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

# Undeclared work and Labour Inspection

## Distribution materials

Kyiv, 5 November, 2019



# Contents

|                                                                                                                                                               |            |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| <b>1. UDW in Ukraine - nature, scope and measures to tackle it.....</b>                                                                                       | <b>3</b>   |
| <i>António Santos, Manager of the EU-ILO project “Enhancing the Labour Administration Capacity to Improve Working Conditions and Tackle Undeclared Work”</i>  |            |
| <b>2. Towards integrated strategy for the transition to formality.....</b>                                                                                    | <b>13</b>  |
| <i>Colin Williams, Professor of Public Policy at University of Sheffield; European Platform Tackling Undeclared Work</i>                                      |            |
| <b>3. Labour Inspection - Challenges, Solutions and Roadmap.....</b>                                                                                          | <b>49</b>  |
| <i>António Santos, Manager of the EU-ILO project “Enhancing the Labour Administration Capacity to Improve Working Conditions and Tackle Undeclared Work”</i>  |            |
| <b>4. Portuguese Labour Inspection: mission, functions, powers and procedures. Relevance of Labour Inspectors’ powers.....</b>                                | <b>55</b>  |
| <i>Vanda Reis, Labour inspector, Portuguese Authority for Working Conditions (ACT - Portuguese Labour Inspectorate)</i>                                       |            |
| <b>5. French labour inspection mission, functions, powers and procedures.....</b>                                                                             | <b>79</b>  |
| <i>Béatrice Kissien-Schmit, Labour inspector, Head of the Asbesto’s Regional Control Unit, French Labour Inspection, French Directorate-General of Labour</i> |            |
| <b>6. The relevance of judiciary to labour inspection effectiveness, especially on tackling UDW. Some EU best practices.....</b>                              | <b>111</b> |
| <i>António Santos, Manager of the EU-ILO project “Enhancing the Labour Administration Capacity to Improve Working Conditions and Tackle Undeclared Work”</i>  |            |





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EU-ILO Project

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

## **UDW in Ukraine - nature, scope and measures to tackle it**

***Seminar “Undeclared work and labour inspection”***

*Hotel Rus | 5 November 2019*

Антоніу Сантуш / António Santos  
Менеджер проекту / Project manager

[www.ilo.org/UkraineEUProject](http://www.ilo.org/UkraineEUProject)

# Content

Undeclared Work (UDW) concept

UDW Taxonomy

UDW causes

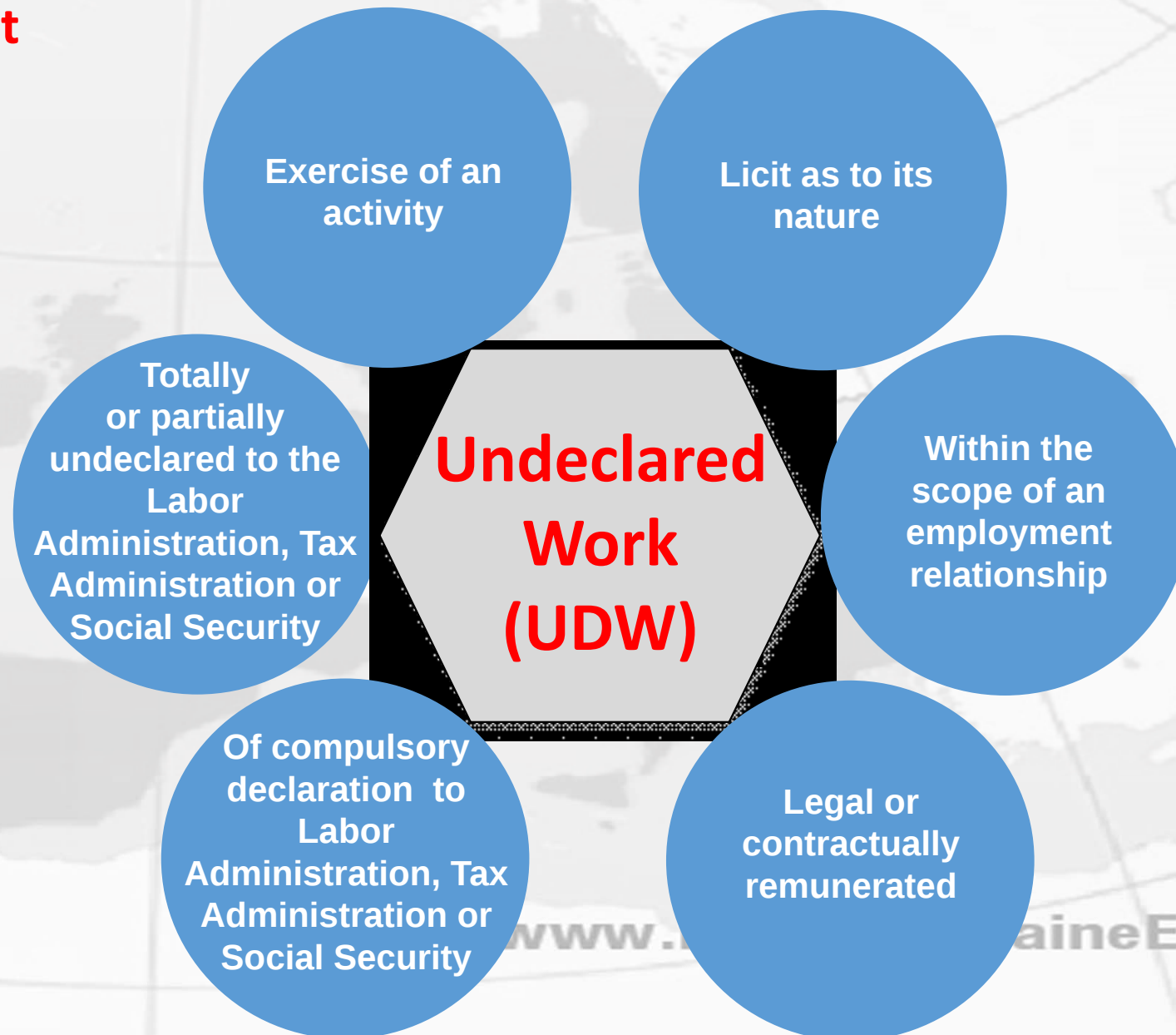
UDW consequences

Size and nature of UDW in Ukraine

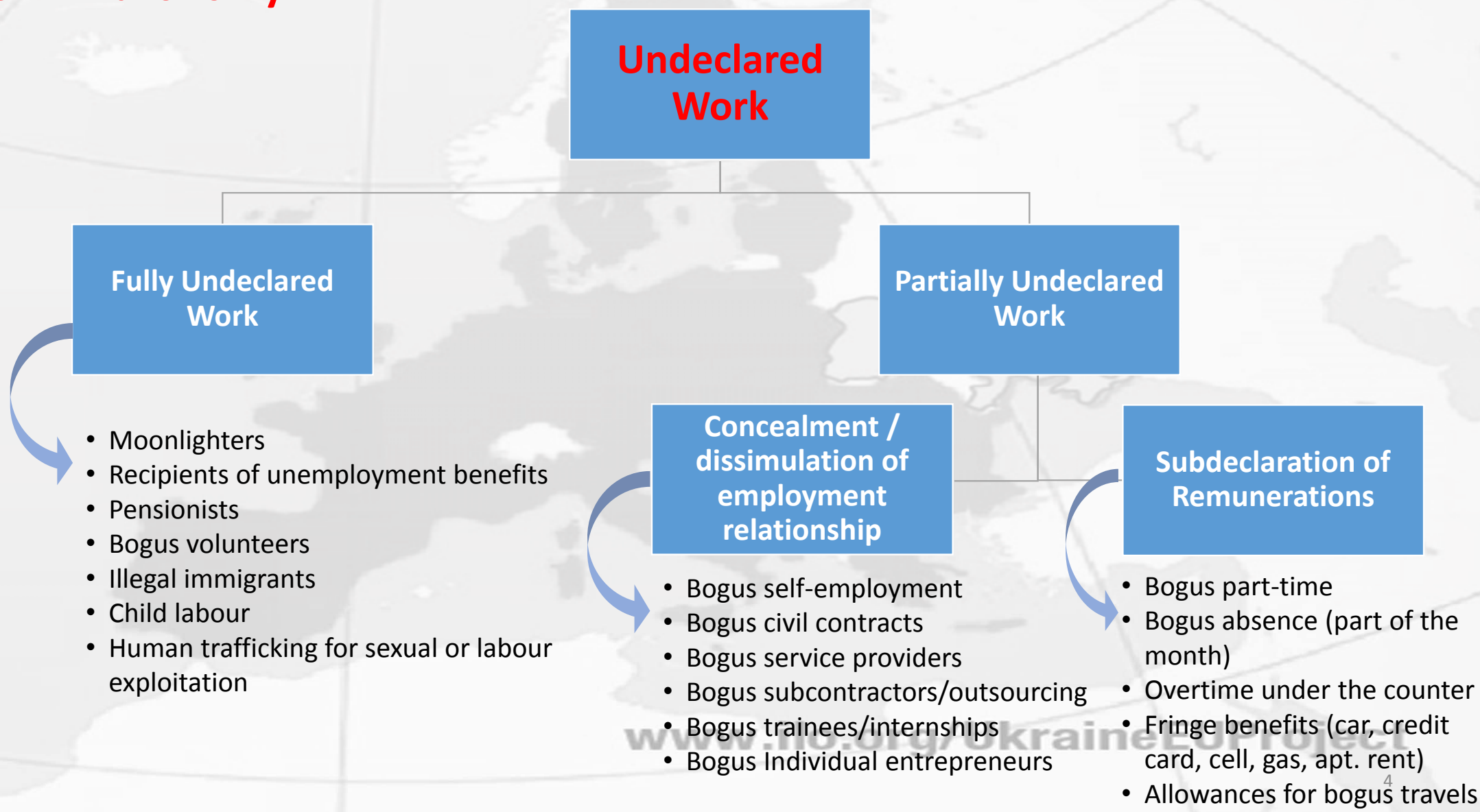
Draft action plan to fight UDW

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## UDW concept



# UDW Taxonomy



## UDW 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                                              |

## UDW 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.                                   |

# Size and nature of UDW in Ukraine

| SECTORS OF ACTIVITY                                                                                                                                                                                | SIZE OF UDW (SURVEY) |             | SIZE OF INFORMAL ECONOMY           |                             |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|-------------|------------------------------------|-----------------------------|
|                                                                                                                                                                                                    | SUPPLY SIDE          | DEMAND 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%       |                                    |                             |

In 2018, the informally employed population in Ukraine amounted to 3,541.300 people (21.6% of the total employed population)

Wages “in envelopes” represent up to 85-90% of the reported wages;

## Size and nature of UDW in Ukraine – other figures

- Informally employed population (June 2019) – 3,5 mln (19,4% of the 18 mln employed persons)
- Wages “in envelopes” represent up to 85-90% of the reported wages (2018)
- Out of 12,139,900 persons formally employed in 2015, 4% (around 500,000) were hired based on “civil contracts”
- Ukrainian Undeclared Work Survey data:
  - Around 7% of the respondents admitted having worked undeclared in the last 12 months
  - Around 46% knew someone that worked undeclared
  - Around 33% estimated that at least 50% of the population of Ukraine works undeclared

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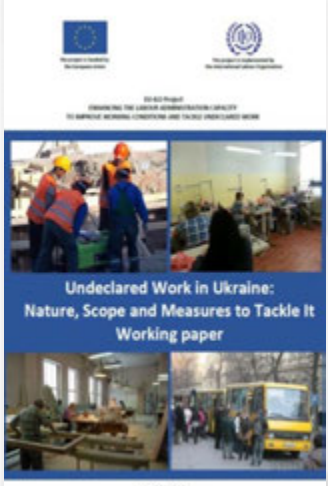
# Draft national action plan to fight UDW



# Draft national action plan to fight UDW

| STRATEGIC OUTCOMES                                                                                |
|---------------------------------------------------------------------------------------------------|
| SOC1 - Capability to prevent UDW is strengthened.                                                 |
| SOC2 - Transition from UDW to regular jobs is encouraged.                                         |
| SOC3 - Social awareness towards UDW is raised and development of a compliance culture is induced. |
| SOC4 - Ability to detect UDW is improved.                                                         |
| SOC5 - Capacity to effectively sanction UDW is reinforced.                                        |

| Measures to fight UDW in Ukraine |                                             |                                  |                                              |                                                |
|----------------------------------|---------------------------------------------|----------------------------------|----------------------------------------------|------------------------------------------------|
| Approach                         | Enabling compliance                         |                                  |                                              | Deterrence                                     |
|                                  | 10 Preventive measures<br>M1.1-M1.10        | 4 Curative measures<br>M2.1-M2.4 | 5 Fostering commitment measures<br>M3.1-M3.5 | 10 Measures to improve detection<br>M4.1-M4.10 |
| Measures                         | 7 Measures to improve sections<br>M5.1-M5.7 |                                  |                                              |                                                |



1. Discover **where** is the enemy (UDW) to fight (Segmentation Matrix)

2. Establish the Strategic Outcomes

3. Select **Measures** (how) to fight and achieve the outcomes

4. Define the Measures: Activities, Outputs & Outcomes

| SECTORS OF ACTIVITY                                                                                                                                                                                | SIZE OF UDW (SURVEY) |             | SIZE OF INFORMAL ECONOMY           |                             |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|-------------|------------------------------------|-----------------------------|
|                                                                                                                                                                                                    | SUPPLY SIDE          | DEMAND SIDE | INFORMAL EMPLOYM. IN FORMAL SECTOR | EMPLOYM. IN INFORMAL SECTOR |
| Agriculture, forestry and fishing (including gardening)                                                                                                                                            | 8.9%                 | 16.0%       | 6.1%                               | 57.6%                       |
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MEASURE SHEET

UDW ACTION PLAN

IDENTIFICATION

Measure code and designation: M2.3 - Introduce "service vouchers" scheme

Strategic outcome pursued: SOC2 - Transition from UDW to regular jobs is encouraged

Entity responsible for implementation: Responsible entity

Start date: 2024/01/01

End date: 2024/12/31

DESCRIPTION & SCOPE

Description of the measure: M2.3 - Introduce "service vouchers" scheme" regarding activities with particular incidence of undeclared work (e.g., home maintenance and repairs, agriculture gardening, healthcare, domestic services, such as ironing, cleaning and washing, babysitting, car repairs, hairdressing) in order to regulate the labour market and encourage undeclared workers to move to regular jobs.

