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**IMPACT ASSESSMENT**

*Accompanying the document*

**Draft Proposal for a Decision of the European Parliament and of the Council  
on establishing a European Platform to enhance cooperation in the prevention and  
deterrence of undeclared work**

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| Executive Summary Sheet   |
|---|
| Impact assessment on Proposal for a Decision of the European Parliament and the Council on establishing a European Platform to enhance cooperation in the prevention and deterrence of undeclared work  |
| A. Need for action  |
| Why? What is the problem being addressed?   |
| <p>The main responsibility when tackling undeclared work lies with the Member States. Fight against undeclared work relies mostly on three types of enforcement bodies: labour inspectorates, social security inspectorates and tax authorities. In some cases new authorities, inter-ministerial agencies, national steering groups and tripartite committees have been created. The following drivers have been identified as hindering more effective and efficient fight against undeclared work. Firstly, the absence of a dedicated common forum at EU level does not facilitate Member States' efforts to exchange their views and experiences on different practices. Secondly, enforcement authorities' traditional mechanisms and resources tackle mostly domestic aspects of undeclared work.. Thirdly, while in general all Member States agree on the need to fight undeclared work, in practice in some Member States there might be a low awareness on the urgency of the problem and this might end up with not giving sufficient political priority to the fight against undeclared work.</p>  |
| What is this initiative expected to achieve?  |
| <p>The general policy objective is to support Member States in their efforts to prevent and deter undeclared work. Within this general framework, the specific objectives of this initiative are: (1) To improve cooperation between Member States' different enforcement authorities at EU level to prevent and deter undeclared work more efficiently and effectively. (2) To improve Member States' different enforcement authorities technical capacity to tackle cross-border aspects of undeclared work. (3) To increase Member States' awareness on the urgency of the problem and to encourage Member States to step up their efforts to fight undeclared work.</p>   |
| What is the value added of action at the EU level?  |
| <p>Action at the EU level will be targeted to improve effectiveness and efficiency of Member States' actions when tackling undeclared work. The EU can facilitate exchange of good practices as well as develop more advanced coordination of actions in order to support them in the deterrence and prevention of undeclared work. EU level action will enhance Member States cooperation and make fighting undeclared work more effective and efficient thereby add value to Member States' actions.</p>  |
| B. Solutions  |
| What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why?  |
| <p>Following options were considered: (1) <u>No new action</u>: undeclared work is an issue (among others) for various groups and committees at EU level, but not an integrated objective to enable them to deal with the phenomenon in its complexity. (2) <u>Better coordination</u> of the work of the existing working groups/committees at EU level, which might increase the attention, but not allow for an integrated approach. (3) Establishing a <u>European Platform with a voluntary membership</u>, which would allow for an integrated approach, but as some Member States might opt out of the cooperation, there could be a gap in the coverage. (4) Establishing a <u>European Platform with a mandatory membership</u>, which would allow for an integrated approach with all Member States participating. This option is therefore the preferred one, although there is a slight risk that if some of them are not fully committed, cooperation between Member States might be somewhat less intensive than in Option 3. (5) Integrating the fight against undeclared work into an existing structure such as <u>Eurofound</u> was also considered as an option, but not found preferable as it would provide too little political attention to the topic, thus potentially failing on the objective to increase Member States commitment. Going even further than that, creating a new agency was considered, but discarded as not suitable for the time being.</p> |
| Who supports which option?  |

Most of the stakeholders find that action at EU level is necessary and justified. However, opinions vary when it comes to the form that the action should take. Most of the employers were of the opinion that the EU level cooperation could be carried out by better coordination of already existing groups. Most of the the trade unions favoured the establishment of a new independent body. The majority of social partners underlined that participation in this EU level cooperation should be mandatory for Member States. Member States, however, favoured voluntary membership over mandatory one. Some Social Partners (mainly employers' organisations) identified Eurofound as a potential place to host the Platform.

### **C. Impacts of the preferred option**

#### **What are the benefits of the preferred option (if any, otherwise main ones)?**

The benefits of the initiative are mainly in the form of improved governance, which should – via several links – help to reduce undeclared work. However, providing a direct link between better governance structures and the reduction of undeclared work or other general social or economic benefits was found unrealistic (because of the rather indirect link between undeclared work and the intervention and because undeclared work is as such difficult to measure). It was considered possible to identify to what extent the options will achieve the set objectives. The preferred option provides the following benefits: a) all Member States will participate in the work of the platform, this would consequently raise awareness of the problem in all Member States and b) it will allow for regular and structured cooperation on the subject. In analysing the different options, no environmental impacts have been identified.

#### **What are the costs of the preferred option (if any, otherwise main ones)?**

The Platform will have a secretariat provided by the European Commission (2.5 full time employees). The Commission would also reimburse the travel costs of the nominated experts. Therefore, yearly costs for the Commission staff as well as the administrative costs related to the meetings of the platform would not exceed EUR 600 000. . The administrative costs as well as operational costs related to the specific tasks of the Platform, which will be specified in work programmes (and which will not exceed 2,1 million per year), will be covered by the PROGRESS axis of the EaSI.

#### **How will businesses, SMEs and micro-enterprises be affected?**

The initiative under discussion concerns different enforcement authorities of the Member States and the development of better cooperation between these authorities at EU level. Therefore no direct impacts on SMEs were identified.

#### **Will there be significant impacts on national budgets and administrations?**

No. Member States would have to provide for the participation of experts in the work of the Platform. Subsequent to the cooperation Member States might find it necessary to change their approach to the fight against undeclared work. However, this is in the competence of the respective Member State.

#### **Will there be other significant impacts?**

No. The initiative under discussion concerns governance issues. Overall good governance is expected to have an impact on the social situation and the economic performance. However, the incidence chain from the establishment of a platform against undeclared work to reduced undeclared work is rather long. It was impossible to establish a sufficiently direct link between the functioning of a platform, the reduction of undeclared work and economic performance or social wellbeing.

### **D. Follow up**

#### **When will the policy be reviewed?**

Four years after the Decision establishing the Platform enters into force, the Platform will be evaluated. Meanwhile, the Commission regularly reports to the Council on the progress made towards enhanced cooperation between Member States.

## 1. BACKGROUND

The concern with high levels of undeclared work is high on the EU policy agenda, especially in relation to job creation, job quality and fiscal consolidation.

The Europe 2020 Strategy for smart, sustainable and inclusive growth sets a target of 75% of 20-64-year olds in employment by 2020<sup>1</sup>. In order to catalyse progress towards the target, the Commission adopted the Flagship Initiative "An agenda for new skills and jobs"<sup>2</sup>, where the promotion of job creation is key action no 13. In this context the need to move from informal or undeclared work to regular employment was highlighted.

The Employment Package<sup>3</sup>, adopted in April 2012, carries forward the actions presented in the abovementioned EU 2020 flagship initiative. In the communication "Towards a job-rich recovery", the Commission stresses that employment policies help to create conditions favourable to job creation and that transformation of informal or undeclared work into regular employment could have a positive impact on productivity, working standards and, in the long term, skills development. It highlights the need for improved cooperation among Member States and announces the launch of consultations on setting up an EU-level platform between labour inspectorates and other enforcement bodies to combat undeclared work, aimed at improving cooperation, sharing best practices and identifying common principles for inspections.

In the 2012 and 2013 Country Specific Recommendations<sup>4</sup>, several Member States (MS) received recommendations concerning undeclared work, shadow economy, tax evasion and/or tax compliance.

In the Employment Guideline<sup>5</sup> Nr 7 "Increasing labour market participation of women and men, reducing structural unemployment and promoting job quality", MS are urged to step up social dialogue and tackle labour market segmentation with measures addressing precarious employment, underemployment and undeclared work.

The role of the social partners is emphasised in this context in the Annual Growth Survey 2013<sup>6</sup>, where the importance to fight undeclared work is highlighted in order to prepare for a job rich recovery. It states that social partners have a key role to play alongside public authorities.

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<sup>1</sup> Communication from the Commission Europe 2020 – A Strategy for smart, sustainable and inclusive growth, COM (2010)2020 of 3 March 2010

<sup>2</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:2020:FIN:EN:PDF>

<sup>3</sup> Communication from the Commission "An agenda for new skills and jobs: A European contribution towards full employment" COM 2010(682) of 23 November 2010

<sup>4</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52010DC0682:EN:NOT>

<sup>5</sup> Communication from the Commission "Towards a job-rich recovery COM (2012)173 of 18 April 2012

<sup>6</sup> <http://ec.europa.eu/social/main.jsp?langId=en&catId=101&newsId=1270&furtherNews=yes>

<sup>7</sup> [http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index\\_en.htm](http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index_en.htm)

<sup>8</sup> 2010/707/EU Council Decision of 21 October 2010 on guidelines for employment policies of the Member States"

<sup>9</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010D0707:EN:NOT>

<sup>10</sup> Communication from the Commission "Annual Growth Survey 2013" COM (2012)750 of 28 November 2012 [http://ec.europa.eu/europe2020/making-it-happen/annual-growth-surveys/index\\_en.htm](http://ec.europa.eu/europe2020/making-it-happen/annual-growth-surveys/index_en.htm)

In the Annual Growth Survey 2014<sup>7</sup>, in the context of tackling unemployment and the social consequences of the crisis, the need to reinforce the fight against undeclared work is highlighted.

## 2. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

This document was drafted by DG Employment, Social Affairs and Inclusion. While discussion on how to step up the fight against undeclared work is longstanding and has been an issue in various committees, the preparation of this initiative started in 2012. An Impact Assessment Steering Group was set up, including representatives of the following Commission's services: SG, SJ, ECFIN, ENTR, AGRI, MOVE, MARE, MARKT, REGIO, TAXUD, SANCO, HOME, JUST, ESTAT and BUDG. The IASG met three times between April and December 2013.

The Impact Assessment Board (IAB) examined this analytical document and issued an opinion on 24 January 2014. Following the recommendations for improvement, in particular the problem definition, the policy options and assessment of their impacts and the sections on comparison of options and on monitoring and evaluation arrangements were strengthened.

The evidence base for this impact assessment stems from various studies undertaken in the last years.

In 2010, an external feasibility study<sup>8</sup> on the establishment of a European platform for cooperation between labour inspectorates, and other relevant monitoring and enforcement bodies to prevent and fight undeclared work, was carried out. The study was based on desk research, interviews with over 20 stakeholders, the web-based survey covering all Member States and four workshops. The aim of these workshops was to discuss and come to a better understanding of existing national institutional frameworks, existing policy measures, difficulties encountered by enforcement bodies on national and international levels, existing cross-border co-operation, best practices and possible options for a European platform to prevent and fight undeclared work. The feasibility study was finalised in December 2010.

