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National report Italy: Legal analysis part 1

**Existing facilitators and obstacles in national regulation
of social dialogue**



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National report Italy: Legal analysis part 1. Existing facilitators and obstacles in national regulation of social dialogue



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Content

Preface by the project managers.....	3
Preface by the leader of Work Package 2.....	4
Introduction.....	5
1 Non-standard workers in national law	7
1.1 Legal norms on employment status	7
1.1.1 The concept of employee	7
1.1.2 The standard employment relationship.....	8
1.1.3 The concept of Independent Contractor.....	9
1.1.4 Intermediate Category Workers	10
1.2 Analysis of Non-Standard Workers.....	11
1.2.1 Non-Standard Workers 1 (Employees)	11
1.2.2 Non-Standard Workers 3 (Independent Contractors)	16
1.2.3 Non-Standard Workers 2 (Intermediate category).	18
1.2.4 Quantification of the different categories of workers.....	20
1.3 Legal mechanisms to resolve employment status	20
2 Access to effective collective bargaining	22
2.1 The concept of a collective agreement.....	22
2.1.1 National legal framework.....	22
2.1.2 Access to representation in collective bargaining.	23
2.1.3 Access to internal voice.....	26
2.2 The process of bargaining to conclude a collective agreement.....	29
2.2.1 The general legal framework for the bargaining process	29
2.2.2 Access of NSW to participation in the bargaining process	30
2.2.3 Access of NSW to collective action	31
2.3 The legal effects of a collective agreement	33
2.3.1 The percentage coverage of collective agreements in Italy	33
2.3.2 The legal scope of a collective agreement	33
2.3.3 The prohibition of adverse (less favourable) derogation	36
2.4 Enforcement of collective agreements	37
2.4.1 The legal framework.....	37
2.4.2 Access to enforcement of collectively bargained conditions of work.....	38
2.5 Other types of agreements of a collective nature.....	39
2.6 Obstacles and facilitators for access for NSW to effective collective bargaining....	40
2.6.1 NSW1 (Employees)	40

2.6.2 NSW2 (Dependent contractors)	41
2.6.3 NSW3 (Independent contractors).....	41
3 Access to Information and Consultation at Company Level	43
3.1 The system of information and consultation at company level.	43
3.1.1 Legal Framework	43
3.1.2 Access to representation.....	45
3.1.3 Access to information and consultation	47
3.1.4 Enforcement and remedies	48
3.2 Obstacles and facilitators for access for NSW to company level information and consultation.....	49
4 Access for non-standard workers to social dialogue.....	50

Preface by the project managers

The INDI project (Integrating Diversity in Social Dialogue: Strengthening the EU Labour Market in the Digital and Green Age), funded by Horizon Europe (101177913), examines how social dialogue can better include non-standard workers in a transforming labour market shaped by digital and green transitions. Focusing on the EU, the UK and Norway, the project explores existing and emerging models of worker voice and representation, with the aim of preventing rising inequality, in-work poverty, and social exclusion.

While social dialogue is a cornerstone of the EU's social market economy, non-standard workers often find themselves on the margins of such processes. This contributes to an increasing dualization of the labour market, with a clear divide between the better-off 'insiders' and the non-standard 'outsiders', who often find themselves in vulnerable positions. Both the scale and the consequences of such dualization vary significantly across countries, sectors, and business models.

The project adopts a comprehensive, multidisciplinary, and comparative approach encompassing eight countries, different business models, various forms of non-standard work, and social dialogue processes at various levels. We place the needs, interests, and motivations of non-standard workers for representation and voice at the centre (bottom-up perspective). These insights will be matched with strategies, willingness, and distributional costs among social partners when including workers in non-standard positions in social dialogue processes, as well as how these dynamics play out within different industrial relations and employment regimes (top-down approach). Our main research questions are:

- i. How can non-standard workers strengthen their power resources?
- ii. How are these processes influenced by prevailing industrial relations regimes, employment regimes, and business models?
- iii. How are these processes shaped by the interests of (different groups of) workers in non-standard positions?
- iv. How are these processes shaped by the interests of employers, investors, and contractors?
- v. How can power resources be translated into social dialogue with favourable outcomes for workers in non-standard positions?

Researchers from Belgium, Denmark, Ireland, Italy, the Netherlands, Norway, Slovakia, and the United Kingdom are participating. The project is coordinated by The Fafo Foundation in Oslo, Norway. The project was launched in February 2025 and will be completed at the end of January 2029.

We wish to thank the European Commission and the Horizon Europe programme for providing the opportunity to carry out this important and exciting research project.

Oslo, August 2026

Sissel C. Trygstad, Project Coordinator

Preface by the leader of Work Package 2

The legal work package (WP 2) of the INDI-project will present a legal analysis that aims to evaluate the impact of EU and national legal frameworks as barriers or facilitators for inclusion of non-standard workers in social dialogue, with a focus on reform recommendations. With a four-step analysis, this will contribute to the realization of the aim of the INDI-project of creating a more cohesive, effective, and legally robust environment for social dialogue, by addressing and proposing enhancements to the existing legal framework.

Part 1 is the first step and focuses on the existing legal framework at a national level, with an aim to identify and compare legal obstacles and facilitators for access to social dialogue for non-standard workers in selected national systems. The analytical framework for the analysis is presented in a separate working paper (deliverable 2.1). This has guided analysis of facilitators and obstacles in national law in Denmark, Italy, the Netherlands, Norway and the United Kingdom.

Part 1 will be concluded with a comparative analysis of existing facilitators and obstacles in national law (deliverable 2.3). Here, we will discuss commonalities and variations regarding access to social dialogue for non-standard workers with a focus on how this relates to differences in the national systems of social dialogue.

The next steps will be to examine the interplay between EU measures with potential to strengthen access to social dialogue for non-standard workers (Part 2, deliverable 2.4) and national law (Part 3, deliverable 2.5 and 2.6). Based on this, the aim is to develop recommendations for new strategies for including non-standard workers in social dialogue (Part 4, deliverable 2.7)

Oslo, August 2026

Marianne Jenum Hotvedt, WP Leader

Introduction

Italian labour law has undergone a highly fragmented development since the entry into force of the Republican Constitution in 1948, with the absence of an organic body of labour legislation (i.e. a labour code). Standard employment finds still primarily reference in the 1942 Civil Code, where employees are identified mainly through the criterion of legal subordination. The rules governing employment contracts are, however, contained in a large body of sectoral legislation that has gradually and steadily accumulated over time. As will be examined in detail in the next section of the report, the Italian legal system has remained relatively stable over time with regard to the definitional concepts of employee and self-employed workers, which have in practice remained anchored to the definitions set out in the original version of the Civil Code. By contrast, a certain degree of dynamism has characterised attempts to define, and therefore to provide protection for, workers situated in the grey area between subordination and autonomy.

With regard to non-standard work, as production models and forms of work have evolved, the legislator has progressively opened the legal system to such forms of employment. Starting from fixed-term contracts up to modern forms of remote work and platform work, the legislator has regulated and expanded non-standard forms of employment, while almost never calling into question the centrality of standard employment and the exceptional nature of the former.

On several occasions, given the intricate and complex layering of legislation, the legislator attempted to introduce greater order and modernization through quite comprehensive reforms of non-standard employment contracts. In this respect, reference should be made to the so-called Jobs Act, which includes a series of eight legislative decrees, among which Legislative Decree No. 81/2015, significantly entitled "Organic regulation of employment contracts."

Over time, alongside the increase in both the forms and number of non-standard jobs, economically and operationally dependent self-employment has become increasingly significant from a quantitative perspective. This development repeatedly triggered legislative responses aimed both at combating misclassification - and therefore the circumvention of subordinate employment rules - and at extending certain employment and social protections traditionally associated with subordinate work. This process, too, has not always occurred in an orderly manner. As a result, although an intermediate category has never formally been recognized within the Italian legal framework, legislation has in practice created "containers" for working relationships situated in the grey area between autonomy and subordination.

The transformation of work and its regulation have been accompanied by very intense social dialogue. Social partners enjoy strong institutional recognition within the Italian legal system, although industrial relations have historically developed in an almost entirely informal manner. No formal regulation of industrial relations has ever been enacted, despite being envisaged and required by the Constitution (Article 39). Nevertheless, this has not prevented collective bargaining from proliferating. At present, the system can be

described as a highly informal and fragmented, which relies primarily on the autonomous regulation of the social partners, mainly at cross-industry level. A system which, also thanks to the support of the legislator – despite never introducing an extension mechanism – and the courts, ensures virtually universal coverage to collective agreements. Within this system, non-standard workers, while often having dedicated trade union representatives, have only partially obtained effective access to representation and collective bargaining.

1 Non-standard workers in national law

1.1 Legal norms on employment status

1.1.1 The concept of employee

A statutory definition of employee is provided by the Italian Civil Code of 1942 under Article 2094, which defines an employee as 'a person who undertakes, in return for remuneration, to collaborate in the enterprise by performing intellectual or manual work under the authority and direction of the employer.' The latter part of the definition identifies the element of legal subordination, which is expressed through what is commonly referred to as "hetero-direction" or "hetero-determination". In other words, it denotes the worker's subjection to the employer's managerial, organisational, and disciplinary powers, exercised through the issuing of instructions, as well as through supervisory activities and disciplinary sanctions¹. As a consequence, the worker's autonomy is significantly limited.

Although this provision remains in force and still represents the only legally codified definition of an employee, it has long proved inadequate for drawing a clear distinction between subordinate employment and self-employment. A certain degree of hetero-direction may, in fact, legitimately exist in self-employment, where the client may interfere with the performance of a work or service by providing guidance or instructions. Conversely, hetero-direction may be 'attenuated' in subordinate employment, where the employee may occupy a position of command and autonomy, or may be highly qualified and specialised, thus not receiving specific orders². This situation is increasingly common in modern productive realities, where workers are often 'autonomised' and employers are less interested in exercising full and direct control over the various stages of production, focusing instead on the result of the work rather than the manner in which it is carried out.

As has occurred in many other legal systems, it has been the judiciaries that have taken on the task of modernising the indicators of subordination in the concrete cases brought before them. In Italy, this has been done by effectively downgrading the model set out in Article 2094 of the Civil Code and instead relying on the indications derived from the socially prevalent figure of the subordinate worker and from the overall body of rules typically governing the employment relationship.

Accordingly, the worker's subjection to the employer's managerial, supervisory, and disciplinary powers, with a consequent limitation of autonomy, has undoubtedly remained the first line of inquiry. However, it is often recognised that in cases of so-called 'attenuated subordination', where hetero-direction is less evident – either because the worker is highly qualified or because the organisational structure of the undertaking allows wide margins of autonomy – the stable integration of the worker into the employer's business organisation constitutes the qualifying element of subordination³.

¹ Among the many Supreme Court decisions, see No. 4369/2017.

² See for example Supreme Court No. 7681/2003.

³ Supreme Court, 13 March 2018, No. 6042; Constitutional Court, 5 February 1996, no. 30; Supreme Court, 4 January 2009, No. 1717.

In practice, direction is exercised not through specific instructions issued by the employer, but rather through the organisational framework unilaterally established by her. This is manifested primarily in the unilateral determination of working time, place of work, and other organisational elements that express subordination and limit the worker's autonomy.

Subsidiarily, in cases where it is difficult to ascertain the presence of subordination as described above, additional indicators come into play, such as the absence of economic risk, the periodic payment of remuneration, the continuity of the relationship - understood as the persistence over time of the worker's obligation to make their services available ⁴- the existence of working-time constraints, and the use of the employer's tools and equipment ⁵. None of these elements is decisive on their own.

Indicators of subordination are assessed through a judgment of approximation within a typological method - the equivalent of a multifactor test - whereby the elements of the concrete case are compared with the abstract typical model of subordinate employment. The relationship does not need to possess all the characteristics of that model, but only those deemed relevant by the judge in light of the specific features of the case to be classified ⁶.

Judicial analysis is based on the primacy of facts, focusing on the parties' actual conduct in the performance of the relationship ⁷. Furthermore, the Constitutional Court recognised that the contractual classification is not at the parties' disposal ⁸. Therefore, where a relationship displays the factual characteristics of subordination, it must be classified as such and the full body of employment-law rules applicable to subordinate employment must apply. Consequently, it is precluded not only for the individual parties, but also for collective bargaining and even for the legislature, to attribute *a priori* an autonomous nature to a relationship that in practice displays the characteristics of subordination.

Consistently, case law has clarified that the *nomen iuris*, namely the contractual label chosen by the parties, has merely subsidiary evidentiary value and becomes relevant only where the actual modalities of performance of the employment relationship leave room for ambiguity or uncertainty as to its correct legal classification ⁹.

1.1.2 The standard employment relationship

The adaptation and development of new employment indicators have become necessary in Italy, as elsewhere, due to the continuous transformation of work and, in particular, the emergence of non-standard forms of employment, which have in practice eroded the primacy of the traditional employment relationship. Courts have therefore addressed this phenomenon by broadening the concept of subordinate employment, keeping in mind the protective function of labour law, first and foremost the situation of contractual imbalance in which the worker finds themselves. In this way, the protective framework of

⁴ Supreme Court, 4 September 2003, no. 12926.

⁵ Supreme Court, 23 January 2009, no. 1717.

⁶ Supreme Court 14 October 1983, no. 6025.

⁷ Supreme Court No. 6821/1995.

⁸ Constitutional Court 31 March 1994, no. 115; 29 March 1993, no. 121.

⁹ Supreme Court, no. 4948/1996.

labour law has been extended to the borderline grey areas of non-standard employment, through a case-by-case assessment.

But what is meant by standard employment in the Italian legal system? In the absence of an explicit statutory definition, it is commonly held by scholars¹⁰ that the standard model is that which emerges from the Civil Code, Articles 2094 et seq., corresponding to the socially prevalent type of work: a full-time, open-ended subordinate employment relationship involving two parties, whose typical *causa* consists in the exchange between the performance of work and remuneration, with the work being carried out predominantly on the employer's premises. This remains the model favoured by the legislature. Forms that depart from this model are generally permitted only when used in the cases and within the limits expressly provided by law. Indeed, it is common as a sanction for the "abuse" of a non-standard contractual form the reclassification of the relationship as standard full-time, open-ended employment, with the employer on whom the worker actually depends.

The spread of non-standard work has been accompanied by legislative interventions aimed at keeping pace with the phenomenon, adopting different approaches depending on the political orientation of the government in power. This has resulted in fragmented and incoherent legislation. At a certain point, the legislature attempted to provide a systematic framework for non-standard contracts within a single legislative instrument: Legislative Decree No. 81/2015, entitled "Organic regulation of employment contracts". In reality, however, Legislative Decree No. 81/2015 does not cover all non-standard contracts, but only the most commonly used ones, namely: fixed-term contracts, part-time work, intermittent work, agency work, and apprenticeships.

1.1.3 The concept of Independent Contractor

Mirroring the definition of a subordinate worker set out in Article 2094 of the Civil Code is the definition of self-employed worker provided by Article 2222 of the Civil Code, under the heading "contract for services", which identifies a self-employed worker as a person who "undertakes, in return for consideration, to perform a work or a service, predominantly through their own labour and without any relationship of subordination vis-à-vis the client." This definition allows the distinction from subordinate employment to be drawn by difference: anyone who cannot be classified as a subordinate worker is deemed to be self-employed.

