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EU-ILO Project
ENHANCING THE LABOUR ADMINISTRATION CAPACITY
TO IMPROVE WORKING CONDITIONS AND TACKLE UNDECLARED WORK

Tripartite workshop

**“Formulation of a Biannual Action Plan
to Fight Undeclared Work”**

DISTRIBUTION MATERIALS

4-7 June 2018

President Hotel

12, Hospitalna Str., Kyiv

www.ilo.org/UkraineEUProject

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Mr. António Santos, EU-ILO Project manager

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Mr. António Santos, EU-ILO Project Manager



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EU-ILO Project
«Enhancing the labour administration capacity to improve working conditions and tackle undeclared work»

Undeclared Work
(UDW)

Tripartite Workshop | *4-7 June 2018*

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Content



Undeclared Work (UDW)



UDW Taxonomy

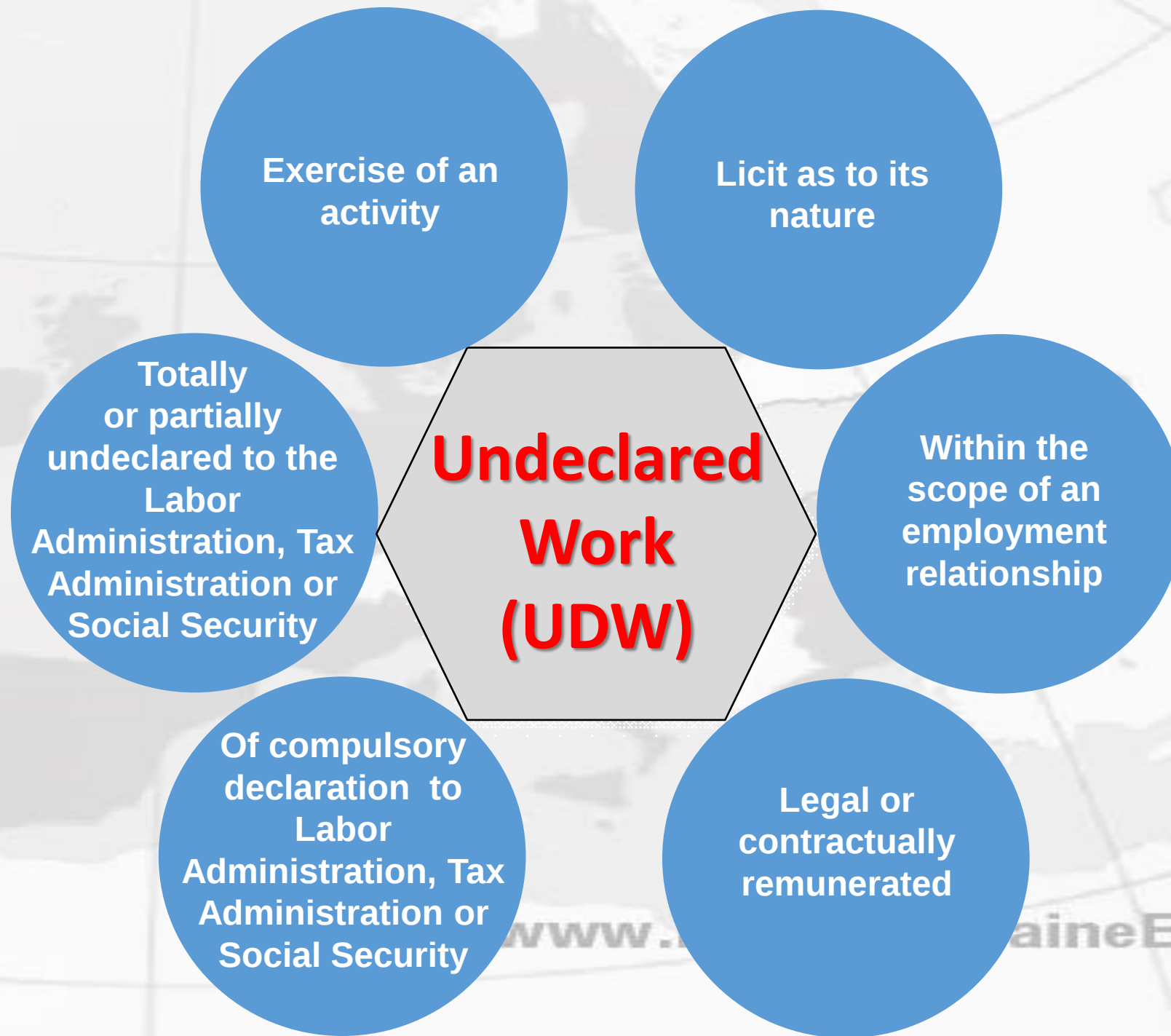


Main causes

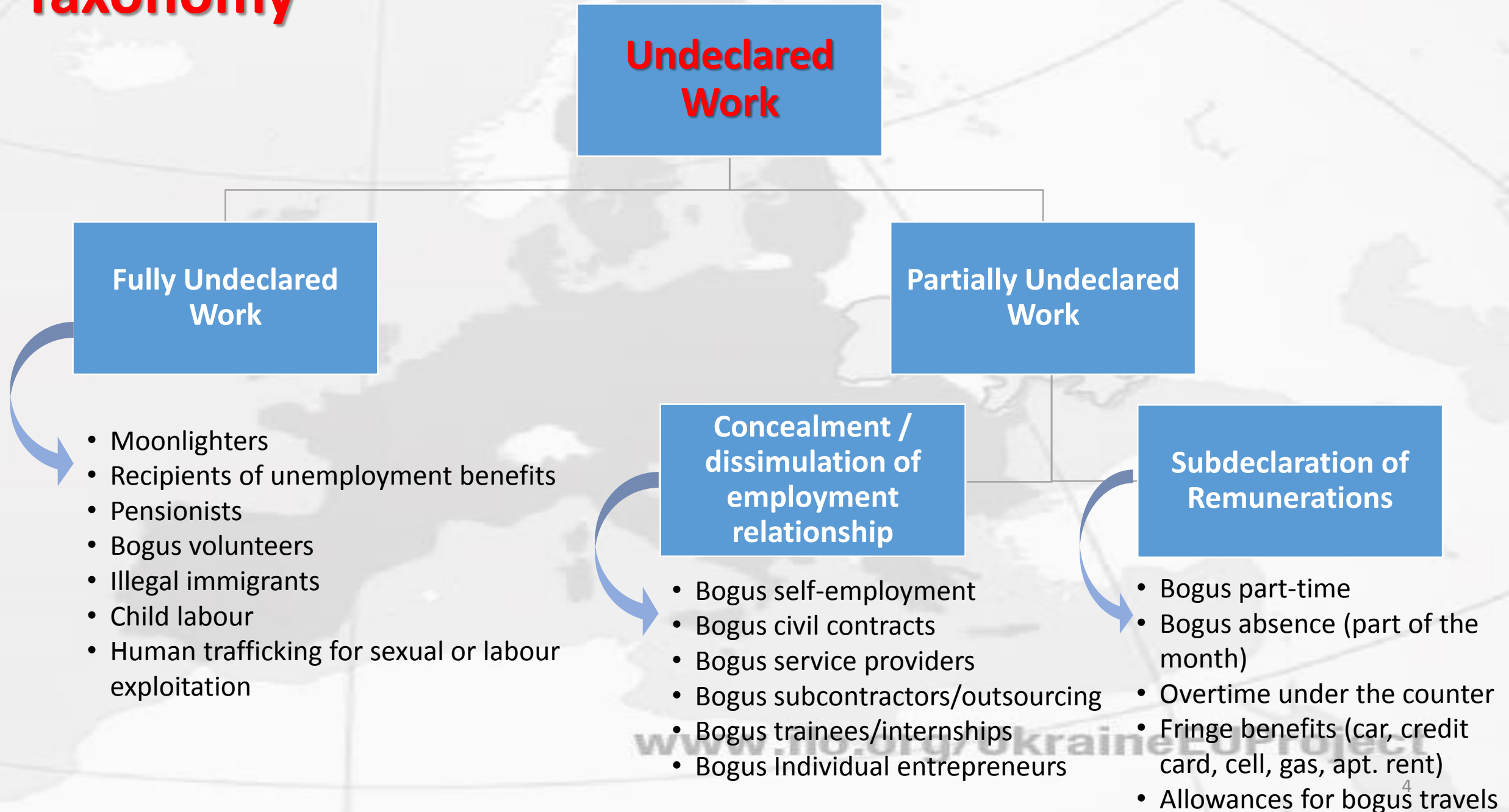


Main consequences

www.mercy-eu.org/eu-project



Taxonomy



Causes

Workers	Employers
Not enough regular jobs	Difficulties to find regular workers
Its the only way to a find a job in the region/sector	It is the way the sector works
Difficulties to access labour market (lack of qualifications, absence of license, age, disability, irregularity of residence)	To reduce personnel costs (salaries, annual leave, overtime, OSH, etc.) and increase income
It is a seasonal or short-term job	To improve competitiveness
Excessive tax burden	To increase human resources flexibility (in recruitment and dismissal)
To increase net income	Excessive tax burden
Both parties (worker and employer) benefit from UDW	Both parties (worker and employer) benefit from UDW
Excessive administrative, legal and bureaucratic burdens	Excessive administrative, legal and bureaucratic burdens
Ignorance of the advantages in declaring	Ignorance of the advantages in declaring
Not knowing the disadvantages of not declaring	Not knowing the disadvantages of not declaring

Consequences

Workers	Employers	State
Indecent working conditions	Unfair competition	Unsustainability of social security
Non-protection against damages arising from occupational accidents	Difficulties in obtaining credit and to grow	Imbalance of public finances
Non-protection regarding several events (unemployment, sickness, retirement, etc.)	Management “Myopia” – competitiveness mainly based on legal infringements	Insufficiency of state resources for the provision of public services and social protection
Absence of legal guarantees (salary, protection regarding unlawful dismissals, annual leave, training, limits to working time, rest, OSH conditions, etc.)	Lack of productivity (due to HR turnover, absences and lack of training, lack of economies of experience, etc.)	Increase of the income taxes and of the social contributions taxes
Inability to obtain the recognition, validation and certification of professional skills and experience	Difficulties to provide product/service warranties	Degradation of the working and living conditions due to social dumping
Sanctions for non-compliance	Degradation of employer image and lack of access to certain markets	Unfair competition and decrease of foreign investment
	Sanctions for non-compliance	Inequality, segmentation, exclusion and social injustice.



Дякую за увагу!
Thank you for your attention!
Gracias por su atención!
Obrigado pela vossa atenção!

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*ENHANCING THE LABOUR ADMINISTRATION CAPACITY
TO IMPROVE WORKING CONDITIONS AND TACKLE UNDECLARED WORK*

Tripartite workshop

Undeclared Work in Ukraine: measurement, scope and ways to deter

Olexandr Tsymbal, National Institute of Strategic Research

Manifestations of undeclared work in Ukraine



Wages in envelopes

Who measures

Ministry of Economic Development
and Trade of Ukraine



As a part of the shadow economy

How it is
determined

The shadow economy - the economic activity of business entity which is not registered in accordance with the established procedure, performance of works and delivery of services, evasion of taxes, collections (mandatory payments), statistical questionnaire surveying and submission of statistical reporting what results in violation of the statutory established norms (levels of the minimum wage, working hours, work conditions and safety, etc).

Informal employment

Informal
employment in
the formal sector

Employment in
the informal
sector

Who measures

State Statistics Service
of Ukraine



How it is
determined

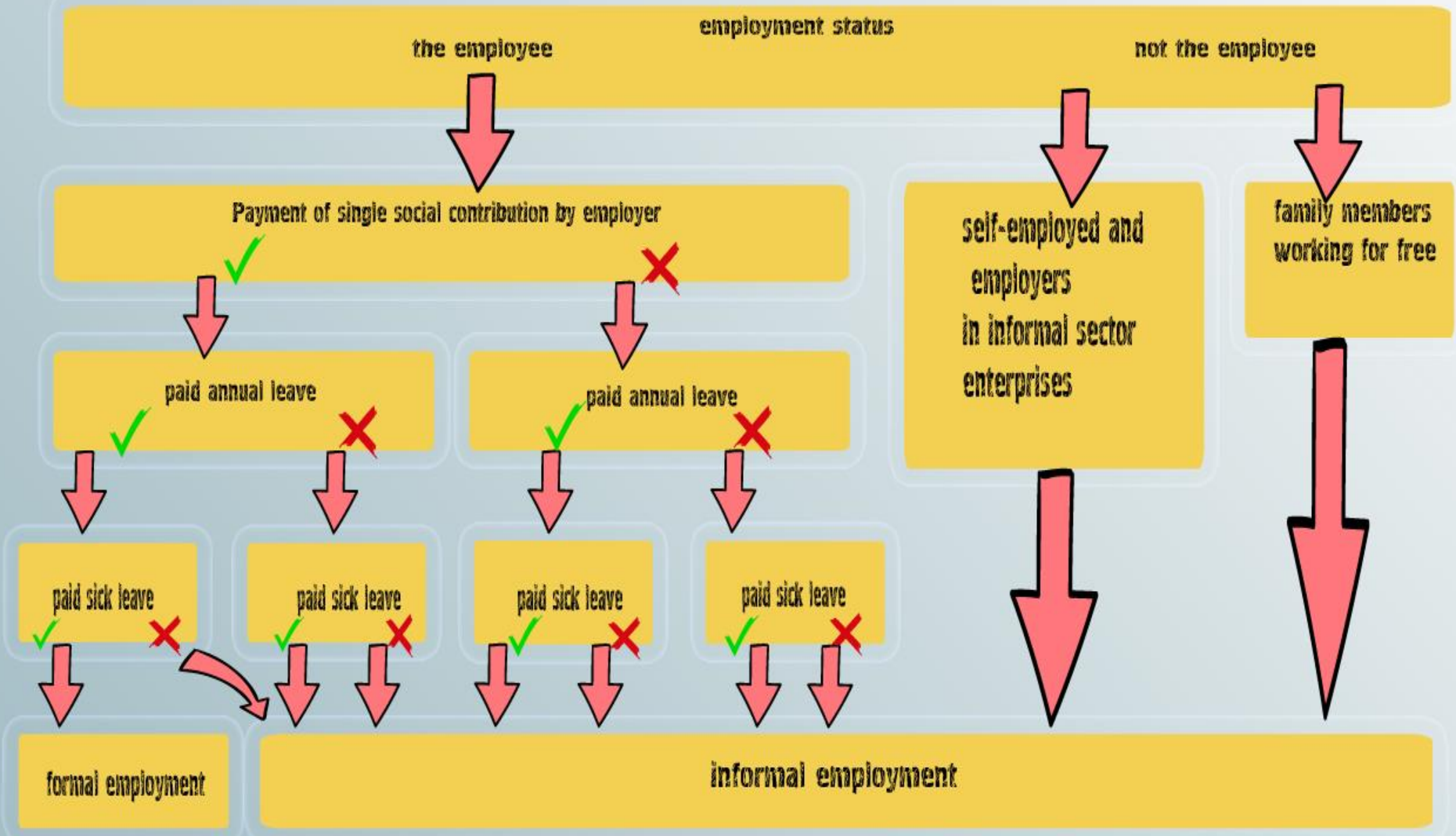
Exists in both formal and informal sectors of economy.
Covers all type of non-standart work and all being employed but de jure and de facto not covered by national labour law, tax system and social protection system.
Defined as total number of informal workplaces in enterprises of formal or informal sectors or in households (within the reported period).

