

WIBAR-3

WageIndicator Support for BARgaining

Supported by the European Commission - Industrial Relations and Social Dialogue Program (nr VS/2014/0533)

Changes in collective bargaining regime in Italy

Salvo Leonardi – *Senior Researcher in Industrial
Relations*

Bratislava, 23 September 2016



Fondazione Giuseppe Di Vittorio

Italian industrial relations at a turning point: issues and challenges

1. Political role of the unions, in a stage where old tripartite concertation is given for dead and buried, and Prime Minister and media delegitimize role and functions of the TUs
2. Structure and contents of collective bargaining, squeezed between deflation, decentralization and increasing labour flexibility and precariousness
3. The lack (and the need) of universal and enforceable (legal) rules about representation, CAs effects and participation, with controversial hypothesis on the table, about statutory minimum wage and limitations to the right to strike,

The Italian system of industrial relations

- High level of voluntarism and abstention of law on the whole range of IR items
- Key role played by collective autonomy, true pillar of the system;
- Two-tier bargaining system, with a priority of the sectoral level in setting substantive and universal standards and wage levels
- Opening or hardship clauses now admitted
- Medium-high level of trade union density; medium and decreasing employer organization density
- High-level and stable collective bargaining coverage,
- Single channel of representation at workplace level
- Low rate of workers' representation and collective bargaining at company level: differences in size

The “quantitative” successful story of Italian unionism

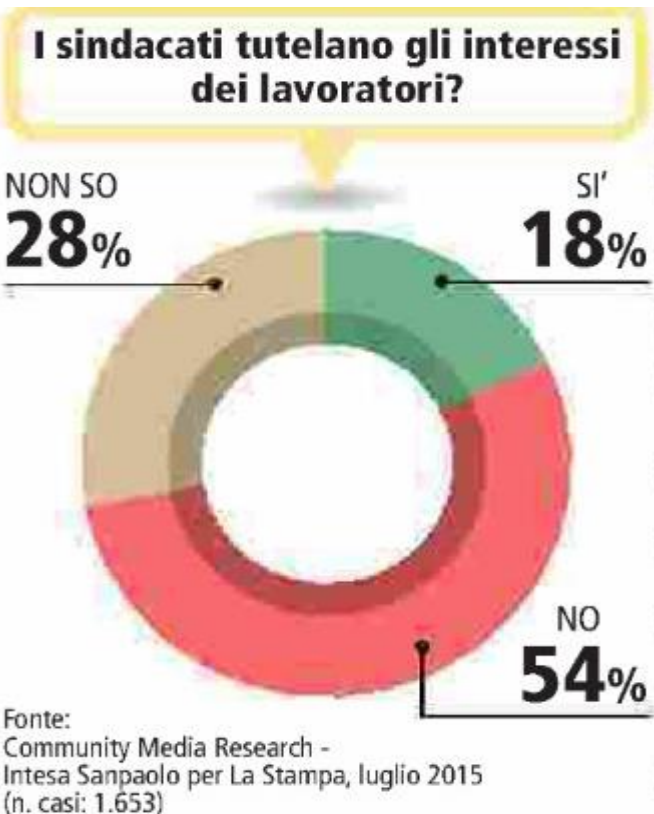
The power resources: good the associative, pretty good the organizational, declining the institutional, critical the structural (sectoral and membership composition in new economy)

- Union density has declined in Italy too, but the downward trend has been slower and much more contained than elsewhere.
- It was 41% in 1980 and is now estimated at 33,4%, still one of the highest rates in the world, falling behind only those recorded in Belgium and the Nordic countries that enforce the Ghent system (ILO 2015).
- Remarkable financial and human resources
- Collective bargaining coverage: one of the highest among the industrial countries (80 up to 90%), and apparently pretty stable, without a formal procedure of extension mechanism

The “qualitative” problems of the Italian trade unions

- Loss of members and resources but in a comparatively better timing and severity than in other countries. The changes in objective (sectors; workers' typology; age; skills) and subjective (motivation, propellers) membership composition;
- the gap between the level of general trade union recognition and their power resources and the modest outcomes in terms of wages, employment rates, human capital and welfare provisions, is significant;
- the marginalization experienced by unions because of the new European and state interventionism in the main social issues, collective bargaining included, has further weakened union influence;
- the crisis of traditional voluntarism in the field of industrial relations, with subsequent legal uncertainty and inter-unions conflicts
- the big pressure for a strong decentralization of collective bargaining, with a more and more residual role of the national industry level
- loss of popularity

Loosing popularity



Meanwhile, surveys and opinion polls on the way the country's main players and institutions are perceived show that the popularity of trade unions has somewhat declined over the years.