The legal regime applicable to self-employment is set out in Articles 2223 et seq. of the Civil Code. However, this is a residual framework, which gives way in the many cases where a specific profession or category of self-employed worker is governed by a special legal regime (for example, lawyers, independent sales representatives, stockbrokers, insurance brokers, and others)¹¹. The regulation of self-employment is rarely inspired by protective concerns for the worker in their relationship with the client. More often, it governs the relationship on the assumption of a balance of contractual power, or it is inspired

¹⁰ See for example Carinci F., De Luca Tamajo R., Tosi P., Treu T., *Diritto del lavoro. 2. Il rapporto di lavoro subordinato*, Utet: Torino, 2022, 100-101.

¹¹ See Perulli A., *Il lavoro autonomo*, in Cicu A., Messineo F. (directed by), *Trattato di Diritto Civile e Commerciale*, Milano, 1996.

by the need to protect the client as the weaker contracting party, or by considerations of public interest.

For the first time, however, Law No. 81/2017 (the so-called Jobs Act for the Self-Employed) introduced a package of civil, tax, and social-security protections for non-entrepreneurial self-employed workers. For example, it provides for the suspension of the contractual relationship for a maximum period of 150 days in cases of pregnancy, illness, or injury for those who perform continuous activities in favour of a single client.

1.1.4 Intermediate Category Workers

The Italian system is not rigidly binary, namely employee/full employment rights versus self-employed/no employment rights. Additional protections are provided for certain self-employed workers classified as “para-subordinate” workers or, under a more common definition in comparative studies, “dependent contractors.” These are self-employed workers who are functionally integrated into the client’s undertaking and are used as a productive factor within it. This situation typically involves long-term, non-occasional relationships, in which the worker must coordinate her activity with the client and the productive needs of the client’s business, giving rise to operational dependence and often also economic dependence. Indeed, the client frequently constitutes the worker’s main, if not sole, source of income.

With Law No. 533/1973, reforming labour courts procedure, dependent contractor found its first statutory basis through the recognition, under Article 409(3) of the Code of Civil Procedure of “collaboration relationships consisting of continuous and coordinated services, predominantly personal in nature, even if not characterised by subordination.” This definition effectively introduced into the Italian legal system the category of “coordinated and continuous collaborators” (co.co.co.). In order to clarify the concept of coordination, making more evident the worker’s autonomy, Article 15 of Law No. 81/2017 further specified that the modalities of coordination are those jointly agreed upon by the parties, within which the collaborator autonomously organises their work activity.

According to consolidated legal scholarship and case law, the protections applicable to subordinate employment cannot be extended wholesale to these relationships. Protection is limited to those expressly provided by law¹². Initially, under the 1973 legislation, these consisted only of rules relating to labour courts procedure and Article 2113 of the Civil Code, concerning the invalidity of waivers and settlements relating to rights deriving from mandatory statutory or collective agreement provisions. Subsequently, social-security protections were extended, including compulsory pension insurance – largely financed by the client – maternity allowance, insurance against workplace accidents and occupational diseases, and sickness benefits in cases of hospitalisation. These protections were later supplemented by those introduced for all non-entrepreneurial self-employment by Law No. 81/2017.

This framework confirms that co.co.co. workers do not constitute an intermediate category, but rather a species of the genus of self-employment. This species occupies a

¹² The Constitutional Court 24 July 1995, no. 365 has recognised the legitimacy of a different legal treatment for parasubordinate workers, with the exclusion of the generality of employment protections for them. The idea is confirmed by several decisions by the Supreme Court. See for example 3 april 1996, no. 3089.

borderline area between subordinate employment and self-employment, sharing certain features with subordinate work. It is therefore not an intermediate category in the strict sense, according to the widely prevailing view.

The uncertain classification of para-subordinate work between autonomy and subordination is further complicated when the legislature intervenes again to curb the widespread abuse of co.co.co. arrangements, in all those cases where coordination appears to excessively limit the worker's autonomy. Legislative Decree No. 81/2015 therefore provides that the rules governing subordinate employment shall apply for collaboration relationships consisting of predominantly personal and continuous work, whose modes of performance are coordinated by the client, including through digital platforms (gig work). Therefore, in principle, these relationships are governed by labour law rules; however, such rules apply only to the extent that they are compatible with the concrete nature of the relationship.

This provision immediately proved difficult to interpret, giving rise to several interpretative approaches. Limiting ourselves to the prevailing interpretation – also endorsed by the only ruling of the Court of Cassation to date on the matter – the legislature is understood to have identified a group of workers who, although formally self-employed, are subject to the protections of subordinate employment due to their contractual weakness¹³. In other words, Article 2 of Legislative Decree No. 81/2015 does not introduce a new category of workers but merely remedies to the vulnerability of certain self-employed workers by extending to them the protections of employment law which are compatible with the concrete nature of the relationship.

There are, however, significant exceptions, namely cases in which, despite the presence of hetero-organisation as described above, the application of “subordinate” employment rules is excluded. The most relevant cases concern collaborations carried out in the exercise of liberal professions, members of corporate management and supervisory bodies, participants in boards and committees, and collaborations in the field of amateur sports. Furthermore, industry-level collective agreements, signed by the comparatively most representative trade unions, are entrusted with establishing specific rules on economic and normative treatment, in light of the particular productive and organisational needs of the relevant sector. The interpretation of this provision has been quite complex. According to the prevailing interpretation the provision allows hetero-organised collaborations not to be automatically subject to the regime of subordinate employment, provided that the mentioned industry-level collective agreements lay down a specific economic and regulatory framework, which should be justified by the peculiarity of the sector concerned.

1.2 Analysis of Non-Standard Workers

1.2.1 Non-Standard Workers 1 (Employees)

As anticipated, Legislative Decree No. 81/2015 contains and regulates those employment relationships that present variations with respect to their temporal duration, the

¹³ See Supreme Court 24 January 2020, No. 1663, which addressed the classification of the employment relationship of food-delivery riders, a case that attracted significant media attention and scholarly debate.

organization and length of working time, and the bilateral nature of the relationship, such as to affect certain characteristics and rules governing the performance of work. The decree opens precisely with a provision reaffirming what the standard employment contract is, before proceeding to regulate the non-standard ones. Article 1 provides that "The open-ended employment contract constitutes the common form of employment relationship." This wording echoes the preamble of the Framework Agreement on fixed-term work implemented by Directive 1999/70/EC.

The fixed-term employment relationship therefore represents an exception and thus a non-standard form of work, as clearly emerges from the rules specifically governing it. Article 19 of Legislative Decree No. 81/2015 provides, in particular, for the possibility of attaching a fixed term to an employment contract within certain limits. In several provisions it is established that the violation of these limits results, as a sanction, in the conversion of the fixed-term contract into the standard contract, namely an open-ended (permanent) contract. The subordinate nature of the relationship is never in question in this type of contract. As with open-ended employment relationships, it can be identified through the traditional indicators of subordination, which do not require any adaptation. The element of atypicality is in fact limited to the temporary duration of the relationship and does not affect the other terms of the relationship.

The deviation from the standard employment relationship may also occur through the agreement of a working time shorter than the normal working hours established by law, i.e. part-time work (more precisely by Article 3 of Legislative Decree No. 66/2003). The possibility for the parties to contractually establish part-time subordinate employment relationships is expressly provided for in Article 4 of Legislative Decree No. 81/2015, according to which: "In a subordinate employment relationship, including fixed-term employment, hiring may take place on a full-time basis ... or on a part-time basis." As with the fixed term attached to the relationship, the reduction of working hours compared to the standard does not alter the elements of subordination, which remain identical to those characterizing the standard employment relationship. It is worth clarifying that, under Italian law, any employment contract in which the working time agreed by the parties is lower than full-time working hours, as determined by the rules on working time (Legislative Decree No. 66/2003), is considered part-time¹⁴. In principle, even a reduction of just one hour compared with full-time working hours is sufficient to qualify the relationship as part-time, since the law does not provide for any minimum reduction threshold for this purpose.

The deviation from the standard organization of working time reaches its maximum in intermittent work. This is a form of on-call work: the worker places themselves at the disposal of an employer who may use their labour upon request; the worker may also be required to guarantee their availability, if this has been agreed in the contract, in exchange for the payment of a specific availability allowance. The amount of the allowance is delegated by law to collective agreements, while specifying that it may in any event not be lower than the amount set by a decree of the Minister of Labour (determined therein as

¹⁴ Normal working time, corresponding to full-time employment, is set by Article 3 of Legislative Decree No. 66/2003 at 40 hours per week, unless otherwise provided by collective bargaining, which may lower that threshold, as is in fact the case in many sectors.

20% of the remuneration provided for by the industry-level agreement applied by the employer). It is certainly one of the contractual forms established by law that grants the employer greater flexibility. For this reason, its use is widely restricted by law, which provides for specific grounds for its use, subjective requirements concerning workers, as well as periods and maximum limits of utilization. The subordinate nature of the relationship is expressly recognized by law. During periods of work, the worker is comparable to any other standard subordinate employee, both in terms of being subject to the employer's powers and with regard to rights, except of course for the proportional adjustment of economic and regulatory treatments (for example, the right to paid leave) in relation to the actual duration of the work performed.

The deviation from the standard model in temporary agency work is connected to the particular triangular structure involving the temporary work agency, the worker, and the user undertaking. In this arrangement there is a separation between the entity that hires the worker and is party to the employment contract, and the entity that actually uses the worker's labour. The employment contract linking the agency and the worker is, by explicit indication of the legislator (see Article 34 of Legislative Decree No. 81/2015), a subordinate employment contract, which may be either fixed-term or open-ended and is subject to the respective regulatory frameworks, subject to some exceptions in the case of fixed-term contracts. In the case of open-ended hiring of the worker, a further anomaly compared to the standard employment relationship emerges. As expressly provided by law, during periods in which the worker is waiting to be assigned to a mission, they do not receive any salary but only an 'availability allowance' (set at a lower level than normal remuneration). There is therefore a sort of protected suspension of the employment relationship, but in the interest of the employer. The non-standard but nevertheless subordinate nature of the employment relationship is clarified by the legislator itself, which in defining this contract in Article 30 specifies that workers made available by the agency to the user company "perform their activities in the interest and under the direction and control of the user." Therefore, a relationship of subordination operating within a regime of 'co-employership' established by law: the power of direction and control is exercised by the user company, which is also primarily responsible for the worker's health and safety, while disciplinary power lies with the agency, which is also responsible for the payment of wages (Article 35(6)). The use of agency work is subject to both quantitative limits and conditions relating to the existence of specific grounds (where the assignment exceeds 12 months), as well as to prohibitions, partly similar to those provided for fixed-term contracts. In the event of a breach of such limitations, the general sanction is the establishment of a direct open-ended employment relationship with the user undertaking from the outset of the assignment.

A further form of non-standard work also regulated by Legislative Decree No. 81/2015 is apprenticeship. This is the traditional instrument aimed at facilitating young people's access to qualified employment and is defined as an 'open-ended employment contract aimed at the training and employment of young people' (Article 41). By explicit provision of the legislator, it is a subordinate employment contract, in which the deviation from the standard model is quite significant. It does not concern merely the contractual terms, but the very *causa* of the contract: the typical exchange between work performance and remuneration is enriched by the element of professional training provided by the

employer, which is also exchanged for remuneration. The non-standard but subordinate nature of the relationship is confirmed by the sanction that, according to case law, follows the total breach of the training obligation: when the special purpose of the apprenticeship contract disappears, the relationship is transformed into an ordinary subordinate employment relationship¹⁵. Such a breach may also be inferred when the apprentice is assigned to elementary or routine tasks that do not involve any theoretical or practical training component¹⁶.

The particular strictness associated with the breach of the training obligation is linked to the fact that recognizing a contractual purpose different from that of the ordinary employment relationship has allowed the introduction of rules that are particularly advantageous for the employer, as a sort of counterpart to the training obligation. These rules help maintain the attractiveness of this contractual form and therefore promote the employment of young people. Such rules mainly concern the possibility of paying the apprentice a lower wage, precisely in consideration of their incomplete qualification. They also include the possibility for the employer to terminate the contract *ad nutum*, that is, without the need to state reasons, at the end of the apprenticeship period, provided that the notice period is respected, thereby avoiding the continuation of the relationship as an ordinary open-ended subordinate employment relationship.

Non-standard subordinate forms of work are not exhausted by Legislative Decree No. 81/2015, which – contrary to the legislature's statements – is not an exhaustive, organic regulation of all employment relationships. Other non-standard relationships governed by different legal sources exist, where the deviation from the typical model mainly concerns the place of performance. This refers to remote forms of work, where direction and monitoring become less direct, though not necessarily less effective, and integration and organisation of work are more nuanced.

Homeworking is the traditional non-standard form, characterised by the performance of work outside company premises while remaining integrated into the employer's organisation. The element of subordination expressly characterises this form, since the legislature evidently wished to prevent the remote nature of the work from nullifying the indicia of subordination. However, this is a form of subordination with particular features which the legislature has specified, and for which a special regulatory regime exists – for example, pay determined by piece-rates while respecting the minima established by collective agreements.

Thus, under Article 1 of Law No. 877/1973, a home worker is defined as anyone who "with a bond of subordination performs in their own home or other premises at their disposal ... paid work on behalf of one or more entrepreneurs, using raw materials or accessories and equipment of their own and of the entrepreneur." The law further provides that the work may be carried out "also with the accessory help of cohabiting family members who are financially dependent, but excluding paid labour and apprentices." In short, the legislature expressly recognises that the not-exclusively but predominantly personal nature of the relationship is not, by itself, sufficient to exclude subordination. The legislature also

¹⁵ Supreme Court, judgment No. 6990/2025.

¹⁶ Supreme Court, judgment No. 9286/2020.

recognises in Article 1 that the absence of direct, immediate employer control is compatible with subordination: direction may be limited to prescribing the modalities of performance at the outset of the work rather than on a case-by-case basis.

Case law, however, recognises homeworking as autonomous when the worker enjoys wide discretionary margins within an independently organised, entrepreneurially structured activity, distinct from that of the employer/client and undertaken at the worker's own risk. Signs of such autonomy include, for example, full freedom to accept or refuse work or complete discretion as to delivery times (Cass., 11 January 2011, No. 461). Where elements of autonomy are present, this form of work may therefore fall either within the category of NSW2, if the features of coordination and continuity, as defined in Article 409(3) of the Code of Civil Procedure, are present; or, in their absence, within the category of NSW3, that of genuine self-employed workers (see next sections).

Telework represents a form of remote work that uses ICT. It has traditionally been little used in Italy and has never been configured as a distinct contractual category, but rather as a flexible mode of performance that can take different concrete forms – autonomous, para-subordinate, or subordinate – depending on the way the work is actually performed and on the employment tests applied by judges. Telework delivered in a subordinate mode is regulated by statute only in the public sector (Law No. 191/1998). In the private sector it is regulated mainly by collective agreements, in particular the economy-wide agreement of 9 June 2004, which implemented the 2002 European Framework Agreement, together with numerous national collective and company agreements. Collective bargaining typically regulates access (voluntariness, duration, reversibility), the exercise of workers' rights (including trade-union rights), the exercise of managerial powers, and health and safety.

A further remote-work modality that has assumed greater importance and is comprehensively regulated by statute is agile working (*lavoro agile*), defined in Law No. 81/2017 as "a mode of execution of the subordinate employment relationship established by agreement between the parties, also with forms of organisation by phases, cycles and objectives and without precise constraints of working time or workstation, with possible use of technological tools for the performance of the activity." The law further specifies that "the work is performed partly within company premises and partly outside them without a fixed workstation, within the sole limits of maximum daily and weekly working time deriving from law and collective bargaining."