Sources of data on undeclared work in Ukraine

Form of undeclared work	Data sources	Nature and value of data
(1) Informal employment of individuals in the formal sector and family members who work for free (2) Employment in the informal sector: (2a) Non-registered employers and employees working in their non-registered enterprises; (2b) Individuals working for their own account without establishing legal entity (2c) Members of unregistered cooperatives and other associations; (2d) Workers who are paid to work in households of others	Surveys of economic activity among Ukrainian population, State Statistics Service of Ukraine	Quantitative input data. Fully suitable for reliable assessments and drafting the national policy
	Desk research	Secondary data. If based on data from the State Statistics Service of Ukraine, can be used to work out national policy recommendations
	Non-recurrent sociological surveys	Contain original information. Reveal aspects and links different from those in the analysis by the State Statistics Service of Ukraine. Fragmentary. Can be partially used to outline the national policy
(1) Individuals who are registered in formal sector but their working hours and wages are not fully declared	No official data are available	
	Desk research	Secondary data. Unreliable estimates of general nature based on the State Statistics Service's modelling data. Can be partially used to outline the national policy tasks and issues
	Non-recurrent sociological surveys	Primary data. Fragmentary. Not representative. Irregular. Useful for individual projects within a national policy
(1) Actual labour relations that formally declared as self-employment, or are based on civil, commercial, outsourcing etc. contracts	No official data are available	–
	Desk research	Theoretical in nature. Estimates are not available.
	Non-recurrent sociological surveys are not available	–
(1) Unreported secondary employment of persons who have declared primary employment	No official data are available	–
	Desk research	Theoretical in nature. Estimates are not available.
	Non-recurrent sociological surveys are not available	–

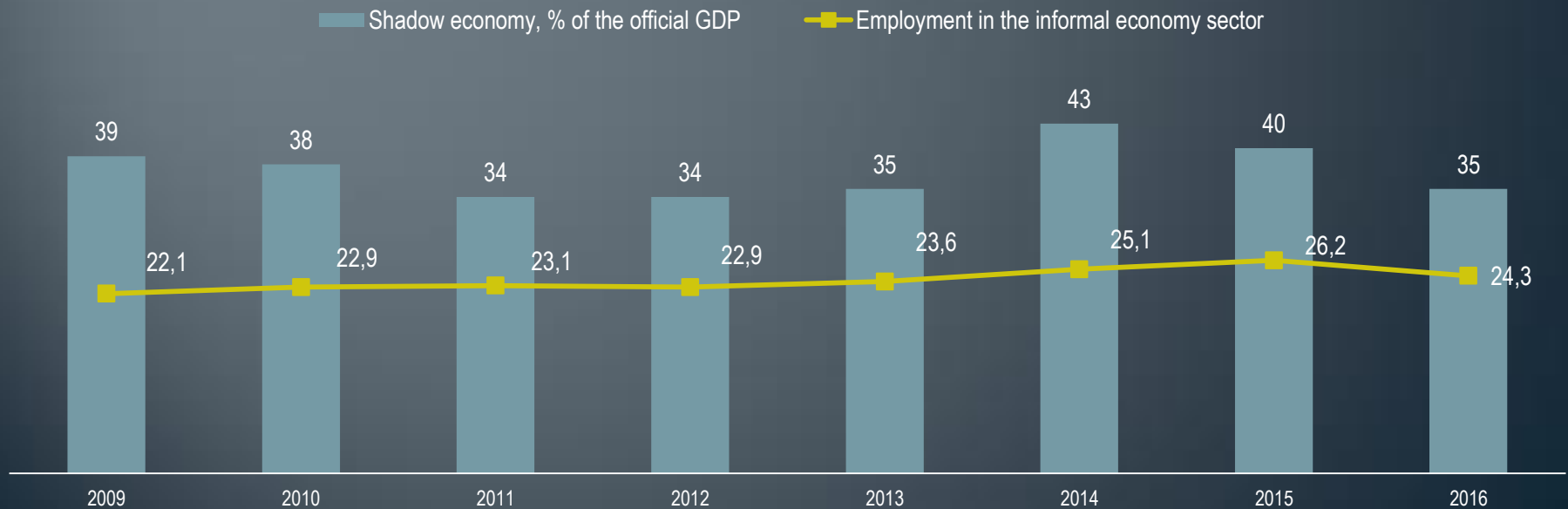
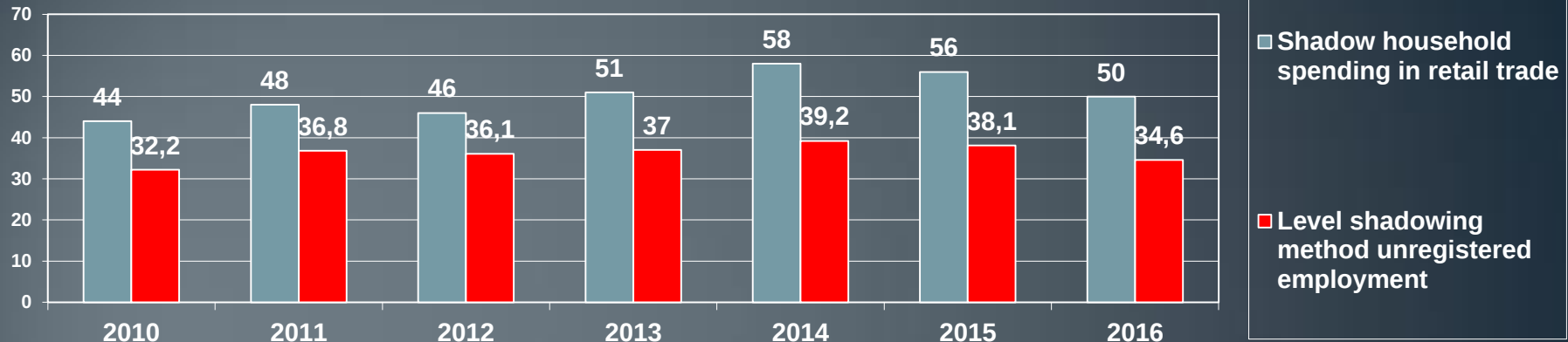
The procedure for determining informal employment

Characteristics of primary employment



Various aspects of undeclared work in terms of the shadow economy and informal employment

-- 10,3 pct (13 pct, 2015) - The average difference between the share of informal employment and shadow work on the method aggregate level of shadow economy in unregistered employment ; The dynamics of informal employment is better correlated with indicators of shadow household spending in retail than with the level of the shadow economy



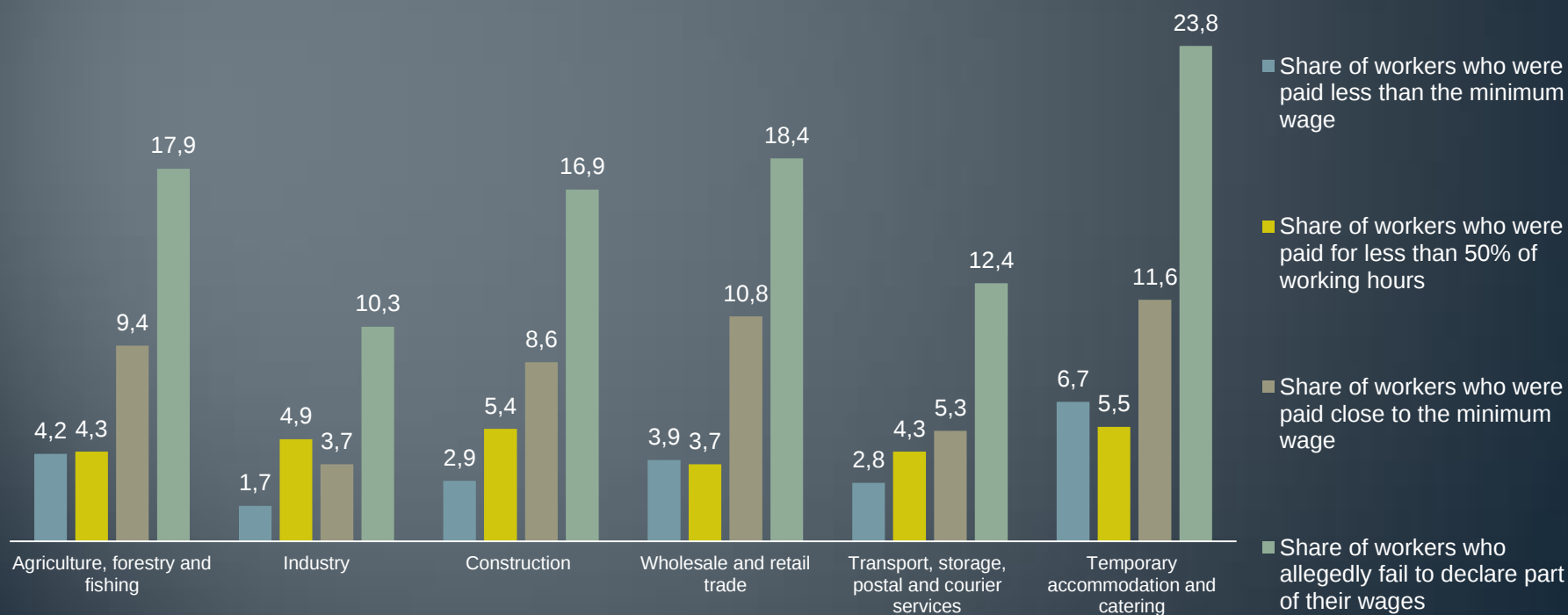
Indicators of partially undeclared work in the formal sector among registered staff workers

Ranking of economic activities in terms of the share of staff workers in the formal sector concerning whom there are grounds to speak of a risk of undeclared work closely corresponds with the ranking of economic activities in terms of the informal employment level in the formal sector

formal sector



Formally employed



General parameters of informal employment in Ukraine in 2016

16,276.9 thousand persons
- the number of the
employed population in
Ukraine

14,145.9 thousand persons
– the number of the
population employed in
the formal sector
(86.9% of the employed
population)

3,961.2 thousand persons
– the number of the
informally employed
population (24.3% of
the employed
population)

formal sector



formal
employment

**12,315.7
thousand
persons**

formal sector



informal
employment

**1,830.2
thousand
persons**

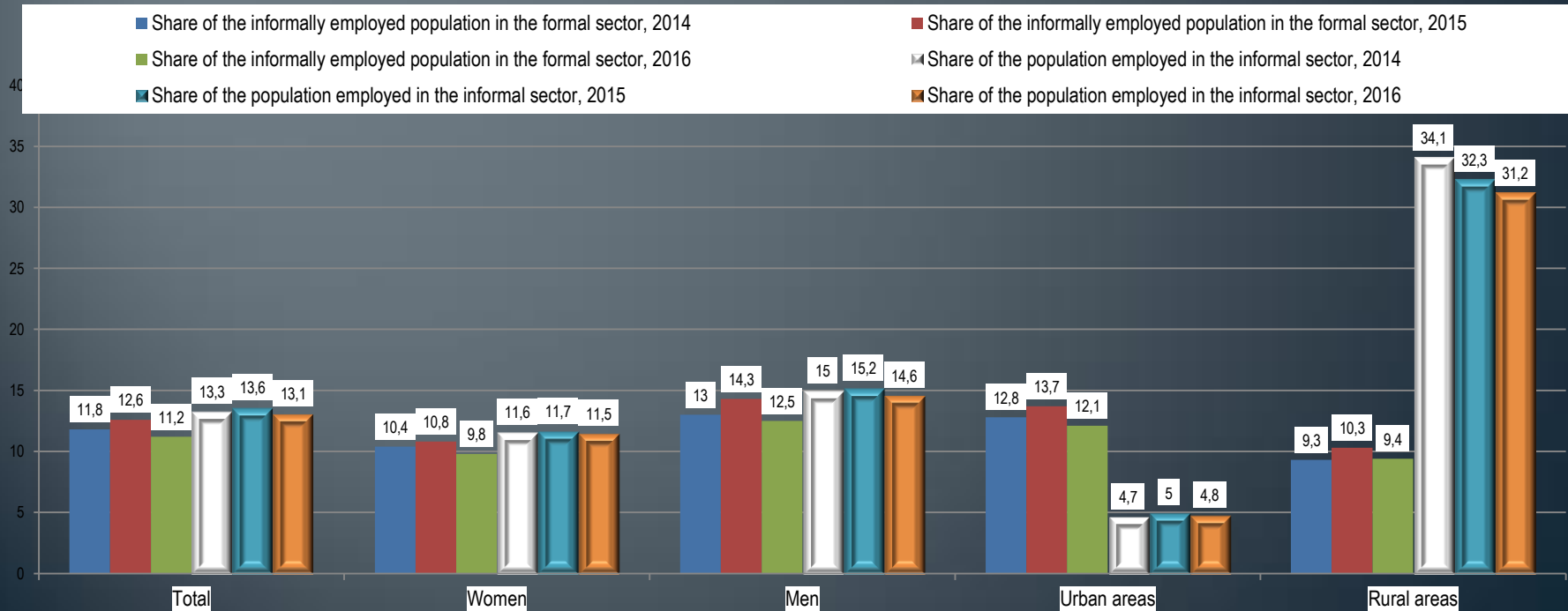
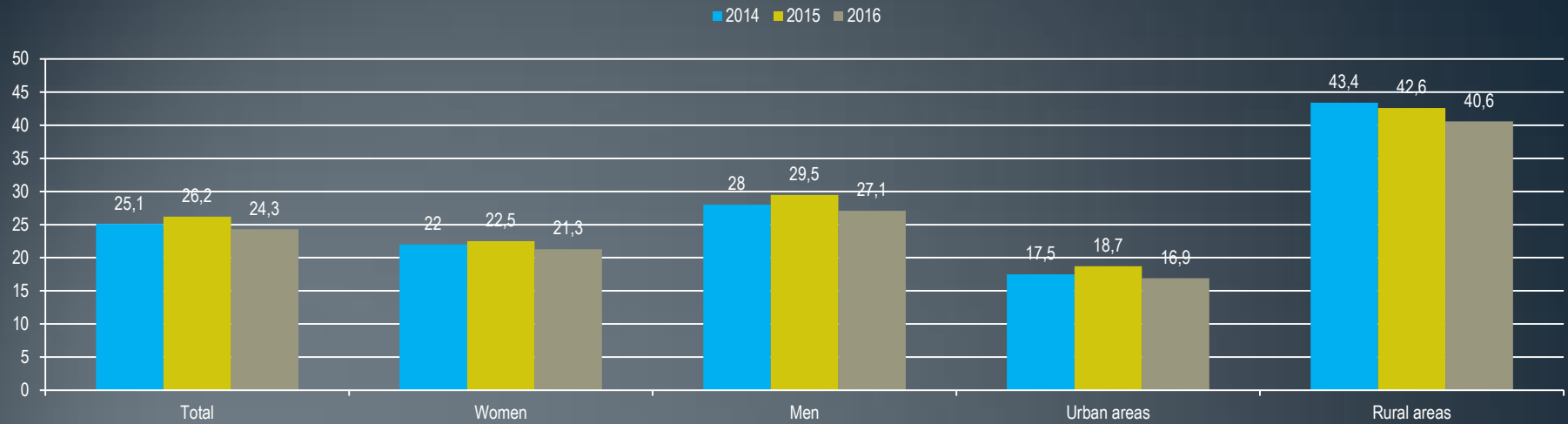
informal
sector



