

Draft Bill

***Acknowledging  
and Promoting Research Work  
in the Private Sector***

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## Technical Report

Research plays an increasingly decisive role in the current economic context, particularly in the most advanced European economies. Worldwide, changes stemming from competitive dynamics add to those taking place in companies in relation to organisation. They are the result of technological innovations and new demographic trends and affect working and manufacturing practices.

As for work organisation, the mere fulfilment of tasks and orders that was the distinctive trait of traditional salaried employment is given less relevance. Similarly, mechanical and repetitive processes are hardly applied today, for they featured organisation and production patterns in place during Fordism and Taylorism.

Recent studies in the fields of pedagogy, sociology, and management indicate that companies are evolving. They are moving from being “economic organisations” which, as per legal definition, are simply intended to produce or exchange goods and services, to genuine learning organisations that employ “hybrid” professionals, who can contribute to both research and changes to organisational and productive processes. They can be engaged in working tasks, learning processes, research and planning activities, thus contributing in important respects to innovating productive processes and the provision of services.

In consideration of the developments in the way of doing business referred to above, researchers can play a pivotal role in meeting the needs of the market. With a view of ensuring their acknowledgment, it is necessary to put in place a modern legal and industrial relations system. This will help to appreciate the work of these professionals and to ensure them adequate contractual arrangements, while also assessing and offsetting their different levels of productivity.

The European Charter for Researchers and on a Code of Conduct for the Recruitment of Researchers (Recommendation of the European Commission of 11 March 2005) stresses the importance to appreciate the multi-faceted role of researchers in performing their work and encourages Member States to improve their working conditions and opportunities for growth, especially in the early stage of their career. Further, the Charter encourages Member States to improve recruitment methods and career evaluation systems in order to create a more transparent, open, equal and internationally-accepted system of career development as prerequisites for a genuine European labour market for researchers.

Therefore, a need arises to adequately recognize and promote workers with special research skills that can be applied to a company’s innovation and development processes. Among them are doctoral students, doctorate degree holders, and those workers engaged in research, planning and development activities, more generally.

An awareness also arises that carrying out research in the private sector should not be seen as a less attractive alternative to traditional academic research. Nor should this opportunity be regarded as a way to put up with Italy’s self-referential world of academia and its shrinking public funding. On the contrary, research work in the private sector is a particularly advanced way of conducting research while waiting for closer cooperation between academia and industry. Such cooperation should be based on “incubators” made available to share knowledge and on partnerships that facilitate the transfer of technologies and the acquisition of high level skills, either cross-disciplinary or in a specific field.

Gaining, developing and promoting these skills is crucial, but presently this attempt is hindered by the lack of adequate systems to acknowledge them. A starting point could be that of including the notion of a “researcher” in collective bargaining, in employee grading systems and in national collective agreements in the sections defining trades and occupations, alongside the tasks they are required to perform.

On paper, Italy’s national legislation already provides for the opportunity to hire doctoral students, giving them the status of “workers engaged for research purposes”. This was made possible through Article 50 of Legislative Decree No. 276 of 10 September 2003, which provided for the opportunity to obtain a doctorate by entering into apprenticeship contracts (so called advanced-level apprenticeships). Following its repeal, Article 45 of Legislative Decree No. 81 of 15 June 2015 recently replaced the 2011 Consolidated Text on Apprenticeships and makes provisions for advanced-level apprenticeship schemes and innovative apprenticeship contracts for research purposes.

A close evaluation of the few attempts made thus far to implement these special apprenticeship schemes in Italy indicates that their limited use is mainly due to the fact that in essence regional institutions, social actors, and universities themselves are not ready to plan and to put in place innovative vocational courses combining work and study for research purposes. Adding to this aspect is uncertainty resulting from the lack of adequate contractual provisions concerning researchers’ legal status in the private sector.

The same seems to be true for “industrial PhDs” that have been introduced into Italian legislation through par. 2, Article 11 of Ministerial Decree No. 45 of 8 February 2013. Industrial PhDs received a lukewarm response from employers. On this score, doubts arise as to whether PhD programmes – which are still seen as the main tool to pursue an academic career – can be successfully implemented in companies.

