

Labour Reform in Spain, 2010-2013

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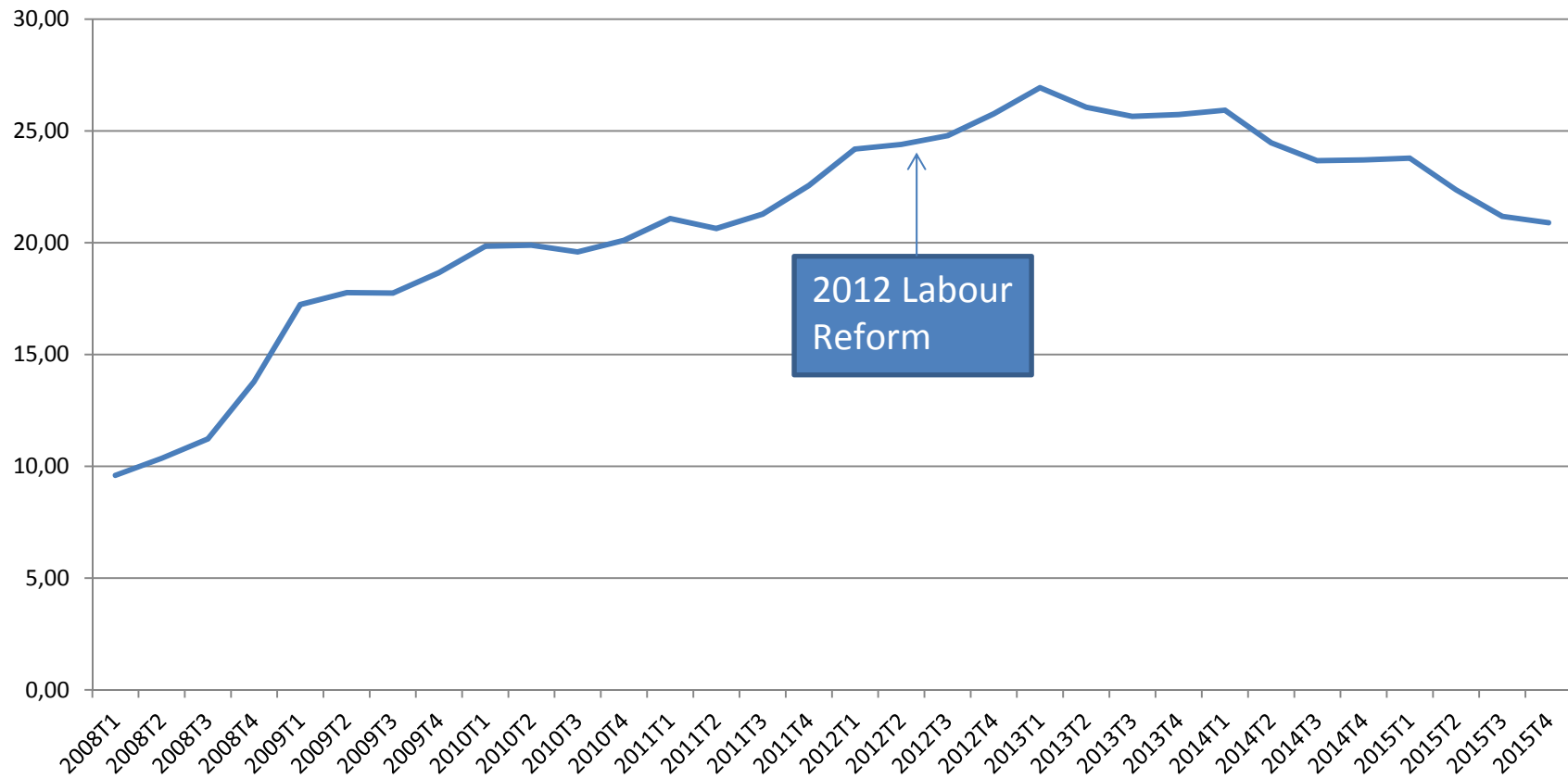
- The subject of this presentation is the Labour Reform, its objectives and its achievements.
- Particularly, I propose the question whether the Labour Reform has achieved its main goals.
- And if the answer is no, I finally try to put forward an explanation based on both the content and the process of the Reform.

