

Factsheet on Undeclared Work – ITALY

1.1 Nature and Estimated Scale of Undeclared Work

1.1.1 Definition of undeclared work

In Italy a univocal definition of UDW, as defined by law, does not exist. From a judicial perspective, UDW is any regular and remunerated activity which has not been declared to the relevant authorities, such as the National Institute of Social Security (INPS), the National Institute for the Insurance against Accidents at Work (INAIL), the Revenue Agency, the Employment Services (Law 248/2006 Disposizioni urgenti per il rilancio economico e sociale, per il contenimento e la razionalizzazione della spesa pubblica, nonché interventi in materia di entrate e di contrasto all'evasione fiscale). The Law 183/2010 has strictly connected UDW with the formal communication to relevant authorities at the beginning of the employment relationship. In national accounts and according to Istat (Italian national statistical institute), the professional services that do not comply with the fiscal rules are considered non-regular. This is because these services are not observable in enterprises, institutions and administrative sources (Istat, 2015).¹

In this perspective, ISTAT definition can be most relevant. The common understanding is that UDW should always be considered as the sum of: (i) "black" labour, i.e., the worker does not have any contract and is totally unknown to fiscal and enforcement authorities and, thus, she/he does not have any legal protection; and (ii) "grey" labour, i.e., the worker is regularly hired, but the amount of working hours declared is lower than the actual amount, or the declared remuneration is lower than the actual sum.

1.1.2 Characteristics of undeclared work

In Italy, a crucial feature of UDW derives itself from the incidence of part-time employment, as a percentage of total employment. According to a pilot study carried out by Istat², one fifth of part-time contracts correspond with full-time contracts but also include an under-statement of taxable amounts and cash-in-hand salary, as the actual working hours exceed the hours declared by 40%. Furthermore, in false part-time contracts, the pay-per-hour is lower than the pay of full time employees. It is worth mentioning that in Italy, according to the Eurobarometer³, the number of employees who received cash-in-hand payments decreased by 5% between 2007 and 2013.

Migrant employment is becoming more and more common in Italy. An Isfol study⁴, based on the findings of a survey on a sample of workers who are predominantly not regularly employed, indicates that 55% of irregularly employed migrant workers claim to be underpaid. "Black" labour among migrants involves mainly males, while the distribution between men and women stands at around 50% in "grey" employment. This arises because male workers tend to be employed in the sectors where "black" labour is highly

¹ Istat, *Non observed economy in national accounts (L'economia non osservata nei conti nazionali)*, Rome, 2015. Internet: <http://www.istat.it/it/files/2015/12/Economia-non-osservata.pdf?title=Economia+non+osservata+++04%2Fdic%2F2015++Testo+integrale+con+nota+metodologica.pdf>

² Istat, Carlo De Gregorio, Annelisa Giordano, *"Half black": part-time contracts and full-time positions amongst employees of Italian companies ("Nero a metà": contratti part-time e posizioni full-time fra i dipendenti delle imprese italiane)*, Istat working papers, N. 3, Rome, 2014. Internet: <http://www.istat.it/it/files/2014/09/IWP-n.-3-2014.pdf>

³ European Commission, Eurobarometer, *Undeclared work in the European Union*, Brussels, March 2014.

⁴ Isfol, *Undeclared work of foreigners in Italy (Il lavoro sommerso e irregolare degli stranieri in Italia)*, Rome 2014, Internet: http://isfoloia.isfol.it/bitstream/handle/123456789/895/Ficco_Iadevaia_Pomponi_Tagliaferro_Lavoro%20stranieri.pdf;jsessionid=468795E76FA95CA279D50F3A0B8A0497?sequence=3

concentrated, such as agriculture and construction. As for the age-group, both black and grey employment are concentrated in the 25-34 age group. "Black" labour is concentrated in Southern Italy (61%), while "grey" employment is concentrated in Northern regions (65%). Less educated migrants are more exposed to the risk of working in black employment, while higher education levels represent a sort of protection from exploitation conditions.

Another peculiar phenomenon is the illegal recruitment of agricultural workers for very low wages ("*Caporalato*"): where a mediator, often linked to criminal organisations, illegally provides jobs to these workers, which are mostly irregular migrants, and takes a percentage of their earnings. This is an extreme form of black labour, very close to slavery as the pay-per-hour is EUR 2.5 to 3.