- Trade unions are just another “caste”, made up of privileged bureaucracies and financed through channels that are not transparent, with self-seeking and residual interests, full of pensioners and far distant from the young people and their needs.
- This criticism from above (and right), then combines with that from below (and left), where trade unions are accused of being too much accommodating and substantially unable to impede the long-lasting erosion of wages, job security, labour rights, welfare protections and youth perspectives. While the former approach wishes a substantial and definitive sunset of the unions' role in XXI societies, the latter still hope in a deep renewal, suggesting to go back to a more rank-and-file and antagonistic kind of unionism.

The half-glass full

Though from different aims and backgrounds, both these conclusions neglect a number of facts:

- 1) falling popularity is part of the wider crisis that is impacting the full range of representative institutions and intermediation, including political parties, parliamentary institutions, Europe and even the church;
- 2) it is not clear if criticism levelled at trade unions is due to an excess of conservatism, in the defence of acquired rights, or to an excessive weakness in defending them, meaning that the political consequences of one or the other are radically different;
- 3) in hard times for all the democracy actors, where the bond to parties and social movements has plummeted as never before, with over 11 million members out of a country population of 60 million, still represent a remarkable sign of associative vitality and presence in Italian society.

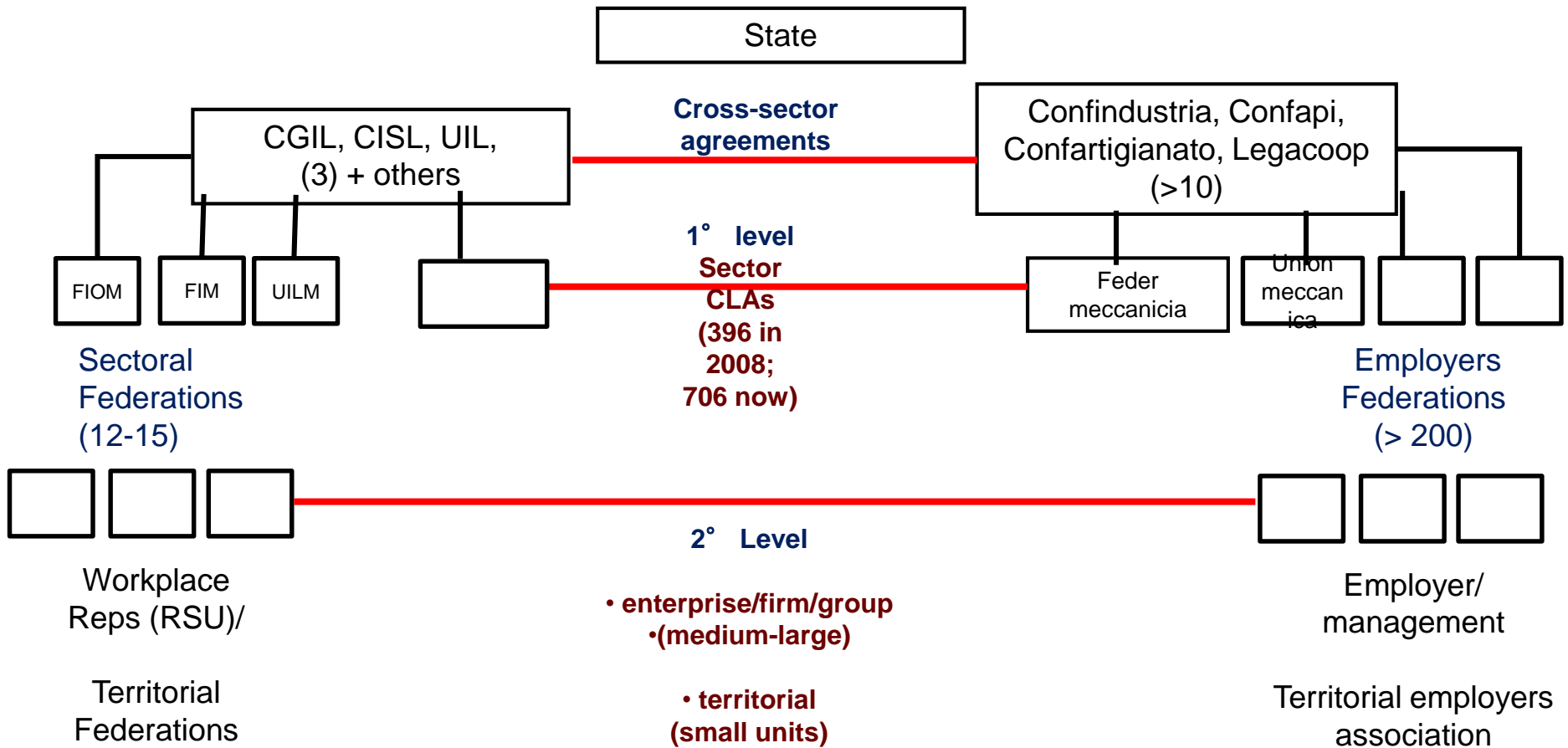
The Italian collective bargaining under stress

