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The Certification of Employment Contracts: A Legal Instrument for Labour Market Regulation in Italy

1. The Legal Context

1.1. Certification of Employment Contracts: the Way it Works

Certification of employment contracts (hereinafter certification) is an Italian legal procedure whose main function is to reduce legal disputes about the classification of employment contracts¹.

¹ See, for example, C. Bizzarro, A. Corvino, F. Pasquini, M. Tiraboschi, 'Nuove tecniche di regolazione e certificazione dei modelli organizzativi', *Dossier Adapt*, n. 33, 2007; G. Bubola, F. Pasquini, 'Sanzioni ridotte con la certificazione', *Italia Oggi Sette*, 23 February 2009; C. Enrico, M. Tiraboschi, 'Certificazione e tipologie di lavoro flessibile nella riforma dei lavori: un primo passo verso lo Statuto dei lavori', in C. Enrico, M. Tiraboschi (eds.), *Compendio critico per la certificazione dei contratti di lavoro*, Collana ADAPT – Fondazione "Marco Biagi", n. 7, Giuffrè, Milano, 2005; F. Pasquini, *Autonomia, subordinazione, parasubordinazione: guida pratica alla costruzione di un contratto di lavoro. La certificazione come strumento per la corretta qualificazione del rapporto di lavoro*, Vicenza, IPI Srl, 2008; F. Pasquini, 'La Circolare n. 4/2008: una rampa di lancio per la Certificazione?', *Dossier Adapt*, n. 1, 2008; F. Pasquini, 'Certificazioni, istanze a quota 1.269', *Il Sole 24 Ore*, 10 October 2007; F. Pasquini, 'Certificazione, primi risultati', *Conquiste del Lavoro*, 28 September 2007; F. Pasquini, 'Lavoro nei call center tra emersione e certificazione', *Bollettino Adapt*, n. 16, 2007; F. Pasquini, 'Certificazione per garantire equità', in *Il Sole 24 Ore*, 25 aprile 2007; F. Pasquini, 'Due anni di certificazione. Primo bilancio della attività della Commissione di certificazione istituita presso il Centro Studi Marco Biagi dell'Università degli Studi di Modena e Reggio Emilia', *Dossier Adapt*, n. 29, 2007; F. Pasquini, 'La certificazione dei contratti quale strumento deflativo del contenzioso', *Bollettino Adapt*, n. 11, 2007; F. Pasquini, 'La certificazione dei contratti di lavoro: l'esperienza dell'Ateneo di Modena e Reggio Emilia', *Bollettino speciale Adapt*, n. 35; F. Pasquini, 'Università e certificazione dei contratti: l'esperienza del Centro Studi internazionali e comparati «Marco Biagi» dell'Università di Modena e Reggio Emilia', in P. Reggiani Gelmini, M. Tiraboschi (eds.), *Scuola, Università e mercato del lavoro dopo la riforma Biagi. Le politiche per la transizione dai percorsi educativi e formativi al mercato del lavoro*, Collana Adapt – Fondazione «Marco Biagi» n. 13, Giuffrè, Milano, 2006; F. Pasquini, R. Rakipi, 'I contratti certificati entrano nel bilancio sociale', *Il Sole 24 Ore*, 30 August 2006; F. Pasquini, 'Certificazione: stipulata la convenzione Unione Commercio lombarda – Università di Modena, scheda di sintesi della Convenzione tra l'Unione Regionale lombarda del commercio del turismo e dei Servizi e il Centro Studi internazionali e comparati «Marco Biagi»', *Guida al Lavoro*, XII, n. 6 and 7, 2006; F. Pasquini, 'Con la certificazione dei contratti di lavoro opportunità e tutele per datori e dipendenti', *Il Sole 24 Ore*, 14 June 2006; F. Pasquini, R. Rakipi, 'La certificazi-

In the Italian labour law system, the proper classification of an employment contract is a matter of great importance, as different contracts provide significantly different levels of protection; in other words, the classification has a direct impact on the worker's terms and conditions of employment. This explains why, in the Italian labour law system, the classification of employment contracts gives rise to a considerable amount of litigation.

