Italian Country Report

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Summary: Premise; 1. Changes and trends of Italian industrial relations; 2. The industrial relations; *2.1 - Workers representation at workplace level; 2.2 - Collective bargaining; 2.3 The EU governance and its impact on the Italian system of industrial relations; 2.4 Labour conflicts;* 3. Rights to information and consultation; *3.1 Directive 2002/14/EC and its transposition; 3.2. Directive 2009/38/EC in establishing European Works Councils; 3.3 Directive 2005/56/EC on cross-border mergers*; 4. The case studies; *4.1 Electrolux; 4.1.1 Premise; 4.1.2 The company; 4.1.3 The facts; 4.1.4. Precedents at a European level: the role of EWC; 4.1.4 The agreement; 4.1.4 Stakeholders assessments; 4.2. ENI*; *4.2.1 - Premise, 4.2.2 - The Eni model of industrial relations and participatory rights; 4.2.3 - The international dimension of Eni industrial relations; 4.2.4 - Strengthness and weaknesses; 4.2.5 the social partners assessment and evaluations;* 5. Conclusions

Premise

Among Europe's industrial relations systems, the Italian one stands out for its high degree of voluntarism and abstention of law. Workplace representation, collective bargaining, industrial action and employees' participation in corporate affairs are regulated, in the private sector, only by peak level collective agreements.

Despite the existence of a specific and unaccomplished article of the 1948 Constitution, in the following decades workers' participation has remained limited to the sphere of contractually established information and consultation rights, without in any way envisaging more formalised and incisive forms of codetermination at both workplace and corporate board levels, prescribed by law only in exceedingly few cases.

A situation which today is considered highly inadequate either by the trade unions, because it all but leaves workers voiceless at a time of profound restructurings, and by the employers, unsatisfied because the weak trade unions' proactive and collaborative culture.

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This paper is one of the contributions of the Italian IRES first, and now ABT, to the INFPREVENTA project. The paper reviews the findings from the two INFORMIA projects and, following on from these, investigates, in the current project, the relationship between information and consultation rights and the employment relationship, in particular how are workplace industrial relations influenced by employee involvement structures.

This country report is composed either of a general review of the norms and practices which rule workers' involvement and participation in the enterprise, and of an empirical survey, consisting in two case studies – Electrolux and Eni -, realized also through interviews conducted vis-à-vis or by e-mail with some significant stakeholders, which we would like to thank for that.

Things might change. Solicited by the post-Fordist changes of the socio-technical new paradigms of production and under the influence of European legislation and comparison, either trade unions and employers, albeit from their respective differing viewpoints, at long last appear to be rethinking the strategic value of participation.

The aim of this country report is to provide an overview of worker's participation in Italy from the post-world war period to the present day, outlining the links between the players involved ideologies, the prevailing production models, the industrial relations practices, both formal and informal, that have been implemented at sectoral and company level. The paper also provides an overview of best practices and the legislative measures in the pipeline. Real opportunities for a change but also *objective* and *subjective* hurdles and resistances.

1. Changes and trends of Italian industrial relations

The Italian debate on workers' participation is at best erratic. Invariably, projects on this issue are presented at every new legislature only to be abandoned before any significant progress is ever made. Certainly, European social legislation has stimulated a normative alignment of sorts in the area of employee information and consultation rights especially if seen against an international backdrop, characterised by the good performances of a number of socio-economic models such as the German one, that has contributed to defining more advanced solutions with regard to workers' participation in corporate management. The ideological resistance of the past seem to be ebbing as globalisation – one of the many threats arising from the reallocation of capital – is turning out to be a positive lever of forms of industrial and economic democracy.

Nevertheless, the wider background against which the renewed interest for the issues relating to employee participation in Italy couldn't have come at a worse time. Fresh focus on this theme is occurring in an environment rocked by changes that in these past five years have profoundly impacted not only the country's productive system but also the way industrial relations have been handled.

Economically and socially Italy is sinking in an acute economic and social crisis, characterized by continuous stagnation and recession and induced by a collapse of industrial production, consumption, and savings. The country is in its seventh year of GDP decline, down 9% from 2008 to 2014. In the last 15 years productivity has hardly increased, with negative consequences on wages, whose development have been some of the worst among the industrialized economies[2].

In the same years, the Italian system of industrial relations has been living through a prolonged phase of transition which does not seem to have reached the end. The numerous events which have hit it in recent times are rapidly and profoundly changing the traits that for a long time had marked this peculiar national model. Reasons and causes of such a turmoil are either exogenous and endogenous; economic and institutional at the same time.

Collective bargaining has repeatedly been the subject of reforms, undermined either from the top, by European interventionism, with the Fiscal Compact and its National implementation between 2011 and 2013, and from the bottom, as in the case of Fiat, offering employers a regressive exit strategy from a model that we could otherwise define as 'organized decentralization' (Traxler, 2001). The most recent Italian governments have been active in implementing the austerity measures required by notably the ECB, adopting cuts on public expenditure, increasing taxes, and using labour costs in a mere logic of competitive devaluation.

Furthermore, in the last decade, considerable tensions have characterized the relationship between the various trade union pillars, as testified by the several peak level agreements signed

[2] Unemployment reached 12,6% at the end of 2014, a peak since 1977, with a striking 40 per cent unemployed among youth under 24 of age. In 2013 one billion hours were paid by the country's fund for temporary work suspension, and 4 million workers had no permanent contract. These figures should be projected against the backdrop of the Italian labour participation rate (LPR) of 62.2% in 2010, one of the lowest in the European Union; in particular women's LPR (51.1%) is quite low (World Bank 2012). A very high share of 24 per cent of the population is not in employment, education or training ('NEET': source: ISTAT, Italian National Institute for Statistics).

(2009-10), excluding the General Italian Confederation of Labour (CGIL), the largest union confederation.

This critical situation improved only in the last few years, when – first in June 2011 and then again in May 2013 and January 2014 – when three bipartite framework agreements were signed by the largest employers' association (*Confindustria*) and all representative union actors, CGIL included, in order to define who and how can be considered sufficiently representative to sit at the collective bargaining tables and sign agreements binding for employers and employees.

2. The industrial relations

The Italian system of industrial relations presents a high level of voluntarism in the private sector, while in the public sector law rules most of its aspects. The 1948 Constitutional provisions concerning the registration of trade unions and the attribution of bargaining capacity at sectoral level in proportion of the number of members, the legal regulation of the right to strike and workers' rights to participate in company decision-making, have never been implemented. After the Fascist era, in the new democratic system trade unions remained reluctant to be subjected to state control over their internal organization, while concerning strike and collective bargaining they opted for collective autonomy, refusing state interventionism by law: the state should not interfere with the autonomous and volunteer activities and self-regulation of social partners, which mutually decided to recognize each other. Nevertheless, as a result of the spectacular increase of union power after the 'hot Autumn' of 1969, with the Workers' Statute (Act no. 300/1970) legislation came into being in order to strengthen union rights in the workplace, promoting indirectly the role of company-level bargaining.

There is no Italian law regulating one of the cornerstones of any industrial relations system: a mechanism that establishes how to measure and decide upon union representativeness to sign agreements to be extended *erga omnes*. The exception here is the public sector, where since the late 1990s a law is in existence for the selection of representative unions entitled to bargain (Legislative Decree no. 296/1997 and 165/2001, art. 43). Unions need to pass a threshold of 5 per cent consensus 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. This model is largely reproduced into the three framework agreements – signed by CGIL, CISL and UIL on one side and Confindustria on the other – in June 2011, May 2013, January 2014.

In the private sector, industrial relations are fully regulated by tripartite social pacts and inter-confederate agreements. Since the early 1990s for almost a decade social pacts were signed yearly on practically all major social issues, from income policies to collective bargaining procedures, from workplace representation to pensions and labour market reforms. Tripartite social dialogue was widespread also at territorial level, through so-called negotiated planning and territorial pacts.

Compared to other EU member states, Italy maintains a comparatively high union density rate: for 2010 and 2011 estimated at over 35 per cent -- and that is, quite surprisingly, even slightly higher than the average 34 per cent of the 2000s, and returning to the 1998-99 level (Visser 2013). A crucial contribution to union membership has come from migrant workers, with constant growth year after year. According to recent figures, nearly 1.16 million migrants are unionized, equal to 8 per cent of all and to 14 per cent of active membership. With over 12.2 million union members in 2013, Italy is the first 'unionized country'in the EU. This includes pensioners/members, in the Italian unions weighting more than elsewhere (almost half of all members in two of three main confederations), but excludes the members of unions other than the three main confederations. According to the ITUC List of affiliates 2013, by then CGIL had 5,542,677 members, CISL 4,507,349, and UIL 2,174,151. CGIL is the third largest union confederation in Europe, behind DGB and TUC; CISL is the fourth (ITUC List of affiliates 2013).

After long being described for their confrontational order and attitude, Italian industrial relations were now regarded an example of the 'revival of neo-corporatism' (Crouch 1998). Social

concertation in Italy has never assumed the institutional traits of what scholars defined as 'neo-corporatism', but over the years its evolution and outcomes did not differ much from that. The political orientation of governments in office conditioned the general climate of consensus around social dialogue to a substantial extent: high during centre-left governments (1996-2001: 2006-08); low and controversial with the center-right in charge (1994; 2001-05; 2008-2011), the latter including the signing of some important social pacts with the exclusion of CGIL (2001; 2009); still low in the most recent times (2012-13), with the so-called technical Mario Monti's executive, under the prescriptions of the Fiscal compact and ECB "secret" letter (see below). It's still very low and tense now (2013-14), with the Matteo Renzi Government, despite the fact to be formally a centre-left cabinet.

2.1 - Workers representation at workplace level

Workers' participation and representation at the workplace are two issues strictly correlated, but not in Italy, where are both left to the volunteer and informal dynamics of the power relations.

Unlike the participation, the workers' representation is partially ruled by the law (the Workers' Statute, Act no. 300/1970; Legislative Decree no. 296/1997 and 165/2001 for public sector only) but, more importantly, by a stratification of basic framework agreements (23 July 1993, 22 January 2009; 28 June 2011, 31 May 2013, 10 January 2014), the industry-wide national collective agreements. Some referendums and case law have meaningfully contributed to the regulation of the representation and unions prerogatives at workplace level

At workplace level, Unitary Unions Councils (*Rappresentanze Sindacali Unitarie - RSU*) can be elected by all workers in every production unit with more than 15 workers.

Since the basic agreement of the 23 July 1993 – as transposed in sectoral details by the inter-confederate agreements of 20 December 1993 and 27 July 1994 – two thirds of the RSU had to be elected by universal suffrage, with several competing lists, while one third were taken from the lists of unions signing the national sector contract applied in the workplace. The aim was to guarantee more coherence to the two-tier collective bargaining system: national-sectoral and company level. Such a partition has been abrogated in most of the private sectors, after new framework agreements were signed by the three main unions confederation and the association of the large-size enterprises (*Confindustria*) in three different texts. Now all the delegates will be elected and their number will vary according to the size of the enterprise. For instance, 3 RSU members till 200 employees, 3 more members each 300 or fraction of 300 in production units till 3000 employees, etc.

Lists can be presented automatically by the affiliated to the unions which signed the framework agreements or by all the others which, accepting those agreements conditions, get a subscribed support from 5% of the having right to vote or, in units with less than 60 employees, three signatures at least. Elections are valid is more than half of the having right took part in the election. The duration in office lasts three years. Within the RSU, which are unitary but plural bodies, members deliberate at majority

In Italy there's a substantial single channel of representation. The Unitary Unions Councils (*RSU*) have either the right to information and consultation and the collective bargaining power at company level. Joint committees on ad hoc issues are quite common in the largest companies, in order to enhance a more collaborative and technical partnership. They usually work on matters like job classification, new technologies, work quality, equal opportunities, company benefits and services, training. Their aim is to encourage a non-confrontational exchange between social partners, in the process stimulating cooperation aimed at solving organisational problems.

