



Relaunching Collective Bargaining Coverage in Outsourced Services

RECOVER POLICY PAPER

Outsourcing of Services and Collective Bargaining Coverage in ITALY

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POLICY PAPER: ITALY

INTRODUCTION

Collective bargaining coverage is a key aspect of industrial relations systems; it significantly affects the degree of workers' protection and earnings disparities (and more generally working conditions disparities); its developments influence tendencies of labour market dualisation and socio-economic inequality. This relevant institution of the industrial relations systems is increasingly under pressure. It is challenged by several phenomena, including restructurings of (global) value chains, outsourcing practices, workplaces fragmentation and diffusion of non-standard forms of employment.

RECOVER project aims to analyse collective bargaining coverage in outsourced services with a view to identify coverage problems, gaps, conflicts – across different groups of workers. With this regards, the project focuses on different realities/manifestations of outsourcing, including temporary agency workers, self-employed, bogus self-employed, facility management companies. Moreover, the project aims to analyse the capacity of existing institutions in dealing with collective bargaining coverage problems and the strategies deployed by social partners at national, sectoral and company level to address gaps, conflicts, etc.

In Italy we focused on two different outsourced activities, with high and low-qualified occupations, specifically: 1) *cleaning services* and 2) *ICT services*. In addition, a case study was conducted on a facility management company, operating in the national territory. Case studies followed a mixed-method approach, including a series of interviews with key trade unionists and representatives of employers' associations. With regards to facility management company, interviews involved HR manager, two workers' representatives (one member of the European Work Council of the – multinational – company) and a trade unionist.

INDUSTRIAL RELATIONS RECKONING WITH OUTSOURCING

1. COLLECTIVE BARGAINING COVERAGE

In Italy, collective bargaining (CB) is takes place at two-levels: national-sectoral level and company level. The former «is the core of the system». It establishes minimum rights and standards; for instance, it defines wage floors, together with their periodical increases. Social partners have then the possibility to integrate, adapt and improve employment terms and conditions at the second-level bargaining (usually at company level). Sectoral agreements determine modes and issues of decentralised bargaining. It is worth noting that, in Italy, there is not a formal administrative extension procedure to guarantee universal collective bargaining coverage.

In Italy, CB coverage is estimated to be around 80%. However, CB is increasingly under pressure and has undergone several changes, including a trend to de-centralisation. Moreover, it still features a high complexity and fragmentation, with (growing) diffusion of sectoral agreements signed by poorly representative employers and workers' organisations; these usually set bad/worse working conditions. Finally, it is worth noting that self-employed are largely uncovered by collective bargaining. Social partners have implemented some initiatives, but they have involved mainly the group of self-employed with contract for continuous and coordinated collaboration.

2. THE EXTENSION, REGULATION AND FORMS OF OUTSOURCING

As in most EU countries, outsourcing of services in Italy is now a quite common solution/ practice, both among large companies and small ones, and is being increasingly adopted by public administrations. The most diffused form of outsourcing is towards other companies. According to ISTAT data, about 60% of Italian companies (63% of manufacturing companies, 55% of service companies) outsource legal and financial services; over 40% (with small differences among macro-sectors) outsource ICT services; 54% of manufacturing companies and 30% of service companies outsource transport, distribution and storage services.

Along with the traditional form of outsourcing, there is an increase in the use of self-employed workers and temporary agency workers that can be considered other realities/ manifestations of outsourcing. Agency workers are still an «occupational niche», while self-employed have a high incidence, well above the European average; they represent 22% of the total workforce and their vast majority is composed of self-employed without employees. It is «a very heterogeneous universe» where status,

conditions, bargaining power of people are significantly disparate. In recent years, self-employment has become even more popular also due to the diffusion of digital platforms.

