

Italian collective bargaining at a turning point*

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1. Introduction.	401
2. The structure of collective bargaining in Italy: actors, norms and processes.	402
3. What kind of decentralisation? Challenges and changes from 2009 to 2014.	406
3.1 Weakly organised: the Tripartite Agreement for the Reform of Collective Bargaining of 22 January 2009.	407
3.2 Totally disorganised: the 'corporatisation' of the FIAT/FCA model.	408
3.3 Decentralisation under 'New European Economic Governance': Article 8, Law No. 148/2011.	409
3.4 Coordinated decentralisation: the inter-confederal agreements on representativeness and bargaining 2011–2014.	410
4. Recent trends in collective bargaining.	411
4.1 Recent renewals of national industry-wide agreements.	412
4.2 Coverage and contents of secondary-level collective bargaining.	413
5. Survey of the metalworking and trade sectors.	416
5.1 The Italian metal industry in the aftermath of the crisis.	416
5.1.1. The metal industry in Italian industrial relations. Structure and actors.	417
5.1.2 The most recent national industry-wide agreement.	419
5.1.3 The trade union viewpoint.	421
5.1.4 Final comments.	422
5.2 The Italian trade sector after the economic crisis (2008–2014).	423
5.2.1 Collective bargaining in the trade and retail sector.	423
5.2.2 Main structural characteristics of the trade sector in Italy: workers and firms.	423
5.2.3 National collective bargaining in the trade sector: actors and processes.	424

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5.2.4 Decentralised collective bargaining in the trade sector.	426
5.2.5 What changes have there been with regard to wages, working conditions and welfare in the trade sector?	427
5.2.6 Critical issues and perspectives.	429
6. The strategies of the social partners.	430
7. The challenge of the 'Jobs Act' and fiscal incentives for firm-level bargaining.	431
8. Final remarks.	433
References.	436

1. Introduction.

In the past eight years the Italian system of industrial relations has been undergoing a prolonged transitional phase (Carrieri and Treu 2013; Barbera and Perulli 2014; Leonardi and Sanna 2015; Guarriello 2014; Gottardi 2016). The numerous events that have occurred have changed some of its traits within a relatively short period. The various causes are both exogenous and endogenous, economic as well as institutional. The main exogenous factors are globalisation, the financial crisis and the economic downturn, as well as interventions by international institutions in national policy-making. This scenario is to some extent shared with other countries and is currently exerting pressure on different models of industrial relations (Katz and Darbshire 2000) towards neoliberal convergence (Streeck 2009; Baccaro and Howell 2011). Under growing pressure from so-called 'New European Economic Governance' (NEEG), many national lawmakers – and especially in the Southern European countries (Rocha 2014; J. Cruces et al. 2015; Leonardi 2016) – have stepped up deep labour law reforms, with the purpose of reducing the traditional prioritisation of multi-employer bargaining and the favourability principle, allowing company-level agreements to derogate *in pejus* from higher bargaining levels or even labour legislation (Marginson 2014; Van Gyes and Schulten 2015; Bordogna and Pedersini 2015; Cella 2016).

The endogenous factors include the structural weakness of the Italian economy, with its macro-economic imbalances, territorial and social dualisms, stagnating productivity and competitiveness, inadequate development of human capital and very segmented labour market. However, problems in the field of industrial relations are also relevant. In the European Commission's 2016 country report on Italy, the national collective bargaining system is described as 'unclear and unspecified'. Based on collective agreements binding on only the signatory parties, its effects are uncertain and of limited impact. Extension *erga omnes* is not automatic, the assessment of trade union representativeness is not yet operational, and bargaining at the enterprise level and productivity rates remain underdeveloped (European Commission 2016).

Most of the Commission's remarks are on target. The Italian collective bargaining system is in fact a complex and precarious mishmash of obscurely stratified conventional and statutory interventions. The public sector, large-scale private industry, banks, craft industry and SMEs, as well as agriculture all have their own systems, with framework agreements that often remain in place even though they have expired, without being properly updated or replaced.

Meanwhile, the country has been suffering what the Governor of the Bank of Italy and other commentators have described as *the worst years in its peacetime history*. Between 2007 and 2013, in particular, GDP fell by 9 percentage points, industrial production by 25 per cent and investment by 30 per cent, while the unemployment rate has doubled and productivity has stagnated. Social distress persists, productivity remains low and workers are still not feeling any positive effects from a very timid economic recovery (+ 1.5 per cent is expected for the end of 2017). Between 2009 and 2016, real wage dynamics (adjusted for inflation, which is still low) remained lower than in the pre-crisis years. Wages decreased by 2.3 per cent in 2011–2012, when inflation was higher than expected, but increased by more than 2 per cent in 2013–2015, when the cost of living fell markedly (by 0.5 per cent per year, on average), below what had been laid down in the collective agreements (Banca d'Italia 2017). The unemployment level is still almost double that of the pre-crisis years, while precarious work continues to hinder progress with productivity and private consumption growth.

In this article, we describe how all these challenges are affecting and transforming some of the key features of collective bargaining in Italy. The recent state interventionism on the labour market and industrial relations has posed a serious challenge to the traditional primacy of multi-employer bargaining and has exacerbated an insidious process of segmentation with regard to labour standards and protections.

Currently, the debates between the social partners and policy-makers concern three co-related issues in particular:

- (i) the political role of the unions and social dialogue, in a period in which tripartite concertation – a pillar of the economic recovery in the 1990s – has repeatedly been given up for dead;
- (ii) the relations between law and collective autonomy in the process of laying down new rules on industrial relations as a whole;
- (iii) the new structure of collective bargaining in a time of epochal changes for labour and the economy.

Generally speaking, the core issues and achievements seem to be as follows:

- (a) how a new reformed collective bargaining system can enhance productivity and national economic performance, which have stagnated for too long; and
- (b) whether, in this context, Italian collective bargaining can still be described as organised – or rather, disorganised – decentralisation (Traxler 1995).

As we will try to demonstrate, the collective bargaining system has preserved a certain degree of organised coordination, despite some attempts to dismantle it, as has been the case in other EU member states during the same period. Social dialogue remains fairly lively and reactive, as clearly indicated by the inter-confederal agreements on representativeness and collective bargaining (2011–2014). The system's capacity and efforts to reform itself should also be appreciated, as should the willingness of the three main trade union confederations to overcome harsh divisions between 2009 and 2011. These developments deserve to be adequately supported by the state by means of auxiliary legislation that – transposing the best outcomes of social dialogue – restores to the system as a whole the certainty, transparency and enforceability that are currently missing.

The situation is very open and evolving and over the coming months we may well see more clearly whether the turmoil of these long, critical years is reaching an end.

2. The structure of collective bargaining in Italy: actors, norms and processes.

Similar to other Latin countries, the Italian system is based on the principle of trade union pluralism, rooted in the ideological conflicts emerging from the ruins of the Second World War. Since the late 1940s, there have been three central union confederations: the General Italian Confederation of Labour (CGIL), the Italian Confederation of Workers' Unions (CISL) and the Italian Union

of Labour (UIL).¹²³⁶

Italian trade unions can still draw on significant power resources (Leonardi 2017). Union density has declined in Italy, too, but the downward trend has been slower and much more contained than elsewhere. It was 41 per cent in 1980 and is now estimated at 38 per cent (Cazes et al., 2017).¹²³⁷ This is still one of the highest rates in the world (ICTWSS 2015), behind only Belgium and the Nordic countries. Italy still has the highest number of trade union members in absolute terms (over 11 million) because of the high number of pensioners who remain affiliated.

The employers' organisational density is estimated at around 50 per cent. Employers' associations are organised according to the size, sectoral type, legal status and political orientation of the affiliated companies, which intersect in various ways (Bellardi, 2016).¹²³⁸ Umbrella confederations are organised – on both the workers' and the employers' sides – in a number of sector/branch peak federations. There are roughly a dozen on the trade union side, but hundreds on the employers' side. This is one reason why there are so many national sectoral agreements, as we shall see. In a single manufacturing sector, there might be at least four national collective bargaining units, according to firm size and type: large, small or medium, craft industry and cooperatives.

The Italian industrial relations system has a high level of voluntarism, at least in the private sector, while in the public sector most aspects are governed by the law. The 1948 constitutional provisions concerning the registration of trade unions and the attribution of bargaining capacity at sectoral level in proportion to the number of members, legal regulation of the right to strike and workers' rights to participate in company decision-making have never been transposed into law. After the Fascist era, in the new democratic system trade unions remained reluctant to be subjected to state control over their internal organisation, while they opted for collective autonomy with regard to strikes and collective bargaining, rejecting state statutory interventionism. Nevertheless, as a result of the spectacular increase in union power after the 'hot Autumn' of 1969, legislation was enacted in the form of the Workers' Statute (Act No. 300 of 1970) to strengthen union rights in the workplace.

Apart from that one, and with regard to the public sector,¹²³⁹ there are no Italian laws regulating either floor wage setting or collective agreements effects. Italy is the only EU member state, be-

¹²³⁶ Unions of minor importance include UGL, originally close to the post-fascists, a plethora of professional 'autonomous' unions, which are particularly strong in the financial sector, public services, schools and transport, and also radical left-wing unions (USB), significant only in individual branches or plants.

¹²³⁷ There are 6 million active members in the three main confederations alone, out of a total of approximately 17 million dependent employees.

¹²³⁸ The Italian trade union landscape is much more fragmented than in the rest of Europe, where the historical and most influential umbrella confederations are Confindustria, which affiliates medium-large manufacturing enterprises, Confapi (SMEs), Confartigianato and CNA (craft sector), Confcooperative and Lagacoop (cooperatives), ABI (banks), ANIA (insurance), Confcommercio, Confesercenti (trade) and Confagricoltura (agriculture).

¹²³⁹ Since the late 1990s there has been a law concerning the selection of representative unions that are entitled to bargain (Legislative Decree No. 296/1997 and 165/2001, Art. 43). Unions need to pass a threshold of 5 per cent to take part in national collective bargaining, whereas a final agreement is binding if signed by unions representing at least 51 per cent of the relevant workforce. These thresholds are calculated as a weighted average between votes and members in the branch's companies.

sides Sweden and Denmark, that has neither a statutory minimum wage nor a formal administrative extension procedure to guarantee universal coverage of collective agreements (Leonardi 2017).

Collective bargaining depends on mutual recognition by the social partners; collective agreements are acts of private law, considered as expressions of the signatories' self-regulatory capacity and subject only to the general provisions of the Civil Code of 1942. Collective agreements are not legally binding, so their contents are formally enforceable only by the signatories' affiliates. The law has primacy over collective agreements, and collective agreements over individual agreements. Statutory rights and conventional minimum standards cannot be derogated *in pejus*, but only *in mejus*, by lower level collective or individual agreements.¹²⁴⁰ If more than one industry-wide agreement is signed in the same contractual unit – as is happening more and more often – the Courts tend to favour the one signed by 'comparatively the most representatives', applying a series of measuring criteria. But it is not always easy.

Since the signing of the tripartite agreement on 23 July 1993, the Italian collective bargaining system has been two-level and articulated hierarchically, with priority given to national industry-level collective labour agreements, followed by company-level agreements, or, alternatively, territorial agreements, where firms are too small and there are no workers' representatives, as in such sectors as crafts, agriculture, construction, retail and tourism.

National sectoral bargaining is the core of the system. It establishes a floor of rights and standards that secondary-level bargaining – which is facultative – must comply with, integrating, adapting and generally improving pay and working conditions, in accordance with the favourability principle. Among their main tasks, national agreements establish sectoral wage floors according to different job levels, protecting wage earners' purchasing power against inflation. As no formal extension mechanisms are provided to widen agreements' binding effect, a problem might arise in terms of equal treatment among workers employed in the same branch, territory or even company. Such problems could be particularly acute in the case of minimum wages. The problem has found an indirect solution – a sort of functional equivalent – based on judicial resort to Article 36 of the Italian Constitution. It states that employees' remuneration must be '*commensurate* with the quantity and quality of their work and in any case *sufficient* to ensure them and their families a free and dignified existence'. As interpreted by the labour courts, this concept of *commensurate and sufficient pay* corresponds to the wage floors, differentiated by job classification, set up by the national sectoral agreement to which the individual worker is subject. The collectively agreed base wage is inserted automatically into individual employment contracts and represents the minimum, not liable to eventual derogations. In this way, the system achieves the double objective of having a 'constitutional' minimum wage, laid down by law or administrative extension procedures, and preserves trade union sovereignty over wage bargaining.