A specific representative body is on charge of the health and safety issues at the workplace (*rappresentate dei lavoratori per la sicurezza* - RLS). Unlike the RSU, its discipline is ruled by the law. According to the Legislative Decree n. 81/08, the H&S workers' representative must be elected by the employees (in the company with more than 15 employees with the unionized workers he is elected among the workers' representatives). Health and safety workers' representative is established at company level, local or branch level, productive sites level for work contexts with an

high fragmentation. After the election, the workers' rep is appointed by the employer and his name must be communicated to the National Insurance for Work Accidents (INAIL). H&S workers' rep has specific rights and duties related to risk assessment and management activities. In particular, he must be consulted on the identification, planning, carrying out and evaluation of workplace prevention activities; he receives the documentation on risk assessment and the preventive measures on all risks present at the workplace (dangerous substances, machineries, work organization, etc.); he promotes the identification, drawing up and accomplishment of preventive measures appropriate to protect workers' health. He can also warn the employer about new risks that he finds out during his work and he is entitled to apply to the competent authorities whenever he thinks that the preventive and protective measures put in place by the employer are not suitable for protecting safety and health at work . Finally, always according to the law, the workers' rep must receive a specific training on his rights and duties and on risk assessment, prevention and management. This training courses must be provided and paid by the employer.

The Workers' Statute (Act no. 300/1970) grants a series of prerogatives to plant-level union structures appointed within the framework of trade union organizations that are signatories to collective agreements (art. 19). Originally, such a prerogative was automatically recognised to all the so-called "most representative trade unions, namely the three historical confederations and their affiliated at sectoral and company level. In 1995, a referendum required by radical sectors of unions, in the name of more union democracy, abrogated from the law all references to a supra-company level. Since then, signing a whatever agreement in force in the enterprise becomes the only criteria to access the union prerogatives of the law. For a paradox, the new norm has been used by some companies (namely FIAT), in order to exclude opponent unions from the access to the unions activity rights at the workplace. According to the Statute (Part III), such a rights range from the right to convene meetings and conduct secret ballots among employees, to the availability of a room for their activities and space to display notices, to the right to get paid or unpaid time off for carrying out trade union duties.

Employers' anti-union behaviour, as impeding or violating trade union rights and/or prerogatives (including the access to the workers representation and activity or, for instance, an unsatisfying disclosure of information and consultation), can be sanctioned, on request of the local unions, by a judicial procedure dealing with the repression of provided for by Article 28 of the Workers' Statute.

The most controversial and disputed case was represented by some separate agreements signed in FIAT plants in 2010-11. In fact, the country's most important private company, with a sequence of unprecedented acts, was able to expulse the historical and representative union FIOM (the centenary combative CGIL's metalworkers federation), with its 11.000 members into the group, from any kind of representation within all the production units in the country. How? Firstly, FIAT left the National employers' association and all its stratification of agreements; secondly signed with more accommodating unions a first level company agreement, de-linked from the rest of the metalworking and automotive sector, thirdly and finally, replacing elective work councils with shops stewards nominated, in equal parts, by all the signatory unions. FIOM-CGIL was now formally out from all the FIAT production units.

This clamorous case was the beginning of a long and harsh legal dispute, revealing all the vulnerabilities of a system too long lacking of a clear set of binding rules in the field of workers' representation and collective bargaining.

Appealed by a FIOM complain for anti-union discrimination, the Constitutional Court (sentence n. 231/2013) sanctioned the FIAT's behaviour, establishing that employers cannot recognize only unions which have subscribed the agreements in force in their company. Otherwise, any form of unions dissent would be unfairly paid with the exclusion from representation and other unions prerogatives, paving the way to the management the power, de facto, to choice its counterpart. What really matters, for the Court, is not to have signed a whatever collective agreement, but to have taken actively part into the negotiation process. To make an agreement

enforceable, the only legitimacy criteria is to be effectively representative (in votes and/or members), and not vice versa: to have signed an agreement cannot be the only criteria to access to the union prerogatives at workplace level. Furthermore, the Court has stated that a law on workers representation cannot be postponed any longer. The path is quite clear and marked in the three new framework agreement of 2011-2014 which, from this point of view, would only need to be transposed into law.

These agreements, covering the large companies in the industrial sectors (Confindustria), have established more transparent and enforceable criteria to measure and certificate the real representativeness of union organisations, either for National and company level bargaining. The pattern is the same already adopted, that time by law, in the public sector. Unions need to pass a threshold of 5% consensus to take part in national collective bargaining, whereas a final agreement is binding if signed by unions representing at least 51% of the relevant workforce. These thresholds are calculated as a weighted average between certified votes and members.

Until now, as an effect of the complete voluntarism of the whole system, it was hard to say how many workers were covered by work councils. According to different esteems, just one out of two employees has a workplace representation, while the three largest confederations get more than 80% of votes and seats in the elections of the unions councils. Other organizations are relatively stronger in banks, transports, schools and other public sectors. With the new rules, it should be clearer and more transparent the effective representativeness of trade unions, either in terms of members and votes obtained. Public bodies, in fact, will collect and certify the data concerning votes and members.

2.2 - Collective bargaining

Till now, collective bargaining has been depending on social partners' mutual recognition only; agreements are not legally binding and their contents are only formally enforceable by the signatories' affiliates. They are acts of 'private law', considered as expressions of the signatories' self-regulation capacity and regarded only under the general provisions applied by the Civil Code of 1942 to contracts. Rights and minimum standards fixed by the law cannot be worsened by collective bargaining, though recently the trend has been towards legally enlarging bargaining power, either collective and individual, in terms of top-down delegation and bottom-up derogation. The lack of a legal extension mechanism has not impeded high collective bargaining coverage: it is esteemed by all the National and International sources around 80% of the whole wage earners.

Since the milestone Protocol of 23 July 1993, Italian collective bargaining is based on a two-tier system, with on the one hand national-sectoral collective labour agreements, and on the other hand decentralised collective agreements at company or territorial level if companies are too small and unions too weak -- like in agriculture, construction, retail, tourism, and in many craft industries. Sectoral bargaining is the core of the system. Thanks to about 400 national industry-wide agreements, wage-earners of all possible branches and companies have their own agreement. The number of these agreements reflects the fragmentation of employers' associations, which are more numerous than in most European countries.

The second level of negotiation is not compulsory: social partners *can* negotiate at that level but are not obliged to. In practice, it depends on the presence of works councils and on the concrete power relations. The two levels of collective bargaining are organized hierarchically, according to principles of coordination and specialisation.

The national agreement establishes a basis of rights and standards, including minimum wages, for the industry workforce at large. Social partners, at company or territorial level, are being given a further possibility to improve pay and working conditions through the facultative second level. Since the former fix the minimum pay levels, taking into account purchasing power, at company level the rise in pay – as variable remuneration – depends heavily on performance incentives (productivity, profitability, quality, attendance).

The national industry-wide collective agreements cover around 80 per cent of gross wages. The remaining share is variously composed by collectively or individually negotiated pay (*restricted wage-gap*) and/or other elements, as overtime pay. The share of wages paid at decentralized level was for 2012 estimated at about 18% of total wages per capita; only a fraction of this share is really variable.

We don't have official and reliable data on decentralized bargaining. According to some sources, it would cover approximately 55% of employees employed in enterprises with more than 20 workers. These firms accounted for over 70% of employees in manufacturing industry, and almost 60% in the sector of non-financial services (Banca d'Italia, 2013). According to others, overall coverage could be much lower. Second-level agreements are in fact almost completely absent among small enterprises, in the Southern Regions of the Country, in the private services, where more and more jobs are non-standard. A recent survey of a CISL observatory talks of 9.384 company agreements signed in 2013.

During the last two decades the collective bargaining system, though quite rational and well designed in theory, met practical limits and quite some criticism. Since the end of the 1990s a debate about a revision of the system has involved experts and social partners. On January 2009, a tripartite framework agreement for the reform of collective bargaining was signed without CGIL and against the view of this union confederation. The new rules formally safeguarded the two-tier structure, with sectoral agreements continue to set basic protections nationwide. Their duration was set at three years for both the normative and economic parts, whereas they were respectively four and two years. The new system aimed to strengthen and enlarge the second level of collective bargaining, at company or territorial level. Decentralised collective bargaining will last three years (against the previous four) and will cover topics defined by sectoral agreements or legislation and which do not concern those already regulated at other bargaining levels. At company level, a controversial aspect of the last reforms consists in the possibility of introducing 'modifying agreements", deviating at company level from the sectoral agreements. In order to avoid a completely disorganized form of decentralization, this sort of "opening clauses" will be temporary, needing to be signed by the majority of the works council (RSU), under the supervision of the sectoral unions.

In spite of the divides between the union confederations, national agreements were jointly signed nearly at sectoral level, though with some important exceptions: metalworkers and commerce, covering jointly about five million workers, where agreements were signed excluding the sectoral federations of CGIL.

At last, aware of the risks of chaos, social partners gradually re-established co-operative relations, signing new framework agreements concerning trade unions representativeness and collective bargaining. The already quoted framework agreements of 2011-2014 – signed by Confindustria and CGIL, CISL and UIL – confirmed the two-tier system and the primacy of the industry-wide level. The key issue of the new rules relies on the relation between a certified of representativeness and the validity of the collective agreements effects. In order to be recognized as representative at sectoral and national level, unions need to have more than 5% as a weighted average (50-50) between votes and members. Once admitted at the national collective bargaining, a final agreement will be considered binding if signed by unions representing 50+1 percent of the workforce. Workers have the right to be consulted in useful time on the draft agreement and their vote has to be kept in consideration by their unions, before to sign. At the end of the day, dissenting organizations will not be allowed to organize forms of industrial unrest. Sanctions are now foreseen in case of violation of the reached agreement. For employers they will consist in economic penalties. For the unions (never for the single workers), they will be decided and listed into the sectoral agreement and will consist in a restriction of access to some of the trade unions integrative facilities adopted by the collective agreements (for instance, extra paid or unpaid time off for carrying out trade union duties).

This model has the limit to cover the industry sector only, while the 3-year duration of the contracts risks to be too long to adjust unexpected changes in cyclical conditions. Furthermore, the sanctions represent a quite controversial issue, against which the metalworkers federation of CGIL (FIOM) is in harsh conflict with its Confederation, refusing to ratify such a principle and opening an unprecedented case of indiscipline of a sectoral federation against the rest of its organization.

While we're writing these notes, the system has not entered in function yet, due to the need of preparing the archives of members and votes first.

It goes without saying that, in time of crisis and severe cuts of jobs, collective bargaining was everywhere on the defensive and mostly concessive, while the information and consultation rights played a minor role in mitigating the impact of restructuring and collective redundancies. Rights *at* work were exchanged for the right *to* work, with the unions managing restructuring in order to avoid collective dismissals as much as possible. Overall, numerical and employment flexibility increased, while the use of the wage guarantee funds (short time work/lower wage) in order to mitigate the impact of the crisis was huge.

A key role was played instead by a quite effective system of social shock absorbers and wage temporary suspension, ruled by the law for medium-large enterprises, where trade unions have had the prerogative to be involved into the crisis management procedures, which were hundreds and hundreds in these hard times of recession and often dramatic restructuring.

2.3 The EU governance and its impact on the Italian system of industrial relations

Regressive changes are required in deficit countries, by the new interventionism of European institutions. The new economic governance (Euro Plus Pact / Fiscal Compact) requires to achieve very specific goals, through monitoring, coordination, sanctions. The effect of its implementation would be extremely heavy on the Italian economic growth and in terms of social costs.