Agriculture has traditionally been a sector with high UDW because of its seasonal character and because workers are hired on a daily basis. Eurispes⁵ estimated that, in 2014, UDW in agriculture was at 32%. UDW is also high in the construction sector and in personal care/assistance, which is however, according to Istat, the only sector registering a decrease in the rate of irregular work over recent years (from 47.4% in 2011 to 45% in 2013). The highest increase of irregular employment is observed in the construction sector: from 13.5% in 2011 to 15.4% in 2013 (Istat, 2015).

No statistical evidence on the distribution of UDW by employer size is available. Generally, the enterprises concerned are small in size (between 5 and 10 employees) and not easily visible because they lack a legal headquarters. Trade unions tend to have less of a presence in these organisations than they do in larger one and a significant share of undeclared work is focussed within families, for personal care/household assistance and restaurants, where there is an extensive use of occasional services provided by people from their direct family members (Istat, 2015).

The main motivators for UDW can be grouped in: (i) *economic motivator* (UDW allows individuals to maximize the income of the enterprise and to avoid taxes and contribution burdens); (ii) *administrative motivator*: (UDW is favoured by the abuse of flexible forms of work and the spread of sub-contracting makes it easier for employers to abuse such flexible contracts and makes regulation much more difficult); (iii) *cultural motivator*: in some areas, mainly in Southern Italy, the unobserved economy is tolerated and UDW is perceived as a means of reciprocal assistance between employers and employees.

According to the 2014 Eurobarometer survey, 33% of those surveyed believe that taxes and social contributions are too high, while 32% believe that the lack of regular jobs is among the main drivers for UDW and 22% believe that salaries in regular jobs are too low. The fast evolution of immigration started in the 1990s and has further increased the labour market dualism between regular and UDW, as migrants are much more willing than Italian nationals to accept any form of employment.

1.1.3 Estimated scale of undeclared work

According to the ISTAT (2016) report on the underground economy, in 2014 UDW was estimated to be around 3.6 million full-time equivalent units (FTEs), who were mainly employees (2.5 millions). The rate of undeclared work, defined as the share of FTEs in relation to the total labour input, was 15.7% (0.7 percentage points higher than in 2013). In the recent economic crisis, the overall contraction of employment has mainly affected regular employment, rather than non-regular employment. Between 2011 and 2013, the prevalence of non-regular employment has decreased significantly, reaching the minimum level registered in 2002-2003.

⁵ Eurispes and UILA, *Undeclared work, Survey on undeclared work in agriculture, (Sommerso, Indagine sul lavoro sommerso in agricoltura)* Rome, 2014. Internet: <http://eurispes.eu/content/sintesi-sottoterra-indagine-sul-lavoro-sommerso-agricoltura-eurispes-uila>

According to the latest Eurispes survey⁶, 28,1% of the sample has worked without contract in the previous year. This was experienced by more than: 50% of people who had been seeking their first job; 29.6% of students; 22.4% of housewives; and 13.8% of pensioners. It is also worth mentioning that the Foundation of Labour Advisors (*Fondazione Consulenti del Lavoro*) estimated that 1.9 million people work in a totally undeclared positions⁷ but declining by about 200,000 units compared to 2014, thanks to the reform of labour market (*Jobs Act* law - 2015) and the three-year contribution exemption.

1.2 Institutional Framework

1.2.1 Responsibilities for addressing undeclared work

Under the current system, UDW is mainly tackled by the Ministry of Labour and Social Policies, the National Institute of Social Security (INPS) and the National Institute for the Insurance against Accidents at Work (INAIL). The activities of these organisations are now coordinated by the new National Labour Inspectorate (NLI) who gathers all the relevant Offices involved in the field, implemented by Territorial Labour Offices (DTL).

The main aim of the NLI is to rationalise inspection activities, optimise the available resources and reduce the risk of overlapping and duplicating the activities of the different entities presently devoted to tackling UDW.

Today the Ministry of labour and social policies and the National Labour Inspectorate ensure the correct application of the law, including the rules applying in the construction sector, and of collective agreements, promote training, tackle UDW and verify that workers are legally contracted, while INPS and INAIL deal with compliance to social security rules. NLI will carry out all inspections.

