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# Employer Association Fragmentation and Decentralization of the Collective Bargaining Structure in Italy

Francesca Bergamante, Manuel Marocco<sup>1</sup>

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## Abstract

**Purpose** – The purpose of this paper is to provide an analysis of the collective bargaining trends in Italy, using data from the INAPP-RIL survey conducted on a sample of approximately 22.000 Italian firms.

**Design/methodology/approach** – In the first part, the analyses data from 2005 to 2015, focusing on multi-employer and single-employer bargaining, with particular regard to employer association membership. In the second part, single-employer bargaining in 2015 is investigated, examining data by firm size, economic sector and geographical area.

**Findings** – The share of firms with at least one employee applying a multi-employer collective agreement grew from 2010 to 2015, while in the same period employer association membership decreased. In those years, the share of firms applying firm-level agreements did not increase, and second-level bargaining mainly depended on business dimension and economic sector.

**Research limitations/implications** – This research proposes an empirical framework and calls for an in-depth analysis concerning the possible effects of employer association fragmentation on Italian collective bargaining.

**Originality/value** – Compared to other analyses, the empirical evidence collected provides additional information: multi-employer bargaining has continued to be applied outside of an association membership logic.

**Paper type** – Research paper

**Keywords** – *Italy; Collective Bargaining; Employer's Associations; Collective Agreement; Decentralization.*

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## 1. New European Economic Governance, Wage setting and the Collective Bargaining System in Italy

The Italian collective bargaining system has been, for a long time, at the centre of attempts aimed to promote its greater decentralization, since the adverse effects on national macroeconomic performances are ascribed to its excessive centralization<sup>2</sup> or any way to its two-tier bargaining structure.<sup>3</sup>

Over the years, the main actors of the industrial relations system have pursued, in different moments and often with contrasting objectives, such greater decentralization.<sup>4</sup> Starting from 2009, social partners began entering into a series of autonomous cross-sectoral agreements regulating the relations between the different collective bargaining levels. Progressively widening the competences of the second level,<sup>5</sup> at the same time, also the public actor

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<sup>2</sup> Recently, with regard to the Italian case, see the International Monetary Fund (A. Kangur, *Competitiveness and Wage Bargaining Reform in Italy*, IMF Working Paper, 2018, WP/18/61, <https://goo.gl/wNR5SR>). Also OECD (see Oecd, *OECD Employment Outlook 2017*, OECD Publishing, Paris, 2017, [http://dx.doi.org/10.1787/empl\\_outlook-2017-en](http://dx.doi.org/10.1787/empl_outlook-2017-en)) continues to place Italy (along with Slovenia and Portugal) among the Countries whose structure remains centralised, as firm bargaining is substantially restricted and regulated in a precise manner by higher level agreements.

<sup>3</sup> See P. Tomassetti, *From fixed to flexible? Wage coordination and the collective bargaining system in Italy*, in *International Journal of Comparative Labour Law and Industrial Relations*, 2017, Volume 33, number 4, pp. 527–552. According to the tripartite agreement of 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. For considerations on this structure, T. Boeri, *Two-Tier Bargaining*, IZA DP No. 8358, in IZA Discussion Paper No. 8358, July 2014, <https://goo.gl/846G2J> and T. Boeri, *Perverse effects of two-tier wage bargaining structures*, in *IZA World of Labor*, 2015: 101, doi: 10.15185/izawol.101 <https://goo.gl/6ZiRaq>

<sup>4</sup> According to G.A. Recchia, *The future of collective bargaining in Italy between legislative reforms and social partners' responses*, Paper for 11th ILERA European Congress, Milan, Italy, 8 September 2016-10 September 2016, <https://goo.gl/KJLGfE>, legislation and social partners «move in parallel and potentially divergent lanes of disorganized for the former and coordinated decentralization for the latter» (p. 14).

<sup>5</sup> The latest signed on 9 March 2018 (<https://goo.gl/WTLwwt>), for a first comment see F. Liso, *Qualche erratica considerazione sul recente accordo interconfederale Confindustria, Cgil, Cisl e Uil del 9 marzo 2018*, in *Bollettino Adapt*, 23 aprile 2018, <https://goo.gl/WEcDHm>. For a reconstruction of the content of the agreements entered into between 2011 and 2014 see S. Leonardi, M.C. Ambra, A. Ciarini A, *Italian collective bargaining at a turning point*, in WP CSDLE “Massimo D’Antona”.INT – 139/2017, <https://goo.gl/8FLx5B> and M. Pallini, *Italian Industrial Relations: Toward a Strongly Decentralized Collective Bargaining*, in *Comparative Labor Law and Policy Journal*, 2016, Volume 38, Number 1, 2016, pp. 1-22. The social parties were driven to reach this sequence of agreements also due to the Fiat case in 2010, that is due to the radical attempt of the most important Italian engineering company to develop an alternative system of

started to introduce both hard legislative interventions on the hierarchy of collective bargaining levels and soft policies providing economic incentives for second-level bargaining (see *infra* §. 3.3).<sup>6</sup>

Indeed, decentralization is a consolidated and global trend began in the 1980s, that intensified in the 1990s, to then find stabilization in the ten years before the great recession, and which now has been once again stirred up by the crisis.<sup>7</sup> In fact, according to the OECD (OECD, 2017), the global panorama is characterized by the predominance of single-employer bargaining in two-thirds of the Member Countries; whereas, multi-employer bargaining continues to play a significant role only in Continental Europe.<sup>8</sup>

Recently, an “exogenous” factor added to this consolidated process: the New European Economic Governance (NEEG).<sup>9</sup> According to the NEEG, sectoral and multi-employer bargaining cause “labour market rigidity”<sup>10</sup> as they slacken the process aimed at aligning wages to productivity.<sup>11</sup> Consequently, since the Euro Plus Pact of 2011, the European institutions have been suggesting «(...) to review the wage setting arrangements, and, where necessary, the degree of centralization in the bargaining process (...)».

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collective bargaining, by exiting the system of the Employers' Association. To such regard, see M. Biasi, *Statutory Employee Representation in Italian and US Workplaces: A Comparative Analysis of the Fiat/Chrysler Case*, in *Labor Law Journal*, 2015, 4, 233-255.

<sup>6</sup> See T. Treu, *La contrattazione collettiva in Europa*, in *Diritto delle Relazioni industriali*, 2018, n. 2/XXVIII, pp. 372-411. Reference is made, on the one hand, to Art. 8 of Law No. 148/2011, that ascribes to the second-level agreement (“proximity contracts”) broad powers of derogation to the national collective labour agreement or to the law (see M.D. Ferrara, R. Nunin, *European Economic Governance And Its Impact On The Collective Bargaining System: The Italian Case*, in *Revista Iberoamericana De Relaciones Laborales*, 34, pp. 25-34), and on the other hand, to Art. 51, Lgs.D. No. 81/2015, which gives the collective agreement of any level the power to integrate the legal rules with regard to atypical agreements (see M. Pallini, *op.cit.*). According to T. Treu, *op. cit.*, 390, also in this second case the traditional hierarchy of the sources is altered, due to the indistinct reference to the various levels of collective bargaining.

<sup>7</sup> See J. Visser, *What happened to collective bargaining during the great re-cession?*, in *IZA Journal of Labor Policy*, 2016, 5:9, <https://goo.gl/XGqv6p>

<sup>8</sup> See Oecd, *op.cit.*

<sup>9</sup> See E. Menegatti, *Challenging the EU Downward Pressure on National Wage Policy*, in *International Journal of Comparative Labour Law and Industrial Relations*, 2017, volume 33, number 2, p. 195–220, for an analysis of the interferences with the national wage setting systems.

<sup>10</sup> See P. Marginson, *Coordinated bargaining in Europe: From incremental corrosion to frontal assault?*, in *European Journal of Industrial Relations*, 2015, Vol. 21(2) 97– 114.

<sup>11</sup> In the same sense, also Ecb, *Economic Bulletin*, 8, 2015, <https://goo.gl/0qf6e9>, according to which: «To enhance the resilience of the economy to shocks, wages must appropriately reflect labour market conditions and productivity developments, which underlines the importance of reforms conducive to greater wage flexibility and differentiation across workers, firms and sectors».