In the summer of 2011, the Italian economic situation seem to precipitate. On August 5, 2011, a 'secret' ECB letter ask the Italian government to do a very precise list of things to do:

- to reform the pension system on the issues of the eligibility criteria for seniority pensions and the retirement age;
- to reform collective bargaining, allowing firm-level agreements to tailor wages and working conditions to firms' specific needs, and increasing their relevance with respect to other levels of negotiation.
- a « careful review of the rules governing the hiring and firing of employees

Since then, Italian governments took their homework seriously, adopting a broad austerity package including all measures "requested by Europe"[3]. Unlike during the 1990s – when social pacts were a stepping stone of the reforms of the labour market, welfare and industrial relations system – now social partners were merely consulted and their opinions scarcely considered.

Between 2011 and 2012, Italian governments (first Berlusconi, later on Monti) took their homework seriously, adopting a broad austerity package including all measures requested by 'Europe'. The timeline was the following:

- Freezing civil servant pay for 3 (+ 2) years;
- Reform of the collective bargaining (Act no. 148/2011), with a radical de-centralization and power to derogate
- Pension reform (Act no. 135/2011), delaying the age for retirement
- Reform of fiscal policies, with the obligation to balance the budget in the Constitution

[3] The timeline was the following: Freezing civil servant pay for 3 (+ 2) years; Reform of the collective bargaining (Act no. 148/2011), with a radical de-centralization and power to derogate; Pension reform (Act no. 135/2011), delaying the age for retirement; Reform of fiscal policies, with the obligation to balance the budget in the Constitution; Reform of the labour market (Act no. 92/2012), relaxing rules about individual dismissals and enlarging the shock absorbers scope.

- Reform of the labour market (Act no. 92/2012), relaxing rules about individual dismissals and the shock absorbers scope

Surprisingly enough, social mobilization and unrest was far below that one could expect: just three hours of general strike for a reform of the pension system which postpone the age for retirement to 67yo. The new centre-left premier, Matteo Renzi, has repeatedly declared that he hasn't any intention to re-open concertation with the social partners, considered as a nothing more than a collective actor, just as many others active in civil society.

Italian collectively agreed wages, for the European institutions, are still too much centralized and less responsive on labour market conditions and productivity performances. Act 148/2011 (art. 8) was the immediate answer of the Italian government to the ECB letter. It establishes that 'specific agreements' at "proximity level", in order to achieve more jobs, higher competitiveness, crisis management, new investments and starts up, may derogate from the higher level of bargaining or even of the law on many issues: new technologies, work organization, short-term contracts, working time, employment contracts, and dismissal, allowing also to establish working conditions below legal standards. The adoption of whatever "forms of participation", also, becomes a sufficient reason to justify company level derogations.

From exceptional, derogations from national collective agreements or even from law became 'normal', the only limit left not being in contrast with international or constitutional fundamental rights or principles. Scholars and leftist unioniss are in large majority against such a dangerous norm and ask for an abrogation of it. It overturns the top-down hierarchy of the labour law sources, with an unprecedented primacy of the company level bargaining, where workers and their representatives can be weaker. Despite reforms like these, some mainstream narrative still complains because they "appear to be insufficient" (European Commission, 2014) .

However, social partners haven't seemed to be very interested in adopting its model of radical decentralisation of collective bargaining. Signing the already mentioned bipartite agreements of 2011-2014, social partners have confirmed the two-tier system and the prominent role of the national sectorial collective agreement. Although weakened by the new possibility for derogations, we can still describe the Italian way to the decentralization of of collective bargaining as a coordinated and organized one. According to someone, Italy is probably the only country, together with France, where the National sectorial collective agreement still play a pivotal role. An important difference with other comparable countries (the so-called Piigs), where one of the outcomes of the austerity measures has been to completely dismantle the central coordination of collective bargaining.

2.4 Labour conflicts

Striking is a fundamental right in Italy, enshrined in Article 40 of the 1948 Constitution. That article states that 'the right to strike may only be exercised in accordance with the laws under which it is regulated'. Although that was envisaged at that time, actually no law governs its operation. Only in the so-called 'public essential services', since 1990, there is a specific law. Unlike in some Northern European countries, in Italy, for doctrine and jurisprudence, the strike is an individual right to be exercised collectively. It is considered a fundamental individual right, one of the expression of the freedom of organization and unions liberties. Since the early 1960s, the Courts have allowed both political and solidarity strikes, giving workers a wide freedom on the forms and manners for exercising the right to strike. It may also be called by spontaneous coalitions, industry-wide or in the workplace, with no obligation to consult workers and/or union members. No formal distinctions are considered between economic and other types of strikes.

Collective agreements normally contain, either at National and company level, clauses of ceasefire before and during the collective agreements' renewals. The framework agreements of the last five years reaffirm such a volunteer but binding approach to conflict regulation. Conciliation and arbitration procedures are determined in collective agreements but are not binding like in other countries. The recent Fiat case brought to the fore the position of those who call for a reassessment

of the traditional assumptions according to which strike is an individual fundamental right of workers.

Italy is one of the countries where strikes have always been more frequent and widespread than elsewhere. This was particularly true from the last 1960s until the early 1980s, as a result a militant and very much rank-and-file model of unionism. In the last decades, as quite everywhere, industrial action has been declining also in Italy. The number of days not worked due to strikes fell by 48 per cent averaged for 1990-99 to 2000-2009. In the 2000s, nevertheless, strike activity in Italy remained relatively high and in the top league of European countries, albeit now preceded by several other countries, notably Spain, France and Denmark (Vandaele 2011). According to other sources, such a decline strikes was of minus 21 percent, from 1999 and 2008 (ILO LABORSTA, Luce, 2014). According to the ILO strike data for 40 countries, Italy remained – despite of the downward – the third country, behind Poland and Spain only.

In the last ten years, the defense of jobs at company level was the main cause of industrial action. National mobilisations, with six general strikes in a couple of years, were organized by CGIL to contest the austerity policy of the Berlusconi administration, in 2011-12.

While we do write these notes, a great rally – with one million people – was hold by CGIL in Rome (25 October 2014), to protest against the Renzi's project to abolish the reinstatement right in case of unjustified dismissal. National unrest are scheduled by the public workers unions against the new stop to the renewals of the collective agreements. A general strike is going to be called by CGIL alone in mid November.

3. Right to information and consultation

In the Italian system of industrial relations, the issue of workers' participation in enterprise management goes back a long time and has been the subject of debates and normative proposals. Notwithstanding the fact that it is enshrined in the 1948 Constitution ("right to collaborate"; art. 46), concrete steps towards the statutory implementation of workers' participation has been, over the decades, very few and jeopardized.

The Italian experience of workers' participation can be seen as theoretically rich, but operatively modest. Among the most meaningful examples of workers involvement into the company decision making system we could mention the short experience of the Joint management councils *(Consigli di gestione*), imposed to the employers during the workers' occupation of the factories immediately after the WWII (1945-50). They were rapidly removed as soon as the employers' traditional power was re-established at the beginning of the 1950s. Since then we can list several trade unions proposals of workers' participation and control, different sometimes for their different ideological background but having in common – for decades – the basic refusal of any form of union involvement in forms and levels of corporate co-responsibility which could have confused the reciprocate and separated roles of labour and management (as in the case of the union presence into a Corporate Supervisor Board, like in the German "*Mitbestimmung"*), or a significant reduction of the union autonomy and power into the industrial conflict. Things have changed in the last years when the main Italian trade unions confederations – CGIL, CISL and UIL – have been all in favour of the Directive 2001/86/EC, related to the employees participation in the future European Company. The Italian corporate system is monistic, although two levels of governance – with a supervisory board – exist in some public administrations, as for instance the National Institute for the Social Protection (INPS) or for the insurance against accidents at work (INAIL). They are, at the moment, some of the very few experiences where workers' representatives are involved at the board company level.

The fulcrum of the system has long remained, and still remains, the collective bargaining. From the second-half of the Seventies (1976-79) onward, collective bargaining – both at national and company levels – set down the right for workers to be informed and consulted with regards to the company's production trends, technological innovation and professional training, and to

proactive initiatives in the area of gender equal opportunities. They are the so called "first contractual parts", entitled to the information and consultation rights, and inserted in all the nearly 400 national collective agreements.

Some of the most remarkable outcomes, in the participatory matter, were – in the mid 80s – the highly formalised system of information and consultation rights experienced by the public-controlled holdings and industries (*"Protocolli IRI")*, especially in the energy sector (*"Protocollo ENI*"). Another significant model of participatory industrial relations at company level was the one established at the Swedish-owned white goods producer Electrolux. The framework agreement on participation, subscribed in 1996, for some period, was pointed by scholars and collaborative unions as the pattern for a new season of industrial relations in Italy. ENI and Electrolux, with their developments and challenges in the turmoil of global competition, are our two case studies for this research (see below, §. 4)

The tripartite Social Pact of July 1993 endorsed, among other things, the value of workers' participation, considered a key element in company level bargaining, especially in the areas of wage incentives and work organisation.

As usual, legal standards represent the *minimum minimorum*, whereas the collective bargaining can provide better provisions. Collective agreements normally foresee a joint-examination phase in cases like restructuring or chances impacting on the working conditions. Managers are expected to disclosure information to the union representatives, opening to an exchange of viewpoints that should be characterised by maximum goodwill and reciprocal correctness. At the end of the day, social partners can reach an agreement, or they can't. Once consultation is over, the parties are no longer bound by the non-unilateral obligation and thus take the necessary measures (or counter measures) they deem necessary. Though due, consultation will not be binding for the entrepreneur. The obligation to concultation does not in fact correspond to an obligation to reach an agreement.

Nowadays, information and consultation rights are a corner stone of all the collective agreements either at national and company or territorial level. Issues like health and safety, vocational training, crisis management and restructuring, collective dismissals, transfer of enterprise, are all issues where the level of workers representative involvement in rather high. The picture, at company level, is not uniform. Best practices have been considered, in different sectors and branches, Electrolux in metal sector, Eni, Enel in the energetic, Barilla, Granarolo, Orogel in the food industry, Comer, Sacmi, Gucci, Max Mara, Mandarina Duk, Furla, La Perla in the life-style and clothing; the SMEs of the industrial districts in Emilia Romangna.

EU legislation has played a very important role in the public discourse and legal changes concerning employees involvement and participation.

A first generation of European-driven laws, dates back in the early 1990s (although the EC Directives were of the mid Sevenites. They concerned:

- collective dismissals
- transfer of undertaking
- health and safety

In all these cases, workers representative are legally supported by intensive rights and prerogative concerning the procedures of information and consultation.

A second generation of European-driven laws, is more recent, and related to the transposition of the following norms:

- Directive 94/45/EC on European Work Councils (EWC);
- Directive 2001/86/EC, about a Statute for European Companies
- Directive 2002/14/EC, a general framework on information and consultation;
- Directive 2003/72/EC, about a Statute for a European Cooperative Companies;
- Directive 2009/38/EC, (recasting), about the European Work Councils.

Other important participatory rights concern the workplace safety and health, inspired again by the EU Directives on such an issue.

Quite ineffective instead, and even scarcely known among practitioners and social partners, the directives on take-over and on cross-border mergers.

In three cases, out of five, the transposition into law, in Italy, came after social partners peak level agreements of common understanding *("Avvisi comuni"*). Another joint understanding on participation was subscribed by social partners on the 9th of December 2009 – autonomously from the EC interventionism but with the CGIL in dissent –, but it didn't produce any real impact, since its objective was basically monitoring the best practices of participation widespread in sectors and companies. Another attempt, still with CGIL in dissent, dates back December 2012, where participation and productivity were co-related through fiscal facilities for enterprises.

At every legislature, MPs of different political orientations make proposals and draft laws in order to establish a frame legislation on workers participation. Some of these, in recent years, have been aiming in getting a comprehensive legislation referring to all the different aspects of such a participation: information and consultation, co-determination, board-level representation, employees share ownership. A few years ago, one of these organic proposals (Bill n. 964/2008; 25 articles) was unsuccessfully submitted to the Parliament debate by Tiziano Treu, a worldwide known labour lawyers and ex Ministry of labour in the second half of the 1990s.