The objectives of the Labour Reform

- The Labour Reform had one general objective and a number of particular goals in certain areas of the labour relations.
- The **general objective** was to increase the level of employment and reduce the unemployment rate.
- The **particular goals** were quite a few, but the following three are likely to be among the most important ones:
 - To reduce the rate of fixed-term employment, to reduce duality in the labour market, to reduce employee rotation among temporary jobs.
 - To increase internal flexibility, to allow employers to quickly adapt to new circumstances.
 - To reduce the discretion -and thus the importance- of employment courts in the labour relations system.

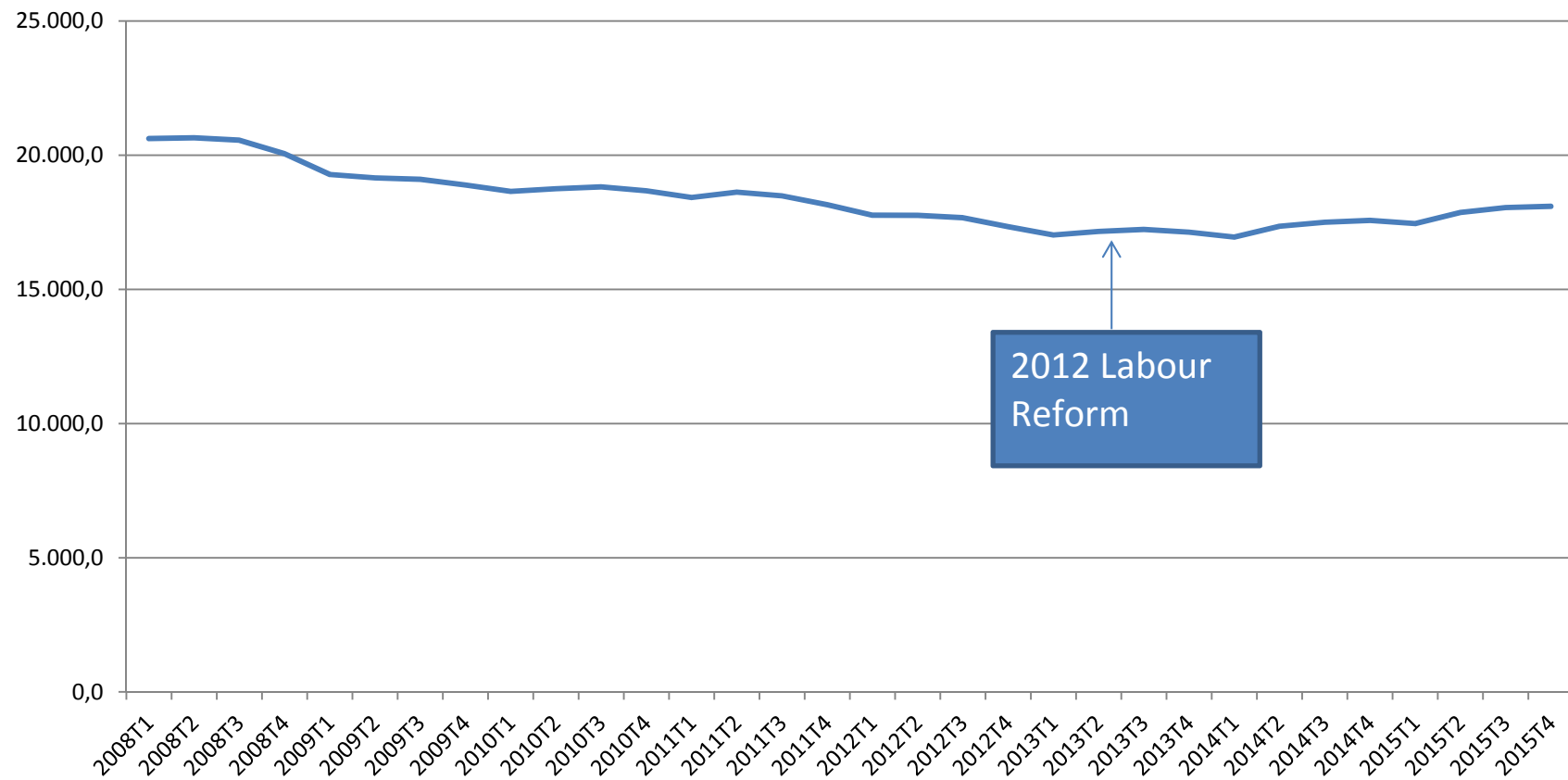
Unemployment rate

Unemployment rate – Labour Force Survey



Employed persons

Employed persons – Labour Force Survey



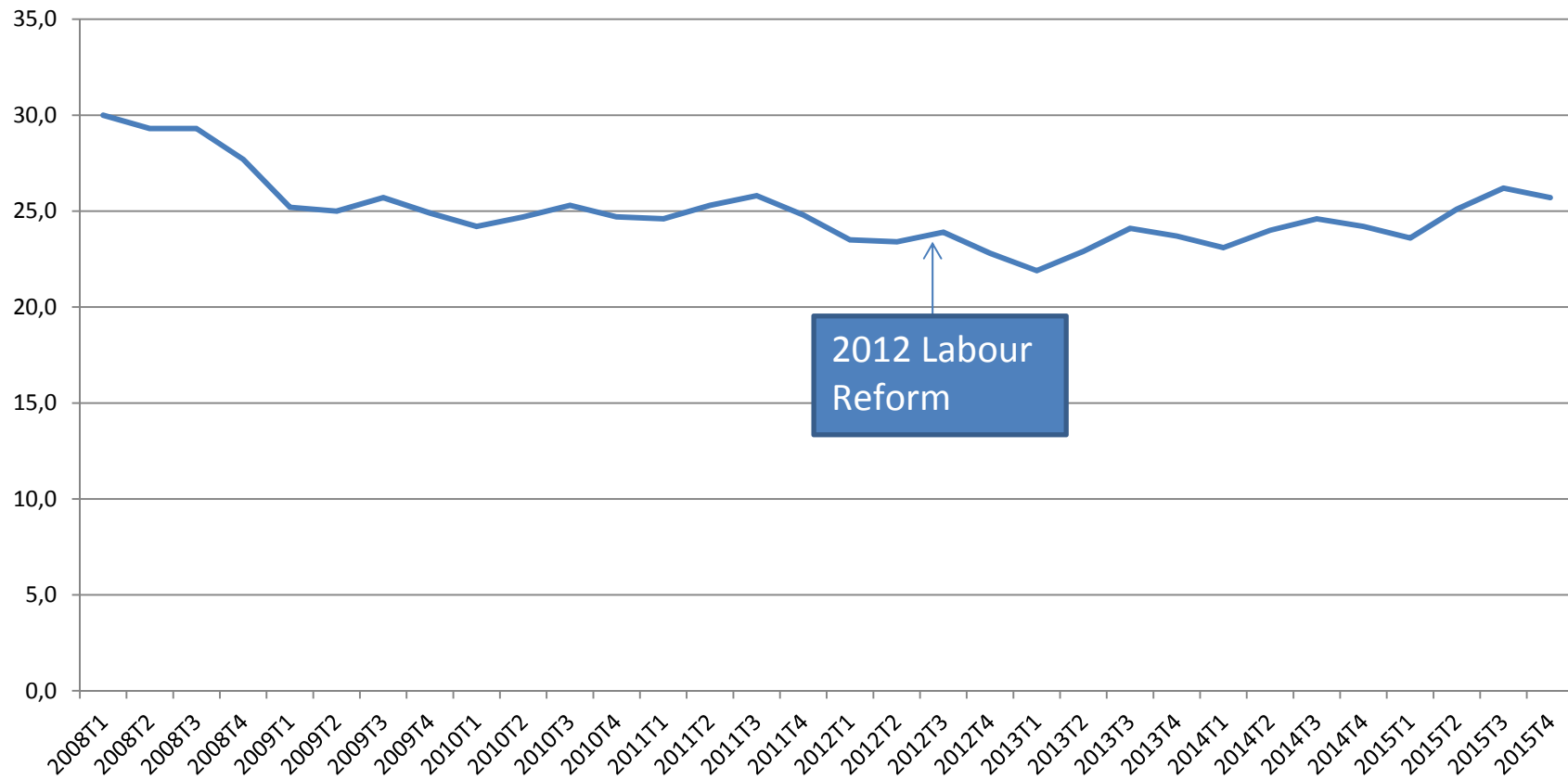
- The 2012 Labour Reform is not a turning point regarding employment level and unemployment.
- The outcome has not been negative.
- But I would not say that it has made a strong impact upon employment growth and unemployment reduction.