Like telework, smart working is not a new contractual type but merely a different mode of performance. Unlike telework, smart working is "agile" in that the worker enjoys wide flexibility in organising their activity, effectively making the subordinate relationship "autonomised." Constraints on working time and place are relaxed, and there is no tight direction and control: the worker manages their performance with broad autonomy within predetermined phases, cycles and objectives.

The law ensures – just as it does for home-work – that this spatial/temporal flexibility does not allow the arrangement to evade classification as subordinate employment and thereby deprive workers of employment protections. Accordingly, the statute, while affirming that smart working is a "mode of execution of the subordinate employment

relationship," also requires the agreement between the parties to regulate, among other things, the forms of exercise of managerial power; these may legitimately differ from traditional forms but must nevertheless confirm the existence of a managerial power inherent to this mode of performance.

A departure from the standard concerns the structure of the relationship for worker-members of cooperative companies. Law No. 142 of 3 April 2001 recognises the presence of an employment relationship distinct from the associative relationship, which is considered prevailing and arises from membership of the cooperative. The employment relationship may be subordinate, autonomous or para-subordinate. It is the cooperative that must define in its internal regulations the type of relationship it intends to establish with worker-members; in the absence of such definition, the relationship is necessarily classified as subordinate. Outside that default, the legal characterisation of the relationship will always depend on its actual performance in the light of the usual indicia of subordination. Where a subordinate relationship is present – the form most commonly used by cooperatives – it will nevertheless be atypical due to its peculiar disciplinary features, first among them the concomitant and prevailing associative relationship: in case of termination of the associative relationship, the employment relationship automatically terminates as well, whereas the converse is not true.

1.2.2 Non-Standard Workers 3 (Independent Contractors)

"Genuine" self-employed workers, as noted, are defined by Article 2222 of the Italian Civil Code. They differ from subordinate workers by the absence of a relationship of subordination. They also differ from entrepreneurs. Non-entrepreneurial self-employment is characterised by the absence of an organisation of resources going beyond the personal work of the provider. Conversely, one is considered to be dealing with an undertaking where there is an organisation of capital, (normally) the labour of others, and productive means, even if minimal, such as to exclude the merely personal nature of the activity. An activity may be classified as an undertaking even in the absence of employees, where there is nonetheless an organisation of resources that goes beyond the personal work of its owner. In such cases, the means employed are not merely ancillary (as would be the case, for example, with the use of a simple laptop or basic tools), but form part of a stable productive structure, and income derives from that organisation rather than solely from personal work (as in the case, for example, of an e-commerce business run by a single individual, with logistics, platforms, and suppliers, or an artisan operating a workshop with significant machinery). In this scenario, a person who owns and operates a limited company without employees is neither a self-employed worker nor the undertaking; the undertaking is the company itself, while the individual acts as its shareholder and director.

Notwithstanding the existence of grey areas, which are assessed by courts on a case-by-case basis, Italian law therefore recognises a distinction between self-employed workers (or, more precisely, self-employed persons) – where the activity is characterised by the predominance of personal work and minimal resources – and undertakings – where

there is an organised structure. A distinction that is absent in EU competition law¹⁷ and in the legal systems of several other Member States.

The category of non-entrepreneurial self-employed workers is highly diverse and heterogeneous. For descriptive purposes, different degrees of autonomy within self-employment can be identified, corresponding to different regulatory regimes and levels of protection. Traditional or “genuine” self-employment includes workers who enjoy full autonomy vis-à-vis their clients, manifested in complete freedom of self-organisation, as well as direct access to the markets in which they operate, typically providing services to multiple clients and in the absence of any situation of economic dependence. This category includes figures variously referred to as artisans, traders, consultants, and freelancers.

A sub-category of genuine self-employment is that of the liberal professions, usually subject to mandatory registration with a professional body, such as lawyers, doctors, architects, and accountants. Their activity is distinguished from self-employment in general by the predominance of intellectual content, expressed through strong technical autonomy and discretion in the choice of means used to satisfy clients’ needs.

A wholly peculiar category is that of occasional work, characterised by work that is non-habitual, lacking continuity and systematic organisation, formerly referred to as ‘accessory work.’ This has long been a controversial form of work due to its extreme precariousness. Introduced by legislation in 2003, it has undergone multiple reforms, oscillating between repeal and revival. Its latest version dates back to Decree-Law No. 50/2017, most recently amended in 2023 by Decree-Law No. 48. This scheme concerns sporadic, short-duration work with low organisational impact, intended to meet non-structural needs of the client, and often corresponding to activities typically performed in the informal economy. Through a highly flexible and simplified regulatory framework, the legislature has sought to bring such work into the formal economy.

It may be used in family contexts, for domestic work, babysitting, and care work, where no formal contract is required: acceptance of payment through electronic vouchers managed by the public social-security institution, for a predetermined amount, is sufficient to formalise the relationship. It may also be used by small undertakings (with fewer than ten employees), liberal professionals, and self-employed workers; in these cases, payment is also made electronically through INPS, but the relationship must be formalised through a contract for occasional services. Strict income limits apply, ensuring that use of this form of work remains marginal. Some minimal rights are recognised to the workers. Essentially limited to daily and weekly rest periods, breaks, and health and safety protection, with no reference to the regimes of subordinate or autonomous work. This has led commentators to argue that this contractual form cannot be classified as either subordinate employment or self-employment, nor can it fall within the particular form of self-employment included in the intermediate category (see next section). With regard to the latter, it lacks the essential feature of “continuity” typical of that category, by virtue of the legislature’s own intention, which has imposed strict income limits in order to ensure that such

¹⁷ Battista L., *Il lavoro autonomo nel Diritto dell’Unione europea*, Cacucci Editore, 2024, 52-55.

work remains purely occasional. It is plausibly an area of work in which the legislature has chosen not to provide a legal classification, precisely because of its marginal nature.

1.2.3 Non-Standard Workers 2 (Intermediate category).

Although, as noted, the existence of an intermediate category in the Italian legal system is legally doubtful and controversial, it is nevertheless used here because it is useful for descriptive purposes in light of the objectives of the present project, namely to study access to collective representation and collective bargaining for NSWs. As discussed, para-subordinate workers are, according to the prevailing interpretation, a species of the genus of self-employment, but with a need for protection that is comparable to that of subordinate workers, first and foremost access to collective representation and collective bargaining.

NSWs occupying this intermediate position fall mainly – though not exclusively – within the broad category of co.co.co. defined in Article 409(3) of the Code of Civil Procedure as “collaboration relationships consisting of continuous and coordinated services, predominantly personal in nature, even if not characterised by subordination.”

Such relationships are characterised by:

- a) (a) durability over time, satisfying a lasting interest of the client, either through a single contract of appreciable duration or through the repetition of the same or different services¹⁸;
- b) (b) predominant personal performance, referring to the prevalence of the worker’s activity over other factors used in performing the obligation, such as the work of other co-workers or the organisation of assets¹⁹;
- c) (c) coordination, implying functional integration of the worker into the client’s activity, while still leaving the worker autonomy in organising their own performance (Article 15 of Law No. 81/2017), in accordance with the coordination modalities jointly agreed by the parties.

In practice, contractors integrated into the client’s production chain, including that of public administrations, may be classified as co.co.co.; likewise, freelancers with stable relationships with a single client, such as journalists or social media managers.

The freedom to autonomously manage one’s performance within the agreed coordination framework is the element distinguishing co.co.co. relationships from hetero-organised collaborations governed by Article 2 of Legislative Decree No. 81/2015. The latter are collaboration relationships consisting of predominantly personal and continuous work whose modes of execution are coordinated by the client, including through digital platforms.

In substance, hetero-organised workers can still be classified within the intermediate category. Unlike subordinate employees, they are not subject to the employer’s managerial, organisational, or disciplinary powers; moreover, their performance need not be ‘exclusively’ personal, but only ‘predominantly’ personal. They also differ from coordinated and

¹⁸ Supreme Court 24 July 1998, No. 7288.

¹⁹ Supreme Court 24 January 1998, No. 709.

continuous collaborators (co.co.co.) in the strict sense because, although the performance is predominantly personal and continuous, contractual arrangements grant the client the power to unilaterally organise the worker's activity, for example by setting working time or place.

For greater analytical clarity, it is useful to identify 'NSW2a' as workers engaged in co.co.co relationships (coordinated and continuous collaborations), and 'NSW2b' as hetero-organized workers.

The latter, by legislative choice, although not formally classified as subordinate employees, are granted – insofar as compatible – the protections applicable to subordinate employment, subject to certain statutory exceptions (such as liberal professions, company directors, and amateur athletes). Typical examples within this category include call centre workers, as also recognised by collective agreements specifically dedicated to this group. Food-delivery riders also fall within this category. In its aforementioned judgment No. 1663/2020, the Court of Cassation recognised their functional integration into an organisational structure unilaterally designed by the platform. The majority of subsequent first-instance judgments concerning riders have confirmed this interpretative approach, albeit with some exceptions²⁰.

It is important to note that the legal recognition of the extension of employment protections to those who meet the statutory criteria of hetero-organised collaborators does not, in practice, entail the automatic recognition of such protections. More plausibly, such recognition will occur only through a judicial decision.

The Supreme Court's ruling was accompanied by a slightly earlier legislative recognition of a minimum protection framework for riders who are not employees nor hetero-organised collaborators. This is provided by Law No. 128/2019 (the so-called Riders Law), which applies to those who deliver goods on behalf of others in urban areas using bicycles or motor vehicles through digital platforms. The law provides minimum protections, including – most relevant for present purposes – the right to a minimum hourly remuneration established by a specific collective agreement signed by the comparatively most representative trade unions at national level, or, failing that, by reference to collective agreements in analogous sectors.

Another example concerns independent sales representatives, whose relationships are often placed in the grey area between autonomy and subordination. This is because their relationships are often characterized as ongoing relationships with a strong degree of coordination and operational, and sometimes even economic, dependence on the client company. Indeed, Article 409(3) of the Code of Civil Procedure, in defining the jurisdiction of the labour courts, expressly places these workers alongside co.co.co. relationships (coordinated and continuous collaborations). For the sake of convenience in the exposition, these workers are also included among NSW2a.

²⁰ Hetero-organisation recognised by Milan Labour Court, 9 October 2023; Turin Labour Court, 5 August 2023; Palermo Labour Court, 20 June 2023; full subordination instead affirmed by Palermo Labour Court, 24 November 2020.

1.2.4 Quantification of the different categories of workers

According to data provided by the Italian National Institute of Statistics (ISTAT) ²¹, the total number of employed people in Italy is around 24 million. Among them, independent contractors account for approximately 5.2 million (around 22% of the total workforce), a figure that is broadly consistent with Eurostat estimates, which place them at around 5 million ²².

Within this group, there are about 700,000 (3% of the total workforce) employers and 4.1 million own-account self-employed workers (17% of the total), including roughly 1.3 million professionals (5,4% of the total). In addition, coordinated and continuous collaborators (so-called co.co.co. workers) number around 500,000. By contrast, employees make up the majority of the workforce, amounting to approximately 19 million individuals (around 78% of the total workforce).

When looking at non-standard forms of employment, around 2.6 million workers are on fixed-term contracts (almost 14% of total employees). Part-time employment involves about 4.8 million people (around 25% of total employees), of whom an estimated 2.7 million are involuntarily part-time. Temporary agency workers number fewer than 400,000 (around 2% of total employees), while apprentices are around 600,000 (around 3% of total employees) and intermittent workers approximately 300,000 (1.6% of total employees). Finally, worker-members of cooperatives are estimated at about 1.1 million (almost 6% of total employees) ²³.

1.3 Legal mechanisms to resolve employment status

In Italian law there is a legal mechanism for the certification of employment contracts, expressly aimed at reducing litigation concerning the classification of employment relationships. To this end, specific certification bodies are established within labour inspectorates, the Ministry of Labour, Universities, and the professional councils of labour consultants. These bodies are entrusted both with the task of classifying contracts and with providing assistance and advice to the parties regarding the choice of the appropriate contractual type and its content.

The certification procedure is initiated on a voluntary basis, upon a joint request by the parties. The procedure, which allows for the voluntary participation of public social-security institutions and the tax authority, must be completed within 30 days through a reasoned decision. Certification may be challenged – primarily before the labour courts – where it is deemed incorrect or where there is a discrepancy between the certified contractual clauses and the subsequent performance of the contract (for example, where the contract states that the worker is free from direction, but in practice the worker receives instructions from the client).

The fact that certification may be challenged in court has cast doubt on its actual effectiveness in preventing litigation: whether certification is absent or present, challenging the misclassification of an employment contract ultimately requires recourse to a judge.

²¹ The last data available refers to the last quarter of 2025: <https://www.istat.it/comunicato-stampa/il-mercato-del-lavoro-iv-trimestre-2025/>.

²² https://ec.europa.eu/eurostat/cache/metadata/EN/sts_inlb_m_esms_it.htm.

²³ <https://www.alleanzacooperative.it/l-associazione>.

In practice, however, it is the interim effect of certification that makes it advantageous for employers. That is, until a court or administrative authority rules otherwise, the certification remains effective. This prevents labour inspectors from disputing the classification of the relationship and from immediately demanding the payment of sanctions, social-security contributions, or wage differentials; inspectors must instead await the outcome of judicial proceedings. In practice, this has a deterrent effect on inspections.

The voluntary nature of the procedure is, moreover, somewhat illusory. Certification commissions, in practice, can only consider what is formally set out in the contract and the parties' statements regarding the envisaged mode of performance. That is because, certification normally takes place at the beginning of the employment relationship, before its performance has actually commenced. And, in any event, the commission does not have investigatory powers comparable to those of a judge to ascertain the reality of the working relationship. For these reasons, certification clearly operates in the employer's interest, as employers have every incentive to seek certification of non-subordinate employment contracts in order to prevent challenges, particularly from labour inspectors. Workers are often compelled to agree to the procedure if they wish to be hired. At the end of the day, rather than facilitating the recognition of the correct employee status, it in fact serves to slow down and hinder it.

2 Access to effective collective bargaining

2.1 The concept of a collective agreement

2.1.1 National legal framework

The Italian system of collective bargaining is highly informal and fragmented, with no statutory comprehensive regulation. Instead, the system of industrial relations relies primarily on the autonomous regulation of the social partners, mostly by cross-industry level, and by practices adopted by the social partners, including at the level of each company.

Collective labour agreements are mentioned in Article 39 of the Italian Constitution. This article firstly provides for and protects freedom of trade union collective and individual activity and organization and, therefore, trade union pluralism.

In its second part, however, this article of the Constitution establishes that trade unions should be enrolled in a public register according to rules set by a law, which should also identify the criteria ensuring the necessary internal democracy of trade unions. According to that constitutional provision, registered Trade Unions should, represented jointly in proportion to the percentual number of their membership, sign collective labour agreements that would be binding for all employment relationships within the relevant industry.

The Constitution therefore provides for a mechanism to extend the binding effect of industry-level collective agreements. However, this second part of Article 39 of the Constitution has never been put into effect, as in the eighty years since the adoption of the Italian Constitution no political agreement has been reached in Parliament to enact the necessary implementing legislation providing a comprehensive regulation of industrial relations. Consequently, collective labour agreements are not regulated by any statutory provision, nor by secondary sources such as government measures or acts of administrative authorities. This is the reason for the aforementioned informality and fragmentation of the Italian system of industrial relations.