The recent report from Eurofound on tackling undeclared work in the MS<sup>9</sup>, which was accompanied by an updated database<sup>10</sup> of measures taken during the years 2008-2013, and a special Eurobarometer<sup>11</sup> on undeclared work, also play a particular prominent role in preparation of this study.

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<sup>7</sup> Communication from the Commission "Annual growth survey 2014" COM(2013)800  
[http://ec.europa.eu/europe2020/pdf/2014/ags2014\\_en.pdf](http://ec.europa.eu/europe2020/pdf/2014/ags2014_en.pdf)

See also Draft Joint Employment Report accompanying the Communication from the Commission on Annual Growth Survey 2014 [http://ec.europa.eu/europe2020/pdf/2014/jer2014\\_en.pdf](http://ec.europa.eu/europe2020/pdf/2014/jer2014_en.pdf)

<sup>8</sup> "Joining up in the fight against undeclared work in Europe: Feasibility study on establishing a European platform for cooperation between labour inspectorates, and other relevant monitoring and enforcement bodies, to prevent and fight undeclared work", Regioplan 2010

<http://ec.europa.eu/social/BlobServlet?docId=6676&langId=en>

<sup>9</sup> "Tackling undeclared work in 27 European Union Member States and Norway. Approaches and measures since 2008", Eurofound 2013

<http://www.eurofound.europa.eu/publications/htmlfiles/ef13243.htm>

<sup>10</sup> <http://www.eurofound.europa.eu/areas/labourmarket/tackling/search.php>

<sup>11</sup> Special Eurobarometer 402 "Undeclared work in the European Union", 2013  
[http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_402\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_402_en.pdf)



The consultation of stakeholders was done as part of the on-going work with Member States in the framework of the Directors General of Industrial Relations (DG IR) meetings, the Senior Labour Inspectors Committee (SLIC) and the Administrative Commission for social security coordination<sup>12</sup>. Questions put to these groups and committees, invited Member States to share their views regarding several aspects of enhanced cooperation, such as the added value in EU cooperation in the field of undeclared work, the most appropriate framework for this cooperation (the involvement of different national authorities, the mandate and tasks). In general, Member States saw an added value of EU level action targeted at preventing and deterring undeclared work and welcomed the intention of the Commission to involve itself more strongly in the fight against undeclared work.

The views of the European Social Partners have been collected during first and second stage consultations<sup>13</sup> (4 July 2013 to 4 October 2013 and 30 January 2014 to 13 March 2014). A summary of the responses received is included in Annex I.

The Commission received 15 replies to the first stage consultation (2 joint replies, 3 replies from the trade unions and 10 replies from employers' organisations). Social Partners agreed with the overall problem description and they conveyed to the Commission their opinion that action at EU level is justified with the main objective of assisting national authorities, such as labour inspectorates, social security and tax authorities to prevent and deter undeclared work. In general, social partners agreed that a European platform could be an appropriate vehicle for enhancing cooperation between Member States.

In the second stage consultation, the Commission presented an overview of the results of the first stage consultation and outlined the content of the planned Union initiative. The aim of the consultation was to obtain Social Partners' views on the content of the envisaged initiative on enhancing cooperation between Member States in the prevention and deterrence of undeclared work. The Commission received 16 replies (1 joint reply, 4 replies from the workers' representatives and 11 replies from employers' organisations). Social partners conveyed their general support for an action at EU level to prevent and deter undeclared work and reiterated their views expressed during a 1<sup>st</sup> stage consultation regarding the objectives, scope, tasks/initiatives, participation and form of the Platform.

The European Economic and Social Committee adopted on 21 January 2014 an Opinion on a Strategy against the shadow economy and undeclared work<sup>14</sup> reiterating the importance of combating the shadow economy and undeclared work, to accompany and complement the work being done in the European Commission, Eurofound and other international organisations.

The European Parliament has adopted on 14 January 2014, a Resolution on effective labour inspections as a strategy to improve working conditions in Europe<sup>15</sup>. The

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<sup>12</sup> Public consultation was not carried out because the envisaged activity involves institutional actors with whom the Commission carried out consultations directly.

<sup>13</sup> "Consultation of social partners under article 154 TFEU on enhancing EU cooperation in the prevention and deterrence of undeclared work", Consultation document C(2013)4145 <http://ec.europa.eu/social/BlobServlet?docId=10345&langId=en>

<sup>14</sup> <http://www.eesc.europa.eu/?i=portal.en.soc-opinions.26023>

<sup>15</sup> [http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2013/2112\(INI\)](http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2013/2112(INI))

European Parliament welcomed the Commission's initiative to create a European Platform and called for enhanced cooperation at EU level to fight undeclared work.

### **3. PROBLEM DEFINITION**

#### **3.1. The problems of undeclared work**

In the 2007 Commission Communication<sup>16</sup>, undeclared work is defined as "any paid activities that are lawful as regards their nature but not declared to public authorities, taking account differences in the regulatory systems of the Member States".

Undeclared work withdraws some activities from the public authorities' control. These activities are not taxed and other contributions (e.g. social security contribution) which are due are not paid. They become purely private, while probably still relying in parts on the infrastructure provided with public money. Not to speak of situations in which undeclared work is performed in parallel to receiving public support in the form of unemployment benefits or social security benefits.

With more people being active in providing or requesting undeclared work, the tax base for income taxation and social security contributions is getting smaller while public revenues are still needed. The smaller the basis from which the government generates its revenues, the higher the rate of taxation or contribution will be and subsequently the motivation increases not to declare activities. It is a vicious circle which can lead to anomie. Even though social and employment policy and therefore the issue of undeclared work, are primarily a competence of each Member State, an integrated Europe with some Member States not having a well-functioning governance system is not desirable.

Undeclared work is influenced by a wide range of economic, social, institutional and cultural factors. It is held responsible for obstructing growth-oriented economic, budgetary and social policies, and in particular for lowering work quality standards, creating risks for the health and safety of workers, putting at risk the financial sustainability of social protection systems and undermining the competitive environment for businesses<sup>17</sup>.

The fact that undeclared work is not observed or registered, and defined differently in national legislation, makes it difficult to obtain reliable estimates of how widespread it is across Member States. Different methods exist to approach and measure undeclared work and there have been several attempts to measure the phenomenon (they are explained in detail in Annex II). However, caution has to be taken when looking at the results, because depending on the source and the underlying methodology they differ a lot. For example, according to World Bank's research, in 2008-2009, undeclared work was highest in Cyprus (53% of extended labour force), followed by Greece (46,7% of extended labour force)<sup>18</sup>. According to these countries' own estimations undeclared work constituted, in 2012, 19,1% of GDP in Cyprus and 36,3% of GDP in Greece.

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<sup>16</sup> "Stepping up the fight against undeclared work" COM(2007)628, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52007DC0628:EN:HTML>

<sup>17</sup> Regioplan, 2010

<sup>18</sup> World Bank's research working paper 5912 on "Informal Workers across Europe": Mihails Hazans, December 2011 <http://elibrary.worldbank.org/doi/pdf/10.1596/1813-9450-5912>

In this report, Eurobarometer 2007 and 2013 results will be used. All figures result from direct surveys, which were based on face-to-face interviews with EU citizens. Meaning that awareness, national definitions, transparency of undeclared work and trust in the interviewer, are important factors for citizens to enable them to indicate that they have performed or benefitted from undeclared work.

According to the Eurobarometer surveys in 2007<sup>19</sup> and 2013, the total share of respondents who said they performed undeclared work remains extremely low. It was 5% in 2007 and 4% in 2013, but variations exist among countries. In 2013, the provision of undeclared work is highest in Latvia, the Netherlands and Estonia (11%) and lowest in Malta (1%), Ireland, Italy, Cyprus, Portugal and Germany (2%). For most<sup>20</sup> countries, the 2013 figures are very similar to those from 2007. From the demand side, 11% of the respondents admit that they have purchased goods or services in the previous year where they had good reason to believe it involved undeclared work. Also here, there are considerable variations across the EU. The Member States with particularly high numbers include Greece (30%), the Netherlands (29%) and Latvia (28%). The Member States with the lowest proportions of purchasers were Poland (5%), Germany (7%), Spain and the UK (8% in each). In most countries, the proportion of respondents reporting that they had purchased undeclared goods or services was broadly similar to the result in 2007, except in Cyprus (increase from 2% to 16%), in Greece (increase from 17% to 30%), in Malta (from 18% to 23%) and in Slovenia (from 17% to 22%).

The economic and financial crisis pushes firms and households to seek cost-savings by substituting declared work with undeclared work, and unemployed workers are engaging in undeclared work as a coping strategy; thus leading to a relative increase of undeclared work.<sup>21</sup>

### 3.1.1. *The heterogeneity of undeclared work makes policy responses difficult*

Generally three types of undeclared work can be defined. The first category is that of undeclared work in a formal enterprise, including so called "underdeclared work" in form of "envelope wages" (where only a part of the salary is paid officially, while the rest is given to the employee in an envelope) and situations where the employee is declared to work part-time, but works in reality full-time. Awareness of customers for such forms of undeclared work can be expected to be very low and with the more complex forms which could involve transactions across borders, even workers might actually not know. Secondly, there exists undeclared own account or self-employed work, providing services either to a formal enterprise or other clients, such as households. While in the Nordic countries, undeclared work involves mainly undeclared self-employment, in other Member States it concerns mostly employer-employee relations in a formal enterprise<sup>22</sup>. An extreme case would be the activity by totally undocumented workers (e.g. illegally staying migrants working in a sub-contracting chain). A third type of undeclared work is providing goods and services

<sup>19</sup> Special Eurobarometer on undeclared work (2007) [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_284\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_284_en.pdf). The European Commission launched a new Eurobarometer survey on undeclared work in 2013. The comparability of the questionnaire with the Eurobarometer 2007 will allow comparison of the trends observed since the onset of the crisis.

<sup>20</sup> Exception: Latvia, in 2007 15% admitted to do undeclared work.

<sup>21</sup> ESDE section 5, add link when published.

<sup>22</sup> Eurobarometer 2013

to neighbours, family, friends or acquaintances, which can involve construction or repair works, cleaning, provision of childcare or care for the elderly. Typical for this last type of activities is that it is sometimes provided as a sort of mutual aid. The activities, which are provided as some sort of mutual aid for neighbours, friends or relatives, are not at the heart of this initiative.

Undeclared work borders and overlaps with other types of fraud, for example with those committed in the context of posting of workers. This renders the work of enforcement bodies difficult because those who infringe on the rules play off different enforcement bodies by e.g. claiming that it is not undeclared work, but posting or unpaid traineeships. Therefore, even though the focus is on undeclared work, abuses or the circumvention of other rules (labour law, social security etc.) could also be tackled.