Geographical scope (National/Regional/Local): National

Geographical scope (General/Specific): General

Geography/Beneficiaries: Beneficiaries

RESOURCES & CRITICAL SUCCESS FACTORS

Other entities to involve: Ministry of Labour, Ministry of Social Security, Ministry of Health

Financial resources (MAB): Ministry of Labour

Human resources: Ministry of Labour, Ministry of Social Security, Ministry of Health

Material and equipment resources: Ministry of Labour

Critical Success Factors (CSF): Critical Success Factor 1, Critical Success Factor 2, Critical Success Factor 3

ACTIVITIES & IMPLEMENTATION TIMETABLE

Activities

Main tasks

Responsible

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DELIVERABLES, MONITOR & EVALUATION

Measure Outputs

Indicator

Formula

Baseline

Target

Verification source

Measure Output 1

Indicator 1

Formula 1

Baseline 1

Target 1

Verification source 1

Measure Output 2

Indicator 2

Formula 2

Baseline 2

Target 2

Verification source 2

Measure Output 3

Indicator 3

Formula 3

Baseline 3

Target 3

Verification source 3

Measure Output 4

Indicator 4

Formula 4

Baseline 4

Target 4

Verification source 4

Measure Output 5

Indicator 5

Formula 5

Baseline 5

Target 5

Verification source 5

Measure Outcomes

Indicator

Formula

Baseline

Target

Verification source

Measure Outcome 1

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Measure Outcome 3

Indicator 3

Formula 3

Baseline 3

Target 3

Verification source 3

Measure Outcome 4

Indicator 4

Formula 4

Baseline 4

Target 4

Verification source 4

Measure Outcome 5

Indicator 5

Formula 5

Baseline 5

Target 5

Verification source 5

OBSERVATIONS

Write any comment considered relevant for the implementation or monitoring of the measures

# Draft national action plan to fight UDW

| Enabling compliance approach                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Deterrence approach                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Preventive measures                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Curative measures                                                                                                                                                                                                                                                                   | Fostering commitment measures                                                                                                                                                                                                                                                                                                                                                                                                                                              | Measures to improve detection                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Measures to improve sactions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <p>M1.1 - Simplify labour legislation;</p> <p>M1.2 - Establish special regimens adapted to the exercise of certain activities;</p> <p>M1.3 - Introduce more flexible labour contract types;</p> <p>M1.4 - Establish a legal regimen for the economic dependent non-juridical subordinated self-employed worker;</p> <p>M1.5 – Extend OSH regulations to situations equivalent to employment relationships;</p> <p>M1.6 - Incorporate ILO Rec. 198 provisions in labour code;</p> <p>M1.7 - Provide for the traceable payment of salaries;</p> <p>M1.8 - Implement a system for assessing and monitoring UDW;</p> <p>M1.9 - Improve information and technical advice on UDW;</p> <p>M1.10 - Stipulate that workers’ admission communication should occur 24 hours prior beginning of work.</p> | <p>M2.1 - Implement active employment measures;</p> <p>M2.2 - Set up formalization offices;</p> <p>M2.3 - Introduce "service vouchers schemes";</p> <p>M2.4 - Introduce a personal income tax deduction up to 5% of the amount of the registered invoices for certain services;</p> | <p>M3.1 - Launch awareness-raising campaigns on UDW;</p> <p>M3.2 - To regularly publicize and release news about UDW, the activities carried out to tackle it and their main results;</p> <p>M3.3 - Update the UDW subjects on the regular education and vocational training curricula;</p> <p>M3.4 - Develop specific information activities on UDW targeting secondary and high school students;</p> <p>M3.5 - Launch of a process of "labour certification" on UDW.</p> | <p>M4.1 - Refrain from imposing <i>moratoria</i> to labour inspection activities;</p> <p>M4.2 - Entrust labour inspectors with the powers of ILO Conv. 81 and 129;</p> <p>M4.3 - Increase the number of inspection visits on UDW;</p> <p>M4.4 - Conduct unannounced and business hours inspection visits;</p> <p>M4.5 - Focus inspection visits on sectors with more UDW;</p> <p>M4.6 - Give labour inspectors' access to relevant databases;</p> <p>M4.7 - Implement risk based selection of inspection targets on UDW;</p> <p>M4.8 - Implement a UDW complaints management system;</p> <p>M4.9 - Calculate and divulge UDW sector thresholds;</p> <p>M4.10 - Enlarge competencies of labour inspection to unregistered employers.</p> | <p>M5.1 - Improve the methodology to calculate the amount of the fines;</p> <p>M5.2 - Establish appropriate accessory penalties;</p> <p>M5.3 - Provide that payment of fine does not discharge offender from fulfilling omitted obligations;</p> <p>M5.4 - Implement a joint liability legal regimen for infringements on UDW;</p> <p>M5.5 - Provide labour inspectors with an immediately enforceable inspection procedure to determine the immediate integration of detected UDW in the employer;</p> <p>M5.6 - Criminalize the obstruction to the discharge of the labour inspectors duties;</p> <p>M5.7 - Establish a legal presumption regarding the accuracy of the labour inspectors sta ments.</p> |



# Towards integrated strategy for the transition to formality

Professor Colin C Williams  
University of Sheffield, UK

## Contents

- Size and character of undeclared work in the EU
- Towards integrated strategy
- Policy initiatives

# Size of undeclared work: Labour Input Method

## Estimate total labour inputs from the supply-side

- Using data obtained from a LFS, supplemented by census data if available, as individuals are less motivated than enterprises to conceal undeclared work.

## Estimate labour inputs from the demand-side

- Deriving total labour input that is present (explicitly or implicitly) in demand-side sources, including enterprise surveys.

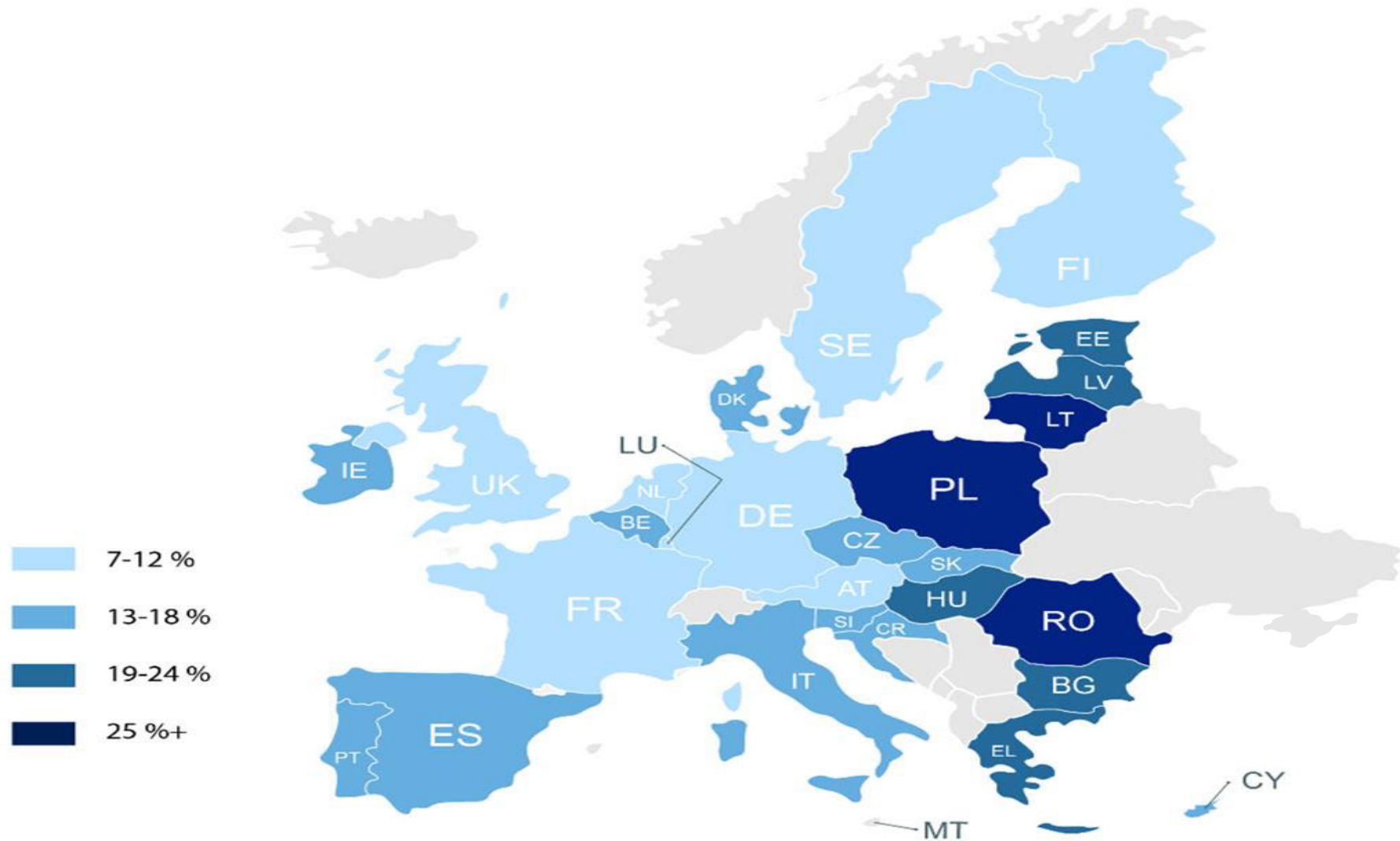
## Standardise the total labour input estimates

- Converting the enterprise-based (demand-side) and labour force (supply-side) estimates to the same units of labour input, e.g. hours worked or full-time equivalents, to allow comparison.

## Compare the two estimates

- Analysing discrepancies considering the reliability of each source.
- A surplus of labour input from the supply-side source over that from the demand-side indicates the scale of undeclared work.

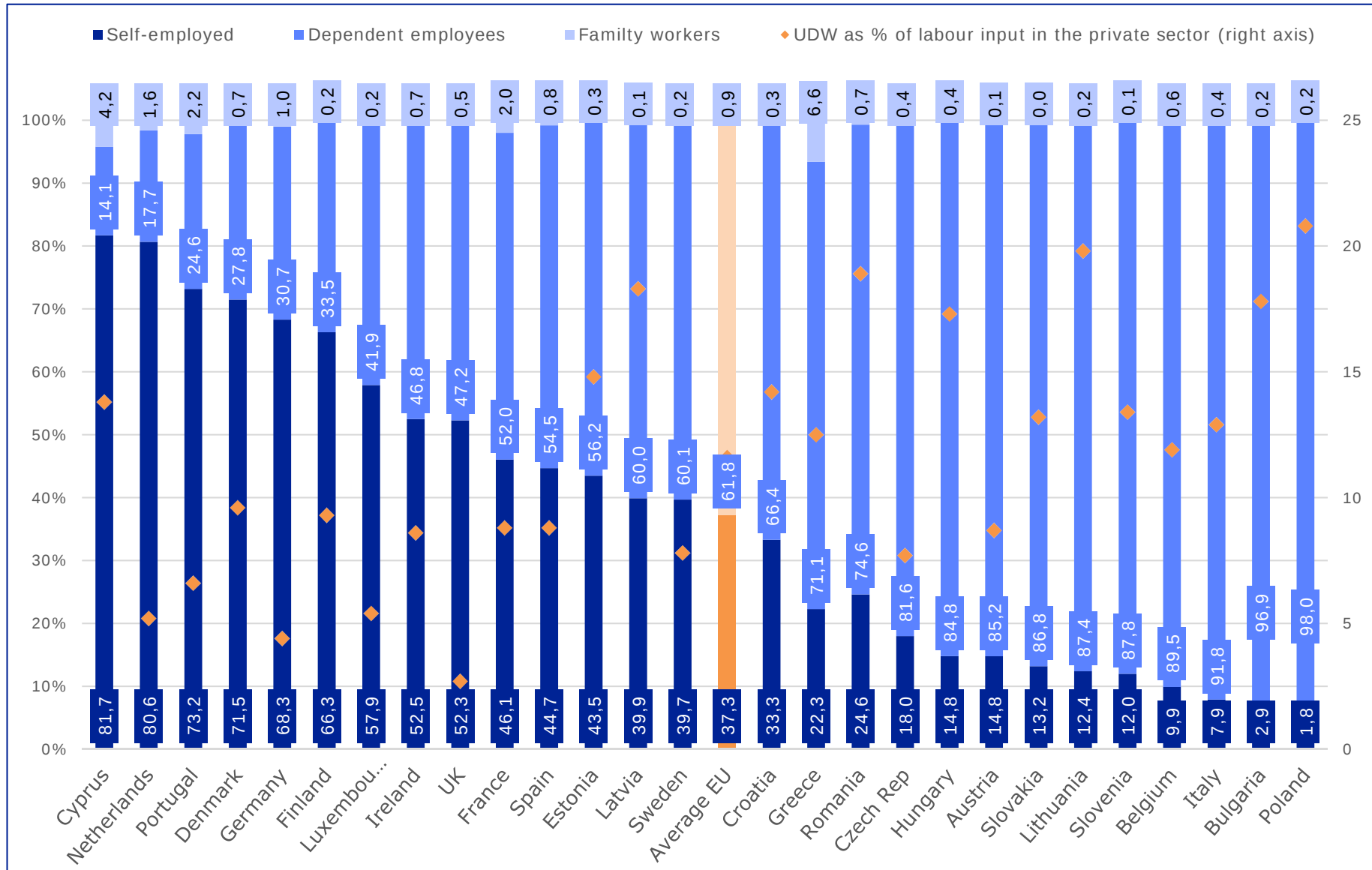
# Size of undeclared work: Labour Input Method



