

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.

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Article 1

Acknowledging Researchers' Legal Status

1. Article 2095 of the Italian Civil Code is amended as follows: “those performing salaried employment are classified into executives, researchers, managers, office and manual workers. Laws and national collective agreements shall lay down the requirements to be included in one of the categories referred to above for each production branch and taking into consideration special business structures and organizations”.

2. The “researchers” category as defined in the present law shall include staff who are mostly engaged in research, planning and development activities who have obtained a doctoral degree or an equivalent qualification at an Italian or at an overseas institution in compliance with existing legislation. It shall also include those who have obtained researcher status that is valid for legal and contractual purposes by concluding advanced- level apprenticeship contracts for research purposes and by completing relevant training as laid down in Article 45 of Legislative Decree No. 81 of 15 June 2015.

3. The “researchers” category as defined in the present law shall also encompass: staff employed for the most part in planning and research activities in innovative start-ups and certified business incubators as defined in Article 25 of Decree-Law No. 179 of 18 October 2012, subsequently converted with modifications by Law No. 221 of 17 December 2012; workers identified 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.

4. Notwithstanding the rules on legal and economic incentives in each productive sector related to the recruitment of researchers, the wording “research, planning, and development activities” shall be employed to refer to:

a) Experimental or theoretical work undertaken principally to acquire new knowledge of the fundamental principles of phenomena or observable facts, not primarily directed towards a specific practical aim or objective;

b) Planned research or critical investigation aimed at the acquisition of new knowledge, in order to develop new products, processes or services or to bring about a significant improvement in existing products, processes or services, or the creation of components of complex systems which is necessary for industrial research;

c) The acquisition, combination, shaping and use of existing scientific, technological, business and other relevant knowledge and skills for the purpose of producing plans and arrangements or designs for new, altered or improved products, processes or services.

d) The development of commercially usable prototypes and pilot projects to be used in experiments of a technological, organisational and business nature;

e) 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 encompass studies assessing their compliance with national legislation and their economic impact.

Article 2

Categories of Researchers

1. For the purposes of contractual arrangements, remuneration and career advancement, private-sector researchers as referred to in Article 1 are classified as follows, in consideration of their qualifications, seniority, experience and skills developed.
 - a) Researchers at apprentice level: doctoral candidates and those hired on apprenticeship contracts for research purposes;
 - b) Junior researchers: those who have gained the status of a researcher after obtaining a PhD or at the end of an advanced-level apprenticeship contract for research purposes, and those who qualify as a researcher pursuant to Par. 3 of Article 1 of this law;
 - c) Senior researchers: staff with at least five years' experience as a researcher;
 - d) Professional researchers: staff with at least ten years' experience as a researcher.
2. For the purposes of career advancement, the collective agreements concluded between the most representative trade unions and employers' associations as well as those concluded at company level can lay down exceptions to the requirements to move between the different researcher levels referred to in Par 1.
3. For all legal and contractual purposes, "Industrial PhD" refers to higher education and research programmes established by bodies authorised to issue this qualification in cooperation with public or private entities. They require to undertake in-company training covering at least 50% of the doctoral programme or advanced-level apprenticeship contracts as laid down by applicable legislation.

Article 3

Applicable Legislation

1. According to previous articles, it is for arrangements between the contractual parties to regulate the employment relationships entered into with researchers in the private sector.
2. Researchers can be hired either on open-ended and fixed-term employment contracts. The recruitment of the candidate shall be notified to the register of researchers as defined by Article 8. Failing to comply with this obligation would exclude employers from the scope of application of the provisions contained in this draft bill, without prejudice to civil, criminal or administrative liability that might arise.
3. If researchers are recruited on a permanent basis, the rules laid down in Legislative Decree No. 23 of 4 March 2015 concerning employment contracts with rising protection will apply to those hired following the entry into force of the decree. The provisions referred to above also apply to researchers hired on advanced-level apprenticeship contracts for research purposes at the end of the required training and upon recognition of their status for legal and contractual purposes.

Article 4

Business Networks, Industrial Districts and the Posting of Researchers

1. For the purposes of promoting exchanges and cooperation between public and private research entities, the rules contained in Article 3 of Decree-Law No. 5 of 10 February 2009, as converted with modifications by Law No. 33 of 9 April 2009, is further revised to allow public and private research centres to join industrial districts and business networks, regardless of their legal status.
2. In compliance with the principle of analogy, existing legislation governing business networks also applies to working teams established to participate in calls for tender, either national or international, and following the allocation of funds to conduct research and technological development.
3. 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 shall 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, also by means of co-funding arrangements and partnerships.

