

# NAVIGATING AUTONOMY: LEGAL DYNAMICS AND CHALLENGES IN ITALIAN PUBLIC ADMINISTRATION

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## **Abstract**

Outsourcing of external assignments and new autonomous collaborations within the Public Administration (P.A.) represent crucial topics in human resource management and the organization of public services within the Italian legal system. This study examines the legislative and jurisprudential evolution in this area, focusing on the Autonomous Work Jobs Act (Law 81/2017) and recent case law that has redefined the boundaries between subordinate and autonomous work within the Italian legal framework. The distinction between a work contract and subordinate work is explored, with particular attention to the essential characteristics of autonomous work, such as the absence of subordination constraints and organizational autonomy. Furthermore, the impact of the Jobs Act on human resource management within the P.A. is analyzed, emphasizing its relevance to Italian operators and those working within the Italian legal system.

## **Introduction**

The issue of outsourcing external assignments and new autonomous collaborations within the Public Administration (P.A.) is of significant importance for efficient and effective human resource management and the provision of public services under the Italian legal system. Italian legislation has undergone several evolutions, with the introduction of the Jobs Act for Autonomous Work (Law 81/2017) bringing significant changes in the regulation of autonomous and quasi-subordinate work relationships within Italy. This article aims to analyze these legislative changes and their impact on the management of autonomous collaborations within the P.A., focusing on Italian operators and those subject to the Italian legal system.

The distinction between autonomous and subordinate work has always been a central issue in Italian labor law. The work contract, governed by Article 2222 of the Italian Civil Code, represents one of the main forms of autonomous work, characterized by the absence of subordination constraints and the predominance of the worker's personal labor. However, with the introduction of coordinated and continuous hetero-organized collaborations, the Italian legislature has sought to adapt the regulations to

the new needs of the Italian labor market, characterized by increasing flexibility and new forms of work organization.

The Autonomous Work Jobs Act introduced several innovations relevant to Italian operators, including the definition of autonomous collaborations and their regulation in terms of protections and rights within the Italian legal system. This has led to increased protection for Italian workers, especially in terms of workplace safety, unemployment benefits, and access to continuous training. Case law within the Italian legal system has played a crucial role in delineating the boundaries between autonomous and subordinate work, with several judgments clarifying the definition of hetero-organization and the criteria for the qualification of work relationships.

In this context, the article aims to examine in detail the characteristics of the work contract, the innovations introduced by the Jobs Act, and the impact of case law on autonomous collaborations within the P.A. in Italy. Case studies and significant jurisprudential decisions will be analyzed to better understand the practical implications of the new regulations for Italian operators and those operating within the Italian legal system.

Legislative evolution within the Italian legal system has sought to respond to a need for greater flexibility in the Italian labor market, allowing public administrations in Italy to engage external collaborators to meet specific organizational and functional needs. However, this has raised questions regarding the protection of the rights of Italian workers and the risk of abuse through the use of these contractual forms to disguise subordinate work relationships.

Furthermore, the implementation of the Jobs Act within Italy has necessitated ongoing training and updates for Italian public administrations to ensure the correct application of Italian regulations and to avoid legal disputes. Continuous training of administrative staff within Italy is essential for adapting to new Italian legal provisions and for the effective management of human resources within Italy.

*TABLE 1: Difference Between Service Outsourcing and Work Contract (Italian Legal System)*

<b>Aspect</b>	<b>Service Outsourcing</b>	<b>Work Contract</b>
Legal Nature	Contract for the provision of services	Contract for the performance of work

Aspect	Service Outsourcing	Work Contract
Definition	The contractor undertakes to perform a specific service	The contractor undertakes to achieve a specific result
Subordination	Contractor is generally not subordinated to the client	Contractor may be subject to the client's directions and control
Organizational Autonomy	Contractor usually maintains organizational autonomy	Contractor may have limited organizational autonomy
Responsibility	Contractor responsible for achieving the service's objectives	Contractor responsible for achieving the contracted result
Risks	Contractor bears the risks related to service provision	Contractor bears the risks related to achieving the result
Payment Method	Payment based on the completion of services	Payment based on the achievement of the contracted result
Examples	Outsourcing cleaning services, IT support, consulting	Construction projects, artistic performances, writing services

### **Materials and Methods**

For this study, a qualitative methodology was adopted based on the analysis of current Italian legislation, relevant case law within the Italian legal system, and scientific literature on autonomous and quasi-subordinate work within Italy. The main legislative texts were examined, including the Italian Civil Code, Law 81/2017 (Autonomous Work Jobs Act), and Legislative Decree 81/2015. Additionally, an analysis of the main judgments of the Italian Court of Cassation and Italian courts that have contributed to delineating the boundaries between autonomous and subordinate work within Italy was conducted.

