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Labour Market Regulation and Labour Inspection: the Italian ways of enforcement

Davide Venturi

Adapt researcher, Centro Studi Marco Biagi – Università di Modena e Reggio Emilia
Labour Inspector, Ministry of Labour Italy

- After the 2003/2004 reform of the labour market regulation, in Italy labour inspection is now in a period of great change, standing between a traditional model based on administrative sanctions and a new regulatory role, fundamentally aimed at granting effectiveness to regulation.
- The assumption of this paper is that the new role played by labour inspection is based on a responsive regulatory approach, which is quite far from the traditional labour law regulatory schemes joined by the Italian authorities up to the beginning of this century. The two approaches are culturally different: the former one was based on deterrence, while the new one relies on compliance and responsiveness.

Labour Inspection.

Three models of empowerment in the period 1948-2011:

- 1. Labour market violations as Criminal violations (1948-1981):***
deterrence;
- 2. Administrative violations and sanctions (1981-2004):*** formal violations, deterrence;
- 3. Focus on compliance (2004-2011):*** new powers and functions.

New Regulatory functions

✓ **Monocratic Settlements**

the monocratic settlement “extinguishes any public procedure or control”, as an application of the “ne bis in idem” general legal principle.

✓ **Warnings assessing work-related credits**

in case of assessment of “breaches of the employment contract consisting of credit obligations not fulfilled by the employer”. In case of non compliance, on the worker’s request, forced judiciary execution is immediately applicable.

✓ **Warnings in case of administrative sanctions**

This type of warning is a sanction itself, and being a mandatory procedural requirement (no discretionary power is attributed), it is an opportunity which must be offered to the employer/transgressor.

✓ **Instructions**

It is an administrative order issued by labour inspectors in case the law expressly attributes them discretionary powers in specific matters. Its function is to grant effectiveness and concrete definition to general legal prescriptions.

✓ **Mandatory prescriptions**

In case of compliance to the M.P., the payment of the fine issued extinguishes the criminal offence committed by the employer, with no further consequence for him.