Collectively agreed minimum wages are, on average, higher both in absolute terms and relative to the median wage (Kaitz index), estimated to be the highest in Europe, at 80 per cent (ratio

¹²⁴⁰ By virtue of Art. 2077 of the Civil Code, clauses and terms of individual contracts, pre-existing or subsequent to the collective agreement, are by law replaced by those of the collective agreement, except if it contains special terms that are more favourable to employees. However, waivers and transactions concerning employee rights covered under mandatory provisions of laws and contracts or collective agreements, are not valid (Art. 2113).

between the minimum and the median wage) (Kampelmann et al. 2014).

Table 1 Hourly sectoral minimum wages, Italy, 2008–2015 (euro/hour and Kaitz index)

Year	Hourly Minimum wages	Kaitz index (% of median)
2008	7.99	74.62
2009	8.22	74.88
2010	8.46	75.13
2011	8.91	78.35
2012	9.06	76.07
2013	9.22	76.20
2014	9.32	80.53
2015	9.41	79.95

Source: Garnero's calculation based on ISTAT negotiated wages database LFS, 2017.

Table 2 Hourly sectoral minimum wage by sector, Italy (euros/hour and Kaitz index, 2015)

	Hourly minimum wages	Kaitz index (% of national median)
Agriculture and mining	7.70	59.44
Manufacturing, electricity	9.47	73.11
Construction	8.55	66.03
Retail trade	8.43	66.11
Transport	8.95	69.08
Hotels and restaurants	8.41	64.92
ICT	9.19	70.94
Finance and insurance	12.95	99.97
Public administration	9.72	75.04

Source: Garnero's calculation based on ISTAT negotiated wages database LFS, 2017.

The lack of a legal extension mechanism has not impeded a very high collective bargaining coverage, never estimated to be below 80 per cent by international sources and an impressive 99.4 per cent by national sources (CNEL-ISTAT 2015). Employees in all branches and companies are – in theory at least – covered by a multi-employer agreement. At the moment, there are 809 signed and archived agreements (CNEL 2016). However, non-compliance rates are not negligible in a country in which levels of evasion – for example, via informal workers or bogus self-employment – are among the highest in a sample of EU countries. In particular, ‘wages at the bottom of the distribution appear to be largely unaffected by minimum wage increases’ (Garnero 2017). According to this source, 10 per cent of workers, on average, are paid one-fifth less than the reference minimum wage, with peaks of 30 per cent in agriculture and 20 per cent in hotels and restaurants, SMEs, in southern Italy, and among women and casual workers.

The proportion of national sectoral wages covered by collective bargaining stands at about 88 per cent in the private sector and over 90 per cent in the public sector. The remainder is variously composed of collectively or individually negotiated pay (*restricted wage gap*) and/or other elements, such as overtime pay (Fondazione Di Vittorio 2016).

The second level of collective bargaining can be company-based or, alternatively, territorial (common in sectors in which very small enterprises or casual work are prevalent). Its aim is to respond to and stimulate corporate flexibility and competitiveness. It is not compulsory but rather facultative and usually depends on the presence of unionised works councils. Since the national industry-wide agreement sets minimum pay levels, taking into account only purchasing power, at company level pay rises – in the form of variable remuneration – depend on performance-related indicators (productivity, profitability, quality, attendance). Productivity in particular, the Achilles heel of the whole economic system, is assumed to be the driver of any attempt to promote economic development. Since 2007, a number of laws and decrees have been promulgated in an effort to promote performance-related wage increases, with the introduction of some tax concessions to support company-level bargaining (see below, § 7)

With regard to the actors concerned, national negotiations are conducted by the sectoral social partner federations, while the firm level is the prerogative of the unitary union representative body (*Rappresentanze sindacali unitarie* or RSU). In the recent past, the RSU has been complemented by the territorial sectoral unions, signatories of the higher-level agreement in force in the company, to confer stronger vertical and infra-associational coherence on the two-tier system. The RSU, whose members are elected by members and non-members, is the single channel of workplace representation and may be elected in companies with over 15 workers.

3. What kind of decentralisation? Challenges and changes from 2009 to 2014.

Over the years, the Italian collective bargaining system, although theoretically well designed in the 1993 framework agreement, has encountered practical limits, as well as significant criticism. The growth of productivity and wages, which largely depend on company-level bargaining, have suffered from the failure of the latter to take off. The paucity of statutory norms with regard to social partner representativeness and collective bargaining effects has paved the way for uncertainty and bitter disputes, including before the courts. Union representativeness has become a thorny issue as relations between the major confederations have worsened over the years, following the enforcement of a number of key agreements despite the fact that a majority of would-

be signatories did not back them.¹²⁴¹ Another difficult issue has been collective bargaining decentralisation. Moving on from the archetypical 'organised decentralisation' designed in 1993, we have entered a phase of rapid changes, aimed – to various degrees and through different processes – at strengthening the decentralisation of collective bargaining. The major changes occurred from 2009, a year after the international financial crisis commenced. Schematically, the timeline of the major changes (presented below) has been non-linear (Leonardi and Sanna 2015):

1. Weakly organised: the Tripartite Agreement for the Reform of Collective Bargaining (2009);
2. Totally disorganised:
 - from the bottom, the *Fiat model* (2009–2010);
 - from the top, *Article 8 of Act. 148* (legal reform adopted just after the ECB request to the Italian government (2011));
3. Organised decentralisation: the three inter-confederal agreements on representativeness and bargaining (2011, 2013, 2014).

3.1 Weakly organised: the Tripartite Agreement for the Reform of Collective Bargaining of 22 January 2009.

On 22 January 2009, a *Tripartite Agreement for the Reform of Collective Bargaining* was signed by the government and the social partners. CGIL did not participate, however, due to its opposition to a number of clauses related to decentralisation and industrial unrest. This was followed by an inter-confederal agreement signed with only Confindustria, in April of the same year (and again without CGIL), which introduced a number of changes to the system in force since 1993 (Bellardi 2010). The new rules safeguarded the two-level structure of collective bargaining, with the provisions of sectoral collective agreements continuing to serve as a minimum nationwide threshold within the sector, but with the aim of empowering the second level of collective bargaining. The duration of sectoral agreements has been harmonised at three years for both normative and economic parts (previously, durations were four and two years, respectively). A new *Harmonised Indices of Consumer Prices* (HICP) replaces the old 'foreseen inflation rate', fixed through tripartite concertation, as was previously the case. Unlike in the past, the restoration of purchasing power will not be full, since the new indicator excludes imported energy costs. The gap between forecasted and real inflation will be taken into account only if it is deemed 'significant' at inter-confederate, not sectoral level. With a view to including workers not covered by company-level bargaining, the sectoral agreement will set a guaranteed minimum increase, just for them. Decentralised agreements are to last three years (previously four), covering topics defined by sectoral agreements or legislation and which did not concern those already regulated at other bargaining levels.

One achievement of the 2009 agreements was an incremental strengthening of second-level bargaining, at company level. The agreement adopted changes implying the unprecedented possi-

¹²⁴¹ This occurred with the tripartite agreements on the labour market (2001) and the collective bargaining system (2009); in some important industry-wide agreements, such as the tertiary and metalworking sectors (2008–2010); and at company level, in some big companies, such as FIAT (2010). In all these cases, CGIL and its federations were cut out of the deal.

bility to introduce opening clauses, allowing deviations from national agreements. This was probably the most controversial aspect of the new system and the reason why CGIL refused to sign. Until then, derogations *in pejus* were allowed only exceptionally in territorial pacts in order to cope with economic underdevelopment and/or a high level of undeclared work. In any case, they were hardly ever put into practice.

Although not signed by the largest trade union confederation, the 2009 agreement did not prevent unions from renewing all industry-wide agreements in a unitary way in the following years. The glaring exceptions were the national agreements in two very important sectors – trade and metalworking, accounting for five million workers – from which the CGIL federations were left out.

3.2 Totally disorganised: the 'corporatisation' of the FIAT/FCA model.

At company level, the most controversial instances, as they concerned the country's most important private employer, were some agreements signed at FIAT plants in 2009 and 2010. The company left the national employers' association and its stratified system of agreements to sign a new, unprecedented first-level agreement, de-linked from the metalworking industry-wide agreement. The agreements were signed by the CISL and UIL sectoral federations (FIM and UILM), and not by CGIL's (FIOM). This new system recognises union representation with regard to the signatory organisations only (no matter how many members they have or the number of votes they received). Unions that refuse to sign firm-level agreements – such as the historical FIOM-CGIL – are excluded from representation within the workplace. Through a sort of closed shop, it is not the unions' real representativeness (by votes and/or members) that enables them to sign collective agreements but, on the contrary, their willingness to sign agreements that cause signatory unions to be recognised by the company. In order to guarantee full enforceability and effectiveness of the agreements, and to prevent all possible forms of workers/unions dissent, a more binding limitation of the right to strike was introduced, with sanctions for unions and for individual workers (even dismissal) in case of violation of the peace clause. Last but not least, FIAT management convened a workers' referendum on the new system, which also included several changes to working time and shifts, holding over them the threat that they would close plants (Pomigliano and Mirafiori) if a 'no' vote prevailed, transferring production to Poland. Under such pressure, the workers voted in favour of the new system by a slight majority. The dispute paved the way for a harsh period of conflicts and reciprocal accusations within the national trade union movement. Since then, FIOM-CGIL has campaigned unceasingly against the new model, registering a number of successes at the case law level, leading up to a final ruling by the Constitutional Court (Sent. no. 231/2013), which denounced the FIAT/FCA system as unconstitutional. This implies that a comprehensive law, embodying democratic and transparent rules on representation and bargaining outcomes, is needed.

The FIAT/FCA case is still the only meaningful example of a company-level agreement was signed that fully substituted, rather than merely complementing the industry-wide agreement. For that reason, it is considered very controversial and potentially destabilising for the whole system by many Italian labour lawyers, who consider this case to be a risky template for the total 'corporatisation' and even 'Americanisation' of the system.¹²⁴²

¹²⁴² Among others, Bavaro (2012) and Romeo (2014).

3.3 Decentralisation under 'New European Economic Governance': Article 8, Law No. 148/2011.

In the summer of 2011, amidst the turmoil in the financial markets Italy's economic situation seemed to worsen. The Berlusconi government was weakened by internal cleavages and mistrusted by financial markets and European institutions alike. Private foreign capital withdrew and the country seemed to be in need of an IMF intervention. At that moment the country was perhaps the main concern of European policy-makers. Then, on 5 August 2011, a 'secret' ECB letter asked the Italian government to reform (i) the pension system, in particular the eligibility criteria for seniority pensions and the retirement age for women; (ii) the labour market, making it easier to dismiss individual employees; and (iii) collective bargaining, allowing firm-level agreements to tailor wages and working conditions to individual firms' specific needs. Clearly, despite the many and deep changes already introduced, the narrative from the EU institutions was that these changes had been insufficient. In their view, collectively agreed wages in Italy are over-centralised and insufficiently responsive to labour market conditions and firms' capacity to pay, with secondary-level bargaining insufficiently developed.

In a few months, the Parliament approved an austerity package, including all the measures that 'Europe' had requested. As a result the role of social dialogue was completely marginalised. The social partners were barely consulted and their opinions hardly considered. Surprisingly, social mobilisation and unrest remained far below what might have been expected; for instance, there was just a three-hour strike over the reform of the pension system that postponed the retirement age.

Article 8 of Law Decree No. 138 of 12 August 2011 (converted into Law No. 148/2011 by means of a vote of confidence), entitled '*Support for proximity collective bargaining*', was the Italian government's immediate answer of the ECB's letter (Garilli 2012; Chieco 2015). Indifferent to the willingness already expressed by the most representative social partners, the inter-confederal agreement having been signed just a few weeks previously (28 June), the government introduced the possibility for 'specific agreements' signed at company or territorial level to deviate from the law and national industry-wide collective agreements. Such derogating agreements must be formally justified in terms of the following: increasing employment; managing industrial and economic crisis; improving the quality of employment contracts; increasing productivity, competitiveness and pay; encouraging new investments and starting new activities; enhancing workers' participation; or putting a stop to illegal labour. The range of topics with regard to which opting out is now possible is very large and includes working time, the introduction of new technologies, changes in work organisation, job classification and tasks, fixed-term and part-time contracts, temporary agency work, transformation and conversion of employment contracts, hiring and firing procedures and the consequences of the termination of the employment relationship. Exceptions are related to 'fundamental rights', in conformity with the Italian Constitution and international norms and requirements (union rights, discriminatory dismissal, pensions).

