵⁷

Since 2003, project contracts have been regarded as the main conductor to employment

¹⁵⁶ 'La definizione adottata [...] considera il tempo 'per l'esecuzione della attività lavorativa', da parte del collaboratore, come un elemento *del tutto autonomo* rispetto all'organizzazione del committente, rende *incongrua* la previsione di una automatica sospensione del rapporto in caso di malattia, infortunio o gravidanza. L'interesse alla prosecuzione del rapporto, nel caso ricorrano detti eventi, sarà rimessa alla *libera determinazione* delle parti contraenti' (Confindustria 2003b: 193, italics added)

¹⁵⁷ In fact, CGIL advanced an own proposal of regulation demanding the institution of a 'work contracts on behalf of third parts' (*contratto di lavoro per conto terzi*), which was put forward to the Chamber of Deputies by the Left Democrats (ddl Grandi), though never discussed. In short, CGIL proposed a contractual form which only softened norms concerning the disciplinary power of the employer over the contractor and the possibility of individual negotiation of working time and wages, but left unaltered the set of basic labor rights, including collective representation and full entitlement to social insurance schemes (Leonardi 2003: 25-6).

precariousness, especially for younger people. As table 5.7 below witnesses, research works identify an overwhelming concentration of IC in the tertiary sector (82.8%), in particular in branches providing services to firms (e.g. communication, marketing, IT), health and education. Moreover, Altieri points at the prevalence of micro and small firms, employing 66% of all contractors (Altieri 2006: 39), which is explained by the noteworthy advantage in terms of lower labor costs for low-productivity firms, especially in Southern Italy (Bianchi and Prezioso 2004). On the whole, it is quite a widespread opinion among employers and unions that the cost advantages of project contracts have sunk traditional forms of labor market insertion for younger people, such as apprenticeship and fixed-term contracts, and eroded margins of development of TAW (Confindustria 1, CGIL, Confcommercio, interviews).

Table 5.7.. Independent Contractors in Italy, breakdown by sector, and occupationl, year 2007.

Sector	% on total IC	Project Contracts (% on each class)	Economic Dependence (% on each class)
Manufacturing	12.1	70.9	91.7
Total Services, <i>of which</i>	82.8	74.9	88.8
Commerce	8.4	67.1	88.5
Hotels and Restaurants	2.4	45.9	93.1
Financial services	3.1	58.4	89.8
Business Services	25.9	79.4	90.1
Education, Health, Welfare	20	81.9	90.7
Public Administration	6.8	73.3	90.7
Job Position			
Managers, Administrators	4.4	61.5	89.5
High-skilled researchers	20.5	83.9	87.8
Technical professions	33.3	77	88.4
White-collars (clerks)	17.7	76.5	91.1
Skilled positions	12.6	65.5	90.3
Craft workers	4.2	62.4	98.1
Unskilled	7.3	-	-

Source: Ministero del Lavoro 2008: 131, on ISTAT survey data.

In fact, measurement techniques based on social insurance data lead to a certain exaggeration of data concerning IC actual volume, which amounted to some 1.9 millions in 2007 (INPS 2009: 7). These data would fail to detect workers' transitions to dependent employment, as there is no obligation to close one's social insurance position at the separated fund, or collaboration activities aside of standard employment. Survey data by ISTAT or ISFOL considerably reduce the extent of IC to about 400 thousands during the period 2004 – 2008, hence less than 3% of total employment (table 5.8).

Table 5.8, estimated number of project work contracts in Italy, (2004 – 2008).

	2004	2005	2006	2007	2008*
Absolute number	391	377	404	392	466
% of tot employment	1.7	1.7	1.8	1.7	2.6

Source: Ministero del Lavoro (2008: 131) on ISTAT data (2004-2007), Berton et al. 2009: 22, for 2008

Precisely in order to counteract the labor cost gap with standard employment and increase future pension benefits, subsequent governments have increased contribution levels on IC. In 2006 the centre-of-left government passed an abrupt raise of +5% up to a total 23% (law n. 296 of 2006). It also introduced a paid maternal leave funded by an additional contribution of 0.24%. Finally, the latest Stability Law (n. 183 of November 2011) augmented the contribution level by a further +1% up to the current 27.72%, paid for two thirds by employers (cf. figure 5.2 above). Table 5.9 shows that these acts gradually achieved a substantial parity in the contribution level for small firms in the tertiary sector, thus those paying the lowest contribution rate.

Table 5.9. Contribution rates to INPS for standard employees in the tertiary sector (less than 15 employees) and project contracts, year 2012 (%).

	Open-ended employee*		Project contract	
	Employer	Employee	Employer	Worker
Pensions	23.81	9.19	27.00	8.00
Unemployment	1.61	-	-	-
Severance Pay (<i>TFR</i>)	0.20	-	-	-
Sickness	2.44	-	-	-
Family allowance	0.68	-	0.72	-
Maternity	0.24	-	-	0.24
Total	28.98	9.19	27.72	8.24

Source: INPS. * employees in the tertiary sector with less than 15 employees, thus exempted from CIG and mobility.

However, the lack of statutory minimum wage outside collective bargaining renders IC particularly exposed to downward wage pressures, while increasing the likelihood that employers shift on workers contributory increases. On their part, employers have not denied the possibility that firms abuse of project contracts to mask actual standard employment relationships (Confindustria, Confcommercio, CNA, interviews). Yet, whereas manufacturing producers tend to point out their extraneousness from the use of this contractual form,¹⁵⁸ tertiary sector employers instead emphasize the 'real causes' of abuse, which politics should solve:

those contributory increases have always seemed meaningless to us, because they aim at suppressing one necessary form of modernization without impinging on neither of the two problems that determine the abuse of project contracts, that is *high non-wage labor costs* and [lack of] *external flexibility*. [...] As long as we do not tackle these knots, firms will always seek to circumvent regulatory rigidities in one way or another' (Confcommercio, interview).

¹⁵⁸ In a 2007 parliamentary audition on the 'causes of employment precariousness', Confindustria emphasized that 96% of total employees in their member firms had open-ended contracts (p. 8), and tended to point out the voluntariness by high-skill workers to work on autonomous conditions. 'It is likely that IC concentrates in innovative tertiary services, because the nature of those activities requires a great work flexibility. Foremost, collaborations involve highly-educated persons, whose specialization is strongly searched for by firms (Hearing of Confindustria, 'Inquiry on causes and dimensions of employment precariousness', Chamber of Deputies, February 6th, 2007, p. 8-17).

5.4. CONCLUSIONS

At the moment of writing, the government in office led by Mario Monti has just (April 2012) submitted to the Parliament a draft labor market reform aimed at relaunching employment in the aftermath of the Great Recession, as the unemployment rate peaks at 9.6% and Italy is witnessing its second quarter of negative GDP figures. The reform draft draws explicit inspiration from a 'flexicurity' model, and aims to simultaneously decrease DP levels on open-ended contracts, introduce selective adjustments to some non-standard work contracts, and reorganize the income maintenance system (on the latter point, see chapter 7). Since parliamentary discussions are still ongoing, a detailed policy description of the draft bill seems superfluous here. However, the preparation of the draft legislation was preceded by four months of intensive negotiations with the social partners between December 2011 and March 2012. The main issues of contention and the positions of employers and unions seemed to follow the pattern found in this chapter, this allowing us to emphasize the main findings.

First, envisaged modifications to the art.18 of the Workers' Charter regulating individual DP monopolized the centre stage of the labor-capital conflict, and thus also spurred noticeable challenges for intra-business coordination. Beside other interventions aimed at facilitating quicker judiciary procedures and duration of trials, the government proposed to substitute the automatic reinstatement of unlawfully dismissed workers with a severance pay from 15 to 27 wage months, though only for economic-related dismissals lacking a 'justified objective motive' (Ministero del Lavoro 2012: 13). The proposal clashed against the overt opposition of trade unions. Under the pressure of its metalworking federation, especially the largest confederation CGIL claimed the 'demolition of the deterrence effect of art. 18' to be intended as the backbone of 'the whole set of labor rights' impeding the spread of employers' unilateralism in labor management (CGIL 2012: 2). Against unions' mobilization, Italian peak associations failed to achieve a common position, in line with the evidence provided above with respect to the 2002 reform proposal by the Berlusconi government. Small-firm employers in artisanal and commercial sectors made sure that the reform would not challenge their exemption, and carefully avoided to enter the debate (see e.g. Rete Imprese Italia 2012: 5). The small-firm manufacturing association Confapi even demanded to raise the size threshold of exemption from DP to firms with less than 50 employees (Occhipinti 2012: 42). In this context, employers in core manufacturing and financial sectors represented by Confindustria,

ABI and ANIA remained the sole interest groups backing the government's intent and advocating further liberalization of collective dismissal procedures (Confindustria 2012: 3), although they showed considerable internal differentiations concerning the political opportunity to put at risk the whole reform package by adopting the hard line on DP.

On the whole, segmented distribution of regulatory costs in the existing policy structure, wide numerical weight of small firms in the economic structure, and the fragmentation of peak employers associations confirms itself as a bundle of crucial and interrelated factors that inhibit employers collective action by emphasizing intra-business preference cleavage. Similarly as in the German case, empirical evidence does not support theoretical assumptions on the favor of large-firm high-productivity employers for high levels of job protection. When this employers group refrained from pursuing radical reform objectives, it did mainly because of strategic considerations about the costs of awakening social conflict with unions. It is arguably no chance that Confindustria's more aggressive position in fact coincided with the presidency of medium-sized firm employers' representatives between 1996 and 2004. The preferences of this segment were more informed by the will to lower labor costs and diminish unions' political veto power than by social pacification interests. However, competing positions between large-firm and small-firm segments severely weakened employers' collective influence on the political level and thus undermined the achievement of their reform objectives.

On the other hand, employers have exhibited similar preferences and tighter cooperation for the substantial liberalization of non-standard work since the 1990s. Manufacturing employers viewed especially TAW as an important tool in order to bypass the strictures of DP and lower turnover costs on their marginal workforce. Due to strong unions' opposition to the introduction of a contractual form which had been wholly banned until the 1990s, the regulatory output of the 1997 and 2003 reforms placed relatively high costs on the use of TAW, which determined low take-up by small and low-productivity service firms. Particularly the latter resorted to make increasing use of free-lance project work contracts, whose juridical assimilation to self-employment implied lower social contribution costs and wage levels detached from collective agreements. Throughout the main reform events, employers groups manifested converging preferences for defending the existing legislative framework from restrictive regulatory attempts. Uniform positions arguably increased business influence on policy outputs.

The 2012 reform plan seems to make no exception to this pattern. No regulatory change has been envisaged for TAW. Quite the opposite, through the legislative decree n. 24 of March 2012 the Monti government allowed firms to employ unemployment benefit recipients and disadvantaged workers (e.g. long-term unemployed, low-educated individuals, but also workers aged over 50) on TAW contracts without indicating any reason for their use; and to derogate from the 'equal treatment' principle by paying workers up to 20% less than the wage level established by collective agreements for their task (*Sole 24 Ore* 24.4.2012).¹⁵⁹ Instead, employers successfully resisted against unions' attempt to imposing more restrictive regulation of project work contracts. With the view to limiting abuses to this contractual form, the government plans the increase by one percentage point of social contributions; the restriction of the legal conditions of use; and an automatic presumption of a dependent employment relationship if independent contractors perform the same tasks of standard employees in user firms. Although employers ideally share the objectives of limiting abuses and tailoring the application of these contracts to medium-highly skilled job tasks, they nevertheless advocate the elimination of all these provisions (Confindustria 2012: 8-9, Rete Imprese Italia 2012: 4).

To conclude, the Italian trajectory of dualization in employment protection legislation was shaped not only by harsh labor-capital conflicts but also by remarkable intra-business divides. In this perspective, the preponderance of small-firm business seemed to play a very influential role on policy-making processes. On one side, given their exemption from DP rules, these employers proved to have no interest in supporting large-firm employers' engagement for liberalization. Without the backing of the predominant business segment in the Italian economy, employers' power resources decisively weakened. On the other hand, averagely low productivity especially of small artisanal and commercial firms led employers to make extensive use of existing contractual options to decrease labor costs such as project work contracts and to defend these arrangements from regulatory restrictions.

Institutional dualization in the Italian labor market therefore seems to closely reflect the *structural* segmentation in the country's production system. Given weak employers organization and adversarial industrial relations, it seems quite unlikely that social partners' autonomous coordination will be able to provide the collective good of more uniform contractual regulation in Italy.

¹⁵⁹ Since the aforementioned provision originated from the implementation of the 2008 European Union directive on TAW, the issue was not included in the labor market reform package.

CHAPTER 6

RESCUING BISMARCK FROM ITSELF? EMPLOYERS AND THE REFORM OF UNEMPLOYMENT INSURANCE IN GERMANY

'The core tasks of unemployment insurance are to possibly avoid workers' entry into unemployment and to support insured individuals in rapidly taking up a new job, thereby overcoming the transitional phase of joblessness' (BDA 2010: 1). Given the strategic aim of reducing the scope of unemployment support to such 'core tasks' (*Kernaufgaben*), two chief implications follow: social contributions should not finance but those measures which are strictly associated with income replacement during the transition from unemployment to a new occupation; the equivalence principle (*Äquivalenzprinzip*) between workers' contribution record and benefit generosity and duration should be closely respected. Except for the earnings-related amount of wage replacement, *'all insured individuals should be entitled to the same benefit level, upon the condition of a minimum contributory period which is to be preserved in order to prevent abuses and keep contributions low'* (ZDH 2010: 3-4). Inconsistent with this model are thus differentiated treatments such as longer benefit duration for older workers and the exclusion of individuals aged over-58 from job-search obligations, higher replacement rates and extra-payments for workers with children, and facilitated eligibility rules for non-standard workers. These non-insurance benefits (*versicherungsfremde Leistungen*) should be therefore eliminated.¹⁶⁰ By the same token, the take up of activation programs such as training and support to self-employment activities should not imply a prolongation of benefit withdrawal period (BDA 2005: 11). On the whole, the latter set of measures respond to an assistance principle (*Fürsorge*) and their financing should therefore be shifted to general taxation.

¹⁶⁰ According to the ZDH (2010), differentiated treatments depending on age (*'age is only one among many characteristics such as education, gender, household, region etc that have an influence on chances of labour market reinsertion'*, p. 4) and household responsibilities (*'higher benefits are not corresponded by higher contributions [...]. Since there is no differentiation with respect to the number of children, households with one child only are better off than those with more children'*, p. 5) constitute reverse discriminations towards workers, thus breaching the equivalence principle of social insurance and facilitating abuses.

With marginal variations, this argumentative line has represented the *leitmotiv* of German peak employers associations with concern to the desired design of unemployment insurance (UI) since the late 1990s. Until the 2003 – 2005 so called 'Hartz laws' implemented a drastic reform by tightening job-search requirements and sanctions for benefit claimants (Hartz I and II), reducing the maximum duration of the unemployment benefit tier (*Arbeitslosengeld -ALG-*, Hartz III), and above all replacing the previous earnings-related unemployment assistance scheme (*Arbeitslosenhilfe*, ALH) with a flat-rate assistance program for needy jobseekers (Hartz IV), German employers had come to consider the generosity of the country's UI system as one of the main causes of employment stagnation. The development of policy preferences and stark political pressures for retrenchment cutting across all business segments are thus empirically beyond doubt (cf. Brosig 2011, Paster 2012: 319-29).

Seen from this angle, German employers actually seemed to go in the opposite direction to supporting the stability of earnings-related unemployment benefits of long duration and loose job-search requirements, as VoC scholars postulated (Estevez-Abe et al. 2001). However, this chapter seeks to understand the formation of employers' preferences in the light of the diminishing returns of industrial arrangements of the German income maintenance against the background of changing economic-structural conditions. Two interweaving factors are here particularly considered. First, the 1990 decision to finance increased UI expenditure after reunification mainly through social contributions. The ensuing augmentation of the contributory rate for UI from 4.3 to 6.5% of the wage between 1989 and 1993 strongly impinged on non-wage labor costs for firms, and primarily affected labor-intensive segments such as small firms and services. Second, and accordingly, the inclusive structure of the risk pool in Germany subjected all firms to the payment of the same contribution rate. Labor cost pressures hence spurred noticeable intra-business redistributive conflicts between the latter employers groups and large manufacturing producers, whose labor shedding practices between the late 1980s and the early 1990s came to be regarded as the main source of costs increases. Put in this light, an analytical distinction of the policy preferences of different business segments provides us with a closer understanding of the collective action dilemmas with which an encompassing peak employers association was faced and why German employers nevertheless supported the preservation of social insurance arrangements, including an inclusive risk pool.

Given the extensive articulation of schemes and provisions – such as training and job creation measures -, the analysis will seek to isolate the reform of the main traits of ALG and ALH with respect to benefit generosity, security, and job search requirements. Moreover, for the sake of brevity, the multiple small-scale adjustments of the 1990s will be reviewed from the distance through employers' strategic and redistributive dilemmas. On the contrary, an in-depth process tracing analyses the formation of the Hartz reform package which constituted an evident watershed not only for German labour market policy but also for employers' political coordination.

6.1. THE BDA MANIFESTOES: A BIRD-EYE VIEW ON EMPLOYERS POSITIONS IN THE 1990s

The publication of the manifesto “Restructuring the welfare state” (*Sozialstaat vor dem Umbau*) in 1994 (BDA 1994) prior to the Federal elections of that year marked a turning point in employers' political strategy. For the first time, the Confederation of German Employers, BDA, departed from its initial consensus to participating to the social costs of reunification through an increase of contribution rates for UI of +2.5% (from 4.3 to 6.8% in 1991) in order to finance the inclusion of East German workers into the Western social insurance scheme and support the social consequences of the transition of the Eastern Länder to a labour *market* (cf. also Paster 2011: 312 ff). The decision had been adopted with the March 1991 'Act of change in the social contribution rates to the public pension fund and to the Federal Labor Office' (*Gesetz zur Änderung der Beitragssätze in der gesetzlichen Rentenversicherung und bei der Bundesanstalt für Arbeit*).

In fact, employers' consensus had only been half-hearted and nevertheless revealed underlying tensions within the peak employers association. As the BDA representative had emphasized during the relative hearing at the Bundestag:

you do not know how many phone calls I am receiving in these days from members demanding explanations for why we are agreeing to this act in the first place. [...] I would like to stress here that our position emphasizes the strength of our political responsibility and commitment to federal unity.¹⁶¹

¹⁶¹ Statement by the BDA, 3rd Meeting of the Committee for Labour and Social Affairs (12.2.1991), “Entwurf eines Gesetzes zur Änderung der Beitragssätze in der gesetzlichen Rentenversicherung und bei der Bundesanstalt für Arbeit”, BT Drucksache 12/56, p. 42-3.

The BDA had better favored that the Federal government would take up a larger share of expenditure through the public budget in order not to burden labor with high taxation. '*Unlike an increase in contributions, - the BDA maintained - tax increases are generally less employment-unfriendly*', as their impact on the population would be '*relatively less sensible to the economic conjuncture*' (ibidem, 29). This belief had been shared also by manufacturing trade unions which had been quite reluctant in backing the augmentation of labor taxes for the dependent workforce and deemed a more widespread redistribution a more equitable solution:

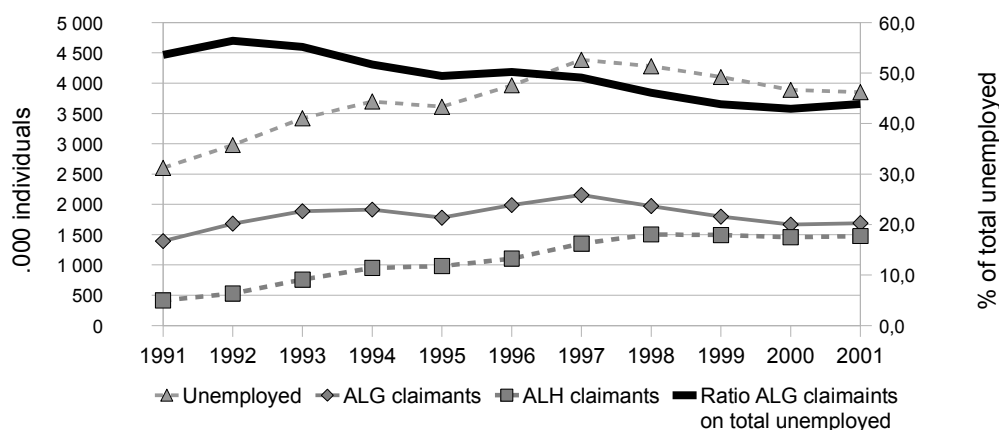
it is a matter of political credibility and culture if we say: contribution payers should not carry the burden alone. Either tax-payers are also comprised in the extra-payments to the unemployment fund, or we have to find a way how to distribute the burden more symmetrically between contribution payers in the economy, self-employed and civil servants. A general 'labour market tax' (*Arbeitsmarktsteuer*) could be a meaningful way'.¹⁶²

The 1991 act had been thus approved in the face of social partners' resistances, also given the 'pretty good shape' of the social insurance budget in 1990 (Manow and Seils 2000: 153). In the following three years however economic and occupational conditions had considerably worsened. On one side, the 1 to 1 conversion of the Eastern currency into German marks had lethally struck the competitiveness of East German firms and, coupled with the endogenous crisis of Western manufacturing, prompted strong employment losses by -45% in the sector between 1991 and 1993 (Manow and Seils 2000: 151). Also due to the effects of a restrictive monetary policy led by the *Bundesbank*, unemployment rates had skyrocketed in East Germany from 10.2% of the dependent workforce in 1991 to 15.5% in 1994 but also climbed in the West from 6.2% to 9% during the same period. On the other hand, in those years the volume of benefit recipients had raised accordingly. ALG claimants had increased from 1.4 millions to 1.9 millions at Federal level, and so had ALH claimants passing from 415 thousands to about one million (figure 1). Despite a contribution rate at its historical peak (6.5% since 1993), the Federal Labor Office (*Bundesanstalt für Arbeit*, BA) had nevertheless accumulated a deficit of about DM 25 billions (about € 12.8 billions in current prices) by 1994 which federal subsidies would not cover (ibidem, 153). It had been expenditures for passive measures of income support to drive expenditure upwards, if one considers that these witnessed an abrupt increase

¹⁶² Statement by the trade union DGB representative, 3rd Meeting of the Committee for Labour and Social Affairs (12.2.1991), "Entwurf eines Gesetzes zur Änderung der Beitragssätze in der gesetzlichen Rentenversicherung und bei der Bundesanstalt für Arbeit", BT Drucksache 12/56, p. 22-3.

from 32% to about 50% of the total during the first half of the 1990s.¹⁶³ All in all, what had been agreed in 1991 as a temporary increase in the contribution rate to the UI fund by 1994 proved to become a structural rate.

Figure 6.1. Unemployment levels, ALG and ALH claimants (in .000), and coverage ratio of ALG, Germany, 1991-2001.



Source: own calculation on data by the Council of Economic Experts. Ratio of ALG claimants on total unemployed, right-hand scale.

It is against this background that employers' initial disgruntlement with bearing the costs of German reunification spilled over into explicit demands for more 'individual responsibility' in managing the unemployment as well as other risks with the 1994 manifesto:

social security cannot be an all-encompassing insurance against all risks in life. We cannot exclude benefit cuts anymore (BDA 1994: 11, own translation).

Core employers' criticisms primarily invested pensions and health care schemes as well as the newly established long-term care insurance.¹⁶⁴ In the 1994 manifesto, labor market policy arguably played only a secondary role,¹⁶⁵ although the BDA stressed that the occupational issue 'will remain the pivotal challenge for politics, economy and society also in the medium-long term' (ibidem, 45). The main problem was identified more in the financing structure of the Federal Labor Office than in the policy structure itself. In its 1993 Savings Package act

¹⁶³ Own calculations on online data provided by the Council of Economic Experts (Sachverständigenrat).

¹⁶⁴ In 1994 the CDU/FDP government coalition had introduced a contribution-based insurance for long-term care (*Pflegeversicherung*) against the forceful protest of employers associations. Although the specific contribution was arguably minimal (1% until 1996, 1.7% thereafter), the political defeat assumed a symbolic significance for employers, especially against the background of increasing unions' pressures on wage levels and working time reduction (see Paster 2012: 313 and ff.).

¹⁶⁵ As a proxy indicator for this fact, the manifesto dedicated 15 pages to each pensions and health care reforms, whereas labor market policy was dealt with only in four pages.

(*Sparpaket*), the conservative coalition government had even considered an augmentation by 0.5% of the contribution rate in order to avoid a drastic spending review in the face of high unemployment and soaring Federal deficit, but the provision had forcefully been withdrawn following the harsh protests of both employers and unions (Zohlhoyer 2001: 217). Therefore, German employers demanded that a 'fundamental reform in the financing of the BA' ensure a 'rightful redistribution' of the costs for labour market policy (BDA 1994a: 13), this entailing a clearcut division between contribution- and tax-financed instruments. In particular, contribution payers should not be charged for the expenditures originated by 'non-insurance' benefits such as that extensive range of active labour market policies, e.g. training schemes and job creation measures (*Arbeitbeschaffungsmaßnahmen*), which unemployed persons could withdraw for periods not necessary linked to their contribution record.¹⁶⁶ Instead, employers remarked, the most unproductive active measures made up a considerable part of contribution-financed unemployment expenditure. Therefore, they advocated for stricter obligations on unemployment and social assistance claimants to take part to training programs, and for a decisive reorientation of expenditures to job placement in the primary labor market (BDA 1994: 46, 52-3). Whereas the BDA emphasized how the lack of job-search incentives would favor the spreading of social irresponsibility among assistance claimants, they made little reference to ALG recipients, if we exclude a general call for their prompt activation.¹⁶⁷ As shown in the section below, this restraint on insurance-based benefits could well be interpreted as the outcome of a precise policy preference of manufacturing producers.

At any rate, with hindsight the 1994 manifesto only marginally tackled those issues that German employers put forward in the subsequent years. In its 1998 equivalent, the BDA not only expanded the range of policy demands towards the 'retreat of an over-regulated labour market' with a particular view on dismissal protection and the decentralisation of collective bargaining (BDA 1998: 10-11). Drawing on the guiding ideas of privileging subsidiarity over solidarity ('bend the assistance mentality', *ibidem*, 35), strengthening of the equivalence principle, and long-term financial sustainability (*ibidem*, 14-15), it also advanced a set of

¹⁶⁶ Whereas active policies accounted for about half of total spending of the Bundesanstalt für Arbeit on average between 1991 and 1995, they made up for some 70% of expenditures in East Germany during the same period. In the subsequent five years, such proportion underwent a gradual reduction for an average of 37.9% of total BA budget.