Close connection between the three goals

- Let us focus on the three specific goals.
 - To reduce the rate of fixed-term employment.
 - To increase internal flexibility.
 - To reduce judicial intervention and discretion.
- There is a close connection between them.
 - First, fixed-term employment is used to a large extent as a substitute for internal flexibility.
 - Second, internal flexibility hinges to a large extent on the interpretation of the economic, organizational, and technological causes.
 - Third, the interpretation of the causes is the realm of labour courts.

Fixed-term employment

Fixed-term employment rate - Labour Force Survey



Fixed – term employment

- When the 2012 Labour Reform was approved, the fixed-term employment rate was well below 24 percent.
- It even went further down to 22 percent a few months later.
- However, it has been rising ever since 2013.
- Now, it is at around 26 percent.
- The conclusion here is very clear: the 2012 Labour Reform has not solved this structural problem of the Spanish labour market.

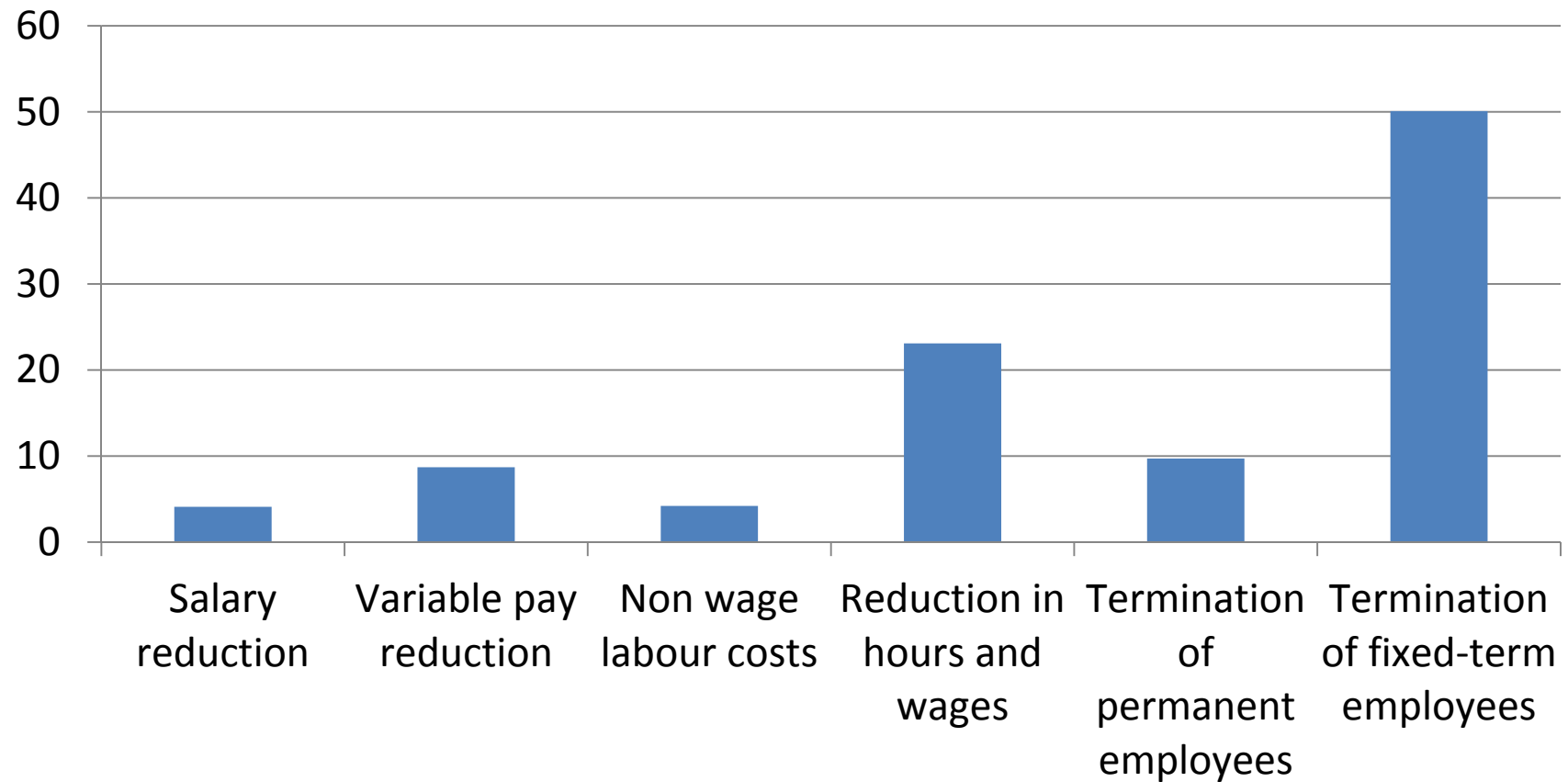
Numerical flexibility

- Let us place fixed-term employment in the broader context of numerical flexibility.
- Since 2013, the Ministry of Employment conducts an Annual Labour Survey with the main purpose of finding out what types of flexibility companies use or prefer.

Some data from the Survey

- Less than 10 percent of companies have taken measures of working time flexibility.
- Only 2 percent have taken measures of functional or occupational mobility (task related mobility).
- Less than 2 percent have taken measures of geographical mobility.
- Around 95 percent of companies admit that these measures have been taken in agreement with employee representatives.

When faced with a downturn in demand, which type of cost saving measure would you adopt?



What conclusions can we draw from this set of data?