The abuse of the status of self-employed, either at national level or in cross-border situations, is frequently associated with undeclared work. Bogus self-employment occurs when a person is classified as self-employed instead of employed, in order to avoid certain obligations arising from laws and practices applicable to employees, such as labour regulations and the payment of taxes or social security contributions. In many of these situations, one can speak of disguised employment relations, meaning that workers are treated as self-employed, but clearly fall within the category of subordinate employment and subsequently should be classified as employees with all the respective rights and obligations. It could be argued that bogus self-employment is misdeclared activity and as such cannot be seen as undeclared work. However, bogus self-employment can have negative consequences, in terms of health and safety and social security coverage of the workers concerned, as well as on tax revenue, although normally less harmful than undeclared work. The individual's awareness that this is a form of undeclared work can be expected to be very low. As a means of avoiding social contributions and labour regulations, dependent self-employment can imply bogus self-employment and creates unfair competition between companies.

Extensive subcontracting can facilitate this phenomenon by reducing liabilities for the original employer. Another phenomenon that enhances the rise in both self-employment and bogus self-employment, is the increasing number of self-employed migrant workers in the construction sector, especially from Central and Eastern Europe. For instance, in the Netherlands, 80% of the self-employed workers in the sector are estimated to be migrant workers<sup>23</sup>. As explained above, undeclared work can be found in a wide range of workplaces, starting from self-employed and micro enterprises to large enterprises. It can occur also in a variety of sectors. The single sector most often over-proportionately affected by undeclared work is the construction sector. Other sectors are household services, which include domestic cleaning services as well as child and elderly care, personal services, private security, industrial cleaning, agriculture and hotel, restaurant and catering industry. In addition, it involves workers with different profiles and backgrounds (e.g. low-skilled, men, women, citizens, migrants, young people etc).

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Study "Social protection rights of economically dependent self-employed workers", 2013 European Parliament  
[http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/507449/IPOL-EMPL\\_ET\(2013\)507449\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/507449/IPOL-EMPL_ET(2013)507449_EN.pdf)

Taking into account the sectoral features of undeclared work, Member States have developed specific instruments to prevent or deter undeclared work. For household services and construction work provided for private households, there is often a grey zone between mutual help and professional services. Furthermore, private households often pay such services from fully taxed income, while for enterprises, such expenditure would be operating expenditure, i.e. happen before taxation. Therefore, several Member States encourage the official declaration of these services by introducing service vouchers or special tax reduction schemes, to bring private households to buy goods and services officially and not from the black market.

Such heterogeneity makes undeclared work difficult to measure and to detect. It also complicates the effective reduction of undeclared work as banning it without understanding the underlying mechanisms will not be enough to reduce it.

### 3.1.2. *Causes and consequences of undeclared work*

The growth of the informal economy is often seen as a reaction to imperfections in the formal labour market<sup>24</sup>. When formal supply and demand do not meet, the possibilities for informal labour market grow. Circumstances that lead to these imperfections can be the high cost of labour, the shortage of labour (quantity and quality), the shortage of jobs, or the inflexibility of the labour market. According to the Eurobarometer 2013, 50% of the respondents said that they worked undeclared because both parties benefitted from it, 21% worked undeclared because they could not find a regular job and 16% did it because tax and/or social security contributions were too high.<sup>25</sup> While in the Eastern countries (28%) and even more so in the South of Europe (43%), the inability to find a regular job played a major role, in the northern and western European countries the motivation for undeclared work was mainly that it was beneficial for the provider and the client (> 60%).

In addition, when looking at the causes of undeclared work, the degree of trust people have in government and government agencies and the degree of inclusion people experience in the society, is of great importance. When there is very little identification with government or society at large, people will more easily act against common rules<sup>26</sup>. According to the Eurobarometer 2013, 14% of people were working undeclared because it is a common practise in their region or sector of activity and there is no real alternative (5% in Nordic countries, compared to 21% in Southern Europe). 6% of the respondents worked undeclared because of dissatisfaction with the state ("the state does not do anything for you, so why should you pay taxes"). Respondents in Eastern and Central Europe were more likely than those in other regions to use the latter reason (15%), particularly compared with those in the Nordic countries (2%).

Other influential factors are the transparency of legislation and legislation enforcement. If control mechanisms are unclear and inefficient, people will be more prone to evade taxes by performing undeclared work. The absence of certain control mechanisms can also stimulate undeclared work. 18% claimed to work undeclared

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<sup>24</sup> Undeclared labour in Europe: Towards an integrated approach of combatting undeclared labour, Regioplan 2001

<sup>25</sup> [http://www.lex.unict.it/eurolabor/ricerca/dossier/dossier7/cap6/mateman\\_renooy2001.pdf](http://www.lex.unict.it/eurolabor/ricerca/dossier/dossier7/cap6/mateman_renooy2001.pdf)

<sup>25</sup> Respondents could give more than one reason for working undeclared.

<sup>26</sup> Regioplan 2001



because of too much bureaucracy and red tape, and the proportion of those who believe that there is a high risk of being found and prosecuted has not changed much since 2007 (from 33% to 36%).<sup>27</sup>

The consequences of undeclared work are often poorer working conditions. Health and safety obligations are neglected. Employment rights, such as annual leave and working time are not respected. The training needs of undeclared workers are not taken into account. They have less employment security, they might not have right for redundancy payments and unemployment benefits, as well as to other benefits due to the fact that no social security or healthcare contributions have been paid for them/by them. In addition, as no pension contributions are paid, their pension rights are decreased. Due to the reason of not having a legitimate income, their access to loans might be limited.

According to the Eurobarometer 2013, when asked whether people had suffered any negative consequences of working undeclared, 58% answered negatively or did not know of any negative consequence. Among other consequences (respondents could indicate multiple answers), having no social security entitlements was reported by 20%, the lack of insurance against accidents by 19%, harder physical conditions by 7% and a higher risk of accidents as compared to a regular job by 6%. A higher risk of losing their job was experienced by 7%. Here the fact whether the work is done completely undeclared or underdeclared (for example the worker receives "envelope wages") has a bearing on the outcome. If work is underdeclared, then there is at least some entitlement for social security and employment conditions.

Employers who are not declaring the work done by their workers are creating unfair competition between them and companies respecting the rules. Such distortion can also have a cross-border dimension in cases where in one country undeclared work is systematically fought, while in a neighbouring country public authorities do not prioritise this problem.

These negative consequences are not only borne by competitors and employees, potentially also the enterprise as such might – in the long run – be faced with disadvantages. Its ability to access credit, which is needed to develop the business further, can be more limited. This is particularly true for SMEs. In some areas, it is quite usual that businesses are started in an undeclared way - the intended services are tried out first on friends and family – and their activity only declared when they prove to be sustainable. This raises the issue about the start-up assistance that is available to these enterprises and about the forms of support reserved to declared business activities.

### **3.2. Governance – the problem requiring action**

The main responsibility when tackling undeclared work lies with the Member States. However, EU level action can play a complementary role and help Member States by addressing the following aspects:

- (1) Insufficient cooperation between enforcement authorities of different Member States in the prevention and deterrence of undeclared work (because the responsibility of tackling undeclared work is located in different institutions

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<sup>27</sup> Eurobarometer 2013

such as labour inspectorates and tax authorities, which do not meet at EU level).

- (2) Difficulties in tackling the international (cross-border) dimension of undeclared work.

### 3.2.1. *Insufficient cooperation between enforcement authorities at EU level*

Fight against undeclared work relies mostly on three types of enforcement bodies: a) labour inspectorates to address abusive behaviour regarding working conditions and/or health and safety norms, b) social security inspectorates fighting fraud on social insurance contributions, and c) tax authorities to deal with tax evasion. In some cases, also social partners<sup>28</sup> are involved in these tasks. In addition, in some Member States, customs authorities, migration bodies, the police and the public prosecutor's office are involved (See Annex III).

As the nature of undeclared work varies from one country to another depending on the economic, social and political context, the development of measures to tackle undeclared work should be tailored accordingly. However, the exchange of practices between Member States helps to compare experiences and identify effective approaches<sup>29</sup>.

For example, in some Member States new authorities, inter-ministerial agencies, national steering groups and tripartite committees have been created<sup>30</sup>. Other Member States have formed specialized units or teams<sup>31</sup> in order to address certain sectors or different aspects of undeclared work. Cross-agency cooperation is very important in the fight against undeclared work<sup>32</sup> and the lack of cooperation between different enforcement agencies, such as labour inspectorates, tax and social security authorities hinders effective policies<sup>33</sup>. A high level of undeclared work not being addressed by a structured cooperation between relevant authorities in the Member State (tax, labour, social security) could be an indication of low political priority and low awareness of urgency of the problem in a Member State. A structured cooperation is so far implemented to various degrees in Austria, Belgium, Germany, Spain, Finland, France, Ireland, Luxembourg and the Netherlands. Member States where appropriate coordination structures are not in place, could learn and benefit from the experiences of those Member States where this kind of inter-institutional cooperation has been established.

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<sup>28</sup> In Germany, agreements between Federal Ministry of Finance and social partners in construction, painters and industrial textile services sectors, in Bulgaria the establishment of the national "Rules for business" centre and in Luxembourg introduction of an ID card for every worker on the construction site.

<sup>29</sup> Learning Exchange between Czech Republic, Estonia and Lithuania "Tackling undeclared work", 2013 <http://ec.europa.eu/social/main.jsp?langId=en&catId=1073&eventsId=938&furtherEvents=yes>

<sup>30</sup> National Employment Rights Agency (NERA) in Ireland, Inspectorate SZW (reorganised in 2012) in Netherlands, Social Information and Investigation Service in Belgium, Inter-administrative unit to fight illegal work (CIALTI) in Luxembourg, Inter-ministerial delegation for fight against illegal work DLNF in France. ILO/LABADMIN, 2013

<sup>31</sup> E.g. in Spain for road transport and subcontracting chains, GOTOT in Belgium to investigate social fraud related to posting of workers.

<sup>32</sup> ILO-EC study

<sup>33</sup> Regioplan 2010

**Box 1. Inter-institutional temporary teams as a means to prosecute undeclared work**

In the Netherlands severe fraud or abuse of rules and regulations in the field of social security, taxes or illegal employment is prosecuted by so-called intervention teams. These teams consist of members of different bodies, such as municipalities, the Tax Authority, the Inspectorate SZW (Ministry of Social Affairs and Employment), the Employee Insurance Agency, the Social Insurance Bank, the police and the public prosecutor's office. The composition of an intervention team and the leading body is, depending on the theme or target group, decided by a National Steering Group.

In 2007, an intervention team was set up to investigate and prosecute undeclared work in mushroom growing. The Inspectorate SZW was in charge of the team which was joined by members of the tax authorities, the immigration service, aliens' police and the public prosecutor. 98 farms were visited. The teams found rather severe forms of exploitation of foreign employees, working without permits, abuses of minimum wage, etc. The tax authority recovered more than a million euros on taxes and fined several companies for more than a hundred thousand euros<sup>34</sup>.