Collective agreements are therefore regarded as ordinary contracts governed by the rules of the Civil Code relating to any kind of commercial and civil contracts. Italian collective agreements do not have any specific legal effects beyond that of ordinary contracts, as regards binding and normative effect for members: trade union members are bound ad parts of the private agreement between the worker and the association of workers.

In this context, there are no statutory constraints identifying the subjects entitled to conclude collective agreements. Consequently, anyone may do so, insofar as they have the practical ability to establish themselves as a de facto representative, and therefore credible counterpart for employers. Nevertheless, there are some (at least three) major traditional trade union confederations (CGIL, CISL and UIL) that usually conclude collective

agreements across all industries²⁴, although in recent decades other sectoral or cross-sectoral unions have gained increasing support among workers.

In the Italian system, there are four levels of collective bargaining. First, the cross-industry level, which cuts across all or many productive sectors and deals with organizational aspects of industrial relations or, more generally, issues common to the entire world of employment relations. Second, industry level, which is the most important for defining the economic and contractual conditions of employment. Third, territorial level, usually regional or provincial, which supplements the national level and deals with local aspects or additional economic conditions for small firms that do not engage in company-level bargaining. This level is common only in certain industries (for example, crafts and some kind of small construction businesses). Fourth, as an alternative to the territorial level, there is the company level, which addresses aspects of work organization such as shifts and working hours, as well as wage-related matters. The latter are usually incremental (such as bonuses and incentives), unless the company-level collective agreement instead manages phases of corporate crisis. The diffusion of company-level bargaining is rather limited: according to (unofficial) estimates, it covers approximately 4% of workers in the private sector.²⁵

2.1.2 Access to representation in collective bargaining.

As noted, Article 39 of the Constitution remains unimplemented, except for the part that guarantees trade union freedom. Consequently, Italy lacks a statute regulating the organization of industrial relations, and there is no specific legal status for trade unions, either those for workers or those for employers. From a legal standpoint, therefore, trade unions in Italy take the generic form of “associations”, that is, entities formed by a group of persons pursuing a common non-profit purpose (of any kind, excepted purposes forbidden by law also to individuals). Associations are governed by three provisions of the Italian Civil Code (Articles 36–38), which leave wide scope to private autonomy, namely to the agreements among the founding members of the association, who establish a constitutive act and internal bylaws governing its operations.

Joining a trade union is therefore a matter of individual private autonomy, with no public-law significance, apart from the consequences arising from the fact that the association, when operates in a field of constitutional relevance, is protected consequently. Joining a trade union is also protected by the right to privacy vis-à-vis third parties, including the employer, who is prohibited not only from discriminating but also from investigating or profiling workers on the basis of their trade union membership or activity (Article 8 of Law No. 300/1970). Individual membership in the collective organization is regulated by the organization itself, which usually requires the payment of an annual individual fee and may establish obligations (for example, an obligation of exclusive membership) as well as initial and periodic checks on members (with the aim of refusing admission or, in rare

²⁴ Collective agreements signed by these three main traditional unions cover every sector of the world of labour employment, as recognised also in recent official report by the CNEL, *XXVII rapporto sul mercato del lavoro e la contrattazione collettiva*, approved on the 22nd of April 2026, <https://www.cnel.it/Comunicazione-e-Stampa/Notizie/ArtMID/1174/ArticleID/6577/APPROVATO-XXVII-RAPPORTO-SUL-MERCATO-DEL-LAVORO-E-LA-CONTRATTAZIONE-COLLETTIVA>

²⁵ Adapt, *Collective Bargaining in Italy (2024)*. XI Report, ADAPT University Press, 2025, https://farecontrattazione.adapt.it/wp-content/uploads/2025/06/2025_rapporto_contrattazione_XI_en.pdf

cases, expelling persons whose conduct is incompatible with the values set out in the union's statutes).

Trade unions are financed through periodic membership fees paid by their members, as well as through the provision of paid ancillary services offering tax and social security assistance to workers (paid partly by the workers themselves and partly by public funds, with the aim of easing the workload of public tax and social security offices). These fees are usually paid by employees through deductions from wages, arranged with the help of the employer: according to the case law of the Court of Cassation, this constitutes not a voluntary but a mandatory form of cooperation by the employer²⁶. The employer therefore often becomes aware of the trade union affiliation of its employees when the union requests such support in collecting union fees.

Working conditions of employees, including NSW1, are always regulated by the industry-level collective agreement and, in addition, are subject to bargaining or at least to information and consultation at the company level. As employees, NSW1 have access to collective representation and collective bargaining on the same basis as standard Italian employees.

The collective representation of non-standard employees generally does not lead to the creation of separate collective agreements for them. Instead, industry-level collective agreements include specific clauses for each contractual type of NSW1. Most of these specific collective clauses for NSW1 implement delegations established by legislation, for example: limits and conditions for supplementary work for part-time workers; justifying reasons for the stipulation or renewal of fixed-term contracts exceeding one year; piece-rate pay for certain forms of home-based work; sectoral conditions and quantitative limits on agency work supplied through private employment agencies; etc.

The only case of a separate collective agreement specifically for NSW1 is the collective agreement for temporary agency workers. The existence of an employers' association of work agencies has made it possible to establish a bargaining arena for defining the various rules that legislation delegates to collective bargaining for agency workers. This collective agreement is additional to ones of the various industries (applied also to agency workers while working in that industry), and it also rules the contractual welfare system specifically designed for these workers.

Trade union freedom is also fully guaranteed to NSW2, including the freedom to join any trade union of their choice. The same applies to NSW3, but it is debated whether trade union freedom for them is legally grounded in Article 39 of the Constitution or instead in Article 41 of the Constitution, which protects the freedom of economic enterprise: from a tax law point of view, they are similar to small enterprises, but from a labour law point of view, they are similar to workers, provided that the dimension of their business is not big. In any case, the more general freedom of assembly and association set in Articles 17 and 18 of the Constitution belongs to all citizens, including those who are not workers.

In Italy, no general system of collective bargaining exists for genuinely self-employed workers (NSW3). Although not regulated by law, collective bargaining for them is not

²⁶ Supreme Court, United Sections, No. 28269/2005; Supreme Court No. 27722/2025.

prohibited, but in practice it is almost absent²⁷. The Italian Competition Authority (AGCM) has never challenged these collective rules on alleged antitrust grounds, since it does not deal with collective agreements for workers, but only for enterprises²⁸.

As regards dependent contractors (NSW2), given the almost complete lack of legislation on collective bargaining, Italy also does not have any national legislation that exempts (or subjects) such bargaining to the limitations of competition law. This issue does not appear ever to have been raised by any Italian authority: there are no recent decisions of the Italian Competition Authority nor judgments of the courts that have challenged, on alleged antitrust grounds, collective agreements on remuneration for co.co.co. workers (NSW2a) or other clauses in their favour. This is consistent with the EU Commission Communication 2022/C 374/02²⁹.

Collective agreements for NSW2 do exist, although they are not widespread. The main example of collective bargaining for these workers is the Collective Economic Agreements (*Accordi economici collettivi – AEC*) for independent sales representatives. These collective agreements apply to all engaged in this activity: whether as self-employed persons or as limited liability companies (usually small ones). They are jointly signed by specific associations of independent sales representatives and by trade union federations representing workers, including employees, in the service sectors, affiliated with the traditional trade union confederations, on the one hand; on the other hand, they are signed by associations of trade enterprises. These Collective Economic Agreements for independent sales representatives include normative provisions and rules for calculating some pay component (es. severance pay proportional to the volume of business), but they do not include minimum economic standards. The most recent renewal dates back to 4 June 2025³⁰.

As regards to hetero-organised workers (NSW2b), the applicable collective bargaining is that of employees. However, in practice the principal will rarely acknowledge the hetero-organised nature of the work, and therefore the extension of collective bargaining protections will plausibly have to occur through judicial litigation.

Moreover, for a minority of sectors and activities there are collective agreements for co.co.co. workers (NSW2a). For example, there is the 2023 National Collective Agreement regulating co.co.co. in the sector of Solidarity and Cooperation Organisations

²⁷ Rare provisions protecting self-employed workers are included in collective bargaining agreements for employees in certain artistic sectors (such as the film and audiovisual sector), which are designed mainly to protect the contractual area of employees; moreover, there are rare cases of collective agreements for self-employed, e.g. voice actors.

²⁸ E.g., as regards an agreement concluded between fuel distributors' organizations and oil companies' organizations, concerning the profit margin on fuel sales to customers, the Authority ruled out the possibility of interpreting that collective bargaining agreement in the scope of the Albany case law: see the decision by Autorità Garante della Concorrenza e del Mercato, Bollettino settimanale, X, no. 22, 19 giugno 2000, p. 5.

²⁹ EU Commission Communication 2022/C 374/02, Guidelines on the application of Union competition law to collective agreements regarding the working conditions of solo self-employed persons. For an overview of the law of the European Union on this subject within the Italian legal context, see Villa E., *Lavoro autonomo e contrattazione collettiva. Un dialogo tra prospettiva sindacale e disciplina antitrust*, Giappichelli, 2026, p. 29; Battista L., *Il Lavoro autonomo nel diritto dell'Unione europea*, Cacucci, 2024, p. 163.

³⁰ For further information please see the following link: www.confcommerciomilano.it/export/sites/unione/doc/contratti_lavoro/contrattazione_collettiva/agenti_rappresentanti/Rinnovo_AEC_4_giugno_2025_firmato-compresso.pdf. For an analysis of the evolution of the discipline of Italian Collective Economic Agreements (*Accordi economici collettivi – AEC*) for NSW2, see the recent volume of Villa E., *Lavoro autonomo e contrattazione collettiva. Un dialogo tra prospettiva sindacale e disciplina antitrust*, Giappichelli, 2026, 99-115.

(OSC/NGOs)³¹. These collective agreements are granted binding effect for both parties of the individual work relationship covered by the collective agreement. As for employees, this binding effect cannot be derogated from through individual bargaining.

As already noted, Law No. 128/2019 (the “riders law”) provides mandatory minimum protections for “work performed through digital platforms,” primarily covering riders who are classified as genuine self-employed (NSW3) or more likely co.co.co. workers (NSW2a). Among other things, the law provides for a minimum hourly wage (and an additional allowance of no less than 10 per cent for work performed at night, during public holidays, or in adverse weather conditions) to be established by a specific collective agreement concluded by the comparatively most representative organizations at the national level³². To encourage the conclusion of such collective agreements, the law provides that, in the absence of an applicable collective agreement, riders may not be paid on the basis of deliveries performed, and those workers must instead be guaranteed a minimum hourly compensation indexed to the minimum wage levels established by national collective agreements in related or equivalent sectors, signed by the comparatively most representative trade union and employers’ organizations at the national level.

Riders are also specifically addressed in Article 11-*sexies* (“Distribution of goods by bicycles, mopeds and motorcycles”) of the Industry-level Collective Agreement for Logistics, Freight Transport and Shipping (*CCNL Logistica, Trasporto Merci e Spedizione*), signed on 6 December 2024, which provides them not only with wage protections, but also insurance, social security, and working-time protections.

2.1.3 Access to internal voice

Traditionally, Italian trade unions are organized by the employer’s industry rather than by the worker’s occupation (with the exception of unions representing executives, which are instead organized according to the profession of their member workers). In other words, all employees of a given employer belong to the same collective bargaining industry. This facilitates the employer in the administrative management of its human resources. It also facilitates trade unions during phases of industrial action, which can therefore involve all the employees of the company simultaneously in support of the same demands for the renewal of a single collective agreement. Each sectoral collective agreement therefore regulates tasks and professional profiles that may differ considerably from one another.

However, since the late 1990s, the main trade union confederations have perceived the need to provide specific representation for non-standard workers. The three main Italian trade union confederations have created specific organisational structures to represent self-employed workers collectively, regardless of the economic sector in which they operate. These trade union federations for non-standard workers are therefore based on the characteristics of the employment relationship of their members and thus cut across

³¹ <https://felsa.cisl.it/wp-content/uploads/2024/02/Accordo-Collettivo-Cococo-04.12.2023-compresso.pdf>

³² On the legal framework for collective rights of delivery riders workers, see Menegatti E., Collective rights for platform workers. The role played by the Italian Workers’ Statute in a comparative perspective, in Pizzoferrato A., Turrin M. (eds.), *Current Issues of EU Collective Labour Law. What role for the social partners in the light of the challenges posed by the Recovery Plan and the digitalisation of work?*, Giappichelli, 2024, 37.

the traditional trade union federations organized according to the industry-based criterion.

CGIL, the largest trade union confederation in Italy, established in 1998 a new organisation called New Identities of Work (NIDIL) to represent temporary agency workers and other atypical workers (NSW1), including dependent contractors (NSW2). NIDIL's organisational strategy focuses on limiting the improper use of NSW2a contracts as a cheaper alternative to standard employment contracts, and on addressing the growing precariousness and flexibility of the labour market. More recently, NIDIL has also begun organising food delivery riders.

CISL, the second largest union confederation in Italy, created in 1989 the Coordination of Autonomous Workers in Retail and Services (CLACS), aimed at coordinating the different traditional categories in which self-employed workers were present. In 1998, CISL also launched the Association of Atypical and Temporary Workers (ALAI) in order to extend collective representation to emerging forms of work. Like NIDIL, this organisation mainly targeted dependent contractors (NSW2a) and atypical workers (NSW1). In 2009, ALAI and CLACS were merged to create the Federation of Temporary Autonomous and Atypical Workers (FeLSA), which also represents self-employed workers in several low-skilled sectors. More recently, CISL established vIVAce!, a community dedicated to self-employed workers (NSW3) in both traditional and emerging professions. By promoting a collective voice for these workers, the initiative also performs a lobbying role for the union, advocating a fairer social security system³³, lower taxation, and stronger labour protections for its members.

In 1998 UIL, the third largest confederation, created the Coordination for Occupation, later renamed UILTemp, to represent collectively the various new forms of contractual arrangements (NSW1), including self-employment (NSW2 and NSW3).

These trade union organizations representing non-standard workers, affiliated with the three confederations traditionally regarded as the most representative, operate alongside the respective sectoral federations in negotiations for the renewal of sectoral collective agreements. They deal in particular with the sections of collective agreements devoted to non-standard workers, especially NSW1. In some cases, these trade union federations representing non-standard workers also conduct autonomous negotiations, for example with regard to co.co.co. workers (NSW2a) in some industries, or at company level mainly in case of business crisis.

As for self-employed workers (NSW3), the role of these trade unions for NSW varies from sector to sector (e.g., freelancers providing various types of services, such as IT services; traveling artistic performers; street vendors, etc.). The Italian legal system does not forbid collective bargaining for these workers; however, their trade unions do not focus on collective bargaining; rather, they offer services to facilitate tax administration

³³ In recent years, the Italian social security system has increased protections for non-subordinate workers as regards unemployment benefits, mainly for co.co.co. (NSW2a): see Canavesi G., *Le tutele per i lavoratori autonomi*, in Balletti E. (ed.), *I nuovi ammortizzatori sociali dopo la pandemia*, Giappichelli, 2022, 63.

(e.g., annual income tax filings) and social security matters (e.g., administrative procedures related to workplace accidents involving these self-employed workers). In some cases, these organizations address issues arising in dealings with public administrations or with local (and sometimes even national) political representative bodies.

The bargaining priorities in negotiations are determined without predefined rules. Legislation neither imposes constraints nor provides particular support for associations specifically representing non-standard workers. Within each general confederation, the actual influence of these federations representing non-standard workers depends on contingent internal power dynamics within the union. These dynamics are influenced mainly by the number of workers enrolled in each union federation. Since the number of non-standard workers who are union members is relatively small compared with standard employees, only sometimes claims concerning non-standard workers prevail over the interests of standard employees.