The classification of contracts is not permitted, by law, to be negotiated by the parties and as a result may not be waived or altered by agreement. This is because classification is mandatory and expressly laid down by law. The matter can be briefly explained by two fundamental judicial rulings. In 1994, the Constitutional Court ruled that: "the principles, the protections and the rights established by the Constitution for the safeguard of employees, are not negotiable between the parties of the contract. Not even ordinary law courts are competent to classify as self-employed contracts those contracts which are objectively ascertained to be employment contracts"². The freedom of the parties to classify their contractual relations is thus restricted, as they are required to comply with the models provided by law: employment contracts, quasi-subordinate employment contracts, or self-employment contracts. The proper distinction between employment and self-employed contracts is essential, as the protections provided by the law for employment contracts are a matter of constitutional law.

In 1999 the Italian Supreme Court (*Corte di Cassazione*) stated that "any economically relevant human activity, even the humblest one, can be carried out on the basis of employment contracts or self-employment contracts"³. Hence, within the limits of classification provided by the law, the parties are free to choose the type of contract underlying the activity performed.

Following on from this, not even certification panels are entitled to endorse derogations from mandatory provisions, by agreement between the parties. Nonetheless, by attesting the lawfulness and the proper classification of the employment contract, certification is the institutional and legal means available to the parties to reduce uncertainty and to ensure compliance with the regulatory framework. In the legal literature this concept is commonly adopted: certification is regarded exclusively as a form of assisted consensus *ad idem*, and is therefore not viewed in terms of assisted derogation from mandatory rules.

As a result, certification responds to the need for legal certainty expressed by the interested parties who seek to adopt flexible labour relations or to outsource certain stages of production by means of supply chain contracts (using independent contractors).

one dei contratti di lavoro: un nuovo tassello nella responsabilità sociale d'impresa', *Bollettino Adapt*, 30 giugno, n. 38, 2006; F. Pasquini, 'Tutele dalla certificazione dei contratti', *Il Sole 24 Ore*, 31 May 2006; F. Pasquini, 'I regolamenti adottati dalle Commissioni di Certificazione costituite presso le DPL', *DRI*, n. 3, 2005, p. 842; M. Tiraboschi, 'L'istituto della certificazione tra decretazione ministeriale e circolari interpretative', *DRI*, n. 2, 2005; M. Tiraboschi, 'Nuove tutele sul mercato: le procedure di certificazione', in M. Tiraboschi (ed.), *La riforma Biagi del mercato del lavoro*, Collana ADAPT – Fondazione "Marco Biagi", n. 2, Giuffrè, Milano, 2004; M. Tiraboschi, 'Le procedure di certificazione', in M. Tiraboschi, *La riforma Biagi. Commento allo schema di decreto attuativo della legge delega sul mercato del lavoro*, in *Guida al Lavoro*, n. 4, 2003; M. Tiraboschi, 'La c.d. certificazione dei lavori «atipici» e la sua tenuta giudiziaria', *Lavoro e Diritto*, n. 1, 2003.

² Quotation from: *Corte Cost.*, 29 March 1993, no. 121, in *Foro Italiano* 1993, I, p. 2423. The translation is by the authors.

³ The quotation is taken from: *Cass.*, 28 July 1999, in *Rivista Italiana di Diritto del Lavoro*, 2000, II, p. 280. The translation is by the authors.

The bodies that may provide certification services are appointed by law. These certifying bodies are called certification commissions or panels (Article 76, Legislative Decree no. 276/2003). Certification panels may be set up by:

- any territorial body of the Ministry of Labour (*Direzione Provinciale del Lavoro* i.e. Provincial Labour Office)⁴;
- the Ministry of Labour;
- the Provinces, on the basis of local and territorial autonomy;
- Universities and University Foundations, under the supervision of a professor of labour law⁵;
- bilateral bodies (set up by unions and employers' associations);
- the Professional Association of Labour Advisors.

Each panel has to approve an internal regulation establishing the procedure to be adopted when the parties apply for certification. The internal regulation has to comply with the provisions of law pertaining to certification (Art. 78.2, Legislative Decree no. 276/2003, and Articles 2 and 3, Act no. 241/1990), in accordance with the principles set forth below:

- free determination of the parties: the contract must be submitted voluntarily by the parties to the certification panel;
- duty of disclosure (*dovere di informazione*): as regards the beginning of the procedure, notice has to be given to the Provincial Labour Office, the Social Security Administration and to the tax authorities for all applications for certification;
- duty of motivation. The issuance of certification (or a rejection of the application in case of noncompliance) has to be supported by an adequate and complete motivation, which sets out the grounds of the decision. The motivation has to be consistent with the terms of the contract and with the organizational framework of the employer⁶.
- duty of deliberation: the certification panel is required to take a decision. In order to be complete, the certification procedure requires either the issuance of certification or, in case of noncompliance, a duly motivated rejection of the application.