¹⁶⁷ "The conception of minimum income (*Bürgergeld*) overcomes the principle of need [...] and corroborates an understanding of unconditional rights as well as a growing 'outsider attitude' (*Aussteigermentalität*)" (BDA 1994a).

detailed proposals for the reform of the income maintenance system (ibidem, 33-40):

- restructuring ALG towards a 'basic security' (*Basissicherung*) intended as unique wage replacement rate set at 60%, for a maximum duration of 12 months;
- merging of ALH and SA via a transitional time limitation of ALH withdrawal;
- increase of work incentives for social assistance recipients through lower benefits especially for large households, and the expansion of low-wage sector, including the possibility of combining assistance benefit withdrawal with wage income up to given earnings ceilings (so called *Kombi-Einkommen*);
- shifting of non-insurance expenditures (i.e. 'everything that is not wage replacement') on tax financing, as they constitute a 'general societal responsibility'.

Through the 1998 manifesto, the BDA presented a set of consolidated policy instances that would characterise employers' positions up to the 2003 Hartz reform. Importantly, employers' preferences did not solely concern the elimination of non-insurance expenditures targeted at low-skilled workers and labour market outsiders as in 1994. They also contested core features the ALG contributory scheme, in particular its generosity peaks in wage replacement rates and duration for older workers. Excessively long withdrawal periods were regarded as one relevant source of cost pressures and a powerful support to the consolidation of unemployment (BDA 1998: 34). In this view, the BDA started heavily criticizing the temporal unlimitedness of the earnings-related ALH scheme and for the first time it proposed the wholesale scrap of the latter and its merger with social assistance.

Retrenchment instances did not appear so noticeable in 1994. What factors triggered the shift in employers' positions between 1994 and 1998? The next section proceeds to analyze the formation of employers' preferences throughout this period.

6.2 THE MITTELSTAND ISSUE: INTRA-BUSINESS DIVIDES DURING THE 1990s

What external observers can dub as employers' *radicalisation* on labour market policy can be understood as the outcome of three interacting factors: the height of contribution costs, the consequences of the UI system on intra-business redistributive equilibria, and the strategic interaction both within employers associations and the political arena in finding viable and lasting solutions to the vicious circle between high unemployment protection standards and long-term unemployment.

Indisputably, the most striking factor had to do with the structural incidence of social contributions on labour costs, which impinged on the competitiveness of German firms in international markets. What became known under the label *Standort Deutschland*¹⁶⁸ reflected among other things the immediate concern of employers in export-oriented manufacturing sectors for Germany's higher level of labour costs in European comparison, with a particular view both on direct competitors in Anglo-Saxon countries and Japan, as well as on emerging 'cheap' labour markets in Eastern Europe. Already in 1991 the BDI lamented that non-wage costs appreciated German labour in their branches by 8, 10, and even 17.8 marks per hour vis-à-vis respectively Italy, Japan and the UK (BDI 1991: 63). By the same token, employers in a leading export industry such as the chemical branch maintained that social contributions actually turned out as a 'second wage' for employers (Arbeitgeber 7/49, 1997: 204).¹⁶⁹ As one interview partner at the BDA resumes:

'[By the mid-1990s] we were subject to an enormous crisis in nearly all industrial sectors [...], one of the slowest growth rates in the world, and clearly structural unemployment. [At BDA] we thought that we were really heading into dramatic deindustrialisation. Hence, as firms normally do, we benchmarked our competitiveness conditions with those of Asian countries, the United States and the United Kingdom, and at that time labour costs self-evidently stood out as the greatest German problem' (BDA 1, interview).

It was thus little surprise that the first outcry at the 'cost explosion in nearly all social policy programs' originated from the peak association of industrial business BDI (1991: 62):

the boundaries between solidaristic protection and individual prevention must be redefined. Social policy should be carried out with the view to sustaining the performance capacity of the real economy through the co-responsibility of all social groups. Less compulsion and more individual responsibility [represent] decisive preconditions to this objective (ibidem, 66).

Despite substantial wage moderation during the 1990s, total social insurance contributions increased from 39% in 1993 up to 42.1% in 1998, thus constituting in employers view the 'main cause for our competitive disadvantage', which productivity gains could 'only partly reabsorb' (BDA 1994: 9). Hence, the diminution of contribution levels to the unemployment fund stood out as one of the top priorities for employers associations. Although unemployment

¹⁶⁸ Literally translated, 'business location Germany'

¹⁶⁹ According to the chemical employers association BAVG, every labour hour costed employers DM 32.85 of wage and 31.86 of social insurance contributions in 1994, and respectively DM 35.12 and 35.04 in 1996 (ibidem).

insurance certainly did not figure as the main welfare expenditure item vis-à-vis pensions and health care, it nonetheless constituted a key element of the 'pathological' (Manow and Seils 2000: 138) strategy of economic readjustment via the reduction of labour supply and the shifting of its costs on the welfare state during the 1990s.

In this light, one of the main triggers to employers' positions shift became the emerging *redistributive conflict* between large manufacturing producers and employers in small craft and service firms over how to reduce unemployment expenditure. Manufacturing companies had operated massive labour shedding processes during the early 1990s, whose social consequences had been absorbed through early retirement and unemployment insurance schemes. However, since all German firms were locked in the same risk pool, capital-intensive and labor-intensive employers paid the same contribution level to the common unemployment fund irrespectively of the different impact which non-wage labor costs had on either segments. Put otherwise, small-firm employers deemed inter-sectoral redistributive equilibria excessively penalizing for the only economic segments, such as artisanship and commercial services, that were keeping up employment rates in that period. This had been the object of an early remark by the association of artisanal employers, ZDH:

capital-intensive and large firms increasingly avoid the financial duties of workforce rationalisation measures by shifting raising contributions and general fiscal pressure onto contribution payers. This occurs at the expenses of labour- and wage intensive small and medium firms (ZDH 1991: 197).

Unlike the BDA, already by the mid-1990s crafts employers maintained that a reduction of contribution levels by 1% could also be achieved through a set of measures aimed to reducing the generosity of ALG (e.g. by tightening the ration between months of contribution and benefit duration from 2:1 to 3:1 and decreasing the maximum duration from 32 to 24 months) and to increasing the strictness of job search requirements and sanctions to claimants turning down job offers (ZDH 1995: 114-5). By the same token, the peak association of industry and commerce chambers, DIHK, pleaded for an overall shrinking of social insurance schemes to a 'basic security' doing away with the 'entitlement-oriented attitude' by claimants (*Handelsblatt* 29.3.1994, 19.10.1994). Small-firm employers had arguably little stake in programs designed to cushion the social effects of restructuring processes in the industry, whose costs they were however bound to bear:

Provisions such as long benefit duration and above all early retirements since the age of

55 is a very costly burden from the viewpoint of small firms. In proportion, these measures are mainly in the interest of large firms, while small firms do not but marginally profit from them yet have to pay more (Interview to Franz Schoser, DIHT executive officer, Fernseh und Hoerfunkspiegel, 20.2.1996)

As an interviewee at the German Association of Retail Employers, HDE however acknowledges:

nobody of us believed that the crisis of the UI system was manufacturing producers' fault. [Policy] instruments were there, and they were making use of them. However, whereas they also had the alternative to outsource production abroad, our associates did not. They were bound to pay the costs of a system that everybody considered ineffective (HDE, interview).

Finally, a certain cultural annoyance could be registered against unions' understanding of the principles of the social market economy as strictly egalitarian strategy (*Gleichmacherei*) at the expenses of productive activities. Therefore, the *Mittelstand* showed explicit preferences in favor of the elimination at least of redundant generosity peaks in ALG and ALH, with special regard to their duration.

In contrast, the reform preferences of large manufacturing producers entailed a fundamental ambiguity. On the one hand, as shown above, high contribution levels made up for part of the competitive disadvantage of German export with respect to labour costs. Moreover, they acknowledged that long duration of the main unemployment support schemes was counterproductive, for it augmented unemployed persons' reservation wage and, coupled with high wage compression, impeded the formation an alternative to manufacturing employment in the low-wage service sector:

'many job opportunities in the industry but above all in services remain unexploited just because unskilled work has become too expensive on the market. The point is that assistance claimants should become economically better off by taking up jobs than in the present' (BDA 1997: 40).

However, the political economic dynamic of restructuring processes in the aftermath of the 1992 recession had become intrinsically dependent on the availability of generous income support, which trade unions considered indispensable for the social protection of older manual workers who were losing their jobs:

'it was unrealistic to believe that all 50-55 year-old unemployed blue collars could be

reemployed in similar job positions. We knew it well and also employers did, with particular respect to East Germany where the manufacturing structure was evidently decomposing. [...] Moreover, ALG claimants were manufacturing workers who had previously contributed to the UI fund to a noticeable extent via higher wages. It was a social right of theirs to be rewarded in proportion to what they had paid, and the financial problems of the BA was not a sufficient excuse to alienate them from social protection rights' (DGB, interview).

In this context, manufacturing producers were caught in a dilemma between appeasing the protest of small-firm employers by supporting decisive cuts in the duration of ALH, as crafts employers demanded (ZDH 1996b: 27), or diverting political advocacy towards other measures less essential to the avoidance of social conflict:

'manufacturing representatives always admitted that the costs of massive redundancies were being shifted on contribution payers and that the stability of grand part of the UI system mostly turned to their exclusive advantage. In our meetings this fact was plainly outspoken, but their argumentation was simple: as long as conditions remain this critical, we cannot do anything else' (BDA 2, interview).

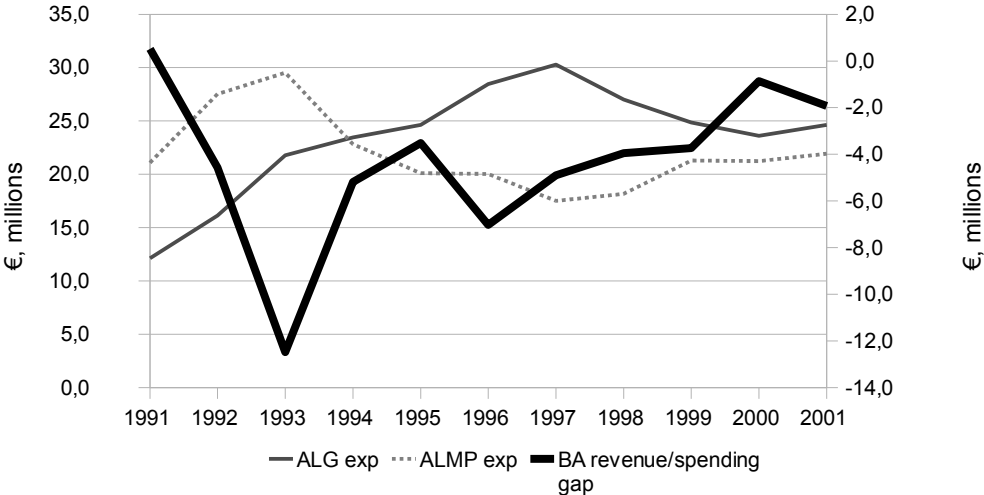
Furthermore, similarly as their unions, manufacturing employers asserted that higher wages paid in their branches vis-à-vis service sectors legitimated the use of an higher share of resources, especially under evident conditions of need. *Rebus sic stantibus*, savings objectives could only be met – according to the predominant business segment within the BDA – by cutting redundant non-insurance benefits and by shifting the financing of active labor market policies on general taxation. According to the BDA, this would make room for as much as a 2% reduction in contribution rates (Arbeitgeber 1-2, 48, 1996: 18). In a nutshell, we may conclude, during the first half of the 1990s manufacturing employers proved reluctant to endorse those decisive adjustments in the function of ALG which small-firm and service employers instead demanded.

Why then did the BDA so suddenly changed its position towards more radical reform instances with the 1998 manifesto? The explanation which is advanced here takes into account three main factors, that is, the further aggravation of the employment situation, internal sub-movements within the employers camp, and the general dissatisfaction with the political economic results of the conservative coalition government led by Helmut Kohl.

The increase of problem pressure is quite easy to see. Between 1996 and 1997,

unemployment levels reached the record peak of respectively 3.9 and 4.4 millions units (12.7% of the civilian workforce). In the Eastern Länder, the unemployment rate continuously increased up to 19.2% in 1998. In that year, the number of ALG claimants overtook 2 millions persons and ALH claimants 1 million, double so much as in 1992 (see figure 1 above). Under such pressure, the revenue-spending gap in the balance sheet of the UI fund increased by over € 7 millions in 1997 to cover the expenditures for ALG and active labor market policies (figure 6.2), whereas the extra-payments of the Federal state to fund ALH increased from € 10.5 to 15.6 millions only between 1995 and 1998.

Figure 6.2. Expenditure on Arbeitslosengeld (ALG) and active labor market policies (ALMP) and revenue/spending deficit of the Bundesanstalt für Arbeit, € millions, 1991 - 2001*



Source: Council of Economic Experts, 'Einnahmen und Ausgaben der Bundesagentur für Arbeit. *ALG and ALMP expenditure, left-hand axis; BA revenue/spending gap, right-hand axis.

In sum, the disastrous employment situation fed in the fiscal crisis of the generous German welfare state. This fact arguably represented a forceful exogenous trigger to all employers' interest in the minimization of non-wage labor costs as well as of general fiscal pressure.

There was yet a second endogenous factor informing employers' position. The leaders of peak employers association came to be confronted with an escalating turmoil among its small-firm rank-and-files against policy stances deemed too accommodating towards trade unions and generally indifferent to, if not wholly in contrast with the needs of small employers segments. An example for this divide can be certainly considered the processes of 'flee from

employers associations' (*Verbandsflucht*) and from collective bargaining (*Tarifflicht*, see Silvia 1997, Völkl 2002) that had with the disgruntlement of small manufacturing subcontractors with the wage and working time concessions accorded by the metalworking employers association Gesamtmetall to its union in the 1994 bargaining round (Thelen 2001). Exiting employers associations allowed employers not to be bound to collective agreements anymore and thus to pay lower wages following the bargain company-level wage agreements. More broadly, however, the free form association also reflected a general discontentment especially of smaller firms for costly associative fees in return for little services and policies targeted at their specific needs (Silvia and Schröder 2007: 1447). Endogenous pressures threatening the legitimacy of associations and the overall stability of German social partnership thus became strong concerns for business leadership in that time (BDA 1, interview). Arguably, this represented a salient trigger that induced the BDA to sharpen its policy positions in order to regain legitimacy, in line with a 'logic of membership' (Schmitter and Streeck 1988).

On the other hand, during the second half of the 1990s both BDI and BDA also witnessed the extension of their associational membership to service sectors, whose affiliate associations grew from 8 in 1995 to 13 in 2000 including branches such as posts, communications and transportations. As the BDA itself recalled, 'the increase of service branches calls for the need of increased consensus on labour law and social policy [as] the BDA also represents the[ir] interests' (BDA 1998b: 53). Most importantly, the extension of representation coupled with the cognitive acknowledgment of the emergence of a post-industrial labour market which could no longer rely on traditional industrial sectors for employment creation. Given the prospective growth of a knowledge-intensive economy (see BDI 1998) and the increasing demand for household- and personal services, job creation depended on personnel cost reduction: 'only if these services are affordable, they can be supplied and again demanded with profit' (BDA 1998a: 8).

Demands for welfare cuts, more individual responsibility in facing social risks, public praise of the socio-economic virtues of small entrepreneurship as opposed to the 'dependency culture' underpinning the German welfare state represented powerful signals to meet the preferences of small-firm and service employers. In this light, we may conclude, it is correct to argue that 'through a stronger inclusion of the *Mittelstand* in employers association the positioning especially of the BDA became more critical about traditionally consensus-oriented

policy domains such as labour market and social policy' (Hassel and Schiller 2010: 126).

The BDI was the first to espouse such principles through the issue of an assertive manifesto titled 'disburdening instead of dismissing' (*Entlasten statt Entlassen*) in January 1996 (BDI 1996). Therein, it advanced a set of proposals to deal with the relaunch of the German economy including the privatization of public enterprises, extensive reductions in taxes and bureaucracy, cuts to unemployment insurance and social assistance, and strict wage moderation. Such aggressive stance fruited great support to BDI president Hans-Olaf Henkel. His reelection to chairmanship in 1998 was reportedly propitiated by *Mittelstand* firms, which constituted almost 95% of the associational membership (*Süddeutsche Zeitung*, 23.11.1998).

Finally, the logic of membership interwove with increasing employers' frustration with the scarce policy results achieved by the Kohl government in the political economic sphere. A conservative coalition government between the Christian Democrats (CDU) and the Liberals was in principle supposed to adopt business-friendly policy measures. Yet, in the face of mounting unemployment and fiscal pressures, employers grew in the belief that the coalition had proven too hesitant in getting a radical grip on needed policy reforms and had only resorted to limited adjustment because of the reluctance to overtly challenge unions' vetoes (*Handelsblatt* 19.5.1995, *Der Spiegel* 24.6.1996). In fact, the latter relentlessly refused to consider the option of benefit cuts both to ALG and ALH and to active programs such as training schemes and subsidized employment creation measures. To be sure, the DGB agreed with employers on the excessive levels of non-wage labor costs but, just like the BDA until that moment, deemed it a sufficient intervention to shift the funding of non-insurance expenditures on general taxation (DGB 1996: 72). Unions' preferences were not only driven by a 'solidarity principle' (DGB, interview) vis-à-vis the large mass of unemployed persons for whom the availability of continuous income support and subsidized job chances was an obvious interest. The strong competitive crisis of export-oriented German firms had forced work councils to agree to wage moderation and working time reductions in order to avoid redundancies, prevent outsourcing to foreign countries and ensure the continuity of business investments in the German plants. Such company-level 'alliances for jobs' (*betriebliche Bündnisse für Arbeit*) increasingly spread throughout the 1990s in large manufacturing and even service firms (Seifert 2002, Rehder 2005, quoted in Hassel and Schiller 2010: 119). In the face of strong wage pressures, the core employed workforce thus developed as intrinsic interest in

avoiding cuts to earnings-related benefits in order to uphold the stability of the lower wage levels (Hassel and Schiller 2010: 115). Moreover, although their high costs and fundamental ineffectiveness were widely acknowledged, maintaining an extensive set of active labor market policies allowed unions to control and limit the expansion of a low-wage segment (*Niedriglohnsektor*) that could undermine the main regulatory framework of the German labor market regime (DGB, Ver.di, interviews). In sum, the DGB fiercely opposed all reform plans advanced by the government in order to implement a far-reaching reform of labor market policy. Employers collective positions therefore came to be influenced also by a 'logic of influence' towards parties in government and trade unions.

How both endogenous challenges and political constraints gradually affected employers' positions is witnessed by the two main labor market policy reforms that were embraced during the late 1990s.

In June 1996, the Kohl government advanced a reform plan of the unemployment and social assistance schemes. Among other things the 'Employment Promotion Act' (*Arbeitsförderungsreformgesetz*) envisaged to sharpening the 'job suitability criteria' (*Zumutbarkeitskriterien*): after six months of unemployment, ALG and ALH claimants could not turn down job offers paid to the average level of ALG benefits; eliminating the so called 'original ALH', that is, the entitlement for workers with insufficient contributory periods to withdraw unemployment assistance benefits; cutting longer duration periods for workers aged below 45; cutting subventions to job creation measures; and compelled local labor office to present yearly reports on the effectiveness of the placement activities (Zohlnhöfer 2001: 225 ff). The act marked the adoption by the Federal government of a strategy of 'defined-contribution' spending policy (*Einnahmeorientierte Ausgabenpolitik*), following the principle that 'it is no longer the amount of benefits that determines the level of contributions, but the tolerable level of contributions which now controls the level of benefits' (Leibfried and Obinger 2003: 214). Moreover, it also came counter to business unease against alleged abuses of the unemployment and social assistance system:

'who refuses suitable jobs, he has to take into account cuts in assistance benefits.

The fight against abuses is necessary in the social domain. [...] For the future of our society, we should promote civic virtues such as diligence, reliability beside humanness' (Kohl speech to the Bundestag, Bulletin Bonn, 9.4.1996)

Employers strongly supported the act, with special regard to the tightening of job suitability criteria:

in contrast with unions, we do not regard job suitability criteria primarily as a labor market policy issue but rather as a legal adjustment that systematically takes into account the necessary interplay between labor demand and supply [...] *The real world of the labor market is undergoing continuous structural change.* That means that in practice nobody can be ensured with the protection of his job status. [...] I would thus dare to say that unemployed persons benefit more from the take up of job offers that lie below their qualification level than from the prolongation of their joblessness condition. [...] Job suitability must not mean that benefit claimants sit and wait until the primary labor market creates demand for their skills (BDA 1996: 37, italics added; also quoted in Brosig 2011: 326-7).

For the reasons explained above, trade unions instead wholly rejected the government's initiative and accused the conservative coalition of being 'business servants' (*Kellner der Kapital*) for their backing to the social-unfriendly purposes of dismantling the welfare state (*Der Spiegel* 24.6.1996). Telling of employers' preferences was however the reply of the president of the peak association of industry chambers, DIHT, Hans-Peter Stihl:

The welfare state is undoubtedly a competitive advantage for Germany. But if it becomes financially unsustainable due to cost developments, we should implement corrections in order to keep this advantage in the future. Employers are by no means enemy of the welfare state. Employers only argue that it social security is meaningfully managed in order to ensure that it can keep on existing (*Fernseh- und Hoerfunkspiegel*, 2.5.1996).

Also due to the internal opposition of CDU Eastern members of the Bundestag (Hassel and Schiller 2010: 105), however, the final legislative output fell short of meeting the original objectives. Negotiations between the conservative-controlled Bundestag and SPD-dominated Bundesrat led to the elimination of some of the deepest cuts invoices, most notably with respect to subsidies to job creation measures, the complete striking of the original ALH, and the extent of scalar diminution of ALH benefits. Accordingly, the stated government objective of achieving sufficient savings to allow for a 1% reduction of contribution rate to the unemployment fund since 2000 seemed unlikely to be met, this increasing employers' disappointment with the government.

The 1998 Federal elections marked the electoral victory of the SPD and the formation of

a government coalition between the Social Democrats and the Green party led by chancellor Gerhard Schröder. In the pursuit of a broad consensus to back political economic reforms, in December 1998 the government relaunched a new tripartite 'Alliance for Jobs, Education and Competitiveness' (*Bündnis für Arbeit, Ausbildung und Wettbewerbsfähigkeit*) with employers and trade unions. The negotiating agenda comprised a broad range of topics beside labor market policy, such as industrial relations, vocational training, fiscal policy, pensions and health (see Binspick 2000). The four main peak employers associations reluctantly accepted to participating to the initiative of what they perceived an inimical government and set clear conditions about the expected results of the talks. By stressing the priority of the 'competitiveness' objective, employers demanded the implementation of a business-friendly tax reform, a substantial reduction of non-wage labor costs, and a commitment of unions to wage restraint (ibidem, 14-5). However, despite consensus purposes, the Red-Green coalition inaugurated its law-making activity reform by reverting some key reforms adopted by the prior government, such as on dismissal protection and sickness pay, and introducing restrictive regulation on minor employment contracts and false self-employment (cf. chapter 4). Small-firm employers regarded these interventions as a 'stab to the *Mittelstand*' (*Die Welt* 27.3.1999). Although these measures had been clearly passed against the will of employers associations, especially service sector employers also interpreted the political defeat as the outcome of a lack of representation of non-manufacturing non-large employers. This was for instance the evaluation of the retail sector association, HDE:

The four peak associations are representing different positions, as each sector fears that otherwise their interests will not be considered in the Red-Green reform plans. [In this context] the growing service branch does not even have a seat at the chancellor's table despite the importance its higher wealth creation for future jobs. [...] The associations did not even ask for our specific knowledge within the working groups. [...] Rivalries between the peak associations weaken the position of the *Mittelstand*, thus making its real representation a burning issue. [This is the segment] that struggles most with lowest capital bases and highest profit losses (Hans Michelbach, HDE, *Welt am Sonntag*, 2.5.1999).

In sum, lack of tangible reform achievements in the labor market policy domain were particularly felt among small-firm and service employers, who denounced that the quiescence of large business vis-à-vis government's inaction on policy issues less important to them, including the reform of the UI system was aimed to reaping favorable concessions especially

in the fiscal domain.

In fact, the Alliance for Jobs did not deliver noticeable results with respect to labor market policy, also because the Labor Minister Walter Riester – a former prominent representative of the metalworking union IG Metall – decided to focus the main political efforts on the pension reform and avoided opening further conflict lines. Therefore, although an ad-hoc expert group had been put in place to elaborate concrete proposals for comprehensive reforms (Eichhorst *et al* 2001), most of its ambitious plans remained unfulfilled, with special regard to the assisted development of a low-wage service sector (Hassel and Schiller 2010: 204-5). In 2002, the government passed the so called 'Job-AQTIV' act which implemented the stated principle of 'promoting and obliging (*Fördern und Fordern*)' mainly by favoring profiling techniques within public employment services, introducing training vouchers, liberalizing private placement agencies and tightening means-tested criteria for ALH. In the employers' view, the reform was everything but significant and was thus ironically dubbed 'Job-Passiv' act (Arbeitgeber 9/54, 2002: 18). A glimpse of favorable economic conjuncture between 1998 and 2001 - as unemployment rates descended for the first time in the decade from 11.4 to 9.4% - however contributed to dampen political tensions. Following the 9/11 attacks and the ensuing international downturn, the issue of a comprehensive labour market reform forcefully became an outstanding issue of the 2002 elections.

6.3. EMPLOYERS AND THE HARTZ COMMISSION

Heavy critiques from small-firm to employers associations' negotiating policy during the Alliance for Job experiment as well as perduring mistrust towards the Red-Green government contributed to a process of consolidation of employers' preferences around a unitary position on labor market policy. With the issue of its 'Pro-Job Initiative' (Arbeitgeber 5/52, 2000: 20 ff) in September 2001, the BDA put forward a detailed reform agenda with which it intended to steer the public debate in the run up to the then incoming 2002 election influence. The policy interventions advocated remarkably reflected those more aggressive features which had characterized small firms demands in the past years. In a nutshell, whereas until the late 1990s intra-business frictions between large manufacturing producers and small-firm segments had undermined the efficacy of business collective action due to the predominance of a 'logic of membership', during the 2000 the BDA managed to compose internal conflicts and rather

orient employers action towards a 'logic of influence' vis-à-vis unions and parties in government. As shown below, business self-coordinating capacities proved to have an important effect on the formation and implementation of the Hartz reforms.