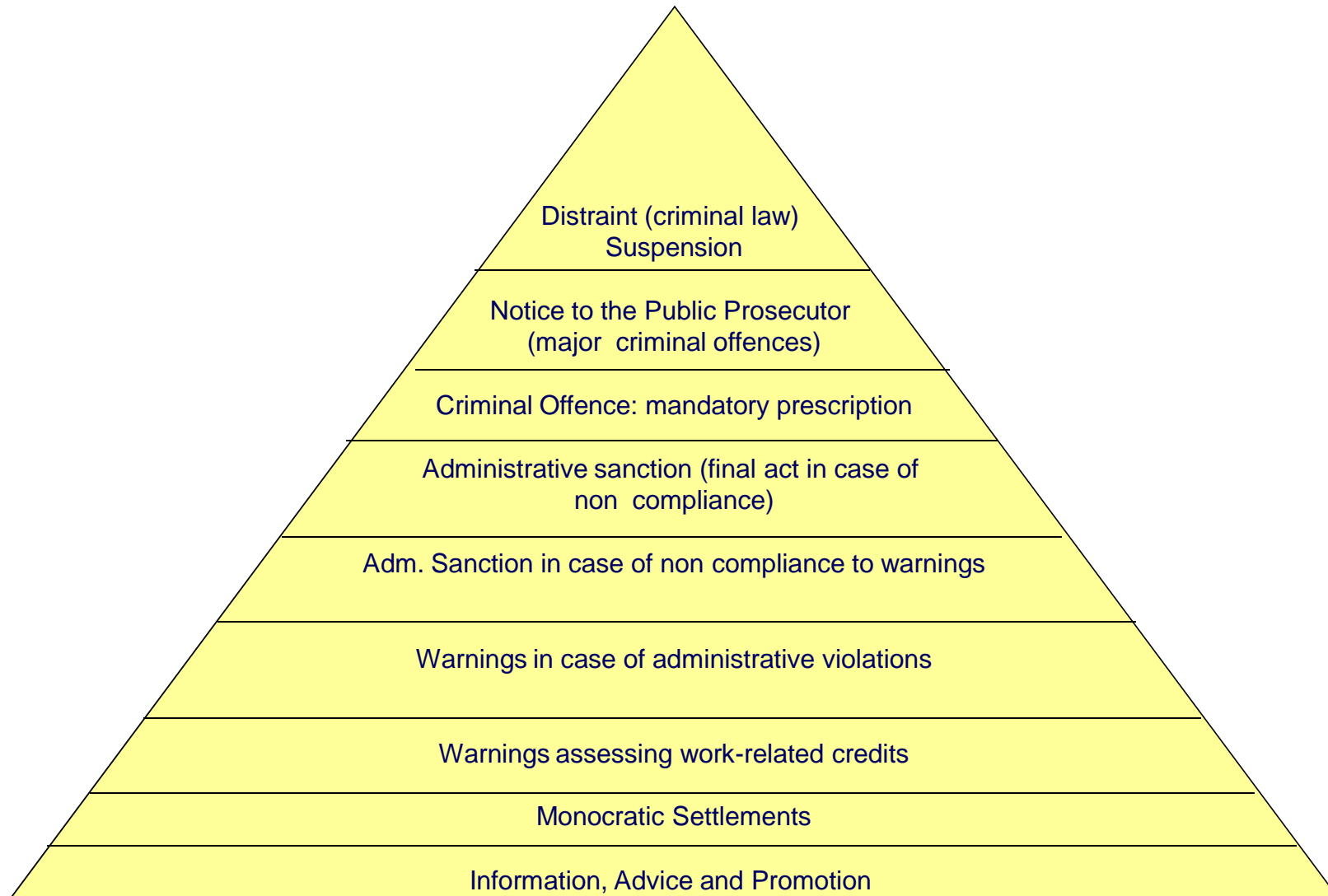


Labour Inspection: Regulatory Pyramid





Labour Inspection: Enforcement Pyramid



Number of acts	2010	2009
Monocratic settlements	18.000	13.008
Warnings assessing work-related credits	15.000	7.269
Suspensions	7.651	4.770
Violations detected (mandatory prescriptions) in the field of supply-chain contracts	15.907	6.649

The empirical research

The qualitative approach has been considered as the most appropriate in order to understand items like effectiveness and equity in labour inspection, and the possible critical aspects connected to the new regulatory approach of labour inspection.