The Act 92/2012, inspired by the European governance and aiming at a reform of the labor market, called on the government to pass one or more decrees on participation (Article 4.62). However, the approach remained entirely voluntaristic: "Companies – it state – *may* enter into agreements, if they want (...)", aiming at achieving a sampling of indistinct forms of participation, ranging from traditional information and consultation, joint commettees, financial participation. Despite this form, extremely soft and promotion used by the legislature, employers associations have immediately declared their opposition to a such a perspective.

3.1 Directive 2002/14/EC and its transposition

According to the European Charter of Fundamental Rights (art. 27): "Workers or their representatives must, at the appropriate levels, be guaranteed information and consultation in good time in the cases and under the conditions provided for by Community law and national laws and practices". The Directive 2002/14/EC represents the translation in law of such a constitutional principle.

On 27th November 2006, the Italian most representative employers' associations and trade unions confederations (CGIL, CISL, UIL) signed a joint position on the transposition of the Directive 2002/14. Since in Italy collective agreements lack of a formal *erga omnes* effect, a proper transposition was complied only after a Legislator's Act of implementation: the Legislative Decree n. 25 of 6th February 2007. Two years after the expiry of the deadline laid down by of the Directive (art. 12).

The contents of the information and consulting rights foreseen by Italian law are substantially in line with those contained in the directive. Information must be appropriate to enable employees' representatives to conduct an adequate study and, where necessary, prepare for consultation. Consultation shall take place, ensuring that the timing, method and content thereof will be appropriate.

Since the Directive leaves to the Member States the choice between undertakings employing at least 50 employees, or establishments employing at least 20 employees. In Italy social partners and legislator opted for the first possibility: 50 employees (art. 3).

Art. 1.2 of the law states that: "The information and consultation procedures are established by collective bargaining" for what concern 'the places, times, subjects, modes and contents of the information and consultation rights granted to workers'. The information must allow to carry out an "adequate examination" of the information provided and prepare appropriate consultation (Art. 4.4). Workers' representatives must be able to formulate an opinion with respect to which they are entitled to obtain a "motivated response" (art. 4.5)

The right to information and consultation can take place exclusively through employees' representation. To this end, the Italian law qualifies "employees' representatives" those singled out by the "current legislation as well as by the inter-confederate agreements of 20 December 1993 and 27 July 1994 (…) or by nationwide contracts that have been applied when the interconfederate agreements have not been applied". In concrete, they are the Unitary Unions Councils (RSU), the Italian single channel of workers representation[4].

In the case an enterprise should violate the workers' right to be conrrectly informed and consulted, the Italian law provides administrative sanctions only, and for quite modest amounts, with fines ranging from a minimum of 3.000 to a maximum of 18.000 euros for each breach committed (art. 7)[5]. Beside, the breach of the confidentiality clause incurs also an administrative fine, ranging from 1.033 to 6.198 Euros, but only for the experts assisting the workers' representatives.

Law cannot be derogated in pejorative terms by collective bargaining (safeguard clause). Collective agreements signed after the enforcement of the new law accept it as an inderogable prescription that sets the minimum conditions in terms of information and consultation rights.

National industry-wide collective agreements mention the information and consultation rights since their very first chapters. They usually cover all the possible issues concerning recent and foreseeable performances at sector and company level, development of the undertaking's or the establishment's activities and economic situation: branch situation, employment and labour market trends, organizational and technological developments, equal opportunities, life long learning. I&C rights are also designed at the company level, for instance on the recent and of the firm and its economic situation; on present and foreseeable situation of employment in the firm, the possible risks to staffing levels and the relevant measures to counteract them; on the decisions likely to give rise to significant changes in the organisation of work and in employment contracts.

According to IRES' data processed from ISTAT sources, in 2011, companies employing at least 50 workers in Italy were approximately 26,000. We are talking about approximately one-third of the total number of Italian employees.

According to some trade unionists and academic experts we heard, the Italian reception of the European norms on information and consultation has quite failed to introduce innovative features. Why? Because most of the new rights – as we were told by Giulia Barbucci, of the European Office of CGIL – were largely recognised and rooted into the collective agreements at all the levels. For Fausta Guarriello, professor of labour law in Pescara, the high threshold (50 instead than 20), the Italian transposition exclude too many workers. For Anna Alaimo, of the University of Catania, the low sanctions for enterprises which, unlike in other national legislations (COM(2008)146def), do not represent an appropriate deterrent, are considered the two weakest points of the norms transposing the European directive. For Lunardon, professor in labour law in Milan: "It's clear that the law does not affect the unilateral decision-making powers of the employer. Simply complicates the process of its implementing". A quite weak model of workers involvement, is the most common comment on this law. According to Giorgio Verrecchia, academic in labour law in Cassino: "With regard to the practical operations in case of work changes, restructuring and related issues, the Italian law has *not* met the objectives set by of Directive 2002/14/EC (7th "whereas"). This was

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[4] In those workplaces where RSU has not been set up, collective bargaining has to foresee a mechanism designed to elect/designate a form of representation in charge of the right to information and consultation.

[5] Courts have frequently addressed the right to information and consultation with trade unions from 2007 onwards. From the practical point of view, some judgments are quite significant, like in the case of the Tribunale Gorizia 7-10-2011, that found anti-union behaviour, punishable under art. 28 Law of 300/70 (Workers Statute), the absolute lack of information and consultation and the discrimination of the trade union with broad representation on the national territory as a subject "signer" in the national collective bargaining. Supreme Court (*Corte di Cassazione*) n. 5089 of the 3 March 2009 states that the rights to information and consultation of trade unions operating control of the initiative of the employer concerning the restructuring of the company, have to be given "ex ante" to the trade unions, owners of incisive powers of information and consultation. There is no case law of the Labour Courts on the "confidentiality" of the information according the definition of article 5 of Legislative decree 25/07.

particularly clear during the current crisis. Sabina Petrucci, of the European Office of the FIOM-CGIL, says that in the hard times of the last years, with a lot of restructuring, dismissals and off-shoring: "very few decisions were reached by a joint agreement between employer and employees. Companies did what they wanted, while the whole participatory machinery – legal and contractual – was quite completely useless". Others, in CISL, denounce the persistence lack of a real culture of information and consultation in large and influential sectors of the social partners. It's a pity, because, according to Paolo Nerozzi, ex trade unionist and MP, signatory of a bill on participation in 2008, "The spread of participatory practices should represent an opportunity for businesses, for the staff, for the union, for the whole of society".

3.2. Directive 2009/38/EC in establishing European Works Councils

The European legal framework on EWCs dates back to 1994[6]. In Italy the Directive 94/45/EC was implemented after a first social partner multi-sector agreement (1996) and a full legal transposition occurred several years later, with the Legislative Decree 74/2002.

The EWC Directive needed to be adapted to the evolution of the legislative, economic and social context and to be clarified. The basic idea held by Italian as well as European trade unions was and still is that in the wake of an unprecedented economic crisis, it would be more important for EWCs to be given effective information and consultation rights that would give them the opportunity to affect the decision making process and thus contain the negative consequences of unemployment.

After consulting the European social partners the European Commission submitted in 2008 a proposal to recast the 1994 Directive. This new directive was adopted in 2009 by the European Parliament and the Council. Recast Directive 2009/38/EC aims at ensuring the effectiveness of employees' transnational information and consultation rights, at favouring the creation of new EWCs and at legal certainty in their setting up and operation.

Key concepts such as "consultation" or "transnational" are now given a more accurate definition. European trade union federations are given a role in assisting special negotiation teams. The compulsory forwarding of information as well as the outcome of the consultation from EWC to national representative structures can also be considered a step forward.

There is no general obligation to renegotiate the agreements establishing EWCs in the new directive. In addition, since the first directive, an incentive is given to the early establishment of EWCs, in advance of the legal requirements. Those companies which had agreements in place providing for transnational information and consultation of their entire workforce when the directive first took effect in 1996 are not subject to the obligations arising from the new directive.

Directive 2009/38 is without doubt a major step forward although in many ways still incomplete and also rather weak in certain points. Italian and European trade unions have given a lukewarm reception to the final result heralded by the text of the new directive, which as a matter of fact doesn't implement a full revision of the previous 1994 document but merely a "recasting" of it. The fact that the Directive, composed of 19 articles, is preceded by 49 "whereas", says a lot about the difficulties of gestation of this legislation had to be revised in 1999, and that the opposition Business Europe (formerly Unice), putting pressure on the European institutions, has not allowed a process of revision of the real rules of the new legislation. A number of requests – such as those relating to the concept of "controlling company" or to the possibility of activating an automatic re-negotiation on the basis of the new directive – have been rejected. There were, though, some positives as well.

What about the implementation of the directive in Italy? Most representative social partners associations, in April 2011, reached a common understanding. The key points were the following:

1) new definition of information and consultation
2) re-definition of the concept of transnationality, competencies and EWC field of application

[6] Council Directive 94/45/EC of 22.09.1994, as amended by Directives 97/74/EC of 15.12.1997.

3) obligation on the part of the local management to forward the required information to concerned parties to start negotiations (structure, number of employees, etc.)

4) changes in the way special negotiation and EWC teams are set up

5) acknowledgement of the role played by trade unions during negotiations and EWCs during re-negotiations

6) obligation on the part of EWC members to refer to workplace or Group company representatives about information and consultation procedures applied at EWC level.

7) right to information for EWC members

8) coordination between national and European levels.

As it can be observed, these changes correspond exactly to the amendments contained in the new Directive. Italian trade unions had demanded to give more attention to the contents of the considerations ("Whereas"), 49 against the mere 14 articles that constitute the Directive. Employers' association refused to consider the "recitals", which have not a legal normative but just a value to better clarify some unclear points of the Directive. Request had also been made to introduce the question of "sanctions," which was not tackled in the revision. It is also to be noted that the transpositions in other Member States have followed this same indication (see Germany, France, Spain etc.), apart from Belgium, that has the ability to insert into the body of its laws interpretive comments. Confindustria, however, has made an opening to give a "signal" of attention to the issue raised by us, that has brought to amend art. 6 "Content of the Agreement" adding that the agreement shall determine "the matters", which in the single agreements can open and solve the issue of "transnationality".

At the end of the day, the social partners agreement was adopted by the legislator and in July 2012, with the Legislative decree n. 113, it became law

For the trade unionists we interviewed, the overall judgment on the installation of the decree is positive because the contents of the Joint have been incorporated in the text of the decree, however , the Government has lost an opportunity to change the chapter of sanctions and to solve many issues remained ambiguous. "Now – they say – it's the time of the implementation: much can be obtained by the agreements".

The role played by EWCs in contributing to develop the embryo of a supranational system of industrial elations cannot be downplayed. The system currently in place is in many ways unique, just as it is unique, at a global level, the "European social model" of which the collective rights to information and consultation are a significant and distinguishing pillar.

According to the ETUI, more than 1000 EWCs were active in 2014, covering about 16 million employees, 40% of multinational companies concerned by the Directive and 60% of these groups' employees. The EWCs with an Italian headquarter were roughly 70. It has been esteemed that they're more or less the 35% of the companies which should be covered by the norms of the directive.

3.3 Directive 2005/56 on cross-border mergers

Legislative decree n. 108 of the 30.5.2008 implements in the Italian law the European Directive 2005/56/EC of the 26.10.2005 on cross-border mergers of limited liability companies.

At first glance, it must be noted that the legislative decree 108/2008 contains the notions of information and consultation of workers. This is interesting for two reasons:

1) the Directive does not speak of information and consultation of workers but of participation.

In fact, after being listed, the legislative decree 108/2008 does not use the above definitions. It is, therefore, only a nod. Moreover, as we shall see shortly, the nod is done using the technique of referral.

2) Legislative Decree n. 108/2008 uses the definitions of information and consultation of European society by referring to the legislative decree n. 188/2005 (on the transposition of Directive 2001/86), article 2 lett. *i* (*information*) and *l* (*consultation*).