It should also be borne in mind that sectoral trade union federations present themselves as representative of both standard and non-standard employees within each economic sector³⁴. In other words, they aim to balance the interests of standard employees, seeking improvements in working conditions, with the need to promote the stabilisation of non-standard employment relationships. However, in recent years, rules regarding minimum representation of non-standard employees within trade union bodies have been introduced into the bylaws of some sectoral trade unions³⁵.

A clarification is needed regarding non-EU foreign workers: the non-standard nature of their employment stems not from the type of employment contract but from the worker's geographical origin, which more frequently exposes them to lower standards of work. The informality of the Italian system of labour relations allows for a high degree of adaptability within the system itself. Consequently, in certain sectors such as transportation and logistics, the high number of employed immigrant workers has also led to the emergence of autonomous unions in which foreign workers act as spokesmen and have assumed dominant organizational and representative roles. These grassroots labour movements, composed primarily of workers of Asian and African origin, have gained visibility during the last decade, distinguishing themselves through conspicuous forms of collective action, including the blocking of employers' goods and, sometimes, road blockades³⁶.

³⁴ E.g.: Article 1 par. 2 of the bylaws of the sectoral union for employees in the educational and research sector of the CGIL confederation states that this union "organizes and protects workers employed on permanent or fixed-term contracts, or on other forms of subordinate employment, or any other form of employment in the knowledge sectors in Italy, as well as Italian personnel working abroad in schools and universities, in research facilities, and on courses held at schools in the host country": <https://www.flcgil.it/sindacato/statuto.flc>.

³⁵ E.g.: an amendment in the Article 9 par. 2bis of bylaws of the sectoral union for public employees of the CGIL confederation states that "Members' committees represent all workers registered in the production facility, regardless of the type of employment relationship. To this end, their constitution must ensure that at least 10% of members, and in any case no less than one, of precarious and/or atypical workers are represented". See <https://www.fpcgil.it/funzpubb/funzione-pubblica/statuto-fp-cgil/>.

³⁶ Considering such actions to be inherent to the legitimate trade union right to picket, some judges (e.g. Court of Appeal of Milan, July 29, 2024) have been taking a tolerant approach toward cases involving merely a slowdown of vehicular traffic that did not result in a prolonged blockade. By contrast, Law Decree No. 48/2025, Article 14 has strengthened penalties against road blockades, even when carried out solely by protesters without barricades. In fact, at least in cases of prolonged roadblocks, the recent case law of the European Court of Human Rights permits the prohibition of this form of protest: ECHR, January 16, 2025, *Bodson* case.

2.2 The process of bargaining to conclude a collective agreement

2.2.1 The general legal framework for the bargaining process

As noted, there is no implementing law for the provisions on collective agreements contained in Article 39 of the Italian Constitution. Consequently, the procedure for collective bargaining in industrial relations for private employers is governed by the contractual autonomy of the social partners. At present, for the private sector the main reference framework is the cross-industry agreement of 2014 '*Testo Unico sulla Rappresentanza*' ('Unified Text on Representation') signed by Confindustria (the major employers' association) and CGIL, CISL, UIL. This agreement applies only to the bargaining process for employees, including NSW1 (and, consequently, it applies also to NSW2b if recognized by a Court). It must be noted that it does not cover the entire Italian economy. Some segments of the private sector remain outside its scope, particularly those relating to small enterprises. Moreover, the entire public sector is regulated separately, where collective bargaining takes place on the basis of specific rules provided for by Legislative Decree No. 165/2001. This legislation sets out numerical criteria for selecting the collective parties to represent employees authorised to negotiate with officials representing public employers. It also establishes the collective bargaining procedure and the checks to be carried out by public bodies responsible for financial oversight to ensure the proper management of public funds allocated by Parliament and administered under the supervision of the Government for the purposes of trade union negotiations. These collective agreements cover all public employees, as it is established by law, meaning that no public body may deviate from them. In accordance with the obligation of impartiality and equal treatment that public administrations must guarantee to all their employees³⁷, 100% of employees are covered by the same collective agreements. There is one main collective agreement for each public sector: e.g. public education, public health services, governmental bodies, etc.

Legislative Decree No. 165/2001 applies to most public sector employment at national, regional and local levels, as well as within many other public bodies. However, certain specific sectors remain excluded, such as the police, the armed forces, the judiciary, the diplomatic corps and some other employees exercising public authority. Arising not by contracts but by administrative appointments, their employment relationships are governed not by labour law but by administrative law, without proper collective agreements (anyway, for certain sectors, there are legal provisions for consultation and bargaining with workers' representatives).

Both in private and public sectors, Italian collective agreements currently have a duration of three years. The negotiation usually begins several months before the expiry of the existing collective agreement. The first step is the presentation by the trade unions of a list of priorities, known as the "bargaining platform". This document is the result of prior internal discussions within each trade union. If different unions reach a prior agreement among themselves, a single joint platform is presented to the employers' side. Otherwise, separate platforms are submitted by the different unions. Negotiations between the social partners concern both normative aspects and wages, starting from the need to recover consumer price inflation that occurred during the previous three-year period. Collective

³⁷ Article 45, paragraph 2, Legislative Decree No. 165/2001.

agreements must be in writing (only in rare cases, for company-level agreements, are there established collective practices that may acquire the legal status of binding customs). No specific standard form is prescribed, although the CNEL (National Council for Economics and Labour) has drawn up proposals in 2026 for the standardisation of the format of collective agreements, or at least of the forms required for administrative filing and also for the preparation of employees' payslips. These draft rules are also intended to enable the comparability of different collective agreements, particularly for the purpose of applying certain safeguards against excessive reductions in working conditions in procurement and works, especially where these are funded by public money³⁸.

2.2.2 Access of NSW to participation in the bargaining process

In this context, apart from rare cases where a minimum representation of non-standard employees within trade union bodies is granted the bylaws of some sectoral trade unions, there are no general rules ensuring or promoting the presence of non-standard workers within the trade union bargaining delegations. This aspect, too, is left to the informality of occasional choices and to the internal balance of power among the different components within the unions.

According to Italian case law, employers' associations and, at company level, individual employers have a duty to bargain in good faith with trade unions³⁹. The employer's duty to bargain is considered fulfilled by holding repeated meetings with the unions that have requested negotiations in writing or that have signed the initial bargaining platform listing the workers' demands, provided that the unions have a minimum degree of representativeness in the industry or within the company. In the private sector, the minimum threshold is set, by the aforementioned Unified Text on Representation of 2014, at 5% representativeness: this percentage is calculated as the average of the membership data (the percentage of workers enrolled in a given union out of all workers enrolled in any union) and the electoral data (the percentage of votes obtained in elections of workplace employee representatives).

There is no general legal or collective contractual obligation on the employer to meet specifically with trade union representatives of non-standard workers for the purposes of renewing the collective agreement.

Specific consideration of non-standard workers in the context of information and consultation with trade unions at company level is provided for in some statutes, particularly in Legislative Decree No. 81/2015, with regard to certain types of temporary subordinate work (NSW1), such as on-call work, agency work through temporary work agencies, and others. However, even in these cases the trade union representatives whom the employer

³⁸ See Article 11 and Article 226 bis of Legislative Decree No. 36/2023, as modified in 2024.

³⁹ For example, the Supreme Court No. 29738/2025 considered it anti-union conduct for an employer to declare his proposal for a collective agreement as "non-negotiable" at the start of negotiations. The Supreme Court No. 28790/2025 considered it anti-union conduct for an employer to require that discussions with the Special Negotiating Body for European Works Councils under Legislative Decree No. 113/2012 be conducted only in English without providing interpretation services, while confirming that the meeting may take place via videoconference without the physical presence of the employer's representatives. With regard to a well-known airline company, Labour Court in Busto Arsizio, 4 June 2019, No. 197, ruled that an employer's conduct was unlawful when the employer failed to respond to requests for information and cooperation submitted by the unions and began to engage only with some of them, without responding to all the requesting unions to determine whether the conditions for opening negotiations were met.

is required to consult are not specifically the exclusive representatives of these precarious workers. As noted, sectoral trade unions generally present themselves as representing all workers in the sector, including non-standard employees.

The same applies to employees who can work remotely. For this purpose, Law No. 81/2017 requires an individual agreement, which must specify the percentage of work-days that can be performed remotely. For office-based work, the option to work from home is one of the main topics for individual negotiation during the hiring process. However, the union plays an important role at the company level in cases where the employer intends to restrictively revise company policies regarding remote work (as recently happening in some major Italian banking and insurance companies).

With regard to collective bargaining for non-standard workers (NSW2a), the most noteworthy Italian legislation is that contained in the 'Riders' Law No. 128/2019. Even though these workers are genuinely self-employed, the law envisages a specific form of collective bargaining for them, particularly regarding remuneration, which may also be calculated on a piece-rate basis, subject to certain limits.

Moreover, the specific case of journalism should be mentioned. This profession can be done by employed journalists (NSW1), co.co.co. journalists (NSW2) and freelance journalists (NSW3). Journalists are overseen by an administrative authority (the Order of Journalists): this authority checks the correctness of the working behaviour of journalists with respect to public opinion but does not deal with collective bargaining for journalistic work. For all employed journalists and co.co.co. journalists, collective bargaining is conducted by private associations of employers and workers. For journalists working as employees, the collective bargaining agreement provides for good contractual standards. However, the labour relations system is dysfunctional, as the renewal of the national collective bargaining agreement has been pending for ten years. In any case, new employee positions in this sector are now rare. Furthermore, due to the spread of new technologies, there is a decline in both the quality and quantity of self-employment opportunities as well.

2.2.3 Access of NSW to collective action

Article 40 of the Italian Constitution recognizes the right to strike as a fundamental right, although it must be balanced with the other rights provided for in the Constitution itself. Also in the field of strikes, Italy lacks a comprehensive and defining statute. Nevertheless, well-established principles can be found in case law. In addition, general guidance may be drawn from Law No. 146/1990, which regulates strikes in services of public relevance⁴⁰.

The prevailing view is that it is a right exercised collectively but held by the individual worker⁴¹ of any private or public sector (apart from policemen and armed forces, who are

⁴⁰ Important differences regarding strikes remain between services of public relevance and other sectors, as the restrictions set forth in Law No. 146/1990 do not apply elsewhere: for example, the Italian Supreme Court recently confirmed that, outside of services of public relevance, strikes may take place without any form of prior notice by unions or leading representatives: Supreme Court No. 11347/2025.

⁴¹ Consequently, no collective agreement has the authority to impose restrictions on the right to strike that bind individual workers, but only restrictions that bind the signatory unions. Nor is it possible for the employer to

prohibited by law from striking). Although trade unions in practice play a major role in promoting collective conflict, legally they do not have an exclusive role in declaring and carrying out strikes. Indeed, a strike may also be initiated by an ad hoc group of workers, possibly even in disagreement with the conduct of the trade unions.

Every individual worker is free to choose whether or not to take part in a called strike: this applies both to workers who are members of a trade union (either the one calling the strike or a different one) and to workers who are not members of any trade union. If a worker takes part in the strike, they will not be paid for the hours not worked during the strike. The individual decision to take part does not require prior notice to the employer, except for certain roles involving sensitive duties, particularly within essential public services.

From the broad recognition of the right to strike as a personal right, it follows that legal protection covers not only standard and non-standard employees (NSW1), but also dependent contractors and self-employed workers of all kinds (NSW2 and NSW3). This was recognized by the Constitutional Court⁴², according to which the right to strike is extended so as to include any kind of personal work relationship. Since there is no general law regulating strikes in Italy, there are no limitations on the subjective scope of the right to strike. However, in essential public services, self-employed workers must be individually careful about how they decide to strike, ensuring they comply with the (legal and collective) rules that require minimum essential services to be guaranteed even in the event of a strike. Instead, for employees the individual strike modalities are usually decided more precisely by the organizations that called the strike.

The legal prohibition against discrimination on trade union grounds prevents employers from punishing or penalising in any way employees who decide to take part in a strike: once the strike has ended, the employee is entitled to have their employment relationship continue.

However, compared to standard permanent employees, it is more difficult for non-standard employees on fixed-term contracts (NSW1) to secure this protection through Courts, as they may fear being expelled if their employment contract is not extended or renewed. In legal proceedings against discrimination, the burden of proof is only partially shifted in favour of the employee. This practical lack of protection affects autonomous non-standard workers (NSW2a) even more, since their work contracts are almost always fixed-term and subject to periodic renewal.

unilaterally establish company rules that prevent individual workers from deciding until the last moment whether to join the strike: Supreme Court No. 29740/2025.

⁴² Constitutional Court No. 222/1975 affirmed that the concept of strike also includes “the suspension of work by small business operators who personally manage an industrial or commercial enterprise in the exercise of a profession, an art, or a trade, since reality shows that in such cases one is not dealing with employers, but rather with a kind of workers that may be defined as self-employed”. As regards the right to strike for self-employed doctors affiliated with the public health service, see Supreme Court No. 3278/1978. For an in-depth analysis see the recent volume of Dessì O., *Conflitto collettivo e lavoro autonomo*, Giappichelli, 2025.

2.3 The legal effects of a collective agreement

Any analysis of the legal effects of collective labour agreements in Italy can be distinguished between their scope of application, on the one hand, and, on the other hand, the prohibition of adverse (less favourable) derogation by an individual agreement.

2.3.1 The percentage coverage of collective agreements in Italy

As mentioned, the Italian collective bargaining system is informal, due to the failure to implement Article 39 of the Constitution.

However, this does not mean that the Italian labour market suffers from a lack of collective bargaining coverage. According to official data from Italian social security bodies, 99.7 per cent of employees are covered by collective agreements signed by at least one trade union affiliated to the main confederations represented on the CNEL (the official authority that collects these data). Although there is no legislation making collective agreements universally binding, the Italian system ensures almost universal coverage of private-sector employees⁴³.

Nevertheless, there is a risk of fragmentation in collective bargaining coverage⁴⁴, although this should not be overestimated⁴⁵.

2.3.2 The legal scope of a collective agreement

There is no general law regulating the personal scope of the binding nature of collective labour agreements. Consequently, the collective agreement is treated as a civil law contract, to which the general rules on contracts contained in the Civil Code apply, with the adjustments developed in case law. The basic rule is that a collective labour agreement is binding, at least, on all employers who are members of the employers' associations that signed it. An employer bound by a collective agreement must also apply it to employees

⁴³ The 28 largest national collective agreements, each covering over 100,000 workers, alone cover over 80 per cent of private sector employees; the 69 medium-sized agreements, covering between 10,000 and 100,000 workers, cover a further 17 per cent. The 97 agreements covering more than 10,000 workers together cover 97.2 per cent of the private workforce surveyed. See the recent official report by the CNEL, *XXVII rapporto sul mercato del lavoro e la contrattazione collettiva*, approved on the 22nd of April 2026; <https://www.cnel.it/Comunicazione-e-Stampa/Notizie/ArtMID/1174/ArticleID/6577/APPROVATO-XXVII-RAPPORTO-SUL-MERCATO-DEL-LAVORO-E-LA-CONTRATTAZIONE-COLLETTIVA>.