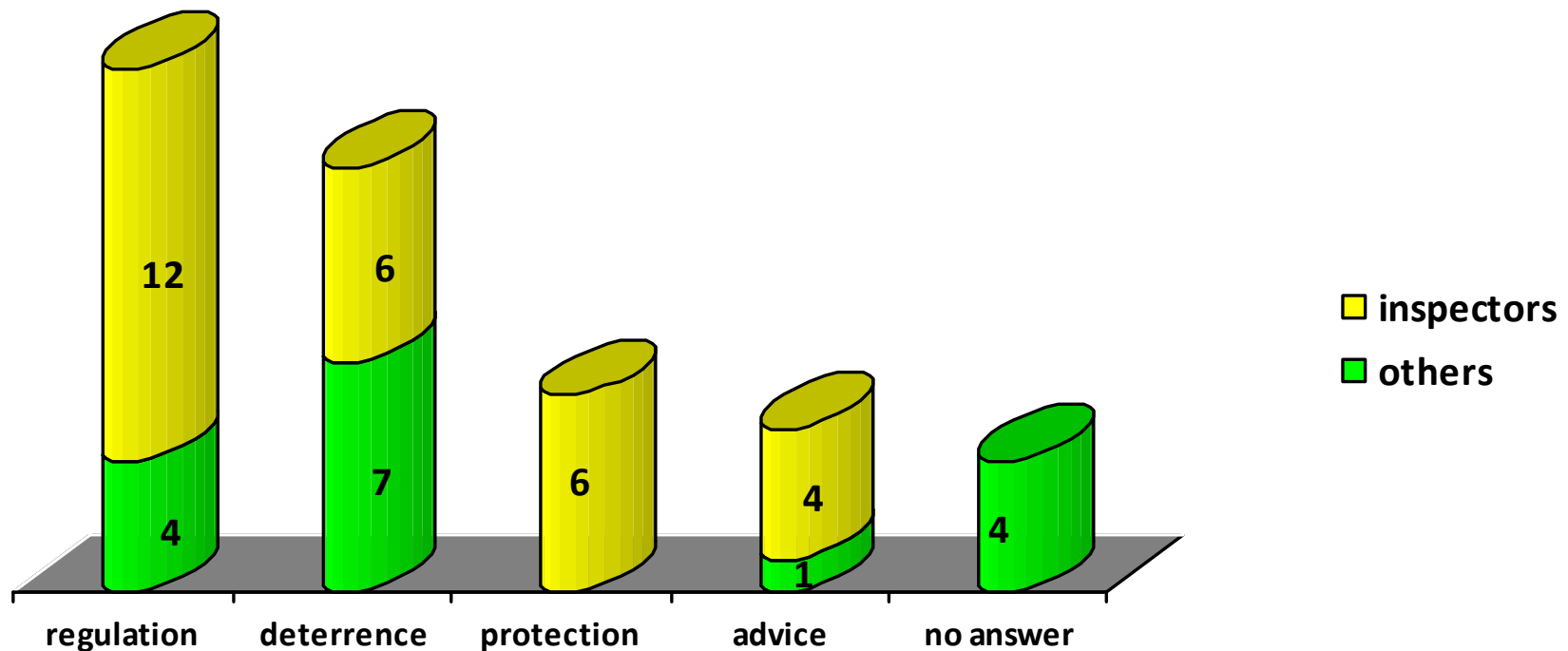
Effectiveness and equity are the “gateways” chosen as items to test inspection as a regulator of the labour market. In that way, it is possible to have an insight view in the reality of labour inspection.

The interviewees have been asked to describe their perceptions on the effectiveness and fairness of labour inspection, focusing on its actual capacity to grant protection to non standard workers and to the workers involved in supply-chain contracts. These workers, in fact, are particularly weak in the labour market, as little legal protection is assured to them.

On that purpose, the research is based on **41 semi-structured qualitative interviews**: 25 to labour inspectors and 16 to members of social parties.

The role of labour inspection

- a) regulation: n. 16 answers (lab. inspectors: 12; others: 4);
- b) deterrence (repression of violations): n. 13 answers (inspectors: 6; others: 7);
- c) workers protection: n. 6 answers (inspectors only);
- d) advice: n. 5 answers (inspectors: 4; others: 1);
- e) no answer or generic answer: 4 (others only).