Another element to highlight consists in having shown between the normative basis of the decree in exam, the Italian legislation on the transfer of undertakings (art. 2112 Civil Code) and on the rights of information and consultation of workers in the event of transfers of undertakings (art. 47 of Law 428/90).

The conclusion we can draw from the elements described above can be only one: the Italian legislator means that, since the merger of companies may involve a change of the ownership of the employment relationship, it is necessary that these workers have the guarantees of art. 2112 Civil Code. Furthermore, the employees representatives have the rights of information and consultation as detailed by the art. 47 of Law 428/90.

So, there are some questions that here we can not answer. Firstly, why the Italian Legislator after indicating the art. 2112 Civil Code as a normative basis, does not proceed to specify the content of this indication?

Secondly, why use the art. 2 of Legislative Decree 188/2005 to define the information and consultation rights after speaking of the rights under the art. 47 of Law 428/90? Perhaps the last are defined in the first?

Thirdly, why list the notions of information and consultation if then they are not used in the text of the decree?

Proceeding to the analysis of participation rights recognized by the Italian decree to cases of cross-border merger, the article 19 of Legislative decree n. 108/2008 provides that «*If at least one of the merging companies has an average number of cross-border workers, in the six months preceding the publication of the joint project, over 500 units and is operating under an employee participation pursuant to the regulations applicable to it, the participation of employees in the company resulting from the Italian border merger and their involvement in the definition of such rights shall be governed according to the procedures, criteria and procedures established in agreements between the parties stipulating the national collective agreements of work applied in*»

Twelve months after the date of entry into force of this decree, in the absence of the above collective agreements, will apply the legislative decree 188/2005 (implementation SE directive). So, the general principle as regards the employees' rights of participation is that national laws governing the company resulting from the cross-border merger apply.

The principles relating to worker participation laid down by the relevant regulation and the Directive on the European Company (SE) where the participation legislation applicable to the company resulting from the cross-border merger does not provide for at least the same level of employee participation (before/after principle).

The board of directors or supervisory board of the Italian company participant in the cross-border merger and competent management or administration of the company of another State member participants in the cross-border merger may decide to apply, without prior negotiations, the standard rules provided by the annex of the legislative decree n. 188/2005 (implementation SE directive) on the participation of employees

In case of negotiations between SNB and central management that apply the standard rules for the participation of employees referred to SE directive the share of workers' representatives in the board of directors or supervisory board of the Italian company resulting from the cross-border merger can' be affixed to an upper limit.

However, if in one of society merging cross-border workers' representatives in the board are one third of the members of the administrative or supervisory body, the seats in the board of employees' representative cannot be less than the 33% in the new company.

In other words under the Directive supplementing the Statute for a European Company with regard to the involvement of employees, the threshold for applying the benchmark provisions laid down for the European Company is increased to 33% (1/3) of the total number of workers in the

merging companies that have had to operate under any form of worker participation system. Therefore, according paragraph 4 of article 19 of legislative decree n.108/08 if one of the company participants in the cross-border merger is operating under an employee participation, the Italian company resulting from the cross-border merger must take a legal form allowing for the exercise of participation rights.

The provisions on worker participation apply to any domestic merger subsequent to a cross-border merger for a period of three years after the cross-border merger has taken effect.

4. The case studies

4.1 Electrolux

4.1.1 Premise

The events affecting production and headcount in several Italian plants of Electrolux, the Swedish domestic appliances multinational, between the end of 2013 and the spring of 2014, are in many ways emblematical of the challenges trade unions must face in the era of globalisation. It is the common weal of large industrial groups seeking to sharpen competitive edge essentially by leveraging labour cost differentials in the territories of operation. But it is also the story of a trade union that continues to be unable to put forward viable counter measures at a supranational level and is thus forced to rely on industrial action on the one hand and on negotiation rights on the other hand to stem the tide of global capital, whose strength has probably never before been so overwhelming.

It immediately becomes clear, against this backdrop, that the Electrolux affair is not simply about an industrial dispute affecting the future of Italian workers. At stake here is not only Italy's entire manufacturing sector – where the white goods segment is a key element – but the survival of its industrial relations system, called to manage increasingly more difficult challenges as employers ever more frequently come to the negotiating table offering no-win options. In other words this is what happens: "cut costs and downsize protections or we move out to places where these are sensibly lower."

It is a dangerous game where workers' resistance as well as the ability they and their trade unions have to put forward ideas are strenuously tested. A risky tug of war that is exerting great pressure on the industrial relations mechanism both at home and at a European level, where it nevertheless continues to be weak. It is a situation that has weakened the role of the public sector in defining industrial and labour policies and also of the local territories and of the people who live there, increasingly weary of the uncertainty of the future.

This story, in particular, came with what was substantially a happy ending, at least up to this point. It should, thus, be viewed as an interesting case study at both Italian and European levels. It most certainly is as far as we are concerned, for Electrolux has acted as a benchmark in the way industrial relations and employee consultation rights are handled. The stress-test that the Swedish TNC's projects underwent provided an assessment of what could happen in similar circumstances even to a well tried system of information and consultation rights..

4.1.2 The company

The domestic appliances is one of the key sectors of Italian manufacturing alongside the automotive, steel and textile-fashion. It is a manufacturing specialisation that, besides being a characteristic feature of a number of territories, goes back a long time, well before multinationals, such as Whirlpool from the USA or Electrolux from Sweden, took over post-war Italian iconic brands such as Ignis, Zanussi, Zoppas or Merloni. Until not long ago, the white goods sector employed 120,000 people, mainly concentrated in Whirlpool and Electrolux as well as in two other

internationally renowned Italian companies, Candy and Indesit. In the mid-80s Zanussi, before it was taken over by the Swedes, employed a staff of 31,000.

Italy is still Europe's top white goods producer, although Hungary and Poland are rapidly gaining ground and may soon wrest its position at the top. Output has more than halved in the past decade, down to 14 million pieces last year from 30 million pieces in 2002. Italy's share of the European market is 13%, down from 24% in 2008. The sharp fall was principally due to declining internal demand (-25% from 2008 to the present) and to tougher competition from countries where labour costs are sensibly lower, namely Poland and Hungary but aslo Turkey and Korea.

Among the world's domestic appliances giants (Whirlpool, Bosch, Samsung), Electrolux, the Swedish multinational, ranks …, with a turnover of € 12,400 billion and a worldwide workforce of 61,000.

In 2004 the Group employed a staff of 11,000. Headcount decline occurred gradually, year by year, as workers were granted exit incentives. These, averaging between € 30-40,000 gross, were mostly accepted by immigrants, who formed a significant segment of the workforce in Italy. Today, with a workforce of 5,650 (2013), Italy is Electrolux's last great bastion in western Europe, where the next three countries of operation – Sweden, Germany and Switzerland – employ a total of just 1,500. Electrolux's production is gradually moving east, especially to Poland, where the Swedish TNC employs some 3,500 people.

Electrolux has five plants in Italy: Porcia-Pordenone (1,400 employees), Susegana-Treviso (1,214), Solaro-Milano (963), Forlì (968) and Valleloncello-Pordenone (888), each specialising in the production of a specific domestic appliance: washing machines, refrigerators, dishwashers, ovens and cooking ranges, professional kitchens. The plants have generated a significant range of related industries. According to some estimates, for every worker employed directly by Electrolux, there is at least another who works in the factories that operate for Electrolux. In Pordenone, where the risk of a shutdown was biggest, to the 2,000 payroll workers who produce washing machines, a further 3,000 jobs should be accounted for, mostly in the among related industries and suppliers.

Output in the Group's Italian plants has halved, down to 1 million pieces in 2013 from 2 million in 2005. Headcount decline, coupled with the new labour organisational models in place, have driven productivity significantly, up from 40 pieces to 60 pieces an hour.

Competition in the domestic appliances sector has been extremely tough over the past few years as players have leveraged labour cost differentials for products that have, on an average, little added value. This approach has triggered a rapid process of international delocalisation as the surviving big western players – Americans, German and Swedish – have steadily moved their low-cost manufacturing in central-eastern European countries, where internal demand is higher and where – more significantly – labour costs are lower. Italy, too, which in the not too distant past had been able to attract manufacturing business from Sweden or Germany thanks to the competitiveness of its costs, is now losing ground with respect to eastern European countries where prices are even lower.

The industrial strife in Electrolux's Italian plants arise from just this global challenge, where workers's rights and salaries have been put at risk. The flash point in this case was the fact that one Italian working hour at the washing machine factory at Porcia cost four times higher than that of Polish employee, working on the same product at the Olawa plant (Wroclaw). According to the Electrolux management, the cost differential for each piece of the same product range produced in Porcia and Olawa is € 25. In this light, moving away from Italy the low-cost "Prometeo" product line (85,000 pieces per year) had turned into an attractive prospect. At that point, the manufacturing of refrigerators ("Cairo 3") and dishwashers, too, risked a similar fate. And that was the situation in autumn 2013.

4.1.3 The facts

It all started when on 25 October, Electrolux CEO Keith McLaughlin launched a probe with a view to assessing the exit of the Swedish multinational's washing machine business from Italy.The

procedure launched was bad news because it was similar to the one that ultimately led to the closure of the Group's AEG operations at Nuremberg that employed 1,700 workers. The industrial action that followed, with over 40 days of strikes, and the fact that the plant manufactured top-end products, proved to be of no avail as the factory was shutdown. At risk now was the Porcia plant with its 2,000 payroll workers and 3,000 related jobs.

Three days later the company communicated to the RSU central bureau and the sector's trade unions its 2014-2017 strategic plan, highlighting the criticalities affecting Italian sites, especially Porcia. The trade unions rejected the plan and demanded the immediate empanelling of a specific negotiating table also with representatives of the ministries of labour and economic development.

At the Group EWC November 2013 meeting in Berlin, the Group confirmed 1,000 redundancies in Europe, 200 in Italy, and envisaged the possibility of delocalising several Italian production lines to Poland and Hungary.

At the end of January of this year the worst case scenario occurred as Electrolux, at the conclusion of its investigation, put its cards down: either man/hour cost went down to Polish levels or the Group would shut down the plant. It was a shocking announcement, unprecedented in its down-to-earth brutality. Not even the 2009 Fiat dispute, which also revolved around Italian and Polish salaries, had seen such a drastic ultimatum. The Italian car maker had, in fact, targeted higher productivity, demanding sacrifices in terms of intensified work rhythm and trade union rights, but had not claimed salary cuts.

On the other hand, Electrolux' demand was loud and clear. One man hour cost in Italy was € 24 compared to € 6 in Poland. And the gap – according to the corporate centre at Stockholm – would rise steadily, reaching, in five years, € 27.80 compared to € 8.36. A differential caused also by the tax wedge that significantly impacts the composition of gross and net salary. It is a quota, pertaining to compulsory fees and amounting to approximately 50%, that the parties concerned consider unnegotiable. Focus would therefore shift on the remaining part of the salary, namely the variable portion, negotiated at a company level as a production incentive over the minimum wage paid in the steel sector. Early comments spoke of a 40% salary cut that would bring salaries down to Polish levels: around € 700 a month according to some newspapers. According to other sources, Electrolux not only planned slashing 80% of the € 2,700 of the company production bonus, but also reducing working hours, paid leave, halving trade union permits and freezing seniority increases. This meant an immediate 12% cut, and a further 3% spread over three years. In other words, € 130 salary cut per month, out of average salaries of € 1,350. And that was not all, because Electrolux also envisaged shedding 180 jobs at Solaro, 160 at Forlì and 331 at Susegana.

For trade unions and administrations, both local and national, this was tantamount to an ultimatum: take or leave it. The alternative was the immediate delocalisation of production in Poland. After all, as the message from Stockholm went, "we have delocalised less than Bosch." In the washing machine sector, Electrolux said, 59% of Bosch's output comes from countries where labour costs are low, whereas for us the share is some 15-20 percentage points less.