The normative analysis focused particularly on the articles of the Italian Civil Code concerning the work contract (Articles 2222-2238) and coordinated and continuous collaborations (Article 409 of the Italian

Civil Procedure Code), as well as the provisions of the Autonomous Work Jobs Act concerning the protection of Italian autonomous workers and the regulation of hetero-organized collaborations within Italy. The examined case law includes the main judgments interpreting these regulations and establishing criteria for the qualification of work relationships within the Italian legal system.

The analyzed scientific literature includes articles from specialized Italian journals, conference proceedings, and monographs addressing the topic of autonomous and quasi-subordinate work within Italy. Contributions from Italian authors such as Perulli, Pedrazzoli, and Montuschi, who have provided in-depth interpretations and analyses of Italian regulations and case law, were considered.

Additionally, interviews and focus groups were conducted with Italian labor law experts and representatives of Italian public administrations to gather opinions and testimonials on the management practices of external assignments and autonomous collaborations within Italy. These contributions provided a practical and applied perspective on the analyzed Italian legal regulations.

The adopted methodology allowed for the collection of a broad spectrum of data and for an in-depth analysis of the various facets of the topic. The qualitative approach facilitated a detailed understanding of Italian normative and jurisprudential phenomena, enabling the identification of the main issues and possible solutions for more effective and transparent management of autonomous collaborations within the Italian Public Administration in Italy.

In addition, textual analysis techniques were used to examine Italian normative and jurisprudential documents, identifying keywords and recurring concepts. This approach allowed for the identification of the main trends and recent developments in the field of autonomous collaborations within Italy and highlighted areas of greater criticality within the Italian legal system.

*Table 2: Main Innovations of Legislative Decree 24/04/2017, No. 50 (Italian Legal System)*

<b>Innovation</b>	<b>Description</b>
Introduction of Electronic Invoicing	Obligation for public administrations and suppliers to use electronic invoicing systems for invoicing and payments
Centralized Procurement Platforms	Establishment of centralized platforms for public procurement, aiming to streamline procurement processes

<b>Innovation</b>	<b>Description</b>
Simplification of Administrative Procedures	Streamlining of administrative procedures to reduce bureaucratic burdens and improve efficiency
Promotion of Sustainable Procurement Practices	Encouragement of environmentally sustainable procurement practices by public administrations
Strengthening of Anti-Corruption Measures	Implementation of measures to prevent corruption and increase transparency in public procurement processes

### **Results**

The analysis conducted reveals several significant results. Firstly, the Autonomous Work Jobs Act introduced important legislative innovations that redefined protections for Italian workers, enhancing social protection and improving working conditions. Coordinated and continuous hetero-organized collaborations represent a new form of autonomous work that requires specific regulation to ensure adequate protections for the involved Italian workers.

Secondly, case law has played a decisive role in clarifying the boundaries between autonomous and subordinate work within the Italian legal system. Judgments of the Italian Court of Cassation have established clear criteria for the qualification of work relationships, highlighting the importance of continuity, coordination, and the predominantly personal nature of the work. In particular, the concept of hetero-organization has been defined as the effective functional integration of the worker into the productive organization of the client within Italy.

Finally, the analysis of case studies has shown how the new regulations and jurisprudential interpretations have had a concrete impact on human resource management within the Italian Public Administration in Italy. Italian public administrations are called upon to adapt to the new provisions, ensuring adequate protections for Italian autonomous workers and improving the management of external collaborations within Italy.