The role of labour inspection

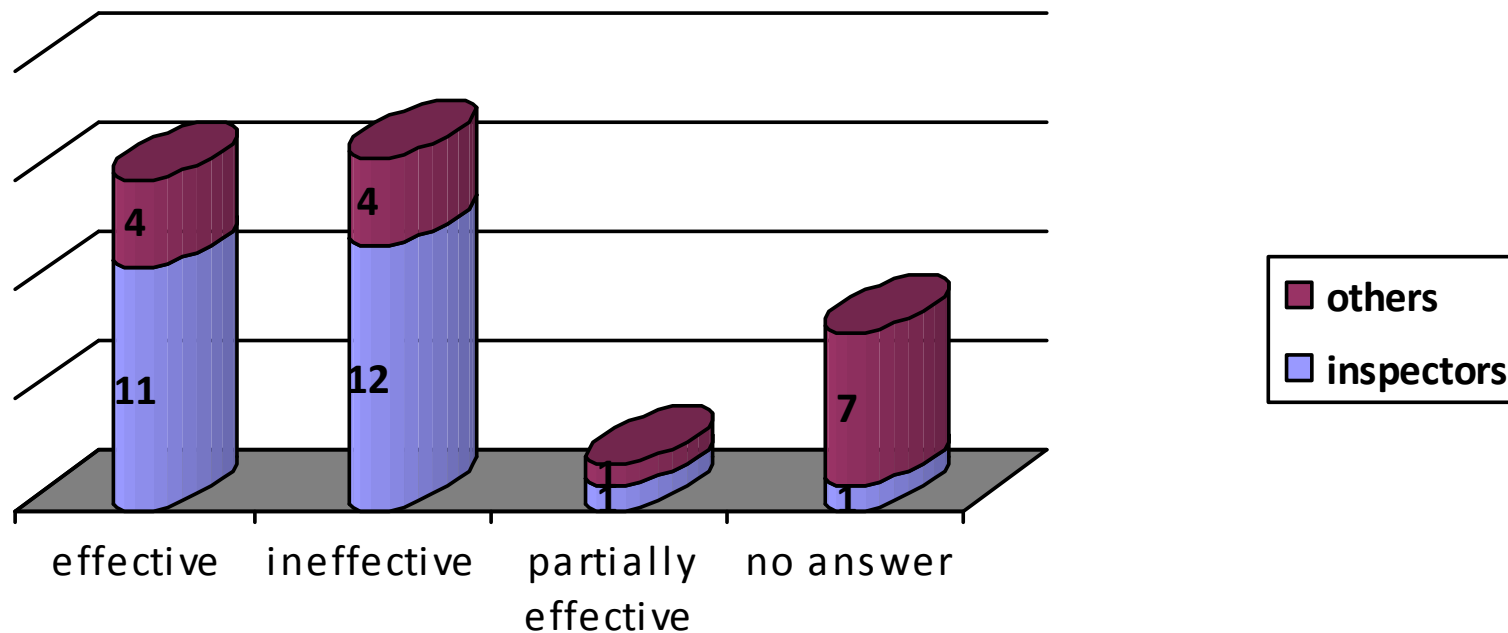
Some of the answers collected :

An inspector said: “I think the law is developing the enforcement of labour market regulation as follows: information is the first enforcement task, than certification of labour contracts, monocratic settlements, all self-regulatory measures. In case self-regulation fails, labour inspectors play their role of sanctioning non compliance”.

A member of an association of employers said: “the improvement of ideas depend on the people who put them into practice. In that way, labour inspection can adequately play its role if labour inspectors are prepared to do so. Actually, the changing role of labour inspection provided by the law is often not very much perceived by undertakings being inspected”.