Cost saving is still the strongest argument for outsourcing. Nevertheless, among the frequently asserted reasons (which are sometimes intertwined with the former) there are solving capacity issues, better efficiency, access to specific knowledge/specialisations, enhanced quality. The expansion of information and communication technologies, as well as the progressive standardisation of production processes and tasks, are relevant driving forces for outsourcing. As far as public authorities are concerned, the «cutbacks» to public spending should be taken into consideration, especially after the economic downturn and the austerity policies approved by several governments.

Italian legislative framework on outsourcing to other companies is still characterised by relevant differences between regulation of public procurement and regulation of private contracting out. The former, developed under the pressure of EU directives, provides more protections for outsourced workers, for instance in terms of job stability in case of transfer of undertaking and application of a sectoral collective agreement. However, regulation of public procurement is not yet completely implemented. About the other forms of outsourcing, i.e. the recourse to self-employed, terms and conditions are mainly regulated by legislation. However, it does not address problems of economic treatment, possibilities of voice, etc.

Although outsourcing is a key concern for the Italian major trade unions, it is not a widespread issue in collective bargaining at the different levels. Several sector collective agreements introduce/strengthen information and consultation rights for workers representatives. Some (for example in tourism, multi-services, environmental hygiene sector), in addition, strengthen regulations concerning transfer of undertaking. Instead, as said, self-employed workers are largely uncovered by collective bargaining.

3. FACILITY MANAGEMENT COMPANIES

In the arena of outsourced services, facility management companies are increasingly gaining ground. They offer integrated management of non-core services and processes for organisations-clients. Many studies describe the Italian case as a «developed market» of facility management, where the provision of integrated services dates back to the 90s and has now achieved a wide portfolio of activities and services. Within the project, this phenomenon is relevant because of the non-specialisation (industry-wise) of facility management companies poses a major challenge for collective bargaining in Italy and many other European countries.

In the Italian context, there are national collective agreements covering multi-services,

global services, facility management companies. The most important (and widespread) one is *CCNL Servizi di pulizia e multiservizi*, signed by the most representative workers and employers' organisations in the sector. It is an evolution of that concerning (and covering) cleaning industry. Social partners decided to broad its scope, including a number of activities, far beyond cleaning: a relevant part of those usually comprised in the definition of global services, facility management. Nevertheless, now this agreement is still under pressure: a further broadening of its scope is once again on the table.

OUTSOURCED ACTIVITIES AND FACILITY MANAGEMENT COMPANY CASE

1. OUTSOURCED ACTIVITIES

Cleaning activities

Cleaning activities have been constantly and massively outsourced since the early 90s. Many organisations, both public and private, either large or small/medium from multiple sectors, have outsourced the cleaning of their plants, buildings, warehouses, machinery, and so on. Cleaning services make a typical example of *outsourced services to other companies*. As ISTAT data show, there are approximately 475,000 cleaning workers, over 90% of whom are hired by providers specialised in the industry or, in other words, work in companies competing for contracts for the provision of this service.

The outcomes of the study confirm that the reasons behind outsourcing this activity are varied, yet often related to each other, namely: focusing on core functions, reaching out to external specialists, removing the responsibility of organising that function. However, the key reason is cost saving. In this framework, an aspect worth mentioning is the rising importance of «(invisible) third parties», meaning the client, the organisations purchasing cleaning services. The strategies in place and the pressures they exert to lower the price of the service provided (as much as possible) have a significant impact on the work organisation and the working conditions of cleaning companies' employees. Working conditions in cleaning industry have progressively become poorer. This is mainly due to the changed behaviours of both public and private clients.

Within cleaning services, outsourcing (towards other companies) has a major influence on collective bargaining coverage, in terms of increasing gaps and conflicts, as well as on the quality of the protection provided to workers. Firstly, it should be considered

that the conditions of cleaning companies' employees (set forth in collective bargaining agreements signed by the most representative unions and employers' associations in the sector) are less favourable to those of cleaners employed in other types of organisations, especially public administrations, schools, banks, financial companies. And the list could go on. Not only is this true for the salary, but also for other conditions.