1.2.2 Characteristics of the responsible organisations

The core function of the NLI is to coordinate all of the inspection activities covering employment, social contributions, obligatory insurance, and health and safety at work; these activities are limited to some sectors, especially construction, while many controls are worked out by the local health authorities (ASL), for example in the maritime sector. This is done through:

- Planning inspection activities;
- Defining inspection procedures and tools, and developing guidelines and operational directives for all the personnel involved;
- Proposing targets and monitoring their achievement;
- Planning training activities for inspectors; and
- Seeking coordination with other relevant bodies.

The NLI will report to the Ministry of Labour and Social Policies; it will be run by the Director General and will be supported by an ad hoc committee (Central Commission for Coordination of Monitoring) of representatives from INAIL INPS, the Carabinieri (military police), the Finance Police, trade unions and employers' associations. The NLI will be based in Rome, with a maximum of 6,357 staff.

⁶ Eurispes, *Italy Report* (Rapporto Italia), Rome, 2016.

⁷ Foundation of Labour Consultants, *Black labour costs 25 Billion* (Fondazione Consulenti del Lavoro, *Il nero costa allo stato 25 miliardi*), Press Release, Rome, 25 March 2016. Internet:
http://www.consulentidellavoro.it/files/PDF/2016/FS/Indagine_Lavoro_nero_FS.pdf

1.2.3 Cooperation and collaboration between authorities and cross-border authorities

As mentioned in the paragraph 1.2.1, the new INL, ensures an effective model of cooperation between different Authorities.

The National Statistical System (Sistan), a network of public and private entities that provides the country and international organizations with official statistical information, collected from national and regional bodies, and including national and local institutes of statistics such as the ISTAT (the Italian national institute of statistics), the INAPP (National Institute for the Analysis of Public Policies, previously named ISFOL Institute for the development of vocational training of workers) and collect all the relevant data also coming from administrative sources.

The INPS has signed agreements with some regions, according to which regional and local authorities provide the INPS with access to databanks on workers who are enrolled within the PES Network and ensure information flows to the INPS regarding procurement.⁸ Another agreement was signed between INPS and the Ministry in the framework of the Decree 109/2012 on the emergence from UDW of the irregular migrants. The INPS provided a list of all families and employers that have paid the lump-sum to regularise the contract of their employees. The objective of this action was to ensure an effective monitoring of the emergence from UDW.⁹

In order to tackle illegal mediation, the Ministry has also signed an agreement with the ACI (Italian Automotive Club). ACI provides labour inspectors with access to the Public Automotive Register (P.R.A.)¹⁰ in order to double-check the ownership of vehicles used during production and to compare such data with information collected during inspections or taken from other databanks.

The Ministry also cooperates with the Finance Police (*Guardia di Finanza*) and the Military Police (*Carabinieri*) by providing training to on UDW and on the "maxi-sanction" (see below).

In the field of the campaign against the "Caporalato", recently (May 2016) a memorandum of understanding was signed between the Ministry of Labour and Social Policies, the Ministry of Defence, the Ministry of Agriculture and the National Labour Inspectorate with the aim of sharing information, strategies for a more and more effective system, involving the main relevant social parties and civil society organisations, interested in this issue.

In 2010, an agreement on safety and health at work and on posted workers was signed between the Italian Authorities and the Romanian Labour Inspection Service on undeclared work. The protocol envisaged coordinated inspection activities and timely communication of the changes occurred in labour legislation¹¹.

Another form of cooperation dates back to 2008 when Italy signed an agreement with the French authorities on the exchange of information and of good practices on labour inspection, to be put into practice through periodic meetings and workshops. On the Italian side, INAIL and INPS were involved.