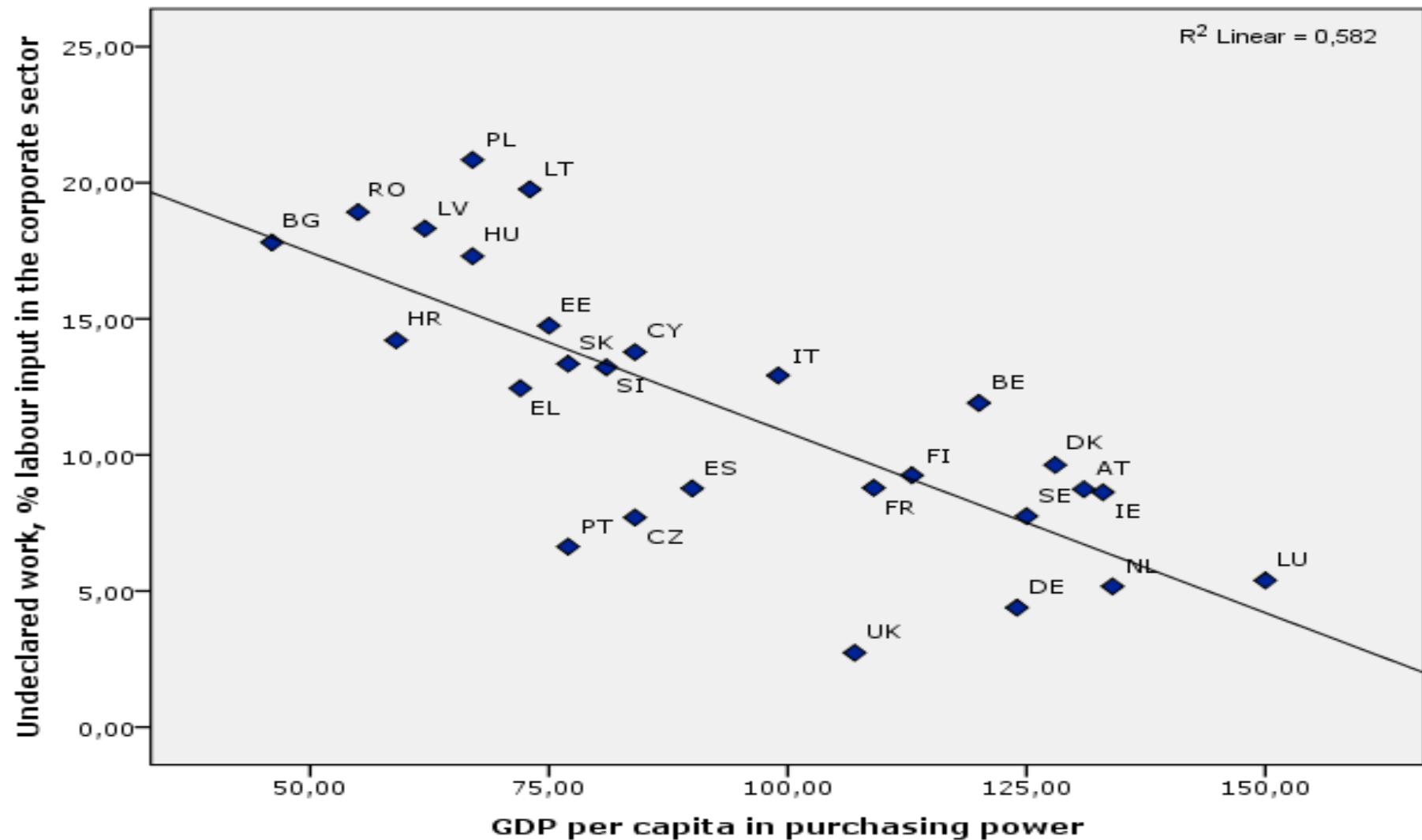
# Structure of undeclared labour market: EU-level

- 61.8% of all UDW is conducted by employees
  - 37.3% by the self-employed, and
  - 0.3% by family workers.
- 
- However, significant cross-national variations exist

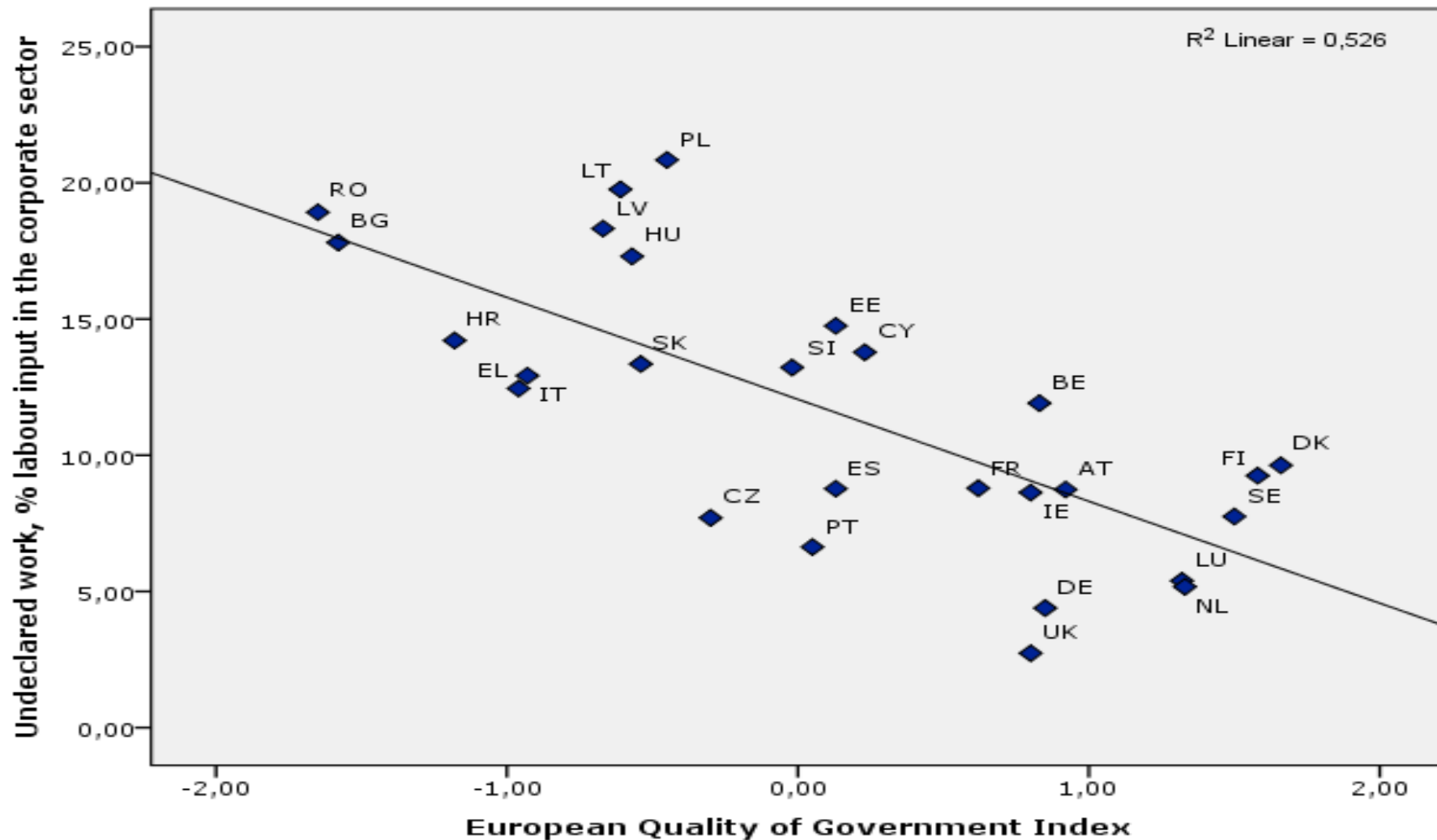
# Structure of undeclared labour market



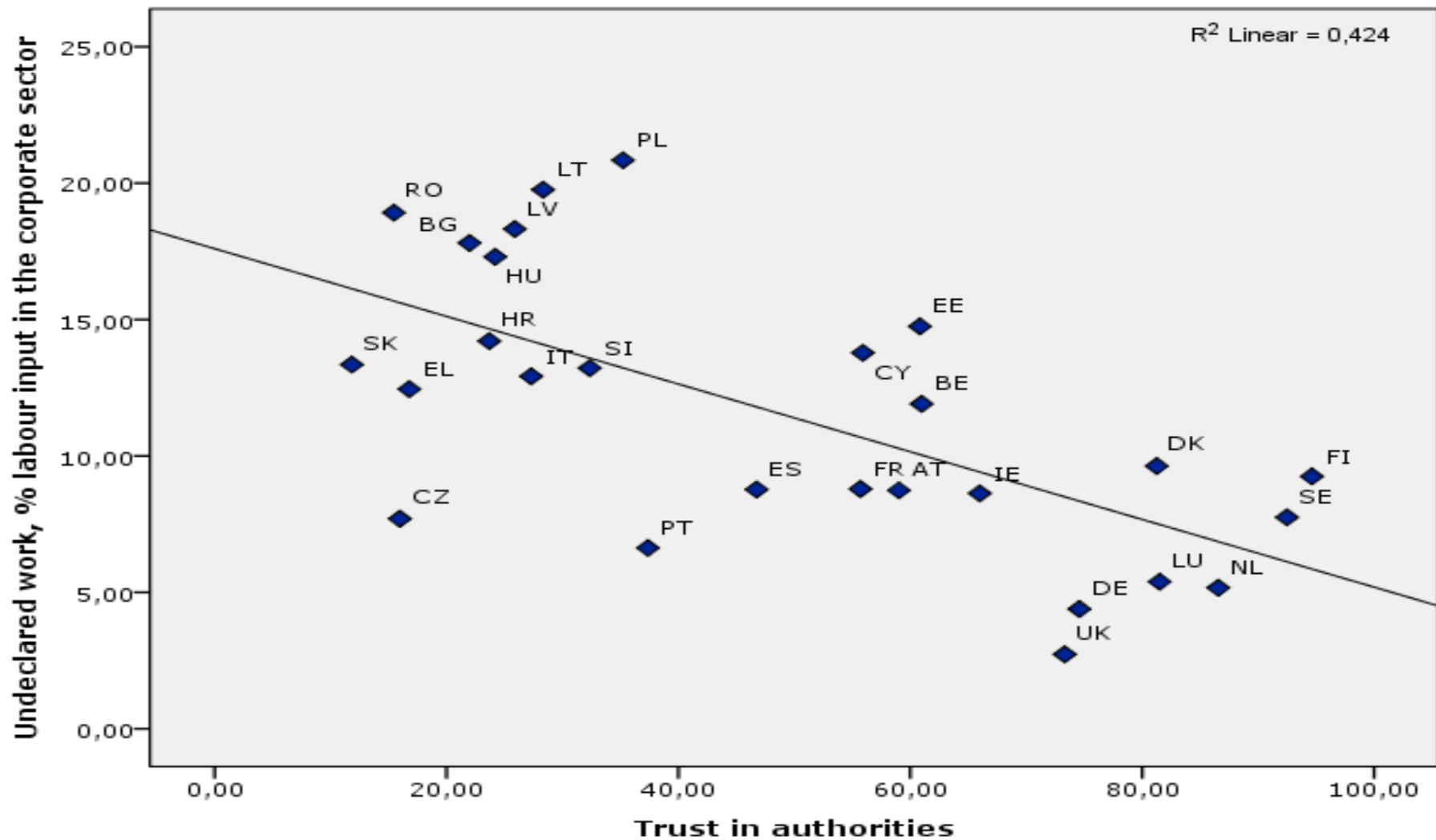
# Relationship between UDW and GDP per capita



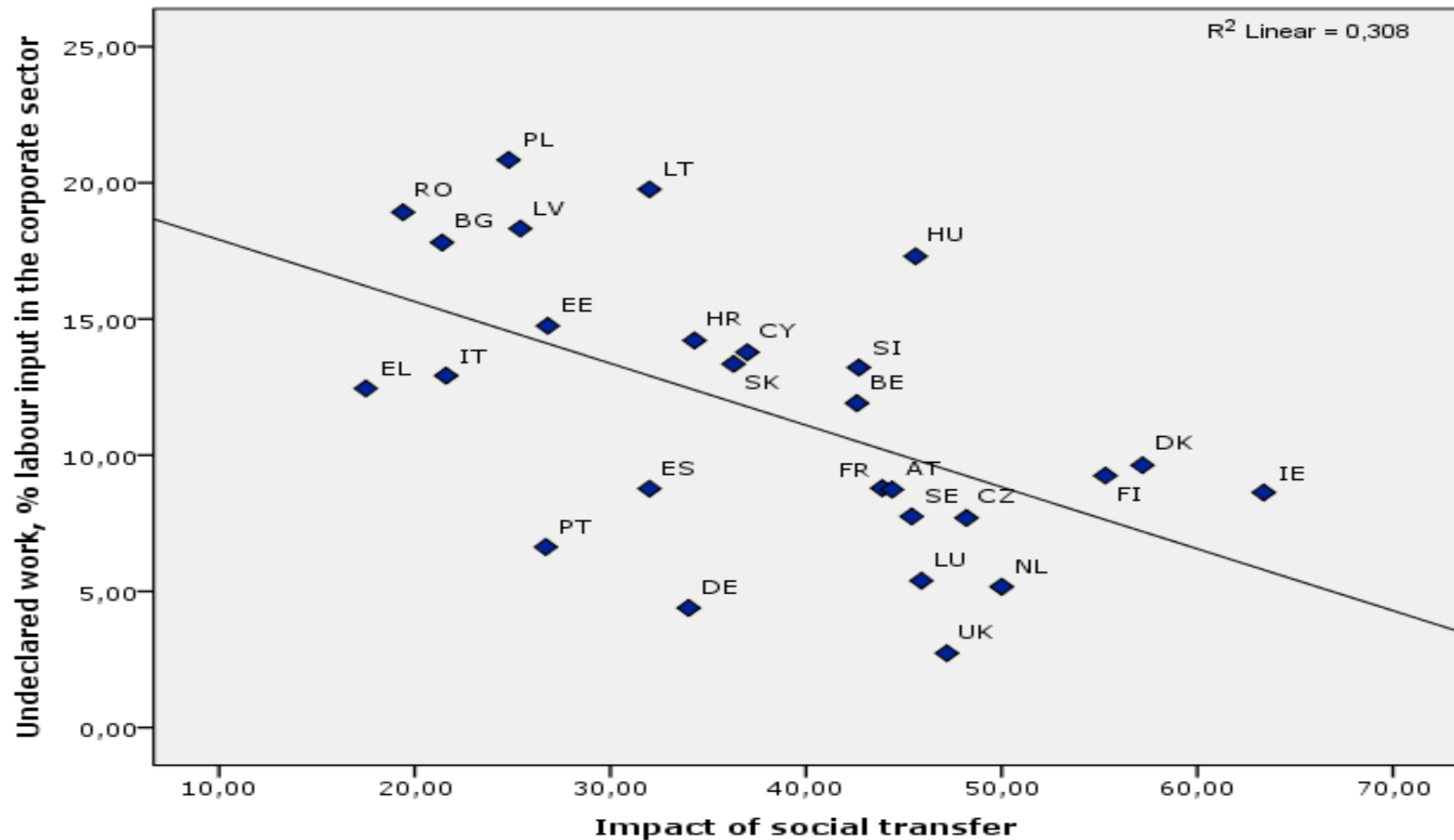
# Relationship between UDW and European Quality of Government Index



