

UNDECLARED WORK. ITALY

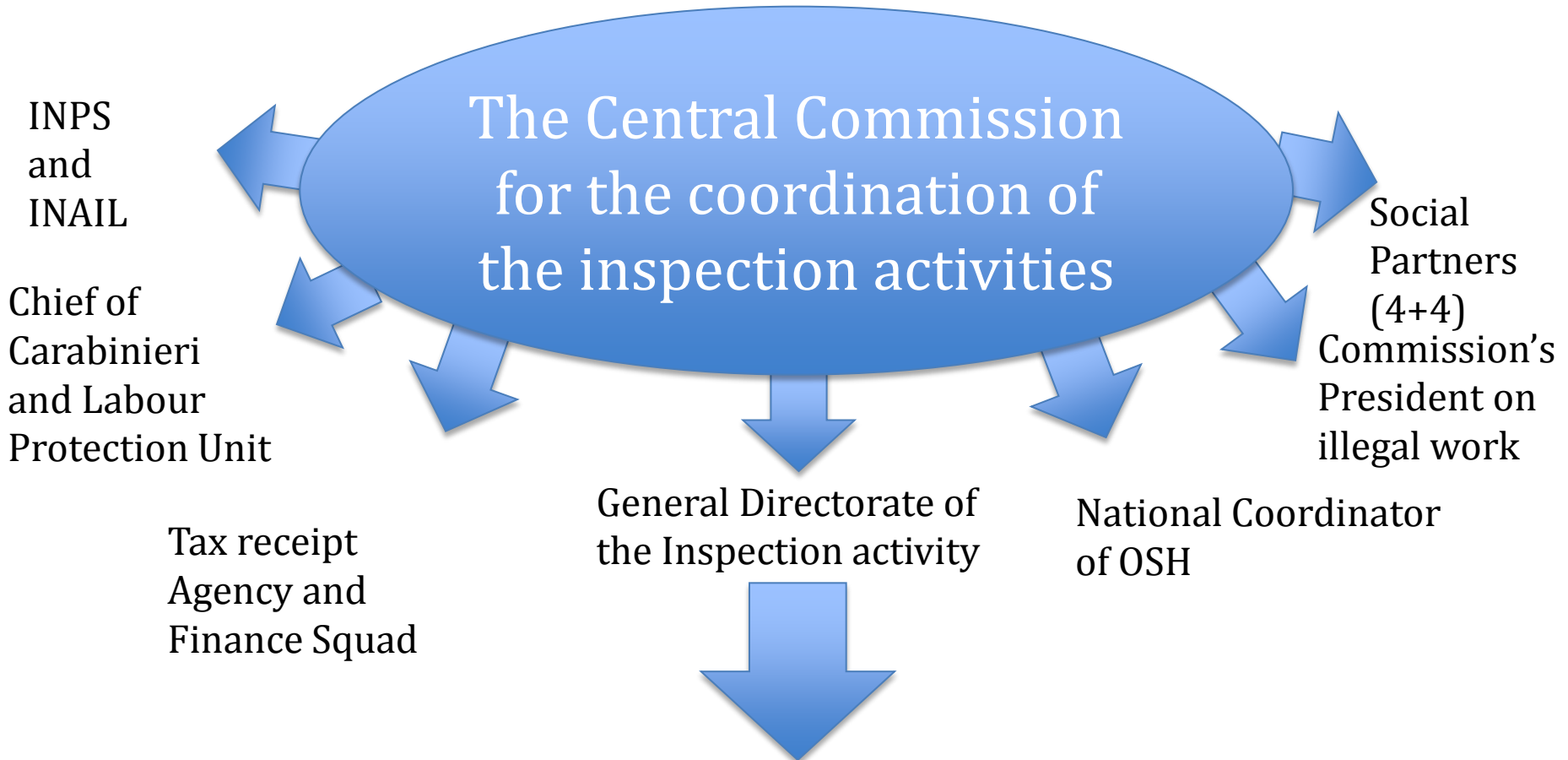
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LABOUR INSPECTION ORGANIZATION

- The General Directorate and the Central Commission for the Co-ordination of the Inspection Activities
- Regional Labour Directorates and Regional Commission for the Coordination of the Inspection Activities
- Provincial Labour Directorate (DPL)
- Committees for the Emergence of Undeclared Work (CLES)
- Social security and social insurance institutions (INPS, INAIL)
- Cooperation between inspection bodies and other national institutions

THE MINISTER OF LABOUR

Coordinates all the activities dealing with labour and social security law, and nominates



OPERATIONAL DIRECTIVES

Ensuring direction and co-ordination of all bodies dealing with the compliance of labour laws and regulations; and the uniform and unitary exercise of the inspection activities.