In the 'Pro-Job Initiative, the BDA built on the idea that the reduction of labor costs was an essential key to relauching the investment attractiveness of the German *Standort*.¹⁷⁰ Priority was conferred to the evolution of wage bargaining towards 'moderation, flexibilisation and decentralisation'. '*Unit labour costs sink if wage increases remain sensibly behind production gains. The wage grid must be open in order to allow for larger room for firms needs*' (p. 21). However, the state was called upon both to reduce corporate taxation and non-wage labour costs through far-reaching reforms in welfare programs; to flexibilise labour law in order to re-balance 'employment dynamics and the protection of the status quo'; and to design a 'modern, employment-oriented' labour market policy entailing a transfer system creating 'stronger incentives for the take up of jobs in the primary labour market'.

To focus on the unemployment compensation system, employers specified three main reform instances:

- Reduction of ALG to its *core tasks*: uniform levelling of benefit duration to 12 months and of generosity to 60% of the wage, with the view to ensuring the protection of the social insurance model 'at all costs';¹⁷¹
- introduction of job-search obligations for benefit claimants after the first month of withdrawal to stimulate personal responsibility (*Eigenverantwortung*);
- merging of unemployment and social assistance into a unique scheme to be funded by the Federal budget, together with grand part of active labor market measures.

About the last point, employers argued that

'the coexistence of both transfer schemes [...] leads to ill consequences which mutated labour market conditions do not justify anymore. Especially an earnings-related assistance benefit granted for unlimited duration weakens unemployed persons' willingness to accept placement in lower paid jobs' (ibidem, p. 23).

The merger of the two assistance schemes would extend job-search requirements to social assistance recipients, who were instead exempted from activation obligations under the existing regime. Moreover, it would simplify the management of assistance and thereby

¹⁷⁰ Where not otherwise indicated, the following evidence is drawn from *der Arbeitgeber* 5/52, 2000: 20 ff.

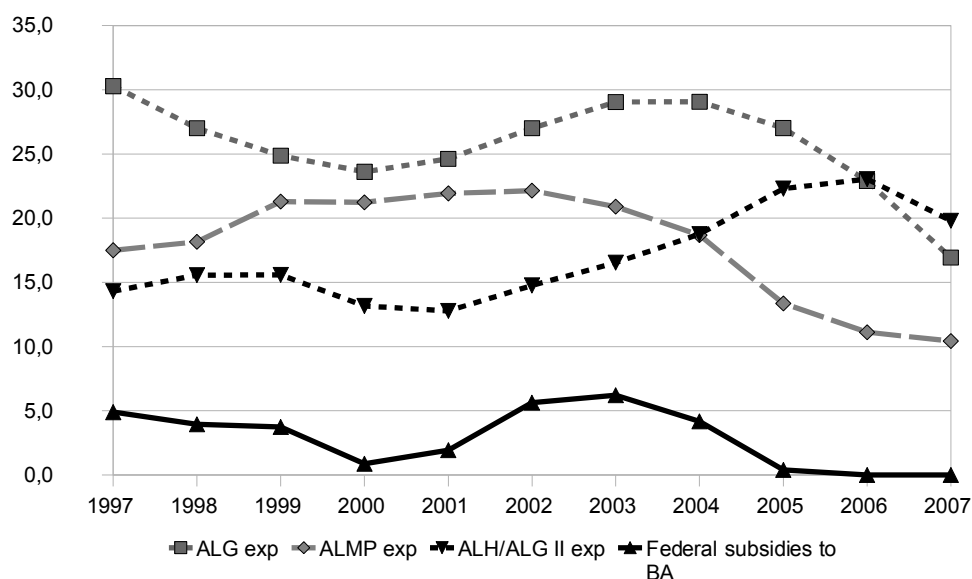
¹⁷¹ '*Der Versicherungscharakter der Leistung sei unbedingt zu wahren*', p. 22

facilitate the financial reorganization of the income maintenance system as a whole.

Such position had a number of affinities with the reform instances of small-firm craft employers. In its yearly report, the ZDH (2001: 57) insisted on the same set of measures aimed to 'strengthening the insurance principle' in the system of unemployment support. More decisive interventions were demanded with the view to achieving a diminution of 1% of the contribution rate as soon as possible, including most notably the elimination of those job creation measures which created a secondary, artefact labor market at the expense of contribution payers.

By 2002 worsening labor market conditions reestablished labor market reforms on top of the political agenda. Following the 9/11 terroristic attacks, unemployment figures rose again over the 4-million threshold starting from 2002 and would further increase up to 4.8 millions in 2005. The recrudescence of the occupational crisis was mainly due to a new unfavorable international conjuncture for exposed manufacturing firms, which lost some 404 thousands work units between 2001 and 2003. Only marginally hit were instead service branches which confirmed themselves as a stable source of employment in hard times. The rise of unemployment put the income maintenance system under renewed fiscal stress. ALG and ALH claimants increased, respectively, from 1.7 to 1.9 and from 1.4 to about 2 millions during the same period. Hence, not only did the revenue/spending gap in the unemployment fund take up again up to € 6.2 billions in 2003, but the Federal budget was charged with the historical peak of € 18.8 billions to cover expenditures for the ALH assistance scheme (figure 3). As the figure shows, the deficit of the Federal Labor Office reached unprecedented levels during the last decade, with the exception of the notorious year 1993. At any rate, high problem pressure made employment an outstanding issue in the campaign for the 2002 Federal elections.

Figure 6.3. Expenditure for ALG, ALMP and ALH/ALG II, and Federal subsidies to the unemployment insurance fund (BA), 1997 – 2007 (data in billions €).



Source: Council of Economic Experts, *Einnahmen und Ausgaben der Bundesagentur für Arbeit*. * ALH (1997 – 2004), ALG II (since 2005).

In the run up to the election, a scandal of faked placement statistics issued by the Federal Labor Office witnessed broke out in early February 2002¹⁷² and witnessed the mismanagement of contributory funds. The scandal provoked that 'small change in electoral demand' (Picot 2009) which turned the public opinion in favor of incisive reforms. An unique window of opportunity opened for the chancellor Schröder to ride the popular wave of discontentment and show his resolution to embrace ambitious reform plans in front of the electorate. To do that he could also rely on the internal supremacy of his 'modernist' faction within the Social Democrats (Zohlnhöfer 2010: 326-9). In fact, following the resignation of the former Finance Minister Oskar Lafontaine and his retreat from the SPD in 1999, trade unions had lost their strongest ally against drastic cuts.

On February 24th of 2002, the Chancellery released a 'Two-step Plan for Customer- and Competitiveness-oriented Labour Market Services'¹⁷³ entailing, in the first place, an own restructuring plan of the BA, which included a considerable reduction of its administrative board and the exclusion of social partners' representatives from executive functions. Secondly,

¹⁷² According to the inner inquiry commission, the BA found that at least 36.5% of reported placements by local labour office were inexistent, and further 32.9% were in part dubious (Trampusch 2002: 5).

¹⁷³ *Zweistufenplan für kunden- und wettbewerbsorientierte Dienstleistung am Arbeitsmarkt*. Where not otherwise indicated, this section draws on Hassel and Schiller (2010, chapters 8 -10) and Siefkin (2007, chapter 5).

it instituted an independent expert commission tasked with designing a comprehensive reform plan for the organization of placement services, re-employment strategies for long-term unemployed, including the fusion between ALH and SA. As known, the chancellor assigned the chairmanship of the commission to Peter Hartz, at that time human resource director at Volkswagen. In order to ensure the independency of the commission from the entanglement of corporatist interests underpinning the management structure of the Federal Labor Office, the leaders of both trade unions and employers associations were purposefully excluded from membership. It was rather the general secretary of ZDH, Hanns-Eberhard Schleyer, also member of the executive board of the BDA who was tasked with officially represent the employers' side within the Hartz commission. The appointment of a *Mittelstand* representative also constituted a balancing act vis-à-vis the further presence an overwhelming number of managers of large corporations, such as Eggert Vorscherau (from the chemical giant BASF), Norbert Bensel (Deutsche Bahn), Heinz Fischer (Deutsche Bank), including Hartz himself (Volkswagen):

'Minister Riester was primarily looking for independent personalities [...]. But he also wanted to be sure that the Mittelstand, including Commerce Chambers, be adequately represented in the commission. Schleyer represented both these aspects, hence you may well say these were the reasons why the choice fell on him' (ZDH 2, interview).

On the whole, seven out of 15 members of the commission were somehow related to the business camp vis-à-vis two unions' representatives and two SPD local administrators.¹⁷⁴ This fact well justifies Schröder's claim that grand part of the commission '*represents political positions that are not close to those of my party but rather to those of the oppositions*' (quoted in Siefkin 2007: 190). On the other hand, the selection of the members of the Hartz commission may also be interpreted as a reflection of the ongoing power relationships between large and small business both in the access to politics and in the expertise over labour market policy.

According to interviews, employers entered the commission with one specific aim as for unemployment insurance reform, namely that of achieving a reduction in the duration of ALG in order to pave the way to the structural diminishment of the contribution rate (ZDH, BDA, interviews). Schleyer held systematic ('almost daily') contacts to the BDA in order to

¹⁷⁴ We can count within business also Peter Kraljic (Mc Kinsey, close collaborator of Peter Hartz during the restructuring process he had led at Volkswagen), and Klaus Luft (then at Goldman Sachs). The remaining members were two academics (Günther Schmid and Hans-Werner Jahn), and a local representative of the Federal Labor Office.

share information and receive technical support. BDA – as well as unions' - officials were also allowed to attend the meetings of the commission without voting rights, and they were audited during the commission's work. As a eye-witness at the BDA recalls:

'the whole preparatory work for Schleyer and Vorscherau was actually done by the BDA. We wrote technical reports for them. I personally held regular contacts to both of them and to all of the single experts, and we stood by their side during the meetings. In deed, we intensively worked with the commission and the Labour Ministry during their works – I was audited myself as an expert. At the end of the day, we all had an influence on the works of the Commission, [the government] found 'elegant ways' how to involve the social partners by keeping them distant at the same time (BDA 1, interview).

During discussions, employers jointly considered a number of alternative models to unemployment insurance, including a tax-funded model akin to the Danish system and the U.S. system of experience-rating, suggested in turn by assisting Munich-based Institute for Economic Research (CESifo). Nonetheless, the predominance of the insurance model remained factually uncontested within business:

'we agreed that a contribution-based system allows better control on expenditures and beneficiaries. You sense that you have a better grasp about who gets what, and you can thus also steer it. With taxation, expenditure control is dispersed. Hence, provided some exceptions, the core of the system had better remain insurance-based. The tax-funded option was rapidly set aside' (ZDH 2, interview).

The insurance model also entailed the maintenance of a self-administration system by the social partners which constituted a crucial source of internal legitimacy for associations undergoing strong associative challenges:

'the self-administration system held up, in a narrow sense, the associational system. It would have been thus quite stupid for us to let the insurance system be abandoned, because we would have lost a crucial task for social partners, and employers' associations, are much higher a value than anything else. They make up for a competitive strength of this country' (BDA 1, interview).

What employers tried to reap from the commission instead was a strong cut to ALG duration to 12 months, as it was before 1986. On his part, Schleyer 'vehemently' supported (Hassel and Schiller 2010: 225) a so-called 'twice twelve months' model (*zwei Mal zwölf Monate-Modell*), which posed a total maximum benefit duration of two years (ALG one year, ALH one year). Yet, his was a quite isolated position. Peter Hartz set to mediate among the solutions with the

view to building the widest possible level of consensus between the social partners which 'could augment the realistic chances' for the future implementation of the commission's proposals (*Die Zeit* 34/2002).

The commission submitted its final report in August 2002. Among many issues, there was one outstanding proposal. The Hartz Commission took up the idea of merging unemployment and social assistance into one unique tax-based, means-tested and flat-rate scheme, which it dubbed 'Unemployment Benefit II' (*Arbeitslosengeld II*). Social assistance (*Sozialgeld*) would remain only for people unable to work. All other claimants were to be considered job-seekers and thus underlie obligations to register with public employment services (Job Centers) and to actively seek for a job. According to the commission, the merger would eliminate a source of 'administrative burdens and opaqueness', and increase the efficiency of claimants' reinsertion in the paid labor market (Hartz 2002: 27). The commission had nevertheless failed to reach an agreement on the benefit level that the ALG II scheme would ensure, and therefore the report did not provide any hint.¹⁷⁵ The opposition especially of the unions representative Isolde Kunkel-Weber as well as of the labour minister himself was responsible for the fact that the final draft abandoned other controversial proposals. In particular, the report did not set any explicit cap on the maximum duration of ALG nor spell precise provisions about job-search requirements and sanctions. On the contrary, while focusing on the concrete design of the management structure of the reformed Federal Labor Agency (*Bundesagentur für Arbeit*, BA) as well as on its consultancy, placement and employment promotion activities, in line with its original task, the Hartz report suggested to maintain existing benefit levels for ALG (Hartz commission 2002: 125).¹⁷⁶ All in all, the report met the function figured by chancellor Schröder: it delivered a political message to the electorate and stakeholders that a reform process had been set into motion, and legitimised future government action on the issue.

The Hartz report however failed at convincing employers. The BDA evaluated it as containing 'more shades than lights' (*Arbeitgeber* 9/54, 2002: 22). Although business appreciated the commitment to deregulate TAW and non-standard work, it lamented the

¹⁷⁵ Quite the opposite, as many observers noticed, a figure attached in the report even prefigured ALG II as an earnings-related measure (Hartz commission 2002: 128, figure 15).

¹⁷⁶ The report limited to mention a mere list of possible adjustments to ALG, such as the computation of wage replacement ratio over the wage of the previous 12 months, the scrap to the yearly adjustment of benefits to wage increases, and the application of the vague concept of 'lump sum benefits' (*Pauschalierung*, *ibidem*)

weakness of many proposals, such the undefined duration and the planned raise of benefit levels for former SA claimants under the future ALG II regime (*ibidem*). Employers deemed job-search requirements being 'not strict enough' and held that the poor definition of the division of financial competences on non-insurance expenditures between the Federal budget and the unemployment fund would be likely to consolidate confusion in labor market governance. Small-firm segments were even more critical:

'the Hartz commission mainly reflected the interests of unions and large enterprises, and the result is consequent: the topic '*Mittelstand* and labor market policy' is by all evidence poorly addressed'.¹⁷⁷

The main disappointments originated from incisive commitments to the flexibilisation of labour law. However, the *Mittelstand* forum within the DIHK negatively evaluated the lack of incisive cuts to ALG duration, the vagueness of sanctions for claimants' non-compliance with job-search obligations, the wholesale exclusion of older unemployed from the latter (considered as a reintroduction of 'early retirement from the backdoor'), and the likely increase of spending pressures entailed by new measures of support to self-employment activities (*ibidem*).

Cautious was also the evaluation by trade unions with particular regard to the vagueness surrounding the benefit level of ALG II. Whereas labour appreciated the report's focus on strengthening of placement services and training supply as well as the guaranteed exclusion of benefit cuts to ALG (Verdi 2002: 7, DGB 2002: 2), especially service sector unions insisted that ALG II should not entail benefit cuts with respect to the existing ALH nor the exclusion of recipients from further social rights, such as pensions contributions (Verdi 2002). In addition, the metalworking union IG-Metall pleaded for expansive criteria of job suitability by warning that envisaged rules might infringe the constitutional provision of free job selection (*Berufsauswahl*, IG Metall 2002: 6).

On the whole, the Hartz report contained policy guidelines that responded to the bulk of employers' demands. In the face of the uncertainty over the governments' real intentions to implement them, however, the BDA considered strategically important to keep the political stake high. By playing on small-firm employers laments, the BDA president Dieter Hundt

¹⁷⁷ DIHK, 'Mittelstand kommt bei Hartz "eindeutig zu kurz". DIHK legt Positionspapier zum Arbeitsmarkt vor', DIHK press statement, 14.8.2002 (accessible at: <http://www.verbaende.com/News.php4?m=13979>, last consulted 3.8.2011).

publicly insisted that more drastic benefit cuts were required in order to meet with the demands of the Mittelstand, as the latter appeared 'the losers of the policy enacted by current as well as by the previous governments' (Arbeitgeber 8/54, 2002). Given the magnitude of government's endeavor and the complexity of the political agreement, business emphasis on a logic of influence was plain to see.

6.4. *ALEA IACTA EST*: THE HARTZ REFORMS

The persistence and gravity of the occupational crisis affecting Germany by 2002 forced the newly reelected Red-Green coalition government to take up the labour market reform, soon after winning the elections in September. During november, the Bundestag and Bundesrat approved the first three Hartz laws dealing with temp agency work and training schemes (Hartz I); mini-jobs, self-employment promotion ('Me-inc.', *Ich-AGs*), and the reform of placement services (Hartz II); the restructuring of the new Federal Employment Agency (*Bundesagentur für Arbeit*, BA). By contrast, a longer negotiating process underpinned the reform of the unemployment compensation system through what became famous as the 'Hartz IV' law, which was to enter into force only starting from 2005.¹⁷⁸

On March 14th 2003, Chancellor Schröder held a long-awaited governmental declaration at the Bundestag in which he launched the 'Agenda 2010', namely a comprehensive set of economic, fiscal, welfare and labour market reforms that the government planned to tackle during its term in office. More broadly, the Agenda 2010 represented a watershed in the cognitive orientation of the SPD leadership on labour market strategy (Seeleib-Kaiser and Fleckenstein 2007: 437-9). It was only in that occasion that the government openly set its cards on the table with respect to the reform of the unemployment compensation system. Schröder announced the unification of ALG benefit duration to maximum 12 months, except for individuals aged over 55 for which benefit would be nevertheless cut from 32 to 18 months. As the objective became that of promoting 'individual responsibility' on the part of long-term unemployed, also sanctions against the refusal of suitable job offers were to be strengthened. Finally, the Chancellor motivated his reasons for the merging of ALH and social assistance ('we need to unify competences and benefits [of labour and social offices, in order to] augment the chances of those that are able and want to work'), and ensured that the income exemption

¹⁷⁸ The Hartz I and II laws entered into force already by January 2003, whereas the reform of the BA did since 2004.

limit would be set higher than SA but benefits be coupled with obligations and sanctions (FAZ 14.3.2003).

Schröder's speech was a clear attempt at impressing more impetus and a well-defined strategic direction to the reform of UI. Negotiating tables had been already started with the social partners since november of the previous years, yet unions had vehemently opposed any option meant to achieve planned savings for € 3.3 billions through benefit cuts for ALG (*Handelsblatt* 1.11.2002). As DGB president Michael Sommer had made clear, unions had endorsed the Hartz commission report because this intended to fight massive unemployment through better placement services and not through benefit cuts.¹⁷⁹ On the other hand, employers had showed early signs of unease with the negotiating stasis. By ironically dubbing the promised '1:1 implementation' of Hartz proposals as a '1:0 for trade unions', the BDA president Hundt considered the relationships between employers and the red-green coalition at a minimum (*Handelsblatt*, 20.11.2002).

In fact, the Agenda 2010 speech stimulated the conclusion of negotiations within a restricted group of SPD and Greens members of the Bundestag and local authorities and the Labour Ministry officers. Technical settings agreed within this group significantly unblocked the policy-making process and constituted the basis for the draft law proposals that the SPD and Greens parliamentary groups and the Labour Minister submitted to the Bundestag respectively on ALG (DS 15/1204) and ALH II (DS 558/03). The former ratified Schröder's commitment on the reduction of benefit duration of ALG. Reportedly, the policy intent was to eliminate perverse incentives to moral hazard behaviour. On the whole, these measures would pave the way to a reduction of the contribution rate – whose precise entity was left undefined, though - by saving € 3.9 millions for the BA budget by 2008, thus constituting an economic incentive for firms' hiring policy (DS 15/1204, p. 10).

Much more complex was in turn the reform of unemployment assistance especially due to the negotiation over competences for delivery and financing system between the BA, the Federal and the Länder budgets. Unlike the Hartz report, the government swept away all ambiguities concerning the flat-rate amount of future ALG II benefits. The basic benefit was set at € 345 per month (€331 in the East) and integrated by additional coverage for housing,

¹⁷⁹ 'Whoever wants to go down the road of benefit cuts, regardless of with respect to ALG or ALH, he puts into question the implementation of Hartz suggestions. Trade unions supported Hartz just because the deal was not about punishing the unemployed because of unemployment but rather to fight unemployment' (DGB, press statement: 'Jetzt gestalten, nicht kürzen!', 22.10.2002).

heating, and children expenses. The latter were however strongly reduced with respect to former social assistance level. The new scheme was renamed 'Basic security for Jobseekers' (*Grundsicherung für Arbeitssuchende*) in order to emphasize claimants' subjection to job search obligations (DS 558/03, § 1)¹⁸⁰. At the same time, the government tightened the job suitability criteria by making skills compatibility, wage differential with previous jobs, type of work contract (most notably, mini-jobs) or physical distance from the working place less compelling grounds to turn down job offers (*ibidem*, p. 11). Sanctions for the non-acceptance of suitable job offers entailed benefit cuts up to 30%, and a total loss of entitlement during three months for young people aged below 25, for three months.

Unsurprisingly the reform proposal awoke trade unions outright opposition. In parliamentary hearings, trade unions forcefully opposed cuts to ALG duration and tightened obligations. On the one hand, unions' points dealt with the social rights of older unemployed. DGB accused the attempt at shifting on workers the risk of skill deterioration, also given the contextual relaxation of the selection criteria for dismissals protection and the unwillingness of firms in investing in the maintenance of their jobs:

instead of investing in the maintenance of these workers' employability, [employers] are much readier to hire well-educated and younger workers. This reflects a purely economic logic (DGB 2003b: 12).

Besides, unions opposed cuts to longer ALG duration for older workers as a breach to the basic social insurance principle of equivalence between lengthy recorded contributions and according benefit duration. Finally, unions denounced that the reform would impinge on the redistributive logic of the unemployment support system, as it would annihilate protection levels precisely for those individuals who were more exposed to social risks (*ibidem*, p. 14). Likewise, the implementation of ALG II would entail considerable income losses for former ALH recipients to the particular detriment of the purchasing power of affected workers and their household (DGB 2003c). Particularly strong was the opposition of the services sector unions' confederation Ver.di (*Vereinigte Dienstleistungsgewerkschaft*) against what they considered being a 'social dumping effect' of sharpened job-search requirements, obliging the unemployed to accept 'jobs at any cost' (*Arbeit um jeden Preis*, Verdi 2003: 51). In fact, the Hartz IV draft also redefined the concept of 'unemployed persons' as job-seeking individuals and

¹⁸⁰ 'Needy individuals [...] shall exhaust all opportunities to end or reduce their situation of need [...]. [They] shall have the responsibility to exploit all chances to make a living out of their own means and forces' (DS 558/03 § 2, p. 7).

removed the until then valid condition that suitable jobs had to be 'socially insured' standard jobs. The provision was designed to expand the low-wage sector in combination with the re-regulation of minor work contracts (chapter 4). Service sector unions critically lamented high downward wage pressure being exerted on the standard workforce in those tertiary sectors where 'cheap' jobs were expected to expand the most (Verdi, interview).

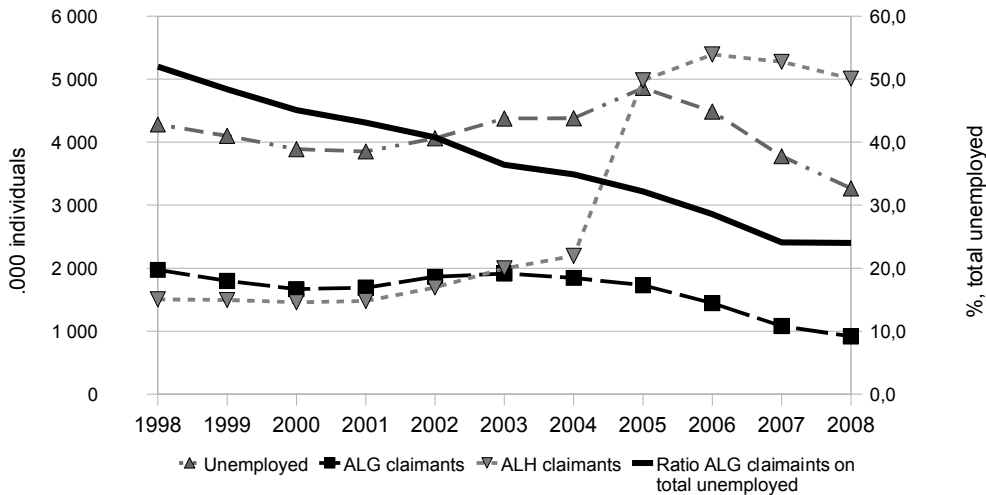
On their part, employers welcomed both the 'first step to concentrate ALG again on its actual task, i.e. the temporary bridging between two employment relationships' (BDA 2003a: 31) and the flat-rate nature of the unique ALG II, closer to (but higher than) the levels of former social assistance than ALH (DIHK 2003: 37). Employers remained however sceptical on three particular issues. Firstly, employers insisted the maximum duration be further reduced to 12 months, as longer withdrawal periods for older workers, as well as the exclusion of claimants aged over 55 from job search obligations, implied a disguised system of early retirement and counteracted individual efforts to reinsertion in the labour market (BDA 2003a: 31). Secondly, employers maintained that the achievement of an appreciable savings volume for the BA required the full delegation of the financial competences over social assistance claimants to the municipalities. The draft legislation instead prospected that the BA retained a competence in delivering a number of key services which would be unlikely to yield promised expenditure savings (ZDH 2003: 18-9). From this angle, all employers associations also contested that the BA should pay a sort of penalty for every long-term ALG claimant exhausting his/her benefit and shifting on ALG II, which amounted to one year of full benefit and social contribution payment from the contributory fund (*Aussteuerungsbeitrag*). Finally, again for the sake of savings, employers maintained that ALG II still contained a number of redundant additional benefits, such as the payment of social contributions for pensions for individuals previously in a socially-insured job and the 36-months 'children allowance' for parents drawing benefits (BDA 2003d: 20).

Except for some minor changes allowing recipients to refuse jobs paid below the collective wage agreements and a moderate increase of additional benefits for lonely parents, the Bundestag approved the Hartz IV law on October 23rd 2003, by a thin majority. The Hartz IV entered into force one year later from January 2005.