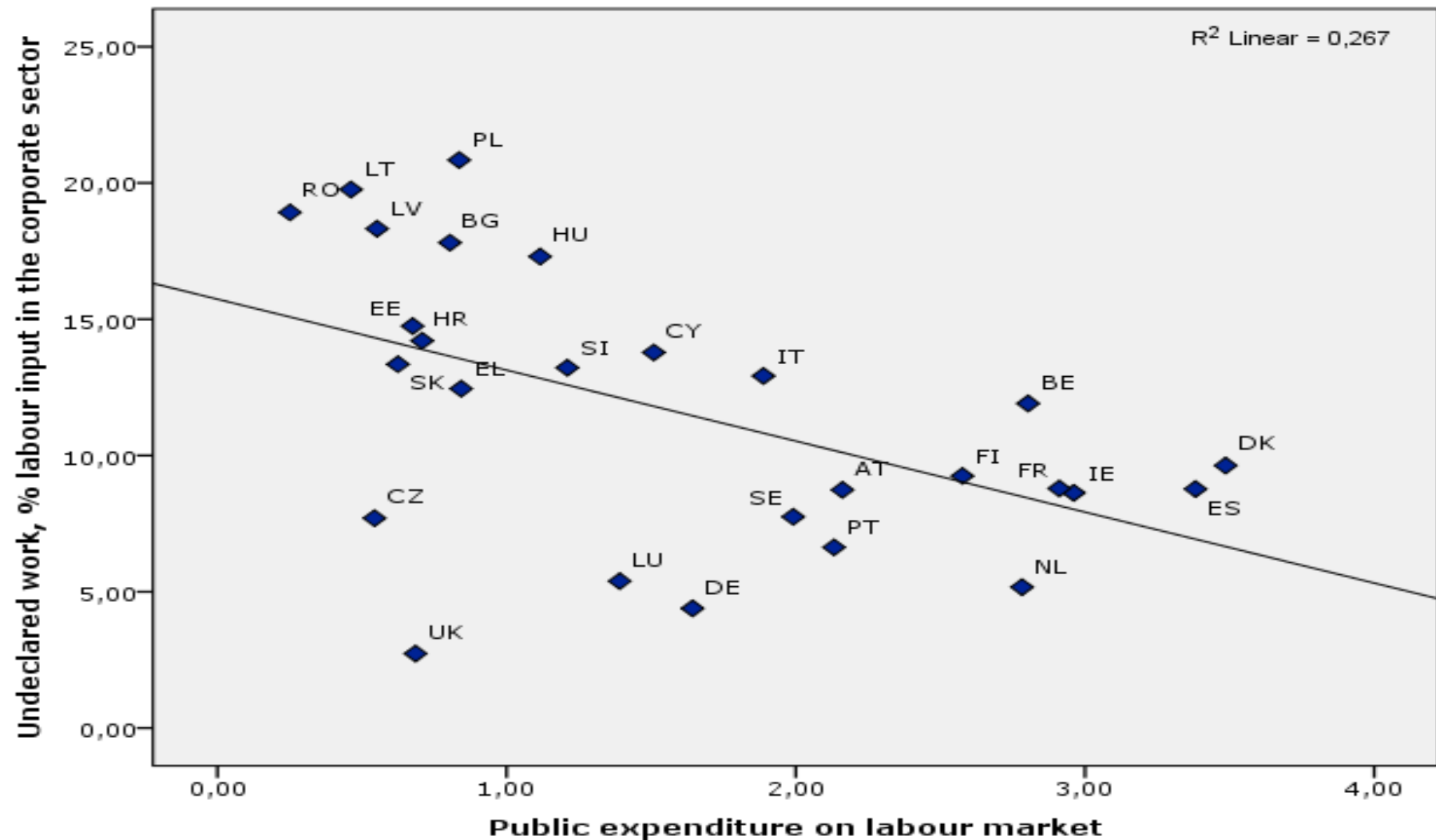
# Relationship between UDW and trust in authorities



# Relationship between UDW and impact of social transfers



# Relationship between UDW and public expenditure on labour market interventions



UDW is lower in Member States with:

- higher levels of GDP per capita
- more modernised systems of government
- trust in authorities and lower levels of corruption
- social transfers are effective at reducing poverty
- higher levels of public expenditure on labour market interventions to protect vulnerable groups
- greater equality
- lower levels of long-term unemployment.

# Whole government approach:

- addresses the structural economic and social determinants of informality
- joins-up strategy and operations across labour, tax and social security law and fully involves social partners, and
- utilises the full range of policy measures available

## Holistic Approach

A whole government approach joining-up on the level of both strategy and operations the policy fields of labour, tax and social security law, and involving social partners. It uses the full range of *direct* and *indirect* policy measures available to enhance the power of, and trust in, authorities respectively. The objective is to transform undeclared work into declared work in an effective manner.

# Towards joined-up strategy

- A **central coordinating body** within government to take responsibility for overseeing and coordinating the strategy for formalising the informal economy.
- Individual **strategies** of the various institutions involved in tackling informality need to be joined-up
- Each individual institution therefore needs strategic objectives and targets that reflect the overall national strategy.
- Shared strategic objectives

# Towards joined-up operations

- At level of **operations**, traditionally enforcement bodies conduct separate inspections.
- More business-friendly and effective approach is to do joint and concerted operations.
- Each enforcement authority given target of achieving a % of its inspections as joint or concerted inspections.

# Towards joined-up data mining and analysis

- At the level of data mining, analysis and sharing, problems exist in sharing data.
- Bilateral and multilateral agreements are one solution
- Another solution is to create one central unit providing a data mining and analysis service for tackling the informal economy.

# Typology of full range of policy approaches

| Approach                       | Method                                                           | Measures (examples)                                                                                                                         |
|--------------------------------|------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| Direct controls:<br>Deterrents | Improved detection                                               | Data matching & sharing<br>Joined up operations                                                                                             |
|                                | Increased penalties                                              | Increased penalties & sanctions                                                                                                             |
| Direct controls:<br>incentives | Preventative                                                     | Simplify compliance; tax incentives; support & advice                                                                                       |
|                                | Curative                                                         | Supply-side (e.g., amnesties; voluntary disclosure; smooth transition to formality)<br>Demand-side (e.g., service vouchers; tax incentives) |
| Indirect controls              | Fostering culture of commitment/alignment of citizens with state | Change norms, values and beliefs                                                                                                            |
|                                |                                                                  | Change formal institutions                                                                                                                  |

Direct policy approach and  
measures: rational  
economic actor approach

## Rational economic actor

- Engage in undeclared work when the perceived benefits outweigh the perceived costs.
- Non-compliant viewed as rational actors to be deterred by making the costs outweigh the benefits.
- Use 'carrots and sticks'

Sticks: negative reinforcement



## Carrots: positive reinforcement



## Combining sticks and carrots



# Indirect policy approach and measures: social actor approach

## Social actor approach

- Alternative is to view non-compliant as a product of their 'social environment' (social actors).
- Argues that the breakdown of the social (tax) contract (cf. Rousseau) between the state and its citizens is the cause of non-compliance.



## Institutional theory

- Institutions are ‘the rules of the game’; prescribed what is acceptable activity
- Formal institutions – laws and regulations (state morality)
- Informal institutions – norms, values & beliefs of citizens (civic morality)
- Undeclared work arises when the formal and informal institutions are not aligned
- To tackle undeclared work, need to align the formal and informal institutions by:
  - Changing the informal institutions
  - Changing the formal institutions