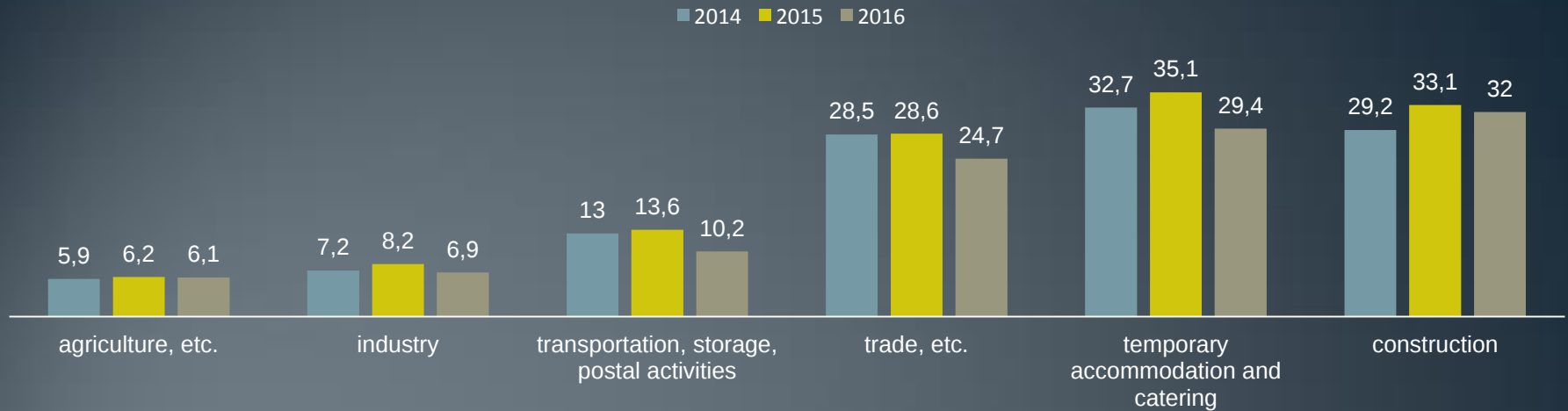
informal
employment

**2,131.0
thousand
persons**

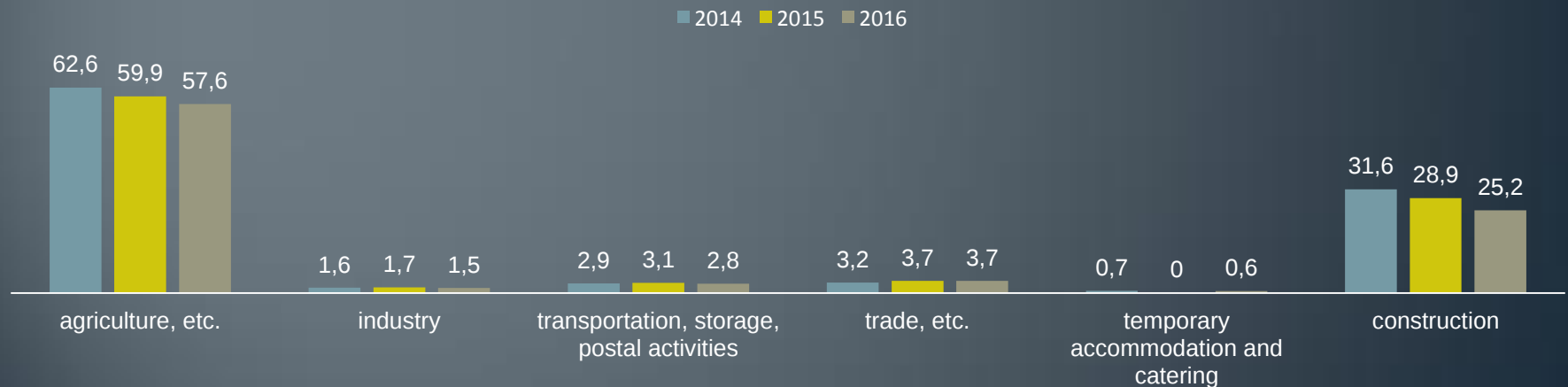
Overall informal employment level



Overall informal employment level in the formal sector

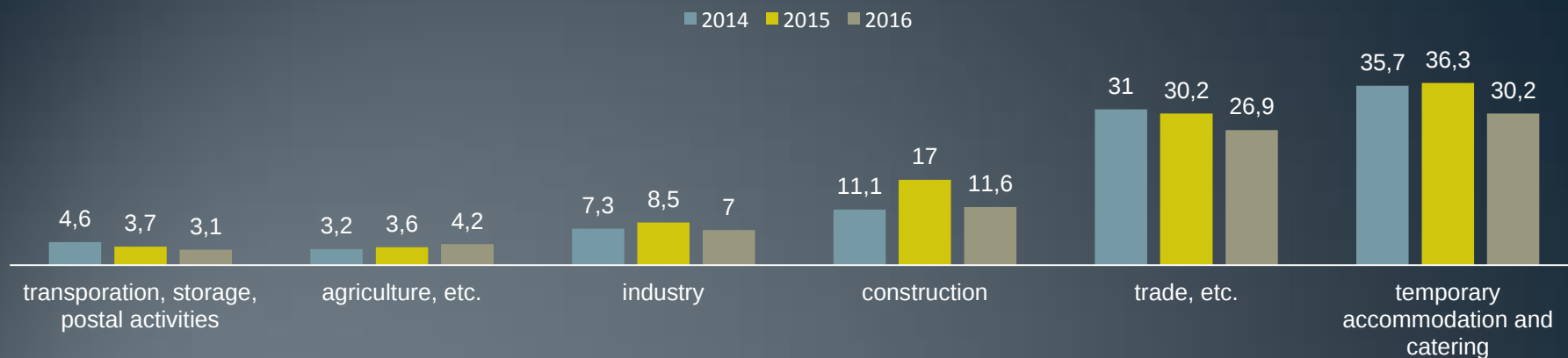


Overall informal employment level in the informal sector

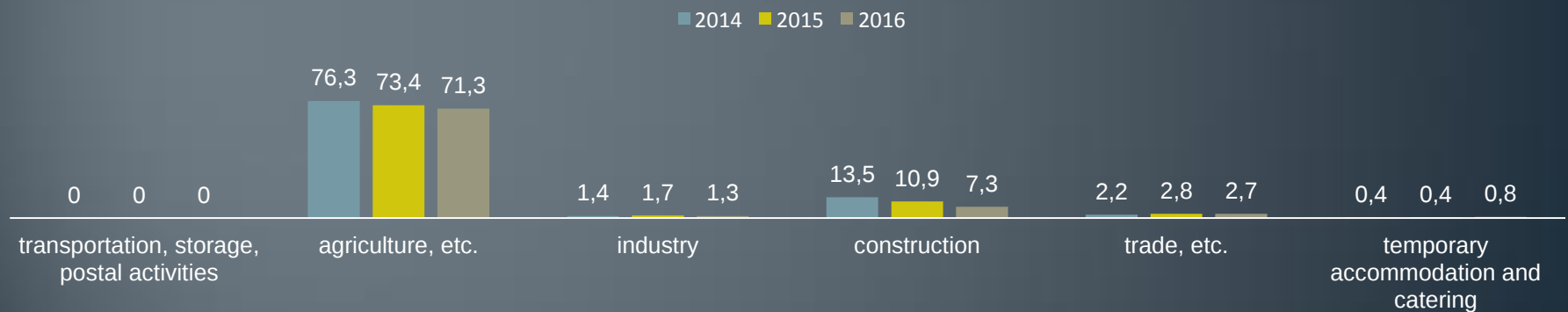


- A downward trend of the informal employment level in the informal sector is more certain than in the formal sector
- Substantial decline of informal employment was observed only in the formal sector of transportation, trade, and temporary accommodation and catering

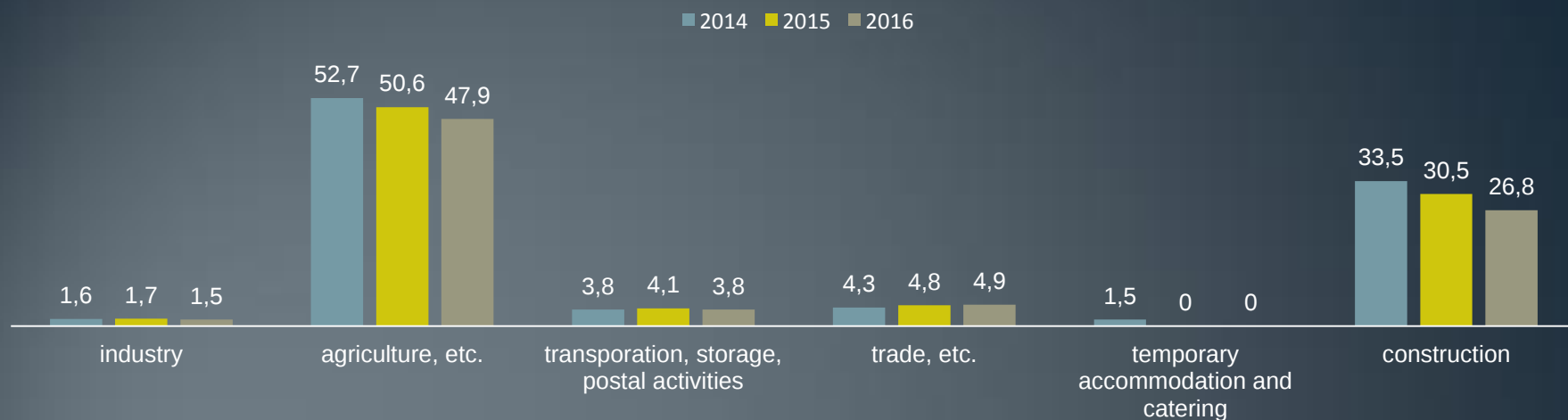
Women's informal employment level in the formal sectori



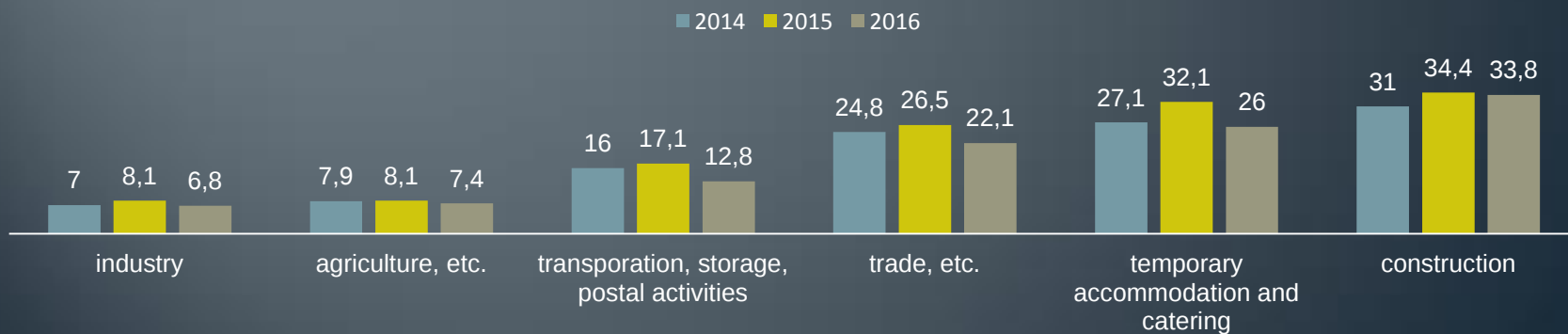
Women's employment level in the informal sector



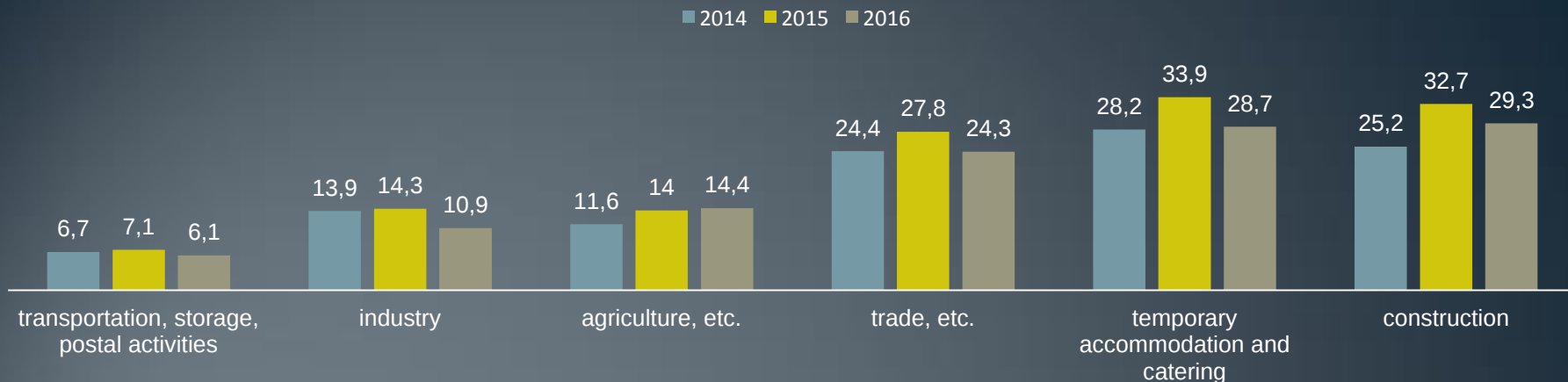
Men's employment level in the informal sector



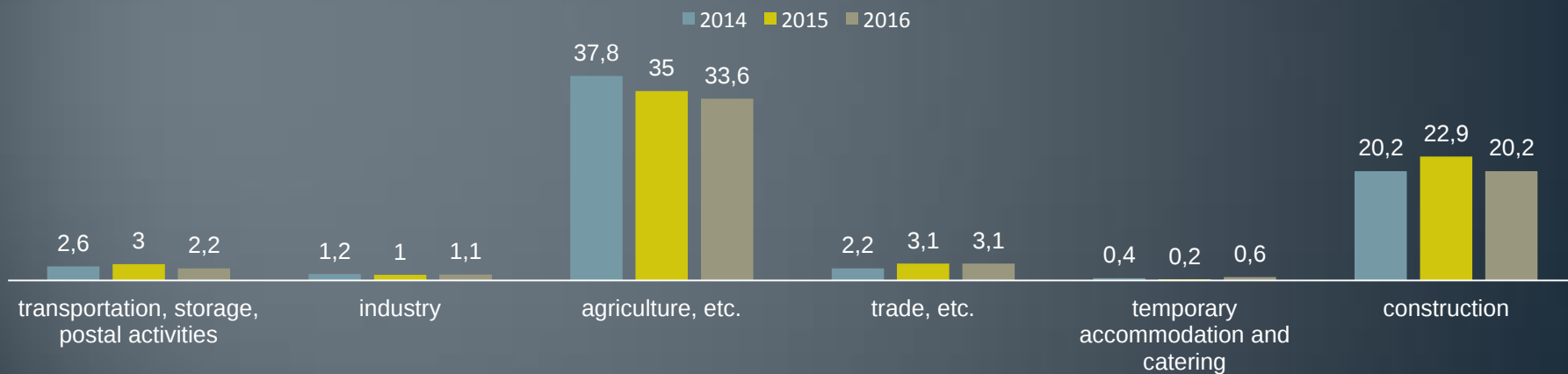
Men's informal employment level in the formal sector