Another illustration: Member States planning to introduce voucher schemes could learn from those who have already done so. For example, Poland seems to have encountered similar problems as those experienced earlier on in the Netherlands when introducing measures for hiring unemployed people to work in the domestic services sphere. The Austrian voucher system could probably have benefitted from the expertise of similar schemes in Belgium and France<sup>35</sup>, which were introduced several years earlier.

However, only few attempts to learn from each other's experiences have been made. In 2012, in the framework of the PROGRESS Mutual Learning Programme, a peer review on "Tackling undeclared work: developing an effective system for inspection and prevention"<sup>36</sup>, was undertaken (see Table 1 below). This peer review was followed by the learning exchange between Czech Republic, Estonia and Lithuania to share experiences regarding concrete measures, such as registering of employees to improve the detection of undeclared work<sup>37</sup>. This learning exercise was considered to be very timely in the tight economic situation where authorities dealing with undeclared work are looking not only for cost effective approaches, but also effective ways to increase tax revenue for their state.

<sup>34</sup> "Labour inspection strategies for combating undeclared work in Europe: the Netherlands", Regioplan 2013, [http://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---lab\\_admin/documents/genericdocument/wcms\\_227267.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---lab_admin/documents/genericdocument/wcms_227267.pdf)

<sup>35</sup> "Measures to tackle undeclared work in the European Union", Eurofound 2009 <http://www.eurofound.europa.eu/pubdocs/2009/25/en/1/EF0925EN.pdf>

<sup>36</sup> <http://ec.europa.eu/social/main.jsp?catId=1070&langId=en&newsId=1947&furtherNews=yes>

<sup>37</sup> Learning Exchange between Czech Republic, Estonia and Lithuania "Tackling undeclared work", 2013 <http://ec.europa.eu/social/main.jsp?langId=en&catId=1073&eventsId=938&furtherEvents=yes>



### 3.2.2. *Difficulties in dealing with the international (cross-border) dimension of undeclared work*

The mobility of workers across Member States constitutes a fundamental freedom within the Union. Several initiatives are on-going to support the exercise of this right. Using cross-border situations to disguise undeclared work, threatens discrediting this fundamental right.

Cross-border issues are relevant mostly for deterrence activities, such as inspections and enforcement of sanctions. Inspectors, when carrying out inspections in sectors such as construction or agriculture, which have high numbers of foreign workers, face cross-border employment situations daily. However, inspection authorities face specific difficulties in carrying out their work in such situations, in particular when the aim is to identify or sanction cases of undeclared work, because their traditional mechanisms and resources are meant to tackle mostly domestic aspects of undeclared work. Inspecting the nature and/or conditions of the employment relationship of migrant workers can be difficult due to communication difficulties, lack of knowledge of rules or the presence of organised networks operating at the margins of the law, often making use of complex legal constructions involving agencies or intermediaries located in several member States. This could make it difficult to establish the chain of command between the different actors involved and the liability for social security benefits and taxes. Subsequently, the enforcement of sanctions is difficult in cases the worker resides or the employer is located in another country.

Cross-border issues may also be relevant for prevention activities, since national preventative efforts normally only address citizens and employers of the Member State concerned and not potential mobile workers or service providers across the border.

In order to do that and consequently detect undeclared work in cross-border situations, there is an increased need for cooperation between Member States. Some Member States have concluded in the recent past bilateral agreements that aim at reinforcing their cooperation. In some cases, they have developed practical forms of coordination (such as joint inspections<sup>38</sup>). However, this coordinated action between labour inspectorates and other relevant enforcement bodies of different Member States has been rather the exception than the rule.<sup>39</sup>

#### **Box 2. Multilateral cross-border cooperation**

The Prime Ministers and the Ministers responsible for the enforcement of social policy regulations of Belgium, Luxembourg and the Netherlands signed a joint declaration on 13 February 2014<sup>40</sup>, to intensify their cooperation in the fight against fraud, social dumping and exploitation in the field of social policy.

This cooperation will cover practical implementation of their laws and regulations in

<sup>38</sup> Belgium, France, Latvia and Luxembourg

<sup>39</sup> Regioplan 2010

<sup>40</sup> Joint Declaration Social Summit Benelux of 13 February 2014  
[http://www.mte.public.lu/actualites/articles/2014/02/20140213\\_bxl/JOINT\\_DECLARATION\\_SOCIAL\\_SUMMIT\\_BENELUX.pdf](http://www.mte.public.lu/actualites/articles/2014/02/20140213_bxl/JOINT_DECLARATION_SOCIAL_SUMMIT_BENELUX.pdf)

cross-border situations as well as joint approach to enforcement issues within the European Union.

The governments of the Benelux countries will, for the purpose of the implementation of these intentions, initiate a number of specific actions, such as carry out pilot projects to inspect cross-border subcontracting chains and liability as well as cross-border enforcement of administrative fines and penalties; support each other in their actions to curb abuse, in particular by improving exchange of information on fraud and social dumping cases and stimulate the exchange of best practices including ways of improving identity controls at working places and instruments to fight fraud, social dumping and unfair competition.

Ministers in charge of Labour inspectorates are to implement this agreement and report regularly to the Prime Ministers.

Attempts to deal with the phenomenon could benefit from EU level cooperation so to speed-up the exchange of information and make it more efficient. They could also benefit from exchanges of information and best (and worst) experiences with smaller scale cooperation. It would widen the knowledge about the practices, laws, policies and procedures in different countries.<sup>41</sup>

### **Box 3. Temporary projects establishing multilateral cooperation**

"CIBELES: Convergence of Inspectorates building a European Level Enforcement System"<sup>42</sup> aimed at assisting the Senior Labour Inspectors' Committee (SLIC) and the Commission to improve and enhance the co-operation between Labour Inspectorates, setting up principles in order to establish a network for exchanging information. CIBELES concentrated on situations which required mutual assistance in occupational health and safety cross-border enforcement matters in relation to the posting of workers. A number of country reports also elaborate on undeclared work in the context of posting.

The "ICENUW - Implementing Cooperation in a European Network against undeclared work" – project investigated how a better cross-border cooperation of labour inspectors could function.<sup>43</sup> It focused on the documents and procedures necessary to conduct an inspection and the need for comparability between Member States mostly in connection with social security fraud. One of the results of this cooperation was the Bruges Charter "Pathways in cross border fight against undeclared work", which was signed by 11 EU Member States and Norway on 18<sup>th</sup> of February 2011.

The purpose of the ILO and the European Commission joint project on "Labour inspection and undeclared work in the EU"<sup>44</sup> was to consider the role that national labour inspection systems in the EU have as a part of a strategic policy response to undeclared work. The study concluded that the European financial crisis was leading

<sup>41</sup> Regioplan 2010

<sup>42</sup> Project CIBELES

[http://www.empleo.gob.es/itss/web/Sala\\_de\\_comunicaciones/Noticias/Archivo\\_Noticias/2011/11/2011\\_1122\\_not\\_web\\_port.html](http://www.empleo.gob.es/itss/web/Sala_de_comunicaciones/Noticias/Archivo_Noticias/2011/11/2011_1122_not_web_port.html)

<sup>43</sup> <http://www.socialsecurity.fgov.be/nl/nieuws-publicaties/conferenties/icenuw/deliverables.htm>

<sup>44</sup> [http://www.ilo.org/labadmin/info/pubs/WCMS\\_220021/lang--en/index.htm](http://www.ilo.org/labadmin/info/pubs/WCMS_220021/lang--en/index.htm)

governments to look more carefully at labour market problems and the positive impact the proper tackling of the phenomenon of undeclared work could have on the creation of formal employment, improved working conditions and the increase of tax revenues. The conclusions also stated that the international dimension of undeclared work is today a reality. Giving the opening of EU markets to free movement of services and workers, the effects of non-compliance with national legislation can influence businesses, societies and governments beyond a country's borders. It states further that there is still much to be done, especially in terms of international cooperation as a consolidated forum where national institutions could exchange their views or even go further on common planning strategies and initiatives, is still inexistent.

**Table 1: multilateral projects/cooperation between Member States**

| <b>Project name</b> | <b>Scope of cooperation</b>  | <b>Field</b>   | <b>MS participating</b>                               |
|---------------------|--|--|---|
| <b>CIBELES</b>      | <ul style="list-style-type: none"> <li>- Information exchange</li> <li>- Mutual cooperation in enforcement procedures when investigating breaches</li> <li>- Cross-border execution of fines</li> </ul>  | <ul style="list-style-type: none"> <li>- Labour inspections (covering also tax, social security, customs, justice and data protection issues)</li> <li>- Health and safety</li> <li>- Posting of workers</li> </ul>  | <b>AT, BE, DE, ES, FR, HU, IT, MT, PT</b>             |
| <b>ICENUW</b>       | <ul style="list-style-type: none"> <li>- (Common) features of inspection procedures</li> <li>- Plans for the future ICENUW Web Platform</li> <li>- Description of legal environment for fighting UDW and social fraud</li> <li>- Information regarding deterrence and prevention measures in the MS</li> </ul> | <ul style="list-style-type: none"> <li>- Fight against transnational social security benefits and contributions fraud</li> <li>- Charter of Bruges (signed by all of the participants, except LU) endorsing the need for further cooperation on cross-border fraud and illegal work</li> </ul> | <b>AT, BE, BG, ES, FR, IT, LU, NL, NO, PL, PT, RO</b> |

|  |  |                      |   |
|--|--|----------------------|---|
| <b>Mutual Learning Programme peer review on "Upgrading of mechanisms to monitor undeclared work"</b> | - Exchange of best practices   | - Labour inspections | <b>CZ, EE, DE, GR, IE, LV, LT, SK, HR (and Serbia and Turkey)</b> |
| <b>Labour Inspection and Undeclared work in the EU (ILO/COM)</b>                                     | <ul style="list-style-type: none"> <li>- Exchange of good practices</li> <li>- Recommendations for strengthening Labour Inspectorates in combatting undeclared work</li> </ul> | - Labour inspections | <b>ES, IT, FR, IE, BE, RO, NL</b>                                 |

These are three projects, which brought together different Member States with the aim to enhance administrative cooperation in cross-border situations and exchange best practices. Overall, such cooperation remains patchy, rather than comprehensive, both in terms of the countries involved and the issues covered.

Countries participating often in international cooperation tend to be also countries where undeclared work is relatively low, suggesting that stepped up policy efforts have been comparatively more successful in mitigating the extent of the problem. It can be concluded also that these are countries with a high level of awareness of the urgency of the problem. These Member States could also be categorized as mostly immigration countries, suggesting that these countries have a higher interest in tackling cross-border undeclared work. Examples are: Austria, Belgium, France, Germany, Italy, Netherlands, Portugal, Romania and Spain.

