Chapter 8
Mediation and Conciliation in Collective Labor Conflicts in Italy

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The case

"*On Tuesday, the 31st of May 2017 at Atac, a strike was proclaimed from labor unions Faisa Confsal, Orsa Tpl, Sul Ct, Usb e Utl of 24 h for the public transportation, from 8:30 to 17:00 and from 20 to the end of the service time. It was the agitation expected initially on the 20th of May and then deferred. The protest would put at risk the bus, filobus, tram, metro and Roma-Lido, Termini-Centocelle and Roma-Nord train services. Possible repercussions would also have occurred on the night lines between May 31st and June 1st. The protest also involved personnel for parking and ticket offices and staff from the internal services. The danger of a total paralysis was averted thanks to the intervention of the neo Prefect Paola Basilone, which reduced the duration of the strike of the employees of Atac spa, with its order 'adopted pursuant to Law n. 146 of 1990,', proclaimed by different trade unions for the entire day of 31st May. The new measure limits work absence to the hours between 8:30 and 12:30. From a note of the Prefecture, we learn that it was adopted "after the unsuccessful attempt of conciliation between the parties took place in the prefecture yesterday, based on the knowledge of some critical elements for the urban public transport resulting from multiple circumstances such as the simultaneous development, in the same day, of other strikes actions, also up*

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to 24 h, in the field of peripheral local public transport—partially affecting on the same catchment area—and, again, the performance of certain events included in the jubilee calendar. These factors, along with 'the foreseeable increase of the number of visitors linked to the bank holiday on June 2nd and inconvenience to vehicular traffic associated with the traditional parade planned for the Republic Day—continues the statement—cause to fear that the conduct of protest actions planned can cause a serious and imminent harm to freedom of movement. The reduction of the duration of the abstention from work allows to reach a fair balance between the exercise of the right to collective abstention from work and the right, also guaranteed by the Constitution, the mobility of citizens and other users of the Capital".[1]

The case just above presents an emblematic example of the Italian situation in the mediation process regarding collective conflicts. A strike in public transport services for a 24 h period had been proclaimed by the unions, which would cause a paralysis of the Italian capital in terms of mobility.

The two parties involved were Atac, the company that manages the urban public transport services in Rome, and the workers trade unions employed in this fundamental public service. To avoid the strike, a third party intervened: the Prefect of Rome, who acted as a mediator and tried to find a conciliation between the parties involved. This attempt, however, was not successful. To avert the risk of total paralysis, the Prefect has resorted to the law n. 146/1990, which regulates the strike in essential public services, allowing an absence from work only in the morning hours, effectively reducing the strike from 24 to 4 h.

8.1 Introduction

The characteristics and modalities by which most of the collective conflicts take place in Italy can find their explanation in some historical factors with social and political connotations, for which it is necessary to provide an adequate overview before entering the main theme of this chapter.

After World War II (WWII), Italy witnessed an unprecedented economic boost, which became known as the "Italian miracle." In little more than a decade, the Italian industry saw the rise of many new factories. In this context, the working class acquired its own identity and its own awareness of their role in society.

Since the early 1960s, the relations between workers and employers began to show the first forms of tension. A series of class conflicts reached their peak of conflict between 1969 and 1971 (Meriggi, 1996). For decades, complaints, claims, protests,

[1] Source: *Il Tempo.it—«The prefect reduces the 24 h strike of transport» (May 29, 2016)*—http://www.iltempo.it/roma-capitale/2016/05/29/gallery/il-prefetto-riduce-lo-sciopero-di-24-ore-dei-trasporti-1011336/. Accessed on 11th November 2016.

strikes, and demonstrations represented the "DNA" of collective conflicts in Italy. Considering this "tradition," it seems that even today, labor unrests in Italy tend to adopt approaches that aim at confrontation rather than problem-solving.

These kinds of conflict can be seen even in the characteristics of the Italian industrial relations. Since 1968, for example, the considerable shocks in the political and social context led to a precarious balance in industrial relations (with open challenges from unions in the political and entrepreneurial class power) that would only partially stabilize in the early 1990s with the signing of the Maastricht Treaty. The signing of the Treaty, in fact, forced the political system, the entrepreneurial system, and the system of industrial relations to collaborate together to find a balance between the parties involved to ensure the entry in the Single European Market (Bianchi, 2003). Further, it was emphasized that in the 90 s, the collective conflicts characters were partially "cooled" due to a decrease of the importance of workers employed in the Italian industry and the consequent growth in the services sector (Farro, 2000).