⁴⁴ 72.4% of collective agreements officially filed with the public register cover 0.4% of employees. There are 626 national sectoral collective agreements filed with the CNEL Register (accounting for 72.4% of the total) with marginal or no coverage, i.e. covering fewer than 500 workers. These agreements, which operate outside the scope of representation of the five main confederations – CGIL, CISL, UIL, UGL and Confsal – cover 0.4 per cent of private sector employees. This figure puts the issue of contractual fragmentation into perspective: it mainly concerns the formal dimension of the system, namely the proliferation of agreements with no real impact, whilst almost all workers are covered by a limited number of national sectoral collective agreements signed by the comparatively more representative organisations. See CNEL, *XXVII rapporto sul mercato del lavoro e la contrattazione collettiva*, approved on the 22nd of April 2026, <https://www.cnel.it/Comunicazione-e-Stampa/Notizie/ArtMID/1174/ArticleID/6577/APPROVATO-XXVII-RAPPORTO-SUL-MERCATO-DEL-LAVORO-E-LA-CONTRATTAZIONE-COLLETTIVA>.

⁴⁵ The report highlights that there are only 142 national sectoral collective agreements that cover at least 1 per cent of standard employees in at least one Ateco division (administrative classification of businesses), which, overall, to 97.5 per cent of the total number of non-managerial employees to whom a national collective labour agreement applies, according to data provided by monthly social security contribution declarations. There are 104 national sectoral collective agreements that cover more than 5 per cent of standard employees in at least one Ateco division, accounting, overall, for 95 per cent of all non-managerial employees covered by a national collective agreement, according to data from Uniemens reports. See CNEL, *XXVII rapporto sul mercato del lavoro e la contrattazione collettiva*, approved on the 22nd of April 2026, <https://www.cnel.it/Comunicazione-e-Stampa/Notizie/ArtMID/1174/ArticleID/6577/APPROVATO-XXVII-RAPPORTO-SUL-MERCATO-DEL-LAVORO-E-LA-CONTRATTAZIONE-COLLETTIVA>.

who are not members of any of the signatory trade unions. For employees, membership in a signatory trade union does not in itself entail the right to obtain the application of a collective agreement by an employer who is not affiliated with a signatory employers' association. The coverage of collective bargaining therefore finds a formal limit in the refusal of an employer who is not a member of any signatory employers' association to apply the collective agreement.

This problem is in practice overcome by expansive interpretations developed in case law, as well as by the numerous statutes that make employers' access to public tax and social security benefits conditional upon the application of collective agreements⁴⁶. Case law primarily relies on Article 36 of the Italian Constitution, which provides for the right of every worker to fair remuneration. This fundamental rule applies to all employees, including those with non-standard contractual arrangements (NSW1), as well as to workers treated as equivalent to employees, namely hetero-organised workers (NSW2b; as regards NSW2a, there is debate in the literature as to whether this rule applies to co.co.co. workers, but case law appears reluctant to admit so). The practical effect of this expansive interpretation in case law is that the minimum wages established by the most widely applied collective agreements in each industry are considered by the courts to be binding on employers. This rule was recently enshrined in law by a decision of the Italian Government dated 30 April 2026 (which must be confirmed or amended by the Parliament by the end of June)⁴⁷.

The *de facto* binding nature of the minimum wage levels established by industry-level collective agreements for all employees employed in a given industry has, over time, led to the widespread application of collective agreements among employers. As a result, coverage is now almost universal, estimated to be close to 100%⁴⁸. In practice, employers no longer even question whether or not to apply a collective agreement; if it is not regarded as a binding constraint, it is nonetheless considered a useful tool for personnel management because of the comprehensive regulation of the employment relationship it provides.

The problem is therefore not the rate of collective bargaining coverage, but a different and perhaps more insidious issue that has emerged relatively recently as a result of the growing fragmentation of the informal Italian system of industrial relations: the increasing spread of so-called "pirate" collective agreements, that is, agreements signed by poorly representative trade union and employers' associations with the aim of undercutting the

⁴⁶ E.g.: Article 1, par. 1175, Law. No. 296/2006 (as modified in 2024); Article 36, Law. No. 300/1970 (as modified by Constitutional Court No. 226/1998).

⁴⁷ Article 7 of Law Decree No. 62/2026: "For the purposes of determining the fair wage, reference shall be made to the total remuneration defined by the national collective agreements concluded by the employers' and workers' organisations that are comparatively most representative at national level, taking into account the relevant sector and category of production, as well as the main or predominant activity carried out, and the size and legal form of the employer". This very recent law consolidates the prevailing approach of the courts, by clarifying the reference to the most representative trade unions 'at national level'. Moreover, it appears to reinforce it, broadening the scope of the requirement so that it no longer applies solely to minimum pay (basic pay, contingency allowances, the thirteenth month's salary), but extends it to 'total remuneration'.

⁴⁸ See <https://worker-participation.eu/national-industrial-relations/countries/italy>. In Italy there are only rare cases of companies that reject all national collective bargaining agreements and all company-level bargaining: these are often small Italian subsidiaries of multinational companies based outside Europe, which nevertheless offer economic terms in their standard individual employment contracts that are no less favourable than those in collective bargaining agreements.

standards established by mainstream collective agreements. An individual employer who is not affiliated with a “mainstream” employers’ association may choose to apply less favourable conditions to employees, even where these derive from collective agreements that are scarcely applied or otherwise supported by only a minority of employees belonging to the signatory unions.

This problem is not easily remedied through judicial proceedings because, in principle, courts cannot disavow the content negotiated by trade unions which, however small, are protected by freedom of association, unless it emerges that they are employer-dominated (“yellow”) unions or unless those collective economic standards appear so lower than they clearly collide to the constitutional right to fair remuneration⁴⁹. Furthermore, the lack of comprehensive legal regulations governing collective bargaining also leads to disputes regarding the definition of the sectoral scope against which to measure the percentage of representativeness for each union⁵⁰. The above-mentioned recent legislative innovation also addresses this issue⁵¹.

With regard to self-employed non-standard workers (NSW3), the constitutional right to fair remuneration does not apply⁵², and neither does the extension of the minimum standards established by collective agreements.⁵³ A similar conclusion applies to co.co.co. workers (NSW2a).⁵⁴ Even where a specific collective agreement exists for them, as in the case of independent sales representatives, the collective economic agreement is binding only if the principal has accepted it by joining the relevant employers’ associations or if it is expressly incorporated into the individual contract.

Apart from the case of independent sales representatives, as noted, instances in which specific collective bargaining exists for co.co.co. workers are rare. Consequently, the economic and normative conditions of work are mainly regulated by individual agreements, without the possibility for courts to intervene (apart when the work relationship is reclassified as hetero-organized, NSW2b). This legal situation could be modified by

⁴⁹ Recently, however, the Italian Supreme Court has accepted the possibility of upwardly adjusting the minimum wage level established by a collective agreement concluded by organisations of doubtful representativeness where that wage level is close to the statistical poverty threshold or is otherwise excessively low compared with other official benchmarks (Supreme Court No. 27711/2023).

⁵⁰ Further complications arise in procurement: according to Supreme Court judgment No. 11270/2026, where the tender specifications require the contractor to apply the ‘sector-specific’ national collective agreement, this requirement is also binding on the successful tenderer who wants to apply a different collective agreement signed by trade unions that are comparatively more representative. It is not possible to allow the choice of a collective agreement other than the one required by the tender, with lower labour costs, as this would affect competition between tenderers, leading to a race to the bottom on workers’ rights.

⁵¹ Article 7 of Law Decree No. 62/2026 provides that the total remuneration provided for in national collective labour agreements other than the most representative ones “may not be lower than the total remuneration set out in the national collective labour agreement concluded by the employers’ and workers’ organisations that are comparatively the most representative at national level”. Furthermore, “for sectors not covered by collective bargaining, the total remuneration may not be less than that provided for in the national collective agreement concluded by the employers’ and workers’ organisations that are comparatively more representative at national level, the scope of which is most closely related to the activity actually carried out by the employer”.

⁵² Supreme Court No. 22701/2015 and No.1900/2017.

⁵³ As regards the residual relevance of minimum economic standards set by public authorities for intellectual autonomous professionals (NSW3), see De Mozzi B., *Le tariffe professionali: che cosa rimane?*, in *Lavoro, diritti, Europa*, 2021, 1, https://www.lavorodirittieuropa.it/images/de_Mozzi_1tariffe.pdf.

⁵⁴ Palladini S., *I principi costituzionali in materia di retribuzione e la loro applicazione giurisprudenziale*, in by Gragnoli E., Palladini S. (eds), *La retribuzione*, Utet, 2012, 27. For a case law and literature review, see Garbuio C., *L'estensione dell'art. 36 Cost. al lavoro autonomo: tra chiusure giurisprudenziali e aperture legislative*, in *Labour law issues*, 2022, 1, <https://doi.org/10.6092/issn.2421-2695/15098>, which also shows some specific cases of subjective extension of minimum standards established by collective agreements.

legislation extending protections to these workers, without encountering obstacles under competition law.

2.3.3 The prohibition of adverse (less favourable) derogation

With regard to the binding primacy of the collective agreement over other sources of juridical regulation of individual work relationships, the principle of favour for the worker applies: collective agreements may be derogated from by individual bargaining only if the alternative rules are more favourable to the worker. This rule is inferred from Article 2113 of the Civil Code, which applies to the rights of all employees (including NSW1) and to all NSW2⁵⁵: even with her explicit and informed consent, a worker cannot validly accept a regulation of the employment relationship that falls below the minimum standards established by the collective agreement binding that relationship. This rule applies to every collective agreement: as regards remuneration standards, it applies both to industry-level collective agreements and to ones at territorial or single business level.

Article 2113 of the Civil Code also establishes legal limits to prevent workers (including NSW1 and NSW2, but not NSW3) from being induced to waive their rights after having worked. Where such rights derive from statutory provisions or collective agreements, they may be waived only if the worker expresses consent in the presence of a third person performing a public supervisory function, usually through an individual settlement agreement concluded at the end of a dispute.⁵⁶

Moreover, a similar rule of derogability only favour for the worker applies in the juridical relationship between collective agreements and law: legal labour standards may be derogated from by collective agreements only if the alternative rules are more favourable to the worker. However, to maintain labour regulation flexible and to encourage social dialogue, there are numerous exceptions whereby collective bargaining is authorized by law to introduce regulatory provisions less favourable than the statutory standard. This often occurs where certain protections may be derogated from with the consent of trade unions for the sake of flexibility, frequently also in relation to non-standard employees (NSW1)⁵⁷.

There are no special rules for non-standard employees (NSW1) and assimilated hetero-organised workers (NSW2b), nor for co.co.co. workers (NSW2a), that modify these rules: the protection deriving from the non-derogability therefore applies to them as well.

A different situation applies to genuinely self-employed workers (NSW3). Since they are not covered by collective bargaining, the issue of non-derogability of mandatory protections may arise only with regard to protections established by law. In particular, a recent statute, Law No. 49/2023, has recognised the right to fair remuneration in certain

⁵⁵ According to Article 409 of the Code of Civil Procedure, the legal protection granted by Article 20113 of the Civil Code covers all self-employed workers subject to the labour Courts procedural rules.

⁵⁶ According to Article 2113 of the Civil Code, if the individual waiver is signed by the worker with the employer or principal without the presence of a third-party public supervisor, the waiver becomes definitively effective only after six months have elapsed from the end of the employment relationship or from the settlement, if later.

⁵⁷ See Legislative Decree No. 81/2015, Article 19, as regards the circumstances allowing enter into fixed-term employment contracts with a duration of more than 12 months. See also Legislative Decree No. 81/2015, Article 20, with regard to the possible increase, to be agreed upon with the unions, in the maximum number of agency workers on permanent contracts (the legal limit is 30% of permanent employees in each company) and the maximum number of fixed-term agency workers and fixed-term employees (the legal limit is 30% of permanent employees in each company).

situations where an intellectual professional is in a position of contractual weakness vis-à-vis the client⁵⁸.

2.4 Enforcement of collective agreements

2.4.1 The legal framework

In the Italian legal system, there is a specific procedural framework applicable to individual and collective labour and social security disputes, promoted by individuals and/or by unions. Defining the scope of the jurisdiction of the labour courts, Article 409(3) of the Code of Civil Procedure includes not only employees but also independent sales representatives and other co.co.co. (coordinated and continuous collaborations) relationships (and some other contractual relationships characterized by weakness of one of the contracting parties, such as some self-employment contracts in agriculture). So that NSW1 and NSW2 disputes are held in labour courts, while NSW3 disputes are held in ordinary civil courts.

Administrative costs for access to justice in labour courts are lower than in other types of disputes, and workers with very low household income are exempt from them.

The courts are composed exclusively of professional judges. At first instance, decisions are taken by a single judge, and the procedure includes several specific features designed to speed up proceedings by reducing the number of hearings. It also allows the judge greater freedom in assessing the evidence submitted by the parties compared with ordinary civil courts' procedural rules. At the appellate level, the review of the first-instance judgment is conducted by a panel of three judges (who deliberate by secret vote, without the possibility of publicly expressing dissenting opinions). The review is often based mainly on the documentary record of the case file, while also examining possible errors of fact and law. At the third level, the decision concerns only possible errors in legal reasoning or procedural rules and is adopted by a panel (usually composed of five judges) of the Supreme Court of Cassation.

Criminal jurisdiction is also provided, likewise with three levels of judgment, in cases where labour legislation establishes criminal sanctions (pecuniary and/or custodial). Criminal jurisdiction in labour matters is typically triggered *ex officio* following complaints by private individuals or investigations by the police, for example in cases involving violations of occupational safety or workplace injuries, as well as other serious violations, including labour exploitation.⁵⁹ In recent years, an interpretation has emerged in lower court case law that allows, in such cases, very intrusive investigations, which may meanwhile entail the temporary public administration of the private company itself. This occurred in 2026 in Milan in relation to the alleged exploitation of riders by a couple of platforms; the investigations are still ongoing.⁶⁰ Such legal actions could lead to stricter

⁵⁸ Law No. 49/2023 applies where the client is a business with a turnover exceeding €10 million or a public company or authority. This law provides for some regulatory safeguards in addition to the right to fair remuneration of autonomous work, such as the invalidity of a wide range of contractual clauses that place the professional at an excessive disadvantage.

⁵⁹ Article 603-bis of the Criminal Code, first introduced by Decree-Law No. 138 of 13 August 2011 (Article 12) and subsequently amended by Law No. 199 of 29 October 2016.

⁶⁰ See: https://www.ansa.it/english/news/business/2026/02/25/after-glovo-milan-prosecutors-move-against-deliveroo_bca6769a-182f-4390-a80e-9f0941fddb8d.html.

enforcement of labour compliance, particularly benefiting non-EU immigrant workers, who are often victims of exploitation⁶¹.

The time limits within which labour disputes must be brought before a court are ten years for contractual damages and five years for unpaid wages⁶². However, it should be noted that over the past fifteen years the legislature has introduced shorter limitation periods for certain specific types of claims. To challenge defects in co.co.co. contracts (NSW2), the worker must notify the principal in writing within 60 days and bring the case before the court within the following 180 days. To challenge defects in fixed-term contracts (NSW1), the employee must notify the employer within 180 days from the end of the employment relationship and initiate court proceedings within the following 180 days. These legal rules facilitate legal certainty for employers and principals with respect to their past employment relationships, but they require workers to act within stricter time limits.

Overall, the Italian judicial system appears solid and protective, to the extent that private arbitration is rarely used in labour matters, since workers prefer to assert their rights before public courts. However, the system suffers from excessive length of proceedings, although this problem affects labour disputes to a lesser extent than other civil and commercial disputes. However, this problem of excessively lengthy court proceedings affects the various local judicial districts to very different degrees, as the administrative organisation of some courts has improved significantly in recent times.