Article 79, Legislative Decree no. 276/2003, establishes that the legal effects of certification, which include the classification of the contract and the regulation between the parties and toward third parties (i.e. Social Security Authorities as regards social security contributions), persist unless a labour court overturns the certification, declaring it void. Likewise, the actions of the public administration, and in particular of labour inspectors, produce the same legal effects between the parties and before third parties. As a general rule, if an inspection brings to light a labour law violation, inspectors are enti-

⁴ The Provincial Labour Offices are the territorial bodies of the Ministry of Labour. As a result, they are part of the central Government, and not of the local administration. The province corresponds to a district, and consists of a chief town with the surrounding territory.

⁵ See M. Tiraboschi, 'Le sedi universitarie', in C. Enrico, M. Tiraboschi (eds.), *Compendio critico per la certificazione dei contratti di lavoro*, Collana ADAPT – Fondazione "Marco Biagi", n. 7, Giuffrè, Milano, 2005, p. 107.

⁶ As certification is an administrative act, the requirement of motivation is established by the general law for administrative acts Act no. 241/1990, Article 2.

tled to issue administrative orders for the reclassification of employment contracts retroactively to the date of starting work. Certification, however, has a legal effect also in relation to inspectors, who cannot therefore reclassify a certified contract. Where there is a doubt about the correctness of its classification or of its execution, they can appeal to a labour court for a review of the decision handed down by the panel. In the meanwhile, the certified contract remains in force.

As a result, and considering the careful examination already carried out by the certification panels, the Minister of Labour has issued instructions (General Directive, 18 September 2008) to the labour inspectorate to focus their inspections on non-certified contracts, unless a written claim is filed by workers complaining about a violation of labour protections, or where the improper execution of the contract is immediately ascertained.

Both parties of the contract have the right to bring a civil action against certification, in the case of:

- wrongful classification of the contract (legal error in the certification procedure);
- lack of consent;
- a discrepancy between the content of the contract for which certification was issued and the implementation of the contract.

The first type of annulment requires a judgement on the lawful classification of the contract. It can be claimed by one of the parties, or even by a third party with a legal interest in the contract, in the case of a legal mistake by the parties, for having wrongfully drawn up the contract, and by the Commission, for having incorrectly classified the contract on the basis of a flawed evaluation of the facts. Even though, theoretically, the court has the power to void certification, in practice this is unlikely to happen. Clearly, before deciding the case, the court needs to weigh the evidence and reach conclusions taking into account all the documents acquired and reviewed during the certification procedure and the files in the archives of the certification panel, as certification is the outcome of a prior examination.

The same considerations apply to the second type of annulment, in the case of lack of consent. Even in this case, the labour court must weigh all the evidence acquired during the procedure of certification to ascertain the proper execution of the certification procedure and the validity of the certification issued. Moreover, the consultancy services and the direct assistance given by the panel to the parties (Article 81, Legislative Decree no. 276/2003) in the initial phase in which the terms and conditions are laid down, make it hard to prove in court the lack of consent, or errors of fact or law.

The third type of annulment is much more likely to occur in practice. In fact, it does not concern the certification itself, which is expected to be lawfully executed, but rather refers to the implementation of the contract, and it is envisaged when one or both contracting parties fails to comply with the obligations laid down under the terms of the contract. However, for certified contracts, the parties are not permitted to challenge the certification before the court if they fail to appeal to the certification panel in an attempt at reconciliation. The certification panel is entitled to propose a settlement of the dispute before it is brought to court, but its powers are limited to mediation since, so far, certification panels have not been granted powers of arbitration. If the parties do not reach a settlement, the Commission cannot resolve it by arbitration, and the party filing the complaint has to apply to the labour court.

Finally, the certification procedure is also available for independent contracts (Article 84, Legislative Decree no. 276/2003), that are not labour but business contracts, included in the labour law certification procedure due to the fact that they are ordinary legal instruments by means of which enterprises engage in outsourcing. The way independent contracts are implemented often has a significant impact on working conditions.

1.2. Certification: Micro-level and Macro-level Labour Market Regulation

Certification is a procedure regulating employment contracts. However, it has significant influence also on the labour market. In fact, at a micro-level, certification enables workers to enter the labour market on fair terms and conditions of employment.