Reaction from trade unions and, broadly speaking, from local national commentators and politicians was – give and take differences in tone and analyses – substantially unanimous: unacceptable, a downright blackmail. If the global challenge of globalisation was to be approached and dealt with in this way, there would be no longer any point in having in place a system of labour protections. Thousands of companies facing difficulties would be legitimised to follow the example set by the Swedish trailblazer. Rights and wages, under continued attack over the years if not decades, would simply be wiped out in the face of those who use social dumping as the sole parameter for their investments and future plans.

Giorgio Squinzi, the employers' union chairman, in highlighting the dire risk at hand, called on the government to do its bit to avoid the "industrial desertification" of the country. The employers' union of Pordenone came up with a an alternative plan where, trade unions say, the burden was solely borne by workers, called to make heavy sacrifices in terms of salaries and working hours.

Trade unions called for industrial action locally and in Rome. Pickets were set up blocking access to the Porcia factory so that nothing could enter or exit the plant. Augustin Breda, a FIOM-CGIL trade union representative from Susegana, said: “Between October 2013 and May 2014 one of the longest and most acrimonious industrial clashes since the beginning of the century took place – a struggle where workers did not lose ending in a truce”. In six months 150 hours in strikes, 100 days of picketing, 15 days of total blockade in February.

Trade union delegates at the Electrolux EWC declared a “day of common action” on 28 November “to ask the company to withdraw its decisions and to act responsibly.”

It immediately became clear that the game at hand went beyond the negotiating powers of the local people. The key issue here concerned the need to draw up an industrial plan and a system of tax breaks that would make producing washing machines in Italy still a viable proposition.

The Electrolux management was summoned before the Senate labour commission, while a tripartite table was empanelled at the Ministry of Industry in a bid to find a solution to the dispute. Indesit and Whirlpool, the other two major domestic appliances players in Italy, also had to face the challenges of globalisation, and the solutions they envisaged could provide an alternative to the drastic response put forward by the Swedish company.

The solid mobilization on the part of trade unions, politicians and the press, soon forced the Electrolux management to soften its stance somewhat. Soon after, the Electrolux CEO said the company did not want to decamp: “It is not our intention to leave Italy, and we never said we want to reduce salaries by 40%”. Electrolux, he said, expects a significant reduction of labour costs, of around 15-20%, accusing trade unions of having launched a massive disinformation campaign.

This softened approach led to the opening of a new negotiating phase involving trade union representatives, both central and local (RSU), and national as well as regional administrators.

4.1.4 Precedents at a European level: the role of EWC

The way the Electrolux management attempted to solve the competitive crisis of its Porcia plant, once again highlighted the approach and style with which the Swedish multinational manages restructuring and strategic repositioning processes at a global scale. It increasingly became clear that the “Swedish model” of co-determination applied only at home and that all employee information and consultation rights at a national and EWC levels were systematically ignored by a a management policy consisting of abrupt announcements and of a relentless quest of competitivenes to be achieved through de-localisation and wage dumping.

In 2004 Electrolux announced general restructuring plan. At the end of 2009 more than 50% of its 27 factories had been moved to low-cost countries, with the closures of plants in Fuenmajor (2005), Nuremberg (2006), Torsvik (2007), shifting the production to Italy and Poland. The EMF coordination strategies had to cope either with the corporation approach to restructuring and off-shoring and with the lack of cohesion within the EWC. On the first side, information and consultation rights were not respected neither at the European level of the EWC nor at National level. No information was given in useful time, and the announcement of changes done just immediately after annual meeting (bypassing the EWC), while no effective consultation processes took place. Only one extraordinary meeting, was organized when AEG Nuremberg was going to be closed. There wansn’t any negotiation processes, where the EMF strategy for a European co-ordination of a sustainable restructuring was mainly supported by German and Italian representatives. Swedish EWC members and TU (being more in line with central management) didn’t support any transnational form of negotiation or agreement. So that, no shared perception of problems and challenges and no shared strategy was possible at the European level. The country-of-origin factor and the cultural differences among the national unions didn’t facilitate the search of a shared solution. The scepticism of the Swedish unions was probably due to their strength at the national level, with no need for European-level action National system have been considered more effective and TFA considered an interference. They didn’t rise any opposition to the Electrolux restructuring plans on global scale, assuming the central role of national collective bargaining and

company-level TU activities. They didn't want to compromise the traditional cooperative attitude at the National level, risking to threaten national alliances with management *(home country effect).*

A reluctance – as Volker Telljohann (IRES Emilia Romagna) an expert on these matters said – that prevented the making of a Group transnational agreement, otherwise quite frequent especially in the metal sector.

This time, though, when Electrolux announced its 2014-17 strategic plan the threat of closing down the plant if labour costs were not drastically reduced, the reaction was different. On 28 November a European-wide action day was organised to inform Elecrolux employees across the continent on what the management intended to do in Italy. "IndustriAll, the global trade union, too, was behind us, condemning the unacceptable stance taken by Electrolux, and demanding an extraordinary EWC," recalled Sabina Petrucci, of FIOM headquarters and EWC Electrolux coordinator for IndustriAll. "This was not just an Italian case but was something that concerned the very survival of strategic sector in Europe."

At a meeting held on 27 February at IndustriAll Europe, trade union organisations of countries where Electrolux was present, «rejected Electrolux's blackmail and attack on the autonomy of collective bargaining, an attack motivated exclusively by the need to reduce production costs. Trade union organisations have expressed their full solidarity to Italian workers who are faced with the company's will to cut salaries and worsen working conditions. Trade union organisations invite the Electrolux management to define an alternative European plan for its factories based on a sustainable industrial and investments strategy that can safeguard the company's continued presence in Europe, fostering at the same time a more cooperative approach with regards to its workers and their trade union delegates and transparency in strategy implementation.»

IndustriAll too demanded a meeting with the multinational's management with a view to expressing its concern and to working out a roadmap for Electrolux's future in Europe. It was a move that represented a significant step forward in the direction of a greater solidarity among the workers and trade unions within the same multinational group.

According to Claudio Stanzani, head of Sindnova and a major expert in matters concerning EWC, three aspects were paramount in the Electrolux case: "First of all we saw the Group working to delegitimise its own EWC. And even more seriously, none of the workers' EWC representatives – Italian, Swedish, Polish, etc. – tried, or let alone believe, they could take action, based on existing legislation and previous agreement – in order to convene the EWC and to demand the full application of the rights to information and, especially, consultation as established in the 2009/39/CE directive and in the related Swedish legislation. Secondly, we often look up to industrial relations in France or Germany as a model to be imitated, well, none of the trade union organisations in these countries, for sure, would have renounced to seek legal action to demand the application of workers' consultation and information rights in the presence of such a blatant violation and the reinstatement of full and legitimate trade union relations. And, third, we have the issue of solidarity. Now, if we need to manage the social impact or corporate competitive restructuring though solidarity tools and measures, the question that immediately comes up to mind is: which are the European and international geographical limits of this solidarity? Or, putting it even more bluntly: shouldn't the trade union representatives, who sit in the management board in Sweden and those workers who are involved with the Electrolux EWC, be responsible in upholding, they too, the values of solidarity? Don't they realise that if such values are not put into practice they would just be hot air? The whole thing would work only if all concerned – Italians, Swedish and the rest – became partners in the construction of a true form of European and transnational trade unionism and stopped, for once, to solve their problems of survival, mors tua vita mea, at the expense of others."

4.1.5 The industrial relations system

In a scenario characterised by the culpable absence of a truly European approach to industrial relations within the multinational, where the EWC is forced to play but a marginal role and where

international trade union coordination has been broken down by Electrolux Group companies who have been forced to compete with each other, not even a relatively well-structured system of industrial relations – such as, for example, the one in place in Italy especially in the metal works sector – can possibly hold its ground against such a concerted onslaught.

Electrolux is a metal sector company which applies the collective bargaining agreement (CBA) signed by Federmeccanica, the association it refers to at Confindustria that groups the sectors' principal players. Electrolux thus applies the full and detailed range of employee information and consultation rights established in the industry-wide CBA. It can also rely on a set of company-wide agreements applicable at group- and factory-level that envisage, in addition to wage and organisational flexibility, also additional rights in the area of information and consultation, enforceable through the presence of mixed committees aimed at negotiating consensually the technical aspects of specific issues. In the course of the 2013-2014 industrial dispute, the company informed trade union organisations and group RSU coordination about its plans for the Italian group companies.

Company-wide bargaining takes place at Group level and principally the organisation of labour and manufacturing such as paid leave, time off, overtime, new sub-standard hiring, unemployment or alternative benefits (CIG).

Trade union density in Electrolux's Italian group companies is medium-high, ranging between 40-50%, depending on the establishments. FIOM is the trade union with the highest number of members in terms both of votes and elected delegates. FIOM, with 43.98% of the votes during the last round of RSU elections, up from 40.27% in the previous ballot, entered 30 delegates out of 72. In the Group's biggest factory, at Porcia, UILM is the first trade union just ahead of FIOM with a handful more votes. Both unions, though, have 7 RSU delegates out of 18.

For years, ever since Zanussi was taken over by Electrolux, the industrial relations model at the Swedish TNC was considered as one of the very few that envisaged a significant employee participation in corporate affairs. A salient point of this approach was the signing in the mid-1990s of a consolidated employee corporate participation document, the so-called Testo Unico della Partecipazione (TUZ), which contained significant measures aimed at resolving issues concerning labour organisation and welfare in a consensual and timely way. The document also envisaged a series of procedures designed to limit as much as possible the possibility for the concerned parties to make unilateral decisions. Alongside employee information and consultation rights – made more stringent by the fact they were regularly upheld by RSU members – a key role was given to joint-commissions especially empanelled to solve technical issues arising from the daily management of working relations. Among these joint-commissions, a key role was most certainly played by the one dealing with labour organisation issues. The acknowledgement on the part of the company of these employee participation rights was balanced by the setting up a number of measures aimed at preventing conflict thanks to the application of a "cooling down" procedure when the contrast became to heated and could lead to industrial action. This procedure included the application of specific clauses defining periods of non-belligerence, reciprocal respect and goodwill besides recurring to arbitration (Guarantee Commissions), sanctions (trade union permissions; exclusion from negotiations).

It was a system that over the years recorded a seesawing performance, capable of stimulating a degree of social dialogue through reciprocal exchange but at the same time incapable of offering an effective bar preventing the application of the strategies decided at a central level.

The clash over the destiny of the Porcia plant relied very little on the negotiating tools and employee information and consultation tools that were available. In fact, there is little to negotiate when the decision is made to enhance competitiveness by slashing labour costs and to move elsewhere if this is not accepted. And should manoeuvring space for an agreement still be available, the negotiation would only be of a defensive kind, agreeing to accept cuts in an attempt to save jobs. The Electrolux case has proved that industrial disputes of this type cannot be solved bilaterally but require the active participation of the government, which is the only player capable of guaranteeing

a balanced exchange not only against the backdrop of fairer industrial relations but also within the framework of a broader industrial policy that envisages tax breaks and labour de-contributions besides lower energy costs, the reallocation of excess labour force, and incentives for product innovation.

4.1.6 The agreement

By February, though, the closure of the plant had been averted for 316 job cuts and man/hour cost reduction of € 3 instead of € 5 as previously demanded. In exchange, the Group agreed to invest € 150 million in Italy, including € 32 million in Porcia itself. Early in May, the decision was taken to negotiate to the end, and, at last, an agreement was found in the prime minister's office in Rome in the presence of the economic development and labour ministers and prime minister Matteo Renzi himself.

The agreement envisages a 2014-17 strategic plan in which the multinational foresees an investment of € 120 million. Part of this sum will come from incentives granted by the regional governments. Set down in the agreement is the reduction of labour costs and in the case of three plants – Susegana, Forlì and Solaro – also increased output. While washing machines will continue to be produced at Porcia, where outlook was bleakest, there will be a gradual shift towards the production of top-end products. Job levels will remain unchanged until 2017.