The same challenges are faced by some special vocational schools (*Istituti Tecnici Superiori*) established to meet employers’ demands for high-level technical skills by promoting cooperation between a number of actors (e.g. schools, educational bodies, employers, universities, research centres and local institutions).

In reality, the main issue is the absence of legal and contractual provisions to regulate the work of those professionals once they have obtained an industrial PhD or at the end of their apprenticeship contract for research purposes. This can be explained by the fact that Italy’s legislation and collective bargaining do not make provisions for researchers engaged in non-academic organizations.

Besides hampering access to work of well-educated individuals, the lack of a stable and coherent regulatory framework also gives rise to issues while they are in employment. Faced with prolonged periods of unstable employment and financial distress, researchers have no other choice but to look for jobs where their work is more likely to be acknowledged.

Moving between jobs and the resulting occupational transitions constitute yet another challenge particularly for adult researchers, because of a lack of adequate mechanisms for transferring and acknowledging the skills they developed. Conversely, enabling researchers to move to other institutions (either scientific, national or international ones) or from the public to the private sector and vice versa is crucial to promote successful research careers and facilitate knowledge and innovation transfer.

The setting up of joint research programmes and the employment of researchers in the private sector in Northern European countries, United States, Australia and Japan is a clear illustration of the significance of their contribution to the development of productive systems in these areas, also thanks to the provision of training to young researchers.

On this point, Italy lags behind especially if legislation and collective bargaining are considered. National lawmakers are yet to define the main elements (e.g. their inclusion in the employee grading system) for a coherent regulatory framework ensuring the recruitment and the promotion of researchers in the private sector. In view of the above, this draft bill is intended to fill these vacuums by dealing with the following aspects:

- acknowledging the status of researchers by amending Article No. 2095 of the Italian Civil Code and by including them among those performing salaried employment;
- identifying researchers' main characteristics and activities, delegating collective bargaining and special laws to lay down the requirements to determine when they can qualify as researchers.
- defining different types of researchers according to qualifications, experience and skills developed;
- delegating the regulation of the employment relationship to the contractual parties to carry out research in the private sector and making provisions for a number of exceptions to the applicable laws governing the recruitment of researchers;
- making sure that this law also applies to industrial districts, business networks, universities and research centres (either public or private) irrespective of their legal nature;
- making sure that special funds are made available to grant researchers unemployment benefits when they are made redundant or their contract is terminated on economic grounds;
- providing researchers with the opportunity to carry out research independently (i.e. without the need to be a salaried employee in a strict sense) therefore providing for an exception to national legislation on project work and “employer-organised freelance work”;
- simplifying and streamlining the rules to access economic incentives to support research;
- setting up “a register for researchers” at the Ministry of Labour and Social Policies to be linked with an online employment database for monitoring and transparency purposes, in order to identify the necessary elements to define researchers' work and training experience.

## Article 1

### *Acknowledging Researchers' Legal Status*

Article 1 of this draft bill is aimed at providing researchers in the private sector with legal status, since they are not presently covered by any specific regulation under Italian legislation.

An amendment to Article 2095 of the Italian Civil Code is introduced in Par. 1. Specifically, it is proposed that researchers be regarded as workers performing salaried employment. No changes have been put forward concerning the fact that the requirements to be included in different categories shall be laid down in special laws and national collective agreements.

Par. 2 and 3 of Article 1 enumerate the requirements that workers must meet to qualify as researchers. Specifically, the following are to be regarded as researchers: those who have gained a doctoral degree or an equivalent qualification at an Italian or an overseas institution; staff who have obtained researcher status that is valid for legal and contractual purposes following completion of training as part of their advanced-level apprenticeship contract for research purposes. Workers who meet these requirements shall be engaged in research, planning and development activities for the most part.