The downside for "outsourced" cleaning operators gets even bigger when the companies they work for apply one of the so-called «pirate agreements». These are signed by poorly representative unions and employers' associations and are sometimes tailored to a specific contract. These arrangements provide for worse conditions (sometimes much worse) than the most common agreements, both as salary and terms are concerned (holidays, leaves, etc.), thus actually promoting forms of economic/social dumping. The coverage of «pirate agreements» is still limited, but it is expanding mainly involving small enterprises, small cooperatives and craft enterprises.

In addition to the phenomena mentioned above, the number of cases where no collective agreements are applied at all is higher in cleaning companies, as opposed to what happens in the industries where clients operate (public administrations, banks, etc.). Furthermore, the lower distribution of second-level (in particular company-level) collective bargaining, which usually entails better salary and terms, widens gaps among workers performing the same activity.

Extending collective bargaining coverage, especially «good» collective agreements, is one of the paramount goals of the major unions in the cleaning industry and the most representative employers' associations, who are interested in eliminating unfair competition resulting from the breach of rules or dumping. To this end, social partners have taken an array of unilateral and cooperative actions. First, multiple campaigns were launched to report abuses, unfair treatment and so on. Also, attempts were made to reinforce cooperation with public institutions, especially those in charge of inspections at the workplace. However, the «tools» available to public institutions seem to be still inappropriate.

Looking at a national level, strong pressure was exerted to obtain clear procurement regulations aimed at higher worker protection. Additionally, more and more frequent were the actions taken towards «third parties », meaning clients. On one side, said initiatives demanded – and often obtained – the introduction of social clauses into tenders and, on the other, the removal of the lowest-bidding principle as the main criterion (even if concealed) for awarding contracts. Despite their increase, this type of initiatives is still scarcely spread with very uneven distribution. Finally, but not least importantly, are the efforts by trade unions aimed at reducing cleaners «invisibility» by enhancing their voice powers and their representation institutions.

ICT Services

The study focused on certain activities of the ICT service galaxy only: software development, programming, data processing, hosting and web portals. Two main forms of outsourcing were analysed in these fields: the outsourcing of some operations by an ICT company to another enterprise (usually smaller in size) in the same industry and, most importantly, the assignment of some operations to self-employed workers. The latter form of outsourcing is considerably on the rise, driven by the fact that software houses etc. are relying more and more on work contracted out through digital platforms: the so-called online outsourcing. According to ISTAT data, 37% of web technicians are self-employed, while for analysts and software designers the percentage is 22%.

However, self-employment is a «heterogeneous universe», which includes a variety of professional groups, statuses, economic conditions. It comprises «real» self-employed workers, many without employees, «false» self-employed workers, workers with contracts for continuative and coordinated services. These various professionals cover different positions and perform different tasks within complex and fragmented supply chains or «value chains». While some of them execute major operations – core we may say – which require high skills, other perform easy tasks, often standardized and repetitive. The reasons behind outsourcing (towards self-employed workers) vary also based on these aspects. Cost reduction is always a pivotal point, but even more so when the easier and standardised/standardisable operations are outsourced.

The higher use of outsourced self-employed workers has huge effects on collective bargaining coverage and, more broadly, on the protection of workers. Self-employed workers performing ICT services do not fall under collective bargaining schemes. And the study did not even show any significant cases of company-level bargaining cases that included this group. This is causing the proliferation – as in other industries/businesses – of situation of protection gaps, low quality jobs, with unfair wages inappropriate for tasks/responsibilities, poor career perspectives, voice and representation opportunities. The weaker segments of software production, web and so on are those most affected by these circumstances.