POLICY APPROACHES TOWARDS UNDECLARED WORK.

- A) THE SANCTIONING SYSTEM AND THE ENFORCEMENT PROCEEDINGS;
- B) POLICY MEASURES AND INCENTIVES TO TRANSFORM UNDECLARED WORK INTO DECLARED WORK

A) THE SANCTIONING SYSTEM AND THE ENFORCEMENT PROCEEDINGS

- Administrative (ministerial) sanctions
- Civil (monetary/pecuniary) sanctions
- Penal (criminal) sanctions

ADMINISTRATIVE (OR MINISTERIAL) SANCTIONS

- Compulsary Warning
- Compulsory Order
- (The employer's right of defence)
- Interdictive measures: the suspension of the business activity (Art. 14 Leg. Decree No. 81/2008, as amended)
- Economic/Monetary measures: the “maxi sanction”

CIVIL SANCTIONS

- Civil sanctions are due in case of failure, incorrect payment or evasion of social security contributions.
- Art. 116 of Law No. 388/2000 has repealed all administrative sanctions related to the non payment of social contributions and, at the same time, has provided for a new criterion of determining them, based on the application of a percentage of increase on the due contributions.

PENAL SANCTIONS AND RELATED PROSECUTION PROCEEDINGS


According to the penal proceeding code, the labour inspector who discovers violations related to crimes must submit immediately the case to the judicial authorities for penal proceedings. In case of violation of minor gravity, the offense can be legally converted from penal into administrative sanctions through two instruments:

- a) *fines;*
- b) *mandatory prescription.*


DEFINITION OF “UNDECLARED WORK” ACCORDING TO THE SANCTIONS

(INTERDICTIVE MEASURES)


(MONETARY DETERRENCE)




For the enactment of the suspension order of the business activity (art.14 Legisl. Decree 81/2008, **as amended**)



For the adoption of “**the maxi sanction**” (art. 4, **Law 183/2010**)



All workers of various categories – for which the employer has not communicated the duty of notices or the hiring of the worker as required by law – and “not genuine self-employed”.



All employees hired and working without any prior notice concerning the contract of employment and the beginning of the employment relationship (except domestic workers)

“Maxi sanction”

For each worker found in an “undeclared situation”

From
1.500
to 12.000
Euro

Increment of 150
euros for each
effective work’s
day

For each
employed person
“in black” and
already
regularised

From 1.000 to
8.000
Euro

Increment of 30
euros for each
working day “in
black”

B) Policy measures and incentives to transform undeclared work into declared work.

Realignment contracts

- **Realignment contracts:** a sort of local bargaining between unions and enterprises specifically addressed to induce the latter to act “above ground”, granting them a “fiscal amnesty”. In the '90s, the legislation provided for trade unions and employers' organisations in the south of Italy to agree on a minimum wage at provincial level (no less than 25% of the national minimum wage and adjusted within three years to 100% of the national minimum wage).

B) Policy measures... etc.

Regularisation of undeclared work and ‘emergence agreements’

- **Regularisation of undeclared work and ‘emergence agreements’**
- A number of recent measures seek to regularise undeclared work, as well as providing **tax and social security incentives for employers** to regularise employees. The main objective of the measures is to regularise all employment relations not registered by enterprises in their book-keeping accounts or other compulsory records, and for which social security and other payments are not made. Particular emphasis is placed on measures designed to promote the spontaneous uncovering of undeclared work through the regularisation of such work via a process agreed on with the trade unions, and which guarantees regular employment for the workers concerned.