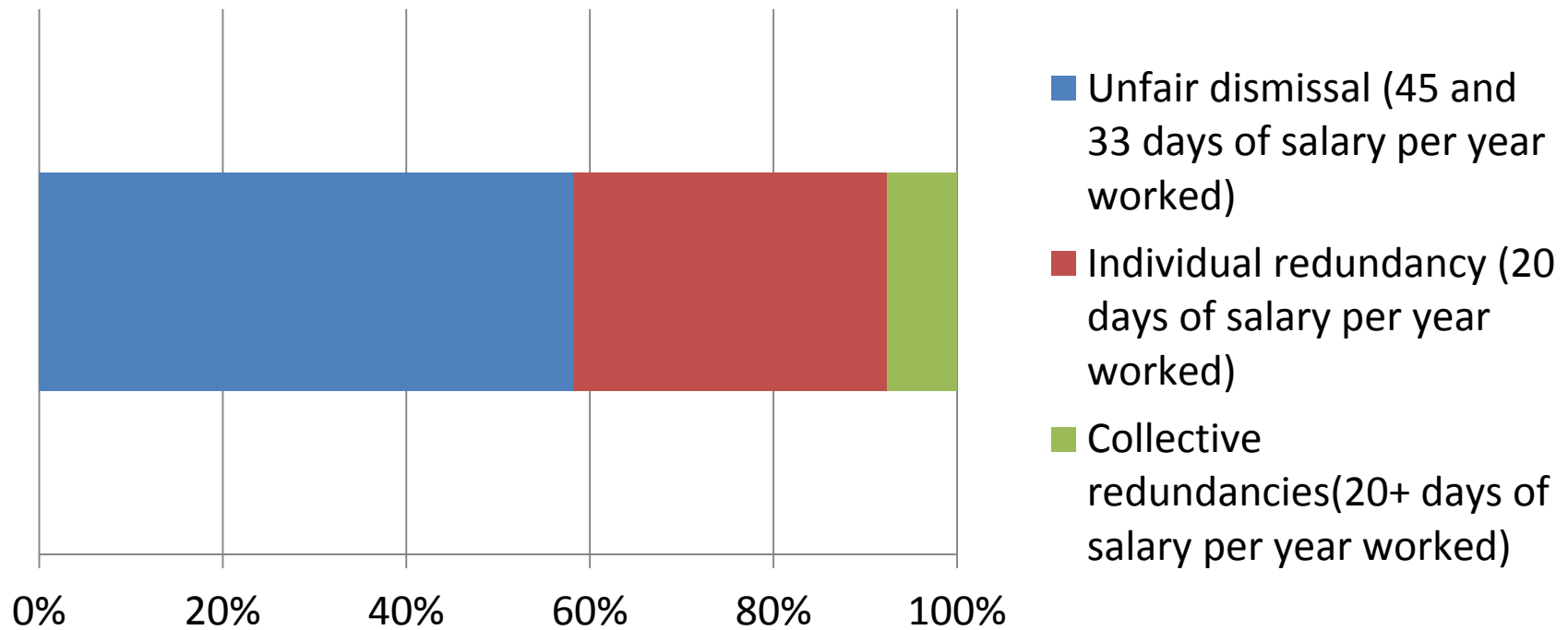
- Most companies prefer numerical flexibility over internal flexibility.
- Particularly, they prefer numerical flexibility through fixed-term employment.
- “Formal” internal flexibility is adopted in agreement with employee representatives.

What explanation can we give?

- Companies are willing to adopt internal flexibility measures as long as they are the result of agreement with employee representatives.
- Otherwise, they prefer termination of fixed-term employment and -to a lesser extent- permanent employment.
- Since the latter is costly, a plausible explanation is that companies fear judicial intervention.
 - Judicial intervention is avoided by reaching a workplace agreement.
 - If there is not an agreement, judicial intervention is avoided by terminating fixed-term contracts and by using unfair dismissals.

Preponderance of unfair dismissal for permanent employees

Data from 2015 (unemployment benefits applicants)