2.4.2 Access to enforcement of collectively bargained conditions of work

Violations of labour rules established in collective agreements may be challenged by any private person (physical, or corporation, or association, etc.) able to demonstrate a legitimate interest. Individual employees of any type may bring an action, including non-standard employees (NSW1). Autonomous non-standard workers who benefit from the application of collective agreements may also bring such actions (in particular independent sales representatives, as NSW2a). All NSW1 and NSW2 are subject to the specific labour courts procedural rules, with the advantages in terms of lower costs and greater speed already mentioned.

Judicial action may also be brought by a trade union through the specific remedy provided for anti-union conduct. Article 28 of the Workers' Statute (Law No. 300/1970) recognises the right of trade unions to bring legal action to protect rights and interests of

⁶¹ A non-EU worker who has worked in Italy is entitled to have social security contributions paid into the Italian social security system even if their residence permit has expired (Supreme Court Case No. 9407/2001) or if they do not hold a residence permit (Supreme Court No. 7380/2010). The Court of Justice of the European Union expressed a similar view on November 5, 2014, in C-311/2013, Tümer, regarding Directive 2008/94/EC on the protection of employees in the event of the insolvency of their employer. Furthermore, see now Article 6(1)(b) of Directive 2009/52/EC providing measures against employers of illegally staying third-country nationals. For an up-to-date overview of the Italian legal context, see Battista L., *Il Lavoro sommerso e il ruolo dell'Autorità Europea del Lavoro*, Cacucci, 2022, 86, www.cacuccieditore.it/il-lavoro-sommerso-e-il-ruolo-dell'autorita-europea-del-lavoro-battista-9791259651815.

⁶² The ten-year limitation period for contractual damages is not always longer than the five-year period for unpaid wages, since the latter does not run from the employer's omission but from the termination of the entire employment relationship. See Supreme Court No. 26246/2022, based on Constitutional Court case law originating from judgment No. 63/1966.

which the union itself is the holder, also in order to protect workers' rights that have been violated for reasons of trade union relevance, such as discrimination⁶³.

Unions are recognized as having full capacity to participate in legal disputes, also ordinary ones. However, this type of legal proceeding is quicker, and therefore preferable when the defendant is an employer. This applies whether the right claimed derives from statutory provisions or from collective agreements. The conduct of the employer may justify a union claim for anti-union conduct where the violation affects trade union activity or freedom or undermines the role of the union in regulating the employment relationship. In this respect, case law has considered anti-union conduct to arise where the employer: unilaterally disappplies the collective agreement applied in the company; violates clauses recognising trade union rights (such as leave, assemblies, notice boards, or information rights); circumvents or empties of substance collective clauses requiring consultation or agreement with trade unions; or bypasses trade union procedures provided for in the collective agreement (for example prior information and consultation).

This special collective judicial action is particularly swift, based on a summary investigation. The judicial decision is usually adopted within few months and may lead to measures ordering the employer to cease the unlawful conduct and remove its effects. This judicial action may be initiated by national trade unions representing employees, including non-standard ones (NSW1). According to some recent lower court decisions, this action may also be brought by trade unions representing workers belonging to the intermediate category (generally falling within NSW2a)⁶⁴.

2.5 Other types of agreements of a collective nature

In Italy no distinct legal framework exists for collective bargaining for non-employees. Consequently, any collective bargaining initiative for any kind of workers, including those who are not employees, has the same legal basis, which is freedom of trade union association and contractual autonomy between private parties. As regards NSW2, the main experience of collective bargaining is that of independent sales representatives (included in the NSW2a category), as said above.

As regards NSW3, there are no significant experiences of collective bargaining. However, regulatory frameworks setting tariffs and other legal protections for many self-employed professions are usually negotiated between the authorities and the representatives of the interested self-employed sectors: this bargaining can be informally held with political authorities or formally with competent administrative authorities.

⁶³ An individual worker involved may benefit from the protection obtained by the union before the court, or may choose instead to bring a separate legal action personally: Supreme Court No. 26286/2013.

⁶⁴ On personal shoppers operating through digital applications, see, for example, Milan Labour Court, 28 March 2021; however, Bologna Labour Court, 14 April 2021 reached the opposite conclusion. For an analysis of these issues, see Donini A., *Condotta antisindacale e collaborazioni autonome: tre decreti a confronto*, in *Lab. law issues*, 2021, vol. 7, no. 1; Martelloni F., *Riders: la repressione della condotta antisindacale allarga il suo raggio*, in *Lab. law issues*, 2021, no. 2, 170; Razzolini O., *Riders, condotta antisindacale e ruolo del sindacato*, in *Giustizia Civile.com*, 13/09/2021; <https://www.bollettinoadapt.it/corte-di-cassazione-ordinanza-13-gennaio-2026-n-698-il-ricorso-per-condotta-antisindacale-ex-art-28-st-lav-e-riservato-ai-soli-lavoratori-subordinati-pertanto-i-medici-del-ssn-conven/>.

2.6 Obstacles and facilitators for access for NSW to effective collective bargaining

2.6.1 NSW1 (Employees)

With regard to employees, in the case of non-standard contractual forms (NSW1), collective bargaining raises the same issues of subjective coverage and legislative gaps that also generate uncertainties in application for standard employees. In other words, no specific legal problems emerge for non-standard employees.

However, in practice, the needs and vulnerabilities of non-standard employees (NSW1) risk being underestimated within national, territorial, or company-level collective bargaining. Indeed, the specific trade union representatives of non-standard employees (based on the type of employment contract, e.g. NIDIL, FeLSA, UILTemp) often play a minor role compared to the predominant role of trade union representatives organized by economic sector (based on the employer's industry classification). The informal nature of Italy's legal framework for industrial relations makes it unlikely that legislative measures will be adopted to require the specific participation of representatives of non-standard workers in collective bargaining: in this area, the Italian legislature can intervene through incentives, not through mandatory requirements for labour representatives.

However, the broad legal recognition of freedom of association in Italy allows for the emergence of additional grassroots labour movements specifically dedicated to employees with non-standard contracts. The numerous provisions in the legislation governing non-standard employment that delegate regulatory authority to collective bargaining could be more fully utilized by such unions in the future. Moreover, the adoption by more dynamic unions of new methods in order to involve their members – including the use of technology⁶⁵ – could serve as a useful impetus for the major unions to rethink their internal organization as well.

The most significant example of the role of non-standard employees' representatives in collective bargaining is that of agency workers (also falling within NSW1). This specific collective bargaining framework is additional to the national collective labour agreement applicable to each productive sector. These employees enjoy a statutory right to equal economic and normative treatment compared to employees directly hired by the client companies of temporary work agencies. Nevertheless, agency workers continue to face the issue of greater precariousness in the duration of their individual employment contracts. This problem is not resolved by industry collective bargaining, which instead tends to prioritize increasing employment opportunities – for example, by expanding the legally permissible cases of temporary agency work. Indeed, industry level collective agreements allow for the renewal of such contracts up to total durations of three or four years with the same client company.

⁶⁵ This topic is also beginning to be studied in literature: see Lunardon F., Trade Unions and digital technologies in Italy, in *Current Issues of EU Collective Labour Law. What role for the social partners in the light of the challenges posed by the Recovery Plan and the digitalisation of work?*, edited by Pizzoferrato A., Turrin M., Giappichelli, 2024, 25; Lassandari A., Problemi di rappresentanza e tutela collettiva dei lavoratori che utilizzano le tecnologie digitali, in *Rivista giuridica del lavoro*, 2017, 2, 59.

2.6.2 NSW2 (Dependent contractors)

For the intermediate group of dependent contractors (NSW2), the situation differs between hetero-organised workers and co.co.co. workers.

Hetero-organised workers (NSW2b) are so similar to employees that they are entitled to the full range of protections equivalent to those granted to employees. However, in order to obtain such protection, they must initiate individual litigation in court. This constitutes a significant practical obstacle, due both to legal costs and to the uncertainty of legislative and jurisprudential criteria in this area. As a result, only a very small proportion of such hetero-organised workers take legal action to claim the rights to which they would be entitled. Moreover, bringing legal action against the client typically compromises the ongoing relationship, meaning that such action can generally occur only after the termination of the contractual relationship. Consequently, these workers experience day-to-day working conditions characterized by reduced employment and social security⁶⁶ rights, compared to those they should legally enjoy. This is a serious problem within the Italian labour market, given the high number of such work relationships.

By contrast, other co.co.co. workers (NSW2a) are, according to the law, intended to genuinely have a certain degree of independence. Accordingly, the law provides them with limited protections, inferior to those afforded to employees (included NSW1) and hetero-organised workers (NSW2b). Also, collective bargaining can, in principle, be concluded on behalf of these workers, but in practice it offers modest protection, and only in certain economic sectors, because these workers are difficult to organize and mobilize through trade union action. If this situation concerned only genuinely autonomous co.co.co. workers, the issue would be negligible. However, improving their protection appears to be urgent: in fact, many of these workers are, in reality, employees (NSW1) or hetero-organised workers (NSW2b), but are contractually misclassified as autonomous co.co.co. workers (NSW2a), and they lack the financial and practical means to assert their true legal status before a court.

2.6.3 NSW3 (Independent contractors)

For independent contractors (NSW3), recent legislation has introduced some protections, particularly in relation to clients with significant bargaining power. However, no general need for further legal protection appears to emerge. At present, these contractors are not covered by collective bargaining and generally do not regard traditional trade unions of employees as their representatives (although some union initiatives aimed at them, e.g. vIVAce!). Instead, these self-employed contractors tend to find representation in sector-specific professional associations, which operate in a manner consistent with the individualistic nature of these professions. Such associations do not seek to establish systems of collective bargaining; rather, they aim to act as interlocutors with legislative and

⁶⁶ Hetero-organised workers are entitled to the same protections as employees, also with regard to social security: see Milan Labor Court, October 19, 2023, no. 3237, in www.bollettinoadapt.it/ai-collaboratori-etero-organizzati-ex-art-2-comma-1-del-d-lgs-n-81-2015-va-applicata-anche-la-disciplina-previdenziale-del-lavoro-subordinato; Milan Labor Court October 20, 2023, no. 3239, with a comment by di Tursi A., *Riders e collaboratori etero-organizzati in cerca di tutela previdenziale. Qual è la soluzione più corretta?*, 15/03/2024, in www.ipsoa.it/documents/quotidiano/2024%2003/16/riders-collaboratori-etero-organizzati-cerca-tutela-previdenziale-qual-soluzione-corretta? In literature, see Casillo R., *Il rapporto previdenziale dei collaboratori etero-organizzati*, in *Diritti Lavori Mercati*, 2022, 1, 89; Cavallini G., *La tutela previdenziale delle collaborazioni organizzate dal committente*, in *Labour Law Issues*, 2020, 2, 3, in <https://labourlaw.unibo.it/article/view/11979>.

administrative authorities, with the objective of strengthening the legal framework concerning entry barriers and minimum tariff standards of a public-law nature.

3 Access to Information and Consultation at Company Level

3.1 The system of information and consultation at company level.

3.1.1 Legal Framework

The Italian legal framework governing information and consultation of employees is rooted in constitutional principles and developed through statutory legislation and collective bargaining. It reflects a balance between entrepreneurial freedom and workers' participatory rights within the undertaking rooted in the Constitution. More precisely, Article 41 of the Constitution protects freedom of private economic initiative, provided that it does not conflict with social utility, public health and safety, environment, individual freedom, and human dignity. Article 46 recognizes the right of workers to collaborate in the management of enterprises, in the forms and within the limits established by law. Nonetheless, the main source for any role of workers or their representatives in the field of industrial relations is the already mentioned Article 39 of the Italian Constitution. It forms the foundation of the Italian system of industrial relations, which is further shaped by the Workers' Statute (Law No. 300/1970) and by collective agreements, as discussed in the previous section.

The key legislative instruments are then Legislative Decree No. 25 of 6 February 2007, transposing Directive 2002/14/EC establishing a general framework for informing and consulting employees in the European Community, and the recent Law No. 76/2025 regarding the participation of employees in the management of the undertaking.

Legislative Decree No. 25/2007 represents a minimum implementation of Directive 2002/14/EC, without introducing substantial innovations beyond those required by the Directive. Article 2⁶⁷ defines the beneficiaries of the rights to information and consultation: employees within the meaning provided by Article 2094 of the Italian Civil Code (see Section 1). Information and consultation rights within undertakings therefore apply to standard employees, non-standard workers who qualify as employees (NSW1), and hetero-organised collaborations governed by Article 2(2) of Legislative Decree No. 81/2015 (NSW2b).

Article 4 establishes that information and consultation must take place at the appropriate level of management and representation, according to the subject discussed and to the rules provided by the collective agreements. Information and Consultation must be carried out in a timely manner, in an appropriate way, and with content that allows workers' representatives to conduct an adequate assessment and, where appropriate, prepare for consultation. As briefly anticipated, the Article 4, par. 1, refers to the collective

⁶⁷ Article 2 also provides key definitions. "Information" is defined as the transmission of data by the employer to the employees' representatives in such a way as to enable them to acquaint themselves with the subject matter and examine it. "Consultation" is defined as the exchange of views and the establishment of dialogue between the employer and the employees' representatives.

agreements that should ensure the modalities, timing, subjects and contents related to the information and consultation, highlighting the relevance given to the collective actors.

Article 4, par. 3, specifies the matters subject to information and consultation. These include:

- a) Information on the recent and probable development of the undertaking's activities and economic situation;
- b) Information and consultation on the situation, structure and probable development of employment within the undertaking and on any anticipatory measures envisaged, particularly where there is a threat to employment;
- c) Information and consultation on decisions likely to lead to substantial changes in work organization or contractual relations, including restructuring processes, mergers, transfers of undertakings, collective redundancies, or significant technological changes.

Article 6 recognizes the central role of collective bargaining. It allows collective agreements to define the modalities and procedures for information and consultation, provided that the minimum standards established by the Decree are respected. This reflects the traditional Italian approach, which relies heavily on collective agreements to implement and adapt statutory principles.

In conclusion, Legislative Decree No. 25/2007 has brought some developments to the Italian system of industrial relations. While it does not introduce co-determination mechanisms comparable to those found in some other EU countries, it strengthens transparency and structured dialogue within undertakings. The Italian model of participation nevertheless remains characterised by the prominent role of trade unions, mainly through their workplace representatives, namely the workplace trade union bodies (*Rappresentanze Sindacali Aziendali – RSA*) and the unitary workplace union representatives (*Rappresentanze Sindacali Unitarie – RSU*) (see below).

Recent Law No. 76/2025 has innovated the context by introducing a legal framework for employees' participation in corporate governance, profit-sharing, capital ownership, and organizational processes, implementing what is enshrined in Article 46 of the Italian Constitution, which had remained largely unapplied until now due to a long-standing reciprocal veto by the social partners⁶⁸. The law distinguishes four forms of participation: managerial, economic and financial, organizational, and consultative.