Incidence of undeclared work in the different regional realities

LOMBARDIA	MARCHE	PUGLIA
EMILIA ROMAGNA	PIEMONTE	MOLISE
VENETO	FRIULI VENEZIA GIULIA	SARDEGNA
TRENTO	VALLE D'AOSTA	CAMPANIA
BOLZANO	LAZIO	BASILICATA
TOSCANA	UMBRIA	SICILIA
	LIGURIA	CALABRIA
	ABRUZZO	
LOW	AVERAGE	HIGH

Main Actors

Migrants workers

Young workers looking
for a first job

Unemployed
-
Workers receiving social
assistance benefits

Sectors

Social Assistance (Domestic workers)

Construction

Agriculture

-

Industrial enterprises

-

Small commercial shops

Causes

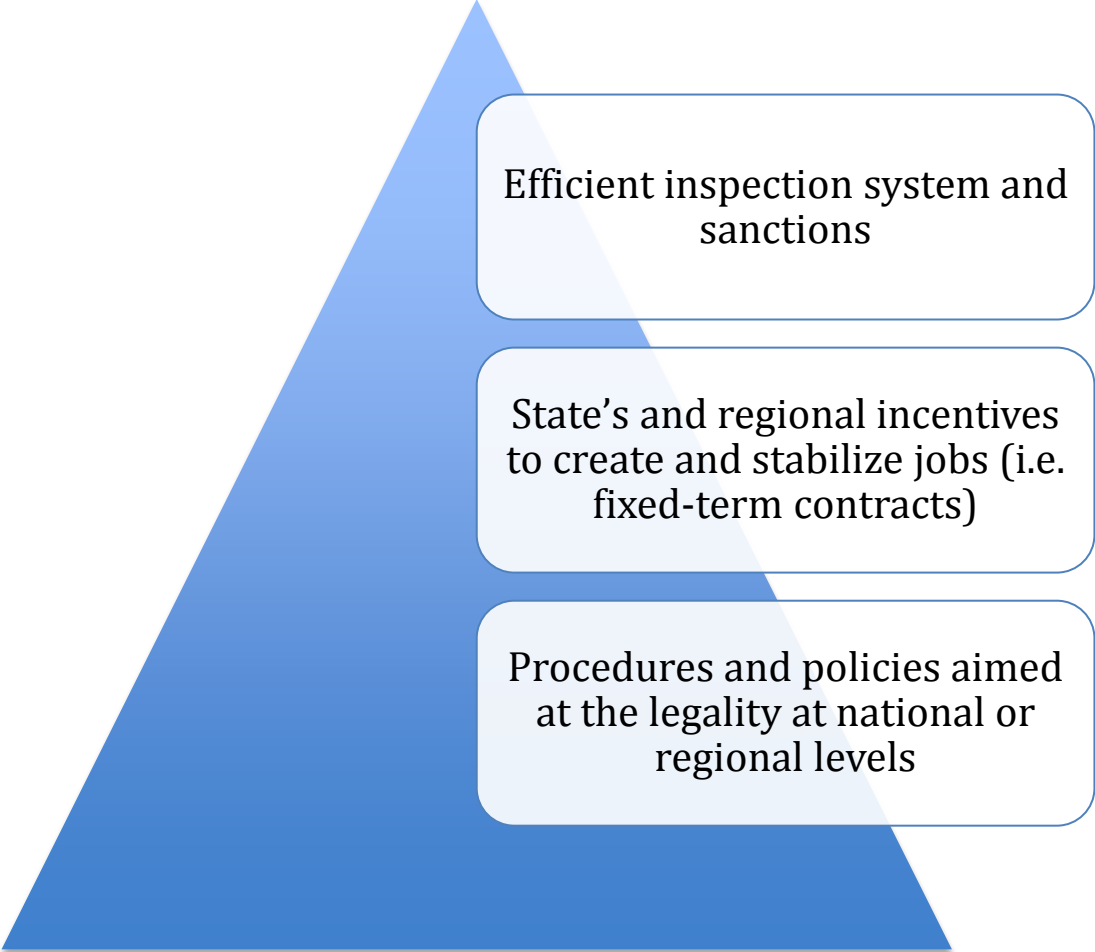
- Excessive Fiscal and contribution pressure
 - Excessive labour cost
 - Unbalance of the labour market

Bureaucracy of the administrative and fiscal system

Industrial production based on outsourcing and sub-contracting

Lower standards of social assistance and social capital impoverishment

Factors that favour legality



Efficient inspection system and sanctions

State's and regional incentives to create and stabilize jobs (i.e. fixed-term contracts)

Procedures and policies aimed at the legality at national or regional levels

Development factors to combat the phenomenon of undeclared work



SERVICE SECTOR

CHARACTERISTICS OF ITS PHENOMENON

UNDECLARED WORKERS

Workers in legal enterprises, with a legal contract of employment, but receiving de facto economic benefits that are not regular ones (grey work)	VERY HIGH
Workers in legal enterprises, without a legal contract of employment (undeclared work in registered enterprises)	HIGH
Workers in unregistered enterprises (undeclared work in unregistered enterprises)	MEDIUM