On the other hand, it can be concluded that in Member States, which take part of the international projects only occasionally, or not at all, awareness of the urgency of the problem is low. This group includes countries with higher levels of undeclared work. These Member States could be categorised as mostly emigration countries.

### **3.3. What are the underlying drivers of the specific problems?**

Driver 1: A lack of knowledge of the division of competencies between enforcement agencies, the precise legal definitions of undeclared work in other Member States as well as of the links between different EU policies and tools hinders effective cooperation. The absence of a dedicated common forum does not facilitate Member States efforts to exchange their views and experiences on different practices.

Stakeholders agree on this analysis and confirm that ad hoc exchanges are too rare and not adequate to address the complex subject.<sup>45</sup>

Driver 2: Enforcement authorities' traditional mechanisms and resources are meant to tackle mostly domestic aspects of undeclared work. In case they need to tackle cross-border cases of undeclared work, the enforcement authorities do not know who their counterparts in another Member States are and what their competencies are. In addition, in every Member State there are different rules in place regarding data protection and exchange of personalised information, which can hinder the development of common data sharing facilities. Also, carrying out the inspections and application of sanctions in cross-border cases is limited due to lack of competences outside national territories.

Driver 3: While in general all Member States agree on the need to fight undeclared work, in practice in some Member States there might be a low sense of urgency to tackle the problem and this might end up with not giving sufficient political priority to the fight against undeclared work. Also awareness about the negative consequences of undeclared work cannot always be assumed. While in the mid to long term a low share of undeclared work is important for the overall economic and social development, reducing undeclared work might in the short term make some people lose (parts of) their income or reduce their consumption.

### **3.4. Who is affected, in what ways and to what extent?**

Directly affected by the fight against undeclared work are the enforcement bodies of the Member States, such as labour inspectorates, tax and social security authorities and/or other special authorities.

Undeclared work as such affects suppliers and customers of undeclared work and also those people who abstain from using this option. The extent of affection differs very much between Member States and also between economic sectors. Difficulties in detection of undeclared work and lack of cooperation between different enforcement bodies result in the increase of the workload and subsequently lead to the need for additional resources for the enforcement authorities and less efficient and effective interventions regarding fight against undeclared work.

### **3.5. How would the problem evolve, all things being equal? (Baseline scenario)**

Member States would continue to carry out their policies in isolation or small groups of countries would conclude bilateral agreements addressing the most pressing needs such as exchanges of data. The 2013 Eurofound study, which looked at developments since 2008, confirmed that since the beginning of the recession, a wide range of policy approaches and measures to tackle undeclared work have been introduced across the Member States. It can be assumed that Member States would continue like this in the future. However, this kind of cooperation would probably leave out Member States, where undeclared work poses a big challenge.

In case of voluntary multilateral cooperation, there is no obligation for Member States to participate nor is there a mechanism to make participation mandatory in case the participation is found necessary by others. Member States' capability to step up efforts by themselves could be limited by a low degree of political priority and

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sense of urgency in tackling the problem, especially its cross-border dimension as appraised by mostly emigration countries. In addition, Member States' capability to take part in international cooperation may also be diminished by limited resources (human and financial) or the lack of knowledge about relevant EU means in this field and of programmed financial backing at EU level.

Closer cooperation is needed in order to bring together the most relevant authorities of all Member States in tackling undeclared work. The existing forms of cooperation (such as different committees and working groups) have induced discussions on undeclared work on very rare occasions, and without any form of coordination. Some of the fora (Senior Labour Inspectors Committee, Directors General for Industrial Relations) explicitly welcome more focused action at EU level<sup>46</sup>.

Member States would not be able to benefit from the EU level cooperation in order to be in a better position to tackle the phenomenon and discover new forms of undeclared work early on thanks to sharing of experiences and learning from each other. Detection of cross-border cases of undeclared work would remain low and challenging due to the lack of cooperation mechanisms. For national enforcement bodies, this could mean that limited possibilities exist to make progress in fighting undeclared work, which would on the other hand at least indirectly encourage undeclared work.

In times of tight budgets, the losses suffered due to undeclared work are felt more severely and it will be more difficult to provide the resources to actually discourage undeclared work.

There are several EU level working groups whose work is somehow linked to undeclared work: the Senior Labour Inspectors Committee (SLIC) looks at undeclared work from the occupational health and safety angle; the Expert Committee on the Posting of Workers deals with undeclared work in relation to circumventing the rules on posting of workers; the Employment Committee (EMCO) discusses the impact of employment policy on undeclared work; the Administrative Commission for social security coordination is looking at error and fraud in the framework of social security coordination. On tax issues, the Committee on administrative cooperation in taxation has put in place legal and practical instruments which allow the exchange of information between Member States when instances of possible cross-border undeclared work are identified. For more information see also the Mapping table in Annex IV.

These working groups would continue their work, looking at aspects of undeclared work from their specific angle. There would be no comprehensive approach to undeclared work.

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<sup>46</sup> See Summary minutes of the meeting of Directors General for Industrial Relations on 25 May 2012 <http://ec.europa.eu/social/BlobServlet?docId=9297&langId=en> and Senior Labour Inspectors' Committee opinion from 30 October 2012 <https://circabc.europa.eu/faces/jsp/extension/wai/navigation/container.jsp>



Without the establishment of EU level cooperation, there would be no pooling of experience and no forum of persons dealing directly with undeclared work to address the issues regarding all pillars of undeclared work.

### **3.6. Does the EU have the right to act and is the EU added value evident?**

#### *3.6.1. The EU's right to act*

Preventing and deterring undeclared work contributes to a better enforcement of EU and national law, especially in the areas of employment, labour law, health and safety and coordination of social security. Fighting undeclared work related to cross-border mobility is essential to maintain the credibility of the fundamental right to free movement.

It would contribute to the creation of formal jobs, increase the quality of working conditions, and help to increase inclusion to the labour market and overall social inclusion.

The EU has the right to act in the field of undeclared work based on the Social Policy articles in the TFEU. In particular, **Article 151 TFEU** stipulates that the Union and the Member States "shall have as their objectives the promotion of employment, improved living and working conditions, [...] proper social protection, [...] with the view to lasting high employment and the combating of social exclusion." In doing so "the Union and the Member States shall implement measures which take into account of the diverse forms of national practices, in particular in the field of contractual relations, and the need to maintain the competitiveness of the Union's economy." **Article 153 TFEU** lists the fields where the Union shall support and complement the activities of the Member States, which include working conditions, integration of persons excluded from the labour market and combating social exclusion. Article 153 (2) (a) that "the European Parliament and the Council may adopt measures designed to encourage cooperation between Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences, excluding any harmonisation of the laws and regulations of the Member States."

The legal basis for this initiative will be Article 153 (2) (a). It allows for the adoption of an EU initiative with the main objective to promote employment and improve working conditions by supporting Member States efforts in the prevention and deterrence of undeclared work. It will allow for the cooperation between all Member States by exchanging information and best practices, developing expertise and more operational coordination of actions involving the enforcement authorities covering the pillars of undeclared work, in particular: labour, social and tax.

#### *3.6.2. Added value of EU action*

The main responsibility when tackling undeclared work lies with the Member States. Therefore, the question is whether EU action can add significant value over and above what Member States would be able to achieve on their own. On a general level, EU level support can help to reduce the serious budgetary implications caused by undeclared work as well as to increase formal job creation and social inclusion.

The challenges faced, such as detection of undeclared work and lack of cooperation between different enforcement authorities, are common to all Member States. Action

at the EU level has the potential to improve effectiveness and efficiency of Member States' actions when tackling undeclared work. The EU can support exchange of good practices as well as more advanced coordination of actions.

In addition, the EU dimension lies in the cross-border aspects of distortion and destabilisation linked to high levels of undeclared work, the benefits of mutual learning and the need for cooperation across borders to fight some forms of undeclared work.

The EU action would support the efforts of Member States by enhancing cooperation in the deterrence and prevention of undeclared work at EU level, making it more effective and efficient and thereby adding value to Member States' actions. As national enforcement authorities play a key role in the prevention and deterrence of undeclared work, it seems to be the most appropriate level to tackle the challenges linked to undeclared work.

#### **4. OBJECTIVES**

The general policy objective is to support Member States in their efforts to prevent and deter undeclared work.

Within this general framework, the specific objectives of this initiative are:

- (1) To improve cooperation between Member States different enforcement authorities at EU level to prevent and deter undeclared work more efficiently and effectively.
- (2) To improve Member States' different enforcement authorities technical capacity to tackle cross-border aspects of undeclared work.
- (3) To increase Member States' awareness on the urgency of the problem and to encourage Member States to step up their efforts to fight against undeclared work.

On the operational level the initiative aims at the following:

- (1) Providing a forum for experts of different Member States to make contacts, share information and best practices. The deliverables which the forum would strive to achieve could be:
  - creation of a "knowledge bank" of different practices used in order to prevent and/or deter undeclared work;
  - development of guidelines for inspectors or of guides of good practice e.g. on how to conduct inspections to detect undeclared work;
  - adoption of common principles and/or standards for inspections.

Setting up a knowledge bank, containing information on different measures as well as on how undeclared work is defined in different Member States, will be the first practical step of cooperation. It will improve the knowledge of the phenomenon and develop better understanding about how undeclared work is tackled, and who the main actors are, in other Member States. Having an overview of what has been put in place in Member States would provide a basis for agreeing on common definitions and to develop common guidelines and or common principles and standards for



inspections. Such guidelines would also help in technical cooperation to tackle cross-border forms as they imply that some basic rules/procedures are established as standard in all Member States. These actions would contribute to improved cooperation between Member States different enforcement authorities. The pooling of information and the visibly increased attention to the topic is expected to also contribute to a higher awareness of the urgency of actions targeted to tackle undeclared work.

(2) Providing a framework to develop expertise with the possible objective of :

- adopting a common framework and carrying out joint trainings;
- establishing a research facility for conducting evaluations of different policy measures identified in the "knowledge bank".

Joint trainings would provide the ground for a substantial practical cooperation, i.e. contribute to the second specific objective. The effectiveness of measures identified in the "knowledge bank" should be evaluated thereby developing expertise in the Member States on what actually works and what not. In addition, transferability of different measures could also be evaluated. These evaluations would increase knowledge, thus contributing directly to the first specific objective.

(3) Developing a mechanism for a more operational coordination of actions. The functioning of the mechanism could lead to:

- identifying solutions for data sharing;
- adopting regional or EU wide strategies;
- organising EU wide awareness raising campaigns;
- organising peer reviews to follow Member States progress when fighting undeclared work and
- agreeing on a common framework for joint operations for inspections and exchange of staff.