The crisis accelerated the subdued tendencies that scholars, even Italian, had been highlighting for a long time.<sup>12</sup> The increasingly rigorous European restrictions on flexible budgeting and fiscal policies have increased the relevance of labour market flexibility (the so-called “internal devaluation”) with the aim to guarantee competitiveness among economic systems.<sup>13</sup> In other words, within the context of the crisis, such restrictions have progressively led wage dynamics, and therefore collective bargaining, to fall within the scope of action of the EU’s macroeconomic surveillance as a factor of cost competitiveness<sup>14</sup>. Thus, the new macro-economic surveillance procedures have been continually inviting the Member States, since 2011, to promote wage mechanisms more sensitive to corporate market conditions by decentralizing the bargaining structures.<sup>15</sup>

Symptomatic in this respect are Country Specific Recommendations (CSRs), adopted within the framework of the so-called European Semester, providing a procedure for macroeconomic coordination and preventive control of the national budgeting policies introduced in 2011.<sup>16</sup>

Indeed, the analysis of the CSRs for the period 2011-2017 (Table 1) highlights the systematic invitation for the Member States to intervene on wage setting mechanisms, in particular, to align the latter’s trend with productivity; in particular, Italy (along with Belgium and France) has always received such Recommendations.<sup>17</sup> Besides, over the years, the number of Countries invited to review their wage setting has almost doubled (passing from 8 in 2001, to 14 in 2018).

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<sup>12</sup> See M. Biagi, *Il ruolo delle parti sociali: dal dialogo alla partnership*, in *Diritto delle relazioni industriali*, 1999, 1, IX, pp. 25-31.

<sup>13</sup> See L. Bordogna, R. Pedersini, *Economic crisis, new EU economic governance and the regulation of labour*, Paper for ILERA, CAPE TOWN, September 2015, <https://goo.gl/BdQiTa>.

<sup>14</sup> As highlighted by the European Commission, see European Commission, *Industrial Relations in Europe 2014*, Luxembourg: Publications Office of the European Union, 2015, <http://goo.gl/kyRILE>.

<sup>15</sup> See Eurofound, *Changes to wage-setting mechanism in the context of the crisis and the EU’s new economic governance regime*, Dublin, 2014, <https://goo.gl/auGa2O>.

<sup>16</sup> See Bongelli K., *The impact of the European Semester on collective bargaining and wages over the recent years*, in WP CSDLE “Massimo D’Antona”.INT – 138/2017, <https://goo.gl/oizwve>, also for the interesting reconstruction of the trade unions’ attitude and answers toward the CSRs’ interferences on themes of social interest.

<sup>17</sup> See 2016/C 299/01, which anyway highlighted that: «Second-level bargaining is not sufficiently developed in Italy (...). Action in this area needs to be taken in consultation with social partners and in accordance with national practices. (...) A reform is expected by the end of 2016, according to the National Reform Programme».

Table 1. Frequency of the CSRs “Reviewing wage-setting system -align with productivity developments”

Country	2011-12*	2012-13**	2013-14***	2014-15****	2015-16****	2016-2017*** **	2017-2018*** **	Tot
AT						•	•	2
BE	•	•	•	•	•	•	•	7
BG	•				•	•	•	4
CY	•					•	•	3
CZ								0
DE		•	•	•			•	4
DK								0
EE						•	•	2
ES	•			•	•			3
FI		•	•		•	•	•	5
FR	•	•	•	•	•	•	•	7
HR				•	•	•	•	4
HU								0
IE								0
IT	•	•	•	•	•		•	6
LT								0
LU	•		•	•	•	•		4
LV						•	•	2
MT	•	•						2
NL				•			•	1
PL								0
PT				•	•	•	•	4
RO				•	•	•	•	4
SE		•						1
SI		•	•	•	•			4
SK								0
UK								0
Tot	8	8	7	11	10	12	14	70

Source: Authors' calculations based on Clauwaert S. (2017), The country-specific recommendations (CSRs) in the social field. An overview and comparison. Update including the CSRs 2017-2018, Etui, Background analysis 2017.02, <https://goo.gl/uXGJXP>

\* EL, IE, LV, PT and RO did not

receive the CSR

\*\* EL, IE, PT and RO did not receive the CSR

\*\*\* CY, EL; IE and PT did not receive the CSR

\*\*\*\* CY and EL did not receive the CSR

\*\*\*\*\* EL did not receive the CSR

Moreover, starting from the letter, not at all secret, sent in August 2011 by the European Central Bank (ECB) to the Italian Executive, the Italian industrial relations system has been under a sort of *special surveillance*.<sup>18</sup> Recently, European Commission's internal documents have stigmatised the scarce institutionalisation of the Italian collective bargaining system («The rules are not clear and not well specified»), ascribing the scarce reactivity of Italian wages to inflation and production trends to the rigidity of the wage setting, in a period in which the two indicators are both negative.<sup>19</sup> In particular, the Commission's offices deem that the rigidity is caused: by the centralization of the Italian collective bargaining system, as it squeezes the variable components of wages; and by the excessive duration of collective agreements, when keeping into account the slowness of renewal procedures. Therefore, the insufficient use of second-level bargaining produces rigidity in wage setting, as it «hampers the development of innovative solutions at a firm level that could improve productivity and foster the response of wages to labour market conditions».<sup>20</sup> According to the European offices, various – if not all – essential characteristics of the Italian industrial relations system intervene between the decentralization strategy of the collective bargaining system and the tools to achieve it.<sup>21</sup> Such components are uncommon institutionalization; excessive centralization; limited range of the second level; automatic mechanism of the subjective jurisprudential extension of the collective agreement; non-operativeness in the

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<sup>18</sup> See <https://goo.gl/2UnYk5>. For a reconstruction of the financial crisis of summer 2011 see S. Sacchi, *Conditionality by other means: EU involvement in Italy's structural reforms in the sovereign debt crisis*, in *Comparative European Politics*, 2015, Volume 13, Issue 1, pp. 77–92.

<sup>19</sup> See SWD (2016) 81 final: 39.

<sup>20</sup> See again SWD (2016) 81 final: 39.

<sup>21</sup> See M. Magnani, *The Role of Collective Bargaining in Italian Labour Law*, in *E-Journal of International and Comparative LABOUR STUDIES*, Vol. 7, No. 2 May-June 2018, <https://goo.gl/kmL6oq>, for an analysis of the legal framework under Italian law of the structure of the Italian collective bargaining.

private sector of the criteria for measuring the trade union representativeness; excessive duration of cooperative agreements.<sup>22</sup>

The Commission's pressing surveillance over the national wage setting mechanisms seems to have clashed with the traditional voluntarism of the Italian industrial relations system. As highlighted by comparative analysis, other methods (the rest of Mediterranean Europe and Eastern Europe) have promoted single-employer bargaining and the contextual weakening of multi-employer negotiations, primarily through legal interventions.<sup>23</sup> In Italy, as in the other abstention of law systems, the same process – although with relevant exceptions<sup>24</sup> – continued owing to the self-determination of workers' unions and employers' associations, in contrast with the European surveillance which insists on a new dirigisme concerning wages.<sup>25</sup>

This European interference on the wage setting system has raised much debate in Italy, in particular for the possible effects on the strength of the traditional national collective bargaining system. Against the more or less concerned tones of most of the commentators,<sup>26</sup> others manifest a certain scepticism toward the CSRs.<sup>27</sup> Deeming that since they implement a principle of political conditionality (economic aids or permanence in the Euro in exchange of structural reforms) they need to be framed – and evaluated – mainly from this

<sup>22</sup> See again SWD (2016) 81 final: Box 2.4.1.

<sup>23</sup> See P. Margison, op. cit. and J. Visser, op. cit.

<sup>24</sup> Reference is made in particular to Art. 8 of Law No. 148/2011, adopted in summer 2011 by the Italian Executive in answer to the BCE's explicit request to “further reform the collective wage bargaining system allowing firm-level agreements to tailor wages and working conditions to firms' specific needs.” See *supra* No. 5.

<sup>25</sup> According to T. Treu, op.cit, 405, on the other hand, this voluntarism “weakens” the industrial relations system in the presence of external and internal pressures for changes.