# Changing citizens' norms, values & beliefs

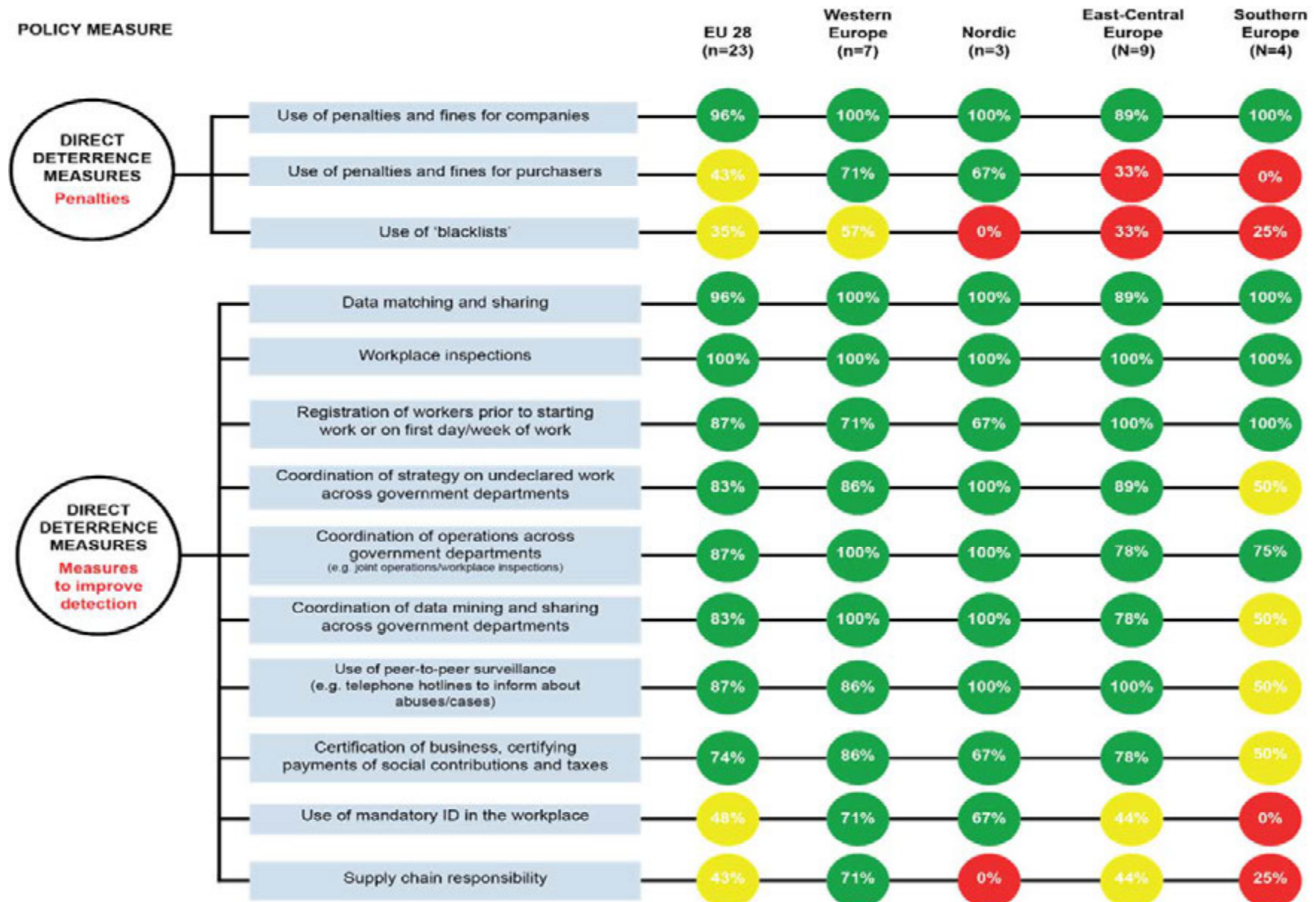


## Changing the formal institutions

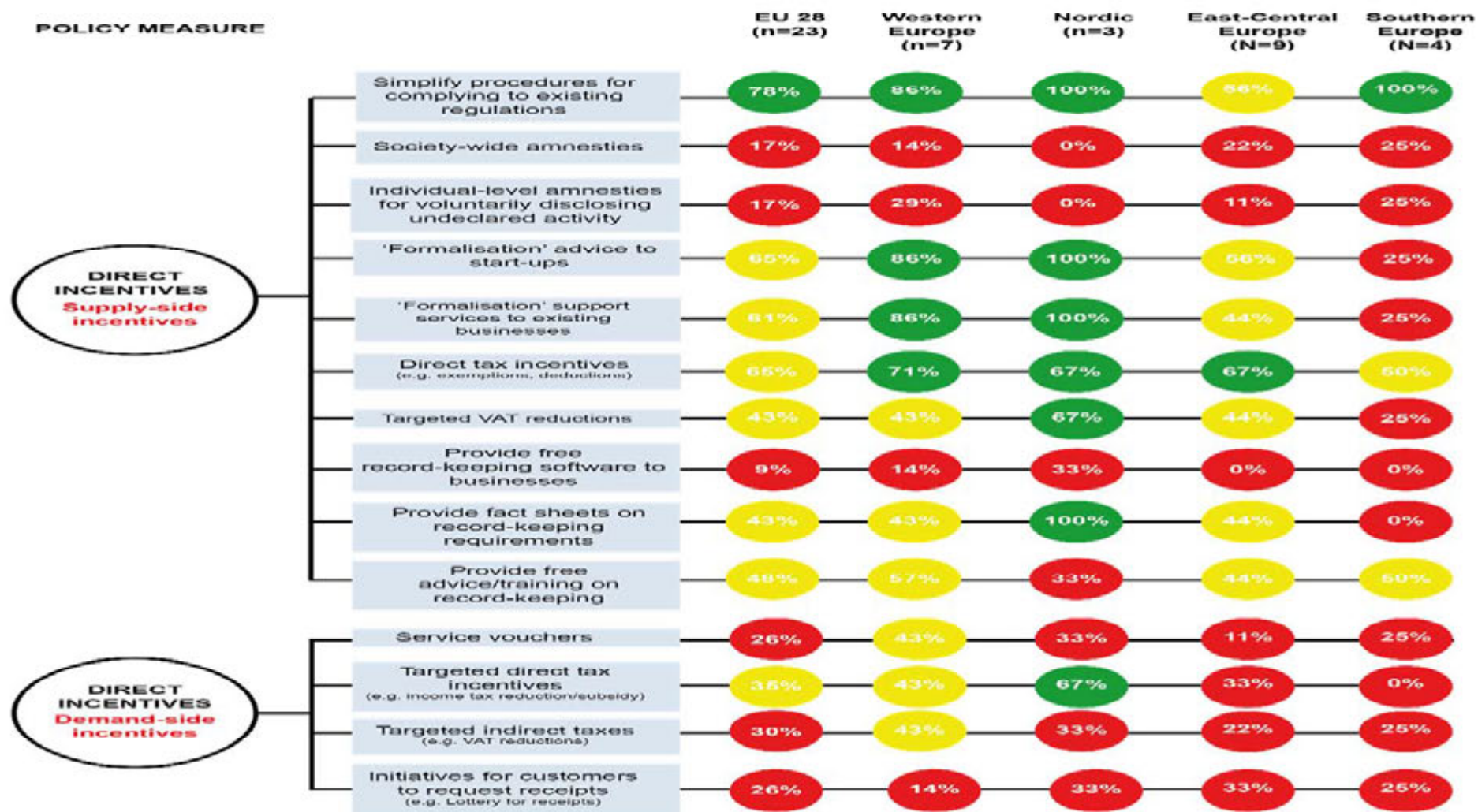


# Current policy approach in European Union

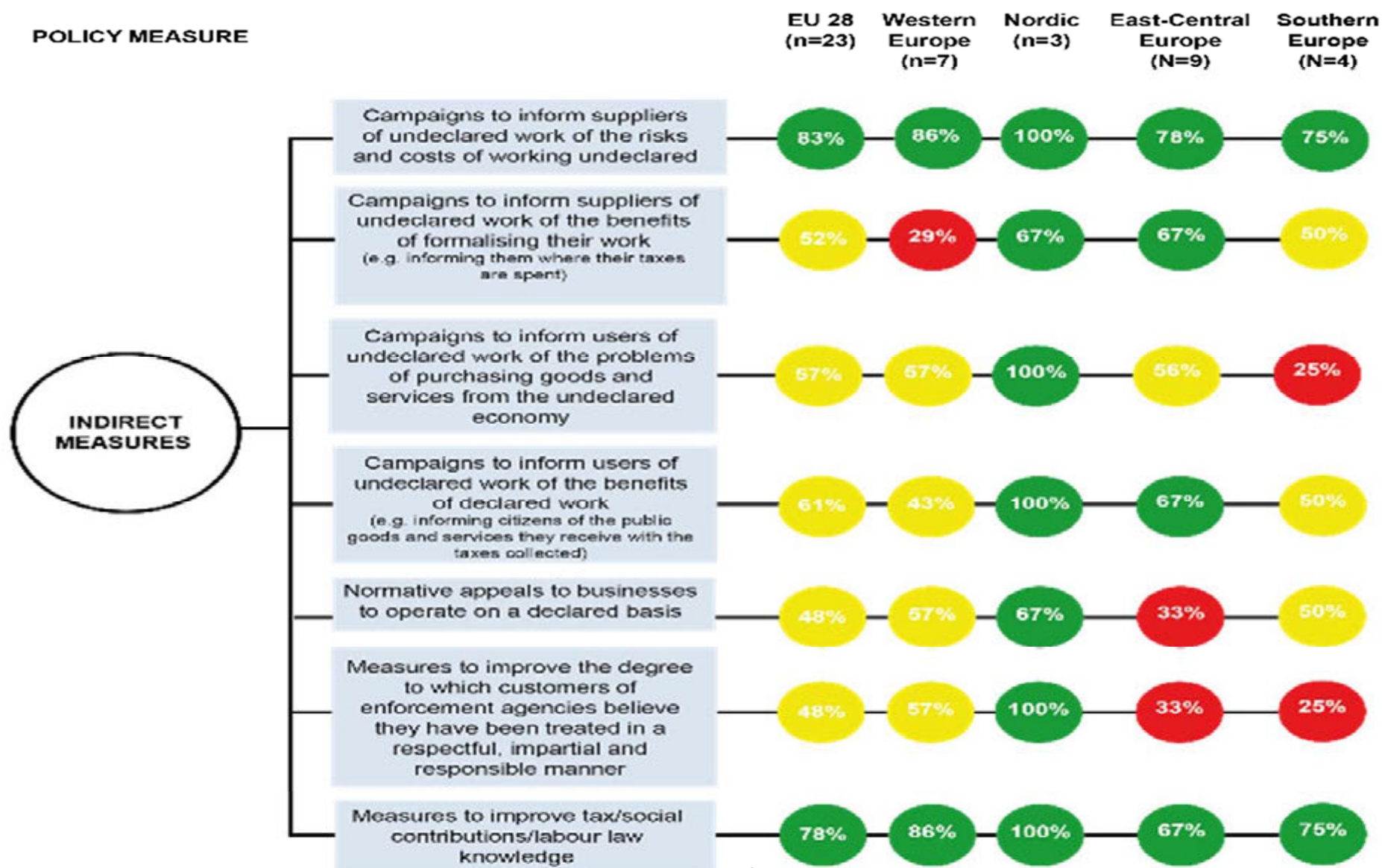
# Detecting and punishing non-compliance heavily used



# Improving benefits to alter cost/benefit ratio less used



# Social contract approach starting to be used



## Present-day EU approach

- Re-emergence of 'social actor'/social contract approach (e.g., lack of trust in formal institutions, education and awareness raising campaigns)
- Recognising that they are not mutually exclusive
- Growing focus upon combining both approaches

Full policy  
operationalisation  
model

- The most effective approach is to concurrently implement direct measures (e.g., workplace inspections) to enhance the power of authorities AND indirect measures (e.g., awareness raising) to enhance trust in authorities.
- It is based on evidence that a high trust high power approach is the most effective in tackling undeclared work.



ПРОЕКТ ФІНАНСУЄТЬСЯ ЄВРОПЕЙСЬКИМ СОЮЗОМ



Проект виконується  
Міжнародною організацією праці

EU-ILO Project

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

# **Labour Inspection**

## ***Challenges, Solutions and Roadmap***

***Seminar “Undeclared work and labour inspection”***

**Hotel Rus | 5 November 2019**

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# Content

Labour inspection main challenges

Labour inspection main solutions

Labour inspection improvement roadmap

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## Labour inspection main challenges

1

- Labour Inspection seen as a "Trade Union" (and Ministry of Economy as an "Employer's Organization")

2

- Negative image of labour inspection (corruption, ineffectiveness, inefficiency, lack of transparency and accountability, etc.)

3

- Excessive scope of its mandate, functions and activities (much beyond labour administration functions)

4

- Lack of efficiency and effectiveness

5

- Information systems (software, hardware, databases, etc) obsolete, hampering proper planning, results-based management, interoperability and data interchange , web-based transactional services, online remote and real-time access and, ultimately, its efficiency, quality and effectiveness

6

- Moratorium on inspection visits (e.g., Law 1278-VII and recent President intention regarding FOPs)

7

- Draft law 1233: compromises the deterrent effect and general prevention functions of inspections.

8

- Labour inspectors do not have the powers to discharge their duties and their activities are restricted (Law 877-V and CMU Order 823, 21/8/2019), in contradiction with ILO C81 and C129

## Labour inspection main solutions

1

- To adopt a "Labour Inspection Statute", aligned with ILO C81 and C129, that takes out labour inspection under the scope of Law. 877-V, repeals CMU Order 823 and defines: its mission and functions, powers of labour inspectors, procedures for inspection visits, career path, recruitment, training, merger of 3 current different types of labour inspectors, etc.

2

- To focus SLS on its "core business" and outsource the rest. It should not be an economic operator. Should only have a supervisory and licensing role over training, certification of OSH experts and external OSH service providers and a role of provision of binding opinions on industrial licensing

3

- Business process reengineering of SLS, in order to improve its efficiency and effectiveness

4

- To develop and implement in SLS a modern IS (allowing remote real-time online access, interoperability, web-based transactional services with employers and workers (and their representatives), strategic planning, results-based management, etc.) and upgrade its hardware

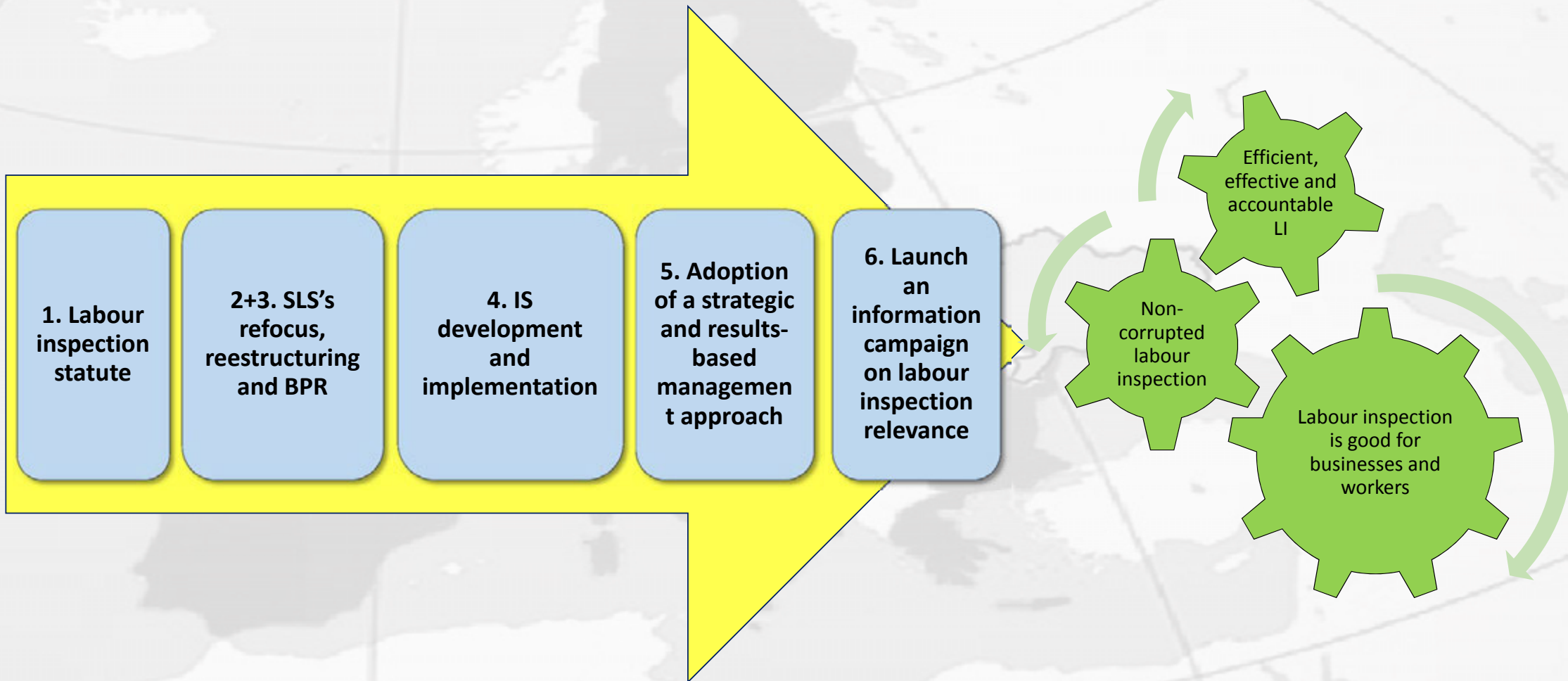
5

- To adopt a strategic management approach, formulating, implementing and monitoring a strategic plan, that allows results-based management, corporate and individual performance assessment, transparency and accountability

6

- To launch an information campaign on labour inspection mission, activities and results, showing it as an impartial authority aimed at improving working conditions through promoting and enforcing compliance with the law . "LI is good for business and workers"

# Labour inspection improvement roadmap



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## Relevance of Labour Inspectors' powers

### Portuguese Labour Inspection: mission, functions, powers and procedures

# PORTUGAL –



- Population 10.277 M
- 5.245 M workers
- 1.260 M enterprises (96% employ less than 10 wks)
- ILO member since 1919
- EU member since 1986



# Portuguese Labour Inspectorate - ACT

(since 1916)

- ✓ Part of direct state administration, reporting to the Ministry of Labour, Solidarity and Social Security (MTSSS)
- ✓ Competencies in labour relations and OSH in all private sectors
- ✓ Only OSH in the public sector

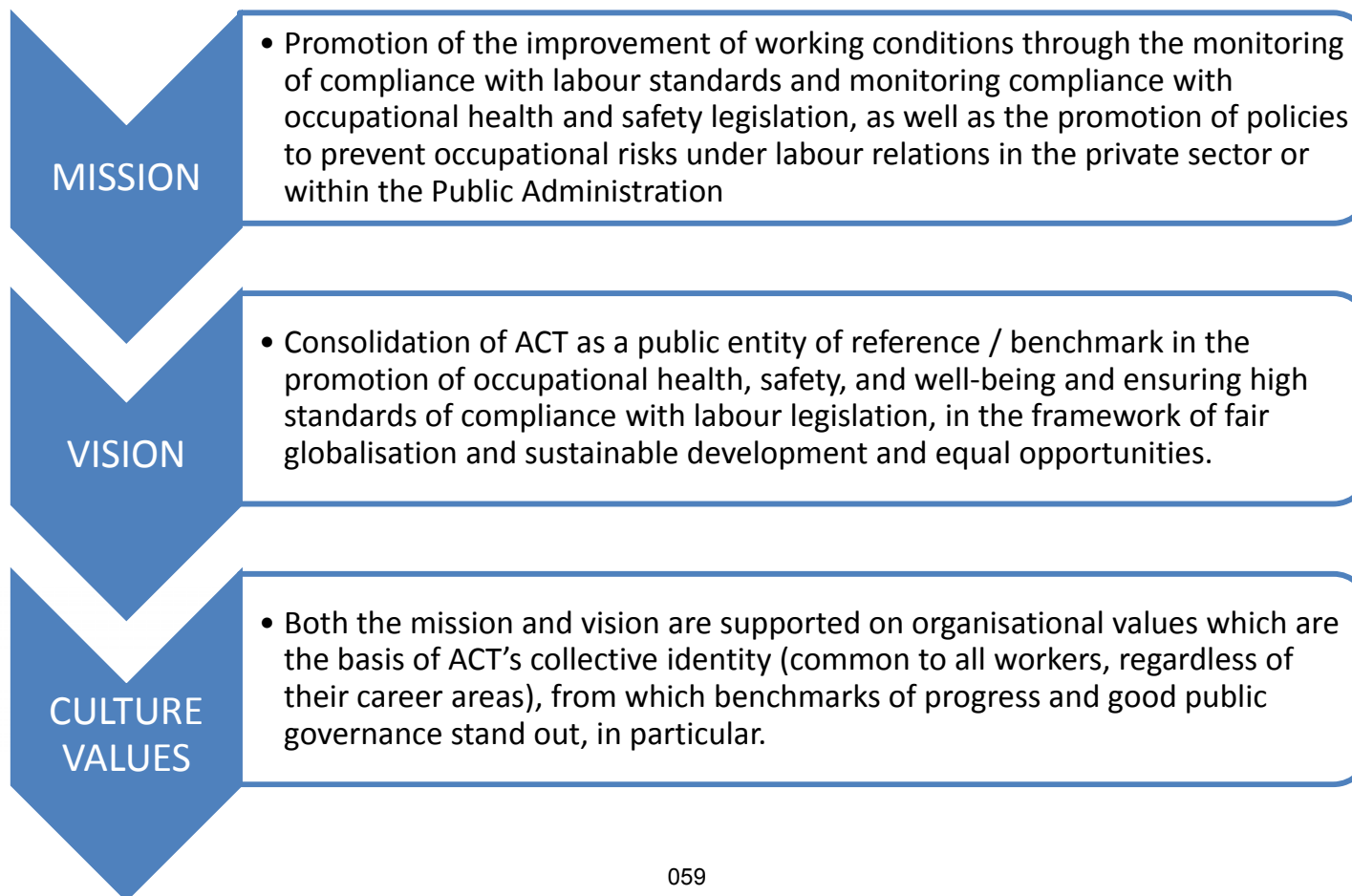
# Portuguese Labour Inspectorate - ACT

(cont.)

- ✓ Head Office in Lisbon
- ✓ 32 local offices over mainland (excludes Islands)
- ✓ 430 inspectors (2019) – (all civil servants with graduations in various areas such as law, engineering, chemistry, social and economical sciences)

# ACT – MISSION – VISION - VALUES

To promote better working conditions through enforcement of labour standards, and OSH regulations, as well as to promote preventive policies regarding occupational hazards both in private and public sectors



# ACT – Inspection Guidelines

- Ethical and deontological principles

## Public Service

- Civil servants serve the community and the citizens.  
Public interest stays above all private or group interests

## Principle of legality

- Civil servants actions must be in accordance with the constitutional principles and the law

## Principle of justice and impartiality

- While performing their duties, civil servants must treat all citizens fairly and impartially, according to strict principles of neutrality

# ACT – Inspection Guidelines

- Ethical and deontological principles

## Principle of Equality

- Civil servants may not benefit or harm any citizen on the basis of their descent, sex, race, language, political, ideological or religious convictions, economic situation or social condition.

## Principle of proportionality

- Civil servants may only, in the exercise of their activity, demand from citizens that which is indispensable for implementation of the administrative activity.