Traditionally, Italy was the protagonist of strong social conflicts between the parties involved, in which the mediation processes have often not been easy to implement. Although tensions reached in the "hottest" historical periods have now ceased, it seems that some remain salient features of that conflict. In fact, even today in Italy, there are often numerous strikes in various sectors and, as showed in this chapter, the institutionalization of mediation as a preventive solution of the conflict is more exceptional than typical; moreover, it is often left to the voluntariness of the parties and with an informal organization.

Based on the content of the annual report 2016 of the *Commissione Garanzia Sciopero*, the Italian watchdog on industrial actions, in the year 2015, labor union conflicts in Italy were more concentrated in the areas of essential public services, whether provided by public, private, or semi-public organizations. In these areas, the strike action remained at very high levels, noting an increase from 2014. In 2015, there were 2261 proclamations of strikes, which was an increase of approximately 10 percent compared to the previous year (Commissione Garanzia Sciopero, 2016) (Tables 8.1 and 8.2).

8.2 Characteristics of the System

The aim of this section is to study the characteristics of the Italian system of collective conflicts, particularly how disputes take place between employers and workers. From the introduction above, it can be ascertained based on traditional Italian history, politics, society, and culture that a strike is the main tool used, throughout history to modern day, to lead a collective conflict.

This tool is in itself an "unfriendly tool." In some ways, it is "hostile" as it remains a mean to obtain rights or concessions of the workers through a collision or through the mere threat of conflict, despite knowing the impacts on society in recent years. It is also a tool that—precisely because it is based on confrontation- avoids involving any third party that could act as a mediator for as long as possible. As Bruno Leoni

Table 8.1 Collective industrial actions in Italy by geographical relevance (2004–2016)

Relevance/year	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total
Individual firm	339	415	432	431	553	841	793	1347	1328	1506	1171	1409	1343	11,908
Inter-regional	23	80	54			4	2	2	10	7	18	8	18	226
Local		302	330	572	161	425	328	257	276	206	206	182	131	3376
National	466	480	329	299	283	297	335	269	266	351	351	288	298	4212
Provincial							93	82	119	86	86	94	37	603
Regional	365	195	120	166	100	238	248	293	340	206	206	203	288	3032
Territorial	241	367	262	259	393	156	254	57	61	42	42	73	65	2261
Not identified	479	49	148	304	736	19	27	8	3	11	11	13	8	1814
Total	1913	1888	1675	2031	2226	1980	2080	2315	2403	2091	2091	2270	2188	27,432
Total Mediation intervention (conciliation attempt)	553	642	540	634	595	553	639	666	504	382	382	334	435	6844
% of mediation	29	34	32	31	27	28	31	29	21	18	18	15	20	25

Table 8.2 Top 10 sectors for collective industrial actions in Italy (2004–2016)

Sector/Year	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total	%
Local public transport	325	317	270	343	412	372	333	496	357	394	328	378	339	4664	17
Waste management	126	141	139	147	181	161	270	359	355	503	312	408	321	3423	12
Air transport	224	353	258	243	326	211	241	124	161	166	181	153	206	2847	10
Public administration (Region and local)	72	93	89	165	152	145	163	204	188	162	162	202	166	1963	7
Rail transport	179	82	131	180	212	178	139	166	176	116	141	113	137	1950	7
Facility management	24	35	88	85	128	153	167	193	245	181	184	243	221	1947	7
Mail services	140	141	76	136	98	102	43	73	92	40	89	55	85	1170	4
Telecommunications	96	99	54	74	81	78	65	71	75	82	59	59	109	1002	4
National health services	56	33	67	107	79	43	91	62	68	87	63	64	108	928	3
Private health services	40	41	50	37	41	65	55	73	68	44	45	53	81	693	3

said, "the strike is indeed, by nature, a manifestation of the will to take the law into one's own hands" (Leoni, 2004, p. 161).

Even today in Italy, the collective conflict between workers and employers consists mainly of strikes or at least with its threat, and in general, there seems to be some reluctance to accept mediation by involving third parties.