<sup>26</sup> Tones particularly concerning for Italy and the Mediterranean countries are found, for example, in G. Meardi, *Mediterranean Capitalism' under EU Pressure: Labour Market Reforms in Spain and Italy, 2010–2012*, Warsaw Forum of Economic Sociology, 2012, Volume 3, number 1(5); S. Bologna, *Liberalizing Industrial Relations in Southern-Europe Towards the End of a Coordinated and Egalitarian Model*, in *Economia & lavoro*, 50, 2, 2016, pp.101-120 and S. Leonardi, *L'impatto della nuova governance europea sulla contrattazione collettiva. Un confronto fra Italia, Spagna e Portogallo*, in *Quaderni di Rassegna Sindacale*, 2, pp.147-172. For an overall view, with particular attention toward what is occurring in the European institutions, see Giubboni S. (2018), *The rise and fall of EU labour law*, *European Law Journal*, Volume 24, Issue 1, January 2018, pp. 7-20. In an analogous sense P. Margison, op. cit. and R. Hyman, *What future for industrial relations in Europe*, in *Employee Relations*, <https://doi.org/10.1108/ER-02-2018-0056>; in particular, the latter considering the relative importance of internal and external drivers of change of industrial relations in Europe, includes Italy in the group of countries where “less coercive external pressures reinforced already strong domestic moves to liberalisations.”

<sup>27</sup> See E. Ales, *La dimensione 'costituzionale' del Modello Sociale Europeo tra luci e ombre (con particolare riferimento ai diritti collettivi e al licenziamento)*, in WP C.S.D.L.E. “Massimo D'Antona”. INT–129/2016, <https://goo.gl/MoYwnx>.

viewpoint, while they result challenging to mount from a technical-legal perspective. On the other hand, we can say that when CSRs take the legal form of European Union's Council Recommendations and are accompanied by a non-political sanction, they end up losing the typical character of soft law.<sup>28</sup>

From a political viewpoint, however, it is indisputable that these tools, in specific national contexts, have generated an unfavourable climate concerning social rights.<sup>29</sup> Indeed, they give the impression that the deregulatory intervention in this field may represent an acceptable option for exiting the crisis, thus causing the wavering of the traditional idea of Europe as a «bastion against deregulation at a national level.»<sup>30</sup>

Given these international tendencies, and taking into account the internal debate sparked off by the European interference, it is useful to verify the trends and health conditions of the Italian collective bargaining structure from empirical evidence. To this regard, in the present study, we utilized the Rilevazione su Imprese e Lavoro (RIL), a survey on firms and labour conducted by the National Institute for Public Policy Analysis (INAPP). At its fourth edition in 2015 (the previous years of the survey were 2005, 2007, 2010), the study considered a sample of about 26,000 firms' representative of the companies active in the extra-agricultural private sectors.

It was carried out with the Cati technique (Computer-assisted telephone interviewing) and provides a very detailed series of information on active

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<sup>28</sup> In particular, the CSRs lose their nature of soft law each time a single recommendation is underpinned by a single instrument of the EU secondary law, which provides for a sanction in case of non-compliance, that is the Stability and Growth Pact (SGP) and the Macroeconomic Imbalance Procedure (MIP). In fact, in such case: «A failure to implement the recommendations might result in further procedural steps under the respective EU law and ultimately in sanctions under the Excessive Deficit Procedure and the Excessive Imbalances Procedure and the related fines and/or suspension of up to five European Fund» (see <https://goo.gl/ZkFQwF>). In the same sense also E. Menegatti, op. cit., who deems the Council Recommendations legally binding and therefore executable before the Court of Justice.

<sup>29</sup> With particular regard to the Italian case, S. Sacchi, op. cit., talks about «implicit conditionality as a source of involvement of the EU in domestic policy making».

<sup>30</sup> See C. Barnard, *The Financial Crisis and the Euro Plus Pact: A Labour Lawyer's Perspective*, *Industrial Law Journal*, 2012, Volume 41, Issue 1, 1 March 2012, pp. 98–114. Barnard, *EU Employment Law and the European Social Model: The Past, the Present and the Future, Current Legal Problems*, 2014, Volume 67, Issue 1, pp. 199–237 clarified that: «(...) It is certainly clear that the European semester is a complex, multi-layered, multi-institutional process which encourages, *inter alia*, significant reform to labour law systems in some countries,» contributing toward the crisis of the European social model, in particular to its «Crisis of Legitimacy».

labour force composition, productive specialization, industrial relations, etc. besides data on corporate accounting.<sup>31</sup>

Therefore, the second paragraph of this contribution analyses the dissemination and coverage of multi-employer bargaining over the years, utilizing as a primary key of interpretation the trend in the same period of the Employers' Association Membership. Continuing, the third paragraph analyses the data relating to the single-employer bargaining, providing information on its dissemination over the years and then analysing its propagation and content also in the light of the latest data available (2015). Finally, a brief conclusion is provided based on the empirical evidence analysed in the previous paragraphs.

## **2. Employers' Association fragmentation and Industry-level Collective Agreement in Italy**

INAPP-RIL's survey allows, first of all, to analyse the development over time of the share of firms that state to be registered with an Employers' Association (Employers' Association Membership). From the data collected, it is possible to observe a progressive and essential decrease in membership rates (see fig. 1). If in 2005 slightly over 66% of the firms with at least one employee stated to be a member of a category association, ten years later (in 2015) the percentage decidedly dropped, and only 45% continued to be a registered member. The motivations at the basis of such trend are many, among which: the erosion of trade unionism; reduced importance of membership due to the decentralization of collective bargaining and to the increased competitiveness between firms; the difficulty to carry out proselytism due to the fragmentation of the entrepreneurial fabric.

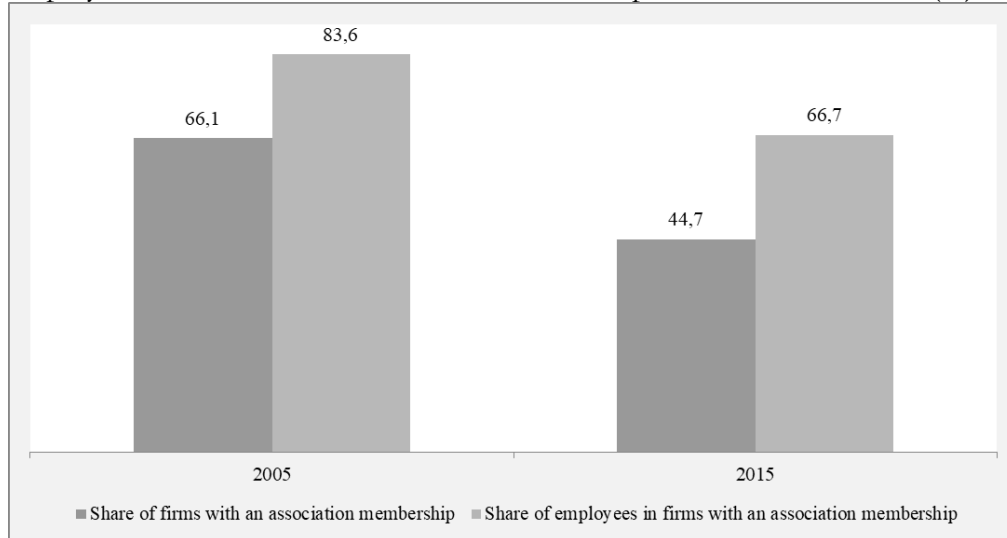
In order to acquire a more rigorous picture of memberships, and in particular to measure membership strength, fig. 1 also provides an overview of membership density, that is the percentage of workers in private sector firms, with at least one employee, members of an Employer's Association (Employers' Association Membership Density). In 2015, out of the total amount of employees, 66.7% worked in firms with an association membership

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<sup>31</sup> The strategy adopted to identify the surveyed sample was based on a stratified sampling with a variable likelihood extraction in proportion to firms' size; the sample allocation envisages to plan study domains coinciding with the region, size, legal form and sector of economic activity; the estimate phase provided for the creation of a calibrated estimator based on a series of auxiliary information. The totals given by the calibration procedure were drawn from the ASIA records (Archivio Statistico delle Imprese Attive – Statistical Records of Active Firms) provided by ISTAT and coincide with the study domains. The population of reference is the one provided by ISTAT with the ASIA records. For in-depth information see: <http://www.inapp.org/it/rii>.