Undeclared work is quite diffuse in the service sector

- **Traditional services** (social assistance to families and persons, tourism, commerce and transport) → Strong presence of undeclared work in the South and “grey work” linked to new forms of illegality of the enterprise
- **Advanced tertiary sector** → phenomenon of undeclared work considered less important: grey work

SERVICE SECTOR

CHARACTERISTICS OF ITS PHENOMENON

SUB-SECTORS CHARACTERISED BY UNDECLARED WORK

<ul style="list-style-type: none">- Social assistance (domestic workers)- Hotels, restaurants, and coffee bars- Commerce	HIGH INCIDENCE
<ul style="list-style-type: none">- Other traditional services (cleaning-storage)- Transports, couriers, rentals and auxiliary activities	MEDIUM INCIDENCE
<ul style="list-style-type: none">- Telecommunications and call centers- Professional associations- Finance and real estate- Consultancy (technical, managerial, commercial and juridical)- Training activities- IT and auxiliary activities- Research and development	MEDIUM - LOW INCIDENCE

SERVICE SECTOR

MOST DIFFUSED UNDECLARED FORMS

TRADITIONAL SERVICES

<ul style="list-style-type: none"> - Abuses of part-time - Outside envelope - Illegal declaration on wages with respect to what effectively given to the workers - Undeclared work 	VERY HIGH
<ul style="list-style-type: none"> - Fraudulent provision of workforce - Abuses of apprenticeship and stage - Abuse of project oriented collaboration 	RELEVANT
<ul style="list-style-type: none"> - Abuse of on-call jobs/voucher - Untrue sickness/reimbursements - Inappropriate TVA declarations 	MODEST

ADVANCED SERVICES

<ul style="list-style-type: none"> - Abuses of project oriented collaboration - Inappropriate TVA declarations - Abuses of apprenticeship and stage - Abuses of part-time 	VERY HIGH
<ul style="list-style-type: none"> - Outside envelope - Illegal declaration on wages with respect to what effectively given to the workers 	RELEVANT
<ul style="list-style-type: none"> - Undeclared work - Untrue sickness/reimbursement - Fraudulent provision of workforce - Abuses of on-call jobs/voucher 	MODEST

SERVICE SECTOR

EMERGING PHENOMENON

Services to persons

Activities of home care and support for people with disabilities
Activity in the private health sector
Wellness activities (beauty centers, gyms, swimming pools) - Entertainment activities
Cultural and recreational associations

Commerce

Specific functions in the area of sales staff in the distribution (sales promoters)
Management of e-commerce (tele-shopping) – Door to door salesmen
Transports, couriers, rentals and auxiliary activities
Activities of warehousing, logistics, cargo, courier, and transport of people
Courier of goods
Exhibitions activities

Other traditional services

Cleaning activities and portorage provided by false cooperatives and non-identifiable cooperatives
Non armed surveillance in supermarkets
Childcare activities

Financial and real estate activities

Real estate activities

Consultancies (technical, management, commercial and juridical)

Professional offices (firms) with abuse of apprenticeship and stage – TVA for consultants and high profile projects contracts

SERVICE SECTOR-ADVANCED TERTIARY

CHARACTERISTICS OF THE PHENOMENON

	Standard Workers	Flexible Workers
Abuses of project oriented collaboration	31,7	33,4
Abuses of apprenticeship and stage	30,1	35,7
Under classification of workers	29,5	32,3
Inappropriate use of TVA persons	24,2	20,6
Abuses of part-time	24,0	31,7
Absolute illegal work	21,3	29,5
Outside envelope	21,2	26,4
Fraudulent provision of workforce		17,3
Irregular declarations of workers	15,9	17,7
Abuses of on-call jobs/voucher		15,6
False reimbursement/false sickness	11,5	16,4