The certification of employment contracts presents advantages to both parties. It responds to the needs of the employer by providing a considerable degree of legal certainty as regards the proper classification of the contract, and it does this in advance, before the execution of the contract. At this preliminary stage, the employer can choose any organizational solution for his business, and can opt for outsourcing or flexible labour contracts, with no risk of having to pay damages for abuse of contract. In this regard, certification can be seen as a valuable resource for employers, since in the process of organization or reorganization, it enables them to ascertain the lawfulness of the contracts they intend to issue.

At the same time certification is advantageous also for the workers. In the case of flexible employment contracts, certification grants the worker the best possible protection under the law according to a specific type of contract. This becomes particularly evident in the case of quasi-subordinate (or para-subordinate) employment contracts, often preferred by employers because of their flexibility, but not always implemented in a consistent manner. In the event of a discrepancy between the quasi-subordinate contract and its execution (by way of example: the employer acts as if dealing with a subordinate worker) the contract cannot be certified.

The form, extent and nature of flexible working and the true nature of quasi-subordinate employment contracts require a context of flexible organization. In this respect, certification is a test of contractual lawfulness, intended as substantial (not merely formal) compliance with the law. As a result, certification works as a sort of fairness test⁷ concerning the actual execution of the contract. It refers to the effective relation between the organization and the worker, with particular regard to the way a company deals with and complies with the rights and obligations deriving from flexible contracts

⁷ Certification, as a test of substantial lawfulness for the labour contract, may be considered as one of "the modern styles of public regulation", or better of indirect regulation, in the mainstream of the regulatory analysis by H. Collins, *Regulating Contracts*, Oxford University Press, 1999. Specifically about regulation and labour law, see also H. Collins, P. Davies, R. Rideout, *Legal regulation of the employment relation*, The Hague, Kluwer Law International, 2000; H. Collins, 'Regulating the employment relation for competitiveness', *ILJ*, n. 30, 2001, p. 17; C. Arup, P. Gahan, J. Howe, R. Johnstone, R. Mitchell, A. O'Donnell (eds.), *Labour Law and Labour Market Regulation*, Sydney, The Federation Press, 2006, and C. Arup, 'Labour law as regulation: promise and pitfalls', *Australian Journal of Labour Law*, vol. 14, n. 3, December 2001; A. Forsyth, 'Re-Regulatory Tendencies in Australian and New Zealand Labour Law', *Working Paper n. 21*, Centre for Employment and Labour Relations Law, 2001, in <http://celrl.law.unimelb.edu.au/assets/Working%20Papers/celrl-wp21.pdf>.

(flexible organization for flexible employment contracts, traditional vertical organization for traditional employment contracts).

In a comparative analysis, this classification of the employment contract based on substantial characteristics appears to be similar to the procedure formerly adopted in Australia known as the “no disadvantage test”⁸. The certification panel carries out consultancy functions and actively assists the parties, helping them to fulfil all the requirements of lawfulness and fairness while reaching their organizational goals. Hence, the contract is evaluated by means of a “no disadvantage” approach: a substantial test of lawfulness and fairness of the terms of the contract, in accordance with the organization of the employer. On account of the peculiar function of enforcement of contractual self-regulation, certification becomes an instrument of regulation of the labour market, both in a micro- and macro-level perspective.

Certification can have a positive impact on the labour market, in quantitative and qualitative terms. It produces a quantitative expansion of the labour market, as it facilitates access to contracts with a legal basis, thus reducing conflict. In addition it produces qualitative effects on the labour market, as certification results in fair contracts, truly respectful of the workers’ rights laid down by each type of contract.

As a legal instrument with a positive impact on the labour market, certification may be viewed as an expression of “legal pluralism”: in modern democracies State regulation and self-regulation tend to coexist. Certification, as an expression of enforced self-regulation, is part of a more complex system of labour market regulation, that relies partly on private self-regulation, and partly on direct State regulation.

Why is certification a model of enforced self-regulation? Certification is a “self-regulatory” instrument, as it is issued on the basis of the contract the parties intend to draw up. Certification is a voluntary procedure, and the parties of the contract are completely free to apply for certification or not. If they choose not to, the contract still produces its effects under ordinary contract law.