(the average of OECD countries was equal to 51%), that is more than 6,600,000 people (in 2005 they amounted to almost 7,800,000, equivalent to 83.6% of the total amount of employees).

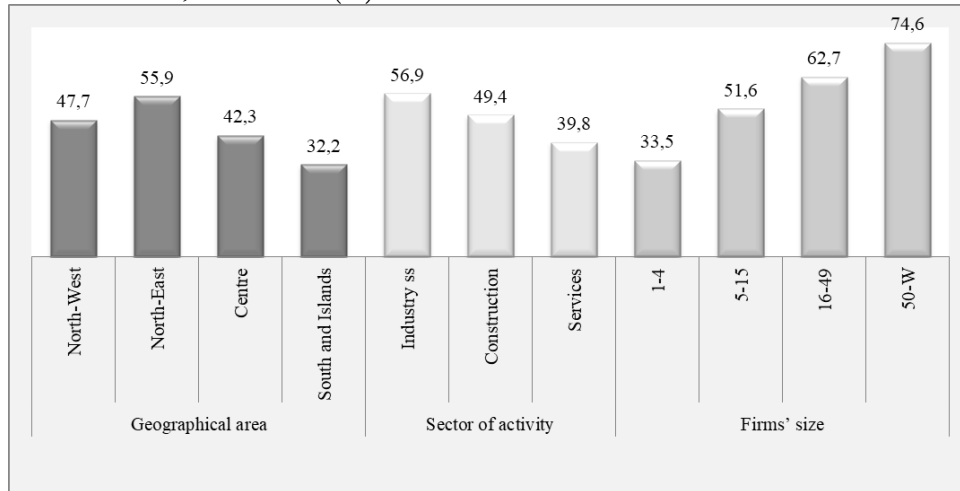
Figure 1 – Share of firms with an association membership and share of employees in firms with an association membership, Years 2005 and 2015 (%)



Source: Authors' calculations based on data from INAPP-RIL

RIL's data allow analysing in depth firms' characteristics that join an Employers' Association (fig. 2). In 2015, the latest datum available, the weight of the classical determinants within the Italian industrial relations system was confirmed: localization, the sector of activity and, especially, firm's size are all elements that condition the choice whether or not to join an association.

Figure 2 – Membership rate of firms with at least one employee per specific characteristics, Year 2015 (%)

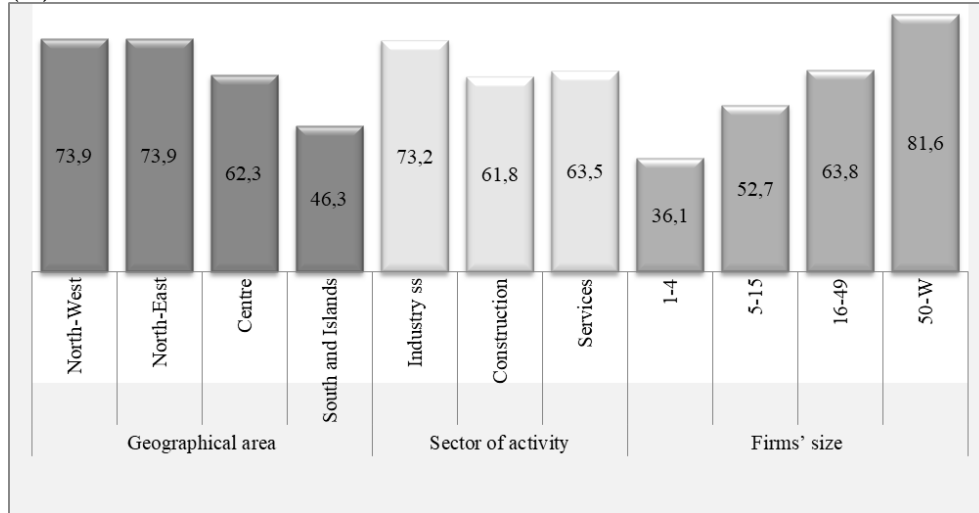


Source: Authors' calculations based on data from INAPP-RIL

Also, in the case of the Employers' Association Membership Density, the variables of corporate demography seem to play a role in determining membership density variations (fig. 3). In fact, in 2015, only 46.3% of the employees in firms located in the South and Islands were employed in a firm with an association membership; whereas, such share reached almost 74% both in the North-West and in the North-East. Furthermore, taking into consideration the economic sector, membership density was higher concerning employees in the industry sector (73%), outdistancing both the services and the construction sectors. Firm's size is a highly discriminating factor: the higher the number of employees, the greater the share of workers in firms with an association membership, a percentage that reached almost 82% in firms with 50 or more employees.



Figure 3 - Incidence of employees in firms with at least one employee, members of an employers' association per specific characteristics, Year 2015 (%)

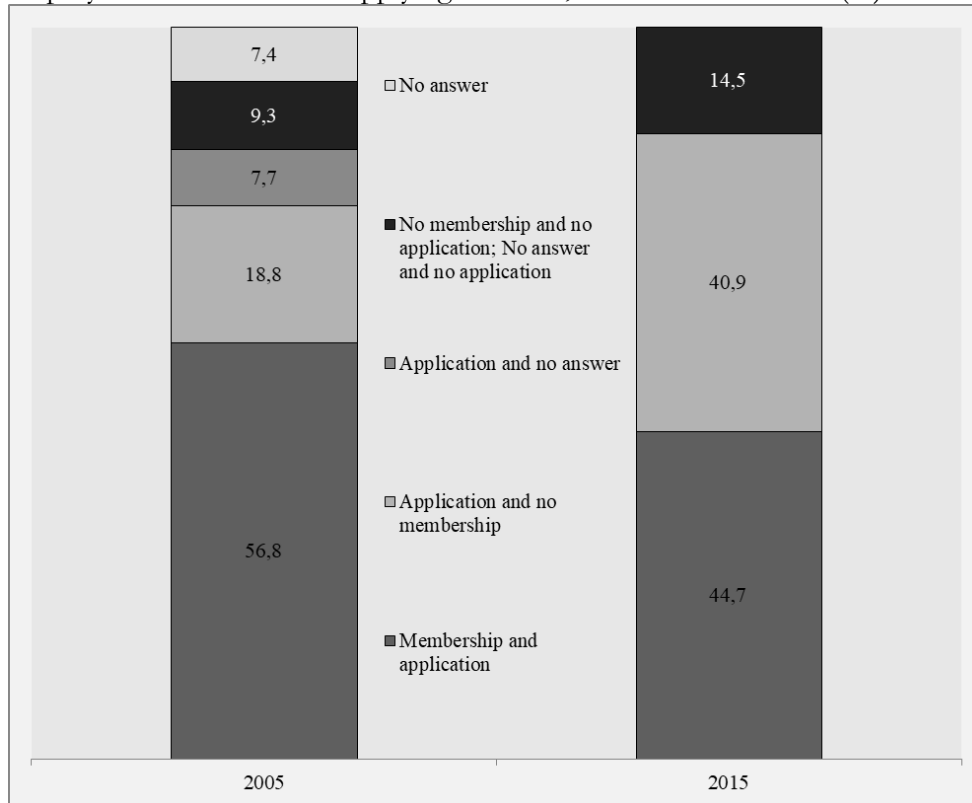


Source: Authors' calculations based on data from INAPP-RIL

Furthermore, RIL's data allow verifying how many firms stated to apply an industry-level collective labour agreement (Contratto collettivo nazionale di lavoro, CCNL) considering the trend of this variable in connection with the Employers' Association Membership (fig. 4 and 5). Concerning the overall share of firms that stated to apply a CCNL (obtained as follows: summing firms with membership in a category association and saying to ask a CCNL; firms starting to ask a CCNL although not being members of a category association; and, lastly, firms indicating to apply a CCNL, but not answering the question concerning membership).