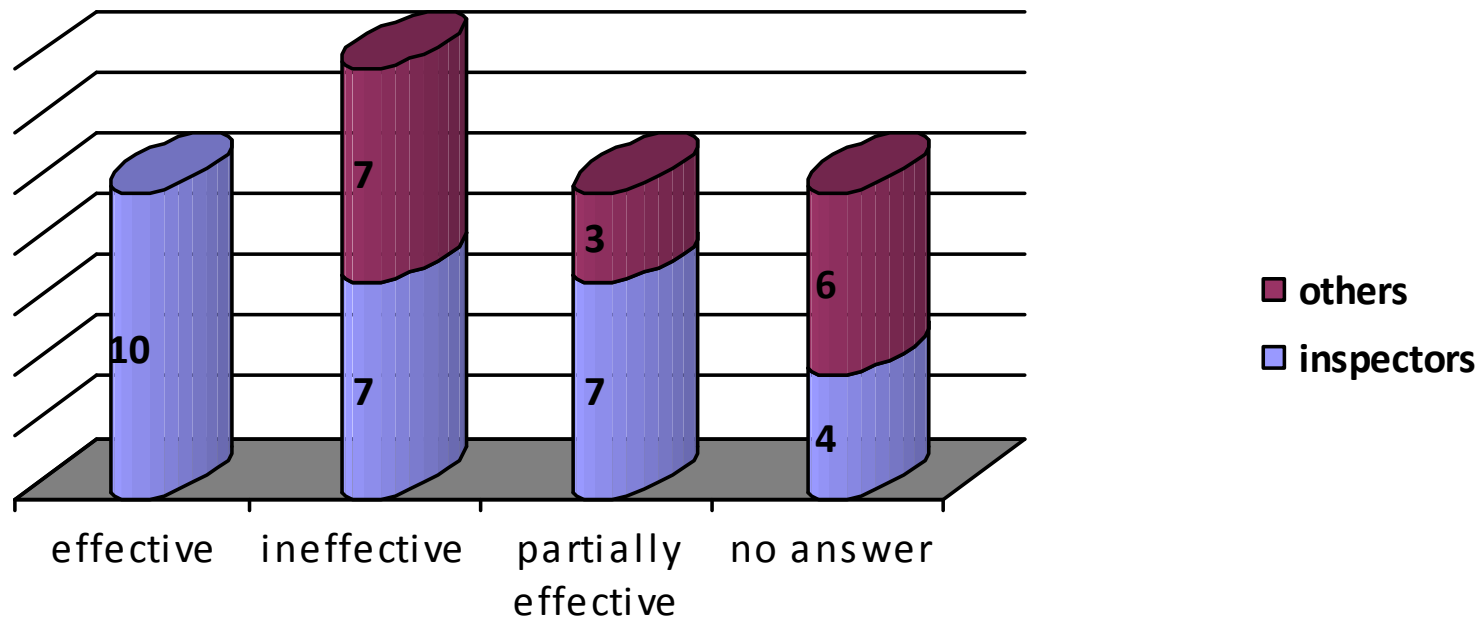
Effectiveness of labour inspection for non standard workers:

- a) Effective: n. 15 answers (inspectors: 11; others: 4);
- b) Ineffective: n. 16 answers (inspectors: 12; others 4);
- c) Partially effective: n. 2 answers (inspectors: 1; others: 1);
- d) No answer/generic answer: n. 2 answers (inspectors: 1; others: 7).



Effectiveness of labour inspection for workers involved in supply-chains contracts:

- a) Effective: n. 10 answers (inspectors only);
- b) Ineffective: n. 14 answers (inspectors: 7; others: 7);
- c) Partially effective: n. 10 answers (inspectors: 7; others: 3);
- d) No answer/generic answer: n. 10 answers (inspectors: 4; others: 6).



Effectiveness of labour inspection

Some of the answers collected :

An inspector said: “actually we can do very little for non standard workers being exploited. For that reason, very often workers do not understand and cannot immediately appreciate our intervention”.