Judicial intervention

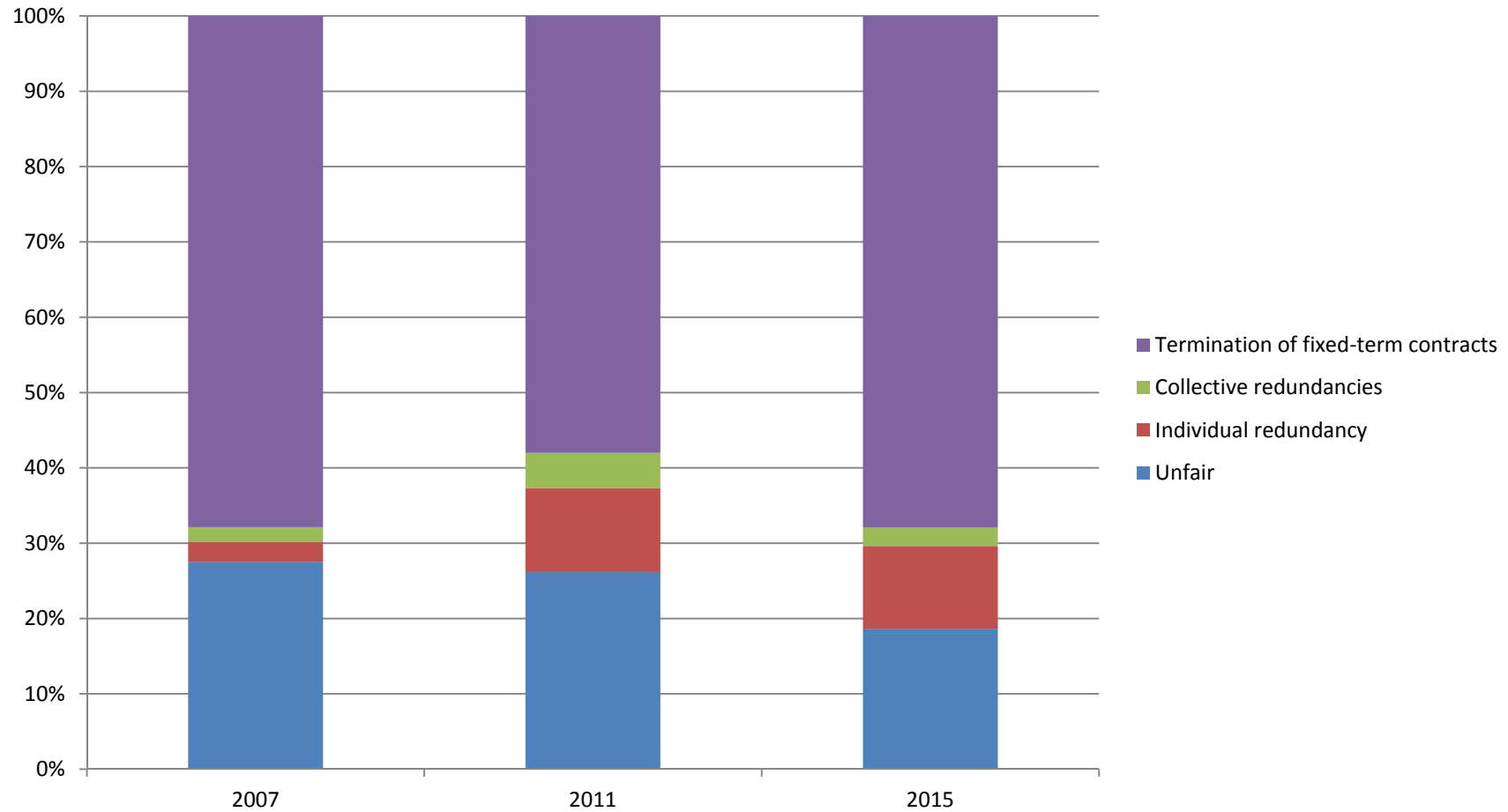
- The 2012 Labour Reform was especially aggressive when declaring that labour courts should limit themselves to verifying the facts alleged by companies when justifying redundancies.
- However, the practice after 2012 has shown growing judicialization of redundancies, especially collective redundancies.
- This has caused companies to move away from redundancy procedures, and to prefer the unfair dismissal procedure.

Final question

- Has the 2012 Labour Reform radically changed the Spanish labour relations system?