For the first time in Italy a national law has established, for the private sector, that company or territorial collective agreements shall have a binding effect 'on all the workers concerned', if they are signed by the 'trade union organisations operating in the company following existing laws and inter-confederal agreements'. With such a clause, Article 8 should at least avoid the promotion by employers of fictitious or 'yellow' representatives with the sole aim of eluding regular collective agreements. The new proximity agreements become valid and binding for all employees concerned if approved by a majority of union organisations, based on the abovementioned rules.

Decentralised bargaining, in the intention of the lawmaker, is supposed to become the new core of the whole system, with the industry-wide level, in turn, relegated to a more or less residual role. Broadly denounced and stigmatised by most trade unionists and scholars, as a result of Article 8, derogations, which previously were exceptional, would become the norm, reversing the traditional hierarchy in labour law (Perulli and Speziale 2011; Bavaro 2012; Gottardi 2016).

3.4 Coordinated decentralisation: the inter-confederal agreements on representativeness and bargaining 2011–2014.

Meanwhile, on 28 June 2011, Confindustria and the three main union confederations (CGIL included this time), signed an inter-confederal agreement, with a double purpose: (i) defining measurable criteria for union representativeness and the bindingness of company agreements; (ii) enhancing collective bargaining decentralisation, with the possibility of opening clauses at company level, but in the framework established by the primary, national level.

In a general climate of uncertainty and national worries about economic turmoil – with a request from the EU institutions in the air – the Italian social partners made a first attempt to self-reform the system, before the government could pre-empt them, aware of what had just happened in Spain.¹²⁴³ As we have seen, it was wishful thinking.

The terms of the 28 June agreement were confirmed repeatedly: first, in September 2011, in reaction to the unwelcome and unilateral intervention of the law, in the form of Article 8. Afterwards, on 31 May 2013 and on 10 January 2014, the signatory parties returned to the issues of the first agreement of 2011, specifying its operationalisation in detail (Carinci 2013; Zoppoli 2014; Bavaro 2014; Barbera and Perulli 2014). The text of 10 January 2014 was supposed to be a new inclusive text on the whole subject of union representativeness and collective bargaining.¹²⁴⁴ Other sectors and associations, after Confindustria, beat the same path, signing similar agreements on trade, cooperatives and services with the social partners.¹²⁴⁵

In order to be considered sufficiently representative, and so admitted to national collective bargaining, trade union associations need to pass a 5 per cent threshold. It is calculated as a simple average of the votes obtained at the works council elections and branch members, collected and certified by the National Institute for Social Protection. A sectoral agreement is binding if signed by the unions representing least 50 per cent + 1 of the workforce and – importantly – after a 'certified consultation' of the workers, if approved by a simple majority of votes.

At company level, the normal employees' representative body is the abovementioned *RSU*. Its elections can be contested by electoral lists presented by trade union organisations adhering to the associations that have signed the framework or sectoral agreement at the company, or even others, on condition they accept the rules and obtain a minimum number of signatures among the workers. A company agreement will be valid and binding if approved by the majority of *RSU*

¹²⁴³ During those weeks, in fact, the Spanish government had interrupted social dialogue, intervening unilaterally in bargaining decentralisation.

¹²⁴⁴ Testo Unico su rappresentanza e contrattazione collettiva.

¹²⁴⁵ There were a few differences and amendments concerning the specific criteria for defining representativeness and secondary-level bargaining, considering that in branches with many SMEs and casual workers, works councils may cover only a small proportion of employees.

members. For companies with *rappresentanze sindacali aziendali* (RSA), designated by the unions and not elected by all the employees, a firm agreement will be binding for all if approved by the majority of RSA members. In this case, the draft agreement can be subject to a referendum if at least one of the organisations signing the inter-confederal agreement, or at least 30 per cent of workers in the company, request it within ten days of the signing of the agreement.

It is worth underlining that at both levels representative democracy and the majoritarian principle are supplemented by direct democracy and referendums.

Once approved in accordance with such a procedure, again at both levels, the dissenting signatory organisations are barred from taking industrial action if they are in a minority. Through intra-associational coordination, the signatory parties have to exert influence over their affiliates in order to make the agreement fully enforceable and binding. Cool-down procedures, established at sectoral level, should prevent and sanction any behaviour that might compromise the enforceability and efficacy of signed agreements.

As regards coordination between national- and company-level bargaining, the primacy of the former is explicitly confirmed, although there is a possibility to negotiate 'modifying agreements' at company level, albeit subject to coordination and in accordance with parameters and procedural limits laid down in the national agreement. Collective bargaining at company level takes place with regard to matters delegated and in the manner defined by the national collective agreement in the sector or by law. External unions can be involved in managing situations of crisis and restructuring, where some deviations from the higher level of bargaining might be required temporarily. Unlike in the case of Article 8 – and this is a very important difference – derogations from statutory norms are not permitted.

4. Recent trends in collective bargaining.

To date, the outcomes of the new system laid down in the inter-confederal agreements of 2011–2014 have not been satisfying, and the new rounds of negotiations in 2015–2017 have not benefitted. In an entirely voluntary system, the data-gathering process has turned out to be fraught, with major difficulties due mainly to the reluctance of many enterprises to provide the required information to the institutes in charge of processing membership data.

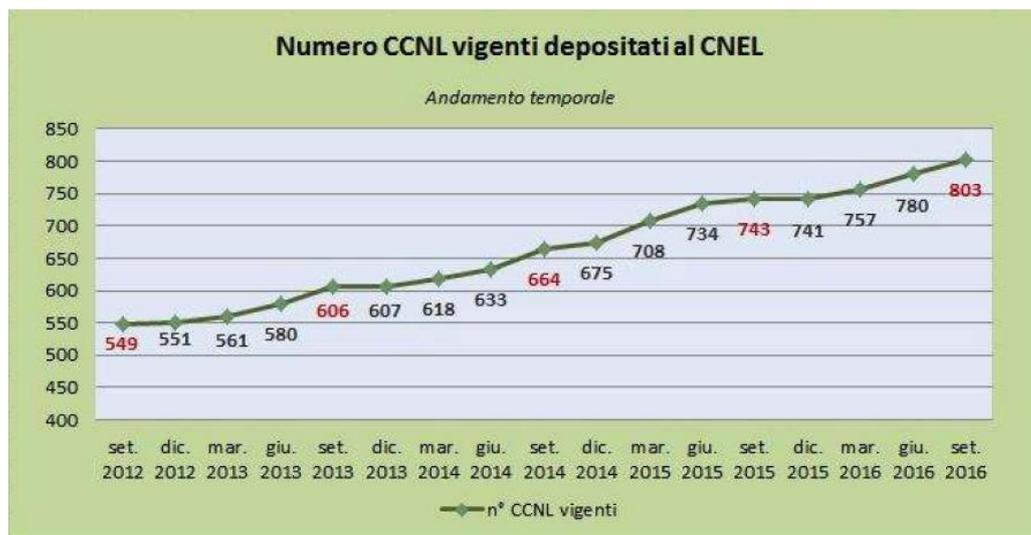
The issue of signatory representativeness, not defined by any law, is the Achilles' heel of the whole system. It not only affects the trade union side, where in fact it has been a cause of severe disputes, but also the employers' associations, whose acute fragmentation continues to be one of the most serious weaknesses of the Italian industrial relations system. Individual companies (FIAT was by far the most famous case), groups of enterprises or branches (such as in the area of hypermarkets and small and medium-sized enterprises) have chosen to exit from their respective trade associations, to create their own new contractual units (Bellardi 2016; Papa 2016). The fragmentation and uncertain representativeness of the employers' associations raise the need to establish transparent and certified parameters, even on this side, with regard to the total number of members and workers. So-called 'pirate' agreements, signed by unknown or ambiguous associations, are undermining the whole system of collective bargaining 'from the top', fostering fraudulent strategies and downward contractual dumping. The cost gap between a national agreement signed by the most representative unions and one signed by others – in the same contractual unit – can be several thousand euros a year and with lower pay rates (by up to 20 per

cent), which is dumping by any estimation. The downward pressure on contractual terms has led the major social partners to moderate wage dynamics in order to limit the adoption of smaller contracts by businesses (D'Amuri and Nizzi 2017)

4.1 Recent renewals of national industry-wide agreements.

According to the CNEL archive, in 2008 some 396 industry-wide agreements were recorded, of which fewer than 300 were endorsed by the large and most representative confederations; at the end of 2016 that figure had risen to a striking 803 (Olini 2016), only 225 of which were signed by the sectoral federations affiliated to the three main confederations. A striking 195 were in the commerce sector only, 60 in transport and an average of 30 in the other main branches: metal, chemical, food, textile, banking and services. Some of them are nothing but 'copy and paste' agreements, but most were conceived with the express purpose of driving down costs and labour standards.

Figure 1 Number of national industry-wide agreements submitted to the National Council of the Economy and Labour (CNEL), Italy



Source: CNEL, Notiziario dell'Archivio contratti, No. 23, October 2016.

In the period 2012–2015, the renewal period for workers whose contract has expired was, on average, 24 months (ADAPT 2017); in 2016–2017, this was increased to 26 months. Strikes were recorded in eight cases.

Between September 2016 and April 2017, over 50 industry-wide agreements – affecting 7 million workers (55 per cent of the total) – were renewed by the most representative social partner associations. As of May 2017, 42 national agreements, concerning 5.8 million workers – 45 per cent of those concerned – were still pending, 15 of them in the public sector (2.9 million employees). After a seven-year freeze – censured by the Constitutional Court – bargaining is once again under way for the renewal of the nationwide agreement covering 3 million public workers.

Nominal wage increases have been scheduled, in two or three tranches, by all the agreements. Amounts differ considerably from sector to sector, but on average they are fairly low once more: 0.8 per cent, according to the Bank of Italy (2017a). Some of them have frozen immediate increases, prolonging agreement duration to over three years. Others (trade and crafts) have abandoned the link to the *Harmonised* Indices of Consumer Prices (HICP), giving the negotiating actors more room to manoeuvre. They all refer an *ex ante* calibration, as in the past, with the important exception of the metalworking renewal, where the real wage dynamic will be calculated and re-stored *ex post*, every year in June, after the official data on current inflation are delivered by the National Institute of Statistics.

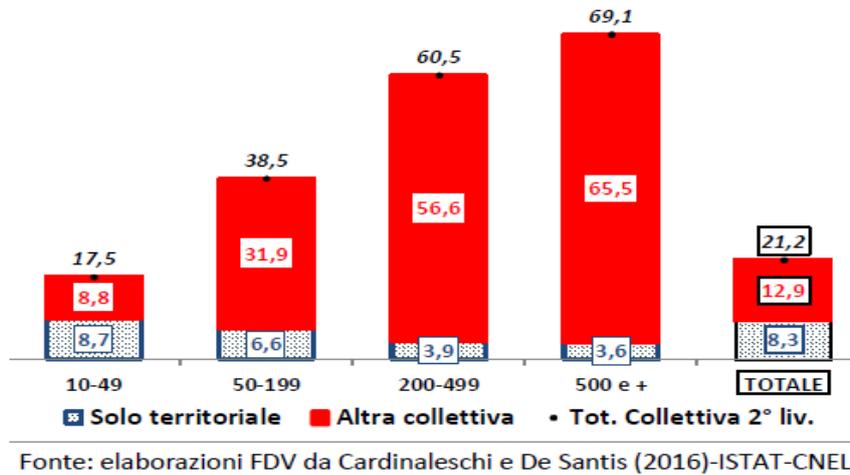
A monitoring study by ADAPT (2017) of a representative sample of texts shows that, after wages, labour market and industrial relations are dealt with in all sectoral agreements. The national agreements reaffirm the two-tier system, national and company (or alternatively territorial), according to the principle of delegation and non-repeatability of individual contractual items and with a substantial alignment with the coordination and specialisation rules defined in inter-confederal agreements, which are authoritative in this respect.