The Italian legal system seems to reflect the characteristics of this tradition in the system of collective conflicts. In fact, the Italian legal system lacks a general framework to govern all the complexities in collective labor conflicts.

In Italy, individual disputes between workers and employers are governed by the provisions contained in Chap. 1, Title IV of Book II of the Code of Civil Procedure. This means that the dynamics of individual labor disputes, such as conciliation, judicial proceedings, and appeals, are all regulated by a general organic regulation.

Regarding conflicts and collective disputes, there is a discipline based on a normative system of general application, however not an organic regulation. In case of collective conflicts, different solutions can arise to reach a resolution of disputes. In some cases, there are special laws governing the individual cases. Sometimes cases may lack a specific law, and therefore, the conflict is generally resolved based on power relations between the parties from time to time involved.

In Italy, regarding the collective conflicts, the mediation is not provided at the institutional level, leaving mediation to occur on a voluntary basis, as it is not mandatory. In case of collective labor, disputes are a "system based on voluntarism," per which any mediation/conciliation is voluntary between the parties. If there are "rules" that can guide the procedures for any mediation, these often depend on "praxis," and these are not binding formal laws or systems.

As seen above, the strike in essential public services represents a case of collective conflicts that are particularly widespread in Italy. In these cases, there is a requirement for mediation/conciliation; the law requires that the two parties involved in the collective dispute (typically the public entity and the specific categories of workers) attempt compulsorily to initiate a conciliation process or "cooling off" for the dispute before the strike. The ultimate goal in these cases is to prevent harm to the citizens by ensuring that these "essential" services remain available.

The Law no. 146/1990 is the law governing strikes in essential public services. It was later amended by Law no. 83/2000, which only restricts the freedom to strike and not the right to strike in essential public services. This law attempts to balance the right to strike with the constitutionally protected rights found in Art. 2 of the Italian Constitution.

The Law no. 146/1990 provides for the establishment of "injunction" (*precettazione* in Italian language), by which it is possible to issue an order whereby the parties—in order to avoid injury to citizens users of the public services—reach a conciliation in order to avoid the strike. In these cases, this can be configured by a third party acting—in essence—as a mediator/conciliator (usually a Prefect or a Minister). In its general features, it is an extraordinary administrative measure that the authorities use to adjust to strikes (typically this is the Prime Minister, Delegate Minister, or Prefect in case of a limited geographical relevance of the action). In particular, the injunction is foreseen in the cases where "there are reasonable grounds of

risk for a serious and imminent prejudice to the rights of the citizens, constitutionally protected by Article 1, Paragraph 1, which could be occasioned by the interruption or alteration of the functioning of the public services in Art. 1, following the exercise of the strike or collective abstention." When conciliation between the parties is not successful, the Prefect may use the injunction to enforce a specific "address" required for the specific strike dynamic; for example, convening at the Prefecture for a new attempt of mediation, strike postponement or reduction of its duration, or imposition of guaranteed minimum levels of essential service delivery.

In essential public services and in cases of collective conflict, the law requires that there are attempts of mediation to avoid the strike, but it is well evident that there is no official figure of mediator acting in a professional capacity during the processes of mediation. The mediator de facto is the Prefect, as representative of the Government, however, the Prefect's work is essentially regulated either by their own discretion or by the will of the Government, not by a regulation that formally institutionalizes the mediation process.

When a dispute is over ordinary labor relations (that are not essential public services), in which there are claimed rights or specific working conditions, the relations between the parties are generally legally regulated by national collective agreements (CCNL). Such agreements are collective framework contracts signed by a group of labor unions and companies in a given specific sectors, which regulates the working conditions within the specific sector.

Given the relatively loose material which constitutes collective bargaining, it is quite evident that the modes to solve collective conflicts (and the possible requirements needed for mediation) between employees and employers are set freely by the CCNL. As a result, it becomes impossible to describe the contents of all CCNL,[2] however, what emerges is that mediation—just like any other content of the contract—is not mandatory and can be regulated on the basis of those voluntary agreements established between parties. Therefore, mediators may also be involved, if contractually provided.

Another special case where there may be a form of mediation in collective conflicts is in those of dismissal for collective redundancies. The Law no. 223/1991 provides that in the case of collective dismissal, the parties involved are trying to mediate to find a common solution through institutional confrontation. Also, in this case, there is no official figure that acts as a mediator If there is, their actions are influenced by parameters of the case, including the workers involved, territorial reference, and scale of the social impact resulting from the conflict.