2009	January 22; Separate framework agreement on the new industrial relations system (without the CGIL)	New system to calculate the inflation rate; longer duration of the 1st level collective agreements; opening clauses and decentralisation; restrictions to strike
2010-2011	Separate agreements at the FIAT plants ; national agreement for the whole group, out of the metal workers national agreement	Harder working conditions; restriction to the right to strike; NewCo; exit from the national industry-wide agreement
2011	June 28; New unitary Framework agreement on the industrial relations system	Two-tier system; primacy of the national one; eligibility criteria to be admitted at the National CB; opening clauses; restrictions to strike
2011	August 3; Letter of the ECB to the Italian Government	Request to decentralise collective bargaining ; freezing civil servant pay; pension and labour market reform
2011	September; Law n. 148 on de-centralization of collective bargaining	(art. 8) Company agreements can derogate unfavourably even from laws
2013-2014	New unitary Framework agreement on the industrial relations (“Testo Unico”)	Certification of trade unions representativeness Vs. binding collective agreements and their effectiveness
2015-2016	Renewals in unprecedented deflation and employers claiming back money	6mln workers waiting for new sectoral agreements; the return of the public sector

The Italian ways to CB decentralisation

1. Organized decentralization: the tripartite framework agreement of 23/7/1993
2. Weakly organized: the bipartite cross-sector agreement of 22/1/2009 (CGIL excluded)
3. Totally disorganized: the “frontal assault” from Fiat (2010-11) and post-BCE letter implementation (art. 8, law no. 148/2011)
4. Partial recentralization: the three cross-sector agreements (*Confindustria*) of 2011-14
5. The new-interventionism of law on LMPs and the new challenges for CB

The post-1993 multi-level CB in Italy



The FIAT “American” model (2010-11)

1. Adoption of **WCM** and new patterns of HRM and work organization (team and involvement)
 2. **Workplace union representation:** for the signatory organizations only (no matter their votes and members)
 - 2) Exit from the employers' association and its system of agreements
 - 3) **A “national first level agreement” de-linked from a sectoral agreement**
 - 4) New Company: all workers must be hired again from the New Company (no FIOM members hired still)
 - 5) **Right to strike:** sanctions for unions and for individual workers (until dismissal)
 - 6) Referendum: if “no” win, then FIAT close down the establishment (“no” just a bit less than 50% anyway)
- Unions which refuse to sign firm-level agreements are excluded by the representation (closed shop) and by organizational facilities within the workplace
 - It's not the unions' real representativeness (vote and/or members) to legitimate the collective agreements but – on the contrary – to sign agreements legitimate the signatories unions to be recognized by the company (the employers power to choice who admit and who exclude)
 - To guarantee full/complete effectiveness of the agreements and prevent all the possible forms of workers/unions dissent
 - A sentence of the Constitutional Court (2013) has denounced this system as unconstitutional, while a law in this field is needed