Among recent trends, we would like to underline the growing weight of 'bilateralism': the social partners' management of occupational welfare, through joint bodies and funds. Encouraged by the legislation to provide a stop-gap in the context of welfare state retrenchment, bilateral funds have been established in all sectors. Funded by enterprises, they provide complementary pension schemes, supplementary health insurance and unemployment benefits. For a system traditionally lacking a strong participatory model in industrial relations, bilateralism can be considered the most structured and effective form of participation (Leonardi 2017).

4.2 Coverage and contents of secondary-level collective bargaining.

Unlike other countries, where all collective agreements are collected and archived in public observatories – making fairly precise data available – Italy has nothing of the kind, only sample-based surveys or observatories. However, they all agree that decentralised bargaining is very limited, given the number of enterprises and workers covered. According to the Banca d'Italia, company-level bargaining in the private sector covers the 20 per cent of enterprises with more than 20 employees (D'Amuri and Giorgiantonio 2014; Cardinaleschi 2016; ISTAT 2016; Banca d'Italia 2017). The outcomes presented in ISTAT data and their elaboration by the Fondazione Di Vittorio (2016) are similar. Here, secondary-level bargaining coverage, summing the territorial and company levels, is estimated to involve approximately 20 per cent (21.2 per cent) of firms with more than 10 employees, 13 per cent by firm-level agreements and the rest (8.2 per cent) by territorial agreements.

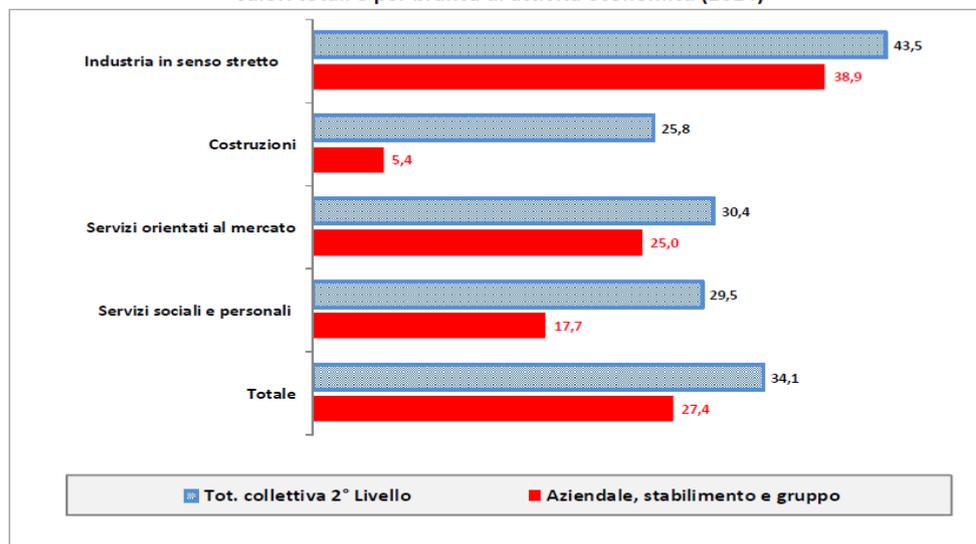
Figure 2. Companies covered by secondary-level collective bargaining, company or territorial



The cross-sectoral gap is remarkable, with a fork between the 43 per cent of the industrial sector and the 25.8 per cent of construction, with a mere 5 per cent at company level.

Figure 3 Private sector employees estimated to be covered by secondary-level bargaining, total and by sectors, Italy, 2014

Figura 4. Stima della copertura % della contrattazione collettiva integrativa per i dipendenti privati*: valori totali e per branca di attività economica (2014)



) Esclusi lavoratori agricoli e domestici.

Fonte: elaborazioni FDV su dati INPS (*Imprese del settore privato non agricolo e posizioni lavorative; Osservatorio sui lavoratori dipendenti*), Cardinaleschi e De Santis (2016), ISTAT-CNEL

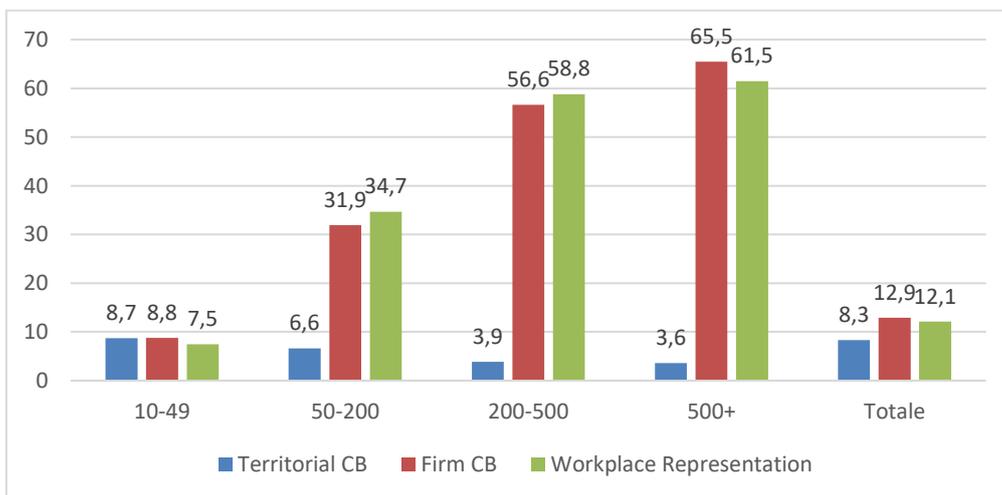
However, the data show a strong territorial polarisation, with a higher concentration in the most economically developed Northern regions, and a substantial absence which affects the Southern regions and the two big islands, where the coverage ratio falls to 11–13 per cent of firms, of which

only 5.7–7.7 per cent are covered by a company-level agreement.

Predictably, firm size matters,¹²⁴⁶ so that there is a strong and clear co-relationship between firm size and bargaining propensity. The spread of firm-level agreements is much higher in large companies, such as those with over 200 employees (60.5 per cent, 56.6 per cent of which at firm level) or over 500 employees (69 per cent, with 65.5 per cent at firm level). It is lower in the other size classes, namely between 50 and 199 workers, where 38.5 per cent are covered, and between 10 and 49 employees, covering 17.5 per cent, split equally between company and territorial agreements. The total proportion of employees covered by a secondary-level agreement in the private sector is approximately 35 per cent, or 3.7 million workers (Fondazione Di Vittorio, 2016). Other studies reach similar conclusions, according to which between 70 and 75 per cent of Italian wage-earners are excluded by any form of secondary-level bargaining. Wages are 'condemned' never to increase but merely to remain aligned, at best, with the real value they enjoyed when the system was established, in July 1993 (Tronti, 2016)

According to our calculations, the figures on the coverage of company-level bargaining and workplace representation overlap. According to institutional sources (CNEL-ISTAT 2015), elected works councils (RSU) operate in a mere 12 per cent of enterprises. The figure is slightly higher if one includes the other possible form of workplace representation, designated by the unions and not elected by employees (RSA), prevalent in the financial sector. The presence is as low as 8 per cent in companies employing fewer than 50 employees. The majority of companies (60 per cent) with more than 500 employees have a works council (Pellegrini 2017). This is certainly one of the main explanations, perhaps the most important, for the very limited extension of company-level bargaining and agreements (Leonardi 2016).

Figure 4. Companies covered by territorial or firm-level bargaining and works councils (by size and in %)



Source: Authors' elaboration based on CNEL-ISTAT data referring to 2012–2015.

¹²⁴⁶ In Italy, firms under 49 employees represent 98 per cent of all companies, giving employment to 52 per cent of all employees; 93.7 per cent have fewer than 16 employees; 88 per cent fewer than five. At the other extreme, companies with 500 employees or more represent only 0.1 per cent of enterprises, but account for almost 25 per cent of overall employment.

If this is not an encouraging picture in terms of coverage, what about the content of the company-level agreements? According to some surveys, in the period 2012–2016 the matter most commonly addressed was *wages*, present in 77 per cent of territorial and 64 per cent of company agreements (ADAPT, 2015; 2017). According to another study (OCSEL, 2017), *restructuring* was the most frequent issue in 2013–2014 (62 per cent of agreements), followed by *wages* (23 per cent). In 2015–2016, *wages* were addressed in 43 per cent and *restructuring* in 37 per cent of agreements. *Working time* flexibility is another frequent item, whereas *occupational welfare* has been gaining more and more attention in recent collective bargaining rounds, at all levels. A total of 20 per cent of new firm-level agreements include one or more items concerning firm health insurance and a wide range of benefits concerning working life balance, smart working and company day care. This could be further developed, given the robust fiscal incentives given by the government for such arrangements in firm-level agreements. Finally, *work organisation* is tackled in 11 per cent of the sample – especially shift work – up from 6 per cent the previous year (OCSEL, 2017)

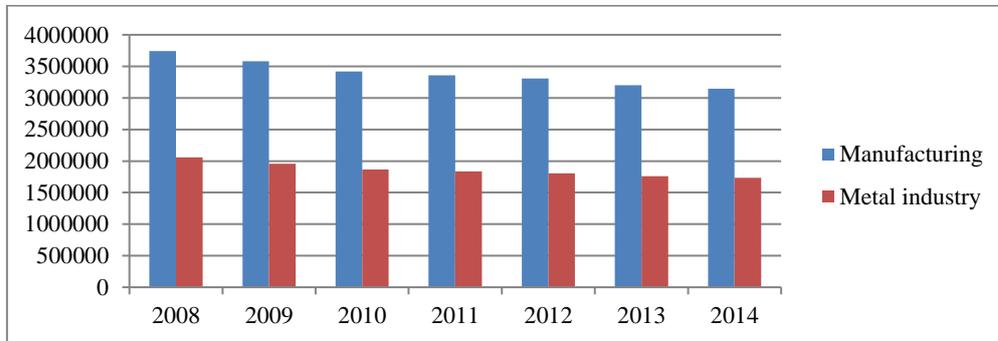
It is important to underline here that disorganised decentralisation, with firm-level agreements used as an open alternative to sectoral ones, has not taken place. Empirical surveys all agree that derogating from sectoral agreements concerns probably between 5 and 10 per cent of company agreements (Tomassetti, 2015; OCSEL-CISL, 2016; Olini, 2016, ADAPT, 2017). Work organisation and working time are the most prevalent topics. This is good news, but we cannot completely exclude the possibility that the existence of derogating agreements is simply insufficiently known, as their signatory parties, on the union side, are not interested in publicising them (Imberti, 2013).

5. Survey of the metalworking and trade sectors.

5.1 The Italian metal industry in the aftermath of the crisis.

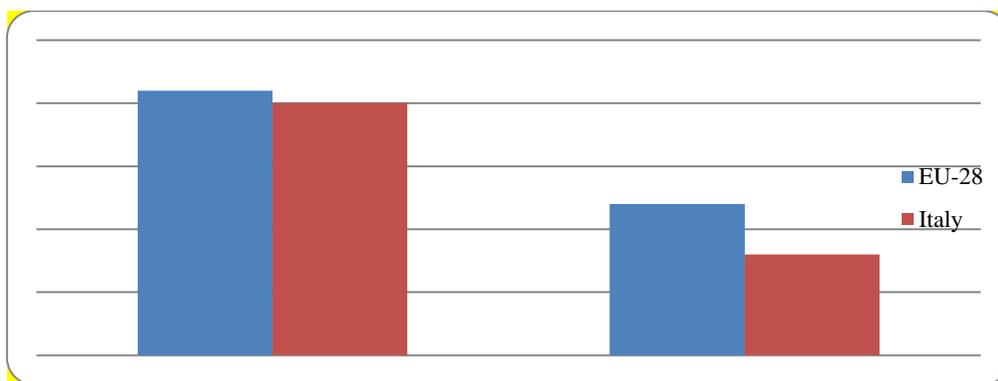
A total of 1.6 million people work in the metal industry in Italy, one of the highest figures in Europe. Its added value in 2014 amounted to 113 million euros, corresponding to 55.3 per cent of the Italian manufacturing sector's gross value added (GVA). The bulk of this is concentrated in two sub-sectors: the manufacture of machinery and equipment (n.e.c.) and the manufacture of fabricated metal products, excluding machinery and equipment. The number of active enterprises registered in 2014 was 196,507, representing 5.2 per cent of the total economy (excluding finance and insurance). As in many other European countries, the manufacturing sector in Italy has witnessed a constant decline in recent decades, in terms of both companies and employment (see Figure 5). The economic crisis that started in 2008 aggravated this trend. Between 2008 and 2014 the workforce in the metal sector shrank by more than 324,000 (–12.5 per cent). Unlike the manufacturing sector, the metal industry is characterised by bigger than average enterprises. However, value added decreased steadily in the years of the crisis (see Figure 6). This trend had serious repercussions for both employment levels and labour productivity, which fell steadily compared with the European average.