[2] According to data gathered by the labour union CISL (Confederazione Italiana Sindacati Lavoratori—Italian Confederation of Workers Union) by using the National Archive of Contracts from CNEL (Consiglio Nazionale Economia e Lavoro—National Council of Economy and Labour), in 2015 the total number of national collective agreements in place across different sectors was 706; specifically 42 in Agriculture and Fishing, 147 in Industrial Sectors, 32 in Building and Real Estate, 461 in Service Industries and 24 in other sectors.

8.3 Characteristics of the Mediators or Facilitators and the Third-Party Procedures

The mediation is a legal institution concerning disputes between parties and the intervention of a third party acting as an official mediator. The European Union issued Directive 2008/52/EC, which has been implemented in various ways by different Member States. This directive raised specific provisions on mediation in civil and commercial matters. The European objective was to encourage Member States to adopt specific measures to promote conflict resolution between the parties, while avoiding recourse to the judgment of the courts.

Italy firstly transposed the directive with Legislative Decree no. 28/2010, showing their interest in this legal institution. Then, with a new Decree D.L. no. 69/2013, it was established that the mediation is mandatory in certain conflicts. After the Legislative Decree no. 28/2010, the Italian Constitutional Court had declared the mandatory aspect of the decree unconstitutional, but with the D.L. no. 69/2013 mediation returned as compulsory limited to the following areas of conflict (Art. 5):

- condominium;
- hereditary succession, heredity;
- property law (e.g. property, usufruct, easements);
- divisions (e.g. co-ownership, community of property);
- family pacts;
- insurance contracts, banking, financial;
- lease;
- free loan;
- business lease;
- damages from medical and health responsibilities or defamation.

The Ministerial Decree D.M. 180/2010 officially regulated the role of the "mediator," who must possess an education not lower than a three-year university degree or, alternatively, must be enrolled in a professional association and have at least 50 h of specific training on subjects concerning the scope of mediation (on mediation rules, techniques and procedures of negotiation, conflict management between the parties, and interaction and communication techniques).

This, in synthesis, is the situation that characterizes the civil and commercial mediation system in Italy. As it can be deduced, mediation is a compulsory institution that does not address matters regarding workplace conflict. An organic framework that manages the conflicts at work (both individual and collective) does not exist, and there is no official figure for mediation in such cases.

Initially, there was a proposal to include mediation for workplace disputes, however, this proposal was abandoned due to pressure from the lobby of labor lawyers, who viewed this proposal as a means of subtracting from their profession. It also seems that in the event of collective conflicts in the workplace, the unions have been reluctant to accept the possibility of recourse to a mediator. This is due to the fact that if this were required, the unions would see a substantial part of their activity and

contribution be taken off them. Further, as the conflict is seen as an instrument that, under a cultural and conservative profile, is possible to be resolved by itself, unions have adopted the mindset that the role mediator is unnecessary (the principle asks, "If there are workers' unions, why do we need a mediator?").

Therefore, in disputes relating to labor matters, there is no formal and institutional body that officially acts as mediator. Mediators do exist, but they are informal and may be different depending on the circumstances (e.g. mayors, prefects, ministers, or political actors are used when there is evidence of collective conflict).

It appears that what is missing is a formal discipline that institutionalizes mediation in the workplace and the ombudsman. This can certainly be considered a gap, as a mediator is required to have professional training and comply with pre-established protocols. Currently, a figure of professional mediator in the context of collective conflicts is lacking, and the mediation processes are likely to discount a potential lack of adequate skills in conflict resolution.

In case of conflict between the parties in the labor sector, there may be processes of "cooling" of the conflict, yet the arrangements for a resolution are on a voluntary basis. In addition, the formal provisions on mediation can be found in collective labor agreements, which may provide union discussions on topics chosen by the parties; for example, a discussion topic may be in relation to dispute resolution or interpretation of the collective agreement. Collective agreements, therefore, may engage generally of non-confrontational dispute resolution mechanisms that are "inspired" by mediation principles.