In 2015, the mentioned share was equal to 85.5%, in slight increase compared to the 83.3% of 2005. Therefore, over the years, the number of firms applying an industry-level collective labour agreement has increased, but such a rise has occurred especially outside of an association membership logic. In fact, when observing the single modalities that constitute the overall share of firms with a membership, interesting dynamics can be identified: the percentage of firms with an association membership and that apply a CCNL has decreased by about 12%, against an over 22% increase of the share of those applying a CCNL, although not registered with any Employers' Association. Moreover, some firms preferred not to answer concerning their membership with an association, but that anyway stated to apply a CCNL.

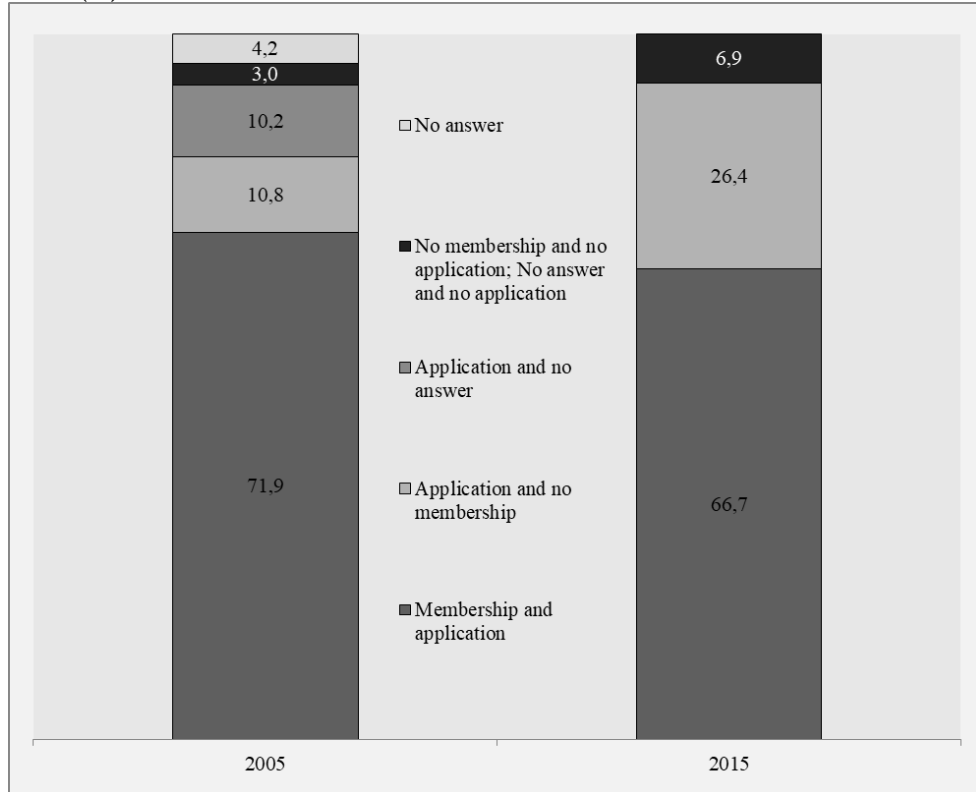
Figure 4 – Composition of firms with at least one employee, members of an employers' association and applying a CCNL, Years 2005 and 2015(%)



Source: Authors' calculations based on data from INAPP-RIL

The overall strength of the first-level collective agreement is evident also considering the employees' coverage (fig. 5). In fact, in 2015, 93.1% of the employees (equal to more than 9,200,000 people) were covered by a first-level agreement. A similar percentage was registered in 2005 (although the employees covered were numerically more, about 10,000,000). However, also considering this indicator, it is evident that the coverage of the CCNLs has been maintained over the years owing to the increase in the share of employees in firms that do not join an Employers' Association: such share, in fact, rose from 10.8% in 2005 to almost 26.4% in 2015.

Figure 5 – Composition of employees in firms with at least one employee, members of an employers’ association and applying a CCNL, Years 2005 and 2015 (%)



Source: Authors' calculations based on data from INAPP-RIL

In synthesis, despite the concern for the Employers’ Association fragmentation, in 2015 more than 2,600,000 employees in firms not members of associations were covered by a CCNL (in 2005 they were slightly over 1,100,000). In other words, the multi-employer bargaining coverage seems to hold, even though within the framework of an increasingly marked Employers’ Association fragmentation.

It may be assumed that the primary stimulus to enter into an industry-level agreement, even spontaneously, continues to be based on the mechanism of the extension of minimum wages set by the same CCNLs. According to a consolidated interpretation of jurisprudence, in Italy, such minimum wages result to apply also to firms and workers that have not undersigned any

collective agreement (extra parties).<sup>32</sup> The development of this particular mechanism occurred in the absence of a legal mechanism of subjective extension of the effects of cooperative agreements (*erga omnes*), although provided for by the Constitution of 1948, never implemented. However, two issues remain.

The “non-coverage” of about 7% of employees (equal to about 685 thousand people) working in firms not members of associations and stating not to apply a CCNL (in 2005, the percentage was equal to 3%, amounting to about 324,000 employees). Such condition concerns mostly those who work in the services sector, in the South and firms from 5 to 15 employees.<sup>33</sup> Such not small amount of “non-covered” workers could have benefitted from the introduction of legal minimum wages, provided for by the so-called Jobs Act, which however was not introduced due to the opposition of trade unions and most of the Employers’ Associations.<sup>34</sup>

Secondly, the correct interpretation of the datum relating to the coverage of the CCNLs, which must keep into account the effects induced by the Employers’ Association fragmentation. As mentioned, according to RIL’s data, in 2015 the employees covered by an industry-level agreement in Italy amounted to about 9 million, corresponding to the 93% of the total amount of employees in firms with at least one employee. Such datum - positively affected by the staggering increase registered over the last years in the number of CCNLs entered into<sup>35</sup> - places Italy among the countries in which the multi-employer bargaining coverage is relatively stronger (the OECD average in 2013 was equal to 33%); however, the other side of the coin needs to be considered. RIL’s data – but in general all the Italian statistics relating to coverage rates – do not allow to obtain any information on the “quality” of the agreements applied, that is on the level of representativeness of the signatures. In other words, the datum does not keep into account a phenomenon, recently very

<sup>32</sup> Visser 2016: 6 defines Extension: “ (...) An act of public policy based on explicit legislation mandating the government, a public agency or, in some cases, the court to apply the collective agreement beyond its signatories.” On the basis of this definition, there is no explicit legislation in Italy mandating the court to apply the collective agreement beyond its signatories; however, on the basis of a jurisprudence developed at the beginning of the 1950s, the courts exercise such function autonomously. For further in-depth information on this mechanism see Tufo, 2018.

<sup>33</sup> See F. Bergamante, M. Marocco, *Il doppio livello di contrattazione collettiva in Italia: tendenze recenti alla luce dell'indagine Inapp-RIL*, in Quaderni di Rassegna Sindacale, 2017, XVIII, 4, pp. 181-197.

<sup>34</sup> For further in-depth information see again Tufo, op. cit.

<sup>35</sup> In the period 2012-2017, according to the tripartite National Economic and Labour Council (CNEL, the body in charge in Italy to gather collective agreements), the amount of CCNLs in force passed from 549 to 868. See I. Feliciano I., *Italy: Increasing fragmentation in collective bargaining at sectoral level*, *Eurwork*, European Observatory of Working Life, <https://goo.gl/dM1igX>.

much debated, characterized by the proliferation of the so-called “pirate agreements,” that are contracts signed by scarcely representative organizations. They aim to carry out a contractual and wage dumping of these agreements signed by the most representative associations, therefore making the jurisprudential mechanism of the subjective extension of minimum wages both inefficient and uncertain.<sup>36</sup> In other words, the economic system seems to have developed a convenient and alternative system for opting out<sup>37</sup> of the sectoral collective bargaining<sup>38</sup>, taking advantage of the absence of legislation on representativeness and of voluntarism that characterizes the mechanisms for selecting bargaining actors on the workers’ and employers’ side.

### 3. Dissemination, Coverage, Contents of Second-level Collective Bargaining

What happened to decentralized bargaining in the period 2005-2015 according to INAPP-RIL’s survey?