Figure 5. Employment trends in the metal industry and manufacturing sector in Italy, NACE Rev. 2, 2008–2014 ('000)



Source: Eurostat Labour Force Survey.

Figure 6. Gross value added at basic prices, 2005 and 2015 (% share of total gross value added)



Source: Eurostat - Economy and finance. National accounts and GDP.

5.1.1. The metal industry in Italian industrial relations. Structure and actors.

Union density in the Italian metal sector is 32.8, slightly higher than that of the manufacturing sector (31.4 per cent) and a bit below the – estimated – national average of 33.4 per cent (Carrieri and Feltrin 2016). The most representative sectoral unions are FIOM-CGIL, FIM-CISL and UILM-UIL. Employer density is estimated at around 50 per cent, with a number of employers' associations. The largest and most influential of the latter is Federmeccanica (affiliated to Confindustria), with more than 16,000 enterprises, employing 800,000 workers. The second is Unionmeccanica (affiliated to Confapi), representing 80,000 small and medium-sized enterprises, employing 800,000 workers, with 400,000 in the metal sector proper). Cooperatives and craft industry have their own confederations and sectoral federations, also in metalworking. In 2013, a new breakaway employers' confederation – Confimi Industria – was founded by local and sectoral employers' associations from Confapi and Confindustria.

The whole metal industry is covered by five main national collective agreements, all signed by the same unions with the various employers' associations, depending on firm size and economic sub-sector: large industry, small and medium, cooperatives, craft and goldsmiths' wares. To date, all the main national collective agreements have been renewed. Only the craft sector has not yet renewed its collective agreement.

Since 1993 collective bargaining has taken place at two levels in Italy. The two-tier bargaining system is based on industry-wide agreements. In recent years trade unions have reinforced the role of second-level bargaining with the aim of increasing flexibility and productivity. In general terms the Italian two-tier bargaining system is made up of high minimum wages negotiated in collective agreements and a relatively compressed wage scale (Garnero 2017). The estimated sectoral Kaitz index¹²⁴⁷ in the metal industry (78.3 per cent) is slightly lower than in the manufacturing sector as a whole (79.88 per cent). A high sectoral Kaitz index corresponds to a substantial number of workers being paid at the minimum wage level, with a very narrow distribution. Alternatively, it may indicate a large number of low paid workers below the minimum wage.

Table 3. Minimum wage and Kaitz index

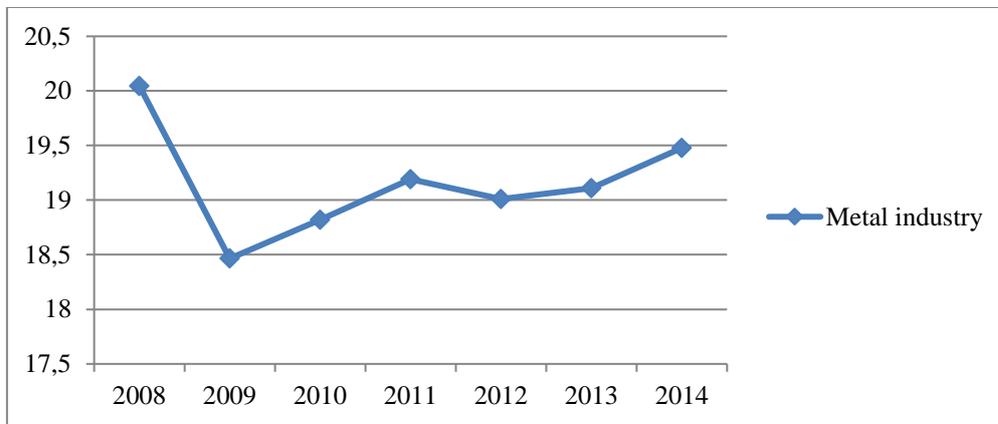
	Annual minimum wage	Annual average wage	Monthly minimum wage	Kaitz sectoral index (percentage of median in sector) Metal sector	Kaitz sectoral index (percentage of median in sector) Manufacturing
Metal sector	16,888.43 euros	21,566.22 euros	1,297.81 euros	78.3	79.9

Source: Authors' elaboration of Garnero (2017) and union documentation.

As reported by Armaroli, Spattini and Tomassetti (2017), pay negotiations in metalworking have, in most cases, been characterised by wage moderation. This trend is confirmed if we look at the metal industry wage share (Figure 7). Despite a steady increase after the recession that started in 2008 this ratio is still far below the pre-crisis level.

¹²⁴⁷ The level of the minimum wage compared with the median wage.

Figure 7. Metal industry wage share, 2008–2015 (%)



Source: Authors' elaboration on business statistics – Eurostat data.

As far as second-level bargaining is concerned, the metal sector shows similarities and differences to the national trend. As already noticed in previous sections there is a close relationship between firm size and decentralised agreements in Italy. Approximately 35 per cent of employees in the private sector are covered by a second level agreement represent, equivalent to 3.7 million workers (Fondazione Di Vittorio, 2016). In smaller enterprises, most employees are not covered by any workplace representation with the consequence that company level bargaining is limited. Due to the higher number of companies in the metal sector with more than 250 employees, second-level bargaining has a higher incidence there than in the rest of the economy. In order to improve flexibility and productivity decentralised and territorial-level bargaining have been strengthened in the past two years, by focusing on company welfare agreements. The new national industry-wide agreement is fairly representative of this new trend.

5.1.2 The most recent national industry-wide agreement.

Negotiations on the new national industry-wide agreement were difficult and protracted, taking more than one year. The last two renewals had been signed without FIOM-CGIL and there was a risk, at the beginning, of a similar outcome. *Confindustria* and its affiliate (*Federmeccanica*) demanded more collective bargaining decentralisation towards the firm level in wage setting. In the metal sector, the biggest company, FIAT, left *Federmeccanica* and *Confindustria* in 2009, so as to overcome what it regards as the 'rigidities' of the collective bargaining system and to implement its own establishment-level contract.

In 2015, metalworker federations presented two platforms to the employers' federation: one FIM-UILM and another FIOM. In the end, they were brought together. *Federmeccanica* presented its own platform, called the '*renovation of the metalworkers' national collective agreement*', calling for just one level of negotiation and a national guaranteed wage only for those uncovered by any collective or individual enterprise CLA (covering just 5 per cent of metalworkers), its amount to be defined every year. Nothing happened in 2016 because wage rises already exceeded real expected inflation. In July 2017 wages are set to be increased based on the previous year's infla-

tion; 260 euros per year as a production bonus or welfare vouchers; an increase in health coverage insurance; permanent training lasting 24 hours every three years; and an increase in supplementary pension.

At the end of difficult negotiations, an agreement was reached in November 2016 with all the most representative trade unions, and signed after the workers approved the draft in a ballot.

Compared with the past, the new agreement provides considerable novelty.

– *Duration*: unlike what had been foreseen in the collective bargaining reform of 2009, the parties agreed to extend the contract from three to four years.

– *Wages*: there was no planned wage increase for 2016, but there was a one-off sum of 80 euros (gross) in 2017 wages. As of 2017, a new inflation adjustment mechanism has been introduced, which is no longer based on expected inflation (on the basis of the foreseen or expected inflation rate) but defined every year *ex post*, and not *ex ante*, as in other sectoral agreements.

– *Occupational welfare*, both at sectoral and company level, plays a key role in the new collective agreement. It consists of health insurance, training (24 hours every three years), complementary pensions and a wide range of benefits provided at company level through vouchers. As a consequence of the robust fiscal incentives instituted by the government these changes are expected to introduce substantial innovations with regard to relations between the social partners. New parameters and a different relationship between occupational welfare at company and at sectoral level have been established. Since 1 June 2017, companies have been committed to providing flexible benefits for all workers up to a maximum of 100 euros in 2017, 150 euros in 2018 and 200 euros in 2019. It must be said that the first real increase, in June 2017, was a pitiful 1.5 euros for a typical blue-collar worker. Likewise, supplementary pensions and supplementary health insurance have been extended to all workers. As an alternative to monetary bonuses, workers can opt – entirely or partly – for in-kind welfare services collectively bargained at company or territorial level. The new collective agreement gives a further boost to supplementary pension provision by increasing the contribution rate paid by companies in favour of employees who are members of the National Pension Fund (Cometa), from 1.2 to 2 per cent. As of 1 October 2017, the supplementary health insurance contribution to the sectoral health fund (Metasalute) will be fully borne by the employer, totalling 156 euros per year. The right to supplementary health care has been extended to part-time and fixed-term workers, as well as to workers' dependent family members. In cases in which the company already provides forms of supplementary health care, the collective agreement stipulates that the parties will have to complement the benefits with a contribution to be paid by the company, which cannot be less than 156 euros per year.

– *Training*: the contract focuses heavily on training and the individual right of all workers to choose training related to innovation (linguistic, technological and organisational, transversal or relational skills). This right is currently limited to 24 hours (or 16) over three years, after which there is a 150-hour reinforcement and university training (security training and RLS are also strengthened).

– *Participation*: support for the direct participation, in different ways, of workers (observers and committees in second-tier negotiations and security), the establishment of a new *participation advisory committee* in larger companies (1,500 employees or so) and a national committee on active labour policies.

Compared with the past, occupational welfare and benefits constitute a major novelty, seen as a way to stimulate labour productivity with no direct monetary increases. The flexible benefits included are additional, provided by second-tier negotiations, for all workers. This represents a novelty not only with regard to previous renewals, but also with regard to the FCA agreement. The FCA agreement has only one, corporate level. It provides the possibility of transforming or replacing part of variable remuneration into flexible benefits, to which the company adds a 5 per cent stake. The FCA's welfare plan is defined by agreement between the unions that are signatories to the collective agreement: FIM-CISL, UILM-UIL, FISMC, UGLM and ACQF, but not FIOM-CGIL. One of the strengths of the FCA's corporate welfare is the fact that it has built up a well-defined basket of services, with the unused welfare services re-absorbed in wages. The national collective agreement works on the basis of a different logic; it is not based on the exchange of services and variable parts of remuneration within the company, but on the coexistence of a national level entrusted with maintaining purchasing power and a second tier that is required to add additional welfare benefits. The vast majority of company agreements have been signed in larger companies, especially multinationals, with more than 1,000 employees, 39.7 per cent of the total (Mosca and Tomassetti 2017). In fact, small and micro-enterprises, where flexible benefits cannot be generated by the economies of scale that are typical of larger companies, are somewhat worried. A second concern is related to the availability of data on the type of services and flexible benefits negotiated in companies. The data show a strong increase in corporate bargaining on the subject of welfare. However, the lack of more detailed information on the sectoral and corporate levels preclude comparisons of the different baskets.

5.1.3 The trade union viewpoint.

The metal workers unions have agreed to wage moderation and new participatory approach to collective-agreement and company welfare, rejecting the abandonment of the national collective agreement. In this exchange Italian metal unions have achieved an attenuation of the strong dualisation initially envisaged in the Federmeccanica proposals. Against this background the trade unions reacted to these pressures by using the new contractual architecture as a tool for re-launching collective bargaining.

Wages and labour costs were the most difficult topic during the long negotiations. As one national official of FIOM-CGIL told us¹²⁴⁸:

At the beginning of the negotiations, employers not only did not accept the wage increases. In a situation of deflation (with both an economic downturn and falling inflation), [perversely] the [company] was actually asking the workers for money back. Enterprises were willing to grant wage increases only to those workers whose wage levels were lower than the minimum. This called into question the autonomy of the national and company levels. At the same time, Federmeccanica's proposal mentioned an integrative health care service borne by the company and the workers. We started from a difficult situation, within a legislative framework that had already created derogations, divisions amongst the workers and a weakening of the national collective agreement.