## Principle of collaboration and of good faith

- While performing their duties, civil servants must collaborate with citizens in accordance with the principle of good faith, with a view to achieving the community's interest and encouraging their participation in the implementation of the administrative activity.

# ACT – Inspection Guidelines

- Ethical and deontological principles

## Principle of information and quality

- Civil servants must provide information and/or explanations in a clear, simple, courteous and quick manner.

## Principle of loyalty

- Civil servants, in the exercise of their activity, must act in a loyal, supportive and cooperative manner.

## Principle of integrity

- Civil servants are governed according to criteria of personal honesty and integrity of character.

# ACT - intervention areas

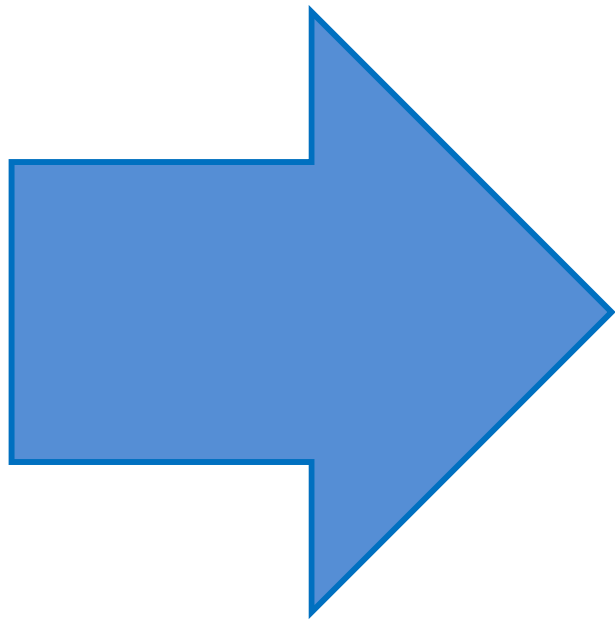
## Labour Relations

- Recruitment process (Agencies)
- Temporary work
- Posting of workers
- Undeclared work
- Bogus self-employed
- Maternity/paternity leave
- Equality and non-discrimination
- Holidays, public holidays and absence
- Frameworks of special working time
- Remuneration
- Reduction or suspension of employment contracts
- Social security
- ...

## OSH

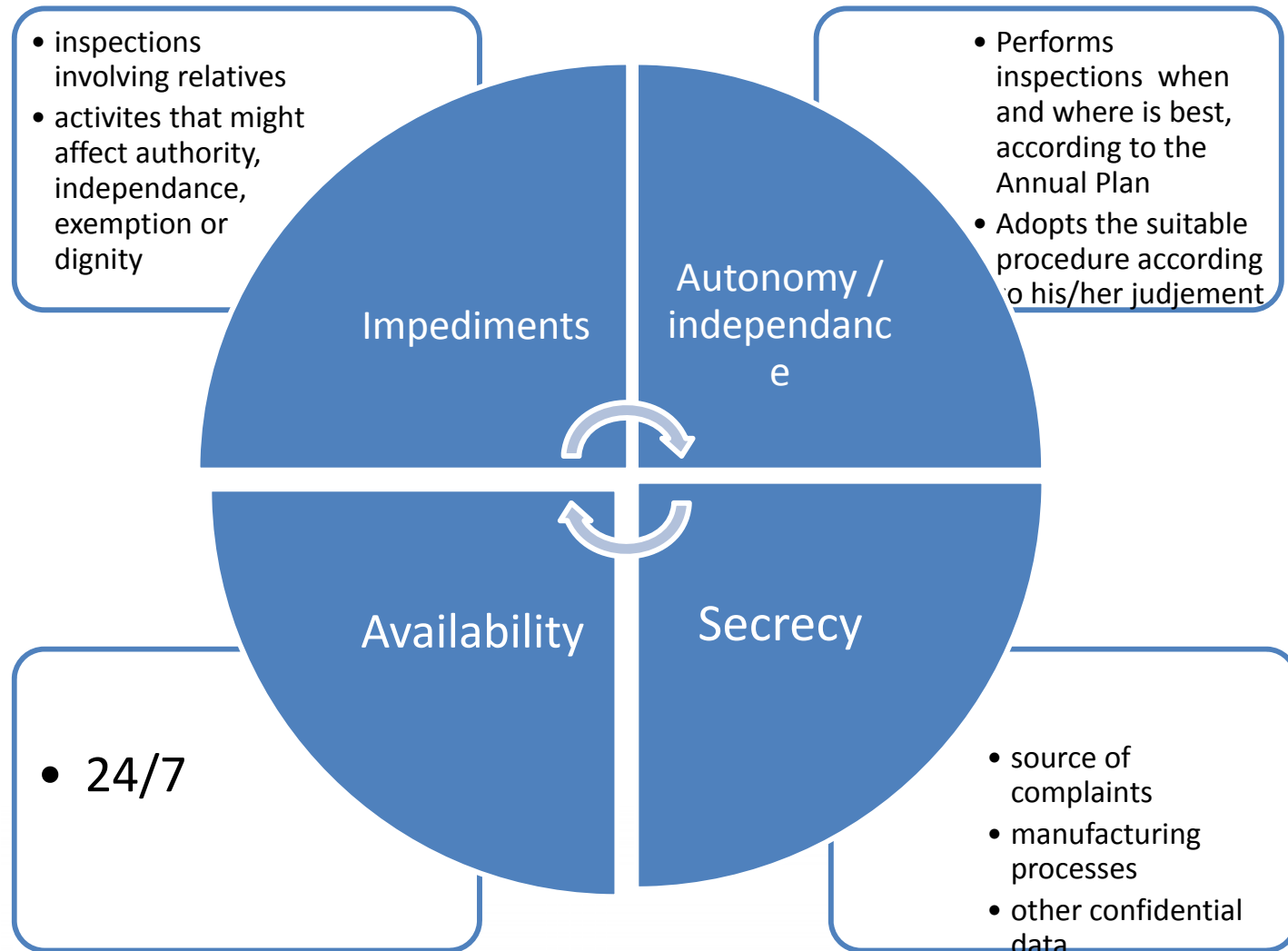
- Agriculture
- Construction
- Machinery
- Mines
- Footwear industry
- Fisheries
- Asbestos
- Biological agents
- Chemicals
- Carcinogenic
- ATEX (explosive atmospheres)
- GMOs (genetically modified organisms)
- Transport
- ...

# ACT- Strategic references



- ✓ILO Conventions
- ✓Decent Work (ILO)
- ✓Framework Directive 89/391/CE
- ✓Europe Strategy 2020
- ✓OSH Policy Agreements
- ✓OSH Policy Resolutions

# ACT - Inspectors' status



# ACT - Inspectors' powers

- ✓ Visit and inspect workplaces at any time of day or night, without need any prior notice;
- ✓ Obtain cooperation of several public and non-governmental entities (social security, police);
- ✓ Question the employer, workers, or any other person at the workplace and ask for their identification;

# ACT - Inspectors' powers

- ✓ Request documents, other records, products safety data and obtain photographs and measurements
- ✓ Adopt precautionary measures necessary to prevent destruction or disappearance of documents and other records
- ✓ Notify the employer that preventive measures must be adopted

# ACT - Inspectors' powers

- ✓ To summon employers / representatives
- ✓ Notify the employer to calculate the amounts owed to the employees or/and to Social Security
- ✓ Request cooperation of the police authorities

# ACT - Inspections

Inspections are determined by the priorities set out on the Annual Plan and by requests / claims from workers, trade unions, workers' commissions and employers, judicial courts or others.

Always performed with 2 LI teams

Often joint inspections (SS / Border and Immigration Police / Tax Inspectorate / Police)

# Professional attitude

## Information / Counseling

- Provide information and technical advice with a view to the explanation of the subject of industrial relations and respective associations

## Control

- Foster, control and monitor compliance with legal provisions, regulations and agreements concerning labour relations and working conditions

# Professional attitude

## Background work

- Check the company's and SS's records
- Prepare the visit (contact complainant, specific legislation, PPE, route...)
- Briefing with other authorities in case of joint inspections
- Recall any previous relevant information
- Seek for police back up if needed

## During inspection

- Inform EE/wks/union representatives about the visit
- Gather information, evidences, testimonies...
- Adopt suitable procedure
- Closure and provisional diagnosis

## Back to office

- Review documentation
- Draw the inspection report
- Register all procedures
- Draw notice of infringement if applicable
- Prepare follow up visit or other procedures

# ACT - Inspectors' procedures

- **Recommendation – non binding procedure**  
(articles 3º/1b)/17º/2 of ILO Convention nr.81, articles 6º/1b)/22º/2 ILO Convention nr.129 and article 5º/1 Labour Inspectorate's Regulation
- **Warning –** in case of minor offence without irreparable damage either to WK , work administration or the SS. Must refer to the infringement, the measures recommended to the infringing party and the deadline for compliance. If the recommended measures are not complied with, coercive procedures must be adopted.

# Inspectors' procedures

- Notification to submit documents - The inspector may order with immediate effect or notify for presentation at the local office, any relevant documents and/or records, to clarify any labour relations or OSH facts. It is a crime of disobedience not to submit the documents.
- Improvement notice – to ensure that the EE adopts the corrective measures in compliance with the OSH regulations within a specific deadline;

# Inspectors' procedures

- Notification for calculating the amounts owed to workers / SS – in case of past due salaries, UDW or under declared work as well as bogus self employment situations. Becomes enforceable if the EE doesn't comply: wks may claim the amounts in court
- Notification to immediately cease the activity of a minor wk – in case of an under 16 wk not having completed mandatory education and without physical / mental suitable capacity for the activity; also whenever nature or conditions of the activity might endanger the minor's physical, mental and moral development, e.g., high risk activities, exposure to biological risks level 3 and 4, asbestos, any activity in slaughterhouses...

It is a crime to employ a minor to perform any of the prohibited activities and the LI must report the facts to the State Prosecutor

# Inspectors' procedures

- Notice of infringement

The notice of infringement is a coercive procedure that also aims to ensure compliance with the law in order to promote the improvement of work conditions.

The notice of infringement must contain, in particular:

- the date and time of the report;
- the name and position of the reporting inspector;
- the identification and address of the offender and the legal representatives, as well as the identification of the workplace
- the infringed legal provisions
- the date, time, place and circumstances in which they were committed
- the available evidence to sustain the notice

# Inspectors' procedures

- Notification for the immediate suspension of work (prohibition notice)
  - intended to cease immediately ongoing work representing a serious danger or serious probability of injury to life, physical integrity or health of workers
- Notification of authorization for resuming work
  - Work that has been suspended through a prohibition notice can only be resumed with the express permission of the labour inspector.

# Inspectors' procedures

- Specific procedures relating bogus self-employment
- Investigation of occupational accident / disease



# le système d'inspection du travail français

## Travail non déclaré et inspection du travail

Béatrice.KISSIEN-SCHMIT

Directrice adjointe du travail

*5 Novembre 2019 – KIEV -*



# Plan

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- Compétence
- Organisation
- Prérogatives et moyens d'action
- Pilotage et modalités d'intervention
- Système d'information
- Ressources humaines: les agents de contrôle et autres fonctions

# La réforme du système d'inspection du travail 2013

## le volet RH

- Recrutement, formation et carrière du corps de l'inspection du travail

**Un système de partage de l'information et de rendu-compte de l'activité plus performant pour mieux valoriser l'action.**

- Pas de système d'inspection du travail sans système d'information

## Le Système d'inspection du travail

## Les nouveaux pouvoirs et moyens du système d'inspection du travail

- La recherche de l'effectivité réelle du droit
- La transformation du geste professionnel
- La définition d'une stratégie et la montée en charge des nouveaux pouvoirs

## L'adaptation de l'organisation du service public de l'inspection du travail

- Renforcement du fonctionnement en système
- Consolidation du service public
- Nécessité d'un approfondissement

## L'action sur les ressources humaines

- plan de transformation des emplois de B en A
- La montée en compétence des assistants(es) de contrôle
- Accompagner l'évolution des métiers.



# COMPETENCE ET MISSIONS

## L'inspection du travail est généraliste

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- Intervient sur l'ensemble du droit du travail
- Compétente sur l'ensemble des établissements à l'exception de quelques secteurs particuliers
- Veille à l'application du code du travail et autres normes étatiques, mais également des conventions et accords collectifs

# Des missions larges

- Article 3 convention 81
  - Veille à l'application du droit du travail;
  - Information et conseil
  - Signalement à l'autorité compétente
- **Constate les infractions**
- conseil et conciliation pour faciliter la prévention et la **résolution des conflits**
- Favorise, appui et accompagne le **dialogue social**
- Participe à la **mise en œuvre de la politique du travail**
- Contribue à la **prévention des risques professionnels**, ainsi qu'à l'amélioration des conditions de travail et des relations sociales.
- Un **pouvoir de décision** très vaste



# **PREROGATIVES ET MOYENS D'ACTION**

# pouvoirs d'investigation

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- **libres d'organiser et de conduire des contrôles à leur initiatives** et décident des suites à leur apporter
- **Droit d'entrée** et de visite sans avertissement préalable
- Locaux d'hébergement avec autorisation de l'occupant
- **Droit de mener des enquêtes** en interrogeant l'employeur et les salariés
- **Droit d'accès aux registres et documents obligatoires** étendus à tout document dans certaines enquêtes
- **droit d'accès à certains fichiers** détenus par d'autres administrations
- **droit de communication auprès de tiers** dans le cadre de la lutte contre le travail illégal
- **Demandes d'analyse et de vérification**
- **Arrêts de travaux** ou d'activité

## pouvoirs d'investigation (exemples)

- **Dans le cadre de la lutte contre le travail dissimulé**, demande aux personnes occupées dans l'entreprise ou sur le lieu de travail ainsi qu'à toute personne dont ils sont amenés à recueillir les déclarations dans l'exercice de leur mission, de justifier de leur identité et de leur adresse,
- **Demandes d'analyse et de vérification**, faire appel à des organismes agréés pour vérifier l'état des locaux et des matériels
- **Arrêts de travaux** ou d'activité en cas de constat de situation de danger grave et imminent , concerne principalement les risques de chute de hauteur et d'exposition aux fibres d'amiante ou agent chimique cancérigène mutagène ou toxique pour la reproduction.