Non standard advanced tertiary

Current employment in the context of non-standard component

	Non-standard workers distributed by contractual typology	Occupational groups	Incidence by group
Employment contract of continuous collaboration or project	27,2	COLLABORATIVE	27,2
Fixed term employment-full time	18,5	TEMPORARY	26,7
Fixed term employment-part-time	8,2		
Employment with TVA declaration	15,1	PROFESSIONAL	15,1
Temporary contract	5,5	FLEXIBLE	12,7
Apprenticeship contract	2,6		
Job training contract	2,1		
Voucher	0,2		
On-call employment contract	2,3		
Employment without contract	7,2	UNDECLARED	7,2
Stage	2,1	STAGE	3,7
Apprenticeship	1,6		
Total	100		100

SERVICE SECTOR

POLICIES

STRUCTURAL INTERVENTIONS CONSIDERED THE MOST EFFICIENT ONES TO COMBAT UNDECLARED WORK IN THE SERVICE SECTOR BY REGIONAL DISTRIBUTION

Measures	<i>Ranking</i>		Regions where the measure is considered most relevant
	Centre-North	South	
To introduce new regulations on public procurement with a view to combating undeclared work	1	2	Emilia Romagna Lazio Campania
Easier access to bank's credits	4	1	Sicilia, Campania, Puglia
Incentives for the growth of the enterprise's dimension (encourage merges and consortia)	2	4	Lombardia Emilia Romagna Puglia
Better local infrastructures	3	3	Sicilia Campania Puglia
Increase the police's presence at local level	5	5	Lombardia Campania Emilia Romagna