The agreement is also buttressed by the law that foresees the reduction of pension contributions from 25% to 35% in favour of employers that implement "solidarity contracts" – 6-hour working day instead of 8 and lower salaries – to save jobs. According to some trade union sources, Electrolux is set to save, in this way, some € 6 million in three years.

The issues that were solved also included the management of breaks and the reduction – the drastic reduction – of time off for union duties and activities. Additional breaks from work are to be halved to 5 minutes, while time off for union duties was slashed by 60%, starting from 2015.

Workers in all factories were called to vote in a referendum in favour or against the agreement, which was ratified by 2,651 votes against 651, in a turnout that saw the participation of 3,358 workers out of 4,152.

4.1.7 Stakeholders Assessment

According to the minister of economic development, the Electrolux case "is a good example of how a trade union negotiation should be conducted."

Trade union representatives, too, where satisfied: «The Electrolux dispute can become a model for the management of corporate crises,» Maurizio Landini, the secretary general of FIOM-CGIL said. According to the UILM-UIL secretary Rocco Palombella: "The Electrolux case is a reflection of the industrial crisis faced by Italy. But this time we succeeded the company to stay in Italy, to keep its factories running and to save jobs without cutting salaries."

The reasons for the successful outcome of the dispute included the ability on the part of the local players – the trade unions and the local government – to coordinate efforts thereby succeeding in countering the strength of Electrolux, the third player involved.

FIOM, which signed the agreement with secretary general Maurizio Landini, believed that success was also determined by the concerted mobilisation of workers who fought hard to uphold workers' rights and to save jobs, without worsening working conditions.

But there were criticism as well, though. For Paola Morandin, RSU delegate for FIOM-CGIL from Susegana, the agreement prevented an all-out rout for Italian workers, opening a three-year period in which a future must be defined for the Italian white goods sector. "Local trade union leaders, for example, were not given the opportunity to read the final document before signing it. We dilapidated 50% of our overall productive capacity in just 10 years and now we are at a crossroads: either we give new impetus to the system, or we die. As for the actual working process, the new thing is that we must speed up production: the pieces produced in 8 hours must now be produced in 6 (the agreement includes a technical profile for each factory). Breaks from work

remain unchanged barring for Porcia where it will be halved to five minutes. Holidays become flexible and may be called off if required. Time off from union duties have been slashed by 60%, although the same amount of time has been maintained for general assemblies."

The central issue of delocalisation and social dumping has remained unsolved. These issues, while temporarily frozen, continue to be a central concern for western industrial manufacturing. Italy, and in particular the workers of the domestic appliances sector, benefitted in the past for the low cost of labour, more competitive than in Sweden, Germany or Switzerland. Italian industrial workers are, they too, among the victims of globalisation and have been left behind by their colleagues from central-eastern Europe. As emerging from the conversations we had with some of them, they are well aware of the cruel chain to which they are all tied to. Stanzani said that while the agreement was necessary at that time "it doesn't hide the fact that our trade union is weak and still incapable of putting in pace a coherent, transnational, strategy when a crisis hits a multinational." There is no easy way out. We must reposition ourselves in the international value chain, focusing investments and resources in the upper end of the value scale. And we must also seek to achieve enhanced synergies in the area of international trade unionism, "relying more and better on the opportunities offered by European social legislation. We must target a more efficient utilisation of EWC and employee information and consultation rights, a more efficient role of European sectoral federations and an enhanced ability to negotiate transnational company-wide agreements, ensuring maximum compliance." (Breda).

The solution, as many have suggested and understood, is to refocus productive strategy on products on the top end of the value scale – the same product segment competitors are setting theirs sights on – by designing a new generation of intelligent and low-impact domestic appliances.

A model that trade unions are eyeing is that in place at another big manufacturer operating in Italy, Whirlpool, the American TNC. The "Varese miracle," as some have defined it, consists in having signed an agreement where wages not only have remained untouched but one envisaging the transfer of productions segments from Sweden. The reason behind the success lie in the economies of scale that have been achieved and in the alliance established with local furniture makers that in the area of Varese have established a world-renown industrial district, indispensable for the production of unit electronic appliances. In an agreement signed with trade unions, Whirlpool pledged investments of € 25 million spread over the 2013-17 five-year period in exchange for a reasonable increase in transport and canteen costs and increased flexibility in terms of work organisation. Electrolux of Susegana, too, has taken the decision to generate synergies, in the unit refrigerator segment, with local producers and trade unions in the furniture sector, which threatened to break its relations with the Swedish multinational joining forces with competitors if the latter weakened its presence in the area.

4.2 The Eni Case study

4.2.1 Premise

Eni is a major integrated energy multinational company. Its activity range from oil exploration and production to the international transport and sale of gas, from power generation, to oil refining and sale of petroleum products, to chemicals and engineering and construction.

Eni operates in 85 countries with 82,000 employees. According to Fortune 500, it was Italy's largest company in terms of turnover in 2013, 22nd in the world. It is the world's 6th largest oil company in terms of business volume.

Set up by the Italian government in 1953 and named Ente Nazionale Idrocarburi, the old public company ENI played a decisive role in the country's industrialisation and economic development. ENI's privatisation process started in 1992 when it was converted into a joint-stock company. In the

period between 1995 to 2001, the government sold most of its shareholding in five tranches, keeping a share that was established by law – the so-called golden share of over 30% that has allowed to maintain control of the company. Eni is listed Milan and New York.

Notwithstanding its shrinking stake, the Ministry for the Economy still has the power to appoint the majority of board members. Privatisation has seen the company refocus activity on its integrated energy core business by absorbing the Agip and Snam branches and selling non-core business.
Eni recorded in 2013 earnings of € 114.72.

4.2.2 The Eni industrial relations model

Eni group companies in Italy apply the energy industry-wide agreement, which involves some 50,000 employees working in the exploration, refining and gas sectors (two-thirds of whom are ENI staff), and the group company contract, which involves by 30,590 people. An additional negotiating level occurs at the single plant to which the group company contracts refers to when dealing with specific contractual aspects, namely incentives, working hours and shifts, absenteeism.

Trade union information and consultation rights are traditionally well-developed across the entire sector and clearly outlined in the industry-wide agreement, which transfers to company-level negotiations a wide range of issues both technical and organisational.

In consideration of the fact that the energy production cycle is particularly dangerous, extremely detailed procedures have been envisaged in case of industrial conflict. Bargaining envisages “cooling period” and plant management clauses when industrial action occurs. Each plant is called to define safety standards that cannot be violated at any time.

Trade union density at Eni Group companies is quite high (roughly 45%), with a peak of 90% in some production sites. The RSUs are elected everywhere and company level bargaining widespread as well.

The workers participation

In the history of Italian industrial relations, Eni has stood out for its approach aimed at stimulating the involvement and participation of workers and their trade union representatives.

A state-owned company up to the early part of the 1990s, Eni had pulled out from Confindustria, Italy's principal employers' union, and set up its own representative agency, Asap, in 1960. In the 1960s, the Eni Group distinguished itself for its endorsement of company contracts that favoured dialogue with trade unions in the search of forms of labour organisation that could create a more working environment. During the restructuring underway in the 1980s, at a time when Confindustria and metal sector companies focused on wresting ground away from trade unions, public sector industry – with Eni at the forefront – opted for an alternative approach, signing “protocols” that encouraged a form of industrial relations grounded on widespread participation and information disclosure also in matters pertaining to corporate strategy and development. The Asap protocol of 24 October 1983 established a mixed committee to deal with the strategic guidelines of Eni Group companies. At the same time monitoring activities went ahead also at a local level. It was felt that sharing strategic guidelines could mitigate social impact. The protocol was renegotiated in 1986 with the provision to set up additional joint committees at a territorial level with the aim of monitoring and coordinating action in the various plants.

Just how important this protocol would turn to be became clear in mid-1990s when the so-called negotiated planning phase began in full earnest. ENI had to deal with the restructuring of numerous chemical plants that were in serious trouble, namely Manfredonia, Crotone, Ottana, Sassari/Porto Torres; the development strategy for the chemical sector at Porto Marghera (1998), Cengio and Ferrara (2001), Priolo (2002), Sardegna (2003). The approach that was adopted was that of local negotiations for the redevelopment of the affected areas.

The structural changes at ENI in the 1990s following progressive privatisation appeared to produce no significant change in the way the company handled its industrial relations – an approach, grounded on widespread disclosure of information, that nevertheless needed to come to

terms with the new stakeholders and management. The relationship with the government changed as strategic responsibility was fully transferred to the management. While losing in this new scenario their co-managerial powers, trade unions nevertheless continued to exert an influence on company affairs that was far greater than in the rest of the manufacturing industry. Strategic decision-making thus became an exclusive prerogative of the management, but trade unions continued to play an influential role at a local level. Eni continues to disclose information to and consult with trade unions when investments that impact occupational levels are being planned.

Between 2001 and 2011 the industrial relations system at Eni was further strengthened in terms of workers' participation with the signing of a series of new deals, namely the industrial relations protocol of 22 June 2001 and the agreement on development and competitiveness and a new industrial relations model of 26 May 2011 that focused exclusively on domestic and local issues. The renewal of the EWC and the signing of a transnational corporate agreement, on the other hand, have paved the way for an internationalisation of industrial relations. Looking closer at the employee participation system within Eni following these developments, the following considerations should be made:

1. The system, which appears to be comprehensive, is strongly inspired by the principles of corporate responsibility, it is articulated at various levels and has a clear international outlook, as testified by the recent signing of EWC and transnational agreements.
2. Employees' participation is widespread and involves various functions, with a strong focus on strategic issues is partly the outcome of company history and partly a competitive lever.

The Protocols on industrial relations and participation of 2001 and 2011

The industrial relations system protocol of 22 June 2001 reaffirmed the need to strengthen employee participation in the changing competitive scenario, characterised by increasing globalisation and competition. With a view to achieving these targets "the industrial relations system will be configured in such a way as to ensure pre-emptive information, consultation and the implementation of new participation models." The parties agreed to "adopt an innovative industrial relations model hinging on participation intended as an efficient tool of change management and to ensure, in an environment of common values and targets, choices that are as far as possible shared. An integral part of the model are the setting up of joint commissions with related operating rules; co-management procedures to deal with occupational issues; the identification of relevant issues to be discussed specifically." The aim is to share decisions – and not merely to disclose information after all is said and done – and to co-manage issues that impact occupational levels. A key role, to this end, is played by the following joint commissions:

1) The "Eni Industrial Relations Committee," whose joint members are the representatives of Human Resources and of the national secretariats of the trade unions, which meets three times a year (April, June and November).

2) Divisional joint committees "based on participation, where information is provided and discussed with a view to generating consensus" on a wide range of key issues.

3) The empanelling of a joint table focusing on occupation with a view to informing trade union delegates about human resources recruitment and requalification.

4) Identification of issues requiring to be jointly examined in the areas of training, health and safety, working environment, industrial relations, employee shareholders. The Protocol includes attachments where these four issues are given a more detailed exposure with a view to establishing to which extent the Eni decision-making process may be shared. The European Observatory on workplace safety and workers' health has also been set up. Working alongside the EWC, the target is to harmonise the experiences that have emerged in other ENI companies in Europe.

On 26 May 2011, the corporate and trade unions signed a new key protocol *"For development and competitiveness and a new model of industrial relations"*. After having outlined the critical aspects of the energy sector worldwide, the parties concerned affirmed their willingness to work out

solutions that can contribute to reconcile an improved work organisation with enhanced productivity. Eni "believes efforts must be made to further develop existing organisational models with a view to improve the efficiency of its plants." The aim is to achieve best practices by levering the occupational factor, maintenance, tenders, through the implementation of lean production models to be discussed at plant level. To this end it is necessary "to develop a model of industrial relations that foresees a common approach and a stronger involvement and participation on the part of workers." This new model must emerge as "a set of clear, straightforward and easily applicable rules that, in a climate of reciprocal goodwill, can contribute to developing a constructive dialogue and ensuring broad and continuous participation," thereby strengthening "its function as a tool to pre-empt and manage conflict while stimulating, at the same time, Eni's ability to cope with the changes underway in the market and to ensure full employment." The period during which the parties are called to participate in finding a common solution has been set for 30 days, after which each side can act unilaterally..