## des moyens d'action étendus

- **Observations** rappelant les règles en vigueur,
- **Mises en demeure, demandes de vérification**
- **Procès-verbaux** transmis au parquet; audition pénale de la personne soupçonnée
- **Arrêts temporaire** de travaux ou d'activité présentant un danger grave et imminent
- Saisine du juge des **référés**
- **Suspension, rupture du contrat/retrait du poste d'un jeune** de moins de 18 ans
- Proposition au directeur régional :
  - **Amendes administrative** ou avertissement
  - Suspension PSI
  - **Transaction pénale**
- Proposition au préfet:
  - Fermeture administrative /suppressions aides publiques/exclusion des marchés publics) en cas d'infraction grave de travail illégal



# ORGANISATION

# ORGANISATION

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- Un service de l'Etat
- Sous l'autorité du ministre chargé du travail
- Et sous la responsabilité de la DGT, autorité centrale du SIT
- Une organisation territoriale très fine autour d'unités de contrôle et de services de renseignement en droit du travail
- Le Conseil National de l'Inspection du travail (CNIT)

## La Direction générale du travail (DGT)

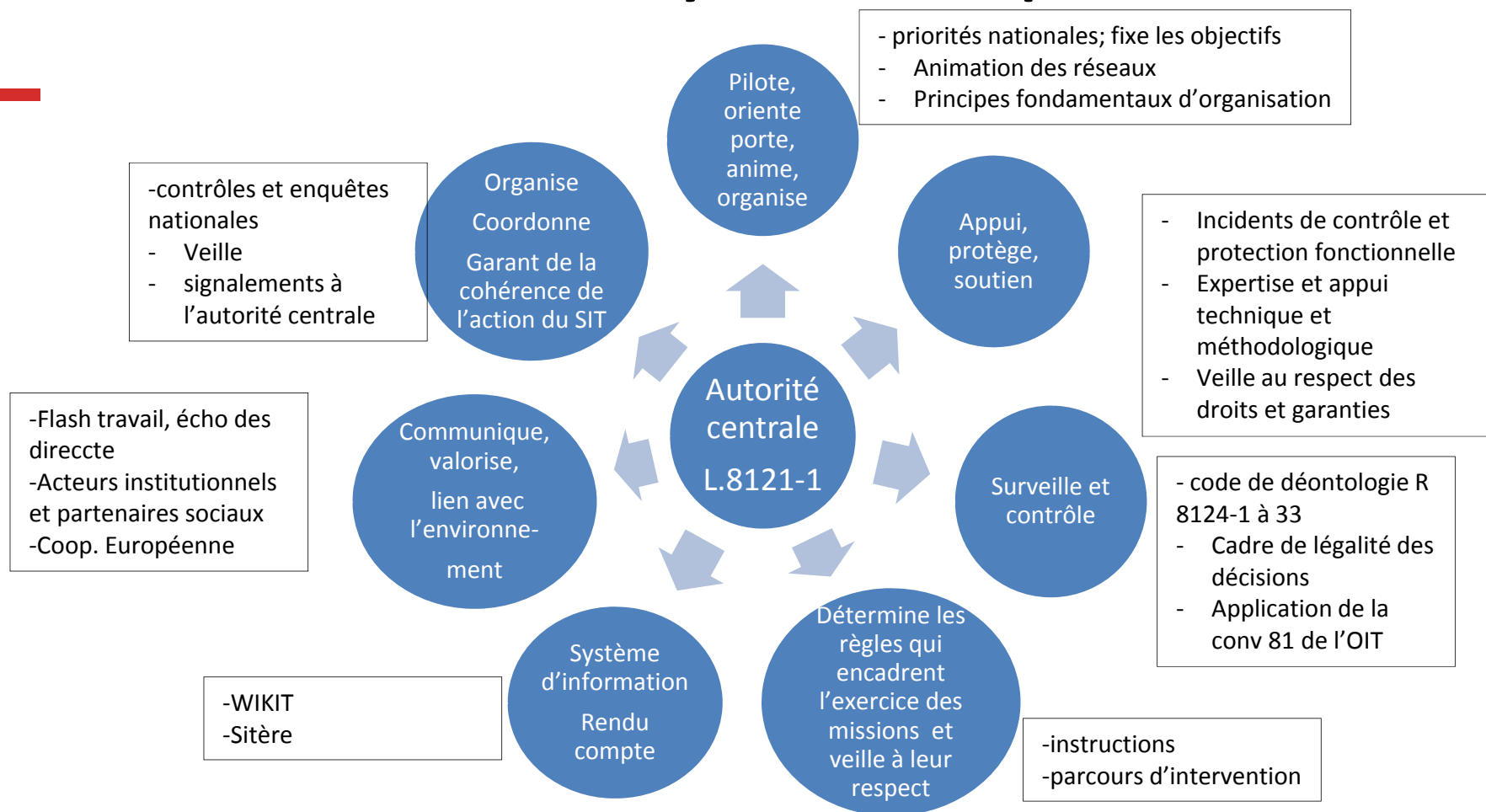
La direction générale du travail, prépare, anime et coordonne **la politique du travail** afin **d'améliorer** :

- **les relations** collectives et individuelles
- **les conditions de travail** dans les entreprises
- **ainsi que la qualité et l'effectivité du droit** qui les régit.

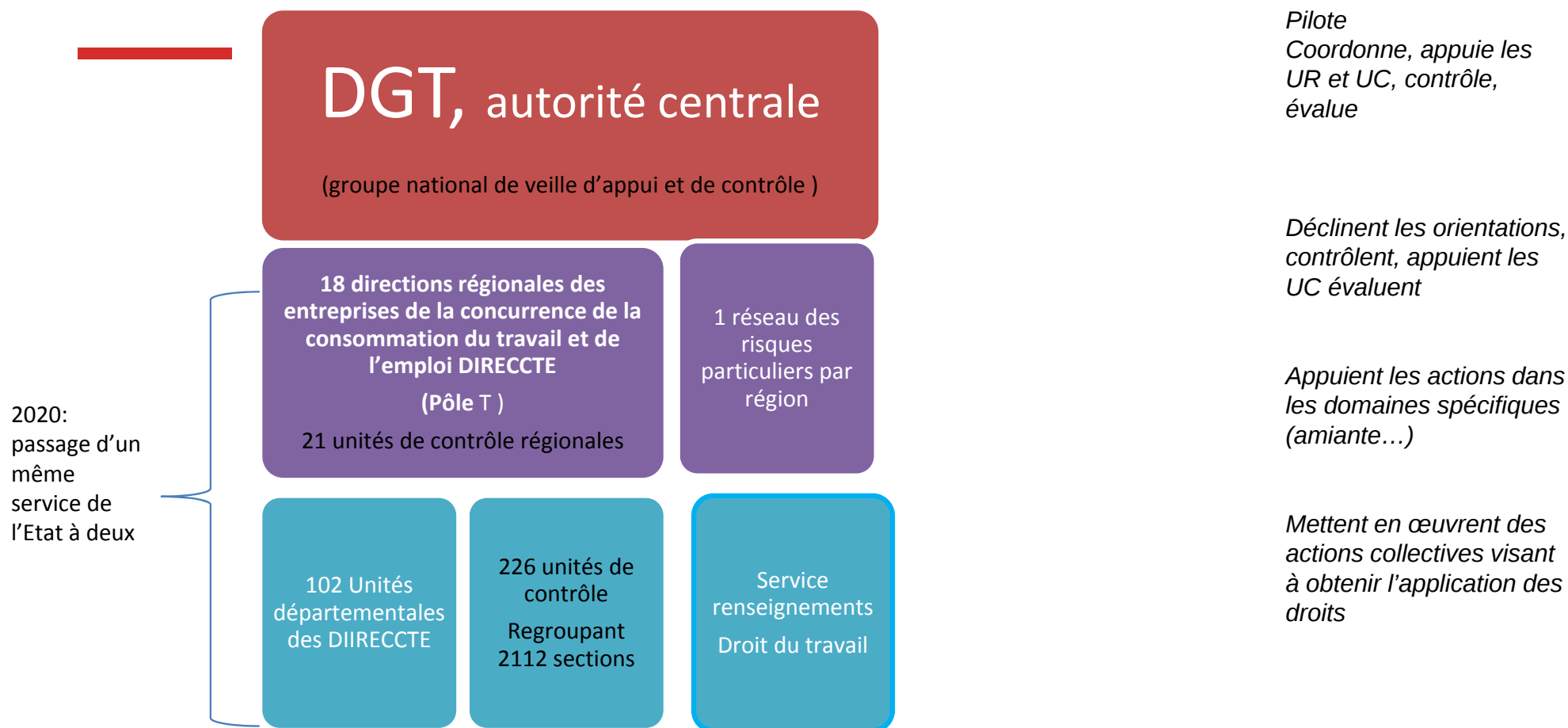
Une double fonction:

- assure le rôle **d'autorité centrale** pour les agents de l'inspection du travail.
- élabore les **textes** et développe les **actions** relatives à ces compétences

# La DGT, autorité centrale du système d'inspection du travail



# Une organisation qui a évolué et va évoluer



# Fonctions et services du SIT au niveau territorial

## DIRECCTE Unité régionale- Pôle Travail

- **Exercice des pouvoirs propres**
  - Amendes administratives et suspensions, Mises en demeure/injonctions
  - Dérogations
  - relations avec les autorités judiciaires , transactions pénales
  - Instruction des recours LSP, Recours et contentieux sur décisions IT
- **URACTI et autres UCR**
- **Cellule pluridisciplinaire**
- **Médecin inspecteur du travail**
- **Animation et appui** Référents thématiques, ARM, Réseau des risques particuliers, animation des SR)
- **Définition et Pilotage du PRA; organisation, coordination, suivi évaluation et valorisation de l'activité**
- **Gestion effectifs et moyens**

## DIRECCTE Unité départementale

- **Unités de contrôle** Sections (Agents de contrôle ) et Assistants d'unité de contrôle
- **Service de renseignement** Accueil physique (un accueil sur RV est assuré dans tous les cas), Renseignement téléphonique, Traitement des courriels , Informations collectives
- **Observatoire d'analyse et d'appui du dialogue social**
- **SCT** Enregistrement des accords, Épargne salariale, Ruptures conventionnelles (sur délégation)
- **Pilotage animation appui valorisation**

## Organisation du système d'inspection du travail ( avant/après 01/2015)

| Ancienne organisation:                                                                                                                                                                                                                                                                                                                                                         | Organisation actuelle                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"><li>• orientation générale des actions des unités locales</li><li>• 27 DIRECCTE traduisent les orientations et la stratégie en plan d'actions opérationnel</li><li>• 100 unites territoriales assurent la coordination des actions des sections.</li><li>• 790 sections de control s'assurent de l'application du droit du travail</li></ul> | <ul style="list-style-type: none"><li>• La DGT guide et coordonne les actions des unités régionales et celles du responsable par les unités de contrôle</li><li>• DGT soutient et évalue ces actions</li><li>• <b>GNVAC</b> est l'équipe nationale d'enquête, de surveillance et de soutien</li><li>• Des unités régionales spéciales sont soit dédiées à la lutte contre le travail non déclaré (<b>URACTI</b>), soit spécialisées en ce qui concerne les risques spécifiques pour la santé au travail</li><li>• Les actions des unités territoriales et des unités de contrôle (230) visent à rétablir les droits des travailleurs. L'action collective est le moyen le plus efficace et le plus approprié d'atteindre cet objectif.</li></ul> |

# Fiche d'identité du Système d'Inspection du Travail

| Régions      | UNITES              |                      |                 |                 |               | AGENTS DES UC          |           |               |                   |       |          |        | POLE T et APPUI    |             |             |         | SR               | TOTAL     |
|--------------|---------------------|----------------------|-----------------|-----------------|---------------|------------------------|-----------|---------------|-------------------|-------|----------|--------|--------------------|-------------|-------------|---------|------------------|-----------|
|              | 03/2018             |                      |                 |                 |               | 04/2018                | 12/2017   |               |                   |       |          |        | 12/2017            |             | 04/2018     | 09/2016 | 12/2017          | 12/2017   |
|              | UC<br>(Hors<br>UCR) | Dont UC<br>interdép. | UCR<br>"URACTI" | UCR<br>"autres" | UC<br>(total) | Sections<br>(Hors UCR) | Agents UC | Agents<br>UCR | Agents<br>(total) | RUC   | Assist C | Autres | POLE T<br>(autres) | dont<br>ARM | dont<br>MIT | dont IP | Agents<br>des SR | Total SIT |
| TOTAL France | 226                 | 6                    | 18              | 3               | 247           | 2112                   | 2002,7    | 125,5         | 2128,2            | 201,5 | 792,1    | 10,2   | 820,5              | 41          | 29          | 70      | 413,1            | 4364,1    |

## Sources

« UC (Hors UCR) » ; « dont UC interdép. » ; « UCR » ; « URACTI » » ; « UCR « Autres » » : Arrêté Ministériel du 12 mars 2018 portant création et répartition des unités de contrôle de l'inspection du travail  
 « Sections (Hors UC) » : Arrêtés régionaux portant localisation et délimitation des UC et sections d'inspection du travail en vigueur au 30/04/2018  
 « Agents UC » ; « Agents UCR » ; « RUC » ; « Assist C » ; « Autres » ; « POLE T (autres) » ; « Agents des SR » : Enquête EAO 2017 [Effectif ETP] – Version corrigée au 08/12/2017  
 « MIT » : DGT/IMT » (17/04/2018) [effectif physique]  
 « Effectifs ARM » : Direccte [effectif physique]  
 « Effectifs IP » : DGT/DPSIT (30/09/2016) [effectif physique]



# **PILOTAGE ET MODALITES D'INTERVENTION**

# DES INTERVENTIONS A 2 NIVEAUX COMPLEMENTAIRES ET INDISSOCIABLES

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- Le **déploiement d'actions sur des priorités nationales** communes sur tout le territoire
- Un **service public de proximité** présent sur le territoire qui intervient à « chaud » et à « froid » pour 1,7 M d'entreprises et 18 M de salariés pour
  - Faire assurer **le respect des dispositions légales et conventionnelles** , la protection des droits fondamentaux des salariés et obtenir la régularisation des situations non conformes
  - Délivrer de **l'information et des conseils techniques** aux employeurs et travailleurs et contribuer à l'accès au droit
  - **Traiter les sollicitations**
  - Contribuer à **réguler les rapports sociaux** , prévenir les conflits, faciliter et appuyer le dialogue social

# Adaptation des modes d'intervention: la recherche du plus fort impact

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- Selon la **typologie** des entreprises
- Complémentarité des modes d'action
- Une **approche en système**, articulant les différents niveaux
- Le développement d'une **démarche d'évaluation**
- Un **système d'information**: WIKIT
- Une ouverture sur l'environnement et le **développement de la coopération européenne**

# Les orientations nationales 2019

La mise en œuvre de la politique travail en 2019 se décline de sorte à permettre à la fois :

- d'assurer les objectifs de la politique du travail
- mais aussi les interventions de proximité inhérentes aux missions fondamentales qui sont prescrites par nos engagements internationaux.