An alternative approach: the TCAs at VW and their effects in host subsidiaries

- 2002 Social Charter (ILO conventions)
 - 2004 health and safety
 - 2006 Declaration on sustainability in supplier relations
 - **2009 Labour Relations Charter**
 - 2009-2011 Implementation at national level
 - 2012 Update of the Social Charter (extension to subcontracting)
 - 2012 temporary agency work
- Signed in times of crisis
- Regarding all enterprises and production sites belonging to the group (global level)
- Implementation through company-level “participation agreements”, signed by democratically elected councils
- Beyond ILO minimum labour standards
- Safeguard clause
- Recognition, information, consultation and co-determination rights
- Training for workers' representatives
- External experts

Implementation and impact at Lamborghini

2010 - Seminars of information and training

2011 (2 Febr.) – First company level agreement on the implementation of the Charter and its values and objectives

2012 (4 Jul) – Company agreement on industrial relations and working conditions, signed by RSU and local FIOM

Procedures: referendum on the agreements

Principles: transparency, involvement, trust, autonomy, CSR, team work, training, open-end contracts.

4 Joint committees on:

- performance-related pay,
- work organisation,
- job classification,
- health and safety

The «secret» letter of the ECB (3/8/2011) and the «modernization» of wage setting system

It asked:

- to reform the system of wage bargaining at the enterprise level agreements (..)
 - to adapt the wages and working conditions to **the specific needs of companies** (..)
 - to **make these agreements more relevant than other levels of negotiation.**
- +
- a « careful review of the rules governing the hiring and firing of employees ».

Homework: Done!!

- Freezing civil servant pay for 3 (+ 2) years
- Reform of the **collective bargaining** (L. 148/2011), with a radical decentralization and power to derogate, even the law
- **Pension reform** (L. 135/2011), delaying the age for retirement (67)
- Reform of **fiscal policies**, with the obligation to balance the budget in the Constitution
- Reform of the **labour market** (L. 92/2012), relaxing rules about individual dismissals, enlarging the shock absorbers scope
- New reform of the **labour market** (L. 183/2015 or “Jobs Act” and its decrees): fix-term contracts, relaxed rules on unfair dismissals consequences, limited reduction of atypical contracts, enlarging shock absorbers, remote controls, job classification downgrading

The implementation of the NEEG: how “proximity agreements” can undermine CB

Article 8 (Act no. 148/2011)

Aims and scope: why to derogate?

to enhance occupational levels, to manage occupational and economic crisis, to support quality of employment contracts, the workers' participation, combating undeclared work, the level of salaries, new investments, the setting up of new activities

Matters: what derogate?

“Specific agreements”, at company or territorial level, signed by the comparatively most representative partners, **can derogate** (in worst) on potentially **ALL** items and scope, with the only limit of being not in contrast with International or Constitutional fundamental rights/principles (trade union liberties and pensions)