Informal employment level in the urban formal sector



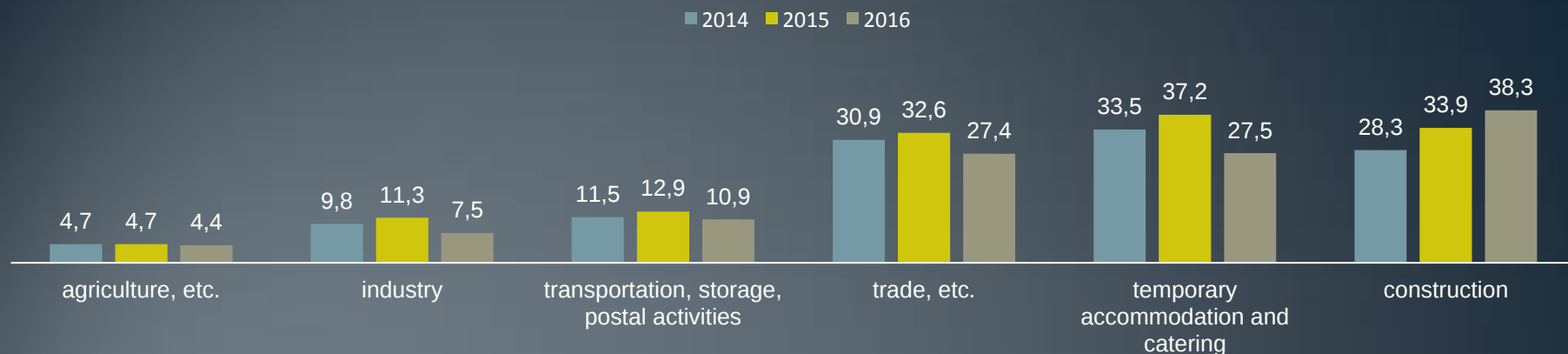
Employment level in the urban formal sector



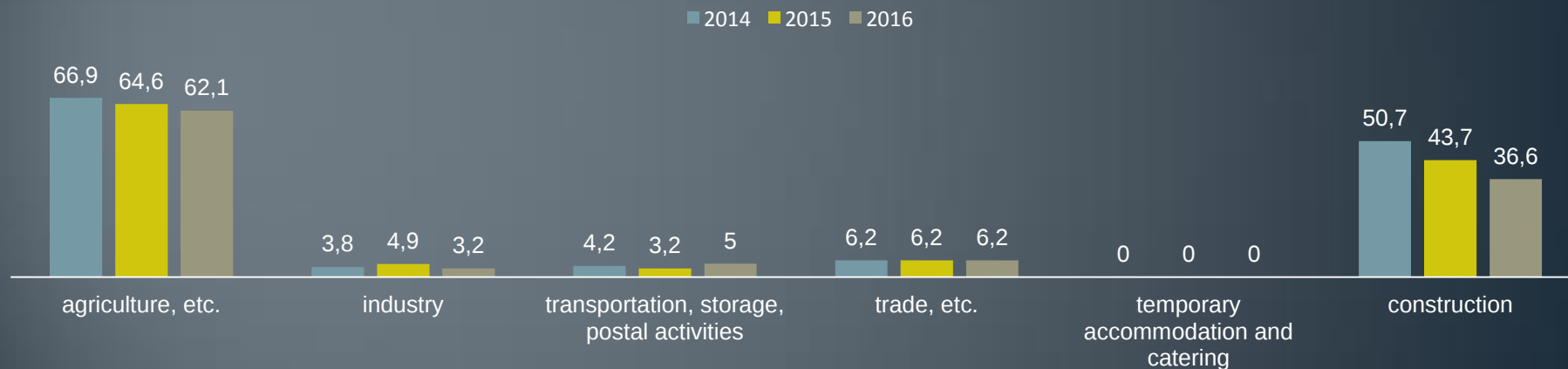
In urban areas, a downward trend of the informal employment is least steady compared to other breakdowns (even in the informal sector)

Positive shifts in the formal sector occurred only in the last year assessed (except agriculture); in terms of the informality level, they only took place in the formal sector

Informal employment level in the rural formal sector



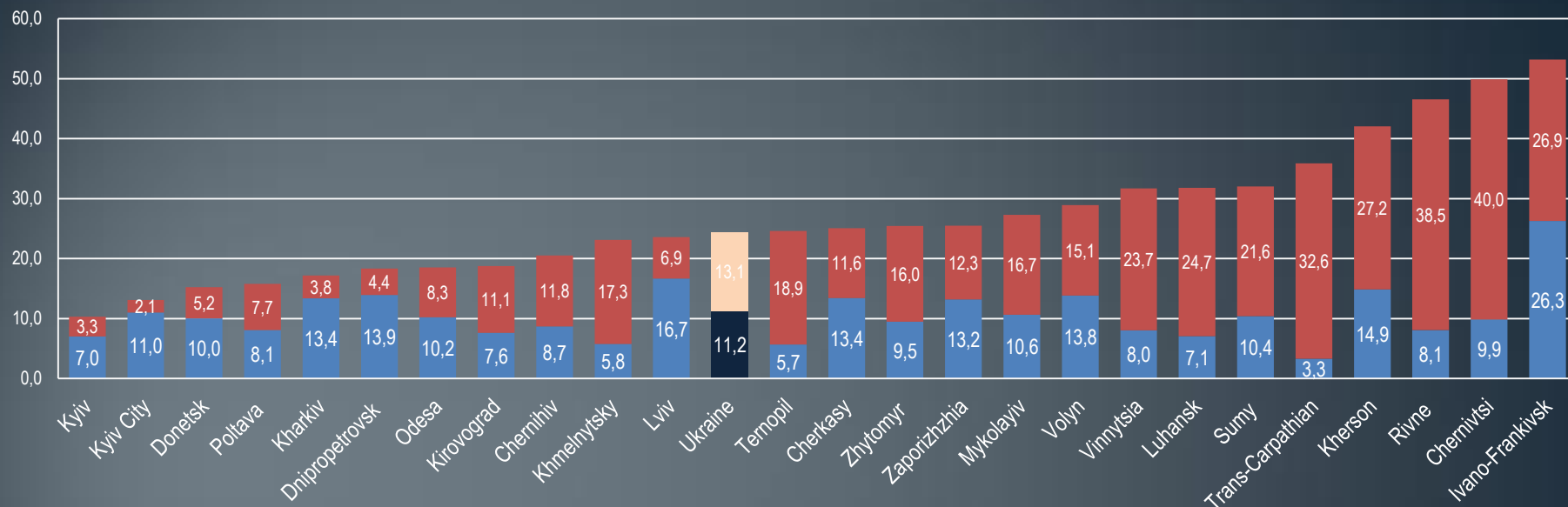
Employment level in the rural informal sector



- A steady downward trend of the informal employment in the formal sector is only typical for agriculture

Informal employment level, by Ukrainian region, 2016, and its patterns during 2015-2016

■ Share of population informally employed in the formal sector ■ Share of population employed in the informal sector



Structural changes

- ↓ Informal employment in the formal sector
- ↓ Employment in the informal sector

- ↓ Informal employment in the formal sector
- ↑ Employment in the informal sector

- ↑ Informal employment in the formal sector
- ↓ Employment in the informal sector

- ↑ Informal employment in the formal sector
- ↑ Employment in the informal sector

Regions

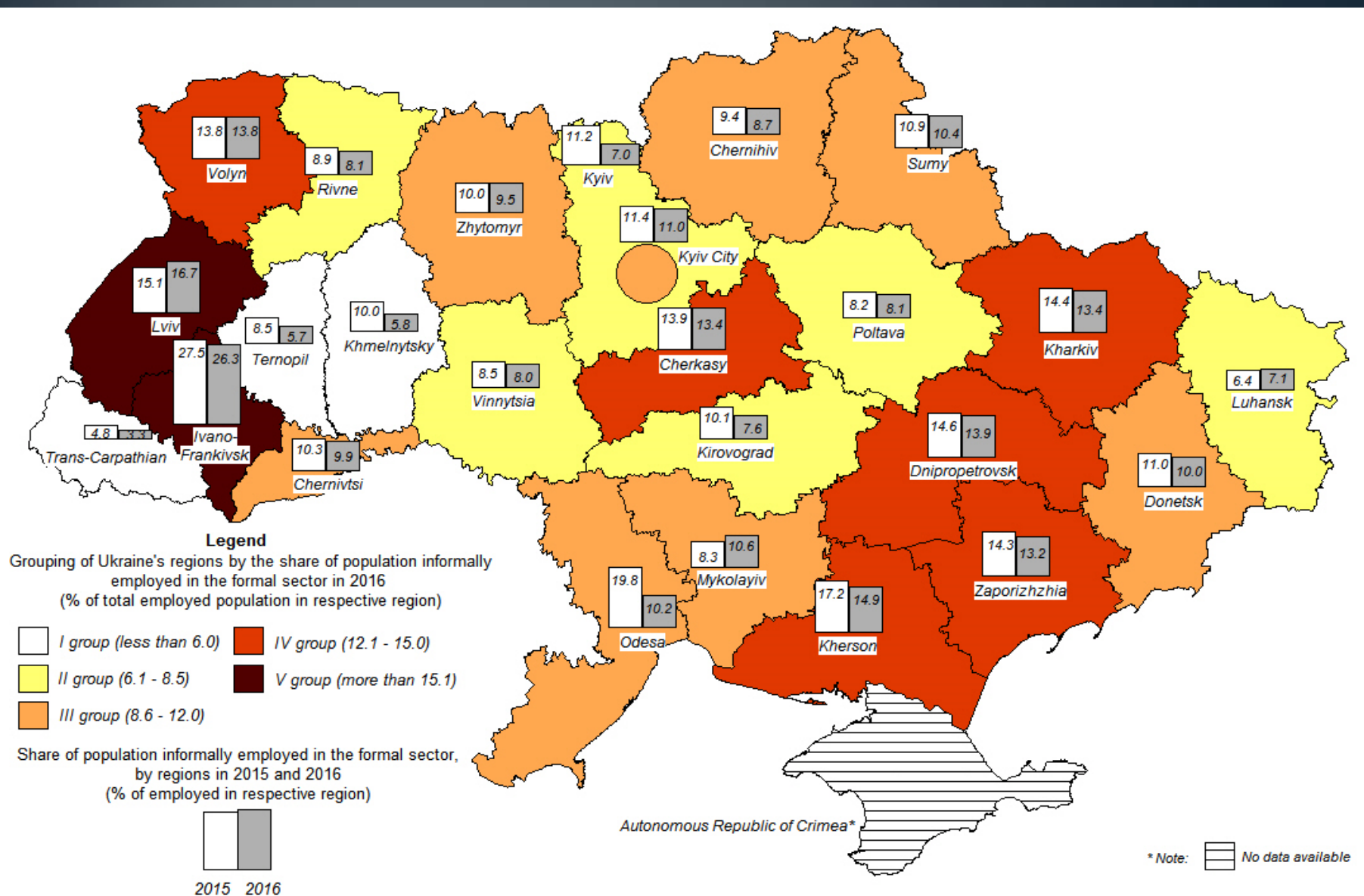
Kyiv oblast, Kyiv City, Poltava, Dnipropetrovsk, Odesa, Chernihiv, Cherkasy, Vinnytsia, Trans-Carpathian, Kherson, Rivne oblasts

Donetsk, Kharkiv, Kirovograd, Khmelnytsky, Ternopil, Zhytomyr, Zaporizhzhia, Sumy, Chernivtsi, Ivano-Frankivsk

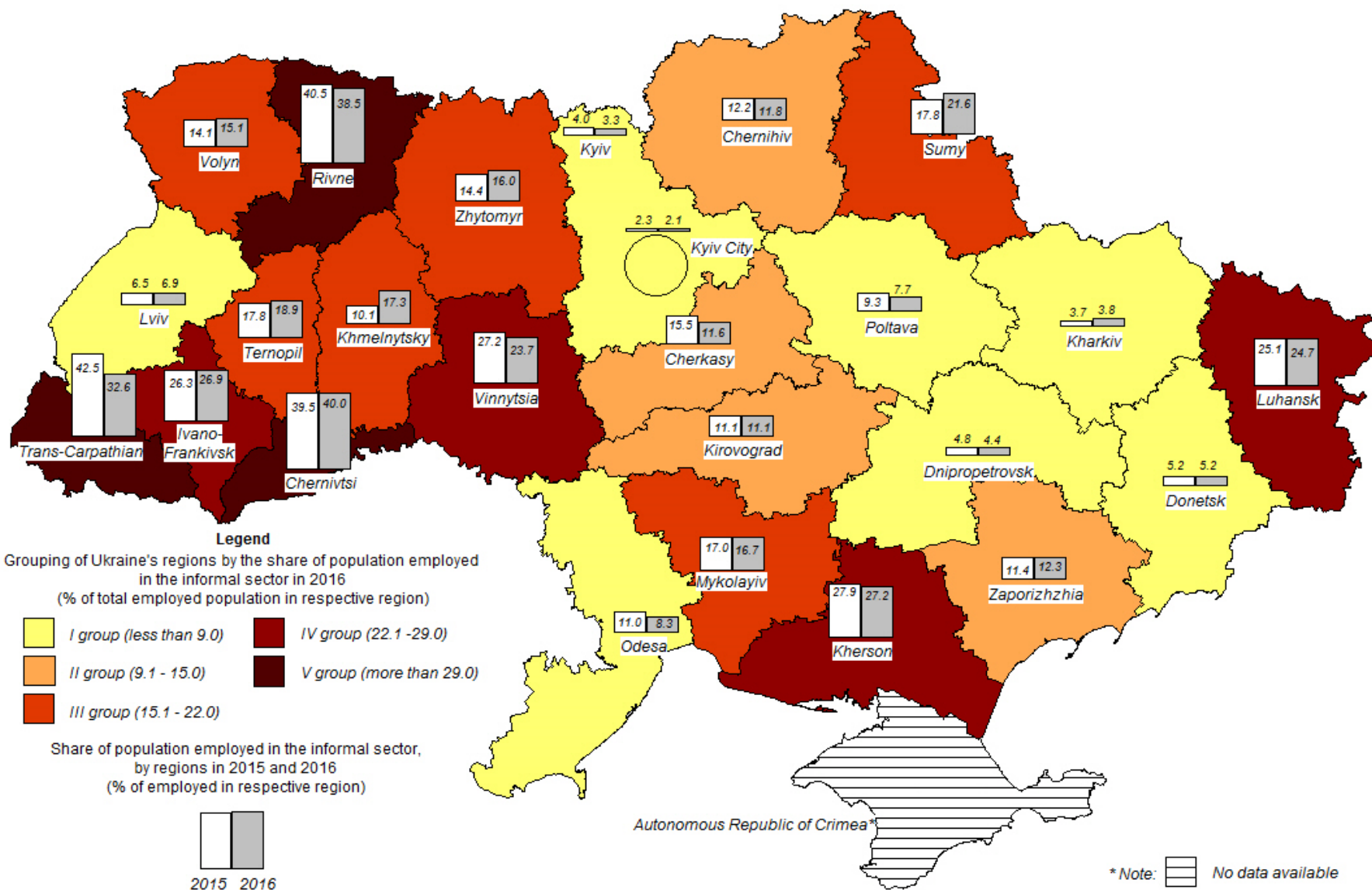
Mykolayiv, Luhansk

Lviv, Volyn

Break-down of regions by informal employment in the formal sector in 2015-2016, as % of all employed population in the corresponding region