These are rather ambitious deliverables, which require some preparatory work. Identifying solutions for data sharing would help liaise better with other Member States. Agreeing on joint inspections would help Member States to tackle the cross-border aspects of undeclared work. These deliverables would develop forms of technical cooperation, which contribute to the second specific objective, i.e. increased technical capacity for cross-border cooperation. The adoption of (regional and EU wide) strategies, organisation peer reviews and also awareness campaigns, are expected to contribute mainly to the objectives of better cooperation and increasing awareness of the urgency of the action.

## **5. POLICY OPTIONS**

### **5.1. Policy option 1: No new action**

No action would be taken beyond the existing working groups and initiatives (see description under Baseline scenario and the table in Annex III).

## **5.2. Policy option 2: Better coordination of the work of the different existing working groups/committees at EU level**

There are several EU level groups whose work is somehow linked to undeclared work (see Chapter 3.5 and Annex III). DG EMPL would be in charge of the coordination of these groups. The coordination would include the following activities: establishing contacts with chairs of the groups in order to have an overview over their work plans; negotiate the inclusion of topics linked to undeclared work on the agenda of the different groups; or coordinate common topics discussed by several groups (from different angle, depending on the speciality of the group) and taking part in the meetings of different groups. The coordinator would have to provide regular overviews over topics discussed in the groups.

For this coordination two officials should be appointed, one on higher level, in order to guarantee cooperation and commitment from all sides and the second official to support the work of the coordinator.

## **5.3. Establishment of a European Platform to enhance EU cooperation in the prevention and deterrence of undeclared work**

Setting up a European Platform is supported by various stakeholders including the social partners. They agree that cooperation between and coordination of different enforcement agencies, such as labour inspectorates, social security and tax authorities, in order to fight undeclared work<sup>47</sup> should be improved and that the European Union is well placed to take initiative. The question remains how such a platform should be organised and what its assignment should be?

The analysis indicates that such a platform needs to take into account different institutional structures of the fight against undeclared work in the Member States. Some Member States have established dedicated structures while in other Member States the main responsibility is with the labour inspectorate, the tax authority or social security authority with varying degrees of overall coordination. While a more integrated approach is in general considered more adequate, such integration should not be considered a condition for participation. In that sense the new platform should be neutral in respect to the institutional background of the delegates from the Member States. Also the question whether the platform should work exclusively on forms of undeclared work having a cross-border dimension or choose a broader approach was resolved early on: limiting the approach to cross-border phenomena would reduce the possibilities of mutual learning to a great extent and the objective of increasing awareness about the problem would be very much limited.

The following ways of setting up a platform are considered:

### **5.3.1. Policy option 3: Individual body with voluntary membership**

The platform would be set up by the Commission. It would comprise of representatives of different enforcement bodies of the Member States and other stakeholders, such as social partners.

<sup>47</sup>

See the 2007 Commission Communication "Outcome of the Public Consultation on Commission's Green Paper "Modernising labour law to meet the challenges of the 21<sup>st</sup> century""(COM (2007) 627) <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52007DC0627:EN:NOT>; European Parliament Resolution 2008/2035(INI) on stepping up the fight against undeclared work, OJ C 9 E, 15.1.2010 p 1

Members and alternate members of the platform should be selected and appointed by the Member States. They should represent the national enforcement authorities who are leading and/or participating in the prevention and/or fight against undeclared work in that Member State. When appointing their member(s) to the platform, Member States should also provide the Commission with the list of other authorities, which are involved in the fight against undeclared work. The member appointed by the Member State should act as a single point of contact which should have the necessary authority to liaise with national authorities dealing with the multifaceted aspects of undeclared work. The single point of contact would be responsible for the coordination and inclusion of these other authorities to the work of the Platform. Other authorities could be invited to the meetings of the Platform, in particular, when issues discussed involve their field of competence.

Once established, the Platform would adopt the rules of procedure, which would include the decision-making arrangements of the Platform. Furthermore, the Platform would have to adopt work programmes, which would establish its tasks in detail. Tasks could include: developing the knowledge on undeclared work by developing common concepts; adopt guidelines for inspectors or handbooks of good practices to tackle undeclared work and develop forms of cooperation to strengthen the technical capacity to tackle cross-border aspects of undeclared work. The Platform would prepare regular reports which would include an overview of its activities and the results of its work. In order to assist its work the Platform could decide to establish working groups to examine issues specified in the work programme of the Platform.

The platform would be chaired by the Commission and it would have a secretariat.

The human resources needed by the Commission are 2,5 Commission full-time employees. The Commission would be responsible for the overall coordination and the management of the platform.

While participation as such is voluntary, once a Member State agrees to engage itself, participation in the activities of the platform would become mandatory.

The platform with voluntary membership could be set up by a Council Recommendation based on Article 292 TFEU as the legal basis referred to in Chapter 3.6.1 allows for the establishment of the Platform with mandatory member ship.

#### 5.3.2. *Policy option 4: Individual body with mandatory membership*

The platform would be established with the decision of the European Parliament and the Council on the basis of a proposal of the Commission. Therefore, it could not be considered as a Commission expert group and consequently, the framework for Commission expert groups<sup>48</sup> does not apply. Instead, the rules of the functioning of the Platform would be defined in the decision establishing the platform.

Members and alternate members of the platform should be selected and appointed by the Member States. They should represent the national enforcement authorities who are leading and/or participating in the prevention and/or fight against undeclared work in that Member State. When appointing their member(s) to the platform, Member States should also provide the Commission with the list of other authorities, which are involved in the fight against undeclared work. The member appointed by

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the Member State should act as a single point of contact which should have the necessary authority to liaise with national authorities dealing with the multifaceted aspects of undeclared work. The single point of contact would be responsible for the coordination and inclusion of these other authorities to the work of the Platform. Other authorities could be invited to the meetings of the Platform, in particular, when issues discussed involve their field of competence.

Once established, the Platform would adopt the rules of procedure, which would include the decision-making arrangements of the Platform. Furthermore, the Platform would have to adopt work programmes, which would establish its tasks in detail. Tasks could include: developing the knowledge on undeclared work by developing common concepts; adopt guidelines for inspectors or handbooks of good practices to tackle undeclared work and develop forms of cooperation to strengthen the technical capacity to tackle cross-border aspects of undeclared work. The Platform would prepare regular reports, which would include an overview of its activities and the results of its work. In order to assist its work the Platform could decide to establish working groups to examine issues specified in the work programme of the Platform.

The platform would be coordinated and chaired by the Commission and it would have a secretariat which would, prepare the meetings, the work programmes of the Platform and its reports.

The human resources needed by the Commission are 2,5 Commission full-time employees. The Commission would be responsible for the overall coordination and management of the platform.

Appropriate information and cooperation links would have to be established between the platform and other groups already in place at EU level working in areas which are adjacent or overlapping to undeclared work (EMCO, SPC, SLIC, Expert Committee on posting of workers, Administrative Commission for the Coordination of the Social Security Schemes). However their remit would not be changed.

The platform with the mandatory membership could be created by the Decision of the European Parliament and the Council based on Article 153 (2) (a).

### 5.3.3. *Policy option 5: Attaching the platform to an existing body*

The platform could be set up as a subgroup to an existing body or become an integrated element of an existing body. In discussing this option, it was found that an attachment to a specific expert group, such as SLIC, would mean to link the fight against undeclared work to a specific theme, in this case i.e. health and safety at work. Even if tax and social security experts etc. were invited, this would give those topics which are linked to the thematic focus of the main group a certain advantage. Considering the existing institutional diversity in the fight against undeclared work, this was not considered a good solution. Therefore, it needed to be a body which is thematically equally competent and attractive to representatives fighting undeclared work but with different institutional affiliation. Such a neutral hosting structure could be provided by the European Foundation for the Improvement of Living and Working Conditions (EUROFOUND) in Dublin.<sup>49</sup>

<sup>49</sup>

Eurofound is a tripartite European Union Agency. Its role is to provide knowledge in policy areas such as living conditions and quality of life, working conditions, industrial relations and social dialogue,

To make Eurofound responsible for coordinating action to prevent and fight undeclared work in general would mean going beyond the research focused approach of this Agency. This would require a change in the founding regulation, so to give Eurofound a new mandate.

Furthermore, under this option the exact design of the platform would be delegated to Eurofound, which is a decentralised agency governed on a tripartite basis, and it would no longer be under the direct control of the Commission. Therefore the design is difficult to predict. However, for the purpose of an analysis certain assumptions to develop a plausible scenario are necessary.

Eurofound operates with contact points in the Member States, these would continue to contribute to the analysis of the phenomenon. If the Eurofound Governing Board so decides a new undeclared work observatory could be created and also a network of contact points representing national enforcement bodies, could be put in place. However, tasks of these contact points would be limited to providing information to the observatory regarding the phenomenon in the Member States. Also in this case this will probably involve the work of two to three employees of the Eurofound.

#### 5.4. Options discarded

An option to create a European Union decentralised agency responsible for enforcement of EU law and fight against undeclared work was considered.

In the past some Members of the European Parliament have called for the establishment of a European Agency for cross-border matters concerning the abuse of employment protection rules and undeclared work<sup>50</sup>. Also the European trade unions<sup>51</sup> have suggested the establishment of a "Social Europol – Sociopol", an agency to coordinate cooperation between national labour inspectorates and being responsible for the correct enforcement of EU law and fight against undeclared work<sup>52</sup>.

The 2012 Common Approach of European Parliament, Council and Commission<sup>53</sup> on decentralised agencies has discouraged the creation of new agencies and urged existing agencies to streamline their activities, improve their performance and develop synergies, including by merger. In the present political and economic context and taking into account the administration costs for establishing a new agency, the three institutions urge decentralised agencies to pursue their efforts to

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labour market, employment and restructuring as well as in related social policy topics. A key task of the Agency involves monitoring developments in the Member States over time. Founding act: Regulation (EEC) No 1365/75 of the Council of 26 May 1975 on the creation of a European Foundation for the improvement of living and working conditions

<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:01975R1365-20050804:EN:NOT>

<sup>50</sup> Draft report on effective labour inspections as a strategy to improve working conditions in Europe (2013/2112(INI)), Committee on Employment and Social Affairs  
<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONGML%2bCOMPARL%2bPE-516.942%2b01%2bDOC%2bPDF%2bV0%2f%2fEN>

<sup>51</sup> EFBWW "Concrete proposals on the prevention, detection and sanctioning of illicit employment in the construction industry" <http://www.bwint.org/pdfs/illicit%20employment%2024-02-10%20FINAL.pdf>

<sup>52</sup> See also European Parliament draft Report on effective labour inspections as a strategy to improve working conditions in Europe 2013/2112(INI)

<sup>53</sup> [http://europa.eu/agencies/documents/joint\\_statement\\_and\\_common\\_approach\\_2012\\_en.pdf](http://europa.eu/agencies/documents/joint_statement_and_common_approach_2012_en.pdf)



streamline the activities of existing agencies and increase their performance. Instead of creating new agencies, synergies should be created between the existing ones.