To answer, it is necessary to make a preliminary methodological remark. Other empirical analyses on the Italian second-level bargaining take into consideration only a part of the entrepreneurial fabric, that is firms that reach a certain size.<sup>39</sup> However, due to the characteristics of such structure, we deem advisable to suggest an analysis that does not exclude smaller firms, as they represent the definitely most consistent part of the entrepreneurial panorama: in Italy about 89% of the firms, in fact, count up to 15 employees and employ around 35% of the total amount of employees. According to our opinion, excluding such a vast part of firms from the study, although of small or minimal size, does not allow to fully reason on the theme of firm-level

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<sup>36</sup> According to M. Pallini, op. cit., 14: «The main offense carried out by rogue agreements to national collective bargaining is represented in the competition in wage setting with reference to the minimum wage for all the companies in a specific sector».

<sup>37</sup> According to D’Amuri F., Nizzi R., *Recent developments of Italy’s industrial relations system*, in *Questioni di Economia e Finanza (Occasional Papers)*, 2017, 416, 6, Bank of Italy, Economic Research and International Relations Area, <https://goo.gl/yFBEUe>: «(...) In 2015 two per cent of employees in firms included in the Invind Banca d’Italia survey were covered by a ‘minor’ contract, characterized by pay levels that in some cases may be lower by as much as 20 per cent compared with those envisaged by the corresponding traditional CCNL (“National Collective Labour Agreement”)».

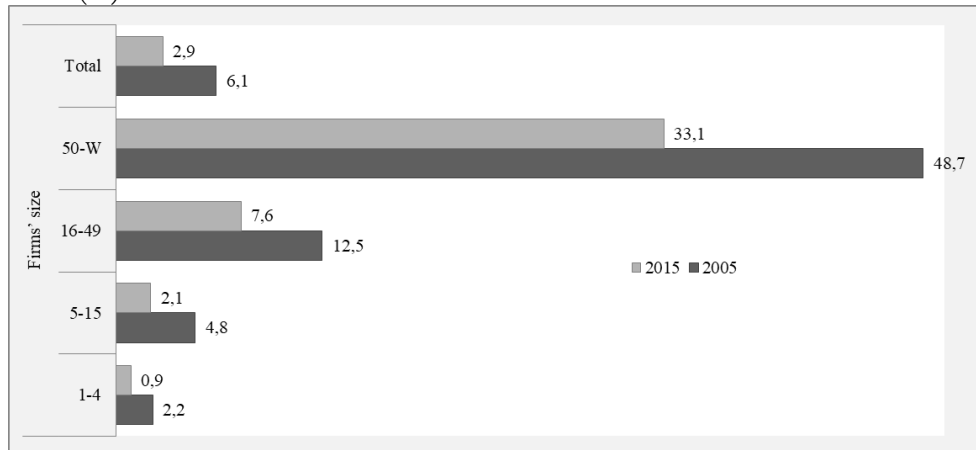
<sup>38</sup> F. Liso, op. cit., to this regard talks about an « (...) endogenous corruptive phenomenon that threatens to shatter the system and weaken the function».

<sup>39</sup> For example, lately the Bank of Italy has only been considering firms with more than 20 employees, the Fondazione Di Vittorio only those with more than 10. For a reconstruction and comparison see S. Leonardi, M. D. Ambra, A. Ciarini, op. cit., 21.

bargaining, especially if empirical evidence is used to analyse interventions aimed to promote their dissemination. Therefore, also in this case (as in the study of the industry-level agreement), the productive structures considered were those with at least one employee.

INAPP-RIL's survey shows a decrease, concerning the years under exam, in the share of firms starting to apply a second-level agreement (fig. 6), as well as in employees' coverage (fig. 7). Indeed, the Italian entrepreneurial structure fragmentation weighs massively on the dissemination of the second-level agreement. INAPP-RIL's data also confirm that single-employer bargaining is a prerogative of large organizations: in 2015, more than 33% of the firms involved (fig. 6) belonged to the larger dimensional class (more than 50 employees), and in the same dimensional level the coverage reached almost 52% (fig. 7). In 2005, the corresponding values were respectively 48.7% and 63.1%, thus highlighting a substantial drop over the years. In addition to such evidence, it is essential to specify that between 2005 and 2015 the Italian entrepreneurial structure underwent a further fragmentation. The number of micro firms increased (by about 7% those ranging from 1 to 4 employees), and the others decreased. In particular, firms with 16 employees or more fell by almost 18%. Moreover, the data show (fig. 6) that micro-firms underwent a drop in the tendency to implement second-level agreements (from 2.2% to 0.9%).

Figure 6 - Incidence of second-level bargaining per firms' size, Years 2005 and 2015 (%)

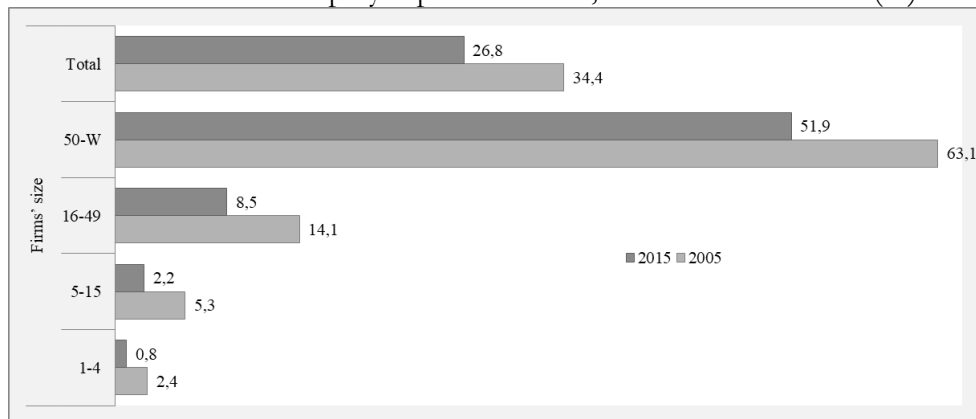


Source: Authors' calculations based on data from INAPP-RIL

Over the years (fig. 7), there has been a decrease also in the share of employees covered by the second-level agreement (from 34.4% to 26.8%). Even this drop

is due to what occurred over the years to the Italian firms' structure. In this case, the decrease in employees in large-sized firms contributed toward the overall drop of the coverage of firm-level bargaining. Whereas, the contribution of small-sized firms – already not very interested in the negotiation – was not particularly relevant.

Figure 7 - Incidence of second-level bargaining with regard to employees in firms with at least one employee per firms' size, Years 2005 and 2015 (%)



Source: Authors' calculations based on data from INAPP-RIL

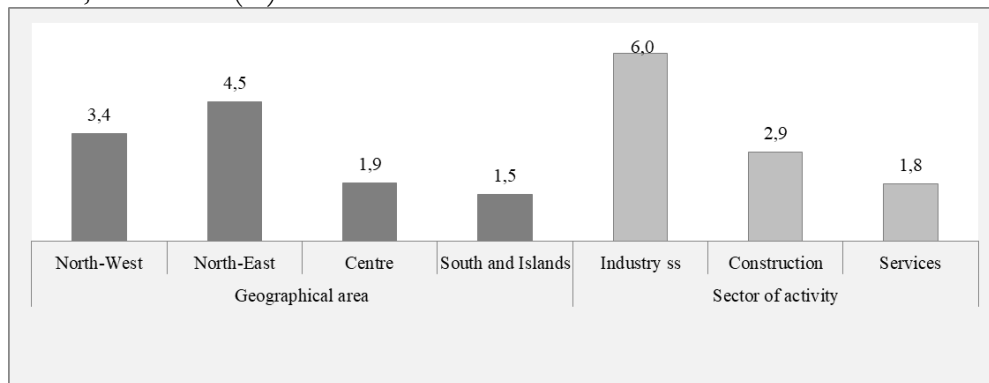
It is essential to make a final consideration on the trend of the second-level bargaining dissemination and coverage. If, by and large, the Employers' Association fragmentation, as mentioned in the previous paragraph, does not seem to produce any negative "effects" on the dissemination and coverage of the multi-employer bargaining, it is instead challenging to interpret the weight of such phenomenon on the single-employers bargaining. However, RIL's data highlight that these two variables have changed over time in an analogous sense, that is: the progressive decrease in memberships with category associations (fig. 1) corresponds to a specific overall reduction of the dissemination of decentralized agreements (fig. 6 and 7). In other words, it seems that the Employers' Association fragmentation may have exercised an adverse effect on the dissemination of second-level bargaining.