As figure 6.4 shows, the Hartz reforms had immediate and far-reaching consequences. Even before the economic recovery marked a significant fall in unemployment levels starting

from 2005, the number of ALG claimants descended from 1.9 to 1.7 million units as an effect of cuts in benefit duration and tightened job search requirements. Accordingly, the ratio of ALG claimants over total unemployed persons sank abruptly. In 1998, about half of registered unemployed withdrew ALG benefits. In 2003, the ratio descended to 38% and during the following years it continuously shrank down to 24% in 2008. Therefore, the Hartz reforms successfully achieved employers' long-awaited objective: the levelling of the unemployment fund deficit from € 6 billions in 2003 to zero in 2005 allowed for a strong reduction of the contribution rate from 6.5 to 4.2% of the wage starting from 2007, 3.3% in 2008, down to current 3%.¹⁸¹

Figure 6.4. Levels of unemployment, ALG and ALH claimants, and coverage ratio of ALG on total unemployed (Germany, 1998 – 2008).



Source: SVR, 'Eckdaten der Arbeitslosigkeit', 'Einnahmen und Ausgaben der BA'. * Unemployed, ALG claimants, ALH/ALG II claimants, left-hand scale. Ration ALG claimants/total unemployed, right-hand scale

In contrast, the bulk of income protection expenditure was shifted to the tax-financed unemployment assistance scheme. Figure 6.4 witnesses the abrupt increase of claimants from 1.9 to 5.4 millions between 2003 and 2006. Federal expenditures accordingly rose from €16.5 up to 27.1 billions between 2003 and 2008. From workers' perspective, this entailed an evident loss of income security given the flat-rate benefits of the new Jobseeker's Allowance (ALG II). From employers' viewpoint, instead, the Hartz IV act constituted a clear collective victory.

¹⁸¹ During the years 2009-2010, the contribution rate was further sunk to 2.8% as one of the main measures adopted during the financial crisis.

Small-firm employers gained a remarkable reduction in non-wage labor costs. In particular, low-productivity service employers strongly benefited from a marked reduction of the reservation wage of jobless persons. These employers were provided with the availability of a larger labor supply on which they could achieve substantial labor costs savings, as the parallel increase in minor work contracts during the same period witnesses. It is thus no surprise that the BDA explicitly considered the Hartz IV reform as a 'entry point to a modern labour market' (Arbeitgeber 1-2, 2004: 23 ff). Yet, also manufacturing producers gained something more than benefit cuts. By achieving the financial surplus of the unemployment fund, they managed to rescue the Bismarckian structure of the income maintenance system with the view to providing relatively high income protection to core workers for a reasonable amount of time. In a nutshell, cuts to generosity peaks upheld the financial sustainability of the UI system, and thereby allowed core manufacturing producers to retain those insurance arrangements that were important to them.

In this light, employers' position since Hartz can be interpreted as oriented to defend the achieved arrangements from unions' counteroffensive. The amelioration of employment conditions led the subsequent grand coalition government between the Christian and the Social Democrats to approve among other things an expansive adjustment to the Hartz reform in favor of older workers in 2008 (*Siebttes Gesetz zur Änderung des SGB III*). Since then, workers aged over 50 with at least 36 months of contributions were entitled to 15 benefit months (instead of previously 12), while maximum benefit duration was raised up to 2 years for workers aged over 58 (table 6.1). Such partial reversal of one of the most significant measures implemented by the Hartz law was far from appreciated by employers:

'with this provision there is nothing left for the promised cost neutrality [in the UI system]. [...] This swinging 'zick-zack' politics does not make any sense just when older workers are constituting an important part to raising employment levels during this period' (BDA 2008: 2).

However, the long and ongoing phase of economic expansion experienced by the German economy since the second half of the 2000s disproved employers' scenario. The Hartz reforms had established a lasting policy equilibrium, and employers had gained their main objective.

Table 6.1. Maximum Duration of Unemployment Benefit in Germany - Before and After the Hartz Reforms.

Length of Benefit Entitlement (in months)	Age (in years)	Months worked in last 7 years	Length of Benefit Entitlement (in months)	Age (in years)	Months worked in last 3 (Hartz) - 5 years (since 2008)
6		12	<i>Hartz reform (2006 - 2008)</i>		
8		16	6		12
10		20	8		16
12		24	10		20
14	45	28	12		24
16	45	32	15	55	30
18	45	36	18	58	36
20	47	40	<i>Since 2008</i>		
22	47	44	6		12
24	52	48	8		16
26	52	52	12		24
28	57	56	15	50	30
30	57	60	18	55	36
32	57	64	24	58	48

Source: Caliendo 2009: 8.

6.5. CONCLUSIONS

German employers unequivocally figured as protagonists of the retrenchment of the domestic income maintenance system. This chapter showed that since the end of the 1990s the main peak employers associations have advocated for cuts in benefit duration and tightening of job-search requirements as means to achieve substantial reductions in contributory costs. The 2005 Hartz reform crowned employers' lobbying efforts with tangible results. From this perspective, hence, empirical evidence deals a blow against the core contention of Varieties of Capitalism scholars that business would be intrinsically supportive of generous unemployment protection. However, the findings of this chapter yield a more articulated explanation of German employers' preferences towards the reform of UI than those offered by the existing literature.

First, it was primarily small-firm and low-productivity service employers that developed negative preferences against 'industrial' arrangements and pushed for retrenchment. This was

because, as shown above, the financing system of the unemployment insurance fund imposed an adverse configuration of cost distribution on labor-intensive branches. By sharing an unique risk pool with larger manufacturing, the *Mittelstand* was bound to pay high contributory costs in order to compensate for the swelling expenditures caused by the labor shedding practices of large corporations as well as by the prolonged crisis in the Eastern Länder. Moreover, the generosity of ALG and ALH would raise the reservation wage of unemployed persons and thereby shrink the availability of low-cost labor supply for low-productivity firms. Starting from the early 1990s, employers in rising artisanal and commercial branches openly challenged the prudent position of manufacturing-dominated peak associations and pushed the latter to respond to their discontentment by adopting more radical retrenchment stances.

This chapter secondly argued that manufacturing employers also had their motives to oppose generous unemployment protection schemes on the grounds of their high contributory costs. This notwithstanding, for this business segment cost considerations balanced with the acknowledgement of the benefits entailed by social insurance. During the early 1990s, these producers showed an opportunistic interest in making use of UI in order to dampen the social conflict consequences of their restructuring operations and spread related costs on a wider risk pool comprising all economic branches. As generosity peaks severely threatened the financial sustainability of the insurance scheme, these employers demanded the removal of those material arrangements – e.g. long benefit duration, low job-search requirements and ineffective job creation measures - that were deemed counterproductive to the functioning of the system. The crucial point emphasized here is however that the core business segment revealed strong preferences for the conservation of the Bismarckian structure which they considered more apt to the conditions of the German labor market than any other type of system. In this sense, German manufacturing employers actually proved to be supporters of earnings-related unemployment benefits. Their demands rather aimed to rescuing the sustainability of the system from its generosity, and to them unnecessary peaks.

Against this background, the third finding points at the crucial role of the encompassing organization of German employers in helping them to overcome internal divides and augment their collective power resources in the political arena vis-à-vis other actors. The predominance of a 'logic of influence' during the decision-making process to the Hartz reform allowed business to obtain a profound reform with beneficial outcomes for all different groups.

In this sense, German employers devoted noticeable efforts to coordinate their different preferences within the forum provided by the BDA, limit internal frictions, and steer collective action towards the achievement of mutually beneficial results.

On the whole, if we maintain that the policy output of the Hartz reform closely adhered to employers preferences, we may also argue that the dual configuration of the post-Hartz unemployment protection system reflects postindustrial changes in the German employment structure. On one side, the extension of the scope of tax-based unemployment assistance corresponds to the preferences of employers in small-firm and low-productivity service segments, whose employment share over the total employment has progressively expanded since the 1990s. On the other hand, shrinking coverage of the insurance-based ALG scheme adheres to the preferences of large manufacturing employers for generous but financially sustainable benefits. In sum, the analysis of employers preferences provides a proxy to detect the economic-structural foundations of dual institutional arrangements in the German unemployment protection system.

CHAPTER 7

MIND YOUR OWN BUSINESS: EMPLOYERS AND THE REFORM OF UNEMPLOYMENT INSURANCE IN ITALY

The reform trajectory of the Italian system of 'social shock absorbers' (*ammortizzatori sociali*) during the last two decades represents a peculiar case in comparative perspective. Italy inherited a fragmented policy structure from the industrial period which coupled high income protection levels ensured mainly by short-time work schemes (the *Cassa Integrazione Guadagni*, henceforth CIG) to employees in manufacturing sectors with atrophic generosity of unemployment benefit (UB) schemes for the remaining workers' categories. Postindustrial transformations compelled subsequent governments to increase the protection standards of UB and extend the coverage of CIG within the tight limits imposed by budgetary constraints. However, this political endeavor only partially succeeded. While introducing significant improvements in both directions, Italian governments repeatedly failed to achieve that comprehensive reform of the unemployment protection system which could definitely eliminate existing segmentations and ensure the financial stability of the system.

The main expectation is that the reform process of the Italian unemployment protection system was underpinned by substantial intra-business divides both between large- and small-firm employers and high- and low-productivity sector employers. Three main factors motivate this hypothesis. First, the overwhelming predominance of small labor-intensive firms in the Italian economic structure entails a wide majority of employers who are likely to oppose expansive reforms leading to an increase in contributory costs. By contrast, under the assumption that large high-productivity producers may have an interest in generous unemployment protection, they are numerically too few to ensure support to broad redistributive arrangements without the cooperation of small-firm business segments. Second, *economic-structural fragmentation* interacts with the feedbacks of the *institutional* structure of 'social shock absorbers' in this country. Especially the organization of CIG introduces a crucial redistributive conflict between the policy preferences of large manufacturing producers and of

small-firm artisanal and service sector employers. The former are included in CIG. This fact entails high contributory costs in quiet times that were however balanced during downturns by the benefits of subsidization of work hours reduction and labor cost savings as well as of social pacification with unions. Small-firm service and partially artisanal employers are instead excluded from CIG. Accordingly, they were normally charged with lower non-wage labor costs, but could not benefit from labor costs subsidization and social conflict avoidance during bad times. The *segregated* character of the CIG risk pool is expected to spur considerable divides between the preferences of these employer groups.

Third, the Italian system of peak employers association exhibit a high level of fragmentation. It may be hence expected that employers will tend to take competing positions between different employe groups, given little organizational resources that favor intra-business coordination.

The remainder of this chapter is structured as follows. Section 7.1 analyzes employers' positions in various stages of the complex reform process of CIG. Albeit unusual in comparative perspective, such analytical priority accorded to short-time work schemes over UB is justified in the Italian context. Given the stronger contributory relevance of CIG, political failures to reorganizing this scheme acted as a stumbling block to the expansive reform of ordinary unemployment benefits analyzed in section 7.2. Finally, section 7.3 will focus on an equally peculiar development in the system of social shock absorbers, that is, the institution and progressive institutionalization of sectoral insurance funds (so called 'bilateral funds', BF, enti bilaterali). These private-like arrangements provide income protection to workers affected by temporary work suspension in mainly the artisanal, commerce and touristic sectors that are excluded from public short-time work schemes, as noticed above. Section 7.4 concludes.

7.1. THE STUMBLING BLOCK: STABILITY AND CHANGE OF THE CASSA INTEGRAZIONE GUADAGNI

The *Cassa Integrazione Guadagni* (CIG) owes its last comprehensive reform to law n. 223 of July 1991. The act regulated the discipline of the short time work scheme for structural firm crises (CIGS) as a complement to collective dismissals protection and instituted the *mobility allowance*, an unemployment benefit scheme reserved to workers ultimately made redundant in firms

eligible for CIGS, i.e. larger manufacturing firms. Since then governments sequentially layered a set of adjustments to the functioning of the two types of CIG for conjunctural (CIGO) and structural (CIGS) firm crises as a response to the contingent emergence of occupational crises in various business sectors.

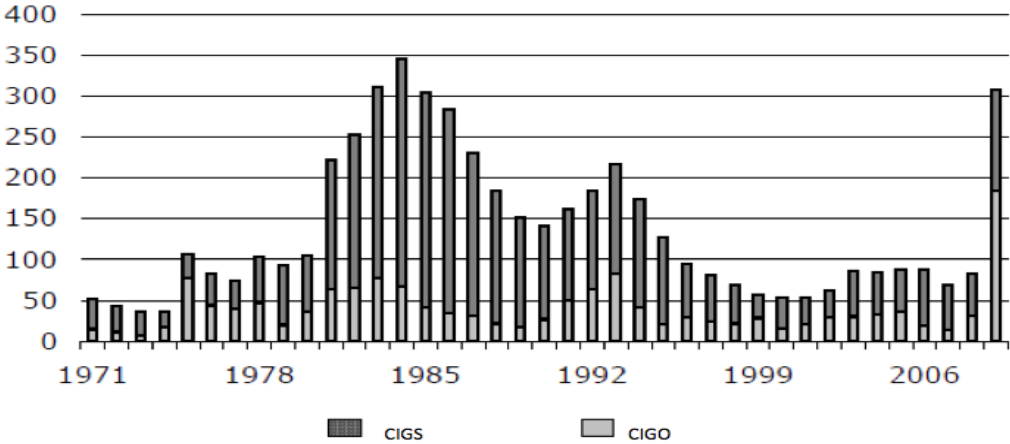
For the sake of clarity, the following analysis distinguishes between the 'emergency legislation' of the early 1990s and the reform attempts advanced by either the centre-left and the centre-right government coalitions during the late 1990s and 2000s that envisaged quite different reform options.

7.1.1. EMERGENCY INTERVENTIONS: THE EARLY 1990s

During the 1980s the Italian production system had undergone a process of profound restructuring as a consequence of the impact of the oil crisis on core manufacturing branches. Given strict dismissal protection, the occupational crisis had been managed through an extensive use especially of CIGS by firms in order to mask *de facto* redundancies via subsidized short-time work. The number of subsidized work hours had accordingly 'exploded' up to the peak of 816 millions hours in 1984, that amounted to about 350 thousands workers in full-time equivalent, as shown in figure 7.1 (Tronti 1991: 129-30). Since 1985 the Italian parliament had been discussing a comprehensive reform of CIG with the purpose of containing expenditures and 'rationalize' the regulatory framework in the face of a number of 'micro' extensions of benefits granted to single firms and specific sectors in crisis.¹⁸² Due to parliamentary conflicts and technical difficulties, the draft bill however took seven years to be finalized and turned into law n. 223 of July 1991.

¹⁸² Selective extensions of CIG to originally excluded sectors during the 1980s are well exemplified by the path-breaking case of a large commercial chain ('Standa'), whose occupational crisis was solved via an ad-hoc decree authorizing the payment of CIG benefits to affected workers (turned into law n. 155 of 1981, which also extended benefits to newspapers' workers and catering services serving firms in crisis). According to interviewees, the solution of the Standa crisis was facilitated by the fact that the store chain belonged to the chemical group Montedison, and firm-level unions resorted to replicate previous collective agreements in the mother firm (Confcommercio, interview).

Figure 7.1. Beneficiaries of CIGO and CIGS in the Italian manufacturing (full time equivalents, thousands of people), 1971-2009.



Source: CNEL (2010: 167).

The reform pursued two objectives. First, it set a new regulatory framework for CIGS by establishing detailed cases of use ('restructuring, reconversion, firm crisis') and strict durational limits to benefit withdrawal (up to 4 years); circumscribing the range of entitled firms (manufacturing firms with more than 15 employees); and setting new contributory obligations on employers and workers (an ordinary 0.90% on the wage). Secondly, the reform enacted a political exchange between unions and the state: the former accepted to legitimize and regulate collective dismissals procedures, and the latter would provide a new unemployment benefit scheme (*mobility allowance*) targeted at workers eventually made redundant after drawing CIGS (cf. also chapter 5). On the whole, the 1991 reform had a predominant administrative rationale to 'neatly separate structural short time work and unemployment benefits' (CNEL, interview). By tightening the use conditions of CIGS policy makers aimed to counteracting abuses, containing costs and controlling the destination of expenditures between instruments of income support to workers in employment or to unemployed persons (*ibidem*).

Manufacturing unions figured as the main sponsor of the reform. Their stated interest was to avoid endless prorogations of CIGS for workers with no perspective of being reemployed in their firms (*La Repubblica*, 17.5.1989). Unions' main objective remained that of affirming the principle that layoffs could only be taken as an *extrema ratio* to be prevented by all means, and in this sense unions supported the formalization of strict collective bargaining obligations. As they however came to acknowledge that the crisis of the manufacturing sector was too

profound to avoid the occurrence of dismissals, unions demanded that the state deployed all possible means to support workers' income, including the putting in place of sound Keynesian policies of public investment and placement opportunities.¹⁸³ Their favor to the coupling of CIGS and mobility allowance was moreover due to the fact that it codified collective agreements struck in sectors such as steel and chemicals in the early 1980s (CGIL, interview).

On the other hand, Confindustria heavily criticized the reform. Although manufacturing employers had an evident interest in achieving a regulation of collective dismissals procedures (*La Repubblica*, 23.2.1991), regulatory constrictions to *social shock absorbers* – mainly intended as CIGS and early retirements schemes – reduced the range of available instruments to cope with conjunctural and structural crises:

it is absolutely necessary for our firms to maintain a system of social shock absorbers through which they could cope with intense restructuring processes during the last decade without excessive social conflicts and with costs for public finances generally inferior to those incurred by other industrialized countries (interview to Confindustria's president, Andrea Pininfarina, *Sole 24 Ore*, 27.3.1991).

Italian manufacturing employers regarded CIGS as a functional substitute to the role that unemployment benefits played in other European countries, especially in Germany.¹⁸⁴ Even though the government had been willing to limit CIGS application solely to cases entailing high chances of workers' reemployment (i.e. restructuring, reconversion or merging processes), employers managed to impose 'business crisis' (*crisi aziendale*) as one of the possible conditions of use (CNEL, interview). This provision paved the way to the use of structural short time work schemes as a gateway to collective redundancies. Manufacturing producers also lamented the intricate and lengthy set of administrative procedures for benefit access and crisis management which granted considerable room for unions' veto to retard or condition restructuring and layoff processes (*Sole 24 Ore*, 21.2.1991). Particularly the metalworking employer association *Federmeccanica* criticized one provision set to penalize firms that were not willing to rotate workers on structural short time work. In their opinion, this rule had a social

¹⁸³ As the UIL secretary Larizza wrote, 'the use of mobility allowance should occur as the *extrema ratio* within the framework of bargained processes providing workers with retraining or reemployment opportunities via public investments in infrastructures and services as well as through the public administration' (*Sole 24 Ore*, 19 March 1992).

¹⁸⁴ Employers used the German case as a term of comparison in order to emphasize the inferior costs for the public budget determined by Italian social shock absorbers: 'if we compare what Germany has spent to ensure a strong system of unemployment protection, we see how the balance clearly pends in favor of the CIG system' (Mortillaro 1997: 290).

protection rationale which they deemed inappropriate to firms' necessity of selecting the more skilled workers who could be employable after restructuring (Mortillaro 1997: 261). Federmeccanica also claimed that trade unions conceived of the use CIGS as a *de facto* compulsory precondition to be respected before employers could proceed with collective redundancies. Finally, metalworking employers contested the discretionary power accorded to the Interministerial Committee for Industrial Policy in order to solve controversies in case of non-agreement with unions (*Sole 24 Ore*, 21.2.1991).

What was instead less controversial for large manufacturing employers was the exclusion of small firms from the new schemes. Confindustria's position was arguably also driven by small-firm employers' own preference not to be included into the CIG system. Inclusion would have chiefly implied both the payment of related contributions for CIGO, CIGS, and mobility (+3.70%, see table 1 above) and the subjection to dismissals protection procedures from which small firms were instead exempted at that time. Manufacturing employers also contested the extension of CIGS to larger firms (with more than 200 employees) in the commercial sector. They regarded it as a threat to the destabilization of the budgetary balance of the CIG fund, whose surplus manufacturing employers boasted as an example of good resource management:

we cannot have an unregulated extension of CIG to all economic sectors, including commerce, crafts, agriculture, and services. That is the contrary of what is intended to limit the costs! Costs could not but augment. Besides a widespread application of CIG would generate extensive and uncontrollable clientelistic ties' (Felice Mortillaro, executive officer at Federmeccanica, *La Repubblica*, 23.2.1991) .

By contrast, the exclusion of smaller firms from the designed income protection schemes precisely represented unions' main criticism to the 1991 law:

there is one important modification to be urgently introduced. Since one of the characteristics of the ongoing crisis is its impact on small firms, trade unions jointly demand that all income protection instruments be extended to firms below 16 employees, at least in industrial districts (Fausto Bertinotti, CGIL secretary, *Sole 24 Ore*, 21.3.1992).

In fact, the law passed in July 1991 proved to be ill-timed. In the months following its approval, Italy entered one of the gravest economic and occupational crises of the post-war period culminating with the 1993 recession, when domestic GDP dropped to -0.9%. Between

1990 and 1994, unemployment levels progressively increased from 2 to 2.4 millions individuals. Job losses were particularly concentrated in core manufacturing branches such as metalworking in the former 'industrial triangle' in North-Western regions, where employment fell from about 985 thousands in 1985 to 759 in 1996 in the branch and total employment from 2,042 thousands in 1990 to 1,712 in 1996 (Berta 2009: 248).¹⁸⁵ These developments led the leadership of Confindustria to speak of an ongoing process of 'deindustrialization' of the Italian economy caused by increasing imports from low-cost countries coupled with the low qualitative competitiveness of Italian products (*La Repubblica*, 10.9.1992).

Against this background, the positions of the social partners on CIG arrangements suddenly swapped. Unions started advocating for expansive modifications to CIGS, such as longer benefit duration periods, in order to prevent firms from proceeding with 'easy layoffs' (*La Repubblica*, 10.1.1992, 28.8.1992).¹⁸⁶ Confindustria instead defended existing arrangements and pointed at other ultimate reasons of the crisis of the Italian production system. In its view, high social contribution rates and the permanence of the Wage Indexation System negatively affected the competitiveness of export-oriented manufacturing firms. On the other hand, excessive protectionism in tertiary sectors, also due to perduring state monopolies on key general services, were deemed the causes of insufficient development of the tertiary sector and sustained prices levels.

During 1992-1993, business crisis spread from larger manufacturing firms to their smaller subcontractors and finally, due to consumptions' contraction, to commercial sectors. High problem pressure forced the then labor minister Gino Giugni to include a revision of CIG into the Tripartite Agreement signed in July 1993. The latter envisaged four main interventions concerning social shock absorbers:

- revision of CIGS procedures in the view of simplification and acceleration of procedures for benefit concession and payments;
- empowering of Regions and Provinces for the provision of training schemes;

¹⁸⁵ Emblematic are employment figures for the main automobile enterprise in Italy, FIAT, which consistently downsized occupation in its North-Western plants from 193 thousands employees in 1984 to 142,9 in 1993. Yet, as Berta shows, total employment losses in large manufacturing firms were partly compensated by gains in small-firm districts in the North-East of the country, especially due to the good performances of the textile and clothing and food production branches (*ibidem*, 248-9).

¹⁸⁶ In a personal interview, the former CGIL general secretary Cofferati maintains that 'had the law been approved seven years earlier, we would have had an efficient anti-crisis instrument. Instead, the bill was passed in the wake of the Kuwait war and the monetary crisis. After a few months labor market conditions had changed so radically that the *new* law was de facto already an *old* arrangement' (CGIL, interview).

- extension of CIGO to manufacturing firms between 5 and 50 employees¹⁸⁷;
- augmentation of the wage replacement rate for unemployment benefits up to 40%.

The agreement legitimated the implementation of further legislative interventions which are summarized in table 7.1.

Table 7.1. Main policy adjustments to CIG and Mobility Allowance in Italy, 1991 – 1994

Act	Main provisions
Law n. 223 of 1991	Reform of CIGS: <ul style="list-style-type: none"> - validity for firms with over 15 employees; - definition of <i>maximum duration</i>: maximum 36 months within 5 years (2 years, plus prorogations of 1 year each; 12 months if due to firm's crisis), - concession by decree of the Labor Ministry. Introduction of <i>Mobility Allowance</i> : <ul style="list-style-type: none"> - in case of redundancies following CIGS period (same coverage); - Generosity: 100% of CIGS wage replacement rate, 80% after 12 months; maximum duration of 36 months (12 for workers aged below 40; 24 for workers aged below 50), but up to 5 (10) years if sufficient for the worker to reach retirement age; - claimants are included in 'Mobility lists' at local labor offices, and access to facilitated reemployment conditions.
Law n. 236 of 1993	<ul style="list-style-type: none"> - inclusion of workers in firms below 15 employees into Mobility lists, albeit with no entitlement to benefits; <ol style="list-style-type: none"> 3. - extension of CIGO benefits to firms between 5 – 50 employees for 24 months within three years (12 consecutive months) in economically disadvantaged areas; 4. - extension of CIGS coverage to firms in the commercial, touristic, surveillance, and transportation sectors with over 50 employees (provisionally limited to 1995); 5. - possible prorogations of CIGS up to 6 months, if technical difficulties in implementation (until end 1994).
Law n. 491 of July 1994	Modifications to CIGS: <ul style="list-style-type: none"> - coverage extension to cleaning firms working with firms drawing CIGS; - reestablishment of original duration (2+1+1); - introduction of maximum caps to benefits in all income replacement tiers; - extension of Mobility benefits to new sectors entitled to CIGS in 1993 and of 'long mobility' (early retirements) to all territorial areas;

Law n.236 of July 1993 extended the coverage of CIGO to smaller manufacturing firms and of CIGS to larger firms with over 50 employees in selected service branches (commerce, tourism, surveillance, and transportation); allowed prorogations of CIGS up to 6 months and to mobility allowance up to 7 years for workers close to the retirement age (*mobilità lunga*); and strengthened *solidarity contracts* for voluntary working time reductions within larger firms. One year later, law n.451 of 1994 extended the coverage of CIGS to cleaning firms and of mobility allowance to the new sectors entitled to CIGS. Importantly, the 1994 act also introduced statutory maximum caps to wage replacement rates for all income protection

¹⁸⁷ The agreement however envisaged a temporal limitation until December 1995.

schemes and reestablished the original duration of CIGS, as an attempt to contain public expenditures.

Increases in benefit claimants during the crisis had in fact augmented spending pressures and created noticeable revenues/spending gaps with special regards to CIGS, mobility and general unemployment benefits (table 7.2). This notwithstanding, to dampen the financial crisis of the Italian social shock absorbers, the option of raising contribution rates was not raised. On one side, the social partners at the Institute for National Social Security (INPS) agreed to using the large budgetary surplus of the CIGO fund – shown in the first row of table 7.2 – in order to compensate for at least part of the deficit in the remaining funds (CNEL, interview). On the other hand, the government intervened with fiscal resources with the view to upholding existing generosity levels and partially extending benefit entitlement to services.