Break-down of regions by employment in the informal sector, in 2015-2016, as % of employed population in the corresponding region



Economic activity	Size of the critical threshold	Region	Number of regions with critical threshold values in economic activities
Agriculture, forestry and fishery	Equal or above 80%	Vinnytsia, Volyn, Zakarpattia, Ivano-Frankivsk, Rivne, Ternopil, Kherson Chernivtsi	8
Construction	Equal or above 70%	Vinnytsia, Volyn, Zakarpattia, Ivano-Frankivsk, Rivne, Kherson, Chernivtsi	7
Wholesale and retail trade, oth. together with Accommodation and food services activities	Equal or above 40%	Zakarpattia, Ivano-Frankivsk, Odesa Sumy, Kherson	5
Transportation, storage, postal and courier activities	Equal or above 20%	Volyn Dnipropetrovsk Ivano-FrankivskOdesa TernopilKhersonChernivtsi	7
Industry	Equal or above 13%	Volyn Zakarpattia Ivano-FrankivskOdesaRivneTernopil KhersonKhmelnytskyChernivtsi	9

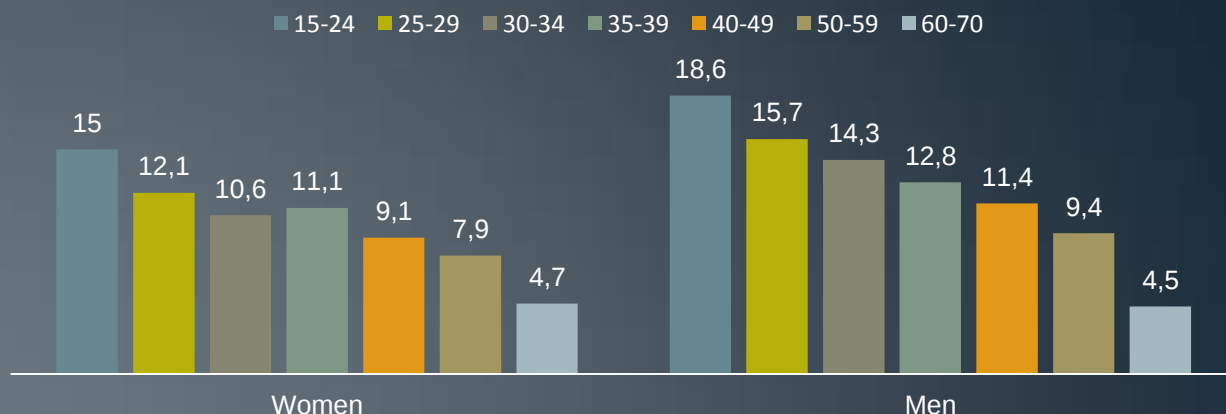
In the formal sector, the informal employment risk goes down with age.

This trend is more distinct among men than among women.

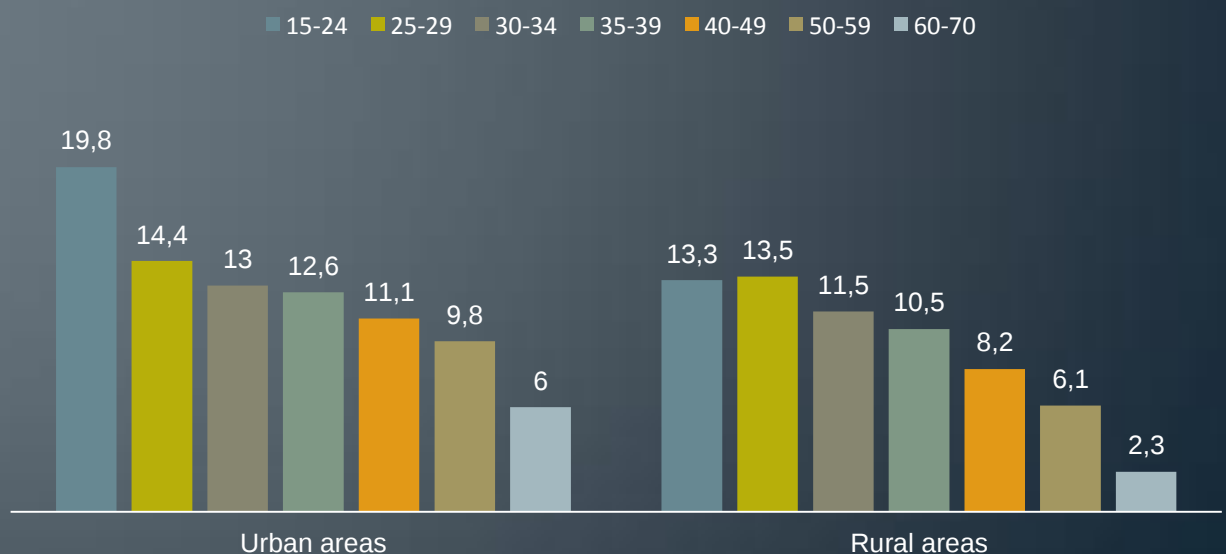
This trend is more distinct in urban areas than in rural areas.

The highest informal employment risk in the formal sector is typical for young urban residents.

Informal employment in the formal sector, by age group, women and men, 2016



Informal employment in the formal sector, by age group, urban and rural areas, 2016



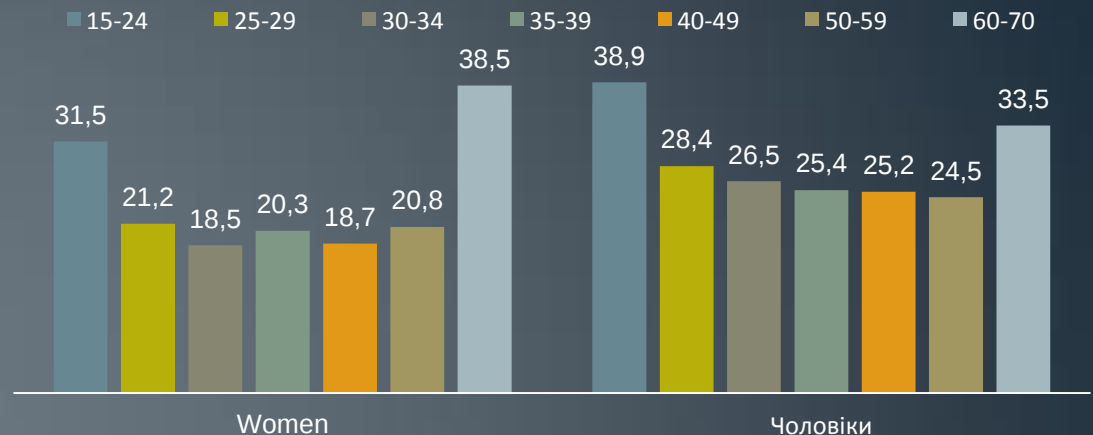
In the informal sector, the youngest and oldest women and men are the most vulnerable.

Older women are more vulnerable than younger ones, with an opposite trend among men.

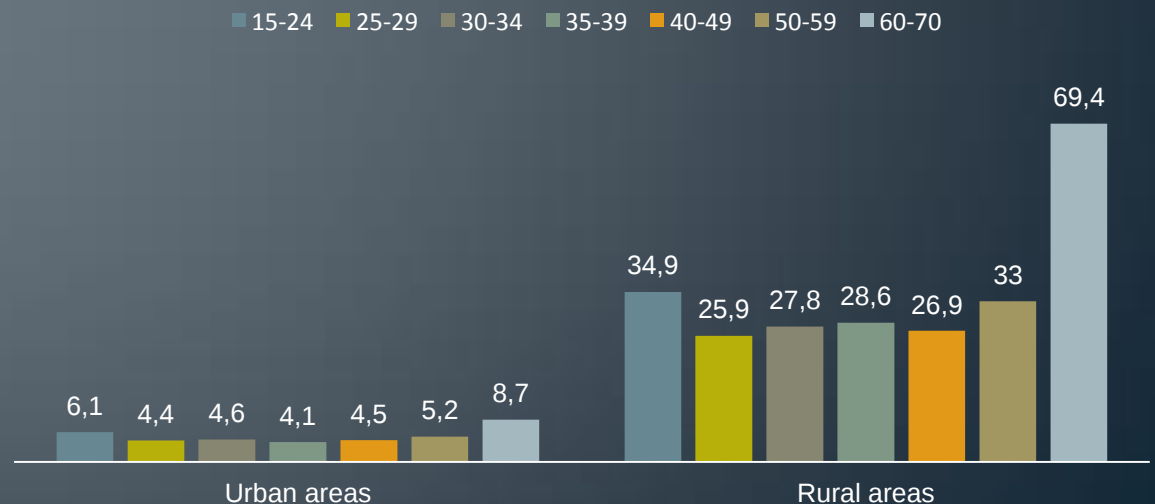
Trend during 25-60 years: the older the age the lower the likelihood of working in the informal sector.

In rural areas, likelihood of working in the informal sector increases, except for young people.

Employment in the informal sector, by age group, women and men



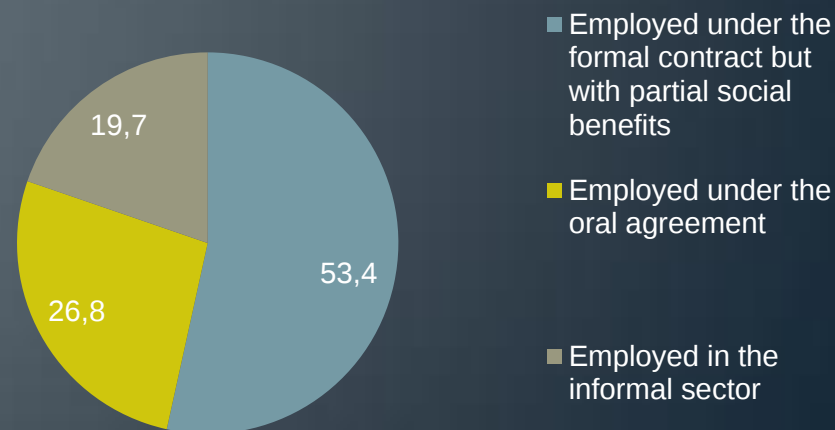
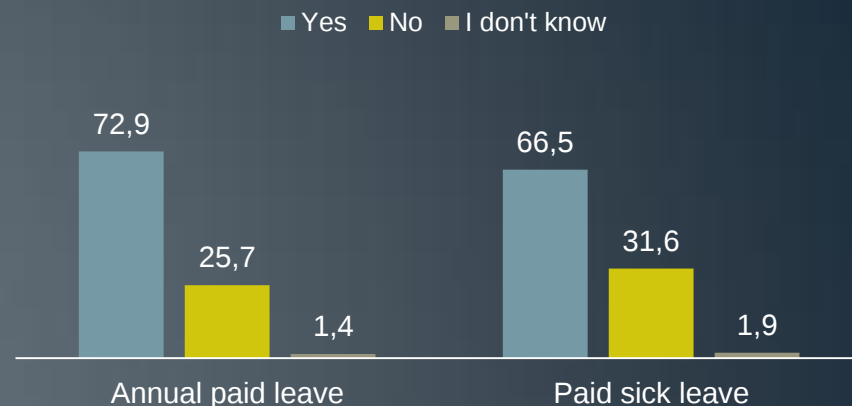
Employment in the informal sector, by age group, urban and rural areas



School-to-work transition surveys (SWTS), 2015

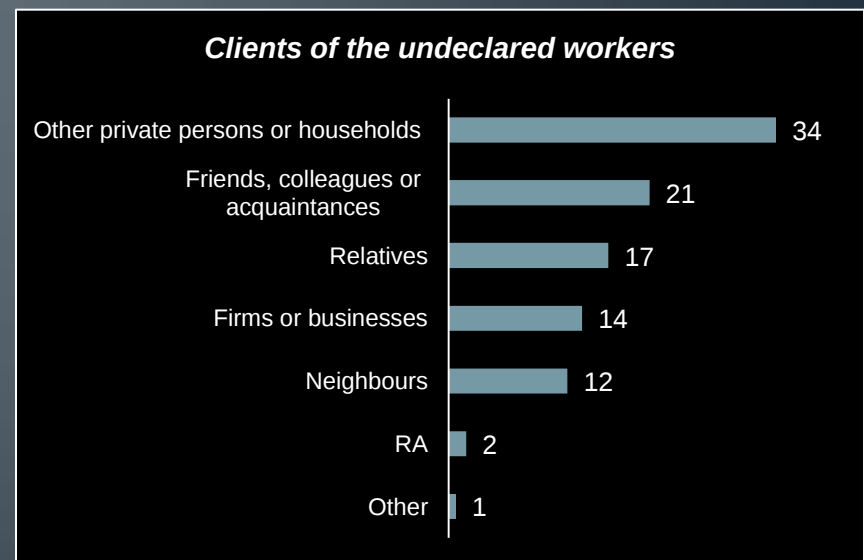
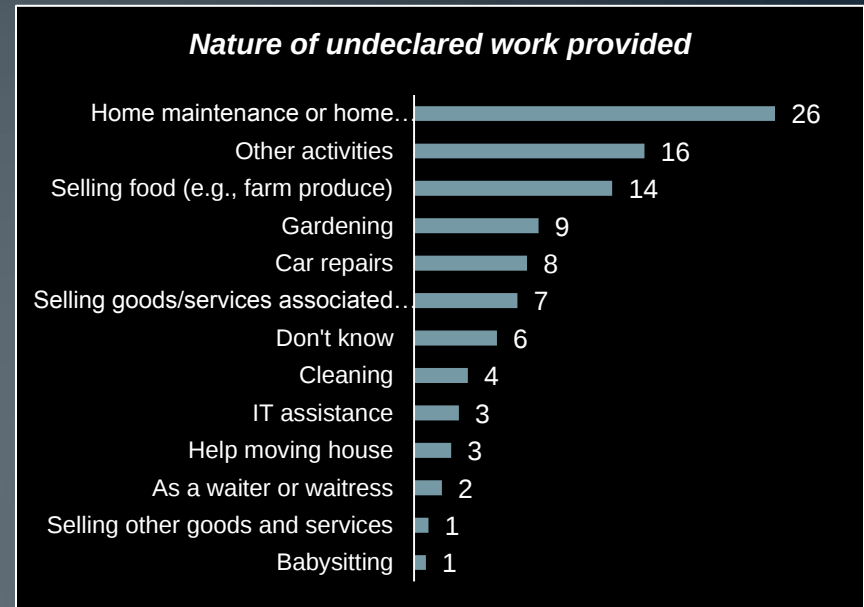
- Among young persons employed in the formal sector, only 84.6% stated that employers pay a uniform social contribution for them from the entire wage.
- At the same time, a considerable number of employers in Ukraine not registering their employment relationship with workers still grant them annual leaves and sick leaves, and pay for the leaves.
- Among the young persons classified as informally employed, only 46.6% work in the informal sector or without employment relationship formalized in written. Most of them have a written contract or a work record book but don't receive the entirety of social rights in the workplace.