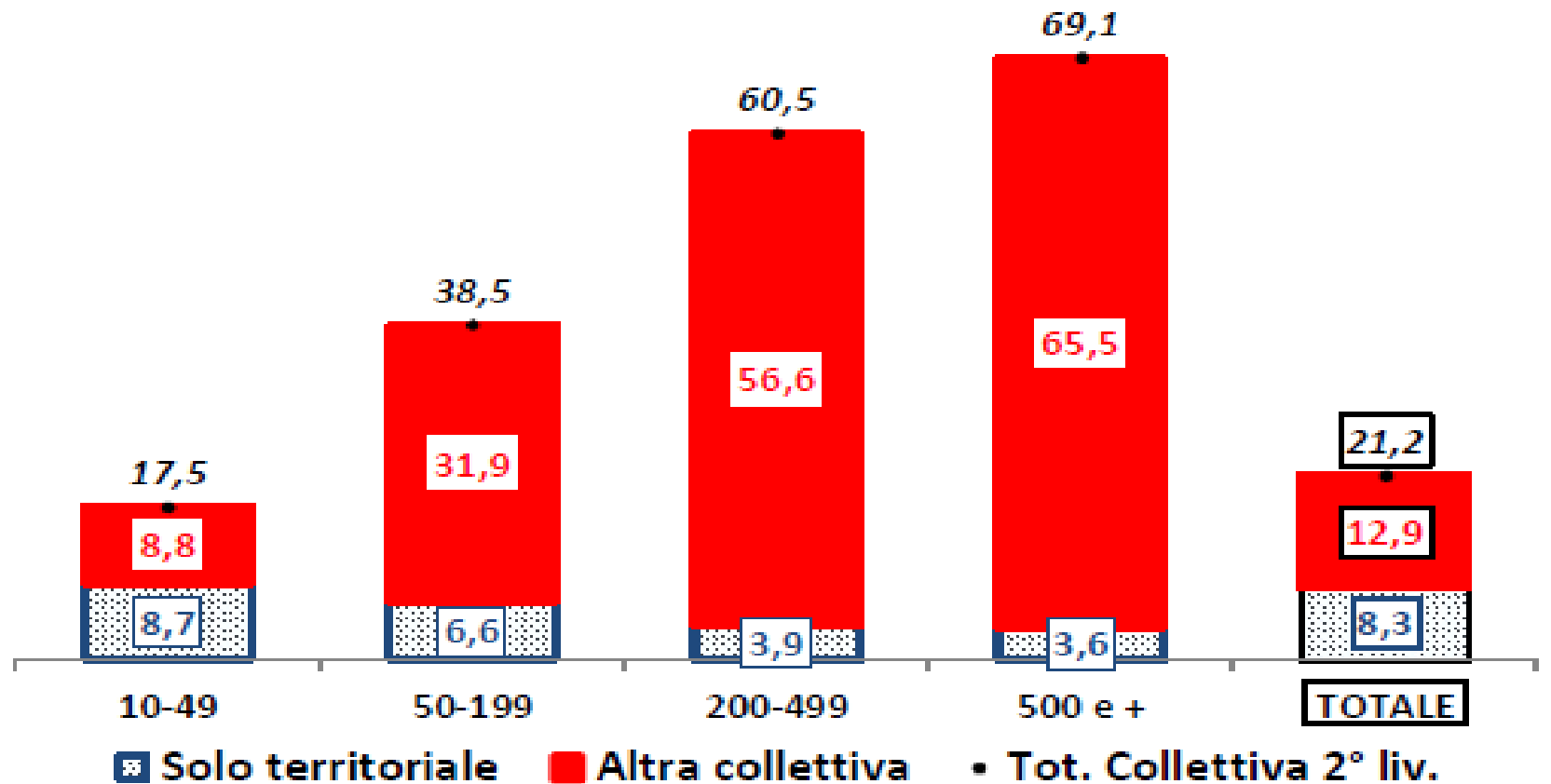
Real impact?

Scarce: esteemed by surveys between 5 and 10% of CLAs

The answer of the social partners: the three *Confindustria* framework agreements 2011-14

- Certification of unions representativeness for taking part at the national bargaining rounds: over 5% between votes and members certified by independent agencies
- Two-tier bargaining system and primacy of the industry-wide CLA
- Possibility to negotiate “modifying agreements” at company level, according to parameters and procedures set up in the industry-level agreements
- No derogation of law admitted
- National CLA binding when signed by unions which together represent 50+1% of the workers (majority principle)
- Clauses on strike restrictions and sanctions: mandatory for signatories unions only (very controversial within CGIL, with metalworkers unions firmly against)
- A pattern collectively agreed and replicated also into other multi-sectoral scope (services; cooperatives, SMEs, craft)

Firms (>10 dip.) covered by decentralized CLAs (in %) by size and between territory and companies



Fonte: elaborazioni FDV da Cardinaleschi e De Santis (2016)-ISTAT-CNEL

The last counter-reforms in labour policy

1. Stop to any kind of tripartite concertation, “cause of most of the evils of the country”
2. Structural reforms of labour market law: the Renzi’s Jobs Act (2012-16)
3. **Now the law rules directly some of the most sensitive issues, once delegated to CB decentralization, lowering the old and mandatory constrains, intangibles by whatever level of collective bargaining.**
4. CB is not completely deprived of its role, but becomes complementary, subsidiary, and for the most part designed to further loosen the already very flexible rules defined by law.
5. The references to collective bargaining (art. 51, Leg. Decr. no. 81/2016) – indiscriminately evoked among sector and company level – are very numerous, but unconditioned either in terms of contents and signatory majority

The bastions erected by the trade unions with subscribing the framework agreements with the aim of scotching the erosive and destabilizing potentiality of art. 8, Act. 148/2011, are now themselves eluded and scotched by the law.