¹²⁴⁸ Maurizio Landini, General Secretary of the FIOM-CGIL.

Another official from the same organisation¹²⁴⁹ told us that the employers have certainly obtained the low wage increases:

They also obtained a mechanism of total variability with regard to company welfare benefits. Previously when negotiating final agreements, you could bargain for fixed items for everyone. Now they have become variable. We worked on the fact that with occupational welfare we could recover what was lacking with regard to wages. We have extended integrative health care to everyone and made sure that, above all, this responsibility was borne by the enterprises. Federmeccanica wanted everything to be regulated within the company. We managed to get this in the collective agreement and give workers the opportunity to choose between corporate benefits and other forms of contractual welfare (health insurance and complementary pension).

For the FIM-CISL, the focus must be on corporate and territorial negotiations. As we were told in an interview with a leader of the metalworkers federation¹²⁵⁰:

We cannot continue with just the national one. If small enterprises alone cannot activate company welfare plans, it is necessary to reinforce territorial bargaining in order to build economies of scale, in order to activate services. It is also necessary to integrate bilateralism in this design: we have to put together parts of bilateralism in order to strengthen company welfare in small enterprises. That said, a step forward has been made after too many years of divisions. A step forward has been made with respect to Federmeccanica, which was demanding money back. Foundations have also been laid so that the workers can access more services and integrative benefits under the collective agreement.

5.1.4 Final comments.

The metalworkers unions have agreed on wage moderation and a new participatory approach to collective agreement-based and company welfare, rejecting the abandonment of the national collective agreement. In this exchange Italian metal unions have achieved an attenuation of the strong dualisation initially envisaged in the Federmeccanica proposals. Against this background trade unions have reacted to these pressures by using the new collective-agreement architecture as a means of relaunching collective bargaining. Although the new agreement does not grant significant wage increases, it continues to maintain purchasing power. Despite pressure towards disintermediation, the potential destabilisation induced by the FIAT/FCA case – with its company agreement as an alternative to the national industry-wide agreement – did not take place. From such a viewpoint, the sector has maintained a degree of inter-sectoral coordination, with the two traditional levels confirmed. The signatory social partners were able to establish some points, exploiting the innovations provided by the legislation. One point of criticism might be the difficulty that smaller companies are likely to experience in actually realising welfare benefits at plant level, especially the in-kind services that require considerable economies of scale. As matter of fact the development of company welfare in these companies depends on the ability of the social partners to reinforce territorial-level bargaining.

¹²⁴⁹ Roberta Turi, member of the FIOM-CGIL national board.

¹²⁵⁰ Marco Bentivogli, General Secretary of the FIM-CISL.

5.2 The Italian trade sector after the economic crisis (2008–2014).

5.2.1 Collective bargaining in the trade and retail sector¹²⁵¹.

Our aim in this section is to investigate the changes that occurred in the Italian trade sector from 2008 to 2014. First, we describe the main structural characteristics of the trade sector in Italy, focusing on the retail subsector. Then we analyse collective bargaining at national level, highlighting the main actors and processes in trade and retail. Finally, we take a more detailed look at decentralised collective bargaining in the trade sector (at company and territorial level) in order to understand its impact on wages, working conditions and social protection.

5.2.2 Main structural characteristics of the trade sector in Italy: workers and firms.

From 2008 to 2014, the economic crisis led to the closure of 91,908 enterprises in the Italian trade sector as a whole (–8 per cent); more than 57 per cent of this reduction (52,978 firms) was in the retail sector.

Table 4. Enterprises in the trade sector, Italy, by economic activities (2008–2014)

	2008	2009	2010	2011	2012	2013	2014	2008/2014	
G45	122,951	120,850	119,348	119,070	118,220	116,895	115,256	-7,695	-6%
G46	422,198	412,049	409,684	406,450	402,596	398,362	390,963	-31,235	-7%
G47	669,893	651,024	644,873	646,623	642,597	638,383	616,915	-52,978	-8%
G	1,215,042	1,183,923	1,173,905	1,172,143	1,163,413	1,153,640	1,123,134	-91,908	-8%

Source: Eurostat. Annual detailed enterprise statistics for trade (NACE Rev. 2 G).

Most of the employment (about 97 per cent) is concentrated in firms with fewer than 10 employees (Table 5).

¹²⁵¹ The trade sector (G) comprises three main subsectors: G45, wholesale and retail trade and repair of motor vehicles and motorcycles; G46, wholesale trade, excluding motor vehicles and motorcycles; and G47, retail trade, excluding motor vehicles and motorcycles. The so-called GDO: Grande distribuzione organizzata (Large Distribution) is included in Retail (G47). We used the Eurostat Annual detailed enterprise statistics for trade (Nace Rev. 2 G) available from 2008 to 2014 (last update 18.05.17; extracted on 04.06.17).

Table 5. Number of enterprises in the trade sector, in Italy (G) by employment size, 2008/2014

	2008		2014	
Total firms in trade sector (G)	1,215,042	100%	1,123,134	100%
0–1 person employed	698,061	57%	658,581	59%
2–9	476,193	39%	428,050	38%
Total 0–9	1,174,254	96%	1,086,631	97%
10–49	37,530	3%	33,508	3%
50 or more	3,258	0%	2,995	0%

Source: Eurostat. Annual detailed enterprise statistics for trade (NACE Rev. 2 G).

In 2014, the total number of persons working in the trade sector in Italy was 3,302,311. However, if you consider only employees, they numbered 1,941,454, about 58 per cent of the whole. This falls further to 1,502,830 if you consider full-time employees (Eurostat, 2016).

Table 6. Workers in the trade sector, Italy, 2008–2014

	2008	2014	2008/2014	
Total working in sector	3,557,898	3,302,311	-255,587	-7%
Number of employees	1,985,710	1,941,454	-44,256	-2%
Number of full-time equivalent employees	1,699,626	1,502,830	-196,796	-12%

Table 7 Workers in retail, Italy, 2008–2014

	2008	2014	2008/2014	
Total of person employed	1,911,419	1,819,749	-91,670	-5%
Number of employee	1,019,525	1,035,752	16,227	2%
Number of employee in full time equivalent	851,303	762,723	-88,580	-10%

Source: Eurostat Annual detailed enterprise statistics for trade (Nace Rev. 2 G).

5.2.3 National collective bargaining in the trade sector: actors and processes.

In the trade sector, there are three main trade union organisations: *Filcams-CGIL*, *Fisascat-CISL* and *Uiltucs-UIL*. These unions represent workers in the largest part of private services, including

trade and retail, restaurants, hotels and cleaning. Their overall number is growing year after year. In 2014 these three trade unions (as a whole) had about 900,000 members.¹²⁵²

Nevertheless, union density in these sectors remains one of the lowest. Union density in the trade sector as a whole was about 17 per cent in 2014 (Feltrin and Carrieri, 2016), lower than in all other sectors.¹²⁵³ However, it is growing, especially in large distribution multinational companies.¹²⁵⁴

There are four main employers' organisations in the trade sector and retail:

(i) Confcommercio; (ii) Confesercenti; (iii) so-called 'cooperative distribution'; and (iv) Federdistribuzione,¹²⁵⁵ representing 'modern distribution companies'.

Confcommercio declares that it has more than 700,000 affiliated firms and almost 2.7 million employees; Confesercenti claims to represent around 350,000 SMEs with more than 1,000,000 employees. According to the last Federdistribuzione data, they represent about 200 large companies and multinationals (such as Carrefour, Auchan, Esselunga, Ikea and so on), with more than 220,000 employees. The problem is that every employer association collects and spread its own data. There does not exist, as in the French case, a law that establishes the criteria to follow to measure the representativeness not only of trade union but also of employer organisations.

Until 2011, *Federdistribuzione* was part of *Confcommercio*; in 2012, they split.

An influential trade unionist underlined that 'the split of Federdistribuzione from Confcommercio occurred after or is somehow linked to Law Decree 201/2011 on liberalisation. Confcommercio has its critics, even though not contrary. Federdistribuzione instead supported liberalisation. This means not only the possibility to keep shops open 24 hours a day but also the possibility of opening new outlets by loosening the criteria established by regions and provinces. [Gabrielli, Filcams CGIL General Secretary]

Such employer segmentation affects the number of national collective agreements in the trade sector. The following are the main agreements signed (or under negotiation) by Filcams CGIL, Fisascat CISL and Uiltucs:

- The national collective agreement for *Tertiary, Distribution and Services (TDS)* with *Confcommercio*, last renewed in March 2015 (it will expire on December 2017).
- The national collective agreement signed with *Confesercenti*, renewed in July 2016.
- The national collective agreement in cooperative distribution (expired in 2013).

¹²⁵² According to trade union data, from 2008 to 2014 Filcams, Fisascat and Uiltucs taken together increased their membership from about 674,426 to 900,993 (+33.6 per cent). Fiom, Fim and Uilm together increased from 654,237 to 655,781 members (+0.2 per cent).

¹²⁵³ According to Visser (2015) union density in Italy was 37.3 per cent in 2013. It is still growing. According to our calculations based on Italian union data and Istat data, in 2014 union density in Italy reached 37.7 per cent.

¹²⁵⁴ According to union data, in 2014 almost 900,000 workers were members of Filcams, Fisascat or Uiltucs. According to Istat data, in 2014 about 2,800,000 workers 15–64 years of age were employed in the trade sector (G), and in hotels and restaurants (I). For this reason union density in trade, hotel and restaurant sectors (g-i) in 2014 cannot be higher than 32.1 per cent. This is an overestimation, since we do not know how many workers, who are union members, are working in other sectors (for instance, as cleaners).

¹²⁵⁵ Federdistribuzione is an umbrella association of five further associations: (i) ADA, Associazione Distributori associate; (ii) ADIS, Associazione Distribuzione Ingrosso e self-services; (iii) AIRAI, Associazioni Imprese Retailers Alimentare; (iv) ANCIDIS, Associazione Nazionale Commercio Imprenditoriale al Dettaglio e Imprese Specializzate Non Food; and (v) Federdistribuzione Franchising.

– Ongoing negotiation for first national agreement with *Federdistribuzione*.

The national collective agreement with *Confcommercio*, last renewed in March 2015, will expire on December 2017. This national agreement was the first jointly signed by all three most representative unions CGIL, CISL and UIL, since Filcams CGIL refused to sign the previous two, in 2008 and 2011. According to Uiltucs data, it covers about 1.2 million workers.

The national collective agreement signed with *Confesercenti* in July 2016 is quite similar to the *Confcommercio* national agreement. One novelty is the possibility to adopt a new type of 'temporary contract'. This agreement allows companies located in tourist places derogations on the limits set by national collective bargaining. According to Uiltucs, it cover about 50,000 workers.

From a normative and economic point of view, national agreements in the trade sector (with *Confcommercio* and *Confesercenti*) are essentially identical. Furthermore, each collective agreement has its own bilateral and autonomous system. (Gabrielli, Filcams-CGIL General Secretary)

The national collective agreement in *cooperative distribution* expired in 2013 and negotiations are still ongoing.¹²⁵⁶ Unions in the past were able to exchange more favourable waging conditions and career development in exchange for labour cost cuts. Cooperative work in Italy can take advantage of the statutory public tax credit to foster the development of cooperative work.

Compared with the agreements with *Confcommercio* and *Confesercenti*, the national agreement for cooperative distribution has slightly higher wages, as it establishes better career paths for workers. (M.G. Gabrielli, Filcams CGIL General Secretary)

Nevertheless, negotiations to renew this national agreement are still under way. According to the Uiltucs national secretary, this national agreement will cover about 80,000 workers.

In recent years cooperative distribution has pushed for reductions in wages and labor costs in order to be more competitive than other private (and non-coop) firms. (Marroni and Uiltucs National Secretary)

Also still open are the negotiations on the national agreement with *Federdistribuzione*, which covers about 220,000 employees. The situation is now fraught, due to a halt in negotiations. In the words of an official of Filcams CGIL:

At the beginning, there were different approaches. Fisascat CISL was more inclined to negotiate with *Federdistribuzione*, while Uiltucs was more hostile because of its historically stronger relationships with *Confcommercio*. We, CGIL, have opened a negotiation in a coordinated way by presenting a unique platform (with equal wage increases) for all the employers' organisations, namely *Confcommercio*, *Confesercenti*, cooperative distribution and *Federdistribuzione*.