Pursuant to Par. 3, the notion of a researcher should also encompass: staff employed in planning and research activities in innovative start-ups and certified business incubators as defined in Article 25 of Decree-Law No. 179/2012; workers qualifying as researchers in collective agreements concluded by the most representative trade unions at the national level; more generally, staff mostly engaged in the conception or creation of new knowledge, products, processes, methods and systems, irrespective of the employer's legal status, the economic sector, and applicable tax legislation.

Par. 4 provides the definition of research, planning, and development activities, without prejudice to the rules establishing legal and economic incentives in each productive sector. Letters a, b, c and d of Par. 4 draw almost entirely on the definition of research activity laid down in Article 24 of Decree-Law No. 83/2012. According to Par. 4(e), research activities shall include planning activities and feasibility studies related to changes to work organization and staff management due to or supporting innovation in production or processes. This shall also apply to studies assessing their compliance with national legislation and their economic impact.

## Article 2

### *Categories of Researchers*

Article 2 of this draft bill identifies different categories of researchers.

In relation to contractual arrangements, remuneration and career advancement, Par. 1 specifies that researchers in the private sector are classified considering their qualifications, seniority, experience and skills developed. Based on these criteria, four categories can be identified: researchers at apprentice level, junior researchers, senior researchers and professional researchers. The first category includes doctoral candidates and those hired on apprenticeship contracts for research purposes (see Par. 3(a)); the second category encompasses those who have obtained a PhD or have completed training as part of their apprenticeship contract for research purposes, and those who qualify as a researcher pursuant to Par. 3(b) of Article 1 of the present provision; the third category includes staff with at least five years' experience as a researcher as defined in Par. 3(c); lastly, the fourth category refers to those with at least ten years' experience as a researcher (Par 3(d)).

Par. 2 provides that both the collective agreements between the most representative trade unions and employers' associations as well as those concluded at company level can lay

down exceptions to the requirements referred to in Par. 3 to move between roles and advance to more senior levels.

Par. 3 defines the notion of an “Industrial PhD”, which is used to refer to higher education and research programmes established by bodies authorised to issue this qualification in cooperation with public or private entities. Doctoral candidates are also required to undertake in-company training covering at least 50% of the doctoral programme. Alternatively, Industrial PhDs can be entered into upon conclusion of advanced-level apprenticeship contracts.

### Article 3

#### *Applicable Legislation*

Article 3 of this draft bill lays down the rules applicable to employment relationships concluded with researchers as defined in the previous paragraphs.

Par. 1 determines that it is for the arrangements between the contractual parties to regulate the employment relationships entered into with researchers, without prejudice to mandatory legal provisions and those laid down in the applicable collective agreements.

Par. 2 establishes that researchers can be hired either on a temporary or a permanent basis, therefore providing an exception to the rules in force.

Information that researchers have been recruited should be included in a specific register – referred to in Article 8 of this draft bill – that is linked to the online employment database (*Borsa Nazionale del Lavoro*). Failing to comply with this obligation would exclude employers from the scope of application of the provisions contained in this proposed legislation.

Par. 3 sets forth that the rules laid down in Legislative Decree No. 23/2015 also apply to researchers recruited on a permanent basis. The provisions referred to above also apply to researchers hired on advanced-level apprenticeship contracts for research purposes who complete the required training and upon recognition of their status that is valid for legal and contractual purposes.

### Article 4

#### *Business Networks, Industrial Districts, and the Posting of Researchers*

Article 4 of this draft bill aims at promoting cooperation between the public and the private sector as far as research work is concerned. To this end, a review of legislation on business networks is put forward along with a number of measures to facilitate the posting of workers engaged in research work.

Par. 1 makes amendments to the rules governing industrial districts and business networks laid down in Article 3 of Decree-Law No. 5/2009 so as to include universities and public and private research centres regardless of their legal status.

In conformity with the principle of analogy, Par. 2 also provides that existing legislation on business networks should also apply to working groups established to take part in national and international calls for tender related to research activities and technological development.

By means of a special decree and within three months of the enforcement of the present provision, the Ministry of Economic and Financial Affairs along with other relevant ministries should define the criteria to cover the costs of private-sector researchers who are posted to public universities or research institutions or public bodies performing research, development and planning activities. Financial coverage of these workers can also take place through co-funding arrangements and partnerships.