Table 7.2. Ratio contributions/expenditures (% data) in the Italian UI system, 1989-1995

	1989	1990	1991	1992	1993	1994	1995
CIGO	855.6	461.1	228.8	266.5	182.8	334.7	824.8
CIGS	1.4	2.1	80.2	65.3	67.3	70.4	103.0
CIG total*	86.2	111.5	141.2	151	127.4	155.2	250.2
Mobility	-	-	276.4	139.3	25	28.7	33.7
UB	122.7	106.4	116.8	113.9	98.2	87.0	95.5
Total**	70.3	71.3	82.5	101.7	78.5	74.0	87.4

Source: Commissione Onofri (1996: 60). * including special CIG scheme for the constructions sector; ** including early retirement schemes.

Two overall dynamics of these interventions throughout the early 1990s need to be explained. Did employers pro-actively support the expansion of CIG during a period of profound economic crisis, and if so why? And why did various interventions fall short to extending the coverage of CIG to all sectors and firm size?

Employers' preferences on CIG remained ambiguous. On one side, especially manufacturing producers reacted to the strong interest expressed by their unions on this program. As mentioned, unions considered CIG to be the flip side of dismissal protection (CGIL, interview). By subsidizing working time reduction in order to avoid layoffs, CIG contributed to upholding the overall job protection orientation of the Italian labor market regulatory regime.

However, upon the emergence of firm's crises, manufacturing employers were endowed with an instrument of social conflict solution of equal importance to them. Employers and unions at firm level would frequently negotiate complex political exchanges, whereby employers conditioned reductions in the number of layoffs upon the availability of instruments temporal flexibility, such as CIGS and solidarity contracts. The state would uphold social partners' agreements by conceding ad-hoc extensions of CIGS duration funded by tax revenues.¹⁸⁸ The political dynamics of this policy is adamantly explained by the words of the then labor minister, Giugni, in 1993:

I am understanding an aspect that renders the activities of the Labor Ministry particularly appalling, that is, the total irrationality of the conflict solution mechanism. Controversies arise from the local level and land on the ministerial table. When concerning collective layoffs, conflicts get partly solved with existing social shock absorbers. When these instruments are not enough, we are forced to legislative intervention: we take up all solutions designed for single controversies and put them into a decree. The latter thus results as a mosaic of conflict composition efforts rather than as a regular legislative discipline.¹⁸⁹

Against this background, manufacturing producers had little alternatives available other than endorsing further extensions of CIG in order to dispose of a flexibility valve for their labor market strategies and of an indeed efficient instrument of conflict solution. It may be nevertheless noticed that employers' pro-CIG position could seem a reaction to the strength of organized labor during a period of stark employment crisis as well.

Employers in larger service firms and smaller manufacturing producers also manifested a genuine interest in the extension of CIG to their sectors. This was partly due to unions pressures in this sense. Yet, CIG also fitted well to production processes and industrial relations in large commercial firms, for instance in large stores:

the importation of CIG was rendered necessary by the introduction of organizational

¹⁸⁸ Gualmini (1997b, chapter 4) provides a brilliant analysis of the FIAT case during 1993 as an emblematic example of the political exchange underpinning the management of occupational crisis in the major Italian automobile company. In order to solve the conflict between FIAT management and unions, the labor minister accorded to promote two legislative modifications to solidarity contracts (law 236/1993) and mobility allowance (extension of its duration to 7 years to all larger firms, law 451/1994). '*Legislative instruments are born in parallel with and in response to actors' strategies*. Public authorities ensures the negotiation a successful end by modifying social shock absorbers [...] It participates to any decisional moment and intervenes to any situation of crisis in a selective way' (ibidem, 182-3, italics in the original, own translation).

¹⁸⁹ Audition of Labor Minister Gino Giugni to the XI Labor Commission at the Chamber of Deputies, May 26th, 1993, p. 118.

modes of sales of industrial nature, where workers are highly substitutable and can easily rotate through working time reductions (Confcommercio, interview).

Trade unions' pressures for the extension of CIG however met with strong budgetary constraints for the state. Table 7.2 above showed that expenditures for CIG far exceeded contributory revenues during the 1990s. Governments thus found themselves locked in a two-fold dilemma. On one side, high labor costs did not allow them to raise contribution levels both on large and especially small enterprises, as the latter formulated opposite instances for substantial labor costs diminution and fiscal exemptions (*La Repubblica*, 28.8.1993). On the other hand, the budgetary stricture imposed by the parameters of the newly approved Maastricht Treaty forced the labor minister to rein in social expenditures and allowed only narrow margins for tax-funded interventions.

Also preoccupied with the fiscal sustainability of the welfare state Confindustria refrained from supporting any extension of CIG to production segments which would have risked, in their view, to drain already scarce resources from exposed sectors most in need of support. As the then chief negotiator for Confindustria recalls:

in that phase the manufacturing sector was more exposed to the slump of the economic cycle. The extension of CIG to services has never figured among my priorities. It was an instrument which the latter firms were unlikely to sustain and they did not 'deserve'. They were sheltered from international competition, less subject to problems of restructuring, and anyway benefited from redundancies in other sectors. They would have burdened on other sectors by reaping benefits for themselves (Confindustria 2, interview).

This section sheds light on the intra-business redistributive conflicts underpinning the adjustments to the chief income maintenance programs – the *Cassa Integrazione Guadagni* and the mobility allowance - in the early 1990s. Large manufacturing employers actually endorsed expansive adjustments mainly to CIGS arrangements, including a limited extension of its coverage. They did so mainly because of an interest in avoiding social conflicts under firm crises and a convenience in spreading the costs of economic risks on a wider risk pool, sustained by generous state subsidization. In order to defend these specific interests, they however opposed unlimited extensions of CIG to the wide basin of small businesses in the fear that cost explosion would threaten the sustainability of the program. On their part, small-firm segments expressed ambiguous preferences towards their inclusion into the CIG system.

Whereas they aspired to reaping the benefits of labor cost subsidization, artisanal and small service employers were not willing neither to pay the contributory costs attached nor to endow their unions with a means to interfere with firms' management. As section 7.3 shows below, small-firm high-productivity artisanal employers would resort to institute own private-like income maintenance schemes for their skilled workforce during temporary suspensions of production activities.

7.1.2. THE STATE-CENTERED REFORM OPTION

The 2000s witnessed repeated attempts to reforming CIG schemes by both centre-left and centre-right government coalitions with the view to modernizing the whole unemployment insurance system. To schematize, we may identify two competing reform options that are associated with the proposals advanced by either coalitions: *centre-left* governments favored the universalistic extension of CIG and the elimination of particularistic generosity peaks in order to liberate resources for the expansion of a general system of unemployment benefits; *centre-right* governments in turn promoted the consolidation of sectoral private-like income support schemes in sectors not covered by CIG with the view to avoiding the political costs of solving cross-sectoral redistributive conflicts, to enhancing the development of autonomous forms of social partners' coordination inspired by a cooperative model of industrial relations, and to favoring more subsidiarity in the provision of welfare benefits. The latter model will be thoroughly analyzed in the subsequent section.

The center-left proposal was advanced for the first time in 1997 by the Onofri commission – a high-level expert commission tasked by the then Prodi government to put forward viable policy options for a comprehensive reform of the Italian welfare state. The commission took stock of the state of the art of the Italian UI system:

a widespread agreements exists on the fact that the existing system of social shock absorbers constitutes a disorganized and almost ungovernable set of instruments, characterized by subsequent layerings and void of whatsoever systemic vision of the problems to be tackled (Commissione Onofri 1997: 56)

The report did not only pointed at the inequalities and segmentations of protection standards between workers in different sectors, and at the difficulties in keeping track of the financing system due to the opaqueness of INPS accounts. It also emphasized that the small dimensional nature of the Italian production system was 'perhaps more in need of adequate

instruments to facilitate labor market mobility' than income maintenance measures subsidizing the protection of existing jobs (*ibidem*, 57). Therefore, the commission proposed a comprehensive reorganization of the Italian UI system across three levels of protection, largely similar to the German model:

1. a short-time work scheme to protect jobs by maintaining workers' income levels during work suspensions with uniform coverage across firms of different size classes and sectors;
2. a unique insurance-based unemployment benefit scheme merging all existing schemes, including mobility allowance;
3. a means-tested minimum income scheme targeted at those exhausting unemployment benefits

Such 'recalibration' of the income protection system however implied compacting CIG into a *homogeneous* insurance-based scheme responding to the 'need commonly expressed by the social partners to preserve the stability of employment relationships' under normal market oscillations (*ibidem*, 62). The commission envisaged to:

1. introduce a fixed duration limit to CIG up to 12-18 months, *de facto* eliminating CIGS;
2. reduce wage replacement rates to 70% including possible decreases for longer withdrawal periods;
3. potentiate solidarity contracts as an alternative instrument to CIG;
4. ensure the self-sustenance of contributory resources, with possible introduction of experience-rating contribution levels;
5. 'possibly' institute *complementary* occupational schemes for sectors excluded by CIG and for new labor market segments (*ibidem*, 63).

To the proponents' mind, these adjustments would have driven CIG back to its skill protection function¹⁹⁰ and liberated resources to be shifted to finance unemployment benefits (*Repubblica* 28.1.1997). This recalibration from employment to unemployment protection did not only aim at 'rationalizing social shock absorbers' in order to reduce their 'acute systemic inequalities', in the government's view.¹⁹¹ A comprehensive reform of the UI system would also

¹⁹⁰ 'From the viewpoint of workers, [CIG] is regarded as an instrument of protection of acquired skills and as a means to avoid additional costs normally originated from coercive mobility and the search for a new occupation. When firms envisage temporarily limited downturns [...], [CIG] represents an advantageous means for employers to hoard skilled human capital and an implicit incentive to ameliorate their production efficiency' (Commissione Onofri 1997: 62).

¹⁹¹ Audition of the labor minister Tiziano Treu at the Labor Commission of the Chamber of Deputies

serve the Prodi government to counterbalance the liberalization of non-standard work contracts introduced in 1997 (cf. chapter 5).

The proposal however sparked harsh criticisms on the part of employers associations that definitely rejected the idea of eliminating CIGS. Leading representatives of Confindustria defined 'absurd' the proposal by arguing that:

in such a highly regulated labor market regime like ours, [CIGS] is the only flexibility instrument available that alone gives our firms a competitive advantage on other countries. Moreover, CIG is exclusively financed by firms themselves (interview to Andrea Pininfarina, *La Repubblica* 1.3.1997).

Albeit generally favorable to a comprehensive reform of the UI system, the preferences of manufacturing producers were mainly driven by two factors. First, Confindustria considered the tight interplay between strict dismissal protection legislation and CIGS: the latter provided an essential instrument of flexibility if the former remained constant. Therefore, Confindustria was not willing to abandon CIGS without any guarantee that dismissal protection would have also been modified:

that was an exchange with no guarantees that risked turning into a boomerang: we would leave CIGS fall, unemployment benefits would remain – however reformed – too exiguous to sustain workers' protection given scarce resources available, and dismissals would never be tackled because the centre-left government had no interest in doing it (Confindustria 2, interview).

Furthermore, manufacturing employers adversed the overturning of the redistributive equilibrium created by CIG and witnessed by that contribution/revenue surplus balance of the CIG fund that is shown in figure 7.2 below. By defending the ownership of contributory resources paid by manufacturing firms to the CIG fund Confindustria opposed the implementation of cross-sectoral redistributive arrangements. They mainly feared that any policy reform would have entailed stability of contribution costs for manufacturing employers and less resources available for them following expected rises in benefit claims from small-firm business segments:

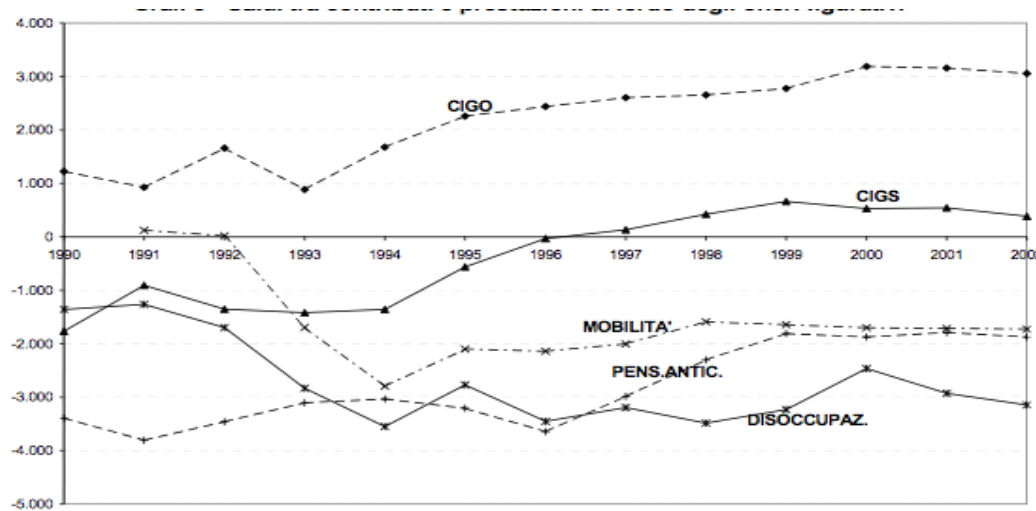
it is all obviously a matter of cost redistribution: who pays the bill for three levels of protection? Everybody agrees on introducing minimum assistance, boosting unemployment benefits, downsizing CIG. At that point, however, crafts and commerce

concerning the guidelines for its Ministry, June 19th 1996

employers do not intend to pay for CIG, neither do workers, and the state wants to reform the system with no additional burden to its budget. Hence, everything remains as it is. *Everybody wants universalist social shock absorbers but nobody wants the universalism of costs* (Confindustria 3, interview, italics added).

Therefore, Confindustria only conditioned its acceptance to the removal of CIGS upon the introduction of more labor market flexibility (speak, the revision of dismissal protection rules) and the guarantee that all firms would equally contribute to the common fund (*La Repubblica* 9.7.1997, 6.9.1997).

Figure 7.2. Contributions/expenditure balance of Italian social shock absorbers, (data in millions of Lira), 1990 – 2003.



Source: Geroldi 2003: 6. Note: mobilità=mobility allowance; Pens. Antic. = early retirement schemes; Disoccupaz= unemployment benefits schemes

Small-firm employers in sectors excluded from CIG did not welcome the perspective of its extension indeed, primarily as a matter of avoiding related contribution costs but also due to considerations regarding the scarce prospected utilization in their sectors. Confcommercio was to balance the interests of its heterogeneous membership, constituted both by small firms totally exempted by CIG and by larger firms that were instead eligible:

the position of Confcommercio was to avoid a raise in labor costs, in the first place. If constant contribution rates were to be coupled with the drop of CIGS – which was certainly marginal in our sector but necessary under extreme circumstances -, then we could not agree (Confcommercio, interview).

Crafts employers shared doubts with regard to the functionality of CIG to the specific labor market dynamics in the sector. It was a shared opinion that temporary suspensions of production in this sector could have hardly lasted more than 2 months and contributory costs would overcome possible benefits (CNA, interview). Moreover, as shown in paragraph 7.3, crafts firms had by then already instituted an occupational scheme for temporary work suspensions which they aimed at defending (CNEL, interview).

On the other hand, unions supported the government's intents. They evaluated positively the extension of CIG to firms in all sectors and size classes, and the strengthening of active policies with particular regard to training schemes (*La Repubblica* 6.9.1997). Moreover, unions claimed a 'distorted usage' of CIGS by employers aiming to masking redundancies, and favored a restrictive revision of the legislation with respect to conditions of use and lower limits to duration (*La Repubblica* 9.7.1997). However, organized labor also made clear its resolute intention not to make any concession to Confindustria's demands for contextual increases in labor market flexibility. From unions' point of view, restrictions to CIGS had to be oriented less to providing chances for employers to legitimate redundancies and gain cheap labor costs reductions than to extending social protection rights to all workers categories (interview, CGIL).

Caught amidst such crossfire of veto points, the government unsuccessfully attempted to pursue its reform plans. On the basis of a tripartite agreement on the guidelines for future labor market reforms signed in December 1998 (so called *Christmas Pact*), the center-left coalition managed to delegate the government to take actions on various labor market policy issues, including the reform of the UI system (law n. 144 of May 1999). However, as hinted at by the vague formulation of the legislative text,¹⁹² there was no fundamental political agreement on the material direction of reform. Furthermore, it was specified in the law, the implementation of envisaged measures should not imply 'additional burdens on public finances' (§ 13). Upon these frail bases, and given the political instability of the majority coalition, the comprehensive reform of the unemployment insurance system was eventually abandoned.

¹⁹² Article 45 § 1 actually envisaged 'the gradual harmonization of income protection schemes in case of unemployment to be strengthened and gradually extended to all workers groups, which are scarcely protected or totally uncovered'. No mention was thus made of CIG.

7.1.3. THE SEGMENTALIST REFORM OPTION

As mentioned, the subsequent centre-right coalition government led by Berlusconi had a different reform perspective. In the 2001 white book prelude to a labor market reform the Labor Ministry emphasized that:

the predominant protection of existing employment relationships has rendered less urgent the need to provide income protection in case of unemployment. At the same time, it has contained the range of possible beneficiaries of existing unemployment protection instruments, thereby generating a cleavage between employed and unemployed individuals (Ministero del Lavoro 2001: 17).

Given its chief purpose to labor market liberalization, the government focused its reform objectives on strengthening unemployment benefits and work incentives associated with the withdrawal of 'any form of social shock absorber' benefit (*ibidem*, 55-6). Developments on unemployment benefits are separately analyzed in the following paragraph.

With regards to CIG, instead, the government envisaged a neat separation between tax-funded and insurance-based income protection schemes. Building on the financial self-sustenance of the CIG fund as a model of reference, the Berlusconi government strived to develop a 'positive competition' between public and private schemes, the latter being based on occupational-mutualistic regimes aimed at integrating the coverage gaps of the former 'with no burden for public finances' (Tiraboschi 2004b: 1110). Unlike the centre-left state-centered reform option, the center-right government solved cross-sectoral redistributive conflicts by endorsing the development of voluntaristic private-like schemes at sectoral level. In other words, it favored the crystallization of sectoral risk segmentation in order to bypass the financial and political complications associated with the objective of a general extension of CIG.

As it was predictable given the positions outlined above, this solution met with the favor of all employers segments. Eighteen peak employers associations presented common amendments to the first draft bill d.l. 848 presented by the government to the Parliament in December 2001. Concerning the reform of social shock absorbers, employers did share the guiding principles for a 'reorganization' of the system. In particular, they appreciated that adjustments be 'based on criteria of self-financing and self-management of schemes on the part of affected sectors', this allowing an 'evaluation of the adequacy and functioning of

different income protection instruments' and 'possible containment of contributory burdens'.¹⁹³ On its part, Confindustria defended existing policy arrangements by pointing out that the interaction between CIG, mobility and unemployment benefits had 'ensured an effective degree of flexibility for the production system and the labor market with modest costs for the state budget' (Confindustria 2004: 297). In order to ensure cross-sectoral equity, Confindustria encouraged the formation of self-financed sector-specific income maintenance schemes for work suspensions tailored on the particular employment characteristics of the main production segments¹⁹⁴ to be sided by a basic protection granted by the state (ibidem, 298). Other possible reform options could not be achieved without abandoning the principle of cost neutrality for the state budget, Confindustria argued (ibidem).

The government's intents instead divided the main unions confederation, despite joint agreement on the opportunity to increase the generosity of unemployment benefits. Especially the catholic-oriented trade union confederation CISL backed the evolution of alternative income support schemes managed by the social partners as an effective policy response to increasing labor market flexibility (Paparella 2002, see section 7.3). By contrast, the communist-oriented confederation CGIL harshly contested the 'substitutive' nature assigned to occupational schemes *en lieu* of a public and universalistic CIG regime, whose employment protection function CGIL maintained as a priority (Treves 2007: 202-3).¹⁹⁵ Occupational and voluntaristic schemes could at best serve to 'integrate the level or duration' of public schemes (ibidem), while the latter were instead to ensure a certain and homogeneous level of protection to all workers, regardless of the achievements of social partnership.

It was thus with the important defection of CGIL that employers and the remaining unions agreed on the development of 'complementary or substitutive income protection schemes' via bilateral bodies for sectors excluded from the ordinary system, building on the virtuous case of the crafts sector with the 2002 Pact for Italy. In line with Confindustria's demands, they

¹⁹³ Common Position of the Confederation of employers, 'Delega al Governo in materia di occupazione e mercato del lavoro (ddl n. 848 – A.S.), December 21st, 2001, p. 94.

¹⁹⁴ Explicitly mentioned were manufacturing, farming, commerce, and craft sectors.

¹⁹⁵ In line with its 'preventive' approach to the emergence of the unemployment risk (Treves 2007: 203), CGIL proposed to strengthen solidarity contracts, as an efficient instrument alternative to CIG. 'To simplify existing regulation, we reason on one novelty: instead of starting with the removal of workers from their workplace, it would be more coherent with a preventive approach to precede this phase with a period during which society supports firms to face difficulties by reorganizing' (ibidem, 204). CGIL advocated to increase wage replacement rates for solidarity contracts for a period up to 12 months, during which 'nobody leaves the firm but [employers and unions] bargain on work organization, working times, and plants utilization' (ibidem).

planned the institution of forms of 'separated bookkeeping' between production sectors 'with the purpose of *stimulating the responsibility of social actors and the budgetary balance between contributions and benefits for each sector* through account transparency' (italics added). Thereby, the government envisaged a future revision of contribution levels 'proportionally to insured persons and effective benefits paid in each sector' with a view on introducing a possible 'solidarity contribution' by sectors with higher benefits. However, such focus on redistributive mechanisms had the side effect on avoiding any discussion concerning possible modifications to CIGS and mobility allowance.

The promised reform of the system of social shock absorbers in fact limited to incentivize employers' adhesion to voluntaristic schemes in craft, commercial, and touristic sectors (law n.30 of 2003, art. 10) and to increase wage replacement rates for unemployment benefits (decree 35 of 2005). The government did not however succeed to implementing most of the ambitious reform plans for a comprehensive reform of the system that it had planned in the original draft legislation presented in 2001 (A.S. 848).¹⁹⁶ In order to fill the protection gaps left by CIG, starting from 2003 the Labor Ministry deployed yearly tax-funded resources aimed at covering CIGS, mobility and suspension benefits exceeding either the ordinary duration of schemes or extensions to uncovered sectors (emergency CIG, '*in deroga*'). Within the limit of available resources the Ministry was authorized to concede ad-hoc exemptions to specific cases in which the protraction of firms crises led to the exhaustion of the temporary limits envisaged by CIGS and mobility legislation.¹⁹⁷ Table 3 shows the yearly amount of resources for emergency CIG. According to expert interviews, the deployment of these funds responded to a purely administrative logic within the Labor Ministry in order to set a maximum expenditure ceiling for what was regarded a consolidated and uncontrollable praxis (CNEL,

¹⁹⁶ The draft envisaged a number of interventions, including: (i) overall revision of unemployment and short-time work schemes; (ii) work incentives and activation measures attached to benefit withdrawal; (iii) reorganization of contribution rates for unemployment insurance; (iv) extension of protection schemes to other sectors on the basis of agreements with social partners at sectoral level; (v) simplification of administrative procedures of authorization with a view on speeding up processes of CIG concession; (vi) adoption of collective agreements for the provision of training schemes; (vii) set up of an efficient monitoring system.

(http://legxv.camera.it/cartellecomuni/leg14/RapportoAttivitaCommissioni/testi/11/11_cap22_sch02.htm)

¹⁹⁷ Receivers of an extraordinary prolongation of mobility allowance were for instance workers in the petrochemical and textile sectors up to a duration of respectively 36 and 48 months (law decree 108 of 2002). More famously, law decree n. 249 of 2004 extended both CIGS and mobility to workers in the air transport sectors for a duration of up to 24 months in order to respond to the restructuring of the former national airline company Alitalia (for a comprehensive review, see: http://legxv.camera.it/cartellecomuni/leg14/RapportoAttivitaCommissioni/testi/11/11_cap22.htm#_fn4.)

interview).

Table 7.3. Amount of tax-funded resources for emergency CIG, 2004-2009 (in mio. €).

Year	Amount		Year	Amount
2004	51.7		2007	460
2005	310		2008	291
2006	480		2009	600

Source: Anastasia et al. 2009: 13.

The development of voluntaristic occupational schemes in sectors excluded from the ordinary CIG system and the concession of tax-funded emergency CIG consolidated a perverse redistributive equilibrium underpinning the stability of short time work schemes in Italy. Also due to its short term in office, the subsequent centre-left Prodi government again failed at passing a 'progressive extension and unification of CIGO and CIGS' to all production sectors following the 2007 tripartite agreement. Whilst recognizing 'a strong role for bilateral bodies', crafts and commercial employers vetoed the consequent raise of contribution costs associated with CIG (CGIL 2, Confartigianato, interviews).¹⁹⁸

Large manufacturing producers do not intend to abandon the existing system, albeit quite expansive in terms of ordinary contribution rates, because it constitutes an efficient flexibility valve to the resilience of strict employment protection. Precisely in order to defend the employment protection regime, unions are not willing to question benefit amounts and duration of CIG and mobility schemes, which also provides them with a considerable stakeholder position during firm crisis management processes (Gualmini 1997, Sacchi et al. 2011). As a result of this cross-class alliance, crafts and commercial employers do not intend to be included into a costly system. The payment of high contribution rates for CIG would substantially raise non-wage labor costs for small firms, and finance an instrument whose generosity peaks far exceed their needs of coping with temporary work suspensions. Moreover, self-management of voluntaristic funds jointly with unions contributes to upholding

¹⁹⁸ 'Why did we oppose the legislative extension of CIG? Because in the craft sector, work suspensions are extremely short – between 10 and 20 days – and cannot be computed across months, otherwise firms shut down. Then we need absolute flexibility in crisis management, for production among sub-contractors heavily depends on external orders which are not foreseeable. [...] *With an inclusive system of the German kind, we would finance an instrument useful to large manufacturing firms only by having our labor costs augmented*' (Confartigianato, interview).

both employers' and workers' interest group organizations, this sedimenting a powerful logic of membership.

The prevailing of CIG has however a side effect on labor market outsiders. The following section shows how the drain of resources associated with CIG strongly conditioned the expansive development of unemployment benefits.