5.2.4 Decentralised collective bargaining in the trade sector.

In November 2016, *Confcommercio* signed an inter-confederal agreement with CGIL, CISL and UIL in order to establish a new system of industrial relations. This agreement refers to a previous text on representativeness, signed on November 2015, in which *Confcommercio* underlined its

¹²⁵⁶ The three national associations still negotiating the renewal are: ANCC Coop, the National Association of Consumer Coop; Confcooperative; and Agci Agrital.

willingness to measure the representativeness of the employers' organisations. This issue, together with an incomplete process for measuring trade union organisation is a major issue for the Italian system of industrial relations.

This agreement is similar to (and followed) those signed by Confindustria on collective bargaining and representativeness (see above). In this text, the social partners reiterate the importance of a multi-level system of collective bargaining, at national and decentralised level. The national agreement remains the cornerstone of the system, in order to guarantee equal wages to all workers in the sector.

Instead, it is possible to bargain territorial or company agreements by derogating from the national one only in specific conditions, explicitly established in the national collective agreement's guidelines. (For instance, in order to foster employment growth, good working conditions and quality of work or to deal with an economic crisis.) The agreement aims at enhancing collective bargaining not only at company level but also at the territorial one in order to find the most appropriate solutions to the needs of companies of different sizes and to improve productivity. It is important to stress the usual size of firms in the trade sector: more than 1 million firms (almost 97 per cent of all enterprises in the sector) had fewer than 10 employees in 2014 (Eurostat, 2016).

Derogating from the national collective agreement is possible only in four specified cases:

- (i) in the event of a serious economic crisis;
- (ii) in order to bolster employment;
- (iii) to support development; and
- (iv) to attract new investment (with particular regard to southern Italy).

However, according to the national secretary of Uiltucs-UIL, these clauses have never been used. The only exception was in 2008, *when derogation clauses were used to tackle the emersion of illegal work, especially in the south of Italy.*

Regarding the retail sector, in recent years the economic crisis has reduced the level and quality of decentralised collective bargaining. Especially in the retail sector, several large distribution firms have cancelled their company agreements. The situation described by a trade union official is not easy. *'We tried to renew company agreements, but [...] on one hand there are very old contracts in the drawer, which nobody wants to question. Some have fixed wages, or particularly favourable terms. On the other hand, some contracts were signed during the economic crisis. It was very hard to renew them.'*

'We renewed only a few company agreements and they were all concessional' (national secretary of Uiltucs-UIL).

5.2.5 What changes have there been with regard to wages, working conditions and welfare in the trade sector?

Regarding wages and labour costs, the Confcommercio national agreement establishes the so-called 'economic guarantee element'. The 'economic guarantee element' was introduced in the national collective agreement in 2011 and is an additional sum (ranging from 60 to 105 euros) that firms have to pay to their employees if a decentralised agreement cannot be reached. Firms with fewer than 30 employees (the majority in this sector) can chose to fix variable pay through

a territorial agreement, or have to apply the 'economic guarantee element'. On the other hand, firms with more than 30 employees can establish variable pay through company or territorial collective agreements. Otherwise, they have to apply the 'economic guarantee element'. Workers will receive the next 'economic guarantee element' at the end of November 2017.

'It is important to note that in 2011 this sum was higher (from 85 to 140 euros)' (Marroni, Uiltucs-UIL national secretary). The national agreement also established a guideline in order to determine the conditions under which it is possible, at territorial or company level, to derogate from national agreements. For instance, it is possible in tourist places to employ more 'fixed term contract' workers rather than the percentage fixed by the national agreement. Another possibility is to bargain territorial or company agreements to increase flexible working time.

In 2015, the hourly minimum wage in the trade sector was about 8.43 euros/hour. This is lower than the average of all sectors (about 9.41 euros/hour) (Garnero, 2017). Other scholars who have examined minimum wages established in the National Trade Agreement confirm these data (Birindelli, 2017).¹²⁵⁷

Significant changes that have spilled over to affect workers include increases in involuntary part-time work and temporary contracts, as well as a substantial increase in the use of vouchers (in particular in tourism). The use of involuntary part-time employment increased from 43 per cent in 2008 to 71 per cent in 2015.¹²⁵⁸

The issue of welfare – at both national and company level – is becoming more important. Managed through a multi-level system of bilateral bodies and funds, this kind of 'bilateral or collective agreement-based welfare' includes complementary pension schemes, integrative health insurance, income benefits, vocational training and other 'flexible benefits' paid for by joint contributions of enterprises and workers (especially supplementary pension schemes and health care).

The most important inter-professional fund for lifelong learning in the sector is 'For.Te'. A substantial number of small, medium-sized and large companies (operating in trade, tourism, services, logistics, shipping and transport) have chosen it.

What is new is the introduction of a tax concession to improve welfare measures, collectively bargained, not only at decentralised level but (since the end of 2016) also at national level.

According to the president of Confcommercio, Carlo Sangalli:

Over a long period we were able to build a huge integrative welfare system, which covers millions of workers, via national bargaining. It's an instrument of social justice, isn't it? Supported by adequate incentives these instruments are able to guarantee a second welfare pillar ... in a more mature way, in other European countries. (Official speech at annual national meeting of Confcommercio, 8 June 2017, Rome)

¹²⁵⁷According to Garnero (2017) the hourly minimum wage in the manufacturing sector is about 9.47 euros/hour and – in contrast to the trade sector – ranges from 7.66 to 11.03 euros/hour. Birindelli (2017), by contrast, underlines the existing range in the trade sector between non-fixed term workers (8.3 euros/hour) and fixed term workers (10.1 euros/hour).

¹²⁵⁸ Trade union data. They explain this increase as a way to save jobs by avoiding layoffs.

Considering the significant and growing volume of financial resources and aims, the issue of transparent governance is fairly crucial. The aim of the social partners is to reduce the number of bilateral funds in order to increase the number of recipients and to make the services more efficient and appropriate to newly emerging needs.

5.2.6 Critical issues and perspectives.

The most critical and sensitive issue in the sector is the uncontrolled spread of national agreements (labelled 'pirate' agreements), signed by a growing number of new unions and employers' organisations. The poorly institutionalised industrial relations system, based on social partner autonomy and voluntarism, is seriously compromised by the lack of a clear rule on representativeness. The risk is that wild cost competition and contractual dumping will be fostered, not only between workers, but also between firms.

Employers who are not affiliated to any association are free to choose which national collective agreement to apply (comparing their costs and advantages), or otherwise to sign a new national agreement with a preferred union.

It can be the Confcommercio or the Confesercenti national agreement, but also the Cisl agreement, which is much more advantageous for employers. This issue is crucial for the most representative unions. As underlined by the general secretary of Filcams-CGIL:

There is no system that imposes a minimum wage that can be considered binding erga omnes! An employer association can say that it represents 1 million firms but no one can check it. CNEL (the relevant public authority) does not have a strong enough legislative architecture to verify whether the terms of an agreement constitute dumping.

Moreover, the options for further derogations available to an employer opting for a 'pirate' national agreement will be much wider than in the case of the most representative national agreements.

There is a strong link between the issue of measuring social partner representativeness and the contents and quality of the decentralisation bargaining process. In January 2016 the three confederal trade union asked for legislative measures:

If we want to build an innovative and certain system of rules, it would be a major step forward to take what we have already designed in the framework agreements and to implement it in a law. (Filcams-CGIL general secretary)

Confcommercio is aware of the risk of wild competition and dumping. President Carlo Sangalli, in his official speech at the most recent Confcommercio conference (8 June 2017) said:

We, at Confcommercio, are available to immediately verify our representativeness. It is an important factor in real economic democracy. We have underlined this belief also in the 'reformist practice' of the agreement on the contractual model, which we signed last November with CGIL, CISL and UIL. National collective bargaining agreements obviously affect different partners differently. Nevertheless, they are a "social capital" for everyone".

Finally, tax incentives introduced by the government to enhance productivity and increase competitiveness through collective agreements at company or territorial level, represent another

challenge. In the trade sector, the problem is which criteria to adopt in order to measure productivity or quality improvements at territorial level, because more than 1 million firms have fewer than 10 employees.

6. The strategies of the social partners.

What do the social partners think about the new reformed system of collective bargaining and wage setting? What are their aims?

As far as the employers' associations are concerned, there is no money for wage increases, as the wage rises they gave were higher than expected real inflation. Early in 2015, a bombshell was dropped at the opening of the bargaining session in the chemical sector by the employers, who demanded the restitution of 79 euros on the grounds that real inflation in the previous three-year period had been lower than forecast. In the end, an agreement was reached, but the situation remains uncertain and confused. Employers claim that no provisional indicator should be taken into consideration, all forms of automatism should be abrogated and only real, not forecast inflation should be taken into account. This applies particularly in the metal sector, in which the largest and most influential employers' association, Federmeccanica, issued a position paper entitled 'Contractual Renewal' in 2015. One of its key assumptions was that, at the present time, 'nothing can be taken for granted'. The rules of collective bargaining must be rewritten.

Our sector is no longer able to bear wage increases, which should be delinked from real company results because otherwise such increases would provoke a further loss of competitiveness and/or reduction of profit margins. ... Wage rises are possible only where gains are registered, that is, at the company level, and must be strictly correlated with objective parameters of the profitability and productivity of individual firms.

Beside variable wages, occupational welfare at company or territorial level plays a key role. Employers are willing to accept higher payments and vouchers for company health insurance, training and supplementary pensions. On this basis, the national sectoral agreement would maintain only a residual role of fixing a 'guaranteed wage' for workers not covered by any other decentralised performance-related wage increase. Its amount is defined every year, ex post – after the ISTAT data on the previous year – and not ex ante, as was previously the case, based on the anticipated inflation rate. Some of these claims were adopted in the most recent sectoral agreements, signed at the end of 2016 and approved by workers in a referendum (see the sectoral section of this chapter for an insight into the last sectoral collective agreement signed in December 2016). The metal workers unions agreed to some of these proposals, such as those concerning a new approach to contractual welfare and training, but rejected the substantial abandonment of the role of the national collective agreement, in consideration of the fact that wage increases would now refer to a mere 5 per cent of the sectoral workforce, which are now uncovered by any other proximity increment.

Trade union confederations, as a whole, are fairly united in rejecting this approach, considering wage bargaining a matter of fairness, not to mention a key tool for boosting demand and production. The renewal of the numerous expired national agreements is a priority, starting with the large public sector, with its three million employees, in which wage bargaining has not occurred for the past six years.

On 14 January 2016, CGIL, CISL and UIL signed an inter-confederation agreement entitled '*A modern system of industrial relations for economic development based on innovation and quality of work*'. The new strategy is focused on three pillars, with new rules on collective bargaining, participation and representation.¹²⁵⁹ As for the latter, the three confederations stress the importance of a more inclusive model of collective bargaining,¹²⁶⁰ still two-tier with primacy going to the national level. A wage expansion policy is required that could herald sustainable wage-driven growth. Wage increases beyond merely conserving purchasing power would act as an indispensable driver of consumption and domestic demand. The economic conditions considered relevant for economic policy will no longer be confined to the recovery of purchasing power, which has become marginal due to deflation, but will include macroeconomic variables such as industry output or average productivity.

7. The challenge of the 'Jobs Act' and fiscal incentives for firm-level bargaining.

A layering of heteronymous regulatory interventions intersects with the collective autonomy of the negotiating tables open around the reform and the relationship between the bargaining system, productivity and innovation, wage dynamic and welfare reform.