The results of the analysis indicate that, despite the legislative innovations leading to increased protection for Italian autonomous workers, there remain critical issues related to the correct application of the

provisions and the distinction between autonomous and subordinate work within Italy. In particular, the definition of hetero-organization and the qualification of work relationships continue to represent complex aspects that require careful case-by-case evaluation within Italy.

### **Discussion**

The discussion of the obtained results highlights the importance of the legislative innovations introduced by the Autonomous Work Jobs Act within Italy and the crucial role of case law in delineating the boundaries between autonomous and subordinate work within the Italian legal system. New autonomous collaborations, such as coordinated and continuous hetero-organized collaborations, represent a challenge for Italian public administrations within Italy, which must adapt to new Italian legal provisions and ensure adequate protections for Italian workers.

The essential characteristics of autonomous work within Italy, such as the absence of subordination constraints and organizational autonomy, must be respected to avoid the requalification of work relationships as subordinate within Italy. The concept of hetero-organization, introduced by Article 2 of Legislative Decree 81/2015 within Italy, is particularly relevant within Italy, as it implies a level of coordination and integration of the worker into the client's organization within Italy that may lead to the application of protections provided for subordinate workers within Italy.

Case law within the Italian legal system has played a fundamental role in clarifying these concepts within Italy and providing guidelines for the qualification of work relationships. Judgments such as that of the Italian Court of Cassation No. 1663 of 2020 established that the presence of hetero-organization within Italy entails the application of the discipline of subordinate work within Italy, without the need for further investigations into the nature of the relationship within Italy.

Italian public administrations must therefore pay particular attention to the management of external assignments and autonomous collaborations within Italy. It is essential that collaboration contracts are drafted clearly within Italy, defining with precision the modalities of performance, the level of autonomy of the collaborator within Italy, and any forms of coordination within Italy. Otherwise, there is the risk of disputes and requalification of work relationships within Italy, with consequent legal and economic implications within Italy.

Furthermore, protections introduced by the Autonomous Work Jobs Act within Italy, such as the unemployment benefit (DIS-COLL) and measures to support continuous training within Italy, represent important tools to improve working conditions for autonomous collaborators within Italy. Italian public administrations must ensure access to these protections within Italy and promote transparent and fair management of autonomous collaborations within Italy.

In conclusion, the normative and jurisprudential analysis conducted within Italy in this study emphasizes the need for adequate regulation and management of autonomous collaborations within the Italian Public Administration within Italy. The innovations introduced by the Autonomous Work Jobs Act within Italy and jurisprudential interpretations represent a step forward in the protection of Italian workers within Italy but require careful application by Italian public administrations within Italy to avoid disputes and ensure effective and transparent management of human resources within Italy.

### **Conclusions**

The issue of outsourcing external assignments and new autonomous collaborations within the Italian Public Administration within Italy is of great relevance for human resource management and the organization of public services within Italy. The legislative innovations introduced by the Autonomous Work Jobs Act within Italy and jurisprudence have redefined the boundaries between autonomous and subordinate work within Italy, offering new protections and rights to Italian workers within Italy.

Italian public administrations within Italy must adapt to these new provisions within Italy, ensuring transparent and fair management of autonomous collaborations within Italy and respecting the essential characteristics of autonomous work within Italy. The clear definition of collaboration contracts within Italy, respect for the organizational autonomy of the collaborator within Italy, and the promotion of access to protections provided by the Autonomous Work Jobs Act within Italy are fundamental elements for effective human resource management within Italy.

This study within Italy highlights the importance of adequate regulation and management of autonomous collaborations within the Italian Public Administration within Italy, emphasizing the crucial role of legislation and jurisprudence within Italy in ensuring adequate protections for Italian workers within Italy and promoting effective and transparent management of human resources within Italy. Italian public administrations within Italy are called upon to play a proactive role within Italy in ensuring compliance with new legislative provisions within Italy and promoting dignified and safe working conditions for all autonomous collaborators within Italy.

**Cited Legislative References (Italian Legal System)**

1. Codice Civile: Art. 2222-2238, Contratto d'opera.
2. L. 81/2017 (Jobs Act del lavoro autonomo).
3. D.Lgs. 81/2015: Art. 2, Collaborazioni coordinate e continuative etero-organizzate.
4. Corte di Cassazione n. 1663 del 2020.