The agreement 2011 updates and extends the system of the previous 2001 agreement. It is characterized by the concrete reference to the current economic crisis, and measures to be. It foresee the introduction of an annual meeting with the CEO with trade unions, setting up of an "economic scenario committee," which will be convened on a quarterly basis, meetings to discuss single issues (with the exception of working hours)
taken in Eni in order to cope with the new and challenging prospects.

As for labour organisation and productivity, a joint commission has been set up examine the situation and monitor developments in other EU countries. The issues discussed also in terms of conflict prevention concern working hours (with a special focus on conciliation), fight against absenteeism and continuing education.

With respect to the protocol signed 10 years earlier, the following should be observed: a) the link between workers' participation and corporate competitiveness has been strengthened; b) bargaining at a divisional level – the contractual core around which company-based contracts developed during the 1990s – has somewhat been weakened in favour of both group- and plant-level bargaining, which can also take place in times of crisis.

4.2.2 The international dimension of industrial relations at the Eni Group

Set up in 1995, the European Works Council (EWC) was renovated in 2001 and 2004, and by a further three years in the latter part of 2007. Every year Eni's strategic plan is outlined at the EWC and the issues therein contained that may impact both domestic and international business are successively disclosed and discussed. A great deal of focus has lately been given to EU policies, with a special focus on energy and employment, and to Eni projects relating to issues of integrity and non-discrimination. A working environment that does "not discriminate," in terms of gender, leaning, culture, age, is not only essential to uphold the basic rights of the human individual but also to enhance and develop individual skills.

International mergers and acquisitions have also been discussed at the EWC but there has been no recourse to information and consultation rights as actually established in European legislation when such operations take place. Trade unions in Italy and abroad were unable to agree on a a common approach on this issue. "It may well be that we underestimated this channel," admitted the former CGIL secretary for the energy sector who has been entrusted with the task of monitoring ENI Group companies.

In the meanwhile Eni with Italian trade unions and ICEM (International Federation of Chemical, Energy, Mine and General Workers' Unions) signed a transnational group agreement where the "agree on the importance of sustaining a model of international growth that combines value accretion and innovation with attention to human rights, working standards, workplace safety, quality of life and sustainable development." Bearing this in mind, signatories pledged "to implement those work practices that can stimulate economic and social progress upholding at the same time the respect of ILO conventions establishing *core labour standards"* (freedom of

association; the right to collective bargaining; effective abolition of all forms of forced and child labour; elimination of trade union and occupational discrimination – Conventions 100 and 111), and "to constantly seek improving conditions of safety and health in the workplace also through the implementation of best practices." In addition, Eni is committed to uphold, in the full respect of stakeholders, business ethics and to pursue equal opportunities, and to promote action and initiatives in the areas of *Corporate Social Responsibility* and workplace safety and health.

The agreement does not replace or disrupt local procedures as both sides acknowledge the principle according to which any issue that may arise between the company and its employees should be solved at a level that is closest as possible to the workplace.

Dario Ilossi, for many years the National official of FEMCA-CISL for Eni International industrial relations, interviewed said: "I am not aware of particular situations of mergers or acquisitions, rare on the part of Italian industry. I do not think that there are in our areas, although the Italian trade unions have played an active role in acting at the European level".

4.2.4 Strengths and weaknesses of the industrial relations model at Eni

The industry-wide contract that was renewed in 2013 ushered a number of changes especially in the refining sector, which was hit hardest by the economic downturn. As a consequence, wages were kept in check while introducing increased flexibility in terms of plant-level working hours.

At a corporate level, discussions between the ENI management and trade unions produced a number of agreements that facilitated organisational restructuring. According to Eni as many as 278 meeting took place.

The sector hit hardest by the economic crisis was refining, which forced the closure of several plants (Mantua, Cremona, Rome). 2014 was marked by some of the toughest industrial conflicts to have occurred at ENI. As a consequence, redundancy payments were paid and long-term mobility encouraged.

The situation was most critical in the refining plants at Priolo, near Taranto, and Gela, where 3,500 jobs were on the line. The ensuing negotiations proved to be very tough and risked breaking down during the summer, and ultimately led to the proclamation of a company-wide strike on 29 July 2014. Another dispute concerned the Saipem branch, a leading global contractor in the oil and gas industry with a number of units in Italy and approximately 7,500 employees. In November, a strike was declared following the disclosure of a possible takeover by a foreign operator without setting out clearly the impact the operation would have on workers and on the Italian industrial system as a whole. Following a negotiation that also involved the central and the regional governments, an agreement was reached. Venice and Gela would be reconverted to produce green energy and part of the staff would be transferred to the exploration sector through long-term secondments. ENI has also pledged to progressively recruit some 300 university and high-school graduates during the 2013-2015 three-year period.

4.2.5 Social partners' evaluation and assessment

The Eni industrial relations system has substantially worked well paving the way to the definition of shared solutions even against a backdrop of consistent strategic restructuring across the company's Italian footprint.

The employee participation model as defined in the two industrial relations protocols of 2001 and 2012) was widely appreciated by both trade unions and Eni. According to FEMCA-CISL "the agreement is a step in the direction we envisaged of a solid combination between workers' participation, conflict prevention, increased productivity, enhanced competitiveness. What we have is a unitary agreement, subscribed with no reservations even by CGIL. We have given a strong signal – a signal that is even stronger because it comes from a group like Eni. This agreement rises the hope that the relations between the country's principal trade union organisations will continue to improve". Generally speaking, Dario Ilossi (FEMCA-CISL) thinks that:"The system of industrial relations – along with the use of institutional and tripartite tables – have allowed us to identify

innovative solutions. I think the attitude of the corporate management is positive and very open in terms of information and disclosure on its strategy. The situation is partially different for what concerns the consultation rights, which is not as well developed on the high-level decisions".

Trade unions, though, have been worried of the latest developments in this long crisis. For Emilio Miceli, general secretary of FILCTEM-CGIL: "This isn't simply about selling Eni Group companies, there is the risk ENI, too, might go". Miceli pointed out to the government's shortcoming in the dealing with the crisis: "What's that 30% doing in Eni? We appreciate the government's role in mediating among the conflicting parties, but we do want it to exercise its powers as the majority shareholder, because that's its duty. Because that's what happens in France and Germany. We would like the Italian government to do the same – to watch over Italian industry!". For Gabriele Valeri, former CGIL national secretary for the energy sector: "The Eni management continues to uphold an industrial relations policy that substantially favours participation. It basically targets solutions that have been agreed with trade unions. The tensions that flared last year were essentially a reflection of the new management's stronger focus on the parent company in a bid to streamline the organisation structure at the cost of sacrificing the rapport with trade unions".

In commenting the deal, the Eni industrial relations chief Davide Calabrò said: "In view of our industrial relations track record, the road we have travelled together for so many years, and the targets achieved so far, we consider trade unions our principal stakeholders with whom we can discuss not only those normative and economic issues that bear an immediate impact on workers but also more delicate matters concerning corporate strategy and outlook". The ongoing debate on workers' participation – he added – "confirms, in my opinion, the need to opt for an approach that is less confrontational and more proactive. Participation is indeed a broad notion, ranging from workers' contributing to set productive levels, to their direct involvement in the management of the company. While participation, intended as workers agreeing on the bonuses (profit sharing initiatives, for example) to be allocated when targets are achieved, is present in a number of Italian plants, the application of the German model of participation appears to be more complicated and needs to be worked on. The issue here is whether Italian trade unions are really ready to take up a challenge of this kind, especially in the face of their chronic and worsening fragmentation. I believe that transferring models developed elsewhere without considering local conditions, in terms of economic, social and trade union backgrounds, would not produce the desired effects".

Dario Ilossi conclude as it follows: ""It would be nice to imagine an evolution towards more intensive forms of involvement and participation, indispensable to revive our poor industry (and poor country). I fear that, on the contrary, such a perspective will be postponed until better times. Realistically, it might be possible to obtain some form of participation settled by negotiation and only in rare cases. The financial participation, certainly more feasible, it does not seem easily achievable in the current constraints of labor income".

5. Conclusions

Trying to recapitulate what we've been saying up to now we can say what, summing up, follows.

Generally speaking, the difficulties of the Italian trade unionism today are not so much of a quantitative nature as in other countries (membership and density, collective bargaining coverage, mobilization capacity, media attention), but mostly qualitative (Carrieri and Leonardi, 2013). In a nutshell, they seem to us at least of three kinds:

- the quite impressive gap between the relatively medium-high level of trade unions recognition and power resources on one side and the comparatively modest outcomes on the other, in terms of wage dynamics, employment rates, labour market dualism, gender gap, welfare state provisions;

- the crisis of the traditional voluntarism and abstention of law in the field of industrial relations, which in the last year has been paving the way to a prolonged season of legal uncertainty and conflicts;
- an unprecedented marginalization of tripartite social dialogue due to the new European governance and to the unilateral State interventionism on all the main social issues (pension system, collective bargaining and labour market reforms) without any previous concertation with the social partners.

For what in particular concerns the INFPREVENTA's issues and knowledge aims, we've tried to describe the Italian system of workers' involvement and participation. To sum up, we would lastly highlight the main following points:

- an historical and ideologically-based reluctance of social partners to establish by law forms of strong involvement and participation, with the assumption of reciprocal responsibilities, either in terms of disclosure of the management prerogatives to the workers' representatives and of a more strict regulation of the workers' conflict power;
- as a consequence of such traditional and mutual unavoidability, the lack of any widespread form of board-level workers participation and other significant forms of financial participations, as it occurs in several other EU Members States
- a national legislation which along the years has slowly implemented, without significant variations, the *acquis communitarie* on the right to information and consultation on specific issues (i.e. collective dismissals; transfer of undertaking; health and safety) or at a broader level (EWCs, Statute of the European Corporate, framework discipline of national information and consultation rights)
- a key role played by the collective bargaining, true pillar of the whole industrial relations system, either at the national industry-wide level and at the company level
- the shortage of a uniform, reliable and effective picture of the participatory practices, with important divides across sectors, branches, size of the companies
- the increasing role played by the new forms of work organization, with a strong managerial emphasis on the issues of workers individual and collective activation and involvement, through different forms of informal and team work, designed with the aim of increasing the workers' motivation and productivity, mostly without the shop stewards and trade union mediation.
- last but not least, the mediation of the Government has been quite determinant in solving the problems, through a tripartite concertation, of deep restructuring and severe crisis management in some of the most important companies of the Country. Including the two cases studied by our project survey: Electrolux and Eni.

Solicited by the post-Fordist changes of the socio-technical new paradigms of production and under the influence of European legislation and comparison, either trade unions and employers, albeit from their respective differing viewpoints, at long last appear to be rethinking the strategic value of participation. The old ideological assumptions of social partners against stronger forms of mutual involvement and participation seem to play a minor role than in the past, especially on the labour side.

Coping with the structural deficit and gaps of the national productive system, social partners seem finally to recognize that new approaches and modes of work organization must be searched in order to increase and improve the performances of the economy either at macro and at micro level. New rules are urgent, as the traditional voluntarism has reached a dead-end street. They should tackle, in an holistic way, the representation at the workplace level, the collective bargaining system, the workers' participation in all its potential forms.

The hard times we're living and the increasing power asymmetries between capital and labour at the global level are all but favourable in transposing in a country the most advanced systems that other unions had gained in completely different seasons of contemporary history. In spite of the hostile scenario and challenges, the industrial and economic democracy, in the various forms of the

workers' participation at the management of the enterprises, still is and will always remain the main objective of the labour movement. Also in the XXI Century.

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