As previously stated, although there may be individuals acting as mediators, it is not in a strictly official capacity. Moreover, since the collective conflicts are mainly regulated on a voluntary basis, third party can vary in different cases. In the most important cases, social partners and institutions such as ministries (sometimes regions and prefectures) can be involved.

The most advanced form of mediation found, in the context of the strike, is in essential public services. By L. 146/90, there is an obligation to establish cooling procedures and conciliation of disputes in collective agreements, which are to be completed before a strike is called. In this situation, the institutions act as mediators and are represented, in most cases, by the Prefect or a collaborator of the prefecture.

8.4 Description of the Mediation Process

In Italy, a discipline of collective mediation in the workplace does not exist. Mediation is, therefore, almost always voluntary and, often, on bilateral basis. Mediation is used at the will of the involved parties or in cases of legal requirements when mediation is required by special laws.

The panorama that emerges tends to be "uneven" from the point-of-view of the legal system, which can be summarized in the following key points:

Table 8.3 Main types of collective conflicts in Italy

Typology	Regimentation	Attempt of conciliation between the parties	Attempt of conciliation with third parties	Mediator
Essential public services	Law no. 14/1990	Compulsory	Compulsory	Generally, the Prefect or the Ministry of Work
Collective redundancies	Law no. 223/1991	Compulsory	Optional	Institutions, Local governments, or competent Ministers
Collective conflicts in general	Identified by the parts in the national collective agreements	Optional, established in collective agreements	Optional	Institutions, Local governments, or competent Ministers

– There may be specific cases of labor conflicts in which there is a possibility to use mediation: regarding these cases, the circumstances and the manner of mediation are freely regulated between the parties within the collective labor agreements.
– In important cases of conflicts at work (such as collective redundancies), intervene for praxis third parties; depending on the case, there may be prefects, ministers, political organizations, or institutions of various kinds (in cases in the labor sector, there is not a figure similar to a "professional" mediator, and in general, there is no general organic regulation).
– The only case that imposes a mandatory collective mediation before a strike occurs is in cases that involve essential public services; in these cases, to avoid damage to the community, the parties must try to find a conciliation to avoid the strike, under the order of the Prefect, and must respond to invitations to undertake mediation in the presence of the mediator.

The following table allows to compare the three above mentioned cases (Table 8.3).

The table shows that there is only one case where there is a mediating figure systematically acting as a third party to resolve collective conflicts, i.e. conflicts that arise from strikes in essential public services. Because it is the most representative and evolved case of mediation, in the Italian context, it was decided to take it as "case study" about the Italian system of conflict resolution. A model of this developed mediation has been outlined below (Fig. 8.1).

As seen in the model above, the procedure relative to the strike in essential public services begins with the strike notice. The trade unions, through this prior notification, are obliged to communicate the intention of striking before acting on it. At this stage, the two conflicting parties are obliged to try to reach reconciliation, in order to "cool

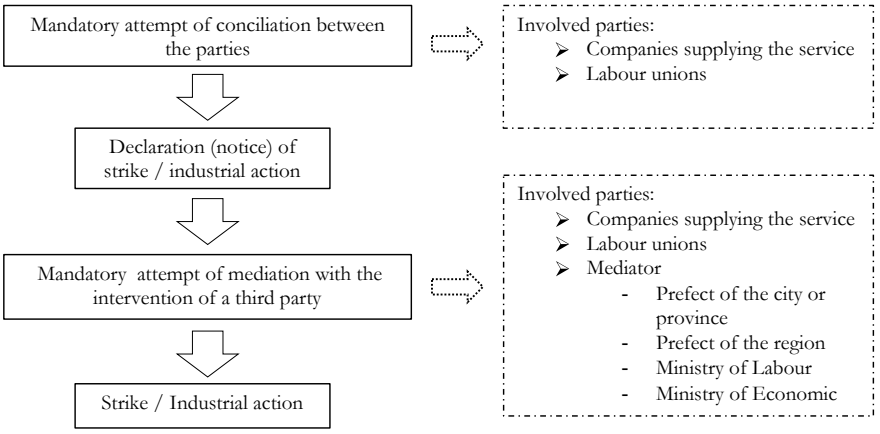

Fig. 8.1 Conciliation and Mediation in the strike in essential public services

off" the conflict and avoid the strike. However, at this point, the presence of a mediator is not required; typically, when the parties meet to attempt reconciliation, the workers union take on the mediation role. It should be noted that registered Italian mediators cannot work on labor disputes, according to the law (D.L. no. 69/2013, Art. 5).