7.2. THE (HALF) REFORM OF UNEMPLOYMENT BENEFITS

Unlike in Germany, Italian employers have long favored an expansive reform of unemployment benefits (UB). They did so with particular intensity during the 2000s as a counterpart to the increasing liberalization of non-standard work, in line with the flexicurity approach which was developing at European Union level. The motivation for this rather counterintuitive position lies, it is argued here, in a *strategic* concern to legitimize a labor market policy turn away from employment protection towards more external flexibility. In this perspective, employers consensually recognized the need to tackle the traditional atrophy of the *ordinary* UB scheme (OUB) and balance its protection potential vis-à-vis CIG. This notwithstanding, employers also espoused the implementation of activation policies associated with benefit withdrawal.

Despite significant yet limited interventions during the early 1990s, the strongest increase in the generosity of OUB and benefits with *reduced eligibility* (RUB) occurred in conjunction with the mature development of a post-industrial labor market and the liberalization of non-standard work (Jessoula and Vesan 2011). Since 2000, both centre-left and centre-right governments have implemented a progressive increase of wage replacement rates from 40% to 60%, and benefit duration from 6 to 12 months, albeit only for workers aged over 50 (table 7.4). However, as the previous section also highlighted, heavy financial constraints inhibited policy-makers to modify strict eligibility rules and introduce an universalistic minimum income scheme similar to the German unemployment assistance. In the face of high contribution rates paid for CIG, employers resisted to increase non-wage labor costs in order to fund the potentiation of unemployment benefits. Therefore, any potentiation of OUB and RUB has strictly depended on the spending capacity by the state, in turn severely limited by the deficit budget of CIGS and mobility allowance.

Table 7.4. Wage replacement rates of OUB, Italy 1988 - 2007

Act	OUB Wage Replacement rates	Other provisions
Law n. 160 of 1988	7.5% (progressive extension up to 20%)	Maximum duration, 6 months (180 days)
Law n. 236 of 1993	25%	-
Law n. 451 of 1994	30%	-
Law n. 388 of 2000	40%	OUB: increase max duration to 9 months only for workers aged over 50
Law n. 80 of 2005	50% (first six months of withdrawal), 40% (further three months), 30% (remaining time)	OUB: increase max duration to 7 months, 10 months for workers aged over 50.
Law n. 247 of 2007	60% (first six months), 50% (further two months) 40% (remaining time)	OUB: increase maximum duration to 8 months, 12 months for workers aged over 50. RUI: increase replacement rate to 35%, increase maximum duration to 180 days.

Source: Jessoula and Vesan 2011.

The first remarkable reform of unemployment benefits dates back to 1988, as law n. 160 turned OUB benefits from the previous flat-rate allowance of daily £ 800 (€ 0.40 in current prices) to 20% of the former wage and introduced RUB for discontinuous workers.¹⁹⁹ The trigger to the former provision was constituted by a ruling of the Constitutional Court which condemned the insufficient amount of the allowance (CNEL 1991: 614). Instead, the institution of RUB made part of the broader 'flexicurity' exchange that led to the approval of the 1991 act on collective dismissals and reform of CIG (cf. section 7.1.1). The RUB scheme was targeted to seasonal workers in the touristic and agricultural sectors, and to younger people employed on work-study insertion contracts (*contratti di formazione-lavoro*), and fulfilled unions demands for the protection of marginal workers:

organized labor provided a crucial push in this direction, given their evident interest also for representational motives to introduce a universalistic mechanism into a system, whose substantial atrophy had been based both on its weak protection capacities and on the abnormal development of particularistic treatments (CNEL 1991: 613)

Funds for RUB were wholly tax-based and resources were partly drawn from the CIGO fund (law n. 160, art. 7 co. 6). Therefore, eligibility rules limited to reducing the period of required

¹⁹⁹ The law was the first piece of legislation to envisage a future comprehensive reform of social shock absorbers. In fact, according to the text, interventions on OUB and RUB were temporarily limited only for the year 1988. Subsequent legislative decrees were demanded in the following years to stabilize necessary resources and further increase wage replacement rates.

contributions (78 days), but did not eliminate the requirement of two years of insurance seniority. The wage replacement rate was set at an equal level as OUB (7.5%), whereas withdrawal duration strictly reflected the amount of days of contributions up to a maximum of 120 days. In turn, law n. 169 of 1991 implemented a further increase of wage replacement rates for OUB to 20%.

During the employment crisis of the early 1990s, the problem pressure of the lack of income support to unemployed persons intensified. As shown in section 7.1, the greatest part of social partners' bargaining however focused on the introduction of mobility allowance to offset the consequences of redundancies in manufacturing sectors. Trade unions backed the increase of wage replacement rates of OUB to 40% with the view to developing an income support system that could 'tentatively' aim at 'unifying the conditions of all workers in front of unemployment and external flexibility' (interview to Fausto Bertinotti, CGIL secretary, *Sole 24 Ore* 21.3.1992). On their part, employers publicly emphasized the minor levels of unemployment expenditure in Italy vis-à-vis other advanced European countries (*Sole 24 Ore* 27.3.1992). The instances of Confindustria for raising public spending on unemployment support measures primarily referred to typical social shock absorbers such as CIG and early retirements. By contrast, Confindustria warned from a 'hasty, superficial revision of OUB' that could 'risk cracking the INPS budget, given the absence of reliable data about the actual numbers of involuntarily unemployed persons' (*ibidem*).

Unions' pressures led employers to consent to a prospective step-wise increase of wage replacement rates for OUB up to 40% of the former wage with the tripartite agreement of July 1993, albeit conditioned to the resources available for the public budget. Policy experts report that social partners also discussed possible modifications such as the extension of OUB entitlement to apprentices and 'vertical' part-time workers,²⁰⁰ and the elimination of two years of insurance seniority from the eligibility rules for RUB in order to favor the access of younger workers to benefits (Liso 1995: 13). However, concerns about the financial sustainability of such measures informed employers' opposition to their eventual implementation (*ibidem*).

In fact, the increasing deficit of the unemployment insurance fund in the face of mounting

²⁰⁰ The Italian legislation distinguishes between 'horizontal' and 'vertical' part time work, the former concerning individuals working every day on reduced time schedules and the latter characterizing individuals working full-time but only few days per week. Since eligibility rules compute the amount of necessary contributions on worked days, vertical part-time workers face more difficulties in meeting access conditions (see also Berton et al. 2012).

unemployment levels (see figure 7.2 in the section above) also drove policy-makers to procrastinate the envisaged increase of wage replacement rates, which was actually implemented only in 2000. Enacted increases of benefit levels coupled with soaring unemployment rates drove expenditures on UB upwards from € 1.1 mio in 1992 to about 2.3 in 1996 (Ministero del Lavoro 2003: 181), albeit in the face of declining take-up levels for OUB and RUB. As table 7.5 witnesses, strict eligibility rules determined low coverage rates (about 21%) which are here illustratively calculated as the simple ratio of UB and mobility allowance recipients over total unemployment levels. Even more exiguous was the estimated coverage of RUB on its target working population, which did not overcome 5.4%, according to the Labor Ministry (Ministero del Lavoro 2003: 50).

Table 7.5. Recipients of UB schemes, unemployment levels and coverage ratio (recipients/unemployment) in Italy, years 1990 – 2000.

	OUB + RUB* (.000)	Mobility (.000)	Unemployment levels (.000)	Coverage Ratio (UB + Mobility) (%)
1990	397.3	-	2,084	19.1
1992	406.7	67.5	2,227	21.3
1994	351.0	178.6	2,421	21.8
1996	343.7	124.3	2,555	18.3
2000	578.8	93.5	2,388	28.1

Source: benefit recipients data (Cesos 1997: 102) and Ministero del Lavoro (2003: 43), own calculation. * data only refers to general schemes and excludes special programs for the construction and agricultural sectors.

Broadening the coverage of existing schemes would have required either a comprehensive reorganization of contribution-based schemes or a stronger role of tax-based expenditure. The former option was that advanced by the Onofri commission in 1996, which proposed an encompassing reform of the system of social shock absorbers based on three guidelines:

- extend minimum levels of protection to a wage replacement rate close to the European average of 60%;
- homogenize unemployment protection instruments for all dependent workers;
- strengthen work incentives associated with the withdrawal of 'any form of social shock absorber' (Commissione Onofri 1996: 55-6)

The ruling centre-left government intended to balance the liberalization of non-standard work

with a 'rationalization' of unemployment support schemes aimed at eliminating 'serious systemic inequalities' in the protection of different workers' groups.²⁰¹ According to the Commission's plan, the elimination of mobility allowance and CIGS would have allowed to shift contributory resources in order to potentiate OUB. In turn, the prospected creation of a minimum income scheme would have led to the elimination of RUB in favor of discontinuous workers and fallouts from the insurance-based system.

As shown in section 7.1.2., the proposal of eliminating CIGS and mobility encountered the joint resistance of employers and unions. Despite a vague endorsement to the potentiation of OUB, Confindustria did not intend to trade the latter with the suppression of corporatist schemes. In turn, the resistance of small-firm employers to any contributory increase coupled with the government's strive to decrease non-wage labor costs through the shift of health care funding on general revenues. On the other hand, unions also considered the increase of OUB benefits to 40% an important objective to be finally achieved (Trentin 1996: 27). However, they also considered that benefit increases were to be sustained by the state's budget and could not be traded with a diminution of existing income support schemes. The then secretary general of CGIL, Sergio Cofferati motivates unions position on the grounds that:

there was no significant occupational problems at that time [...] The priority for unions was to take care of employed individuals. Culturally speaking, Italian unions have tended to be less sensible to the condition of unemployment, because they have deemed them as pertaining to the sphere of social citizenship rather than of labor rights. It was a task for politics to rejoin the two spheres (interview, CGIL).

Against this background, the centre-left government agreed with the social partners a minimum intervention on OUB by increasing wage replacement rates to 40% and extending maximum duration up to 9 months but only for older workers. Financial resources were extrapolated with the Budget law for the year 2001 but did not allow for major reforms, as originally planned.²⁰²

Notwithstanding similar funding problems, the subsequent centre-right government met

²⁰¹ Audition of Labor Minister Tiziano Treu to the Labor Commission at the Chamber of Deputies, June 19th, 1996.

²⁰² The then chair of the inter-ministerial commission for the reform of social shock absorbers, Gianni Geroldi, clearly stated the narrow financial margins within which the government moved during the policy-making process: "The extent and scope of the reorganization [of unemployment benefits] strictly depends on the resources which will be made available. I thus cannot speak of concrete measures yet, because coverage rules and benefit duration will depend on the quantum decided by the Budgetary law" (*Sole 24 Ore*, 11 July 2000).

with wider support for a more decisive increase of OUB. The increase of wage replacement rates to 60% of former wage and of the maximum duration of benefit withdrawal up to 12 months, albeit with a scalar decrease of benefit level after the 6th month, represented an important part of the 2002 'Pact for Italy' between the government, employers associations, and two major unions confederation. The government committed to finance the measure through state resources, but also to apply an explicit 'welfare-to-work' strategy via stricter monitoring of the unemployment conditions of recipients, sanction mechanisms in case of refusal of suitable job offer, and encompassing interplay with employment services and lifelong learning programs.²⁰³ In the government's strategy, the increase of OUB generosity provided an explicit political exchange with unions for their cooperation in the liberalization of non-standard work. This notwithstanding, the government insisted on the activation rationale of its reform endeavor and clearly ruled out any adjustment to eligibility rules with the view to preventing both abuses and disincentives to work.²⁰⁴

Framed in these terms, employers pro-actively supported the development of 'a robust system of social shock absorbers' coupled with an 'intelligent design of lifelong learning schemes' which could supply 'a constant degree of skills enrichment and a support during periods of difficulties' (*Corriere della Sera*, 31.3.2002).²⁰⁵ The implementation of the reform of OUB became an outspoken demand by artisanal employers associations such as Confartigianato and CNA:

since employees in small firms, self-employed and atypical workers are constantly increasing, the continuous procrastination of a reform of the welfare state aggravates inequalities and risks to undermining social cohesion. We need to make the income protection system more effective and universal by shifting the core of protection from the job to the market and by devising schemes that protect also self-employment (Giovani 2004: 901-2).

Confindustria also endorsed the increase in the coverage for OUB (yet only defined in terms of

²⁰³ To date, the 'Pact for Italy' also envisaged to 'reinforce proportionality principles between contributory amounts and benefits' concerning RUB with a view on the maximum duration of benefits. The provision nonetheless remained unimplemented.

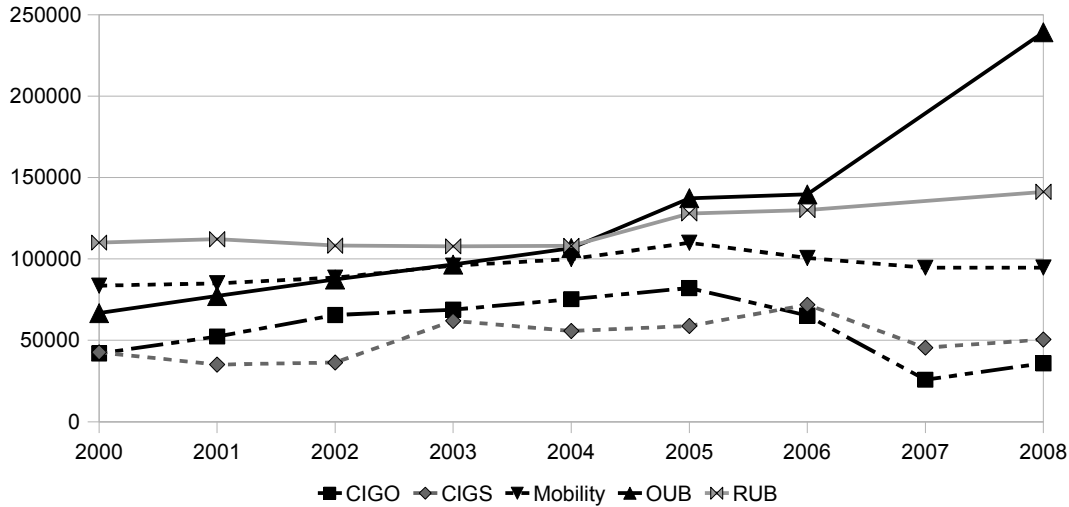
²⁰⁴ This is clearly stated by the then under-secretary for Labor: 'if eligibility rules or wage replacement rates are too generous, social shock absorbers result as a trap which does not favor the inclusion into the labor market. Hence, eligibility rules are to be maintained as they are. [...] For instance, the so called 'reduced eligibility requirements' produce a number of abuses.[...] We are so much convinced of this choice that we would not mobilize more resources, even if the state budget were in better shape (Sacconi 2004: 776).

²⁰⁵ Interview to Confindustria's president, Antonio D'Amato.

higher wage replacement rates) and even demanded to reconsider the adverse effect of strict maximum benefit caps (gross € 970 per month) on the income security of higher wage-earners (Confindustria 2004: 298-9). This notwithstanding, as mentioned in section 7.1.3, none of the peak employers associations was willing to accept neither the dismantling of occupational schemes for temporary income support nor increases in contribution rates.

The government therefore faced the only option of pouring tax-based resources in order to fund interventions on OUB. Limited resources explain the final reduction of the increase of the wage replacement rate of OUB to 50% of the former wage (instead of planned 60%) and the exclusion of RUB from any upward modification.²⁰⁶ With law n. 80 of May 2005, the government disposed € 734.7 mio to cover expenditures for the years 2005-2006. Also due to higher benefit generosity, in fact, take-up rates for OUB considerably increased from an average stock of 87.4 thousands recipients in the year 2002 to 139.6 in 2006 (figure 7.3), despite decreasing unemployment figures.

Figure 7.3. Recipients of income support schemes in Italy (average yearly stock), years 2000 – 2008.



Source: Ministero del Lavoro (2008: 67), INPS year report 2008.

It was however the abrupt increase in RUB recipients that constituted the most noticeable

²⁰⁶ Note though that, as shown in section 7.3, law n. 80 of 2005 devoted € 54 mio. to fund the concession of OUB and RUB to workers affected by temporary work suspensions in sectors excluded by CIG, with particular reference to the craft sector.

novelty since 2003. Whereas in 2003 the total recipients hovered around 380 thousands, by 2006 they were 470 thousands (Ministero del Lavoro 2008: 70). This was interpreted as an effect of the increased diffusion of temporary workers following the 2003 liberalization of non-standard work contracts. According to estimations by the Labor Ministry, the increase of coverage rates – calculated as the ratio between OUB and RUB recipients over the unemployed levels - from 2001 (20.1%) to 2006 (31.4%) ameliorated the conditions of workers in the North-East of the country, characterized by a dense network of small-firm industrial districts, and in Southern regions, mostly due to RUB and special schemes for agricultural workers (*ibidem*, 74-5). Therefore, also in the light of the analysis above, we may conclude that small-firm employers, particularly in the craft sector, significantly contributed to increased income protection in favor of their core workers in order to legitimize interventions on labor market flexibility, on one side, but also out of a genuine concern with the systemic inequalities vis-à-vis workers in larger manufacturing firms and the ensuing threat to social rest.

More indifferent was instead employers' position to the initiative by the subsequent centre-left government to use an occasional surplus in the public budget to increase OUB generosity up to 60% - with a proportional 10% increase of wage replacement for scalar diminutions after the sixth month of withdrawal – and of maximum duration up to 8 months for workers aged until 50, and 12 months for older workers; and to pro-actively intervene on the generosity of RUB, for the first time since the early 1990s, by raising the allowance from 30 to 35% of the wage, and up to 40% for recipients entitled to longer than 120 days of benefits (law n. 247 of 2007). Even though the intervention had been agreed with the social partners through the tripartite agreement of July 2007, craft and commercial employers had neatly opposed the government's intention of raising contribution rates to finance increased spending (CGIL 2, interview).

The centre-left government had tackled the issue with an explicit social orientation of 'fight against precariousness, and extension of social protection to the advantage of discontinuous workers'.²⁰⁷ Moreover, the Communist Refoundation party within the government coalition formulated pressures in order to abrogate the 2003 labor market reform. While not resisting the increase of OUB and RUB, employers were more preoccupied of containing the latter political instances and preventing the government from the envisaged unification of CIGO

²⁰⁷ Audition of Labor Minister Cesare Damiano on the Protocol on employment, social protection, and competitiveness for equality and sustainable growth, Chamber of Deputies, 3 October 2007, p. 4.

and CIGS (Confindustria 2007). Therefore, Confindustria accepted upward modifications to unemployment benefits in the light of the 'completion of the 'Biagi' labor market reform', as 'existing instruments do work but are still inadequate vis-à-vis the evolution of employment dynamics' (*Corriere della Sera*, 5 February 2007). Employers' position in favor of expansive modifications to residual income support schemes and better interplay with active labor market policies largely matched with unions' demands in this sense (Treves 2007: 209). However, the former intended to consolidate flexibility arrangements with the provision of support to workers' job-to-job transitions, whereas unions advocated for more decisive interventions to counteract the more striking examples of work precariousness, for instance by proposing to levy an extra-contribution for income support on economically dependent workers on 'project contracts' (*ibidem*, 210).

To conclude, unemployment protection schemes have gone a long way forward since the early 1990s. Progressive increases in wage replacement rates and duration of OUB have enjoyed a widespread 'ideal' support from both unions and all employers associations. Especially small-firm employers manifested their preference for higher protection standards in favor of their workers, mainly because of the inequality of the instruments to manage occupational flows vis-à-vis core manufacturing firms. This analysis shows, however, that their positions have tightly conditioned interventions on the permanence of existing contribution rates, whose adequacy is severely limited in the face of increased spending levels. In other terms, employers (and their unions, indeed) favor higher income security for all, provided that the public budget pays for it. As a result of such lack of 'material' support, it is justified to nurture some doubts concerning the actual extent of employers' interest in unemployment protection as well as to hold little expectations that scarce coverage rates of insurance-based schemes can be consistently improved under existing financial arrangements.

7.3. SECTORAL RISK SHARING SCHEMES IN SMALL FIRMS: THE BILATERAL FUNDS

Section 7.1 pointed at the gradual emergence of sectoral income support schemes during work suspensions aside of the public CIG system. Since the 1990s the so called 'bilateral funds' (*enti bilaterali*, BF) developed and consolidated in economic sectors characterized not only by their exclusion from CIG schemes but also by an average small enterprise dimension,

territorial fragmentation of the production structure, and weakness of employers' and workers' collective representation, such as constructions, crafts, commerce, tourism, farming, and temp agency work (Leonardi 2008: 275). Table 7.6 provides a synoptic view on the main existing BF at the present time.

Table 7.6. Main income support schemes provided by Bilateral Funds, year 2012.

Legal source	Sector	Contribution rate (year 2011)	Benefits
Compulsory (legal basis)	Credit, Insurance, Posts, transports	0.50% - 1.50% (2/3 employers)	n.d.
	Temp agency work (<i>Ebitemp</i>)	4%	Fixed-term workers, unemployed since 45 days, who have worked 6 months during the last 12. Flat-rate, € 700 (gross WR)
Voluntaristic	Crafts	Yearly € 125 pro worker (incl. fixed-term)	Varying across territorial levels
Voluntaristic	Commerce (<i>Ebinter</i>)	0.15%	Varying across territorial levels.
Voluntaristic	Tourism	0.25%	Eligibility rules: 2 years of contributions, open-ended contract Maximum duration: 3 months

Sources: on financing, Leonardi (2011); *Ebitemp*; Garofalo (2008).

This section shows that voluntaristic arrangements for the provision of income support as well as training and occupational pensions schemes met with the increasing favor by employers associations. Particular attention is drawn on employers preferences in the craft sector, whose successful model has come to represent a best practice for policy-makers and social partners with a view on extending BF to other sectors. In 1993, the then Ciampi government provided the first recognition of the role of BF by extending the benefits of solidarity contracts to craft firms upon the condition of their financial co-participation. It was however the Berlusconi government to definitely institutionalize and extensively incentivized the formation of similar BF in other sectors as a complement or substitution to CIG with decree n. 276 of 2003.

The craft BF was introduced by the national collective agreement signed in 1983 by all sectoral unions and employers associations.²⁰⁸ The primary pressure actually came from unions quest to extend workers representation in micro and small firms with a view on strengthening labor organization in a scarcely unionized sector (CNA, interview). Moreover,

²⁰⁸ The following reconstruction is based on Leonardi (2005: 133-174) and Cimaglia and Aurilio (2010), where not otherwise indicated.

unions demanded that income protection measures be extended to workers in sectors excluded from CIGO, which were being severely affected by the consequences of the profound restructuring processes in large manufacturing firms on their subcontractors in the mid-1980s (see par. 7.1) Craft employers adversed the replication of formalized arrangements typical of large manufacturing, both as a matter of costs and feasibility of implementation in micro firms (*ibidem*).

Yet, they accepted to bargain creative solutions that allowed to tackle two essential problems for their sector. First, employers were willing to avoid that unions' demands for more structured collective bargaining processes lead to the importation of social conflict from large manufacturing firms to micro and small firms. Given the insistence of organized labor, employers sought to devise experimental arrangements which shifted the *locus* of industrial relations from the workplace, which unions favored by mimicking larger firms, to the local level. The creation of collective bargaining fora at district level (*rappresentanti di bacino*) - financed through a purposeful fund - allowed employers both to 'liberate the workplace from social conflict'²⁰⁹ and to avoid inter-firm inequalities resulting from diverse unionization levels of their workers.²¹⁰

Second, employers also acknowledged the need to provide firms with a similar support as CIG during cyclical downturns, also with a view on hoarding workers with firm-specific skills and preventing their migration to competitors within districts or to larger firms (*ibidem*). Therefore, employers consented to setting up a sectoral insurance-based scheme to socialize the costs of both workers' income replacement during work suspensions and support to firms' investments to recover from economic hardships. In order to contain costs, however, the scheme was originally limited to suspensions due to adverse weather conditions and natural catastrophes. Employers paid a contribution of 10 hours of yearly workers' wages, of which 8 were devoted to workers' income support and 2 to interventions in favor of firms. The management of funds was delegated to corporatist bodies participated on equal footing by employers and workers representatives, and organized at regional level. Regional BF also gained considerable autonomy to decide the further articulation of and resources distribution

²⁰⁹ 'We liberated the workplace as the locus of conflict, which was impracticable, and shifted the dialectic outside. We delegated district representatives the task of managing social conflict' (CNA, interview).

²¹⁰ 'Else, we would have some firms in which there were by chance a couple of unionized workers which demanded some things, and other firms in which workers were indifferent to unions issues and did not receive any pressure. A solidaristic system which financed territorial delegates allowed to put firms on equal footing' (*ibidem*).

between sector-specific and inter-sectoral funds – on the grounds of the noticeable heterogeneity within the craft sector, ranging from textile to metalworking and goldsmith; eligibility rules and benefit levels of income support schemes; and additional funds management issues. Yet, the adhesion of individual firms to BF was completely voluntaristic.

The success of early experimentations led to the incremental institutionalization of income support schemes through the 1988 and especially the 1992 national collective agreements. A central body (*Ente bilaterale nazionale artigianato*, EBNA) was instituted in order to promote and sustain the expansion of the system, regional funds nevertheless remaining the pivotal organizational level. Importantly, the joint incidence of the strong 1992-3 economic crisis and the unexpected accumulation of resources within regional funds due to restrictive use conditions convinced employers in 1993 to extend the scope of income support schemes to work suspensions during temporary contractions in product demand more closely in line with the protection granted by CIGO (Tiraboschi 2004b: 1120). Whereas the first introduction of the program had been admittedly pushed forward from nation-level employers associations on their reluctant membership,²¹¹ its extension was instead advocated by employers themselves at local level (CNA, interview). The 1997 collective agreement created a national fund for income support (*Fondo Nazionale di Sostegno al Reddito*), financed by a contribution of regional funds of 2% of their budget, tasked with compensating territorial disparities of resources. The intervention of the national fund ensured a standard income replacement benefit of 80% of the wage in case of conjunctural suspensions of activities up to a maximum of three months per year (Garofalo 2008: 31).²¹²

At the same time, craft employers associations started advocating and obtained public support. In 1993, law n. 236 for the first time extended to crafts firms below 15 employees excluded by CIGS the benefits of solidarity contracts (50% of wage replacement for fallen work hours for a maximum period of two years), upon the condition that BF contributed with no less than half of the benefits provided by the state. This provision allowed employers to circumvent unions demands for an extension of CIGO, and associated contributory costs, to

²¹¹ According to interviewees, a widespread employers' objection to the introduction of the scheme was the suspect that unions would use most contributory resources to finance their activities.