Fiscal incentives to bargaining productivity and innovation

Next to this lever, the Government is using fiscal facilities and incentives. In order to benefit of such a performance bonus, outcomes have to be real, measurable and resulting as outcome of company or territorial collective agreements, which have to define in detail objectives and parameters (increase of the production volumes, quality improvement of goods and processes, reorganization of working time and smart work, participation bodies).

The largest trade unions have reacted overall with a certain degree of availability, considering this challenge as a great opportunity to redevelop the bargaining, increase some protections, expand the audience and inclusion, with the territorial and social lever.

Nevertheless, there is also in trade unions awareness of the insidious risks, beginning with that of seeing reduced the welfare of the public spaces and even the multi-employer bargaining, increasingly shifted to the company primacy, but also to the individual relationship.

Employers will prefer to opt for the less costly increases of the performance bonuses and welfare benefits, than the fully taxed increase in industry-wide increases.

Furthermore, the new rules provide a principle of voluntariness by the worker, who can choose alternately between wages increases and services or welfare benefits. Furthermore, it must be remarked, the choice for welfare benefits is exempted from contributions for social security¹⁹ purposes, determining this way a context weakening both the public coffers of social security, but also of their retirement prospects.

The new tournament of renewals

Confindustria (Federmeccanica):

- no money to bargain as in deflation, real inflation has been lower than the expected; companies gave more money than they should, which now they want to have back.
- Minimum wage, productivity-related pay at the company level, occupational welfare. Stop increasing wages, let's transform money in vouchers or insurances.

CGIL, CISL, UIL (inter-unions Protocol 16/1/2016)

- reconsider the system of CB, with confirming the primacy of the national/branch level and an organized/co-ordinated decentralization
- beyond the mere inflation rate, but with considering the macro and micro trends, and also an equitable role to re-launch a wage-driven domestic demand
- No statutory minimum wage
- Extension mechanism by law
- Board level representation and financial participation

MEB in metal and electronics sector

- 2015: metalworkers federations presented to Federmeccanica, the employers federation, two platforms: one Fim-Uilm and another Fiom
- Federmeccanica agrees to discuss both platforms, but it has presented its own platform, called **the “renovation of national metalworkers collective agreement”**:
 - Just one level of negotiation
 - A national «guaranty salary» only for those uncovered by any collective or individual enterprise CLA (just for the 5% of metalworkers)
 - Its amount is defined every year. Nothing in 2016, because they’ve already received more money than the real expected inflation. In July 2017 the salary will be increased on the base of inflation of the year before
 - 260 euros per year as production bonus or welfare vouchers.
 - Increase in coverage health insurance
 - Permanent training, 24 hours every three years
 - Increase supplementary pension

Multi-level collective bargaining: the need of a “new start”, in Italy and EU

- to reaffirm the MEB as a fundamental tool against inter-firm cut-throat competition, expelling low quality competitors and enhancing “high-road” competition. For employees but also for employers
- the importance of vertical and horizontal articulation or coordination of CB as a key condition for effective industrial relations
- transparent, democratic and enforceable legal rules about measuring social partners’ representativeness, according to the collectively agreed guidelines set up in the 2011-14 framework agreements
- a law for getting the Constitutional extension mechanisms (art. 39), to foster inclusion and equality by extending coverage to vulnerable groups with little bargaining power
- to reduce drastically the number of national sectoral agreements
- an expansive, solidaristic and equality-oriented wage policy, also as a core element for launching the domestic demand
- to enlarge the scope of the universal protections, beyond the traditional framework of the wage-earners: a more inclusive CB system
- to strengthen territorial bargaining in order to better cover SMEs, and reducing the threshold for electing workplace reps
- to invest more and more in Europeanization of sectoral social dialogue (SSD)