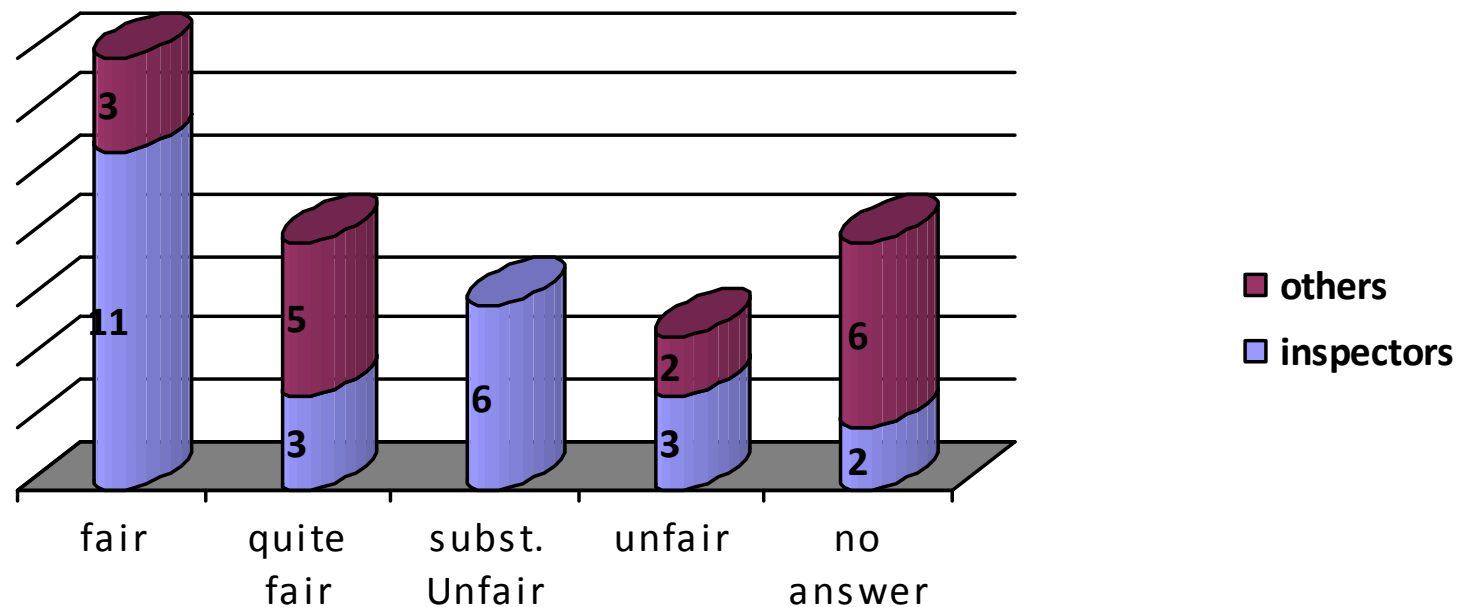
an inspector said: “in case of detected irregular supply-chain contracts, as a consequence of the order (mandatory provision) to stop the irregular way the contract is performed between the undertakings which are parties of the contract itself, quite often the contract is interrupted, and as a result of that in many cases the workers involved lose their jobs”.

An employer said: “In my town, in the sector of constructions, considering the number of inspections and the number of undertakings (particularly SMS) working in the area, the average chance of inspection is once every 3 or 4 years. I would not call this effective”.



Fairness in labour inspection

- a) Fair: n. 14 answers (inspectors: 11; others: 3);
- b) Quite fair: n. 8 answers (inspectors: 3; others: 5);
- c) Procedurally fair but not substantially fair: n. 6 answers (inspectors only);
- d) Unfair: n. 5 answers; (inspectors: 3; others: 2)
- e) No answer/general answers: n. 8 answers (inspectors: 2; others: 6).



Fairness in labour inspection

Some of the answers collected:

An inspector said: “laws should be uniformly interpreted throughout all the country, and it is not so. And anyway the administrative directives provided on the interpretation of laws should not change in two-five year time, changing direction in accordance to changing Governments”.

A trade union member said: “the warning assessing work-related credits is a great measure. But accordingly to the General National Report on Labour Inspection, in 2009 labour inspectors have issued an average of 72 warnings per Province. Quite a few, I would say. There is probably a problem of shared knowledge on that issue”.

Conclusion

- ✓ Even though labour inspectors seem to have increasingly accepted and even appreciated their role of regulators of the labour market, their image is commonly perceived as much related to deterrence (their traditional function of providing administrative sanctions in case of abuses).
- ✓ The new inspective measures, tailored with the intention of providing empowerment following a “responsive approach”, stand as true alternatives to the traditional system based on administrative sanctions, which in many cases do not produce direct positive effects on the workers’ condition. However, these new measures do not look to be very much used yet, and consequently not particularly effective.
- ✓ The majority of the interviewees share the opinion that the new system of enforcement provides effective and fair measures of inspection, in particular with reference to monocratic settlements and warnings assessing work-related credits. These measures might become much more effective and fair for non standard workers, if only they were more commonly used by labour inspectors or even better known and understood by trade unions.

Thank You very much.

Davide Venturi

Adapt researcher, Centro Studi Marco Biagi – Università di Modena e Reggio Emilia
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