Over the last years, the protection of self-employed workers has become the paramount topic for social partners, especially trade unions. In addition to a proper definition of and a legislation on self-employment (which partly began with the Law 81/2017), the core matter of discussion is the possibility to include the several figures of self-employed workers into collective bargaining. Nonetheless, the positions about this latter issue are divergent, even within trade unions and among the workers, both as relates to opportunities and operating methods. In this respect, it should also be mentioned that a discussion is under way about a possible agreement specific to the ICT services.

Until now, the results of said initiatives have been poor. Other efforts exerted by trade unions add up to the actions above, as a sign of the abandonment of the old «exclusion» approach towards self-employed. The major trade unions have created structures specifically for that purpose. In addition to providing a range of services to self-employed, these structures try to promote the creation of spaces for discussion and experience-sharing using multiple instruments, but mainly online platforms, social media, new media. Further items worthy of mention are the campaigns, the initiatives to lobby/discuss with public institutions and the actions aimed at a deeper knowledge about the working conditions, the expectations, etc. of self-employed workers.

2. FACILITY MANAGEMENT COMPANY

We analysed the case of a multinational company entered Italian market and considered one of the most important organisations in the facility management operating throughout the national territory (nickname: FMX-Italy). Its trajectory as FM provider was driven by market changes: by the increasing demand of integrated services, above all by large enterprises and public administrations. Now services provided include cleaning, security, property (building maintenance, energy management, moving services), support services (reception, internal logistics, mail handling), catering. Cleaning activities are still the most relevant in terms of revenues.

FMX-Italy's employment structure is characterised by the presence of a variety of professional profiles; the large majority are cleaners (65%). The company adheres to the main employers' association in the sector, i.e. Anip-Confindustria. And it applies the sectoral collective agreement *CCNL Servizi di pulizia e multiservizi*. As said, this covers a variety of professional profiles. According with our findings, now such an agreement covers all the occupations in the FMX-Italy. However, also here, some problems could emerge because of the widening of the services provided by the multinational. This latter has also a company-level collective agreement, but it involves only a (minority) part of the employees, those of the legal and executive offices (administrative staff, technicians, coordinators of specific outsourced services, receptionists). The main reason appears avoiding costs increase.

POLICY RECOMMENDATIONS

Existing institutions for the labour protection are evolving, but their capacity to deal with collective bargaining coverage problems (and related negative consequences) appear still limited. In the case of cleaning activities, the regulations for public procurement have been improved, under the pressures of European directives, but also of social partners' initiatives. However, they are not yet completely implemented. Moreover, they overlook outsourcing by private organisations. In the case of self-employed (performing ICT services), a recent legislative initiative (law 81/2017, the so-called «Statute of self-employment») has introduced a number of provisions in favour of self-employed. However, it has not completely addressed the problems of economic treatment, possibilities of voice, etc. In addition to the limits mentioned, it is worth noting that these institutions are challenged by the most recent changes, from the diffusion of digital platforms to the diffusion of new forms of employment.

The analysis of social partners' strategies to address the problems of collective bargaining coverage and, more generally, of labour protection, shows some similarities, but above all many differences between the activities examined. Differences are closely related to the ways in which industrial and work organisation are shaped, main forms of outsourcing, features of the workforce, resources and traditions of action of the industrial relations actors, in particular of trade unions.

Generally, in both activities, social partners' initiatives play an important role, but are not sufficient to solve protection gaps. On the one side, the study suggests the necessity of more relevant investments and more innovations, in particular by unions, with regard to strategies, approaches and practices for labour representation and protection, beyond the traditional sector and/or company-based ones and considering workers' differences. To that end, unions' experiments of operating in the different «points» of the inter-organisational relations, such as the «triangular relation» client-employer-employees, appears quite important and successful. On the other side, findings support the idea of the relevance of supportive institutions at national and European level, able to promote, for instance, the distribution of responsibility along the value-chains, encompassing regulations on equal economic treatment, working time, social provisions, etc. and the enforcement of workers' (and/or their representatives) involvement in outsourcing decisions and implementation.