### *3.1 Firms' characteristics and Decentralized Bargaining*

With the aim to analyse in depth the firm/local-level bargaining dissemination and characteristics, only the data related to INAPP-RIL's 2015 survey were used.

Besides the firms' size, another determinant for the dissemination of second-level agreements consists of firms' geographical position, along with their economic sector (fig. 8). Utilizing an aggregated sectoral classification, the greatest dissemination of decentralized bargaining is observed in the industry strictly speaking. Concerning the geographical dimension, the North-West and the North-East are the areas with the highest number of firms starting to apply a second-level agreement.

Figure 8 - Incidence of second-level bargaining per geographical area and sector, Year 2015 (%)

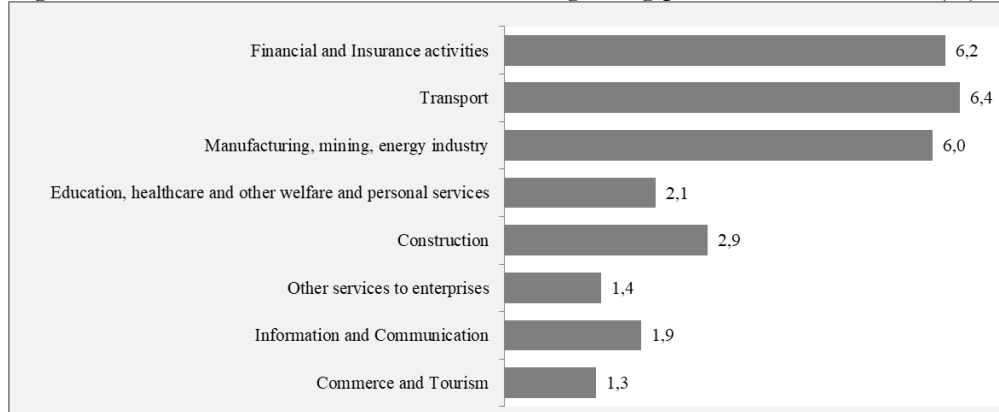


Source: Authors' calculations based on data from INAPP-RIL

Additional elements may be obtained on the extension of second-level bargaining by further disaggregating the economic sectors (fig. 9). The highest peak is registered in the Transport sector and the Financial and Insurance industry. On the contrary, Commerce and Tourism represent the fertile fields in which decentralized bargaining is less disseminated, with a share similar to that of Other services to enterprises.



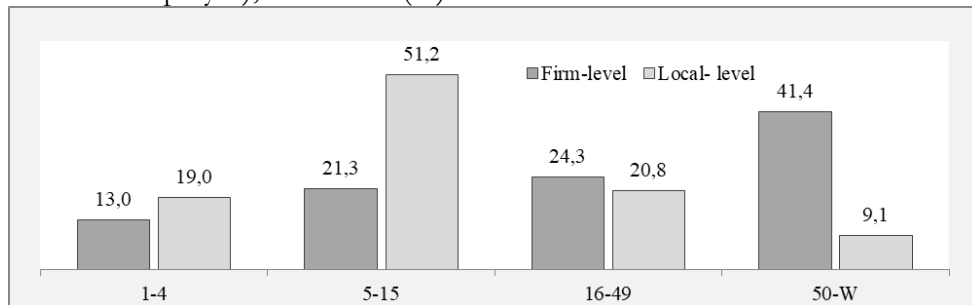
Figure 9 – Dissemination of second-level bargaining per sector, Year 2015 (%)



Source: Authors' calculations based on data from INAPP-RIL

Traditionally, where firms are too small, and there are no workers' representatives, it may be assumed that local-level bargaining is applied in an alternative to firm-level bargaining. The data at disposal confirm a strong diversity in the typology of bargaining applied from the firms' size. Moreover, greater dissemination of the local-level agreement is evident especially among firms with many employees ranging from 5 to 15 (fig. 10). In large firms, on the contrary, local-level bargaining is residual. In medium-sized firms (ranging from 16 to 49 employees), firm-level and local-level agreements are disseminated almost equally, although with a slight prevalence of the latter.

Figure 10 - Typology of second-level bargaining per firms' size (firms with at least one employee), Year 2015 (%)

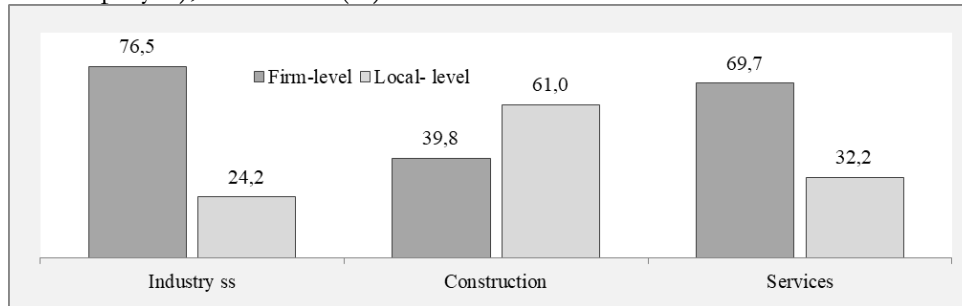


Source: Authors' calculations based on data from INAPP-RIL

Lastly, empirical evidence (fig. 11) confirms the traditional sectoral division of the two typologies of collective agreements used: the firm-level understanding is a prerogative of the Industry and Services sectors; smaller dissemination is

evident in the Construction sector where, instead, the local-agreement results to be more extended.

Figure 11 – Typology of second-level bargaining per sector (firms with at least one employee), Year 2015 (%)



Source: Authors' calculations based on data from INAPP-RIL

### *3.2 Contents of Second-level collective bargaining and the Role of soft incentives in Promoting it*

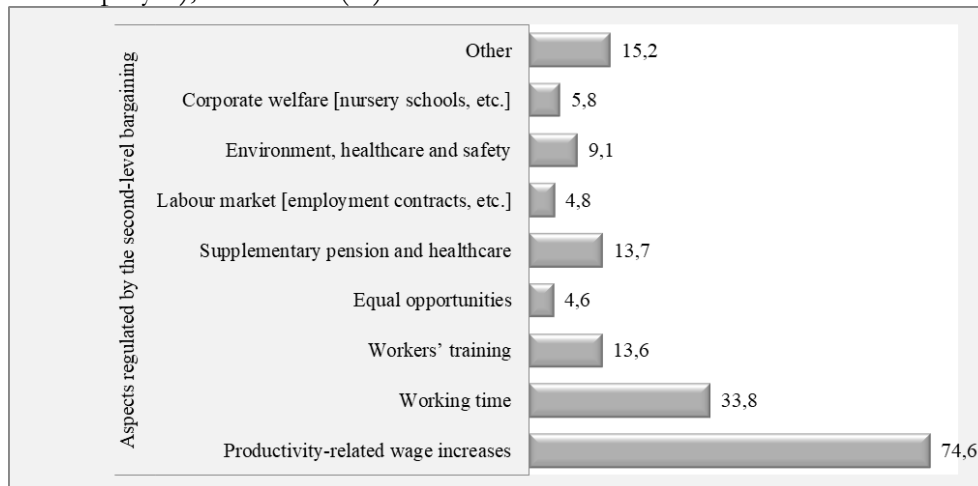
The contents of the second-level agreement are many and of different nature. However, INAPP-RIL's survey seems to highlight a particular specialization in the materials of firm-level bargaining.

The 2015 data confirm the use of bargaining mainly flattened on regulating productivity-related wage increases (fig. 12), also in virtue of the economic incentives that the Italian legislation, for quite some time now, has been recognizing (see *infra*). The second most recurring subject-matter concerns the regulation of working hours. The overall impression, therefore, is that, about contents, in 2015 decentralized bargaining concentrated mostly on hard aspects of the employment relationship, while the soft elements continue to be matters substantially not much attractive.