Distribution of employed youth by access to basic social guarantees in the workplace



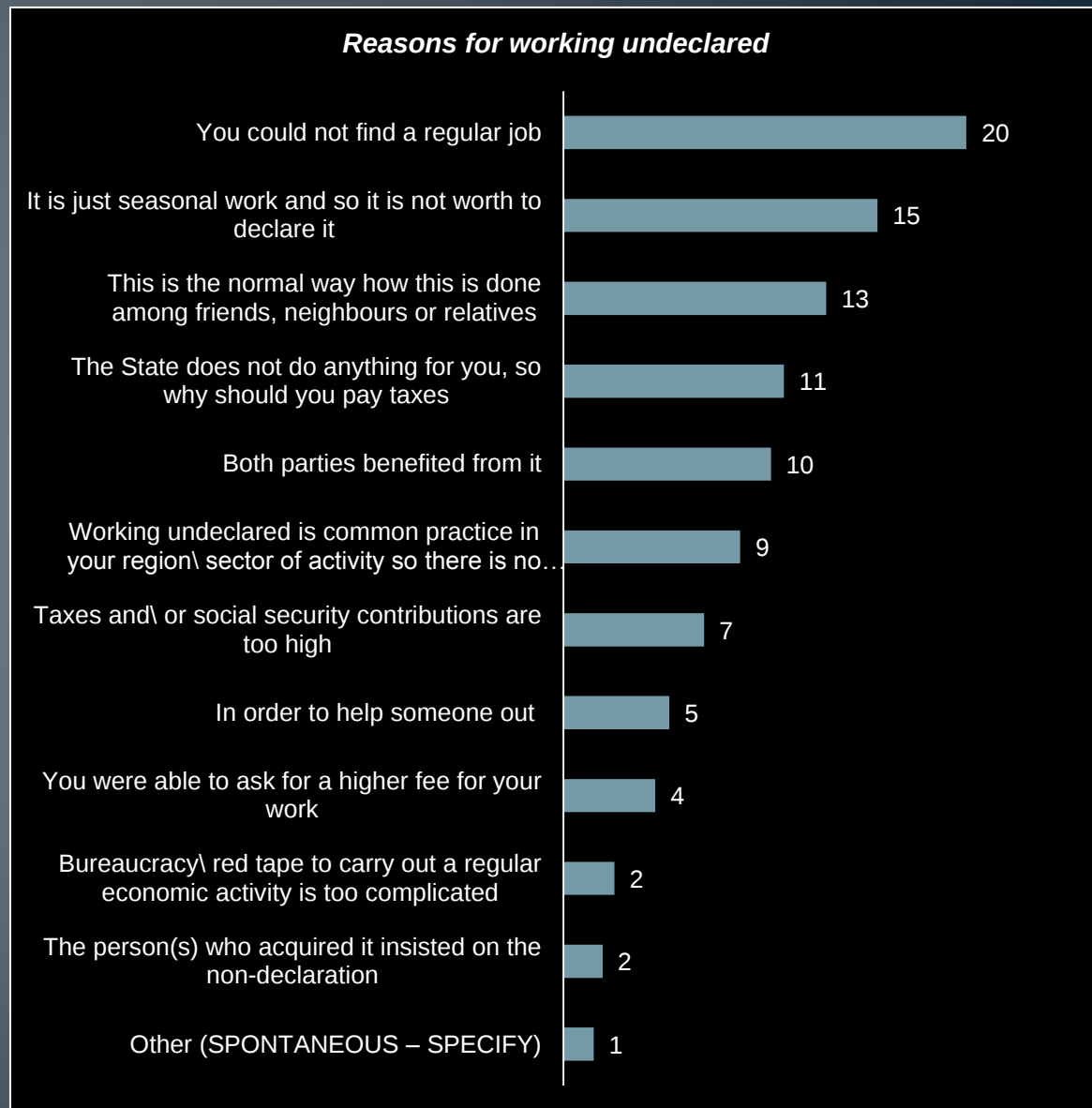
Sociological survey “Undeclared work in Ukraine” (UDWSS), 2017

- Sample of 1,000 persons, except the temporarily occupied Autonomous Republic of Crimea and non-government-controlled areas of Donetsk and Luhansk oblasts.
- Eurobarometer survey methodology.
- Fig. 1. Undeclared activity types
- Fig. 2. Undeclared work service recipients



Sociological survey “Undeclared work in Ukraine” (UDWSS), 2017: Why do you use undeclared work?

- Rather mercantile reasons generally make up at most one-third – 32%
- Labour market environment determines 35% cases
- Social motives (everyone does so, help to others) - 27%



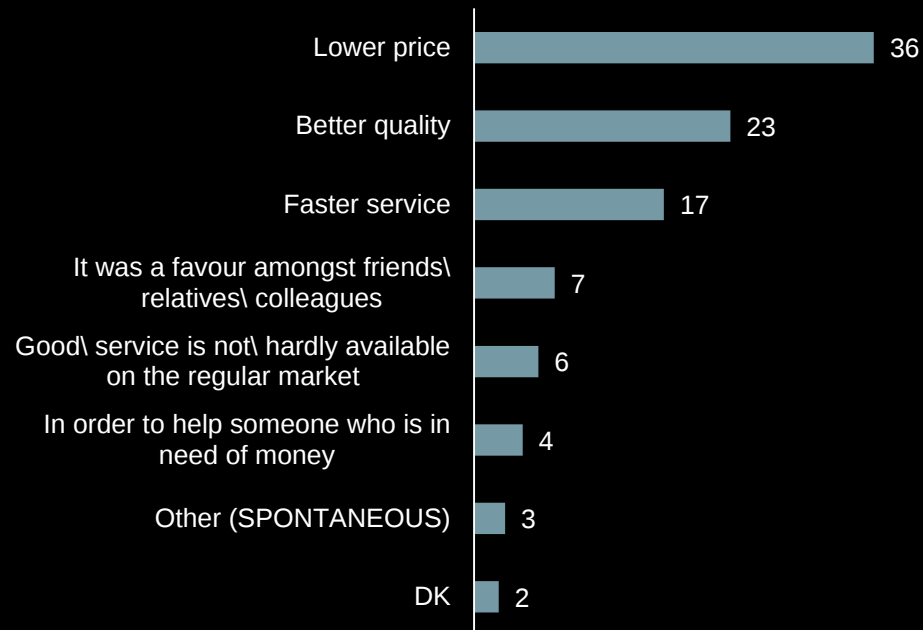
In the respondents' opinion, where did they receive undeclared work services (UNWSS, 2017)

Sector	
Construction	24%
Industry	24%
Household services	23%
Transport	15%
Personal services	37%
Retail	24%
Repair services	15%
Hotel, restaurant	55%
Agriculture	16%
Other	19%

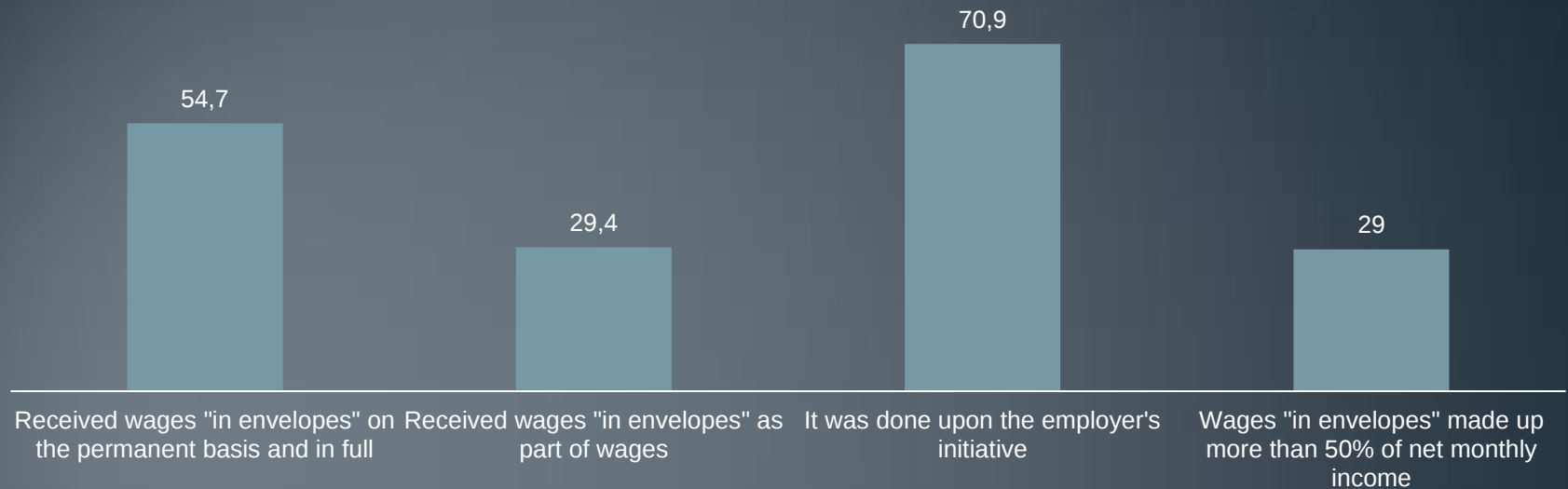
Financial situation	
Poor	15%
Average	18%
Good	20%
Very good	31%

Employment status	
Employee	21%
Self-employed	33%
Unemployed	19%
Retired	11%
Student	8%
Other, refusal, DK	26%

Main reasons to use undeclared work



Wages in envelopes (UDWSS, 2017)



- About 9.14% of employees reported having received wages “in envelopes” (“take-home”) during the most recent 12 months, without notifying tax and/or social security authorities about them



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EU-ILO Project

«Enhancing the labour administration capacity to improve working conditions and tackle undeclared work»

Recommendations to fight UDW

Tripartite Workshop | *4-7 June 2018*

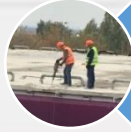
Антоніу Сантуш / António Santos
Менеджер проекту / Project manager

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Content



Size and Nature of the UDW in Ukraine



Recommendations to fight UDW



Preventive measures



Curative Measures



Fostering commitment measures



Measures to improve detection



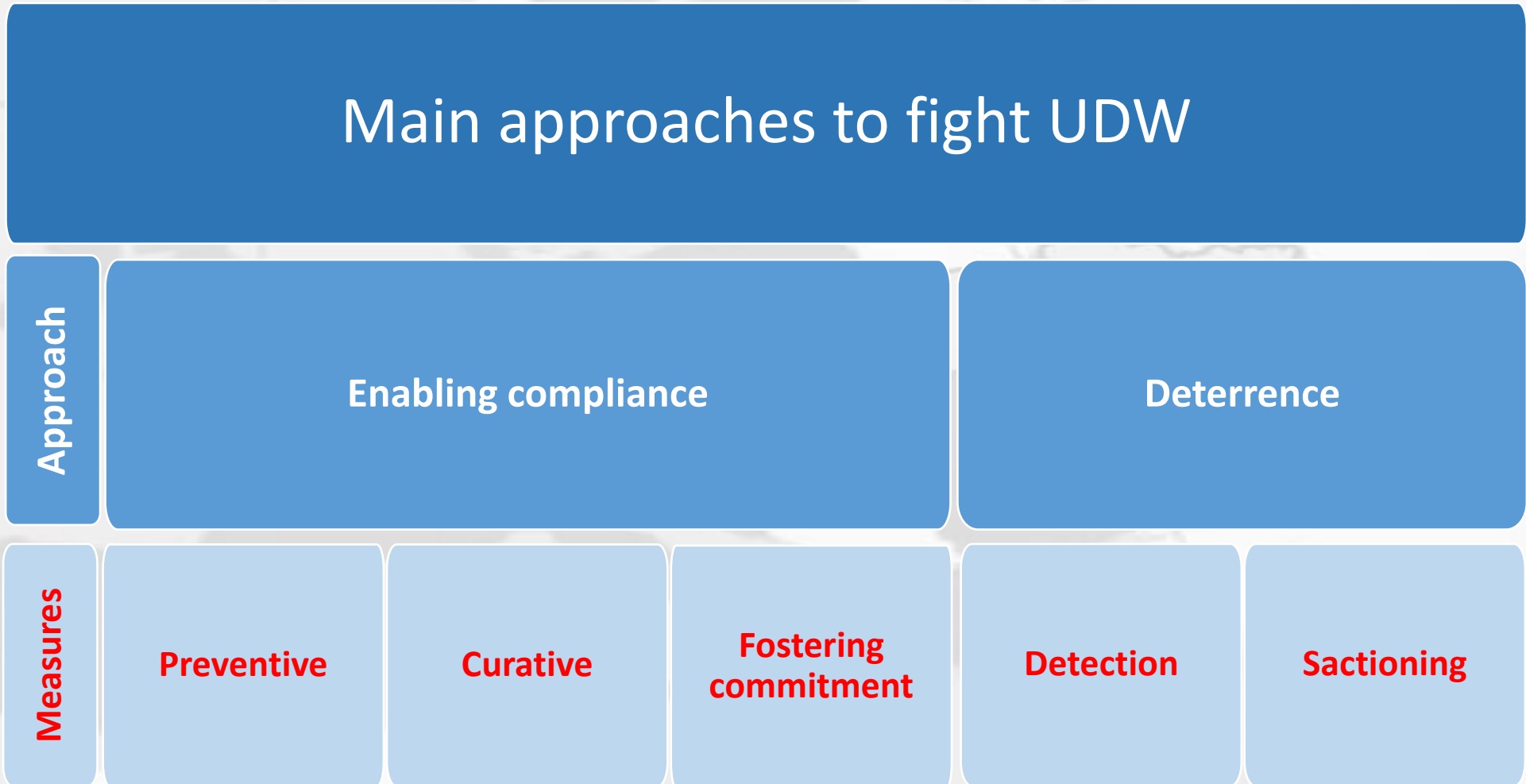
Measures to improve sactions

neEUProject

Size and nature

SECTORS OF ACTIVITY	SIZE OF UDW (SURVEY)		SIZE OF INFORMAL ECONOMY	
	SUPPLY SIDE	DEMAN D SIDE	INFORMAL EMPLOYM. IN FORMAL SECTOR	EMPLOYM. IN INFORMAL SECTOR
Agriculture, forestry and fishing (including gardening)	8.9%	16.0%	6.1%	57.6%
Industry		24.0%	6.9%	1.5%
Construction		24.0%	32.0%	25.2%
Wholesale and retail trade (including: selling food from farms; and selling goods/services associated with a hobby)	22.5%	24.0%	24.7%	3.7%
Transport, storage, postal and courier services (including: automotive maintenance/car repairs; help moving house; and taxi driving)	10.7%	15.0%	10.2%	2.8%
Temporary accommodation and catering	2.0%	55.0%	29.4%	0.6%
Provision of other services (including: household services - home maintenance, repairs, cleaning and improvement services; babysitting; ironing; tutoring; and hairdressing and beauty treatments)	30.3%	60.0%		