As it is carried out by a third party (the certification panel), as a legal procedure establishing a system of rules for market participants, certification provides “enforcement” for contractual self-regulation⁹. By means of certification, the legal effects of the contract are binding not only on the parties, but also *vis-à-vis* third parties. As a result, the Commission acts as a specialized labour market agency. This is why certification can be considered as a form of indirect regulation.

The authority and reliability of the certification panel, along with the expertise of its members and their ability to render a fair and equitable ruling, grant effectiveness to

⁸ In Australia, until 2009, the “no disadvantage test” concerned the substantial correspondence to the legal framework of company collective agreements. It was awarded by the Australian Industrial Relations Commission on the basis of the Workplace Relations Act 1996. For an analysis of the “no disadvantage test” in terms of regulation, see A. Frazer, ‘Industrial Tribunals and the Regulation of Bargaining’, in *Labour Law and Labour Market Regulation*, The Federation Press, 2006, Sidney, p. 223 and p. 241. The Fair Work Act (2009) is intended to replace the “no disadvantage test” with the “better off overall test”, which is awarded by the newly instituted Authority named Fair Work Australia: see C. Sutherland, ‘Making the “BOOT” Fit: Reforms to Agreement-Making from Work Choices to Fair Work’, in A. Forsyth, A. Stewart (eds.), *Fair Work, the new workplace laws and the work choices legacy*, Sydney, Sydney, The Federation Press, 2009, p. 99.

⁹ It is a sort of soft enforcement, based on advice and moral suasion; see I. Ayers, J. Braithwaite, *Responsive Regulation: Transcending the Deregulation Debate*, Oxford University Press, 1992. In particular, see the enforcement pyramid, suggesting a range of interventions with increasing intrusiveness, in chapter 2.

certification¹⁰. The legal effects of certification are intended to stand between the parties and before third parties and can only be voided by a definitive ruling handed down by a labour court in cases initiated by either of the parties or by a third party. Clearly, the acknowledged effectiveness of the certification procedure is in inverse proportion to the number of annulments received.

In this perspective, the know-how of the Commission is a guarantee of reliability for the parties, but it proves to be also the true added value of Certification. There are no grounds for jurisdictional annulments if certification is issued in compliance with the principles of fairness, correctness and transparency.

1.3. Certification as an Instrument for Business Organization

As the classification of employment and/or independent contracts is not an abstract test of lawfulness, but a substantial process relating to business organization, certification may be seen as a useful instrument for employers. Employment contracts (or independent contracts) and business organizations are reciprocally linked to another. Thus, traditional vertical business organizations need to substantially redefine their organizational structure if they intend either to outsource production (independent contracts, supply chains) or to employ flexible workers (on quasi-subordinate employment contracts). Flexible labour contracts require flexible business organization. This is why certification turns out to be an instrument of business organization. The certification process is a sort of audit to which enterprises submit their proposals in order to check their consistency in terms of flexibility with the strategies devised by the company management.

The organizational use of certification normally works as follows:

- the company management decides to adopt a flexible strategy;
- the re-organization of the business process is often not quick enough. It follows that the employer decides on flexible contracts without being able to adopt a substantial redefinition of the business organization;
- the company recruits workers willing to work on flexible contracts (or makes arrangements with other companies to carry out stages of the production process) but, as the organization is unprepared to act in a more flexible context, the workers risk losing the protection they would have had under ordinary employment contracts, without gaining benefits in terms of self-organization of their work;
- the parties submit the employment contract for certification;
- where the proper classification of the contract has been ascertained but the organization is deemed inadequate, the certification panel asks the employer to take appropriate measures. Normally this involves exerting a form of pressure towards the enhancement the organization.

At an operational level all the proposed business organization changes make the organization more flexible and consistent with the business strategies adopted by the management. Gaining flexibility in terms of use of the resources means granting flexi-

¹⁰ On the role of legal advice as an instrument to eliminate economically unacceptable uncertainty in contractual relations, see M. C. Suchman, M. L. Cahill, 'The hired gun as Facilitator: Lawyers and the suppression of business disputes in Silicon Valley', *Law & Social Inquiry*, vol. n. 21, issue n. 3, 2006, p. 679.

bility in terms of organization. As a result, certification can be a useful instrument for Human Resources Management and for business management in general. From a regulatory point of view, companies are free to decide flexible strategies. However, if they do so, their contracts (quasi-subordinate employment or supply chain contracts) need to be implemented in a context of flexible business organization. In this respect, as already underlined, certification is a sort of audit, a test of consistency between strategies and operational organization, between business vision and business practice. Even a rejection of the application for certification is a result of an auditing process, highlighting the inconsistency between flexibility strategies and business organization.