*Des objectifs généraux guident l'organisation des services et le pilotage de la DGT :*

- une couverture homogène du territoire
- une approche globale de l'entreprise de nature à établir et renforcer les liens entre **conditions d'emploi et de travail, dialogue social et gestion des ressources humaines**

# Les principes structurants

1. Des actions prioritaires assorties d'**objectifs chiffrés** annuels **nationaux** et répartis régionalement, afin de s'assurer sur ces sujets d'un **niveau d'interventions significatif** pour une meilleure effectivité du droit ;
2. **Pluri annualité et continuité** ;
3. **Equilibre** entre actions **collectives** et initiative **individuelle** ;
4. Le **portage** à tous les niveaux de ces **orientations** et des **missions** des services
5. Une **approche collective** à ancrer dans les pratiques, y compris dans la contribution de tous aux objectifs nationaux du SIT

# Les principes structurants

- **L'association des agents et l'information** des partenaires sociaux,
- **Un renforcement du rôle du management** au niveau territorial dans le pilotage et le portage de la politique du travail,
- La poursuite du **travail spécifique vis-à-vis des TPE-PME** pour apporter des réponses adaptées tout en améliorant les situations et la connaissance du droit dans ces segments d'entreprise
- Le **développement d'actions collectives** afin d'accroître l'impact des actions du SIT
- Le **déploiement d'une démarche d'évaluation** des effets de l'action du système d'inspection du travail

# Orientations nationales 2019

## ***Quatre axes prioritaires :***

***Le contrôle de la légalité de la prestation de service internationale***

***La lutte contre le travail illégal***

***L'égalité professionnelle entre les femmes et les hommes***

***La santé et la sécurité au travail***

- *La prévention du risque de chute de hauteur*
- *La prévention du risque amiante*



# **Les agents du Système d'inspection du Travail (SIT)**

## LES AGENTS DE CONTROLE

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- Fusion progressive de deux corps (inspecteurs et contrôleurs) en **un seul corps de contrôle**
- Fonctionnaires recrutés
  - sur concours: interne/externe/3eme voie/Au choix parmi les contrôleurs du travail
- 18 mois de formation à l'INTEFP – évolution de la formation

## LES AUTRES FONCTIONS

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- Responsables d'unité de contrôle
- Assistants d'unité de contrôle
- Cellule pluridisciplinaire: dont médecin inspecteur et ingénieurs de prévention
- Des appuis juridiques et méthodologiques

## Des repères déontologiques

### Protéger :

- les **agents de contrôle**, les modalités d'exercice de leurs prérogatives;
- les **usagers**, en leur offrant les garanties fixées par la loi lors d'interventions des agents du système d'inspection du travail;
- Le **service d'inspection du travail** dans un double contexte de crise de légitimité de l'Etat et de renforcement des pouvoirs de l'inspection.

### **Le code de déontologie** rappelle les fondements de la mission d'inspection du travail :

- Veiller à l'application des dispositions légales et conventionnelles,
- Assurer le respect des droits fondamentaux du travailleur et de la personne humaine,
- Contribuer à la mise en œuvre des principes constitutionnels particulièrement nécessaires à notre temps proclamés par le Préambule de la constitution de 1946.

## Le cadre juridique de l'exercice des missions: Partie 8 du code du travail

- **L 8124-1** : .. « un code de déontologie du service public de l'inspection du travail établi par décret en Conseil d'Etat fixe les règles que doivent respecter les agents ainsi que leurs droits dans le respect des prérogatives et garanties qui leur sont accordées pour l'exercice de leurs missions définies par les Conventions n° 81 et n°129 de l'OIT sur l'inspection du travail (et au « ...présent livre premier).

*Décret du 12 avril 2017 codifié aux articles R 8124-1 à 33. du code du travail.*

# Merci de votre attention

## Vos questions ?







ПРОЕКТ ФІНАНСУЄТЬСЯ ЄВРОПЕЙСЬКИМ СОЮЗОМ



Проект виконується  
Міжнародною організацією праці

EU-ILO Project

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

## **The relevance of judiciary on labour inspection effectiveness, especially on tackling UDW**

***Some EU best practices***

***Seminar “Undeclared work and labour inspection”***

***Hotel “Rus” | 5 November 2019***

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Менеджер проекту / Project manager

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# Content

Typical sequential relation between labour inspection and judiciary

Judiciary main functions

Judiciary impact on labour inspection effectiveness

Most common mutual criticism

EU best practices - improvement of judicial system

EU best practices – cooperation between labour inspection and judiciary

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## Typical sequential relation between labour inspection and judiciary

Inspection  
activity  
(Detection)

Inspection  
procedures  
(Enforcement)

Appeal to  
judiciary  
(Guarantees)

Judicial  
decision  
(Application of  
the law)

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## Judiciary main functions

1

- To ensure application of the law, through a system of legal proceedings

2

- To provide legal means to subjects of labour relations (workers and employers) to exercise their lawful rights

3

- To uphold the general prevention principle, sanctioning and dissuading non compliance

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## Judiciary impact on labour inspection effectiveness

1

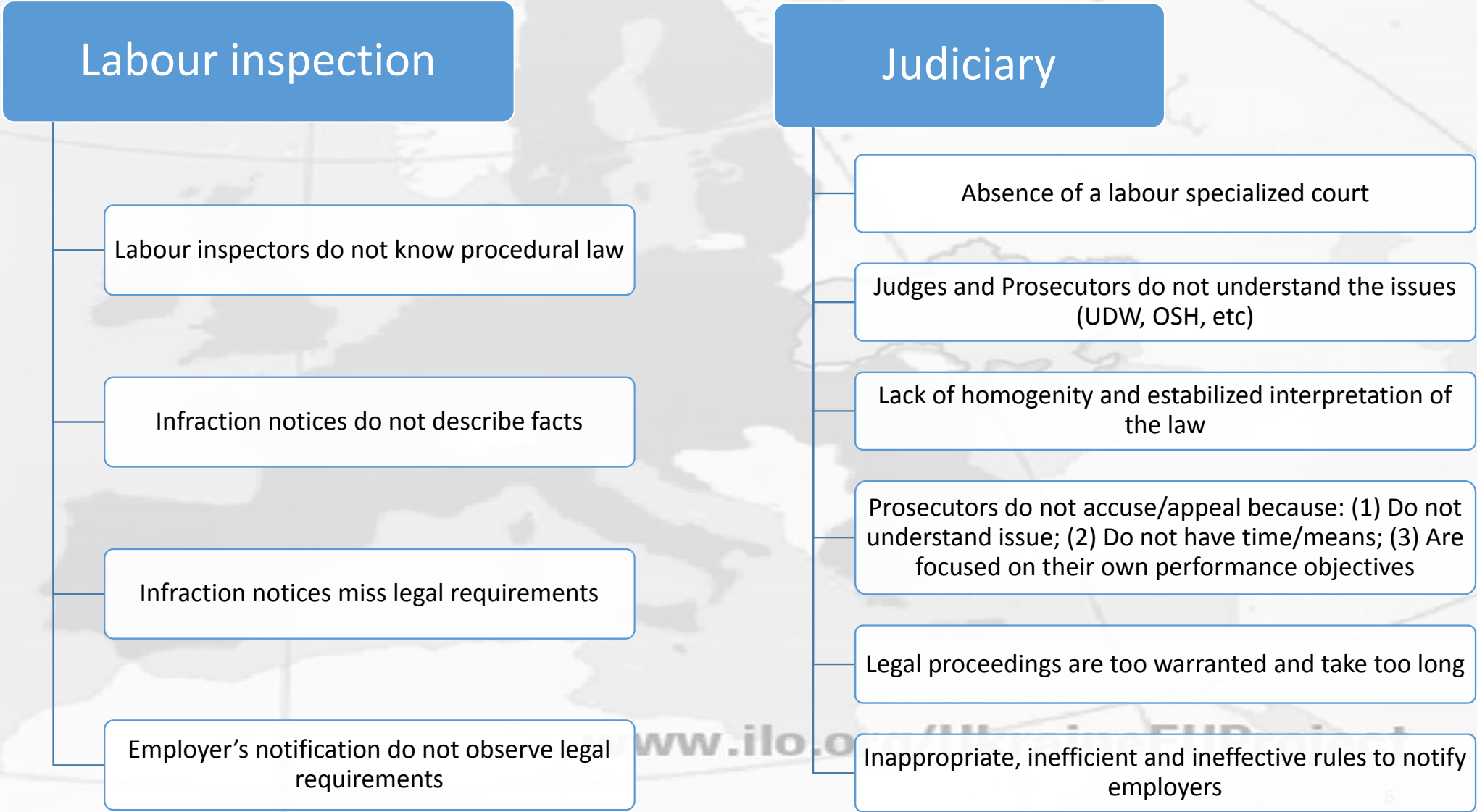
- It confirms, modifies or anulates administrative decisions from labour inspection

2

- It positively (or negatively) impacts on the ability of labour inspection to effectively improve working conditions at workplaces

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# Most common mutual criticism



## EU best practices – improvement of judicial system

### Portugal

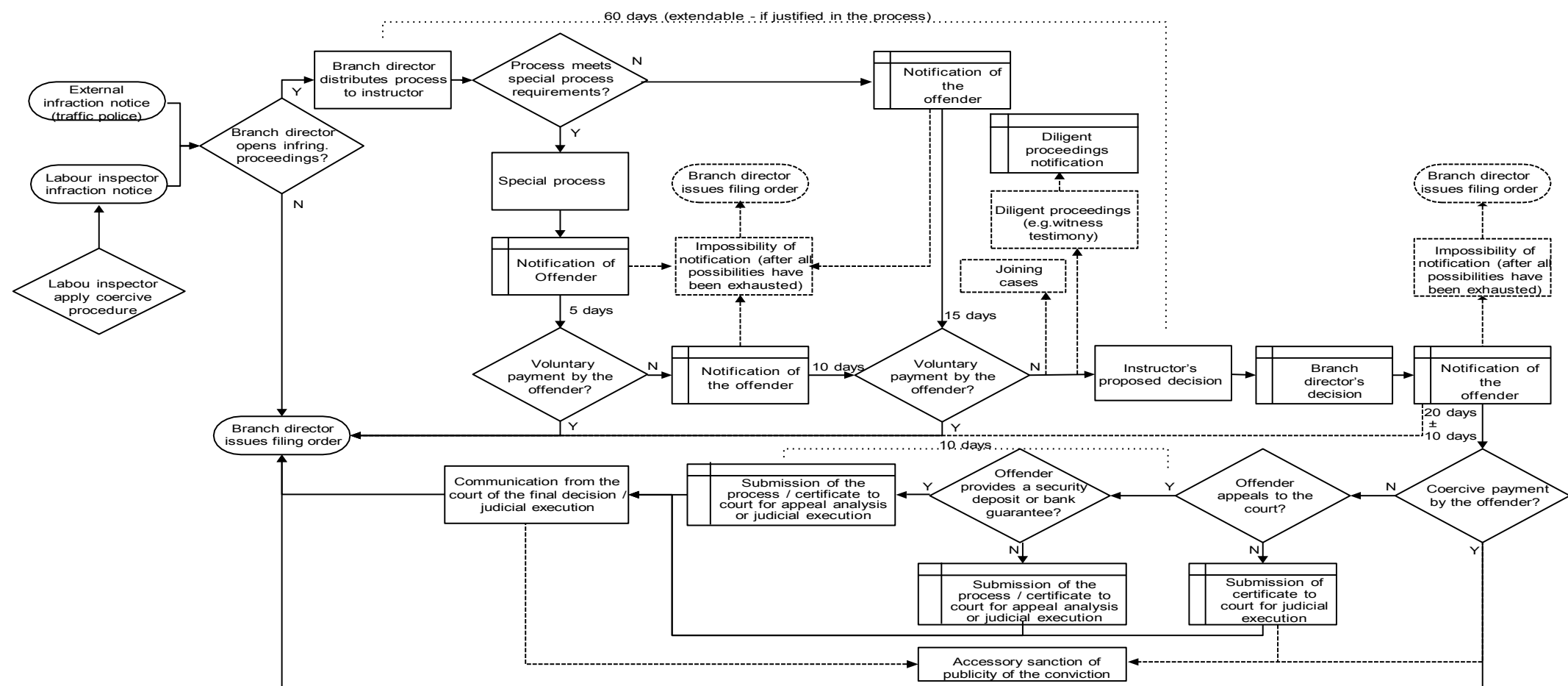
- Approval of a new procedural regime applicable to labour and social Security administrative offenses (Law No. 107/2009, of 14 September), simplifying administrative procedures, ensuring greater speed and effectiveness and extending deadlines for prescribing the processes
- Introduction of the new legal mechanism, of urgent nature, to combat the misuse of service contracts in subordinate labour relationships (notification to employer to regularize situation in 10 days; if not, notification to Public Prosecutor's Office in 5 days to initiate proceeding to recognize the existence of an employment relationship)

### Spain

- Creation of a system of electronic posting ("*Tablón de Edictos de la Inspección de Trabajo y Seguridad Social*") of notifications to employers (when they cannot be notified through any other means), in the website of the Spanish Labour and Social Security Inspectorate, which are legally considered to be effective 20 days after being posted

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# EU best practices – improvement of judicial system - Portuguese labour administrative infringement proceeding



## EU best practices – improvement of judicial system

### Belgium

- New procedure (Law of 29 March 2012), pursuant to which, if the public prosecutor renounces the charge or does not decide within 6 months after receiving the infraction notice, the administrative authority may proceed with the administrative procedure for application of sanction
- Creation of the CHEOP system which allows inspectors to access labour jurisprudence and to accelerate the processing of judicial proceedings by sending the respective procedural pieces to the courts electronically.

### Macedonia

- Establishment of a special body outside the courts, responsible for the application of administrative sanctions
- Assignment, to labour inspectors, of power to impose immediately enforceable administrative measures, including, in certain circumstances, the power to terminate a particular establishment

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## EU best practices – cooperation between labour inspection and judiciary

### Portugal

- Regular contact between Portuguese labour Inspectorate (ACT) managers and labour inspectors with public prosecutors
- Cooperation between labour Inspectorate and judiciary actors, within the scope of cooperation agreements, for example: District Attorney-General of Lisbon (PGDL) and Oporto (PGDP), Office for the Alternative Dispute Resolution and Center for Judicial Studies (CEJ) – Public entity responsible for the selection and training of the judges and public prosecutor
- Reciprocal participation of professionals of ACT, PGDL, PGDP and CEJ, as trainees or trainers, in initial or continuous training activities promoted by initiative of any of these entities
- Participation of public prosecutors in inspective actions of Portuguese Labour Inspectorate

### Romania

- Establishment of a joint committee, consisting of elements of labour inspection and of the judiciary, in order to improve their articulation

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## EU best practices – cooperation between labour inspection and judiciary

### Belgium

- The representation of labour inspection in the structure of the Public Prosecutor's Office, at all levels and presence of magistrates of the Public Prosecutor's Office in the composition of the District Decentralized Cells

### France

- Creation of an agency to monitor the processes resulting from the work of labour inspection and to collaborate with the Ministry of Justice
- Establishment of an inter-institutional working group of experts to study and analyze judgments, more complex legal issues and failed cases in court
- The presence of prosecutors, in addition to labour inspectors, in the composition of the Departmental Anti-Fraud Operational Committees

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## EU best practices – cooperation between labour inspection and judiciary

### Spain

- The creation by the Spanish Labour and Social Security Inspectorate (ITSS) of special support units to the Courts and to the Public Prosecutor's Office

### Spain, France and Portugal

- The regular holding of meetings between the Labour Inspectorate services and the Public Prosecutor's Office, in order to improve the reciprocal articulation

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