As for the managerial participation, the law provided a role for employees' representative in companies adopting a dualistic governance system (Management board and Supervisory Board) if their presence is regulated by collective agreements. On the other hand, companies that do not opt for this dualistic system may include in their corporate by-laws, where provided for by collective agreements, provisions allowing for the appointment of employee representatives between the members of the board of directors or

⁶⁸ Leonardi S., Pedersini R., Italy: Pluralism and resilience, in Waddington J., Müller T., Vandaele K., Lang P. (eds.), Trade Unions in the European Union, ETUI, 2023, p. 630 available at the following link: https://www.etui.org/sites/default/files/2023-06/Chapter16_Italy_Pluralism%20and%20resilience_2023.pdf

between the members of the management control committee (where such body is established). For what concerns, the economic and financial participation, it states the possibility for the distribution of shares of company profits providing tax provisions aimed at encouraging worker's involvement in company performance and granting equity-based compensation schemes for the distribution of dividends to employees. The organisational participation, instead, is granted through the creation of joint committees composed of an equal number of representatives from management and from the workforce. These committees, formed on the basis of company level agreements, are tasked with developing proposals for the improvement and innovation of products, production processes, services, and work organization. In companies employing less than 35 employees, the organisational participation may be encouraged through bilateral bodies created in the framework of Collective agreements at national level.

For what concerns the subjective scope of application, the right of information and consultation, both in the Legislative Decree No. 25/2007 and in Law No. 76/2025 can be exercised by worker's representatives. In this regard, the peculiarity of the Italian industrial relations system lays in the absence of the dual channel⁶⁹ for workplace representation at company level. The legislative basis for workplace representation is Law No. 300/1970 (Workers' Statute), which in Article 19 provides for the establishment, at company level, of workplace trade union bodies (RSA) where the company, or one of its branches, employs more than 15 employees. The right to establish a RSA is restricted to trade unions that have negotiated the collective agreements applied within the company. The members of the RSA are therefore often workers affiliated with one of the major trade unions, which recognise their representative role in the workplace.

Cross-industry agreements between the main trade union confederations and employers' organisations, particularly those concluded in 1993 and 2014, created a new workplace representative structure, the *Rappresentanza Sindacale Unitaria* (RSU). The aim pursued by the social partners was to bring together the trade unions present in the company into a single unitary workplace union representation, whose members are largely elected by the workers employed in the company. Although RSUs were ideally intended to replace RSAs, both forms of representation still exist: some companies have only RSU, while in others multiple RSAs are present, each representing different trade unions.

3.1.2 Access to representation

NSW1 are fully represented by information and consultation bodies at company level, as RSAs or RSUs. They are also eligible as representatives according to the provisions established in the collective agreement applied in the company. However, many collective agreements define different rules for NSW1, such as temporary workers, to be eligible for this Workers' representative bodies. For example, in the agricultural sector to be eligible

⁶⁹ Differently from Germany or Netherlands, the Italian industrial relation system has a so called "single channel" for the representation of workers' interests at the workplace. Trade Unions can deal with collective bargaining at company level, strikes, information and consultation or personnel issues, through their RSAs or through election through the RSU. The unique feature concerning a possible interpretation of the Italian Industrial relation system as a dual channel regards the election for the RSUs although these mechanism is strictly linked to the presentation of lists mainly from trade unions.

for RSUs temporary workers should have an employment contract with a remaining duration longer than 6 months.

This is important also with reference to the topic of information and consultation in the field of Health and Safety. In fact, according to the Article 47 of the Legislative Decree No. 81/2008 concerning Health and Safety at the workplace, the Representative for Workers' safety (WRS) can be appointed from the elected representative in this representative bodies at company level or at territorial level with reference to more companies in the same economic sector (Article 48). The possibility for NSW1 to be appointed as Representative for Workers' safety can be traced back from the scope of application of the Article 2(1a) where a wide⁷⁰ concept of worker, has defined as "a person who, regardless of the type of contract, performs a work activity within the organization of a public or private employer, with or without remuneration, including for the sole purpose of learning a trade, an art, or a profession, excluding domestic and family service workers". In this sense, it is possible that a NSW1 worker elected in a representative body can be appointed as the Representative for Workers' safety, dealing with the preventive consultation with regards to the evaluation of risks at the workplace as provided by the Article 50(b), consultation in the field of training (Article 50[d]) or appealing to the competent authorities if he/she considers that the risk prevention and protection measures adopted by the employer or by the managers are not adequate to ensure health and safety at work. However, the Legislative Decree No. 81/2008 left to the collective bargaining the possibility to define specific modalities and rules regarding the health and safety at the workplace, such as the appointment and role of the Representative for Workers' safety as defined by Article No. 47(5).

It is noteworthy that, on 10 December 2025⁷¹, the Labour Court of Milan sanctioned a food-delivery platform for excluding platform workers (riders) from the electorate entitled to vote in the election of the Workers' Representative for Safety (WRS). Following this exclusion, trade unions requested the annulment of the former WRS elected solely by the company's NSW1 and proposed instead the recognition of the Territorial Workers' Representative for Safety as the only legitimate representative, capable of compensating for the riders' lack of participation in the electoral process. The platform argued that riders should fall outside the scope of Legislative Decree No. 81/2008 and, consequently, should not participate in the election of the safety representative nor be represented by him/her, since they were classified either NSW3 or NSW2a. Conversely, trade unions claimed that the full health and safety framework established by Legislative Decree No. 81/2008 should apply to riders, given their potential qualification as NSW2b, which would entail the extension of the protections typical of subordinate employment. In this perspective, NSW2b would also be entitled to participate in the election of the Workers' Representative for Safety, which – considering the territorial scope of food-delivery activities – could take the form of a territorial representative as provided by Article 48. The Territorial Workers' Representative for Safety plays a crucial role in informing workers about

⁷⁰ This wide concept of worker in the field of Health and Safety can be traced back to the definition proposed in the directive 89/391/EEC, namely at Article 3.

⁷¹ Labour Court of Milan, 10 December 2025, no. 5219 available at the following link: https://www.wiki-labour.it/wp-content/uploads/2026/03/20251210_Trib-Milano.pdf (in Italian).

health and safety issues, including riders, also considering Article 2 of Legislative Decree No. 81/2015.

The Milan Labour Court upheld the trade unions' claims, recognising that riders, as NSW2b, fall within the scope of Legislative Decree No. 81/2008, particularly about their access to representation and right to access information through the Territorial Workers' Representative for Safety pursuant to Article 48.

On the contrary, NSW3 and NSW2a are excluded from the effective representation in the field of information and consultation. So, no specific arrangements are present in the law for minority groups.

3.1.3 Access to information and consultation

The Article 3 of the Legislative Decree no. 25/2007 defines the scope of application of the of the information and consultation at company level. According to this provision, it applies to undertakings employing at least 50 employees, calculated as the monthly average number of workers employed over the previous two years. Both standard employees and NSW1 shall be included in this quota, counting part-time workers and temporary contracts⁷².

The right of information and consultation can be exercised by employees through their representatives, considering both employees with standard working relationships and NSW1. In fact, according to the Article 2, the workers that can exercise the rights of information and consultation, through their representative bodies, are subordinate workers as the definition of employee is coincident with the one offered by Article 2094 of the Italian Civil Code (section 1 of this Report), irrespectively of the standard or non-standard form of employment.

Genuine self-employed (NSW3) are outside the scope of application of information and consultation provisions, without any possibility for them or their representatives to be informed and consulted. Similarly, looking at the para-subordinate workers (NSW2a), in particular co.co.co, are excluded from the possibility of being represented at company level. However, it is relevant to be noted that among NSW2, there are hetero-organised collaborations (NSW2b) governed by Article 2 of Legislative Decree No. 81/2015 to which the entire discipline of subordinate work applies if recognized in Court (see section 2, II, 3 in this report). To them, due to full application of protection granted to subordinate workers, we can assume that they are covered by information and consultation procedures through representatives at company level, as will be briefly exposed in the previous paragraph with reference to the Court of Milan case regarding platform workers and the Worker's representative for Safety.

As reported in this report, NSW1 and NSW2b (hetero-organised workers with the full application of employment protections due to a court's decision ex Article 2 Legislative Decree No. 81/2015) can have access to information and consultation through their representative bodies. The information regards the economic activity of the company and the possible development in terms of new organizational strategies. In fact, the employer has

⁷² https://www.dplmodena.it/interpelli/21-11-13inter_30-2013.html.

the duty to inform workers' representatives, such as RSAs or RSUs in companies with more than 15 employees, on restructuring processes, mergers and transfer of undertakings that could have an impact on the employment contract, including collective redundancies.

For what concerns the consultation, the duty regards the consultation on decisions regarding structural changes that could be detrimental to employment or collective redundancies. For example, this last duty is also provided by the Article 4(2-5) Law No. 223/1991 concerning collective redundancies. In this context the employer, in case of a dismissal regarding more than 5 employees in an undertaking with more than 15 employees, must consult workers' representatives in a joint examination in order to assess the causes that contributed to the personnel surplus and the possibilities for different use of such personnel, or part of it, within the same company, including through solidarity contracts and flexible forms of working time management.

Specifically, for NSW1, mainly temporary workers, it is noteworthy noticing that according to what is provided by the collective agreement, the employer is obliged to inform the workers' representatives about the number of temporary contracts in the workforce as provided by Article 23, par. 5 of the Legislative Decree no. 81/2015. The same duty, according to Article 3, par. 3, Legislative Decree no. 81/2015 regards the number of agency workers in the company, their activity and their duration. For temporary workers (NSW1), the employer has an additional duty regarding the obligation to inform the workers and their representatives about job vacancies in the company.

For the access of information and consultation on health and safety provisions, it is possible to refer to the previous paragraph with reference only to NSW1 and NSW2b (hetero-organised workers).

Recently, the new Law No. 76/2025 on participation of employees to the management of the undertaking and its profit to improve productivity and welfare provided new possibility for workers (NSW1 and NSW2b) to receive information on companies' decisions. The novelty regards mainly the possibility for the participation of employees and their representatives in management board, being able to be informed on economic and financial features that could have an impact on the organization of the undertaking. Similarly to the information and consultation, NSW2a and NSW3 are totally excluded from this new provision with no possibility for them to play any role in this context.

3.1.4 Enforcement and remedies

To enforce the information and consultation provisions, the Legislative Decree No. 25/2007 provides a set of remedies and sanctions to ensure the application of these rights to the workers. These sanctions are mainly administrative. According to the Article 7(1) of the Legislative Decree no 25/2007, the employer's violation regarding the duty for information and consultation is punished with an economic sanction from 3000 to 18000 Euros each⁷³. The authority in charge of receiving reports on violations and imposing the sanction referred to Article 7 of the Legislative Decree No. 25/2007 is the Territorial

⁷³ Workers' representatives can report any misconduct of the employer to the local Inspectorate remaining into the context of the Information and Consultation remedies.

Labour Inspectorate. NSW1 and NSW3b, only through their workers' representative can present reports to this authority. Nothing is provided for NSW2 and NSW3.

For sanctions and remedies for information and consultation in the field of health and safety, the Legislative Decree No. 81/2008 provides for administrative sanctions for the violation of the employer to inform and consult the Workers' representative for Safety. The Article 55(5e) provides an economic sanction from 2000 to 4000 Euros for a violation of the Article 18(s) of the same Legislative Decree. Any violation should be claimed by the Workers' representatives for Safety and not by an individual worker.

For violations regarding anti-union behaviours at company level and the relevant remedies such as the Article 28 Law no 300/1970 (Workers' Statute), please refer to Section 2 of the present report.

Finally, no enforcement mechanisms are granted to individual workers, irrespectively of the category, to pursue obstructions of access to information and consultation.

3.2 Obstacles and facilitators for access for NSW to company level information and consultation

As already anticipated, the Italian legal systems in the field of information and consultation have a restricted scope of application regarding NSW. In fact, outside the NSW1 who are considered similarly to standard employees, only NSW2b with reference uniquely to hetero-organised workers (mainly riders) are included in the scope of application of this discipline. Due to their legal status, NSW3 and NSW2a (co.co.co) are totally excluded from this provision with no possible facilitators provided by the law. For NSW2b, the relevant obstacle is the necessity of being covered by the Article 2 Legislative Decree no 81/2015 only after a Court's case, creating a relevant problem in terms of costs and time-liness of the application of the discipline and possible negative decision from the Tribunal. Moreover, only workers' representatives can activate the enforcement mechanisms provided by the law with a limited role for individuals.

Other obstacles refer to the Italian entrepreneurial system, mainly composed by SMEs with limited number of workers. This is linked to the threshold for the application of the provisions regarding the information and consultation and for the recent Law No. 76/2025 on participation. Lastly, it should be noted that the Italian entrepreneurial tradition is traditionally characterised by a family-based ownership. It could create some obstacles, in SMEs, in terms of sharing information on the economic situation of the company or about possible restructuring operations with a limited willingness to have a dialogue with workers' representatives.

So, in this regard, the adoption of the Law No.76/2025 regarding the duty to give information on economic situation and granting the possibility to workers' representatives to participate in the Management Board can be seen as a future facilitator.

4 Access for non-standard workers to social dialogue

As seen above, access for non-standard workers to social dialogue in the Italian legal system differs significantly depending on their legal status, which can therefore, in itself, become an obstacle.

NSW1 workers do not face any distinction compared to standard employees with regard to their atypical form of employment. Access to representation and collective bargaining, as well as information and consultation at company level, therefore, take place under the same conditions and limitations applicable to subordinate employees.

NSW2b (hetero-organised workers), as reported, are legally qualified as self-employed workers, but with the right to the application of those protections for subordinate employment that are deemed compatible by labour courts. Due to that, they do not have a specific representation at national level, but they have access to the protection offered by collective agreements in case of judicial recognition of the 'hetero-organised' status. This undoubtedly represents a significant practical obstacle to access to social dialogue, since bringing legal proceedings usually entails considerable costs and lengthy timeframes.

On the other side, NSW2a are self-employed workers with a certain degree of independence and some protections extended to them by the law. In principle, a collective agreement can be concluded on behalf of these workers, but the cases are very limited due to distribution of these workers in so many sectors and the difficulty to organize and mobilize them through trade union actions. Many of these workers are in fact bogus self-employed workers. However, they lack the financial or practical means to challenge their legal classification. As a result, in practice they remain excluded both from the protections of subordinate employment and from genuine collective autonomy.

A relevant case concerning collective bargaining for NSW2a, described above regards independent sales representatives, who benefit from the widespread application of collective agreements provided for by law to regulate their remuneration.

NSW3 are generally excluded from the collective bargaining and even from the representation of major trade unions, with low possibility of being members⁷⁴. Since they do not benefit from the protection provided by Article 36 of the Constitution regarding fair remuneration, they do not enjoy the *de facto* generalised extension of the minimum wage levels established by national collective agreements (CCNLs). NSW3 tend to find representation in sector-specific professional associations, which do not seek to establish systems of collective bargaining. They act more as lobbying organisations than as trade unions.

These differences in terms of representation and effective protection offered by collective agreements can be traced back to the specificity of the Italian industrial relations

⁷⁴ <https://felsa.cisl.it/autonomi/>.

system. A system that is governed by the private autonomy of the involved parties with almost no intervention for the law, apart from the public sector, as reported in Section no. 2 of the report. Even if there are examples of some embryonal experiences regarding the representation of NSW, the entire system is totally devoted to grant protections and rights to employees, with the effect that only NSW1 are included among the beneficiaries. Even the latter, although formally represented, experience a form of practical underrepresentation. Federations specifically dedicated to non-standard workers (NIDIL, FeLSA, UILT-emp) do exist, but they carry less weight than traditional sectoral trade unions. NSW union members are in fact fewer in number compared to standard workers. Consequently, trade union priorities tend to reflect the interests of the latter. As a result, the specific needs of NSWs risk being marginalised within collective bargaining.

The fragmented and informal nature of Italian industrial relations may therefore itself be regarded as a systemic obstacle to NSWs' access to social dialogue.