⁸ Internet: http://www.regione.liguria.it/component/docman/cat_view/42-scuola-formazione-e-lavoro/100-lavoro/1114-qualita-del-lavoro-regolarita-e-responsabilita-sociale/1116-regolarita-del-lavoro/1156-protocolli-dintesa-in-materia-di-lavoro-sommerso-e-irregolare.html

⁹ Internet: http://www.isfol.it/sistema-documentale/banche-dati/normative/2013/normativa-statale_2013/circolare-10-luglio-2013/20130710_CC.pdf

¹⁰ Internet: <http://www.lavoro.gov.it/archivio-doc-pregressi/Notizie/Protocollo%20ACI%202%20settembre%202015.pdf>

¹¹ Link to the protocol: <http://www.ance.it/docs/docDownload.aspx?id=9093>

In 2012 another Protocol was signed between the Italian Ministry of labour and social policies and the Ministry of labour, the family and the social protection of Romania, with the aim of cooperating and sharing data in the fight against the UDW.

1.3 Policy Focus and Measures

1.3.1 Policy approach

The policy approach in Italy consists of the sanctioning system and enforcement procedures on the one hand, and the policy measures and incentives to transform UDW into regular employment on the other.

As for deterrence, three main tools are in place:

- (1) administrative sanctions, that can lead to the suspension of the business' activity and to economic/monetary sanctions (*maxi-sanction*)¹²;
- (2) civil sanctions, due in cases of failure to pay, incorrect payments or evasion of social security contributions;
- (3) penal sanctions, regulated by the penal proceeding code; and
- (4) promotion and prevention activities carried out by Territorial Labour Offices on UDW.¹³

As for enabling compliance, curative approaches have been implemented or are in place. After the experience in the '90s of the re-alignment contracts (see section 1.3.2) that can be considered within amnesties, similar policies have been recently adopted, such as the one aimed at promoting the regularisation of foreign irregular workers. A further policy tool is the job-voucher, which is becoming more commonly used by families and enterprises, which can also be considered a prevention action.

Another strategic prevention tool has been put in place by INL, with the aim of disseminating the culture of legality by programming and implementing specific prevention and promotion actions (by Article 8 of Legislative Decree 124/2004), through dissemination, information and update meetings, on the main innovations on work, social legislation and workplace safety field, addressed to employers and workers, trade union organisations or other professional organizations.

In order to combat the phenomenon of the "Caporalato", a new offence has been introduced (by law 199/2016) that punishes both the intermediary and the employer, who exploit workers in a position of weakness and in need, in the agricultural field.

1.3.2 Measures to tackle UDW

The measures in place to tackle UDW in Italy can be summarised as follows.

Re-alignment contracts: Although their experience ended in 2001, they are worth mentioning as they represent the first measure introduced to tackle UDW: being specifically introduced to encourage enterprises to act legally within the cooperation between enterprises, trade unions and the public administration.

Job vouchers: the previous rule, recently abrogated by new legislation, introduced a remuneration system that employers could use to pay for workers, employed with discontinuity. The worker did not have to pay any tax but the activity was considered for pension calculations; the employer could act according to law, providing safety and health insurance (INAIL). The value of one voucher was EUR 10 and it could be used by families, enterprises, agricultural enterprises, not-for-profit organisations and public employers.

¹² In accordance with article 22 of the legislative decree 151/2015

¹³ In accordance with article 8 of the legislative decree 124/2004.

The recent legislation¹⁴ in place of the so called "Voucher" has introduced two types of tools, with the same aim of the "Voucher": the one, signed by a private employer, for domestic works (the "libretto di famiglia") and the "occasional contract", signed by an enterprise, with no more than five employees, for any other work, except for building sector. Whereas, in the agricultural field, it can be only applied to unemployed, students and retired persons. These kind of contracts, provide the same social and fiscal benefits for employers and workers, than the previous instrument and can apply only through the INPS web site.

Administrative sanctions can be decided by inspectors of the Ministry, INPS and INAIL. A "maxi-sanction" is imposed when the employer has not duly informed relevant authorities of a new hiring. The "maxi-sanction" is applicable only in cases of dependent employment and is not applicable to household employment.

The new sanctions' regime, in force from September 2015, envisages three ranges that vary according to the length of the violation:

- From EUR 1,500 to 9,000 for each irregular worker, if he/she worked for maximum 30 days;
- From EUR 3,000 to 18,000 for each irregular worker, if he/she worked for maximum 60 days; and
- From EUR 6,000 to 36,000 for each irregular worker, if he/she worked for more than 60 days.
- The sanction is higher if workers are foreign or minors. Furthermore, the relevant authorities can suspend the business' activity if irregular workers constitute 20% of the total employees.