The impact of the Renzi's labor market reform (the so-called Jobs Act) in the sphere of collective bargaining has been substantial. In order to deviate from legal and common standards, the current government no longer delegates to collective bargaining, as was the case, for example, with the controversial Article 8 of Law no. 148/2011. Now it is the law that directly governs the most sensitive issues (Nunin, 2016; Gottardi, 2016), imposing ever worsening deregulation. It is as if the lawmaker no longer trusts the willingness of the social partners to negotiate the reforms needed to increase competitiveness through more flexibility. This does not mean that collective bargaining has been side-lined completely; on the contrary, the number of referrals and delegations to collective bargaining are fairly numerous and affect sensitive issues, such as atypical contracts. But its role is quite strictly pre-conditioned by the purpose of introducing further flexibility in employment contracts and working conditions, in response to employer pressures (Fontana 2015; Nunin, 2016). Not only that, but in order to clarify the notion of 'collective agreement', the law refers to the 'national, territorial and company levels' (Art. 51, Legislative Decree No. 81/2015) indiscriminately, without any hierarchy being determined (Zoppoli, 2016; Passalacqua, 2016). In order to prevent contractual dumping, the law prescribes that delegated agreements must be agreed by comparatively the most representative trade union association, at national level, and by 'their representatives' or by the RSU at workplace level.

¹²⁵⁹ Among the topics covered by collective bargaining, the agreement stresses the importance of active policies to enhance training and lifelong learning for workers, flexibility of employment relations, management of company crises, sub-contracting, bilateralism, bargained welfare plans and wage policies.

¹²⁶⁰ Representing and extending legal and social protections to young, atypical and also migrant workers is today considered an absolute priority, in terms of both specific campaigns and mobilisation, but also – as in the case of CGIL's programme – more inclusive collective bargaining with regard to their needs and conditions. A national petition for new Charter of Universal Labour Rights was launched by CGIL in April 2016, gathering signatures all over the country, with the side request of a referendum on abrogating the legal provisions of the Jobs Act (Renzi's labour market reform), whose more unfair outcomes include mini-jobs paid with vouchers worth 10 euros gross and the fact that instances of job reinstatement in cases of unfair dismissal have become few and far between.

For some commentators and scholars, this type of legal intervention is qualitatively more treacherous even than the already much criticised Article 8. In the new system, in fact, contractual derogations are no longer conditional on any final outcome, while their stipulation in agreements not subject to the majority principle (Pizzoferrato, 2015; Zoppoli, 2016).

In response to this the unions can demand safeguarding clauses during the negotiations in order to halt or hedge against some of the most corrosive changes contained in the new legislation. A bitterly disappointed CGIL officer sums up the situation in this way: 'I've spent my life negotiating the enforcement of the law and now I find myself having to negotiate *against the law*, or act as if it didn't exist.'

Besides this the legislator uses another lever, namely fiscal measures and incentives. It is not the first time that it has done this, because in 2012 – through another tripartite framework agreement (again not signed by CGIL) – the government and the social partners tried to enhance productivity by reducing the tax burden on wage increases. With the Stability Law 2016 (no. 208/2015) and the following decree of 25 March 2016, the social partners are encouraged to negotiate decentralised agreements aimed at improving performance through decentralised collective agreements. Collectively agreed productivity-related wage increases (also in the form of employee share options) are subject to lower taxation of just 10 per cent, up to maximum of 2,000 euros (up to 2,500 for companies adopting forms of employees involvement), for employees who do not earn more than 50,000 euro gross per year. For 2017, this double ceiling was raised to 3,000 euros for the premium (4,000 euros for companies adopting forms of employee involvement), and to 80,000 for maximum income.

In order to benefit from such a productivity premium, there have to be real improvements in terms of productivity, profitability, quality and innovation, resulting directly from company or territorial collective agreements. They have to define objectives and parameters in detail. If enterprises want to benefit from such tax concessions, improvements have to be real and measurable (production volumes, quality improvement of goods and processes, reorganisation of working time and smart working, employee involvement and direct participation in work organisation). Evaluating joint committees, formed by signatory social partners at the territorial level, will verify that employees will receive communications from their employers concerning the premium and its correct application.

As an alternative to monetary bonuses, individual employees can opt – entirely or partly – for welfare and service benefits, identified and listed in specific plans by collective agreements at territorial or company level, including such items as education, training, wellbeing and assistance for family members, including children, and elderly and dependent persons.

The trade union confederations have reacted overall to such measures with a certain degree of openness, considering this challenge as a great opportunity to relaunch collective bargaining in terms of coverage and contents. An inter-confederate agreement was signed by CGIL, CISL, UIL and Confindustria on 14 July 2016; it aims to extend the new tax lowering measures to companies where workplace representations have not been set up. These documents define a template of territorial agreements, to be used in all companies affiliated to employers branch federations, apart from works councils.

By October 2017, 26,000 had already been signed and registered; more than 80 per cent have been signed at company level, and concern productivity, profitability and quality. Approximately 5,000 documents concern welfare benefits.

At least three kinds of risk have been highlighted by scholars and trade unionists: (1) employers might prefer to opt for less costly increases in the productivity premium and welfare benefits, which is much more convenient than the fully taxed increases in sectoral agreements (2) as the employees are free to choose between wage increases and welfare benefits, with the latter exempted from social security contributions, there could be a weakening of both welfare state and collective bargaining, which are increasingly being eroded by the individualisation of schemes and options; (3) most of these agreements seem to be nothing but 'copy and paste' templates, piled up on the desks of the competent public offices in charge of the difficult tasks of monitoring and authorisation.

8. Final remarks.

It is now time, in conclusion, to attempt some answers to our three opening questions about the main challenges that are changing the Italian industrial relations landscape.

First, we mentioned the decline of neo-corporatist practices, which dominated industrial relations for fifteen years between 1992 and 2007. Since then, with the excuse offered by the crisis and the diktats imposed by the EU, the new political powers-that-be interpret government as a combination of technocracy and neo-populism, in which there is no place for intermediate bodies and their 'tired rituals'. Following the eclipse of the historical major parties and their partial absorption by the 'Blairite' new Democratic Party, trade unions find themselves lacking a reliable partner and potential support in the political arena. This is a fact that unions are likely destined to have to cope with for the next years, forcing them to reduce their possible engagement in macro-policy and tripartite concertation, refocusing their role and initiative in the classical areas of industrial relations: collective bargaining, involvement and participation, industrial conflict and campaigning.

A second main issue, consequently, concerns the current relationship between legislation and collective autonomy. The traditional voluntarism of Italian industrial relations, quite peculiar today in comparative terms, seems to us to have reached a dead-end (Leonardi and Sanna, 2015). The landscape is at best chaotic and without clearly defined rules governing representation, with an increasing risk of wage dumping and downward competition. The choice once more for a voluntarist solution, as in the case of the new rules on representation and collective bargaining, has prevented the most recent inter-confederate agreements from acquiring the universal and binding characteristics indispensable for their effectiveness. A new public interventionism in the whole area of industrial relations (representation, collective bargaining, participation, conflict) would be opportune and many commentators, who in the past were sceptical in this regard, are now more or less in favour (Caruso, 2014; Treu, 2016; Gottardi, 2016; Carrieri, 2017). The problem is the kind of interventionism we can expect today, between the external pressures of globalisation and the internal weaknesses of the national economy and policy. The government no longer seems to operate as a third *super-partes* player, or in support of labour, as it did at the

peak of post-war social policy, but on the contrary it enters the game overtly on the side of business, its needs and expectations (Guarriello, 2014; Bellardi, 2016).¹²⁶¹ Paradoxically, such new and critical legislation is likely to tempt the unions to call for derogations from it (Art. 8) rather than the employers.

A debate on the need for a specific law is on the cards and a number of bills are in the pipeline in parliament. The government may intervene in a whole range of industrial relations issues, after asking the social partners to express common positions, which at the moment are still lacking. One possible way, suggested by several commenters, could be to transpose into law what the social partners agree on, within the framework of auxiliary legislation, but there is resistance in some quarters in political parties and trade union confederations. The three main trade unions, with the document signed in January 2016, proposed to confer an *erga omnes* binding effect on industry-wide agreements, as foreseen in Article 39 of the Constitution. The choice is then to opt for an extension mechanism, in place of what is considered risky by the unions, namely the adoption of a statutory minimum wage.

A third and final issue, linked to the former, concerns the new structure of collective bargaining. Our conclusion here is that, despite the strong pressure from above (New European Economic Governance) and from below (firms' exit strategies), the Italian system has maintained a certain degree of inter-sectoral coordination. The two traditional levels remain in place and, although weakened, neither has expressed a wish to abolish the role and primacy of the national sectoral agreement. Meanwhile, and importantly, relations between the three main trade union confederations, which deteriorated during the first decade of the new century, have improved substantially.

Having said that, many serious criticisms have been raised. Some refer specifically to the national and sectoral levels. For example, the number of agreements should have been reduced drastically and instead it has doubled in just a few years, from fewer than 400 in 2008 to over 800 in 2017, with a proliferation of agreements signed by associations of very uncertain and sometimes completely unknown representativeness. This means that the whole system is getting out of control. There is an evident problem with the legitimacy of the signatory actors, for example, in terms of transparency. In the absence of binding rules governing competitive pluralism, there is always a risk that the situation may descend into chaos, with the parties seeking judicial redress. This is not a problem only on the trade union side, but also – and perhaps even more serious – on the employers' side, with regard to which information is almost entirely lacking. Someone has proposed the introduction of legislation along the lines of what is found in France in this regard. From this viewpoint – and this is one of the key assumptions of our study – the major threat to the system seems to come from the top, in terms of contractual dumping (Gottardi, 2016), rather than from below, where derogations seem to be relatively under control. Firm-level agreements as an alternative to the first sectoral level, have remained limited to the sole case of FIAT/FCA (ADAPT, 2017).

¹²⁶¹ As has been stated, as a result of the unprecedented subordination of workers' rights to economic considerations labour law is changing its traditional paradigm, shifting the balance of power from the rights of the weaker party to the rights of the stronger (Mariucci, 2016).

However, the periods requested for renewals are, on average, intolerably protracted. Millions of workers must sometimes wait a one year or two for a renewal of their collective agreement, after it has expired. The stagnation of Italian wages in recent years is also a reflection of such dysfunction.

Furthermore, the recovery of wages' purchasing power, a pillar of the system when Italy boasted exceptionally high inflation, should not be the sole parameter referred to in a period of deflation. Other macroeconomic variables, national and specifically sectoral, must be introduced as benchmarks in the negotiations; sectoral average productivity, for instance.

At the same time, due to various impulses and pressures, company-level bargaining has certainly been boosted. This has been possible 'qualitatively', by (a) reducing some exclusive prerogatives of industry-wide agreements, (b) weakening the role of external unions in coordination and (c) expanding the possibility for opening clauses and concession bargaining (Bellardi, 2016), but in quantitative terms, it has not taken off. The main reason, as we have seen, is the average size of Italian firms: they tend to be too small and unprepared to meet such a challenge, not to mention the ongoing crisis. Company bargaining would require specific expertise among the managerial staff that is usually missing, while works councils would have to be set up, with the risk of introducing unprecedented and confrontational industrial relations where they did not exist before. On this basis, we can talk of collective bargaining decentralisation without decentralised agreements in Italy. In the absence of firm-level collective agreements, productivity and wages increases are decided by employers on an individual and discretionary basis.

In light of all this we should highlight: (i) the value of industry-wide bargaining as a fundamental and indispensable tool against inter-firm cut-throat competition, enhancing the 'high-road' and socially sustainable competition, based on wage-driven growth of domestic demand; (ii) the importance of vertical and horizontal articulation or coordination of collective bargaining as a key condition for effective industrial relations. We should be able to figure out possible new collective-agreement units at an intermediate level between national sectors and firms; for instance, at the territorial level – as already fruitfully experienced in sectors and branches with a high concentration of small firms and casual work – or along the new value chains, including inter-sector site agreements, as proposed by some unions in the case of construction or big shopping malls and trade centres.

In our view, we should not undervalue the importance and utility of broader and stronger collective bargaining at decentralised level, with a new focus on substantive innovation. In an era of world-class manufacturing, digitalisation and Industry 4.0, alongside a shrinking and recasting of the welfare state, the social partners should update their negotiating repertoire. For a country such as Italy, this means in particular significantly to improve employee involvement in work organisation in order to foster a consensual approach to process and product innovation. It is therefore necessary to invest more and more resources and capacity in vocational training and participatory models. But the new needs of employees with regard to work-life reconciliation, individual and collective services, well-being at work and efforts to tackle new forms of work-related stress are also important. A more inclusive collective bargaining is also needed, capable of representing the interests of the atypical and vulnerable workers involved in new production processes.

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