THE AGRICULTURAL SECTOR

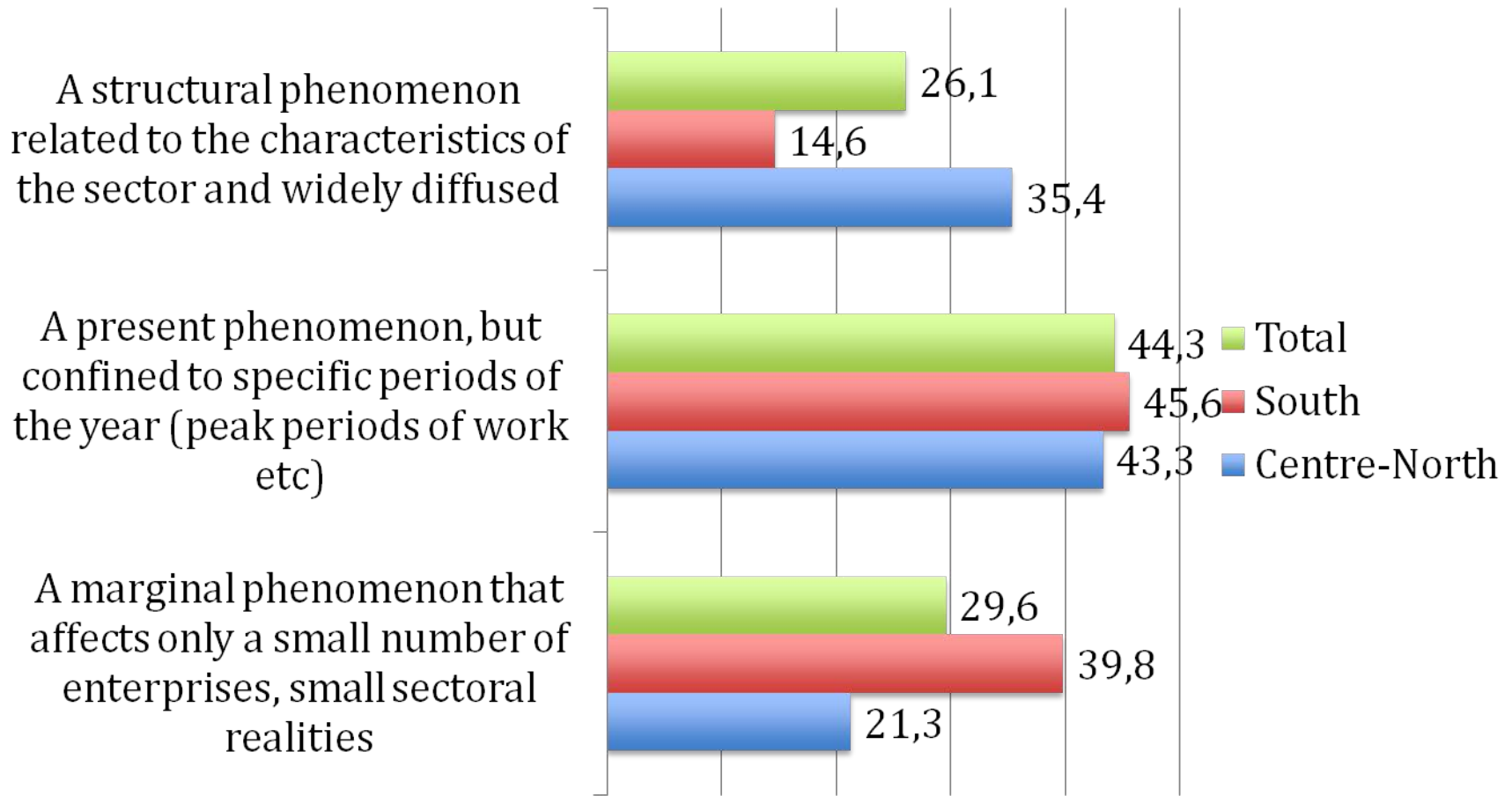
CHARACTERISTICS OF THE PHENOMENON

Factors that contribute to the development of the phenomenon

- **Structural:** *inability, in specific areas, to restore the economic production according to new methods of work organization such as the consortia, and hence the necessity to enter into the undeclared area*
- **Administrative:** *cumbersome and long bureaucratic administrative procedures do not make easy the introduction of flexible and rapid instruments in a sector that is characterized by high seasonality labour turnover*
- **Socio-cultural:** *the weakness of the social networks and of the social partners, including the absence of an entrepreneurship able of providing a forward-looking strategy*
- **Normative:** *INPS pension subsidies, a high level of taxes, the fraudulent conducts vis-à-vis the tax system, concur to the distortion of the labour market*