The "injunction mechanism" (*diffida*, ex art. 13 of Legislative Decree 124/2004) is also worth mentioning: the employer hiring irregular workers has to comply with the injunction by hiring and maintaining the irregular employee for a minimum 3 months (including, in cases of compliance with the injunction, proof of payment of taxes and social contributions and of one fourth of the fine envisaged by law, to be paid within 120 days). Such a mechanism is not applicable in cases of minors and of irregular non-EU migrants without a residency permit.

Civil sanctions are imposed by the INPS if employers delay notifying authorities of a new hire.

Penal sanctions can be imposed in case of child labour, workers without residence permits, and the exploitation of workers.

Vouchers mainly cover young people: 31% of beneficiaries are younger than 25. According to the Report of the Ministry of labour and social policies, in the first quarter of 2017, 28.5 million of Voucher have been sold, -2.1% compared with the first quarter of 2016.¹⁵

1.3.3 Good practice

An example of good practice that can be identified in Italy, has to do with the fight against all forms of UDW, with a focus also on *Caporalato*. In the summer and autumn months, ad-hoc local task forces have been set-up to tackle illegal job mediation in agriculture and UDW in tourist areas. Task forces are formed by inspectors, police forces; they have been concentrated in the areas most at risk of violations. This experience enables an exchange of practices and experiences between inspectors working in different contexts.

¹⁴ Law 96/2017

¹⁵ <http://www.lavoro.gov.it/notizie/pagine/pubblicata-nota-trimestrale-su-tendenze-occupazione-iv-trimestre-2016.aspx/>

The investigations carried out in different areas, have made it possible to achieve important objectives in terms of irregularities found and sanctions imposed.¹⁶

Another example of good practice is the short access ("Accesso breve"), a form of inspection aimed at detecting UDW without investigating other areas of compliance.

Inspection accesses will be carried out, in advance, in geographically selected areas as they are considered mainly, to be at risk areas, but can be extended to the entire national territory.

Moreover, another important project, directed by the INPS, in cooperation with the Ministry of Labour and social policies, the Ministry of Defence, the Ministry of Agriculture and the National Labour Inspectorate, is the Quality Agricultural Work Network, in order to select agricultural companies and other subjects indicated by current legislation which, with the necessary requirements for registration, are distinguished for compliance with labour standards, social legislation, taxes on income and value added tax.

1.3.4 Challenges and barriers

A relevant challenge is to establish a mix of approaches that are tailored towards different targets (women, youth and migrants) in a way that reduces the convenience of working irregularly.

The quick implementation and development of both the National Agency for Active Labour Market Policies (ANPAL) and the National Labour Inspectorate is also a crucial issue in the future ability of the Country to (i) reduce the risk that in the transition from one job to another, workers without jobs or work-focused training opportunities are hired in an irregular manner and (ii) increase the probability of detecting UDW.

The biggest challenge remains however the cultural background, as any legislative and policy change will not be fully effective as long as UDW is not considered to be a relevant socio-economic problem.

In order to address these challenges, the latest labour market reform (Jobs act) introduced hiring incentives for permanent contracts, starting from January 2015. Private employers hiring new personnel can benefit from exemptions of social security contributions for a maximum period of 36 months.

With specific regard to young people, an inter-ministerial decree introduced important novelties on apprenticeships that are likely to promote the use of such measures (e.g. in order to hire further workers with a professional apprenticeship contract, enterprises with more than 50 employees are obliged to hire at least 20 % of the apprentices in force in the enterprise in the previous 36 months)¹⁷.

The key remaining challenge relates to migrants carrying out UDW. It is necessary to break the link between migration and UDW due to the fact that irregular migrants do not have options alternative to UDW. This could be eased by using ad-hoc contracts, or by increasing the efficiency of labour matching and, as a result, of the PES.

¹⁶ Rapporto annuale sull'attività di vigilanza in materia di lavoro e di legislazione sociale – anno 2016 _ <https://www.ispettorato.gov.it/it-it/studiestatistiche/Pagine/Rapporti-annuali-sull-attivita-di-vigilanza.aspx>

¹⁷ Legislative Decree 81/2015, art. 42, provision 8.