Given the thematic proximity of Eurofound on the one hand and – although to a lesser extent – EU-OSHA on the other, it seems politically unrealistic to propose the creation of a new agency to deal with undeclared work. Under the present circumstances, option 5, i.e. entrusting Eurofound with this task will be preferable over the creation of a new agency, as Eurofound – being a functioning body – is likely to have similar advantages at significantly lower costs than a new body.

Due to the reasons described above, setting up an agency was not considered a suitable option for the time being. However, when the platform has developed into a more stable form of cooperation, this option may at a later stage deserve further examination, especially to support the development of new tools, which could be deemed necessary to fight cross-border fraud and abuses.

This approach is in line with the views collected in the Regioplan study and in line with the principle of proportionality in Article 5 TFEU.

## **6. ANALYSIS OF IMPACTS**

The initiative under discussion concerns governance issues. Overall good governance is expected to have an impact on the social situation and the economic performance. An enhanced cooperation could lead to more effective fight against undeclared work, which would mean that undeclared work could be reduced, some jobs could be transformed into regular employment, whereas in some cases the jobs could be lost. Administrative burden for enforcement authorities as well as for enterprises could be decreased because sharing information and best practices and use of common tools could provide them with more effective ways to conduct inspections in order to detect undeclared work.

However, the incidence chain from the establishment of a platform against undeclared work to reduced undeclared work is rather long. It was impossible to establish a sufficiently direct link between the functioning of a platform, the reduction of undeclared work and economic performance or social wellbeing. While such chains are always very difficult to establish, the difficult measurability of undeclared work adds another layer of complication. Therefore, in the course of the assessment it was found that it was not realistic to assess the social or economic impact per se.

What was considered possible was to answer the question to what extent the different options will achieve the specific objectives set. Furthermore, the costs directly linked to the establishment of such a platform could also be identified and are described below. Also the objectives were defined in such a way as to support socio-economic wellbeing. In that sense the most effective and economic achievement of the objectives can also be considered as the best alternative from a socio-economic perspective.

In analysing the different options, no environmental impacts have been identified. Therefore this document does not consider environmental impacts as a criterion to differentiate between the options.

## **6.1. Option 1: No new action (Baseline scenario)**

### *6.1.1. Awareness of the urgency of the problem and stepping up efforts to fight undeclared work*

The Commission has highlighted the problems linked to undeclared work and all Member States have undertaken reforms in that area in the recent past. However, from estimations on the size of undeclared work (Annex II, Table 5) it can be concluded that in some Member States the activities undertaken are far less effective than in others. This might be linked to a lack of experience, but could also be due to a lack of serious effort, taking into account the short-term costs of seriously fighting undeclared work.

The status quo suggests to these Member States that although the Commission has identified the problem, it does not really intervene on the subject, which might be equalised with not being serious about tackling the phenomenon.

### *6.1.2. Contribution to better cooperation between different enforcement authorities*

The EU level will not provide the infrastructure to address undeclared work in an integrated way. Instead different bodies will continue to work in a segmented way on the problem. The only forum in which integrated approaches could be developed are mutual learning seminars and specific projects. However, they are purely informal and not only voluntary but also regularly limited to a small number of Member States. A mid- to long-term follow-up and discussion amongst peers is not facilitated by these structures, thus not helping a continuous cooperation between enforcement bodies and the building up of knowledge and mutual trust.

### *6.1.3. Technical capacity to address cross-border aspects of undeclared work*

The EU will not help Member States to address cross-border aspects of undeclared work. Instead this will need to continue on a bilateral basis.

### *6.1.4. Costs*

Per definition this option does not imply any costs.

### *6.1.5. Overall assessment*

Keeping the status quo suggests that the Commission has identified the seriousness of the problem, but does not really intervene on the subject, which could be equalised with not being serious about it.

In addition, the operational objectives regarding establishing a forum of experts and a framework to develop expertise as well as developing a mechanism for a more operational coordination of actions will not be achieved.

This assessment is confirmed by the responses to the questionnaire from Regioplan to different stakeholders, by Social Partners' responses to the consultation and also by Member States consulted in the framework of consultations with stakeholders.

## **6.2. Option 2: Better coordination of the different existing working groups/committees at EU level**

### *6.2.1. Awareness of the urgency of the problem and stepping up efforts to fight undeclared work*

None of the existing bodies has as its main tasks to address undeclared work. Whether and how undeclared work will feature on their work programme/agenda will depend on issues which are not under the control of people actually working on undeclared work.

There could be some positive impact. If the Commission representatives manage to bring undeclared work on the agenda of different working groups, awareness of the problem might increase. However such coordination – unless arranged on a very high level, as to attract visibility – does not give the impression of a strong prioritisation by the Commission.

### *6.2.2. Contribution to better cooperation between different enforcement authorities*

The dissemination of information across working groups will exclusively depend on the selected Commission officials. The experts from different areas (such as tax authorities and labour inspectorates) will not really meet. Suggestions developed at the European level are not likely to adequately take into account the multidimensional aspects of undeclared work.

### *6.2.3. Technical capacity to address cross-border aspects of undeclared work*

Different problematic aspects could be discussed in one or more of the working groups. However, these would be one-time discussions. Although the results of these discussions could be distributed to different fora, the approach would remain fragmented, piecemeal and without any serious follow-up. Therefore this option does not provide substantial improvements in this respect.

### *6.2.4. Costs*

As described before, this option implies the appointment of a so called 'task force' or similar structure. A high ranking official (senior management level) would most likely be needed to be able to have an influence on the respective agendas of different working groups. Such official would need to be supported by some staff.

However, given the nature of the proposal, no additional costs for Member States' officials would be involved. Only in cases where groups meet significantly longer because of additional agenda points, this might imply slightly higher costs (in terms of travel but also absorbing working time of those officials).

### *6.2.5. Overall Assessment*

Overall a very limited impact is to be expected. The problems related to visibility and hesitation to prioritise might be addressed to some extent because of the high level political support. The objectives of interdisciplinary and cross-border learning and coordination will hardly be achieved. It will be very difficult to get a holistic picture of the problem.



The results of the social partner consultation, showed that the most of the employers were of the opinion that the EU level cooperation could be carried out by coordinating better already existing groups.

### **6.3. Option 3: Individual body with voluntary membership**

#### *6.3.1. Awareness of the urgency of the problem and stepping up efforts to fight undeclared work*

The establishment of the Platform should not modify the status of other working groups or committees or introduce a hierarchy. However, it can be assumed that once the Platform is established, such groups would tend to shift the discussions regarding more specific issues of undeclared work to the Platform. Overlaps can be avoided by coordination between Chairs of different expert committees and groups. However, it can happen that other groups might decide to discuss matters related to undeclared work. In this case, these discussions should be communicated between the Chairs.

Assuming a voluntary membership implies that Member States will have to take a decision whether to participate in the group or not. Thus participation becomes a signal of commitment to address the problem. However, as leading authorities on undeclared work from the Member States' administrations will meet, this will raise their profile and increase awareness of the urgency of the action in the national context.

Definitely, setting up a group as such will not be enough. It will need to be supported by accompanying activities (e.g. in the form of press releases). However, it could be seen as a good starting point and it is in line with the expectations of the stakeholders.

#### *6.3.2. Contribution to better cooperation between different enforcement authorities*

A voluntary membership will have the advantage that with joining the group the Member States express explicit commitment to the common action, so a more profound cooperation could be expected.

Once operational, we could expect closer cooperation amongst its members. These will most likely be those Member States which already undertake efforts and which already have reasonably good connections among each other such as the members of the CIBELES or ICENEW network. Other Member States might not feel encouraged to participate.

The question of how many Member States actually will participate, is difficult to answer. In the recent past all Member States have undertaken at least some efforts to fight undeclared work at national level. So also in the light of peer pressure, it might be rather difficult for a Member State to abstain from participation in the group, even though a Member State so far has not been very active in international cooperation. On the other hand, although difficult, it might still be easier to abstain than to risk a strong criticism from other Member States.

In that sense a voluntary participation which misses out countries, is a wrong signal. Even those Member States where undeclared work is not considered to be a critical problem in domestic terms, will need to be involved and encouraged to participate in international cooperation, given their role as sources of mobile workforce.

Such group would allow for officials from the participating Member States to discuss on a regular basis and in a structured way the relevant topics. This should help to build up trust between involved organisations and to better understand how measures to tackle undeclared work function in other countries. Understanding the context within which an activity takes place is thereby a precondition for mutual learning.

Furthermore, in Member States where the topic is not dealt in an integrated way, the members of the group would have to collect information from different national bodies or agencies dealing in a partial way with undeclared work (social security, tax, labour). Therefore the setting up of the EU platform would have an indirect effect of contributing to greater coordination internally to each Member State.

#### 6.3.3. *Technical capacity to address cross-border aspects of undeclared work*

The group will provide the participating Member States with a platform to conclude specific cross-border arrangements. It might even manage to develop agreements which bind all members of the group. However, the voluntary nature of participation might bring about the situation where the Member States participating do not have their counterparts (i.e. Member States where their workers most often go to work or from where workers mostly come to work) taking part in the Platform and therefore they could not fully benefit from this cooperation to solve cross-border problems and as a result cooperation would not be as effective as one could wish for. In addition, there is a risk that if only a very small number of Member States participates in the Platform, the decisions made by the group will not be regarded as European decisions as they do not have the support of all of the Member States.

#### 6.3.4. *Costs*

As indicated, the group will need to have a secretariat, which is to be provided by the European Commission. Realistically it would involve 2,5 full time employees. However, in practice work might be distributed amongst more colleagues. Taking into account the specificities of the subject a mix of competences, with experiences in the areas of legislation, economics and administration will be useful.

Next to the costs for the secretariat to the platform, the Commission would have to reimburse the travel costs of the nominated experts, The Member States would – indirectly – pay for the experts by sending them to take part in the meetings of the Platform and allowing them to prepare for these meetings.

Depending on the national structure, e.g. level of integration and investments already made to deal with undeclared work, and on the agenda of the group meetings, the time necessary to prepare for a meeting might differ widely, from a few hours to a week or even more.

There will be additional operational costs related to different tasks, which the Platform will undertake. The tasks will be identified in work programmes of the Platform. These costs will not exceed 2.1 million euro per year.

#### 6.3.5. *Overall Assessment*

The improvements linked to this option depend very much on the question how many Member States will actually decide to participate in this group. Before setting up the group it should be ensured that at least a broad majority of Member States (if not all)

participate. As the Member States have in discussions expressed a preference for this option and are obliged to show activity against undeclared work, it is realistic to assume that participation would be high even in a voluntary group. However, the uncertainty whether all Member States would participate or not, remains and as such presents a shortcoming of this option.