2. The Experience of the Certification Panel at the University of Modena and Reggio Emilia

The following data provide an overview of the cases analyzed by the Certification Panel at the Marco Biagi Centre for International and Comparative Studies at the University of Modena and Reggio Emilia in the first few years of its activity. These statistics are of great interest, revealing how the certification scheme has been applied by experts at the Centre which, since its establishment, has received the highest number of applications in the country. In addition to casting new light on the matter, these data also lay the foundation for the assessment of future developments in this field.

2.1. Number of Applications Received

Table 1. Number of applications received from July 2005 to April 2009

July 2005 – December 2005 (8 months)	33
January 2006 – December 2006 (12 months)	448
January 2007 – December 2007 (12 months)	1,031
January 2008 – December 2008 (12 months)	2,820
January 2009 – April 2009 (4 months)	1,104
Total	5,436

Source: Certification Panel at the University of Modena and Reggio Emilia

Particularly noteworthy for this analysis is the number of applications received by the panel, which is equal to 5,436 from July 2005 (when the Commission was set up) to April 2009. As shown in Table 1, during the first year employers were not particularly interested in certification (only 33 applications were received), while after the first year, more consideration was given to the procedure, as confirmed by the number of applications (448, 1,031, and 2,820 applications respectively in the second, third, and fourth years). The total number is likely to increase in the fifth year, as shown by the number of applications received in the first four months of 2009 (1,104). It should also be noted that the certification panel does not operate in August, as the administrative courts are suspended at this time of year.

2.2. Number of Applications Received Divided by Type

Table 2: Number and type of applications received from July 2005 to April 2009

Quasi-subordinate employment (<i>co.co.pro.</i>)*	4,537	83.46%
Apprenticeship (<i>Apprendistato</i>)	30	0.55%
Self-employment (<i>Lavoro autonomo</i>)	2	0.04%
Joint Venture Partnership (<i>Associazione in partecipazione</i>)**	10	0.18%
Supply Chain Contract (<i>Appalto</i>)	36	0.66%
Internal Cooperative Regulation (<i>Regolamento di cooperativa</i>)	1	0.02%
Secondment (<i>Distacco</i>)	1	0.02%
Full-time open-ended salaried employment contracts (<i>Lavoro subordinato a tempo pieno e indeterminato</i>)	732	13.47%
Quasi-subordinate employment*** (<i>co.co.co.</i>)	84	1.55%
On call open-ended labour contract (<i>Lavoro intermittente a tempo indeterminato</i>)	3	0.06%
Total	5,436	100%

* work performed personally, on a project basis, with continuity and coordination.

** short-term partnership in which the persons (individuals or businesses) jointly undertake a transaction for mutual profit. Generally each person contributes work or assets and shares risks.

*** work performed personally with continuity and coordination.

Source: Certification panel at the University of Modena and Reggio Emilia

With reference to the type of employment contracts submitted for certification, 4,537 (83.46% of the total) are classified as quasi-subordinate employment contracts (project-based employment), confirming that these agreements are the most likely to raise questions in terms of implementation. The rest of the applications consists of 30 apprenticeship contracts (0.55%), two self-employment contracts (0.04%), 10 joint venture partnerships (0.18%), 36 supply chain contracts (0.66%), one internal cooperative regulation (0.02%), one secondment (0.02%), three on-call permanent labour contracts (0.66%), 84 quasi-subordinate employment contracts (1.55%), and 732 full-time open-ended salaried employment contracts (13.47%). It is also important to consider the differences in the activities of the employers filing applications for quasi-subordinate employment contracts.

Table 3: Number and percentage of applications received for quasi-subordinate employment (*co.co.pro.*) by type of applicant

Call centres	2,710	59%
Sports betting shops	503	11.1%
Road haulage	1,047	23.1%
Meter reading	115	2.5%

In home care	7	0.2%
Other	155	3.4%
Total	4,537	100%

Source: Certification panel at the University of Modena and Reggio Emilia.