Article 5

Outplacement

1. Starting from the first day following the dismissal and with a view of helping workers made redundant or dismissed for economic reasons re-enter the labour market, priority shall be given to the recourse of “outplacement funds” as defined in Article 23 of Legislative Decree No. 150 of 14 September 2015.
2. A sum of €10,000,000 has been made available through the Fund for Active Labour Market Policies established in accordance with Par. 2, Article 5 of Law No. 147 of 27 December 2013. This money is provided to help researchers made redundant to find employment, fulfil the goals set in Par. 1 and prevent the loss of skills and professionalism demanded in new markets.

Article 6

Independent Researchers and Researchers Employed on a Project-by-Project Basis

1. Research work in the private sector can also be conducted independently, that is without concluding salaried employment contracts. If that is the case, the rules governing project work shall apply, namely Articles 61 and following of Legislative Decree No. 276 of 10 October 2003. They will remain in force for this specific purpose, as an exception to provisions laid down in Article 52 of Legislative Decree No. 81 of 15 June 2015. Provisions contained in paragraphs 1, 2, 4, 5, 7 and 8 of Article 2 and 3 of the present law shall also apply.
2. Positions for independent researchers or for those employed on a project-by-project basis can be also made available for individuals or research teams who have been awarded both national and international tenders to conduct research or to carry out projects concerning technological development. Should this be the case, contracts will last as long as the research grant.

Article 7

Non-EU Researchers and Transnational Posting of Researchers

1. The recruitment of non-EU researchers as defined by this law and the transnational posting of researchers in the context of groups of businesses operating in different countries take place as exceptions to the existing rules on immigration laid down in Article 27-quater of Legislative Decree No. 286 of 25 July 1998.
2. While in Italy, researchers from non-EU countries will be granted a resident permit for research purposes.

Article 8

Economic Incentives and the “Register for Researchers”

1. 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 access funding to support research in the private sector in order to simplify and streamline existing legislation.
2. The decree referred to in Article 8(1) sets forth special incentives to be allocated to companies, public entities (including private and public universities) to provide employment and labour mobility to researchers older than 50 years old.
3. An online register will be created at the Ministry of Labour and Social Policies containing information on researchers recruited in the private sector. 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 include non-EU researchers. In order to ensure transparency and 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.
4. 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.
5. The “register for researchers” will be used to allocate economic incentives to both companies and researchers to conduct research and is linked to the online employment database established pursuant to Article 15 of Legislative Decree No. 276 of 10 September 2003.

Article 9

Final Provisions

1. It will be up to collective agreements concluded between the most representative trade unions and employers’ associations and, where absent, to agreements between the

contractual parties to ensure the gradual implementation of the new regulation on research work following the entry into force of the present law;

2. Seniority will apply to those work arrangements concluded for research purposes already in place at the time of the entry into force of the present proposal in order to ensure the implementation of the provisions contained in Article 2(1).

ADAPT is a non-profit organisation founded in 2000 by Marco Biagi with the aim of promoting studies and research in the fields of labour law and industrial relations from an international and comparative perspective. Our purpose is to implement a new approach to academic research, by establishing ongoing relationships and by encouraging cooperation with higher education institutes, associations, public institutions, trade unions, enterprises. To this end, ADAPT:

- works in agreement with the Centre for International and Comparative Studies (DEAL) of the University of Modena and Reggio Emilia (Italy);
- supports the International Doctoral School in Human Capital Formation and Labour Market established by ADAPT in cooperation with the Ministry of Education, University and Research and the University of Bergamo (Italy);
- provides technical advice to the Commission of Certification of Employment Contracts of the University of Modena and Reggio Emilia (Italy);
- through *ADAPT servizi* it engages in studies and research and provides technical advice on different projects to fulfil its social purposes;
- promotes partnerships and sets up national and international networks in collaboration with overseas institutions, research centres and universities based in more than thirty countries;
- participates in national, international research projects and calls for proposals.

Furthermore, ADAPT also supports the School of Higher Education in Occupational Transitions and Industrial Relations that today is regarded as a leading centre to carry out research and provide education in labour and industrial relations.

Since 2007, the School of Higher Education of ADAPT has funded a number of initiatives, also thanks to the contribution of its partners and through partnerships with the Ministry of Education, University and Research, private and public institutions, trade unions and employers' associations. Among the initiatives mentioned are:

- **over 230 PhD scholarships and 87 advanced-level apprenticeship contracts for research purposes;**
- **67 annual research grants;**
- **33 scholarships** to attend higher education programmes;
- **13 editions of the Marco Biagi Award** for the best master's and doctoral dissertations, established in collaboration with the Ministry of Labour and Social Policies.

Since 2007, the School of Higher Education of ADAPT has trained 100 students and 300 doctorate degree holders. To date, over 20,000 candidatures have been evaluated and more than €15 million have been collected to fund scholarships and research activities.