Recommendations to Fight UDW in Ukraine



Recommendations to Fight UDW in Ukraine

Preventive Measures

Formulate and implement a Strategy/Action Plan to fight against UDW

Implement a national system to assess, characterize and systematically monitor the size and nature of the UDW, its evolution and the results of the measures taken to combat it

Simplify and concentrate the labour legislation

Facilitate the access and exercise of economic activities

Establish special legal regimens adapted to the specific nature of the relationships emerging from the exercise of certain activities (e.g., self-employment, volunteering, professional internships, domestic service, entertainment professionals)

Provide more flexible regimens for the organization of working time (e.g., adaptability scheme, bank of hours scheme, concentrated hours scheme)

Introduce more flexible labour contract types (e.g., contract of employment of too short duration for seasonal activities; part-time contract; intermittent employment contract; contract for provision of teleworking; temporary work contracts; employment contract of indefinite period for temporary work assignments)

Recommendations to Fight UDW in Ukraine

Preventive Measures

Establish a regimen for the economic dependent non-juridical subordinated self-employed worker (with over 75% turnover with a single beneficiary)

Extend the application of the OSH regulations to situations for this purpose equivalent to employment relationship (e.g., apprentices, trainees, internships and non-juridical subordinated economically dependent self-employed worker)

Define legally undeclared work, its taxonomy and offenses

Incorporate the provisions of the ILO Recommendation No. 198 into the labour code (legal presumption of the existence of an employment relationship whenever several characteristics or indicators are present)

Extend the unemployment protection to economically dependent self-employed workers

Establish the legal obligation for businesses payments to be made in a traceable manner

Provide for the employers' obligation of pay salaries in a traceable manner

Improve the provision of information and technical advice on UDW

Recommendations to Fight UDW in Ukraine

Curative Measures

Implement active employment measures (e.g., anticipation of unemployment benefit to start own business/employment; temporary and partial accumulation of unemployment benefit with salary; support the creation of new businesses and entrepreneurship)

Set up formalization offices to support transition from the informal to formal economy

Introduce "service vouchers schemes" regarding activities commonly provided undeclared (e.g., home maintenance and repairs; agriculture; gardening; healthcare; domestic services, such as ironing, cleaning and washing; babysitting; car repairs; hairdressers)

Introduce a personal income tax deduction up to 10% of the VAT included in registered invoices for certain commonly undeclared services (e.g., home maintenance and repairs; gardening; healthcare services; domestic services, such as ironing, cleaning and washing; babysitting; car repairs; hairdressers; accommodation; catering; taxi services, etc.)

Launch a national regular (weekly) lottery among natural persons (e.g., "lucky bill") on registered invoices (10€=1 coupon; prize=50.000,00€)

Recommendations to Fight UDW in Ukraine

Fostering commitment measures

Launch awareness-raising campaigns on UDW (National, regional and sectoral) with the involvement of the relevant competent public authorities, social partners and civil society

Organize regularly seminars, conferences and workshops on undeclared work with the involvement of the competent public authorities, social partners and civil society

Release news about the results of inspection activities on UDW (e.g., website, social media, TV, radio, newspapers)

Include UDW subjects on the regular education and vocational training curricula

Develop specific information activities on UDW targeting secondary and high schools students

Launch of a process of "labour certification" on UDW

Recommendations to Fight UDW in Ukraine

Measures to improve detection

Refrain from imposing moratoriums to labour inspection activities and repeal Law No. 1278-VIII, of 3 November 2016 or exclude definitely labour inspection from its scope

Entrust the Ukrainian labour inspectors, legally and in practice, with all the necessary powers to discharge their duties, foreseen in the ILO Conventions Nos. 81 and 129 and repeal Law No. 877-V and the “Procedure for State Control of Compliance with Labour Legislation” of the CMU Decree 295 (or exclude labour inspection from their scope)

Increase the number of (first and follow-up) inspection visits on UDW

Conduct unannounced and off-working time inspection visits

Carry out joint inspection visits

Focus inspection visits on risk sectors: agriculture, forestry and fishing (including gardening); industry; construction; wholesale and retail trade (including: selling food from farms; and selling goods/services associated with a hobby); temporary accommodation and catering; and provision of other services (including: household services - home maintenance, repairs, cleaning and improvement services; babysitting; ironing; tutoring; and hairdressing and beauty treatments)

Recommendations to Fight UDW in Ukraine

Measures to improve detection

Implement an IT system to support inspection activity

Give labour inspectors' remote and real time access to relevant databases

Implement a risk based selection of inspection targets, on the basis of a statistical and probabilistic system, supported on algorithms that take into account the risk profile of economic agents, risk factors of an increased probability of non-compliance and indicators of an higher severity of non-compliance

Implement a UDW complaints management system to receive and manage complaints (including their proper register, forward to the competent service, continuous follow-up and monitor and provision of adequate feedback to the complainant)

Calculate and divulge UDW sector thresholds for specific labour intensive sectors (private security, cleaning services, etc.), with the indication that provision of services with prices below the minimum indicative thresholds are subjected to inspection visits

Follow-up inspections visits by the TV channels and publicize their main results through the labour inspectorate's website, Facebook and YouTube channels

Recommendations to Fight UDW in Ukraine

Measures to improve sanctions

Improve the methodology to calculate the amount of the fines (e.g., to account for business turnover/budget; economic gain with the infractions; type of UDW; number of workers affected; vulnerability of the affected workers – minors, illegal immigrants, with disabilities, etc; recidivism; non-compliance with instructions of labour inspectors, etc.)

Establish accessory penalties (e.g., loss to the State of objects and assets of the agent; prohibition to exercise professions or activities whose exercise depends on a title or public authorization; deprivation of the right to a grant or benefit granted by entities or public services; denial of the right to participate in trade fairs, markets and public tenders; disallowing access to other public benefits; closure of an establishment whose operation is subject to authorization or license; suspension of permits, licenses and permits; advertising of the condemnatory decisions)

Provide that the payment of the fine does not discharge the offender from fulfilling the omitted obligation (e.g., recognition ab initio of the working conditions of the undeclared workers and payment of amounts due to workers, tax authority and social security)

Foresee that the fine decision should include the amounts to be paid to workers, social security and tax authorities and it's an executive title

Recommendations to Fight UDW in Ukraine

Measures to improve sanctions

Implement a joint liability regimen for the commitment of the infraction and for the payment of the fines and the amounts due to workers, tax authorities and social security (between the owners, administrators, legal representatives and directors of the employers; the whole chain of hiring; the organizations that are in a group or societal relation with the employer; the organizations, farms and construction owners that subcontracted the employer; and the owner of the premises where the infraction was committed)

Provide labour inspectors with an immediately enforceable inspection procedure to determine the immediate integration of detected UDW in the employer staff

Establish a "repentant status" to offenders who collaborate with the authorities in the elimination of the most serious situations of undeclared work (e.g., fully undeclared work; child labour; trafficking in human beings; slavery; forced labour)



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Thank you for your attention!
Gracias por su atención!
Obrigado pela vossa atenção!

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EU-ILO Project

«Enhancing the labour administration capacity to improve working conditions and tackle undeclared work»

Disguised employment relationships

Tripartite Workshop | 4-7 June 2018

Антоніу Сантуш / António Santos
Менеджер проекту / Project manager

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Content



UDW taxonomy and disguised employment relationships



Labour contract: notion, characteristics and essential elements



Some apparently similar contracts: differences to a labour contract

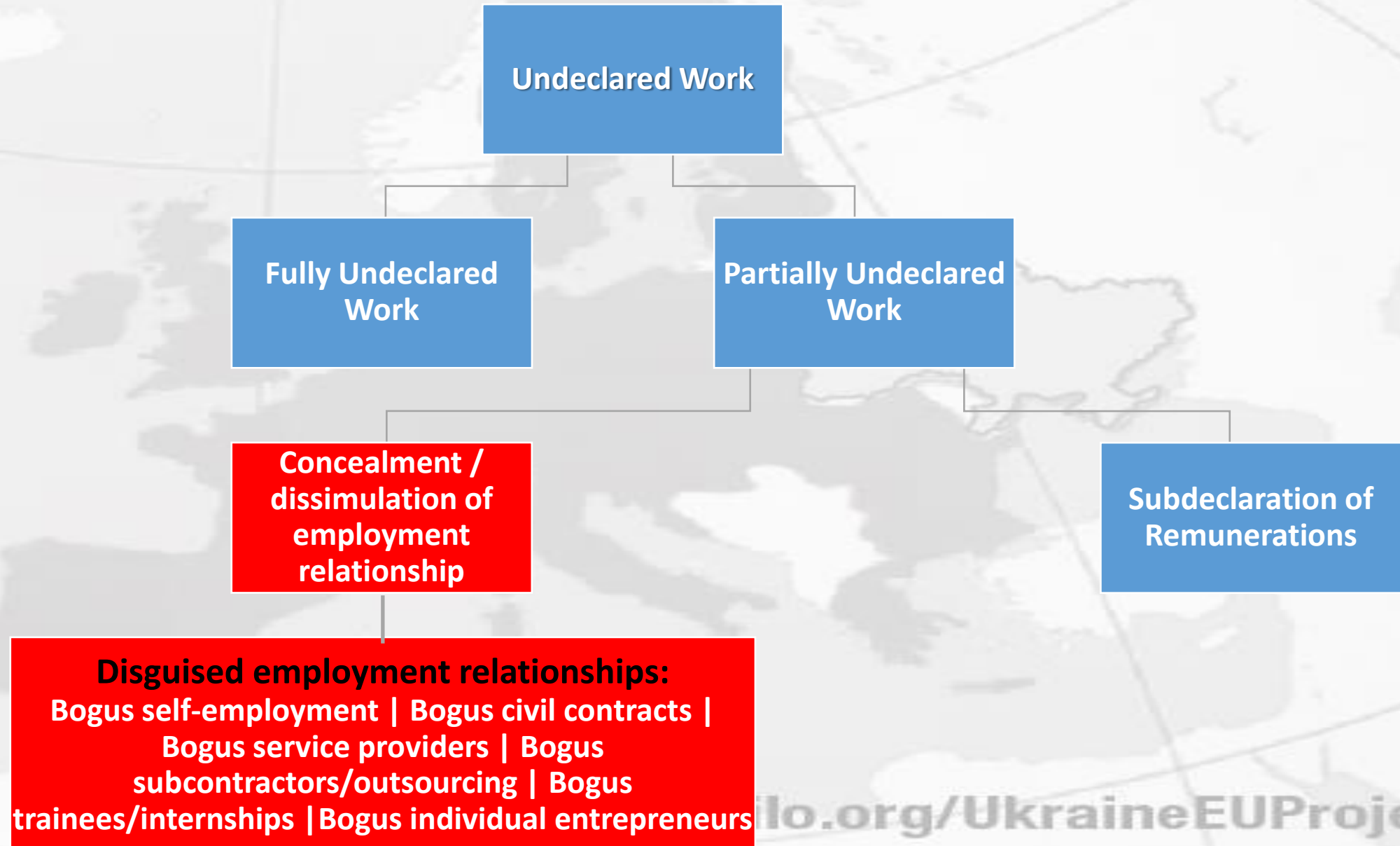


Evidence of disguised employment relationships



Prevention and fight against disguised employment relationships (ILO Recommendation No. 198)

UDW taxonomy



Labour contract – Notion

The one in which a natural person undertakes, by way of remuneration, to provide his intellectual or manual activity to another person(s), under the authority and direction of this person(s)

Labour contract – Characteristics

Bilateral legal deal

Nominated and typical contract (**do not need to be formalized or written**, unless foreseen by law for certain situations)

Patrimonial contract

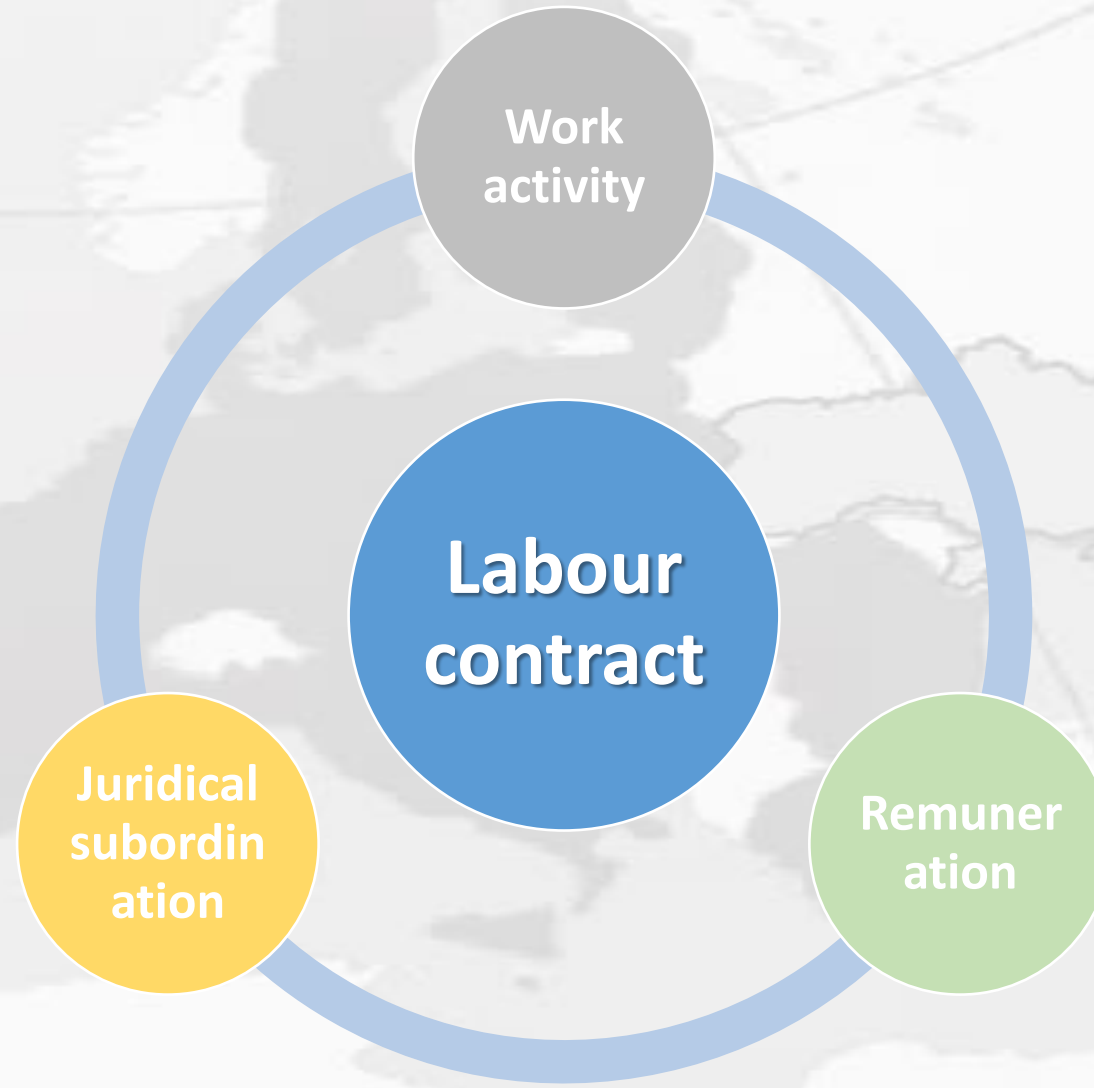
Onerous and synallagmatic contract

Consensual agreement

Intuitu personae contract

Continuing execution contract (which can be for a short or long-term)