THE AGRICULTURAL SECTOR

CHARACTERISTICS OF THE PHENOMENON



THE AGRICULTURAL SECTOR

TYOLOGIES OF ILLEGAL WORK BY INCIDENCE ON THE WORKFORCE

SOUTH

CENTRE-NORTH

UP TO 20% OF
WORKERS

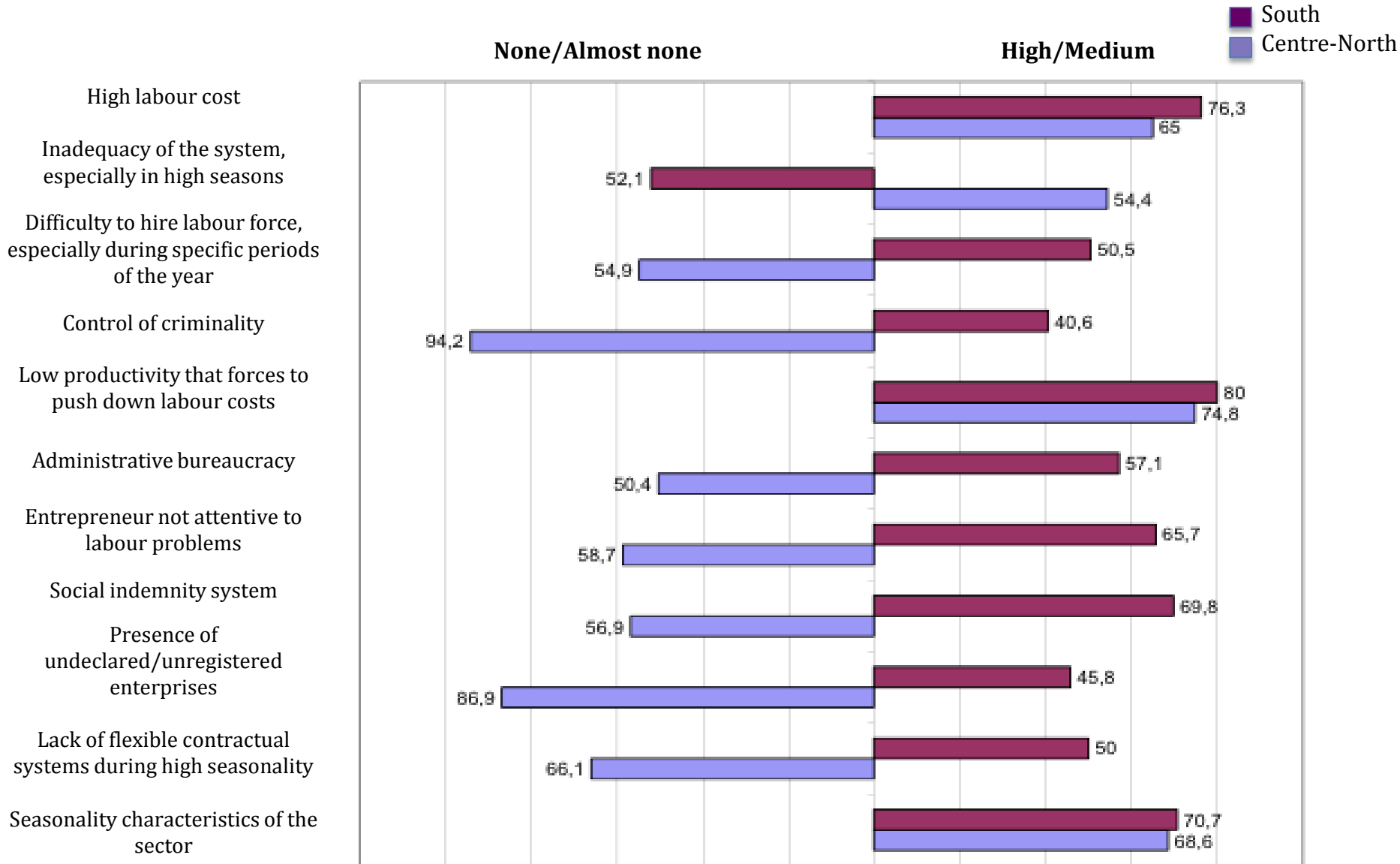
BETWEEN 20% AND
50% OF WORKERS

ABOVE 50% OF
WORKERS

	UP TO 20% OF WORKERS	BETWEEN 20% AND 50% OF WORKERS	ABOVE 50% OF WORKERS
Failure to pay contributions			
Totally irregular work			
Wages lower than the ones required by contracts			
Declaration of the number of days per worker			
Outside envelope			
Non-compliance with safety standards			
Misuse and abuse of the voucher system (voucher's earners)			

THE AGRICULTURAL SECTOR

CAUSES:DEGREE OF IMPORTANCE



Percentage of illegality in selected sectors

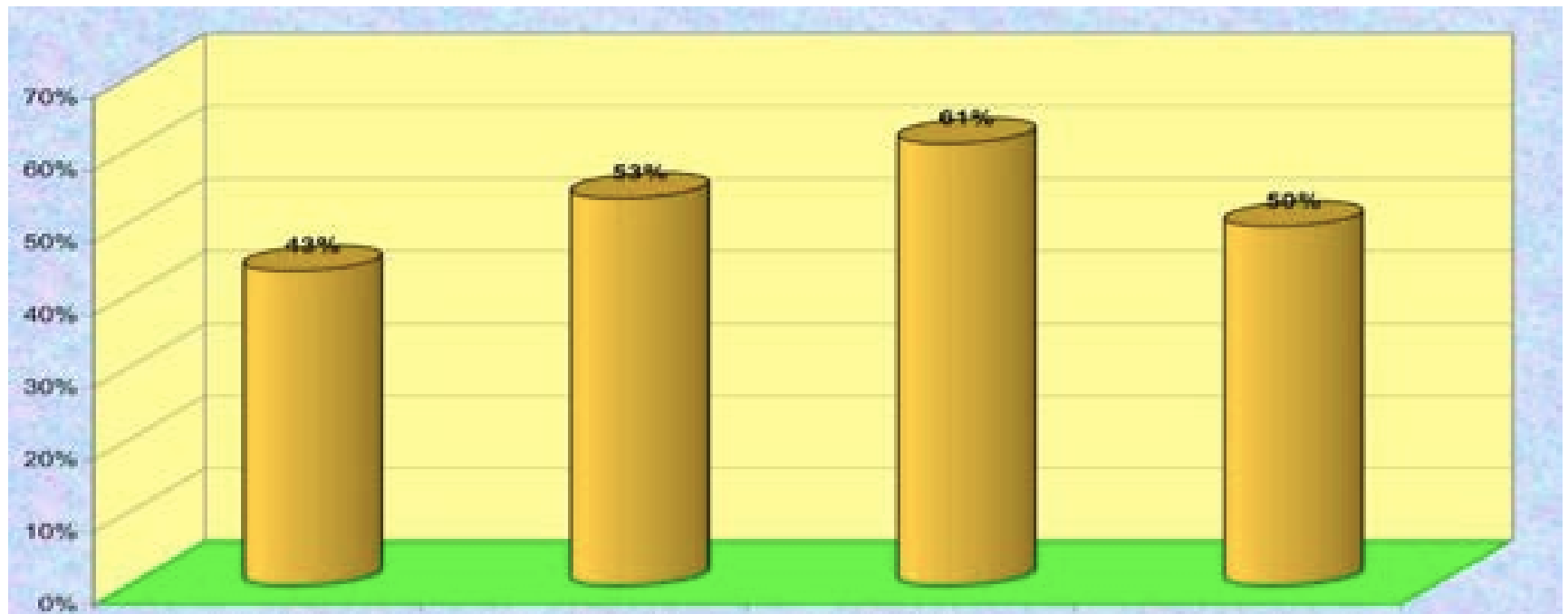
(Agriculture, Industry, Construction, Services)