Concerning other themes, similar sensitivity is not observed when considering both corporate welfare and equal opportunities. The matters most frequently regulated concern supplementary pensions and healthcare. Similar attention is reserved for training which, *de facto*, seems to represent the scarce diffusion of training practices in productive contexts plastically. The full implementation of the Legislative Decree No. 80/2015 could represent an opportunity to open towards new matters the second-level agreements' contents. This decree provides further tax relief in favour of the firm-level collective contracts that regulate mechanisms to help work-life balance.<sup>40</sup>

<sup>40</sup> With a certain delay (12 September 2017) a Decree of the Ministry of Labour was approved to activate the tax relief. Such Decree, besides establishing that the agreement must involve at

Figure 12 – Contents of second level collective bargaining (firms with at least one employee), Year 2015 (%)



Source: Authors' calculations based on data from INAPP-RIL

Therefore, resorting to a second-level agreement seems to meet, for the most part, the firms' organizational needs, to the point that, as mentioned, it is more disseminated in economic sectors characterized by productive modalities that require greater flexibility.

Emerging also when observing the regulation of productivity-related wage increases, mostly concentrated in firms operating in the industry sector strictly speaking and in larger firms (fig. 13).

Other analysis investigated the role of economic incentives, tested since the late 90s, in the development of productivity-related wage increases.<sup>41</sup> In the past, a reduction in social assistance costs was recognized in favour of collectively agreed on productivity-related wage increases.<sup>42</sup> Recently, only

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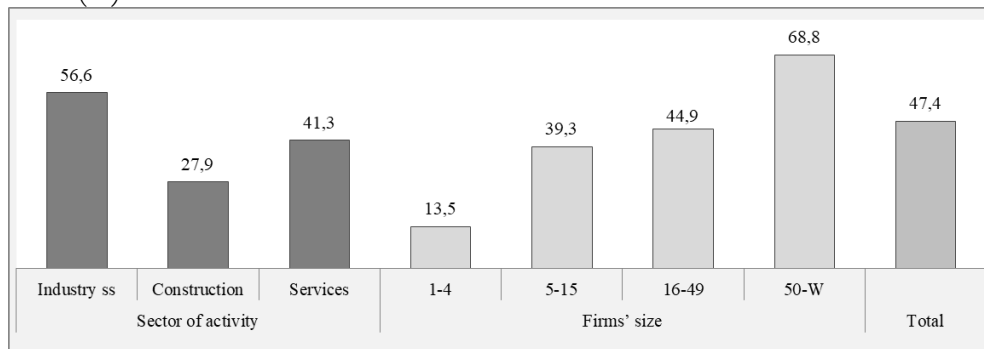
least 70% of the workers employed in average by the firm in the year prior to the one in which the application for accessing the tax relief is submitted, defines the criteria for the granting of the bonus and indicates the following areas of intervention: parenthood, organizational flexibility and corporate welfare.

<sup>41</sup> See F. Bergamante, M. Marocco, op. cit.

<sup>42</sup> For further in-depth information see A. Paliotta, M. Resce, *Local-level bargaining and measures for labour productivity in Italy. Empirical evidences from administrative data*, Paper presented at Industrial Relations in Europe (IREC) 2018, "Employment relations in the 21st century: Challenges for theory and research in a changing world of work", Leuven 10-12 September 2018.

lower taxation is established by law.<sup>43</sup> We observed that the impact of these policies on the dissemination of decentralized bargaining is uncertain, given the latter's general negative trend. If it is true that the share of firms starting to apply a decentralized agreement dropped to its minimum in 2015 (2.9%) - year in which no economic incentive had been envisaged. However, the recognition in 2010 of a double incentive was not able to stop the decrease in the dissemination of the second-level agreement, already started in the previous years. However, INAPP-RIL's survey, last conducted in 2015, does not show the effects of the 2016 Stability Law that renewed and widened the tax relief for productivity-related wage increases. Nonetheless, the first analyses of the administrative data relating to the firms that benefitted from the fiscal bonus (Paliotta, Resce, 2018) do not seem to highlight a particular success of the measure concerning the dissemination of the second-level agreement.

Figure 13 – Incidence of the productivity-related wage increases per sector of activity and firms' size within the framework of second-level bargaining, Year 2015 (%)



Source: Authors' calculations based on data from INAPP-RIL

#### 4. Conclusion

On the basis of the primary evidence contained in the descriptive analysis provided in the previous paragraphs, it may seemingly be stated that the barycentre of the Italian collective bargaining system - the “National Collective Labour Agreement” (Contratto collettivo nazionale di Lavoro – CCNL) - has not been affected by the European, legislative and social partners “multilevel” drive in favour of its decentralization. INAPP-RIL's survey confirms that the multi-employer bargaining coverage has been maintained: in 2015 the

<sup>43</sup> See L. Baccaro, C. Howell, *A Common Neoliberal Trajectory: The Transformation of Industrial Relations in Advanced Capitalism*, in *Politics & Society*, 2011, 39(4), pp. 521 –563.

employees in Italy covered by an industry-level agreement amounted to about 9.2 million, corresponding to 93% of the total amount of employees in firms with at least one employee.

However, in verifying the robustness of the Italian bargaining system, it could be misleading to consider the mentioned indicator “alone.”

Compared to other analyses, the empirical evidence collected provides an additional piece of information, which we deem even original, that is: the multi-employer bargaining has continued to be applied outside of an association membership logic. Indeed, there has been an increase in the share of firms that state to implement a sectoral agreement spontaneously, without joining an Employers’ Association.

It could be argued that this process leads the sectoral-level agreement to undergo a “transformation of institutional function despite unchanged institutional structure.”<sup>44</sup> The Employers’ Association fragmentation is a context which conceals the proliferation of “pirate agreements,” that is a system characterized by a “self-opting out ” of the collective agreement. The risk of such a system is that the traditional jurisprudential mechanism of the subjective extension of the minimum wages established by the CCNLs could become uncertain and inefficient. Indeed, the phenomenon has become so intolerable that, in 2018, the parties entered into a new cross-sectoral agreement, based on a «certainly newer and more striking» content on how to react against the disorder of the bargaining system and the contractual dumping practices.

Furthermore, the empirical evidence highlights that, over the years, the number of employees not covered by a first-level agreement has increased, passing from about 324 thousand employees in 2005 to 685 thousand in 2015.

There is a concern for a possible proliferation of a not very representative sectoral agreement<sup>45</sup> and an increase in the number of “non-covered” employees. At the same time, and perhaps for the same reasons, second-level bargaining is at a standstill. In fact, traditional motivations related to competitiveness continue to make it preferable for small and medium-sized firms to maintain the centrality of the national sectoral collective agreement; and this is especially true – according to our opinion – when such agreement reaches the level of regulatory and economic flexibility considered indispensable, perhaps through “pirate agreements”, thus definitively discouraging firm-level bargaining.

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<sup>44</sup> See Liso, *op. cit.*

<sup>45</sup> I. Regalia, M. Regini, *Trade Unions and Employment Relations in Italy during the Economic Crisis*, South European Society and Politics, 2018, Volume 23, Issue 1, pp. 63-79.

Our empirical evidence highlights that, in the years under examination, the coverage of the second-level agreement, already limited, has further decreased (from 34.4% of the total amount of employees covered to almost 27%). Indeed, the fragmentation of the Italian entrepreneurial structure weighs a ton, as the single-employer bargaining remains a prerogative of large organizations: in 2015, 33% of the firms involved were made up of those belonging to the larger dimensional class (more than 50 employees), and in the same dimensional level the coverage almost reached 52%. INAPP-RIL's 2015 survey also confirms the traditional weaknesses of the second-level agreement with greater dissemination within larger firms, in the Industry and the North. In extreme synthesis, such evidence emphasizes a widespread, but "doped" coverage of multi-employer bargaining and little coverage of firm-level bargaining. On such basis, it is difficult to verify the exact impact of the new European macroeconomic governance on the Italian bargaining system. However, although the system seems to show a "weak resilience" toward external pressures,<sup>46</sup> a more significant concern is given by the endogenous and structural elements of the system: the increasing fragmentation of the Employers' Association mirrors the just as fragmented Italian entrepreneurial system, right junction for developing an organized decentralized system.

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<sup>46</sup> T. Treu, *op. cit.*



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