2.3. Number of Enterprises Submitting Applications by Region

Table 4: Number of enterprises submitting applications by Region from February 2005 to April 2009 shown in percentage

Veneto	50	41.32%
Lombardy	19	15.70%
Lazio	14	11.57%
Emilia Romagna	12	9.92%
Sicily	7	5.79%
Piedmont	5	4.13%
Tuscany	4	3.31%
Umbria	3	2.48%
Apulia	2	1.65%
Marche	2	1.65%
Trentino Alto Adige	1	0.83%
Sardinia	1	0.83%
Abruzzo	0	0%
Basilicata	0	0%
Campania	0	0%
Friuli Venezia Giulia	0	0%
Liguria	0	0%
Molise	0	0%
Valley of Aosta	0	0%

The regional figures on applications for certification are also significant. As shown in Table 4, most of the enterprises that filed the application are based in Veneto (50 applications, corresponding to 41.32% of the total), Lombardy (19, 15.7%), Lazio (14, 11.57%), Emilia-Romagna (12, 9.92%), Sicily (7, 5.79%), Piedmont (5, 4.13%), Tuscany (4, 3.31%), Umbria (3, 2.48%), Apulia and Marche (two enterprises each, 1.65%), Trentino-Alto Adige, Sardinia, and Calabria (one enterprise each, 0.83%).

Source: Commission for Certification of the University of Modena and Reggio Emilia

2.4. Number of Statements of Certification Issued

As for the statements of certification issued, out of a total of 3,710 applications approved, 2,939 were for project-based employment relationships (79.18%), four for apprenticeship contracts (0.11%), two for self-employment contracts (0.05%), six for joint venture partnerships (0.16%), 27 for supply chain contracts (0.73%), 731 for full-time permanent subordinate employment contracts (19.69%), and one for quasi-subordinate employment contracts (0.03%).

Table 5: Number of statements of certification issued divided by type of contract and shown in percentage

Quasi-subordinate employment (<i>co.co.pro.</i>)*	2,939	79.18%
Apprenticeship (<i>Apprendistato</i>)	4	0.11%
Self-employment (<i>Lavoro autonomo</i>)	2	0.05%
Joint Venture Partnership (<i>Associazione in partecipazione</i>)**	6	0.16%
Supply Chain Contract (<i>Appalto</i>)	27	0.73%
Full-time open-ended subordinate employment contract (<i>Lavoro subordinato a tempo pieno e indeterminato</i>)	731	19.69%
Quasi-subordinate employment*** (<i>co.co.co.</i>)	1	0.03%
Total	3,710	100%

* work performed personally, on a project basis, with continuity and coordination.

** short term partnership in which the persons (individuals or businesses) jointly undertake a transaction for mutual profit. Generally each person contributes work or assets and shares risks.

*** work performed personally with continuity and coordination.

Source: Commission for Certification of the University of Modena and Reggio Emilia

2.5. Reasons for Non-certification

With reference to the application for certification of an apprenticeship contract, the procedure was suspended, because the employer failed to provide the requested documentation, and it is likely to be approved only for a limited number of cases. Applications for both internal cooperative regulation and secondment were rejected. In the first case, it was due to a lack of competence, while in the second case the applicant did not meet the minimum requirements to apply for certification.

There are additional reasons for non-certification. In 1,332 cases (77.26% of the total), the procedure was suspended by the certification panel pending preliminary evaluation (mostly due to the presence of a number of clauses not complying with the type of contract chosen by the parties). In 321 cases (18.62%) there were other reasons that led to the rejection of the application, such as the inspection process by the Provincial Labour Office, the failure of the parties to attend hearings or to provide the requested information. In 56 cases (3.25%) the procedure was suspended at the specific (joint or unilateral) request of the parties, while in four cases (0.23%) the applications were classified as void. In total, there have only been 11 rejections of applications for certification.

In conclusion, these figures reveal a growing interest in certification, especially once the number of rejected applications is considered, demonstrating that those opting for certification are aware of its high quality and of the value of this regulatory scheme.

Table 6: Reasons for Non-Certification

On hold by the certification panel pending preliminary evaluation	1,332	77.26%
Void applications	4	0.23%
Procedures suspended at the specific request of the parties	56	3.25%
Rejection of the application	11	0.64%
Other reasons*	321	18.62%
Total	1,724	100%

* Inspection process by the Provincial Labour Office (DPL), Failure of the parties to attend hearing, Failure to provide requested information, Awaiting replies or additional information.

Source: Certification panel at the University of Modena and Reggio Emilia.