²¹² The national fund was however abolished in 2006 following the protests of more densely organized regional funds against the adverse redistributive effects in the face of territorial and inter-sectoral inequalities in withdrawal rates (Cimaglia and Aurilio 2010: 219). It is widely acknowledged by practitioners, in fact, that grand part of resources have been traditionally used by the textile craft sector, whose production dynamics more closely follow a cyclical dynamic (CNEL, CNA, CGIL interviews).

the craft sector, while disposing of an instrument tailored on the specificity of production in various branches (CNA, interview). However, the mutual benefits that employers - but also unions - gained from BF in terms of resources control and support to the consolidation of collective interest organization at local level also consolidated their neat opposition to abandoning the institution in order to favor an extension of public CIG schemes (CNEL, interview). As mentioned in section 7.1.2, this resulted in the fierce opposition by crafts employers associations to the reform plans for CIG advanced by the centre-left government in 1997.

Building on the craft model, instead, BF started to be regarded by policy-makers as an efficient solution to fill the protection gaps of the CIG system in tertiary sectors. In order to cope with redundancies originated by restructuring processes in former state monopolies, such as telecommunications, public transportations, and mail services, and subsequently in the credit and insurance sectors, the centre-left government instituted sectoral income protection schemes with law n. 662 of December 1996. These funds were established at the National Social Security Institute, but employers and unions were tasked with co-managing the organization of schemes in terms of eligibility criteria, generosity levels, and concession procedures within the limits of available resources. Unlike in the crafts, however, firms participation to the funds was made compulsory through the payment of a contribution 'not inferior to 0.50% of the wage'. As shown in chapter 5, a similar solution was arranged for temp work agencies. Law n. 196 of 1997 set a statutory contribution level (initially, 5% of the wage) to finance a sectoral BF (*Ebitemp*) tasked with organizing income protection and training schemes for workers with open-ended contracts during periods of non-assignment. Through compulsory firms' participation to the financing of occupational schemes the government achieved the twofold objective of extending the coverage of income protection schemes to sectors excluded by CIG and mobility benefits without burdening on the public budget, in the face of scarce resources (CNEL, interview). In turn, employers and especially unions gained a stake in the management of funds, thereby disposing of an essential resource to legitimate and consolidate their respective positions as collective interest organizations (CGIL, interview).

It was however the subsequent centre-right government that placed an explicit value on the crafts BF with a view on its extension to commercial and touristic sectors as a means to complement the concentration of CIG on manufacturing firms (Tiraboschi 2004: 1121). Law

n. 30 of 2003 and the following decree n.276 definitively introduced BF into Italian labor law by providing a legal definition and listing a number of possible competences to be exerted such as placement services, provision of training schemes, certification of atypical contracts in their sectors, and the mutualistic management of income support schemes. In order to incentivize employers' adhesion to voluntaristic schemes, the government conceded contributory benefits to employers in crafts, commerce and touristic sectors which *integrally* implemented collective agreements. Finally, law n. 80 of 2005 provided an explicit support to BF in the craft sector by conceding RUB (20% of wage replacement rate for a duration of up to 65 days) to workers during temporary suspension of activities, upon the condition of financial co-participation by BF up to 20% of benefits.

By empowering the role of BF the Berlusconi government achieved several objectives at the same time. On one side, it brought forward an extension of the coverage of income support schemes without reforming the public CIG schemes and impinging on the public budget. Politically speaking, the valorization of the public-private interplay did not only allow to avoid challenging entrenched interests of manufacturing and small-firm employers, whose opposition to a reform of CIG had proven determinant for the failure of previous centre-left executive's reform plans. By contrast, it went along with craft employers' demands for recognition and with a strong devolution tendency of social protection schemes to the local level favored by the Northern League party in the majority coalition, of which the Labor Minister Roberto Maroni was a leading representative.²¹³ On the other hand, the development of BF had more strategical implications in the government's view. BF were an essential expression of a 'new industrial relations model' centered on *cooperative* instead of adversarial relations between unions and employers (Sacconi 2004: 780). In the words of the then under-secretary of the Labor Ministry, Sacconi, the model embodied by BF was conceived of as

functional to developing trade unions in relationship with the knowledge economy, in which the interests of capital and labor tend to converge on the valorization of human resources as a factor of competitiveness, inclusion and social justice (ibidem).

Unloading the traditionally adversarial component of industrial relations acquired a precise

²¹³ Maroni had in fact presented the 2001 White Book as inspired by three main principles, that is 'Europe, modernization, and federalism'. With respect to the latter, he explained, the government's objective was to strengthen 'vertical subsidiarity' in favor of Regions' competences on labor market issues. Audition of Labor Minister Roberto Maroni to the Senate on the contents of the White Book on the Italian labor market, November 14th, 2001, p. 5.

political significance for the government in the face of the forceful conflict awoken by CGIL on the envisaged reform of art. 18 (see section 5.1). Besides, it paved the way to challenging the predominance of centralized collective bargaining via its progressive decentralization towards the firm and individual levels (Sacconi 2004: 781).²¹⁴

This strategic posture was evidently in line with small-firm employers preferences. The craft association Confartigianato emphasized the virtues of BF in their sector which entailed 'the mutual recognition between social partners', 'participative' industrial relations, and the rooting of unions organization at territorial level (Giovani 2004: 889-90). By the same token, employers in commerce and touristic sectors regarded with favor the incentive to strengthen experimental arrangements for a 'responsible model' of industrial relations as opposed to conflictual relationships in the manufacturing sector (Confcommercio 2011). Hence, the development of a similar income protection system as crafts tailored on specific production characteristics represented an opportunity to this broader aim (Confcommercio, interview). However, they doubted on the substitutive capacities of BF to public schemes, due to scarce amount of resources available (ibidem).²¹⁵ As mentioned in section 7.1.3, Confindustria supported the potentiation of BF both with a view on favoring the reorganization of social shock absorbers in line with principles of self-financing and self-management of resources and to promote the decentralization of collective bargaining (Usai 2004: 873-4).

On the other hand, the development of BF determined a clearcut division among unions. The strongest resistances came from CGIL. In its view, the expansion of BF has mainly represented a policy drift towards a 'do-it-yourself' type of social shock absorbers (*ammortizzatori fai da te*, Liso 2009) crowding out the essential role of the state in welfare provision and accordingly generating regrettable territorial and inter-sectoral inequalities among workers (see CGIL 2008, quoted in Leonardi 2008: 286). By contrast, CISL and UIL regarded BF rather as an opportunity for organized labor to reinforce its legitimacy and social

²¹⁴ '[A cooperative model of industrial relations] implies a drastic revision of the centralized collective bargaining model which is evidently inconsistent with this design. [...] We need a model in which individual workers have better chances to participate to productivity increases, in line with a distributive mechanism that should coordinate the control of inflation and a more equal distribution of wealth' (ibidem).

²¹⁵ In fact, the national collective agreement for the touristic sector had already put in place a BF since 1999, which established an income protection scheme for open-ended workers during work suspensions and for temporary workers' support for the participation to training schemes. Despite the stated objective of concentrating 30% of the budget to this scheme, the agreement envisaged a modest contribution rate of 0.2% of the wage which allowed for the accumulation of scarce resources (Leonardi 2005: 36).

role in a post-industrial labor market through the provision of services (Lai 2006).²¹⁶ The development of BF entails an emphasis on subsidiarity and 'valorization of intermediate bodies in civil society'²¹⁷ which particularly matches the catholic cultural inspiration of CISL, which has tended to oppose a conflict-based view of industrial relations in favor of a participative approach.

Since 2003, the consolidation of BF has acquired the contours of a permanent feature of the Italian system of income protection for temporary work suspensions alternative to CIG. Not even the centre-left government put their role into question in the plan for a 'progressive extension and harmonization of CIGO and CIGS' it agreed with unions and employers in July 2007.²¹⁸ However, it smoothened its function from a substitutive to a 'possibly supplementary scheme on top of the public system' (law n. 247 of 2007). Such legislative output reflected both the general mistrust of centre-left parties for a policy solution which they considered as crowding out the role of the state from the provision of social protection; and the outspoken opposition by crafts and commercial employers to participate with compulsory contribution rates to the provision of a statutory minimum protection (CGIL 2, interview).

The return of a centre-right coalition to government in 2008 and, most decisively, the breakout of the 2009 financial crisis further corroborated the role of BF in sectors excluded from CIG. Law decree n. 185 of 2008 extended the possibility for workers in all sectors excluded by CIGO to draw OUB for a maximum duration of 90 days, upon the condition that BF finance an additional 20% of wage replacement benefits. Beside relieving the state from a share of social expenditure in moment of extraordinary problem pressure, the provision pursued the objective of supporting the development of BF in those small-firm sectors in which voluntaristic arrangements lag behind the crafts forerunner.²¹⁹

To conclude, the consolidation of BF for the provision of income support to workers in sectors excluded by CIG undoubtedly represented a creative solution to fill a remarkable gap

²¹⁶ 'These institutions can represent a response to the needs of reducing the polarization between insiders and outsiders, and a positive management of labor market flexibility, firms' development, and valorization of human capital' (Paparella 2002: 22).

²¹⁷ Final document of the CISL XVI Congress, 2009, quoted in Bellardi and De Santis (2011:360).

²¹⁸ 'Protocollo su Previdenza, Lavoro e Competitività. Per l'Equità e la Crescita Sostenibili', p. 17.

²¹⁹ In this respect, the craft sector has gone beyond voluntaristic arrangements with the 2009 collective agreement, which established a *de facto* compulsory participation of all firms to BF, regardless of their membership to employers associations. Employers who do not finance BF are compelled to correspond workers no less than €25 directly on their payroll (Leonardi 2011: 10). This provision sets the basis for a social right of workers to the benefits of BF, which has been lately extended to the touristic and tertiary sectors (ibidem)

in the Italian income protection system vis-à-vis manufacturing. Small-firm employers' support to private-like, voluntaristic schemes was motivated by neat advantages in terms of labor cost differential vis-à-vis public CIG schemes, of tailoring of benefits to the specific production dynamics in crafts and service sectors, of incentives to cooperative industrial relations as well as of reinforcement of employers associations. By the same token, unions arguably benefited from extending social protection in previously uncovered sectors, thus also prospectively favoring workers' adhesion to labor organization, and from renewed legitimation of their position in collective bargaining and the political arena. However, the main source of criticism concerns the retreat of the state from the provision of welfare benefits and the consequent inequalities originated by differentiated levels of generosity and duration of sectoral schemes as well as employers discretion in adhering or not to BF. In the view of a comprehensive reform of the Italian unemployment insurance system, the consolidation of BF has reinforced the Italian model of segmented corporatism whose fixer or hindrance effect is yet to be assessed with certainty.

7.4. CONCLUSIONS

At the moment of writing (April 2012), a comprehensive reform of social shock absorbers is under discussion in the Parliament. The stated objectives are to reduce the fragmentation of protection standards between different categories of workers and to counteract the 'numerous distortions' in the use of existing instruments.²²⁰ The most important measure envisaged concerns the unification of mobility allowance, OUB and RUB into a unique program named 'Jobseekers' Social Insurance' (*Assicurazione Sociale per l'Impiego*, Aspi). Notwithstanding existing eligibility requirements for OUB, the new scheme would provide workers with a higher wage replacement ratio (75% of the previous wage up to the maximum ceiling of € 1,119) and longer benefit duration (12 months for workers aged until 55, 18 months for older workers). Equally important is the institution of a specific insurance-based scheme for discontinuous workers (so called *mini-Aspi*) that can be accessed with the payment of 13 weeks of contributions within the last 12 months and entitles workers to equal wage replacement ratios as Aspi for a duration of half of the total weeks of contributions gained within one year. Entitlement is extended to apprentices and artists, but still excluded workers employed on

²²⁰ Ministero del Lavoro e delle Politiche Sociali, 'La Riforma del Mercato del Lavoro in una Prospettiva di Crescita', draft approved by the Council of Ministers on March 23rd, 2012, p. 13.

project work contracts, for which a special allowance is created (so called, *una tantum allowance*). In turn, CIGS is extended to commercial firms and touristic agencies with more than 50 employees, and to surveillance firms with more than 15 employees. For smaller firms and in the sectors that remain excluded from CIGS, the draft legislation renders compulsory the institution of 'solidarity' funds (*fondi di solidarietà*) in sectors that have not instituted BF in order to provide workers with income protection benefits during temporary suspensions of production activities. The amount and duration of benefits will be conditioned to the primary requirement of the budgetary balance of sectoral funds.

During the prior negotiating process between the government and the social partners, actors took positions largely in line with those illustrated above. Similarly as in chapter 5, therefore, the analysis of employers' positions in the most recent reform event allows us to draw more general conclusions with respect to their preferences towards unemployment insurance in Italy.

First, Confindustria struggled to defending existing arrangements for CIGS and the mobility allowance from the original plan of the labor minister to eliminate both of them (*Sole 24 Ore* 23.1.2012).²²¹ Manufacturing employers and unions coalesced to ensure the stability of CIGS mechanisms which they jointly deemed essential in order to cushion firms' restructuring processes in the aftermath of the Great Recession (*La Repubblica* 20.2.2012). This chapter emphasized three main factors to explain outspokenly supportive preferences of large producers in manufacturing and service sectors for the *Cassa Integrazione Guadagni* in Italy. First, these employers benefit from sharing market risks associated with their core workforce. Even though employers pay high contribution rates in normal times, they gain relatively generous conditions of labor costs subsidization during conjunctural and structural crises. Second, CIG provides large-firm employers with a 'flexibility valve' during downturns which allows them to avoid incurring the financial and social costs associated with layoffs in a highly-regulated regime especially for collective dismissals. This beneficial return is finally magnified by the availability of an instrument to avoid the sharpening of tensions with well-organized firm-level unions in manufacturing and large service branches. Upon the insistence of trade unions

²²¹ 'We support a new architecture aimed at protecting workers' income rather than jobs. However, given the magnitude of the crisis, [...] for the time being we expect many cases of firms restructuring with which only CIGS would allow to cope best. [...] We might figure out other modifications immediately applicable. CIGS or mobility benefits recipients might not be able to turn down alternative jobs offers. Or they could renounce to a share of benefits in exchange for an incentive or premium to re-employment' (interview to Confindustria's president Emma Marcegaglia, *Sole 24 Ore*, 3.2.2012).

on the preservation of a job protection regime in all analyzed reform events, these employers thoroughly defended the stability of CIG schemes more out of a political logic of exchange than a genuine interest in skill protection.

Second, small-size high-productivity artisanal and low-productivity service employers fiercely opposed their inclusion in the CIG system but also advocated for increases in the generosity of unemployment benefits. The main driver to their preferences can be identified in the reluctance to incur the high non-wage labor costs and bargaining procedures associated with CIG. In the recent negotiating process, artisanal and commercial associations repeatedly stressed that 'income support measures shall be differentiated across economic sectors and firm types [...] without shedding improper burdens on firms'.²²² Given low contribution rates, these employer figured at the forefront of demands for the potentiation of income support to their workers, not least during the current negotiating process (*ibidem*). The case of the institution of sectoral private-like BF for the income support of workers during temporary suspensions starting from the artisanal sector indicates a seemingly genuine interest of these employer group in the protection of their core workers' skills from market downturns. Clearly, the spread of BF also witnesses equal interests by small-firm employers association in strengthening organizational resources and avoiding legislative interventions aimed to including them in public CIG schemes. It is nevertheless a fact that Italian small-firm business proved more than a reluctant consentor to expansive reforms in unemployment insurance upon the condition of a differentiated treatment in contribution rates for short-time work schemes and of a stronger role of tax-based resources in financing unemployment benefits.

In a broader perspective, this chapter shows that the reform of the unemployment insurance system in Italy was underpinned by remarkable intra-business redistributive conflicts that ultimately resulted determinant to the resilience of segmentation in the institutional structure over time. Neither were large manufacturing employers willing to open the risk pool of the Cassa Integrazione Guadagni to small firms in the services out of fear of undermining the financial stability of the fund; nor did small-firm employers exhibit enthusiastic preferences for being included. On the whole, representational fragmentation in the system of peak employers associations favored the predominance of a 'logic of membership' within

²²² Rete Imprese Italia, '*La delegazione di Rete Imprese Italia incontra il Ministro Fornero. Costo del lavoro eccessivo, va ridotto. Ammortizzatori sociali e sostegno al reddito: troppe incertezze. No a compiti impropri*', Press communication, 13 January 2012, accessible at: <http://www.reteimpreseitalia.it/Notizie-dalla-Rete/Incontro-Ministro-Fornero>.

single associations. By pursuing particularistic policy arrangements, different employers groups only occasionally cooperated in order to agree on mutually beneficial solutions. The perduring segmentation of unemployment protection in Italy is therefore partly to be accounted on the externalities of competing positions within Italian business.

CHAPTER 8

SMALLER FIRM, CHANGING INSTITUTIONS? CONCLUSIONS

All employers hold an interest in low levels of employment regulation and non-wage labor costs, but some groups are more interested in labor market liberalization and welfare retrenchment than others. Echoing the well-known Orwellian quote, this work built on the core hypothesis that salient intra-business divides within peak associations underpinned the formation of employers' collective positions on postindustrial reforms of employment protection legislation (EPL) and unemployment insurance (UI) in Germany and Italy. Consistently with a cross-sectoral approach to the study of employers preferences towards social policy, we conceived such divides as of based on the structural characteristics of different types of firms.

Small-firm employers have stronger preferences than large-firm entrepreneurs for restrictive interventions aimed to minimizing labor costs, given their higher labor-intensiveness and market risk exposure, and lower unionization of their workforce. Under postindustrialism, it is especially employers in growing *low-productivity services* – mostly characterized by small firm size – that are expected to contest 'industrial' institutional arrangements originally designed in order to respond to the production needs and industrial relations in manufacturing. Domestic economic-structural change towards service economies can therefore be understood, so the tenet of this work, as a remote structural cause to dualization processes in highly-industrialized countries, such as Germany and Italy. To the extent by which deindustrialization progressively diminished the relevance of manufacturing employment and increased that of services, the inherited policy structures in EPL and UI not only failed to serve the interests of a growing share of the workforce but also underwent contestation by small-firm and service employers. A more proximate cause of postindustrial reform can be therefore identified in the incremental empowerment of the latter business groups vis-à-vis manufacturing producers within peak employers associations. Core manufacturing employers were compelled to take the demands of

small-firm entrepreneurs seriously in order to organize effective collective action in the political arena and therefore progressively radicalized their common positions. In comparative perspective, the organizational structure of peak associations in Germany and Italy explain different capacities of domestic business to compose intra-business divides and advanced coordinated or competing reform demands on either labor market institutions in the political arena.

This concluding section takes stock of the empirical evidence presented in the above chapters. The main findings can be so summarized. Labor market reform processes since the early 1990s in Germany and Italy were underpinned by significant intra-business divergencies not so much about *whether* to change existing institutions but rather about *how* to change them. In line with theoretical expectations, small-firm employers in artisanal and commercial sectors were at the forefront of demands for labor market liberalization and for UI arrangements that would minimize contributory costs mainly by shifting expenditures on general taxation. On their part, large manufacturing employers did not fundamentally disagree with small-size and service entrepreneurs on the instance for 'more market and less state'. They proved more cautious about espousing radical reform demands, though. High-productivity manufacturing producers tended to at least partially acknowledge the beneficial returns of existing institutions in providing them with instruments to cope with manpower management during market downturns and dampen social conflict with unions. During policy-making processes they were moreover concerned with the political feasibility of reform instances with a particular view to avoiding disruptive tensions with their unions and to playing on the political interest of parties in government in order to push through given policy changes.

In this light, different systems of employers organization comparatively affected different business capacities in Germany and Italy to coordinate heterogenous preferences and achieve policy arrangements from which all employers groups could benefit. In Germany, encompassing peak associations proved better able to compose relevant divides between *Mittelstand* and large manufacturing producers. By privileging a 'logic of influence' in the organization of collective action, German employers' intra-business coordination was successful in achieving far-reaching institutional changes in both EPL and UI. This was not the case in Italy, instead, as fragmented employers associations – organized across dimensional and sectoral lines – favored the predominance of a 'logic of membership' in business collective

action. Different employer groups tended to pursue particularistic objectives during decision-making processes and not to back each other upon the emergence of political conflicts with trade unions. Therefore, intra-business competition reinforced the protraction of segmented arrangements for EPL and UI in Italy.

In the remainder of this chapter, the main empirical findings on employment protection legislation (section 8.1) and unemployment insurance (section 8.2) in Germany and Italy will be reviewed. Section 8.3 will discuss how the insights of this work contribute to integrating the existing literature with respect to theoretical approaches to the study of employers' preferences towards social policy, business role in dualization processes, and specific features of Southern European mixed-market economies vis-à-vis Continental European coordinated market economies. Finally, section 8.4 hints at possible avenues for future research.

8.1. COMPARATIVE FINDINGS ON EMPLOYMENT PROTECTION LEGISLATION

Employment protection legislation comprises regulatory restrictions to both firing (dismissal protection) and hiring (non-standard work). This work built on the hypothesis that mainly a dimensional divide distinguishes large- and small-firm employers' preferences towards DP, whereas a sectoral divide can be found between high- and low-productivity segments in favor of respectively 'negotiable' and 'cheap' forms of NSW. The empirical analysis of the German and Italian cases seems to confirm these insights.

Generally speaking, employers in both countries grew increasingly vocal in advocating for substantial reforms to similarly high regulatory levels of DP and NSW since the mid 1990s. As increased international competition and technological change spurred corporate restructuring processes and challenged firms to quickly adapt to changing market conditions, the diminution of work turnover costs came to represent an outstanding interest for all employers' groups. Also due to persistently high unemployment levels, business pressure exerted a great influence on the political agenda and informed governments' strive both to decrease DP and to liberalize the use of various forms of NSW. However, the empirical evidence presented above suggests to move beyond a stylized account of business behavior in policy making process.

To focus on DP, it was especially small-firm employers that put forward more intense demands of liberalization in both countries. This is particularly neat to see in Germany, where extensive application to firms with more than five employees generated widespread preferences

within the *Mittelstand* to raise the firm size threshold with the view to providing an overall exemption of small firms from firings procedures and their costs. Pressures proved successful inasmuch as the threshold was actually elevated to ten employees, although employers demanded even higher exemptions up to twenty employees. Small-firm employers figured as a key driver for reform also in Italy. However, since existing legislation set significantly lower costs and smoother sanctions for unlawful dismissals for the grand majority of firms with up to fifteen employees in this country, small-firm employers just above that threshold turned to contest the very bulk of the sanctioning mechanism. It was arguably also on these grounds that the policy demands of the main peak association *Confindustria* became more radical while its presidency was held by representatives of small firms between 1996 and 2004, and appeased as soon as a large-firm representative regained the office.

Large-size producers did not in fact exhibit more sympathetic preferences for job protection arrangements. Contra the prediction of VoC scholars, it was most notably German employers that formulated the strongest pressures for revising DP rules with particular concern with the procedure of 'social selection' of workers to be made redundant and severance pay levels in case of unlawful dismissals. In chapter 4, we accounted VoC erroneous prediction on a fundamental misunderstanding of the functioning of DP arrangements in this country. Instead of protecting skilled workers' jobs, as VoC posits, the German regime primarily granted shelter from dismissals to lower productive groups such as older workers, and thus forced employers to concentrate layoffs on workers with more apt skills to firms' restructuring strategies. Therefore, one of employers' main effort during the 2003 reform was to include a legislative provision that allowed them to balance social and economic considerations when selecting workers to be made redundant. In Italy, large-firm employers formulated similar preferences for changing the sanctioning apparatus of DP rules. In the face of unions' strong opposition to any modification of existing legislation, the avoidance of social conflict however turned out to be the predominant concern of large Italian producers. The preservation of social rest thus informed these employers' restraint from radical liberalization demands and their defection from cooperation with medium-sized employers as the Berlusconi government sought to introduce a business-friendly reform of DP between 2002 and 2005.

As political conditions significantly constrained or wholly impeded adjustments to DP, employers in both Germany and Italy turned to NSW as an institutional bypass in order to

achieve a higher degree of external flexibility. In both countries, temp agency work (TAW) represented the best-favored contractual form to be liberalized for manufacturing producers, whereas service employers tended to safeguard provisions regarding 'very atypical' forms of employment (Eurofound 2010) such as minor employment contracts (*mini jobs*) in Germany and project work contracts (*contratto a progetto*) in Italy. Not only did these contractual forms better respond to the organization of production in respectively manufacturing and service sectors. They also underpinned significant regulatory provisions that served the industrial relations interests of either employers' groups. TAW entails a relevant degree of *contractualization* both in the formation of collective bargaining relationships within the temp agency work branch and in the use of TAW among user firms. The 'negotiable' character of TAW is however reflected in higher labor costs that may result less significant to manufacturing producers, yet renders this contractual form less appealing to small-firm and service employers. Indeed, the latter showed more evident preferences for 'cheap' forms of NSW that fall out of the scope of collective bargaining and allow significant reductions in labor costs both in terms of wages and social insurance contributions.

On the whole, the analysis of Germany and Italy allows us to draw significant comparative conclusions about how intra-business divides impacted on the reform processes of DP and NSW. The strong conflictual load associated with the former required a higher degree of intra-business solidarity in order for different employers' groups to stand trade unions' mobilization and influence political bargaining so as to achieve tangible policy changes for each group. In the German case, encompassing organization within the BDA facilitated employers' coordination and their influence on policy outputs, albeit in the opposite sense vis-à-vis 'higher redistribution and equality' predicted by VoC scholars (cf. Martin and Swank 2012). In Italy, by contrast, fragmented employers' organization was conducive to remarkable divisions between large- and small-firm employers during the policy making process, which proved ultimately crucial to the failure of reform attempts. On the other hand, different business groups exhibited higher levels of coordination with respect to NSW in both countries. Manufacturing and service employers mutually supported each others' demands for the liberalization of different forms of NSW, this translating into stronger influence on policy outputs. From this angle, dualization outcomes in Germany and Italy seem to primarily depend on the capacity of organized labor to increase the political stake for parties in

government to modify institutional arrangements for DP while not managing to resist the liberalization of NSW in the same way. The theoretical implications of findings about unions and political parties will be discussed in a separate section below.

8.2. COMPARATIVE FINDINGS ON UNEMPLOYMENT INSURANCE

The theoretical framework of this work postulates that small firm size is a predictor of employers' preferences for low levels of social insurance contributions vis-à-vis large-firm producers' relative indifference to high non-wage labor costs; and that sectoral productivity (high or low) is conducive to preferences for higher or lower levels of generosity of unemployment benefits. The hypothesis follows that small-firm and low-productivity employers will constitute the main proponents of retrenchment of Bismarckian income maintenance systems, whereas other employers groups will advocate for selective recalibration adjustments. Empirical evidence from the German and Italian cases seems to broadly confirm these propositions, even though different institutional legacies in the two countries require closer analytical distinctions.