Source: Ministry of Labour and Social Policies 2012

Ministry of Labour and Social Policies

Percentage of illegality by sectors

Period:2012



Agricultur

e

Industry

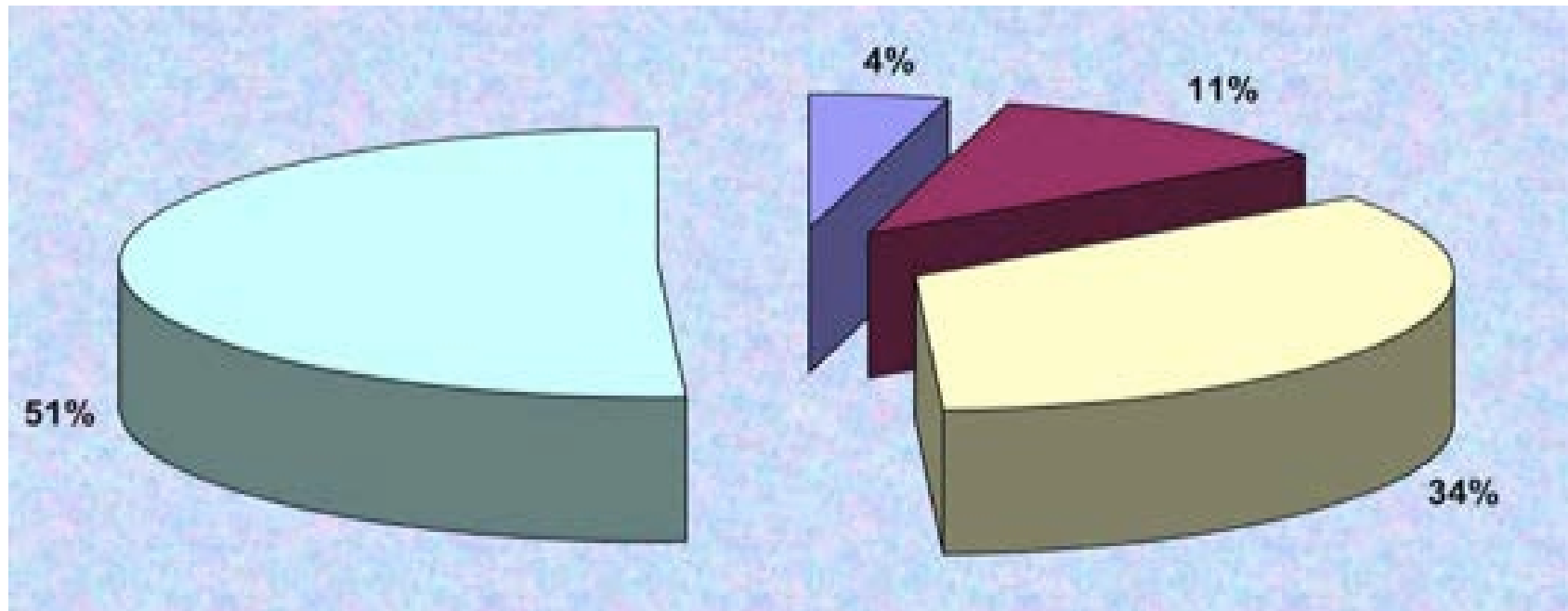
Construction

Services

Inspected enterprises – Distribution by sector

(Source: Ministry of Labour and Social Policies)

Ministry of Labour and Social Policies
Distribution of inspected enterprises by sector
Period: January-December 2012



■ Agriculture ■ Industry ■ Construction ■ Services