Labour contract – Essential elements



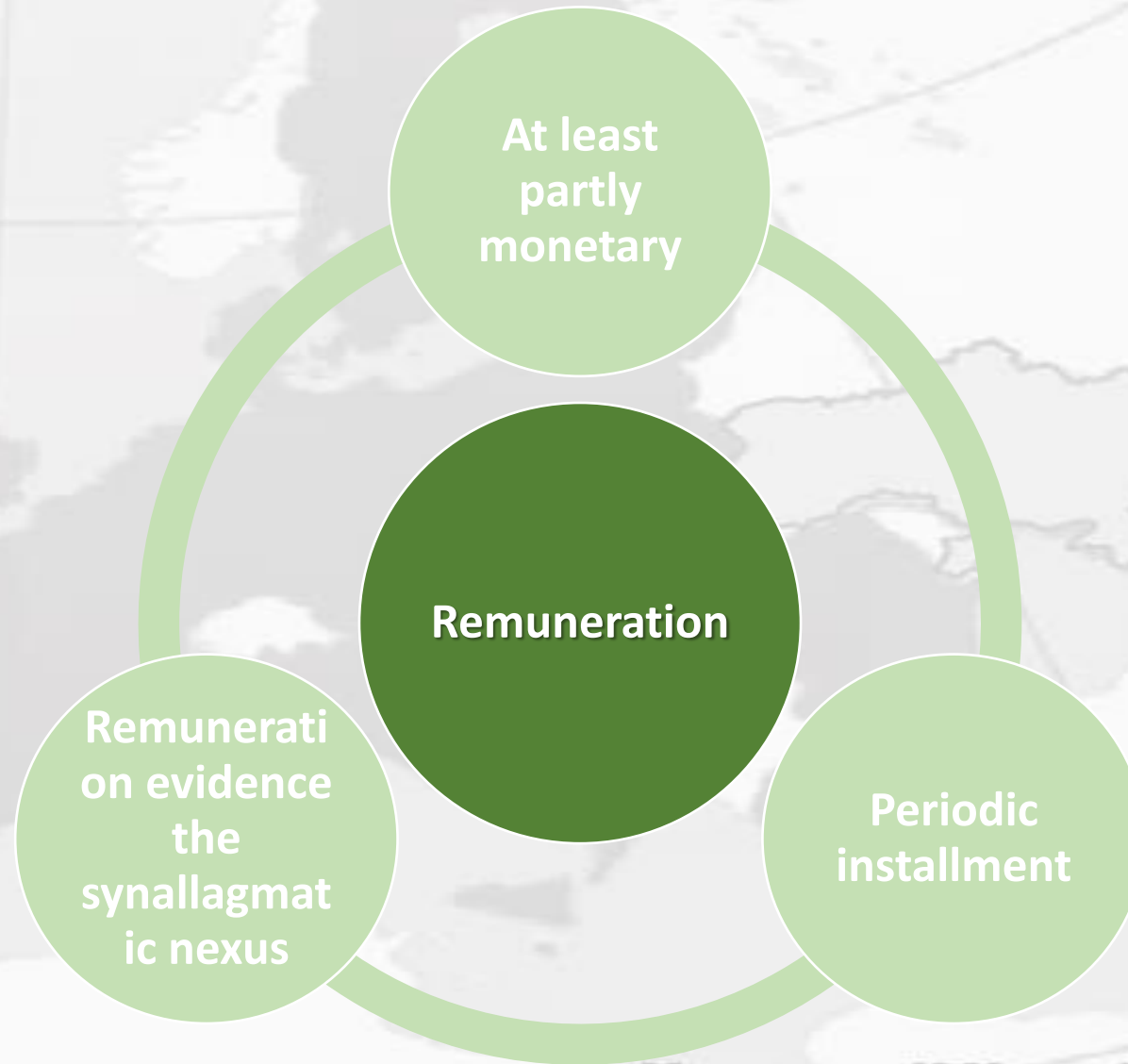
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Labour contract – Essential elements – Work activity



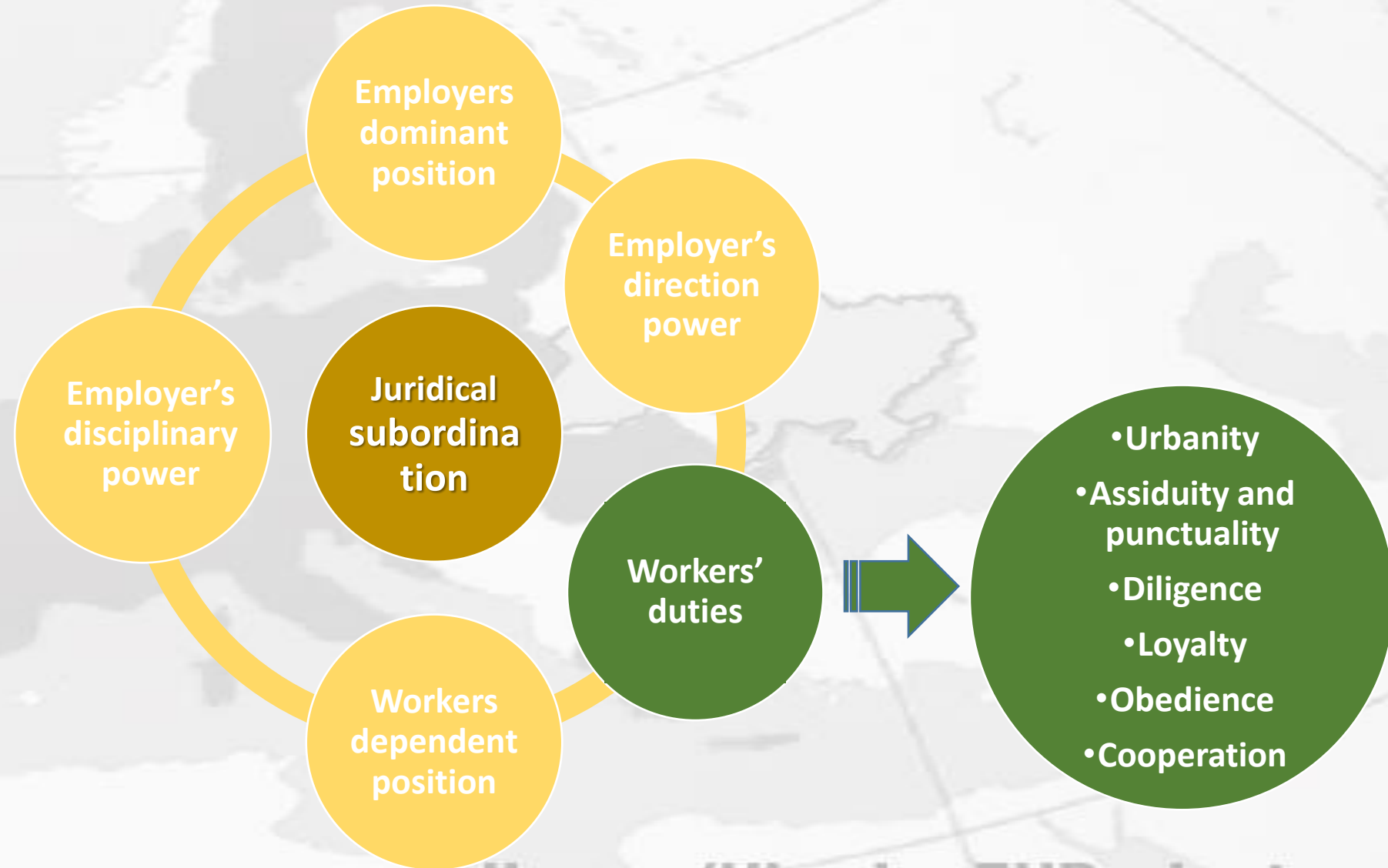
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Labour contract – Essential elements - Remuneration

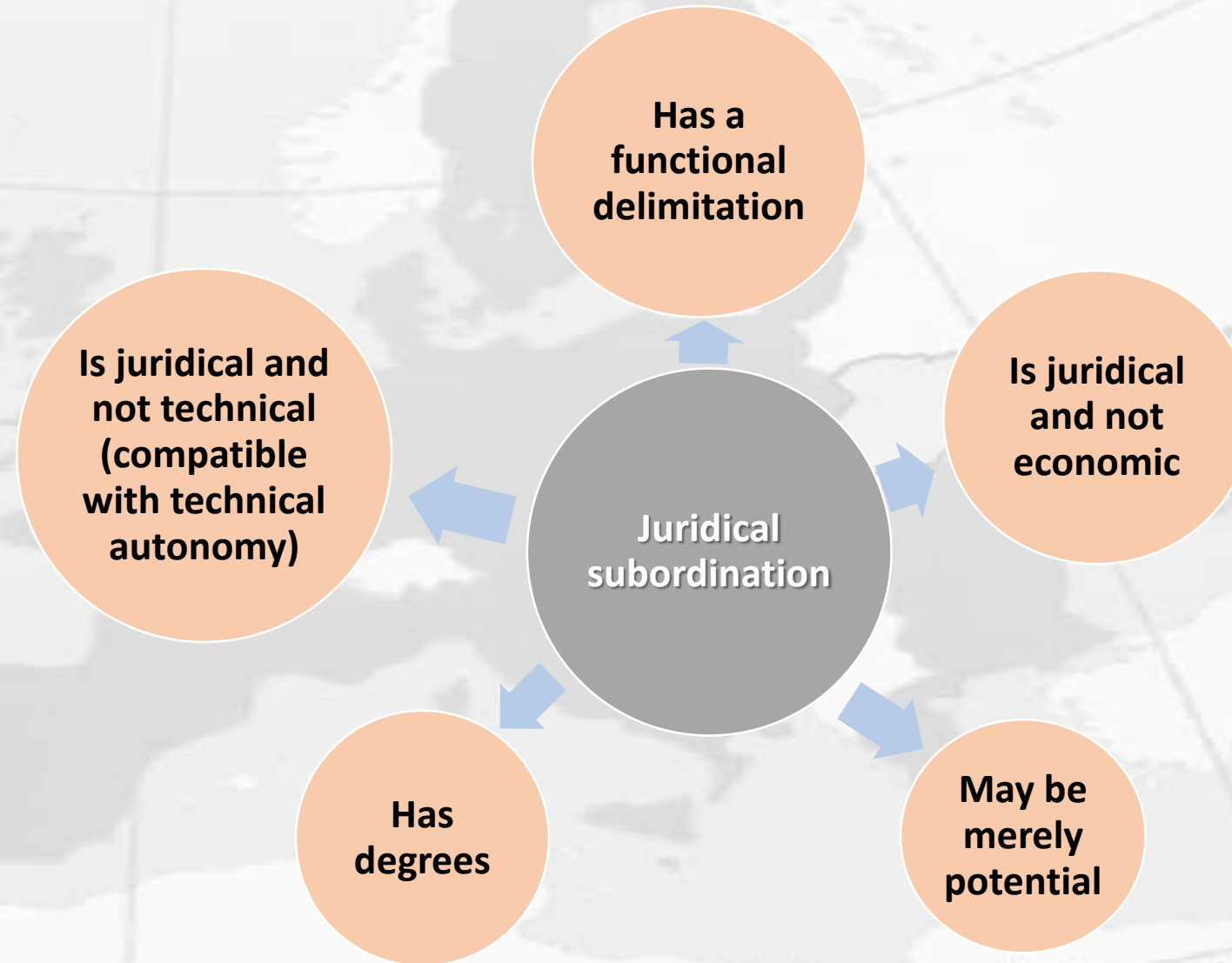


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Labour contract – Essential elements – Juridical subordination



Labour contract – Juridical subordination characteristics



Labour contract – Evidence of juridical subordination

Ownership of the means of production or working equipment and instruments

The place of work

The working time

The method of calculation and periodicity of remuneration

Assumption of the risk of non-production of results

Economic dependence

Type of obligation (provision of results or work)

Subjection to orders and direct control in the exercise of the activity

Insertion of the activity provider into the beneficiary's organization

Some apparently similar contracts

Service contract and outsourcing

- **Notion:** Contract in which one of the parties undertakes to provide to the other a certain result of his intellectual or manual work
- **Main general differences regarding a labour contract:**
 - Remuneration is based on results and its payment is not usually made on a equally and monthly installment
 - Autonomy of the service provider
 - Service provider is not subjected to the disciplinary or direction power of the activity beneficiary
 - Absence of juridical subordination
 - Not necessarily continuous provision
 - Obligation of result (and not of means)
 - Equipment and tools are property of the service provider
 - Service provider does not perform functions of management or leadership in the structure of the activity beneficiary
 - The service provider does not have to observe any start or end hours for the service provision
 - Service provider does not have to justify his absences
 - The risk of not producing the results is assumed by the service provider
 - The service provider usually have employees of his own

Some apparently similar contracts

Professional internship contract

- **Notion:** Contract for practical training in a work context that is intended to: (1) complement and improve the trainee's skills, aiming at their insertion or reconversion to working life; or (2) obtaining a legally obligatory technical-professional and deontological training to access to a particular profession
- **Main general differences regarding a labour contract:**
 - It is a short-term contract (3 to 18 months)
 - Does not foresee any remuneration but provides for a monthly allowance which amount is close to the minimum salary (it can also include a transport and meal allowance)
 - The promoter of the internship must contract a personal accident insurance in favor of the trainee
 - Trainee is guided by a tutor
 - Trainee must follow an internship plan
 - The normal working hours, daily and weekly rest periods, holidays, absences and OSH of the other workers of the promoter are normally applicable to the trainee

Evidence of disguised employment relationships

The activity provider has to obey to the orders of the respective beneficiary;

The activity provider is subject to disciplinary authority of the beneficiary of the activity;

The activity is held in its beneficiary place of in a place determined by him;

The work equipment and instruments used belong to the beneficiary of the activity;

The activity provider has to comply with start and end hours of the activity provision;

Is paid to the activity provider, with determined periodicity, a fixed amount;

The activity provider performs management or leadership roles in the organizational structure of the beneficiary of the activity;

Evidence of disguised employment relationships

The activity provider depends economically of the activity beneficiary;

The activity provider develops his activities exclusively to the activity beneficiary;

The activity provider have paid holidays, its subsidy and receives the Christmas bonus;

The activity provider is subjected to the absences' regimen of the activity beneficiary;

The activity provider may not substitute himself in the execution of the activity;

The activity provider does not assume the risks of the execution of the activity;

The activity provider does not have the power to determine the price of the activity.

Prevention and fight against disguised employment relationships

1

- Introduce in the labour legislation specific criteria and indicators that allow the identification and qualification of employment relationships (such as the evidence presented in the previous slides)

2

- Establish in the labour legislation a legal presumption of the existence of an employment relationship whenever (regardless the existence of any formal, sign or written arrangements or contracts) are present certain indicators of the existence of an employment relationship such as, but not restricted to, the evidence presented in the previous slides

3

- Provide labour inspectors with an immediately enforceable legal inspection procedure to determine the immediate integration of detected undeclared workers in the employer staff and the recognition of their working conditions *ab initio*.



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