At the beginning of the observation period, Germany exhibited an extensive UI system that provided generous unemployment benefits especially in terms of duration by distributing contributory costs across all type of firms in an equal manner. By contrast, in Italy the main income protection scheme was constituted by short time work - the *Cassa Integrazione Guadagni*, CIG – which provided considerably more generous benefits than ordinary unemployment benefits while allowing workers to maintain their jobs. However, the costs and benefits of CIG were concentrated within a redistribution pool exclusively limited to the manufacturing sector. Given these institutional legacies, chapters 6 and 7 showed the emergence of noticeable intra-business redistributive conflicts underpinning reforms to UI in both countries.

During the early 1990s both German and Italian manufacturing producers instead supported extensive UI systems in order to alleviate the social consequences of labor shedding processes associated with a phase of profound restructuring. Contra VoC explanations, there is however little documentary evidence in both countries that these employers groups identified generous insurance-based income protection as a skill protection device. This is because these schemes mainly protected the income of workers who were being made redundant because of skill surpluses in shrinking manufacturing branches, e.g. in Western Germany and Italy, or of

core workers' skill inadequateness for the production requirements of a market economy, as in the case of Eastern German industrial workers. At any rate, since asset-specific skills could hardly be re-employed in the same industry, manufacturing employers had little motives to support existing UI institutions other than in order to avoid social conflict with unions by socializing the costs of compensations to redundant workers. The peculiar configuration of CIG in Italy also provided manufacturing employers both with a means to avoid lengthy and conflictual collective dismissals procedures and with a state aid in disguise to lower labor costs especially for firms undergoing structural crises.

In turn, small-firm and service employers, e.g. in the artisanal and commercial branches, opposed generous unemployment protection, even though the specificity of financing arrangements in Germany and Italy informed their policy preferences in different ways. In the former country, craft and commercial employers were subject to paying higher social insurance contributions stemming from increasing numbers of benefit recipients, in turn due to massive labor shedding in the manufacturing sector. It is therefore on the grounds of a redistributive conflict with these producers that small-firm employers came to the forefront of demands for radical retrenchment measures in Germany in the early 1990s with the view to achieving diminutions in non-wage labor costs and lower jobless persons' reservation wage. Not surprisingly in the light of the above, these instances however collided with manufacturing employers' preferences for more limited adjustments aimed to containing costs by eliminating generosity peaks and introducing activation measures for long-term unemployed. In Italy, the exclusion of small firms from CIG and exiguous replacement rates of unemployment benefits determined ambiguous challenges on these employers segments. On one side, they benefited from the exemption from CIG contributory costs. As the centre-left government took up trade unions' demands for the extension of CIG also to workers in excluded sectors, these employers fiercely opposed to incur in the higher non-wage costs deriving from sharing economic risk with manufacturing producers. At the same time, they nevertheless did show a genuine interest in the benefits of risk sharing. Especially skill-intensive crafts employers took the initiative of setting up voluntaristic, occupational income support schemes for temporary work suspensions through the bilateral funds, with costs and benefits tailored to the specific needs of employment and industrial relations in the sector.

Against this background, intra-business divides developed differently in the two countries

across the reform events during the 2000s with a noticeable consequences on final policy outcomes.

In Germany, the peak association BDA remarkably shifted its policy positions and advocated for far-reaching reforms of the UI system with special regard to cuts in unemployment benefit duration and the elimination of earnings-related unemployment assistance. Manufacturing producers acknowledged that long-lasting income support inhibited employment creation in growing small firms and lower-productivity service sectors by upholding low-skilled unemployed persons' reservation wage. Yet, employers also shared the idea that generous unemployment benefits ultimately impeded the diminishment of overall welfare expenditure and, accordingly, of fiscal pressure. It is however remarkable that German employers never pushed for an Anglo-Saxon type of flat-rate UI benefits for the core workforce. Evidence suggests that predominant high-productivity employers' segments imposed their preference for keeping reasonably high protection standards for the core workforce while concentrating cuts on former generosity peaks in favor of the lower ends of recipients' groups, most notably atypical workers and long-term unemployed.

On the other hand, Italian employers explicitly supported increases in the generosity of ordinary unemployment benefits, yet mainly with the view to legitimating the contentious liberalization of non-standard work and prospective reforms in dismissal protection. However, they consented to higher unemployment benefits upon two crucial conditions. First, reforms should not affect the stability of CIG, whose benefits were deemed by manufacturing employers as an irreplaceable source of state-assisted internal flexibility and social conflict management. Second, expansive reforms should not entail increases in contributory costs especially for small firms. Increased spending levels would thus entirely fall back on the state budget. Therefore, Italian employers' favor to expansive reforms of the UI system may thus seem peculiar in comparative perspective with Germany. Yet, at a closer look, their preferences were informed by similar intents to avoid skill dispersion through insurance-based unemployment benefits of traditionally atrophic entity in this country; to avoid paying higher non-wage costs for increased risks faced by the workforce; and to preserve institutions that primarily helped them cope with an adversarial system of industrial relations.

The degree of employers' organization ultimately explains comparative differences in the solution of intra-business redistributive conflicts in the two countries through the formation of

common positions during reform processes. In Germany, an encompassing system of peak employers association facilitated business coordination and effective collective action. Throughout the 1990s, small-firm and services entrepreneurs managed to increasingly influence collective employers' policy choices by bringing the BDA to formulate policy stances more closely in line with their demands. In Italy, a fragmented system of employers associations instead incentivized continuously competitive positions between different employers segments with special regard to the most prominent CIG scheme. Manufacturing producers' unwillingness to include the grand majority of small and service sector firms within the same redistribution pool, and the latter's unavailability to pay the related costs led to the further protraction of segmented risk pools with considerable effects on the reproduction of differentiated protection levels between workers' groups.

8.3. INTRA-BUSINESS DIVIDES AND THE POSTINDUSTRIAL POLITICS OF DUALIZATION

During the last decade or so, employers have passed from being a 'neglected' to becoming a 'contested' variable in the political economic literature. Whereas conventional scholarly wisdom has traditionally conceived of them as class enemies of welfare state development, Varieties of Capitalism scholars put forward the rather provocative thesis that business proactively contributed to the formation of labor and social policy. This dichotomy by and large informs the existing body of research interested in understanding the political dynamics that have underpinned dualization processes in contemporary European labor markets. Prominent scholars recently concluded that 'employers are [...] pro-dualization', that is, they 'have been politically crucial for dualization processes as protagonists for cost containment, labor market flexibilization, and limiting social protection' (Emmenegger et al. 2012b: 306). On the contrary, Kathleen Thelen (2012: 213) maintained that 'in many cases, manufacturing employers – though most clearly impacted by globalization – are not always the ones most urgently calling for institutional reconfiguration'.

This work put forward theoretical issues and fresh empirical evidence that speak to this debate. This concluding part discusses the main contribution of our findings to complementing the existing literature under three main aspects, i.e. the interpretation of employers' preferences towards social policy; the role of intra-business divides in shaping

dualization trajectories; and the specific challenges associated to the study of Southern European countries both in the light of the politics of dualization and of Varieties of Capitalism theories.

8.3.1. AN 'AGNOSTIC' INTERPRETATION OF EMPLOYERS PREFERENCES

To exaggerate a bit, the debate between power resources (PR) and varieties of capitalism (VoC) theories on the micro-foundations of employers' preferences for social policy has tended to take the contours of a 'religious', irreducible conflict between two competing visions of employment and social relationships. Following a Marxian-inspired classist interpretation, the former depict employers as 'capitalists', that is, inherently hostile to institutions constraining and appreciating the free use of labor for production activities, and empowering workers' collective organization against the socio-economic structure and dynamics of capitalist economies. The latter's accounts inspired by economic theory instead tend to neglect the importance of political considerations and rather explain employers' preferences on the systemic incentives located within domestic economies to discount the costs and acknowledge the benefit which they derive from labor market institutions. This work advances a, so to say, 'agnostic' interpretation vis-à-vis the aforementioned approaches.

On one side, our theoretical framework acknowledges from PR that unions crucially affect employers' policy preferences for labor market institutions and their strategic behavior in policy-making processes. To be sure, the counterfactual reasoning seems valid that, in the absence of unions, employers in both Germany and Italy would have had little inhibition in advocating for and likely obtaining, for instance, the wholesale dismantling of dismissal protection rules. By the same token, Italian manufacturing producers would be unlikely to support the stability of the *Cassa Integrazione Guadagni* if this did not serve as a bypass to a strict job protection regime and as an instrument to dampen industrial conflict during downturns. In this framework unions' pull-back role is mainly conceptualized as acting *prior* to political action by informing the policy preferences of employers in highly-unionized sectors, such as in large manufacturing firms. These employers seem less prone to support radical instances that predictably awake labor mobilization during contentious reform process and would deprive them of instruments to manage social conflict in the workplaces. By contrast, small-firm employers in low-unionized service sectors do not often share this concern. They embrace

liberalization and retrenchment also because they lack the motivation to avoid social conflict both at firm- and at political level. In brief, employers regard social pacification as an intrinsic benefit of social policy, but they would not do so if unions were weak, as witnessed by the case of small firms.

On the other hand, a PR approach excessively discounts business heterogeneity. Their common profit-seeking nature does not necessarily imply that employers in all types of firms structure employment relationships in the same way. Accordingly, as shown in this research, the preferences of different segments for labor market institutions are driven by a multiplicity of factors that mainly pertain to their market power, the kind of production strategies they pursue and the type of workforce they employ. Seen through these lens, VoC scholars are right in pointing out that higher capital-intensiveness and higher productivity of firms exert a positive effect on these employers' evaluation of the returns of social policy to protect skills investments. Both German and Italian manufacturing producers did not question the social insurance structure of unemployment protection, acknowledged the legitimacy of dismissals protection, and strove to liberalize a 'negotiable', more controlled form of non-standard work, such as temporary agency work. Those who struggled more decisively against these institutions were small-firm and low-productivity service employers. For these firms the primary need to minimize labor costs far outweighs the (scarce) benefit of putting up a social protection system for a low-skill, easily substitutable workforce. Evidence provided in this work is sufficient at least to assess that intra-business preference divides are there for real and that they actually matter to policy making processes.

VoC nevertheless falls short of accounting for the negative feedbacks that *actual* institutional arrangements may generate on employers' cost-benefit evaluation under changing economic conditions, e.g. increased market volatility, new modes of production organization, or high levels of unemployment benefit claimants. As argued in chapter 6, German manufacturing employers attacked unemployment insurance because the length of benefit duration was deemed excessive and counterproductive. Employers viewed it as favoring older less productive workers, undermining the financial sustainability of the system, and retarding workers' cross-sectoral mobility towards services. Similarly, they contested dismissals protection rules because these had the effect of protecting workers' seniority instead of skills during a period of profound restructuring. In other words, VoC posits too strict assumptions on the virtues of

institutions and their linkages to business policy preferences to be able to account for why actual arrangements do not necessarily fit with employers' understanding of institutional 'virtuosity'.

The theoretical framework advanced here may prove more adaptable to analyzing employers' preferences in different types of firm, various domestic institutional contexts, and changing environmental conditions. A contextual understanding of employers' agency may also yield to overcoming existing theoretical polarization in the interpretation of the sources of business preferences towards social policy.

8.3.2. RECASTING EMPLOYERS IN THE POLITICS OF DUALIZATION

Scholarly attention has recently turned to emphasize the explanatory power of political cross-class coalitions between employers and unions in different sectors in order to account for dual developments in labor market institutions (Palier and Thelen 2010, Thelen 2012). Although this work does not aim to explaining dualization outputs, it nevertheless provides a theoretical understanding of intra-business cleavages in postindustrial economies. Our empirical evidence contributes to integrating the 'political coalition' thesis by emphasizing the strict correlation between *small firm size* and *employers' preferences for as low levels of job protection regulation and contribution rates to unemployment insurance as possible*. This finding provides us with an interpretation key to understand three important aspects related to the dual development of European labor markets.

First, and foremost, the existing literature has tended to regard small-firm and service business segments as residual actors in the shaping of dualization processes. To schematize, scholars have mainly accounted for the disaggregation of industrial institutions on the diminished coordination provided by manufacturing employers. This focus is partly justified from the perspective of peak employers associations, to which we return below. However, this work points to the fact that small-firm business groups figured as increasing protagonists of domestic reform processes, beside and frequently in open conflict with manufacturing producers. More important still small business frequently represented the main *winner* of labor market reform processes in the two countries analyzed here. Within the limits set by unions' vetoes domestic governments implemented policy measures that responded to the instances of small-firm employers for lower regulative burdens on employment relationships and lower

non-wage labor costs. The case of very atypical, 'cheap' contractual forms - mini-jobs in Germany and project work contracts in Italy – is enlightening in this sense. In spite of the relatively little interests showed by large-firm manufacturing employers, it was especially business, commercial and touristic service employers that struggled to defend arrangements, such as diminished contributory costs and exemption from collectively bargained wages. Likewise, artisanal and commercial employers demanded and (partially) obtained to be exempted from the application of dismissal protection in Germany and from being included in the *Cassa Integrazione Guadagni* in Italy. The key message to the existing literature is therefore that in postindustrial economy closer attention should be paid to the agency of non-core employers in order to understand processes of change in the main political economic institutions. This work provides a first attempt to designing a theoretical framework in order to interpret the policy preferences of small-firm and service sector employers.

This point hints at a second shortcoming of the existing literature. Prominent scholars have advanced the argument that labor market institutions change under postindustrialism because the socio-economic structure change and creates new or emphasize previously dormant conflict lines (cf. Häusermann 2010a: 56). Whereas many efforts were devoted to understanding the impact of transformations in class structures on the policy preferences of trade unions and political parties, scholars put less efforts to analyzing how material economic-structural changes affected the employers camp. This work suggests that domestic economic structures should be instead taken more seriously especially in comparative institutionalist analyses. The importance of structural factors to making sense of dualization processes appears more striking in the case of Germany, typically a template of a manufacturing-based economy centered on the predominance of large highly productive firms. Here the erosion of industrial institutions by and large coincided with the incremental rise of the employment and economic value of small-firm low-productivity services in the total economy during the 1990s. Political responses to the disgruntlement of artisanal and commercial employers provides a proxy indicator of how structural changes translate into policy demands, open previously unedited conflict lines, and finally mutate political equilibria within and between interest groups. The case of Italy in turn highlights the institutional consequences of the further consolidation of an already small-firm dominated economic structure. In this country profound institutional changes in dismissal protection and the income maintenance system did

not occur also as a reflection of the strong veto by small-firm employers to altering an advantageous policy configuration for their interests. The political relevance of artisanal and commercial employer associations ensued from their traditionally numerical weight that came to be further strengthened by the decline of large manufacturing corporations since the early 1990s.

Needless to say, there is no deterministic linkage between structural transformations and policy changes, for many actors concur to shaping the outputs of policy-making processes and governing elites may resort to inventive solutions in order to mediate between seemingly irreducible conflicts. The fact remains however that economic structural change actually occurs, alters the power resources of different political groups, and should be therefore treated as a causal factor in its own right.

This work conveys the attention, and here is its third contribution, on how structural change has directly affected the membership of peak employers associations and thereby employers collective positions. We know from the existing literature that increased international competition and the decline of Keynesian institutions during the last decades are among the factors that have accounted for increasing disarticulation and membership losses of collective interest groups, comprising both employers and labor organizations. This work offers a different perspective and seeks to understand to what extent and how peak associations have modified their policy stances in order to respond to the preferences of emerging groups beyond their traditional manufacturing constituency. Chapter 3 showed that both the German BDA and the Italian Confindustria have witnessed increases of tertiary sector associations within their rank-and-files. Although the peak associational leadership has been occupied by manufacturing producers in both cases, our suspicion is that small-firm service employers have been nevertheless able to steer collective action more closer to meeting their specific demands. To the extent by which different employers segments develop diverging preferences over the desired direction of labor market reforms, their capacities to coordinating collective action will be crucial to retaining influence over policy results.

Our empirical evidence points at one overall finding in comparative perspective: in Germany, an *encompassing* system of peak employer associations was associated with higher coordination of intra-business divides towards the formulation of common positions and with the predominance of a 'logic of influence' that won important policy results for all business

groups (e.g. the Hartz reforms); in Italy, a *fragmented* system of peak employer associations coincided with competing positions between different employer groups, with the predominance of a 'logic of membership' within each peak association, and with the achievement of particularistic benefits (e.g. the sectoral segmentation of the *Cassa Integrazione Guadagni*).

Two notations speaking to the literature on the politics of labor market reforms in the two countries emerge from this correlation. On one side, the German case witnesses that employers coordination is by no means an automatic mechanism proper of Coordinated Market Economies but rather a 'political problem' (Thelen and Kume 2006: 14) which employers organizations tackle in every policy-making event with more or less difficulty and success. Postindustrial changes have rendered coordination even more problematic not only with regards to different industries within the core manufacturing sector but also between manufacturing and the broad universe of services. Future analyses of dualization processes in this country and coordinated market economies in general will be hardly able to abstract from a closer understanding of business heterogeneity in this sense. On the other hand, political science explanations of labor market and welfare reforms in Italy have devoted scarce attention to the role of employers in shaping policy outputs while conveying most interpretative efforts to analyzing the influence of unions and political parties (see e.g. Picot 2012). The case studies presented in this work suggest that small-firm employer associations could be considered as relevant veto points to explain limited successes of institutional change, as in the case of repeated political failures to passing a comprehensive reform of the income maintenance system.

8.3.3. VARIETIES OF DUALIZATION? THE SOUTHERN EUROPEAN SPECIFICITY

Scholars of comparative political economy have frequently struggled to coming to grip with the institutional characteristics of Southern European countries vis-à-vis the Continental European model. Albeit with reserves, Gøsta Esping Andersen (1990: 180) had assimilated Italy to the continental-conservative family of welfare until Ferrera (1996) and Bonoli (1997) did not spell out the distinct features of a 'Southern model'. Likewise, Hall and Soskice (2001: 21) had hinted at the 'ambiguous' position of Greece, Italy, Spain and Portugal – together with France – within the cluster of coordinated market economy. It took further analytical efforts to

identify the core features of a specific model of mixed-market economies. The existing literature has so far developed a solid theoretical equipment to analyze and understand processes of dualization in Continental European labor markets (cf. Emmenegger et al. 2012). Again the challenge seems open to extend the analysis to Southern Europe.

Building on the comparative observation of the German and Italian cases, the present work highlighted three main distinctive features characterizing the dualization process of a Southern European country, such as Italy.

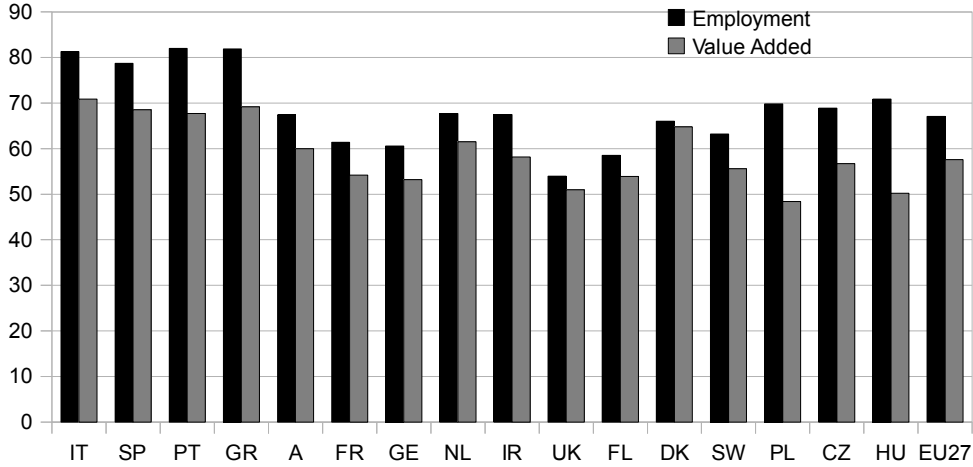
The first aspect concerns a *policy* dimension of analysis. With respect to Germany, Italy presents a remarkable segmentation in its income maintenance system. Differentials in social protection rights do not only cater to inequalities between standard (insiders) and non-standard workers (outsiders) as in Continental European countries but also between distinct categories *within* the standard workforce. The term 'mid-siders' was recently coined by Jessoula (et al. 2010) in order to connote the social protection position of Italian standard workers in small firms that are excluded from the benefits of the *Cassa Integrazione Guadagni* reserved to their colleagues in larger manufacturing firms. More in general, the high fragmentation of unemployment protection pointed out by Ferrera (1996) over one decade ago seems to be a persistent feature of other Southern European countries such as Greece and Portugal, in spite of recent policy developments (cd. Arcanjo 2012). Social protection inequalities are further sharpened in Italy and Greece by the lack of a citizenship-based minimum income scheme that target the working population not entitled to or not accessing insurance-based benefits. Spain finds itself admittedly better off from the viewpoint of income protection but nevertheless witnesses one of the highest shares of temporary employment in Europe (cf. Berton et al. 2012). Against the background of the current economic recession and of the sovereign debt crisis, there are little chances that policy improvements will be observed in the nearest future. Our suggestion is therefore that the dualization literature should devote more efforts to adapting its theoretical tools in order to capture the specific institutional and policy challenges of Southern European countries as opposed to Continental European ones.

To the purpose of understanding the roots of the Southern European specificity, this work hints at two among the many possible explanatory factors that differentiate these countries in comparative perspective.

On the one hand, this research pointed at the *economic-structural bases* of labor market

dualization and in particular at the implications of production systems characterized by an overwhelming layer of small- and low-productivity firms. Since labor costs savings are essential to the survival of labor-intensive firms, these employers are likely to make widespread use of temporary and very atypical forms of employment in order to diminish work turnover, wage and contributory costs. Moreover, trade unions tend to be less organized in small production units than in larger firms, this diminishing workers' power resources vis-à-vis employers to upholding their working standards. It follows that we may expect comparatively higher levels of labor market segmentation in countries with a predominant share of employment in small and medium-sized firms. This is precisely the outstanding feature common to all Southern European countries in comparative perspective. As shown in figure 1 below, averagely 80% of total employment was concentrated in small and medium firms in 2005, and this figure exceeded the EU average by +13%. In the same year, Greece, Italy and Portugal also witnessed the highest employment share in micro enterprises (Eurostat 2008: 5).

Figure 8.1. Small and medium firms, employment and value added % share on total economy, year 2005.



Source: Eurostat, Statistics in Focus, 31/2008, p. 3.

Accordingly, if a structural association can be detected between the relevance of small firms and dual labor market developments, Southern European countries exhibit a lethal combination of the two as opposed to Continental countries, such as Germany and France.

On the other hand, this work pointed at employers' positions and intra-business divides as

one of the political drivers to dualization. Small-firm employer groups have preferences for minimum levels of employment regulation and non-wage labor costs. To the extent by which small business gains political relevance within peak employer associations and in the political arena, it will exert a powerful push for the liberalization of employment protection legislation and the retrenchment of insurance-based welfare arrangements. The Italian case provided a noticeable example for the reflexive equilibrium between economic-structural fragmentation and associational fragmentation in the system of employers collective organization. To be sure, Italy also constitutes a rather unique example of employers' associational fragmentation even within the Southern European cluster (cf. Molina and Rhodes 2007, Traxler and Huemer 2007). The question however remains open about whether small-firm employers pushed forward similar liberalization demands in Spain, Portugal and Greece, whether similar intra-business divides as in the Italian case could be observable, and which political coalitions sustained the main labor market and welfare reforms in these countries.

At any rate, this work contributes to emphasizing the need for the existing political economic literature to broaden the focus of its analysis towards Southern Europe. Given acutely hard times for these countries in the shadow of the Euro crisis, a dedicated research agenda seems all the more important.

8.4. CONCLUDING REMARKS

Employers have constituted a quite disregarded and at any rate contested actor in the analysis of recent labor market policy and welfare reforms. The objective of enhancing our knowledge on employers and their internal complexity justified the exclusive attention which this work cast on this one actor. Quite obviously, employers do not however act in isolation from political parties and unions during reform processes. In order to *explain* policy outputs of dual labor market reforms, we need a broader investigation on the policy preferences and interaction between employers, unions, and parties in government. Beside the aspects mentioned in the sections above, this work paves the way to two further issues for future research.

First, the cross-sectoral approach adopted here in order to study employers' preferences applies to trade unions as well. How did labor organization cope with the protection of workers in small firms and low-productivity service branches under changing employment structure? Did unions really contributed to shaping labor market dualism by endorsing policies

in favor of insiders and by disregarding the interests of outsiders? These questions speak to the meanwhile important literature on union revitalization strategies (Frege and Kelly 2004), that is, unions attempts to relaunching their representational capacities and providing protection to new occupational segments with particular regards to non-standard workers (see e.g. Pernicka 2005, Binspick and Schulten 2011). Crossing the insights of the employer- and union-centered streams of scholarship would improve our understanding on the evolution of social partnership at both the sectoral and national level as well as on the formation of political coalitions during policy reforms.

A second relevant aspect to be further investigated concerns the relationships between different employers segments and parties in government. Do politicians invariably take policy decisions under the influence of large business? Which channels of political influence are in turn available for small-firm employers in order to steer the course of policies towards their specific interests? Which political parties (say, Social Democrats or conservative) are more sensible to the interests of small business and how do they mediate intra-business divides? This work hinted at the significant influence of small-firm employers on dual labor market reforms. It however remains unclear through which political mechanisms they managed to access policy-makers and why different political parties gave in to their demands in some occasions but not in others. At any rate, the investigation of the 'advocacy coalitions' (Jenkins-Smith and Sabatier 1994) underpinning reforms in the social sphere seems an intriguing perspective for future research.

The de-segmentation of European labor markets will most probably remain an outstanding issue in the political agendas of single countries and of the European Union. If anything, this work suggests that the successful implementation of 'virtuous' policy models aimed to counteracting existing inequalities, such as flexicurity, will strongly depend on the capacity of policy-makers to tailor institutional arrangements on the material structure of domestic economies. The bad news is that a now predominant share of small-firm and service business segments will be likely to oppose 'thick' solutions that simply seek to re-propose arrangements borrowed from the standards of the industrial period. The good news is that business is perhaps not necessarily hostile to reasonable protection standards for their workforce. It is therefore a challenge for politicians to advance viable proposals for future action and an essential task for academics to meaningfully advise them to do so.

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