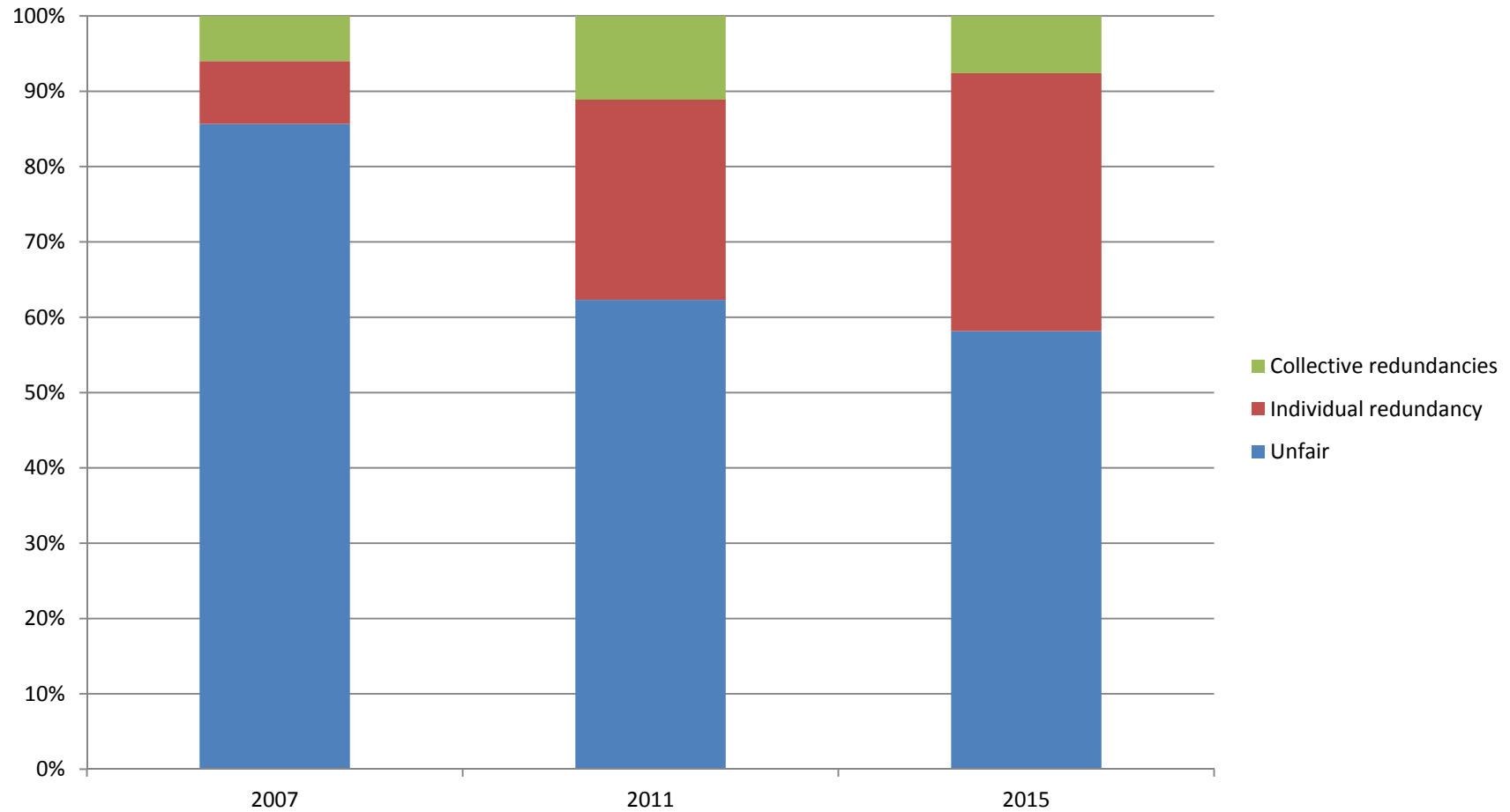
Unemployment benefits applicants

Percentage by cause of unemployment



Unemployment benefits applicants

Percentage by type of termination of permanent contracts



Conclusion and proposal

- The 2012 Labour Reform has not achieved its objectives regarding duality, preponderance of numerical flexibility, and judicialization.
- The three problems are closely intertwined.
- Companies prefer internal flexibility, but avoid judicialization by either reaching an agreement with employee representatives or choosing numerical flexibility.
- Labour arbitration could successfully replace judicial intervention.
 - Arbitration is much more flexible than judicial proceedings.
- The social partners should work towards building a reliable system of labour arbitration.
- This could enhance internal flexibility and reduce temporary employment.