## Article 5

### *Outplacement*

In line with the increasing relevance of researchers in new markets, Article 5 of this draft bill regulates the allocation of “outplacement funds” to researchers who are likely to face unemployment.

Par. 1 establishes that researchers made redundant or dismissed on economic grounds shall be given priority in the allocation of “outplacement funds” as laid down in Article 23 of Legislative Decree No. 150/2015.

Par. 2 of Article 5 provides that a sum of €10,000,000 should be made available to support dismissed researchers in re-entering the labour market through the Fund for Active Labour Market Policies as laid down in Par. 215, Article 1 of Law No. 147/2013.

## Article 6

### *Independent Researchers and Those Hired on a Project-by-Project Basis*

Article 6 of this draft bill lays down the rules for independent researchers in non-salaried employment.

Par. 1 provides the opportunity to conduct research work in the private sector independently, that is without concluding an employment contract to perform salaried employment. If that is the case, Articles 61 et seq. of Legislative Decree No. 276 of 10 October 2003 shall apply which, due to this specific purpose, will not be repealed as established by Article 52 of Legislative Decree No. 81 of 15 June 2015

Par. 2 provides to individuals or research teams who have been awarded both national and international tenders to conduct research or to carry out projects concerning technological development the opportunity to establish positions for independent researchers or for those employed on a project-by-project basis. Should this be the case, contracts will last as long as the research grant.

## Article 7

### *Non-EU Researchers and Transnational Posting of Researchers*

Article 7 of this draft bill lays down the rules applying to non-EU researchers and the transnational posting of researchers.

Par. 1 of Article 7 determines that applicable immigration legislation (ex Article 27-quarter of Legislative Decree No. 286/1998) should not apply in the event of recruitment of non-EU researchers and the transnational posting of researchers in the context of groups of businesses operating in different countries.

Par. 2 specifies that non-EU researchers who carry out research work in Italy should be granted a special resident permit for research purposes. Par. 3 sets forth that specific sanctions shall apply in the event of improper or fraudulent use of resident permits for research purposes.



## Article 8

### *Economic Incentives and the “Register for Researchers”*

Article 8 of this draft bill makes provisions for simplifying and streamlining the rules to access funds to promote research, special measures to facilitate the employment of researchers over 50 years old and the creation of a special register for researchers.

Par 1 provides that a special decree by the Ministry of Economic and Financial Affairs along with other relevant ministries should define the criteria to access funding to support research in the private sector in order to simplify and streamline existing legislation.

The decree referred to in the previous paragraph sets forth special incentives to be allocated to companies, and public entities to promote the employment and labour mobility of researchers older than 50 years old.

The Ministry of Labour and Social Policies will create an online register containing information on researchers hired in the private sector (Par. 3). The register will not bring about additional costs for the public budget and will be set up for monitoring purposes and to ensure compliance with existing laws. A specific section of this register will concern non-EU researchers.

In order to ensure integration with the online employment database set up pursuant to Article 13 of Legislative Decree No. 150 of 14 September 2015, the register will supply the main information to define researchers' work experiences and training. Par. 4 specifies that, following consultation with the Ministry of Education, University and Research, the National Agency for Active Labour Policies (ANPAL) shall define the standard document containing personal and employment records of private-sector researchers, to be used along with that of workers introduced by Article 1-bis of Legislative Decree No. 181 of 21 April 2000.

Par. 5 of Article 8 establishes that the register referred to above shall be linked to the online employment database and be used to allocate to both companies and researchers economic incentives to conduct research.

## Article 9

### *Final Provisions*

Article 9 lays down the final provisions.

Par. 1 determines that it will be up to collective agreements and, whereas absent, to agreements between the contractual parties to ensure the implementation of the new regulation on research work following the entry into force of the present law;

Par. 2 establishes that in order to determine the category of researchers, seniority will apply to those work arrangements concluded to carry out research already in place at the time of the entry into force of the present law.