If the conciliation procedure between the parties is not successful, the strike is called. After the proclamation, the two sides are convened by a third party acting as a mediator, whose objective is to ensure that an agreement will be reached, resulting in the end of the strike. The Ombudsman is usually represented by the Government, typically by a Prefect or a Ministry, depending on the geographical relevance of the conflict. For conflicts of provincial level, local, of individual company, organization, or administration, usually the Prefect of the province is involved. When the conflict pertains the regional level, the Prefect of the regional capital is involved. When the conflict pertains the national relevance, either the "Ministry of Labour" or the "Ministry of Economic Development and Industrial Activity" is involved.

In such cases, the mediator may either act to withdraw the strike or to reach an agreement with the unions in order to provide adequate levels of essential public service delivery during the strike.

As can be deduced, the conciliation and mediation processes are mandatory, however, there are some critical issues found in this system. The parties involved in the conflict do not have the ability to choose the mediator. The Prefect generally carries out the task of mediation alone or with the help of collaborators who assume certain roles in mediation, but it is not possible create a mediation team. In terms of procedures, there are no established protocols or laws, therefore mediation procedures are generally subject to praxis that may vary depending on the circumstances.

In essence, the mediation process takes place informally; here, the task of the Prefect is to ensure agreement between the conflicting parties involved in the collective labor dispute and avoid the strike. At least, their job is to reduce the number of strikes to ensure adequate delivery of essential public service. At the end of the medi-

ation process, a formal agreement between the parties that establishes the outcome of mediation does not seem to exist, rather the agreement is upheld by the union (e.g. by proclaiming the withdrawal of the strike), following the concessions or promises of concessions.

If the Prefect is not able to ensure that the parties reach an agreement, the union will then carry out the strike. However, the Prefect can, with an ordinance, impose that the strike follow a specific set of directives (e.g. that the strike takes place during a certain hours, thus ensuring services in the non-strike hours or require that a set number of workers to perform the essential public service while other workers strike).

8.4.1 Evaluation by Stakeholders

Out of the 30 interviewed users, only 16 agreed to fill a satisfaction questionnaire (on a scale from 1 to 5) on the mediation system in Italy. The table below shows the results of this questionnaire. From Table 8.4, it can be understood how some users view the Italian mediation system.

From the interviews, we investigated the main challenges that the users faced. A few themes emerged, converging towards general disappointment in the system and the hope for the improvements in its use. In particular, the main challenges faced were:

- The inexistence of a procedural framework for mediation
- Lack of knowledge and awareness of mediation
- Conflicting perception of the problem at the source of the conflict
- Lack of collaborative culture

Table 8.4 Satisfaction of users and mediators

Satisfaction with	Users	Mediators
1. The way mediations are conducted	3.44	4.14
2. The professional qualities of the mediator/s	3.38	4.14
3. The teamwork of the mediators (in case of team of mediators)	3.5	4.14
4. Consultation with other mediators (not directly involved in the case)	–	3.71
5. The quality of agreement reached through mediations	3.13	3.86
6. The outcomes of mediations	3.50	4.00
7. The level of compliance with the agreement by parties	3.56	4.14
8. The improvement of the relation between the parties	3.75	3.71
9. The organization of the mediation system (in terms of selection, training, etc.)	3.06	3.43
10. The trust in the system by employers, unions, employee representatives	3.00	4.29

- Low level of mediation training in the workers unions.

Regarding the mediators, which in Italy are mainly members of the prefecture, hence government officials, gathering data was more difficult. In fact, out of the 21 participants, only seven agreed to take part in a questionnaire on the satisfaction with the system. Table 8.4 also shows that these mediators were actually more satisfied with the mediation process and outcomes than the users and are generally more positive.

In terms of the results obtained during the interviews, four main themes emerged, in particular:

- The absence of a training path on mediation, which are left mostly to the individual skills of the individual involved in the process and tend to be built by experience
- The scarce impact of the mediations on the future relationship amongst the parties, in particular agreements are seen to be very fragile, holding up until the next conflict arises
- The lack of interest from certain parties in the success of the mediation due to the fact that the mediation is required by law rather than the will of the parties
- The lack of resources to effectively support the system.

8.5 Effectiveness of the System

At present, instruments do not exist that allow for an evaluation of the mediation system's efficacy. If the processes of mediation are considered in the context of essential public services, one realizes that there are no laws or protocols that require effective measurement of mediation. As there are no documents that assess the satisfaction of the conflicting parties, there are no systematic documents that measure the success rate of mediations (agreement rate). Further, there are no documents that include indicators able to express an opinion on the quality of the mediation and mediator, as there are no specific forms used by the parties that allow them to express their opinion. It is not possible to use these documents, even if they were systematically drawn up, despite knowing it would help to determine costs and benefits of the mediation.

The mediation system does not require that sufficient documentation able to determine the effectiveness of the mediation system be supplied or produced. From this perspective, the Italian context presents significant delays, and unfortunately, at the moment, there lacks an adequate debate on the topic.

From the interviews, it can be understood how the system of mediation of labor conflicts depend mainly on the practices and experience of the involved mediators. The effectiveness of mediation depends largely on the ability of the mediators to communicate with the parties. This highlights the need to increase the mediation training courses to make sure that mediators develop high-level, professional skills that do not depend only on field experience. In fact, it is noted that these training courses occur infrequently; this is a weakness of the system due to its organization

as a public service provided by the prefecture, which has a large number of other duties that are not related to labor conflicts.

Another important aspect related to the effectiveness of the mediation system is that the success of a mediation often depends on the knowledge that the mediator has of the territory in which it operates. The trust that the parties place in the mediator is essential, and this depends on the number of years the mediator has operated in said territory. However, the Ministry of the Interior often shifts the location of the Prefects and their collaborators every 2–3 years, and this does not allow mediators to develop sufficient knowledge of the territory, which undermines the effectiveness of the mediation system. In general, among the suggestions to increase the effectiveness of mediation, it would be important to create an office within the prefectures that deals with the mediation of labor conflicts; in such an office, there would be professions with diversified skills able to work in teams.

As such, the vast majority of the interviewees expressed the need to institutionalize the role of the mediator and give it greater, more defined powers. At present, it seems that mediation is unattractive and inconvenient for the parties involved, who see it as a formal step when taken.

The study conducted reveals the presence of a "regulatory vacuum;" if the cases where strikes in essential public services are excluded, all other cases are not regulated by law, therefore the mediator uses tools and procedures that depend on their experience, varying from case to case. The suggestion is, therefore, to promote legislative action to cover regulatory gaps and increase the effectiveness of the mediation system.

8.6 Conclusions

Currently, Italy provides mediation only in civil and commercial matters. Such legislation regulates the civil and commercial mediation in all its forms and aspects, appointing a professional mediator with a suitable background to fulfill these functions; similarly, specific areas of intervention are expressively reserved for the use of a mediator.

There has been an attempt, from the legislature, to extend mediation into labor laws, specifically for the conflicts between workers and employers. However, there has been resistance from lobbyists and trade unions against such legislation. The lawyers would lose the part of their business that arose from the recourse to the "Labour Court," while the unions would lose parts of their "identity," since culturally the Italian labor union handle conflicts to achieve certain rights or concessions.

The interviewed experts have confirmed that there is currently no legislation regulating mediation on collective labor disputes. According to these experts, it would be necessary to extend the mediation beyond the field of civil and commercial matters, meaning labor.

In the Italian context, the case of a strike in essential public services represents the scope of collective dispute in which mediation is more evolved; however, it seems that

the intervention of the Prefect, as it may help to add value to the process of mediation, still does not fully work, even with a completely professional background. Therefore, added value could be derived from the introduction of an official mediator.

In light of the above considerations, we have summarized the future developments and improvements desired to be seen in the current collective mediation system, listed are the following points:

- Enactment of a general framework that regulates, in all aspects, the institute of mediation in collective labor conflicts (like civil and commercial mediation) with specific provisions and protocols to be followed;
- Creation of an official figure capable of acting professionally and systematically as mediator in cases of collective labor dispute;
- Definition of an effectiveness evaluation and measurement system of the brokerage system, through the obligation to draw up documents and reports with indicators that express the quality of the mediation, the level of satisfaction resulting from mediation system, and the achievement rate of conciliation agreements reached.

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