If – in a very positive scenario – all Member States participate, there is only one difference as compared to a mandatory membership: Member States will have decided to participate voluntarily, i.e. they have committed themselves.

This option would allow for the achievement of all operational objectives, taking into account the principle, that the more Member States participate, the better in order to achieve a comprehensive approach, which would be supported by and followed in all Member States (i.e. common awareness raising campaigns, common principles for inspections etc.).

However, with the voluntary approach, the uncertainty whether all Member States would participate or not, presents a shortcoming of this option.

The results of the social partner consultation showed that most of the the trade unions favoured the establishment of an independent body. The majority of social partners underlined that participation of this EU level cooperation should be mandatory to all Member States. Some employers representatives, however, favoured voluntary membership. Member States favoured voluntary membership over mandatory one.

#### **6.4. Option 4: Individual body with mandatory membership**

##### **6.4.1. *Awareness of the urgency of the problem and stepping up efforts to fight undeclared work***

As with option 3, the establishment of the Platform should not modify the status of other working groups or committees or introduce a hierarchy. However, it can be assumed that once the Platform is established, such groups would tend to shift the discussions regarding more specific issues of undeclared work to the Platform. Overlaps can be avoided by coordination between Chairs of different expert committees and groups. However, it can happen that other groups might decide to discuss matters related to undeclared work. In this case, these discussions should be communicated between the Chairs.

Assuming a mandatory membership implies that Member States will not have to take a decision whether to participate, but it will from the outset be ensured that all Member States participate. As leading authorities on undeclared work from the Member States' administrations will meet, this will raise their profile and increase awareness of the urgency of the action in the national context.

Definitely, setting up a group as such will not be enough. It will need to be supported by accompanying activities (e.g. in the form of press releases). However, it could be seen as a good starting point and it is in line with the expectations of social partners.

##### **6.4.2. *Contribution to better cooperation between different enforcement authorities***

Such a group would allow officials from all Member States to cooperate on a regular basis and in a structured way with each other. This should help to build up trust between the involved organisations.

Furthermore, in Member States where the topic is not dealt in an integrated way, the members of the group will have to collect information from different national points. Doing that also increases the awareness about links between different aspects at national level.

While setting up a group with mandatory membership would be more difficult, per definition all Member States would be involved. Such a group could add value to the work of relevant Committees in the European semester: it would allow the Platform to discuss ways to further support the practical implementation of recommendations to fight or prevent undeclared work.

#### *6.4.3. Technical capacity to address cross-border aspects of undeclared work*

This organisation provides the possibility to conclude bilateral, multilateral as well as EU-level agreements. As all Member States are participating, it would allow for developing expertise as well as engaging in operational actions equally in all Member States. If there was reluctance in Member States to engage in these activities, progress with actual cross-border cooperation could be relatively slow, meaning that bi- and multilateral agreements and the soft forms of cooperation will prevail for some time.

#### *6.4.4. Costs*

No difference to option 3. This statement is based on the assumption that no or only very few Member States will opt-out under option 3 and the further assumption that Member States are willing to engage in more operational forms of coordination and development of expertise.

#### *6.4.5. Overall Assessment*

The strength of this option lies in it including all Member States from the start. Since it is not a choice to join the Platform, some Member States could be less committed to engage in more operational coordination of actions or developing expertise. They might want to limit the cooperation to the exchange of information and best practices without proceeding to substantial cross-border cooperation. Finding a consensus might be more difficult than with voluntary membership.

Provided that Member States have no other choice than to participate it might reduce the motivation of some Member States to cooperate. However, it will allow at least for the initiation of a European debate on undeclared work among the Member States. The Platform would evolve progressively from a forum for exchange of information and best practices, to more elaborate forms of cooperation as mutual trust and experience build up. Ultimately, the Platform should be able to undertake joint trainings and exchange of staff, and coordinate operational actions, including joint inspections and data sharing.

Regarding the nature of the membership, majority of social partners (the trade unions and most of the sectoral employers' organisations) are of the opinion that participation of this EU level cooperation should be mandatory to all Member States. BusinessEurope, HOTREC and Geopa-Copa favoured voluntary participation of the Member States. Also the Regioplan study assessed the possibility for a voluntary membership, but suggested in the end that all Member States should be members from the beginning.

## **6.5. Option 5: Integrating the fight against undeclared work into Eurofound**

### *6.5.1. Awareness of the urgency of the problem and stepping up efforts to fight undeclared work*

Eurofound has built up a reputation of applied research on work-related issues, including undeclared work. When publishing surveys, conducting studies etc. Eurofound is already a reference point and with increased attention on the topic this can be expected to be strengthened further.

However, charging Eurofound with that task also means to 'outsource' this task to a mainly technical body, while a strong political support is still needed, so to ensure the necessary prioritisation in the Member States. While awareness in the sense of providing a working definition might evolve with such a construction, political awareness which results in political prioritisation is not likely to benefit from such a decision.

### *6.5.2. Contribution to better cooperation between different enforcement authorities*

As a consequence of the regular monitoring of reform processes including on the fight against undeclared work, Eurofound is familiar with the subject and already contributing to the dissemination of knowledge in the area. The expertise of Eurofound would probably be beyond question. However, to ensure actual cooperation between Member States would require Eurofound to adopt new forms of operation. The established forms mainly foresee contact points in the Member States that contribute to the analysis of the phenomenon.

This option would allow the 'pooling of information', the creation of a "knowledge bank" and conducting evaluations on different policy measures identified therein.

### *6.5.3. Technical capacity to address cross-border aspects of undeclared work*

Improving technical capacity is not in the remit of Eurofound, which is mostly conducting research. Provided that the development of technical capacity is not yet a purely technical process, but will involve some political decisions, Eurofound can be expected not to be well placed.

### *6.5.4. Costs*

Eurofound would need to task some employees to address this new field. However, given the ongoing reform it is difficult to predict whether this staff would become available from an internal re-organisation or would require additional resources.

### *6.5.5. Overall Assessment*

As mentioned above, the exact design of the platform would be delegated to Eurofound and be decided by its Management Board, therefore it is difficult to predict how the platform would exactly function. However, as Eurofound's tasks are limited to research and development of projects to provide knowledge and support to EU policies, it can be expected that this might become the limits for the activities of the Platform. Its activities would be mainly related to exchange of best practices and possibly also information and contributing to some aspects of development of expertise. Given the uncertainties linked to this option, Social Partners did not take a clear position. Some Social Partners (mainly employers' organisations) identified Eurofound as a potential place to host such a platform. Involvement of Eurofound in

the work of the Platform, however, is considered an essential element by the majority of Social Partners, which favour the set-up of a dedicated new body.

## 7. COMPARING THE OPTIONS

**Table 4: Comparison table**

| Option                          | 1. No Action | 2. Coordination of different EU working groups/committees | 3. Voluntary platform  | 4. Mandatory platform  | 5. Eurofound             |
|---------------------------------|--------------|---|--|--|--------------------------|
| Cooperation                     | 0            | 0   | + / ++   | ++   | +                        |
| Technical capacity              | 0            | +   | + / ++   | ++   | 0                        |
| Awareness                       | 0            | +   | + / ++   | ++   | +                        |
| Effectiveness                   | 0            | +   | + / ++   | ++   | +                        |
| Yearly costs for the Commission | 0            | 330 000 EUR (staff)                                       | Up to 600 000 EUR (staff + meetings) + up to 2,1 million EUR (operational costs) | Up to 600 000 EUR (staff + meetings) + up to 2,1 million EUR (operational costs) | Min. 330 000 EUR (staff) |
| Cost-Effectiveness              | 0            | +   | + / ++   | ++   | +                        |

Based on the analysis of impacts in Chapter 6, this comparison table was comprised. The table should be read as follows: 0 – no change compared to the current situation, + slight positive change compared to the current situation, ++ substantial positive change compared to the current situation.

While Option 1 is the baseline, meaning that there are no significant changes introduced, options 2 and 5 bring about some, but very limited, improvements at very low costs. Option 2 would be less costly as there would be no need to cover travel expenses. However, this comes at the cost of significantly lower effectiveness. Similarly option 1, which does not involve any additional costs. The costs for option 5 are very difficult to estimate, depending on whether Eurofound would obtain additional resources or would have to re-allocate existing funds to the new task.



Options 3 and 4 are considered to be most expensive however also most effective. Costs of option 4 are similar to those of Option 3<sup>54</sup> covering the staff needed in the Commission as well as organising the work and the meetings of the Platform<sup>55</sup> and carrying out the tasks of the Platform.

The success of the voluntary platform as described in option 3, depends very much on the willingness of Member States to become a member in the first place. Thus, there is an additional element of uncertainty as compared to option 4. The clear advantage of option 4 as compared to option 3 is the mandatory participation. It is considered to be a necessary element of the Platform, because cooperation to tackle cross-border aspects of undeclared work, which is one of the essential objectives of the initiative, could not be fully achieved if some Member States were in (countries with high priority in dealing with such aspects of undeclared work, mostly immigration countries) and others out. Even if in case of mandatory participation, there is a risk that some Member States would not fully commit themselves to the activities of the Platform. At the very least the Platform would allow for the initiation of a European debate on undeclared work. The Platform would evolve progressively from a forum for exchange of information and best practices to more elaborate forms of cooperation as mutual trust and experience build up. Ultimately, the Platform should be able to undertake joint trainings and exchange of staff and coordinate operational actions, including joint inspections and data sharing. Moreover, mandatory participation would be more effective as the deliverables of the platform i.e. common guidelines and handbooks, would be based on the support of the majority of the 28 Member States.

Option 4 is considered as overall preferable. It can be realised by adopting a Decision of the European Parliament and the Council based on Art 153 (2) (a) TFEU. This Article allows for the European Parliament and the Council to adopt measures designed to encourage cooperation between the enforcement authorities of the Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences aimed at improving working conditions and social inclusion. This legal basis will allow for mandatory participation and to cover all three pillars of undeclared work.

This option can also be considered proportionate since it encourages cooperation between Member States on the prevention and deterrence of undeclared work without any harmonisation of the laws and regulations of the Member States. Compared to the option of to create an EU decentralised agency which was discarded for political and economic reasons (see section 5.4), the overall costs are considered to be reasonable.

## **8. MONITORING AND EVALUATION**

The Commission would regularly report to the Council and the European Parliament on the work of the Platform. These reports would inform about the detailed work

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<sup>54</sup> The costs have been calculated assuming that all MS take part of the Platform, therefore these reflect maximum costs for Option 3

<sup>55</sup> Action costs related to these as well as other activities of the Platform will be covered by the PROGRESS axis of the EaSI.

programmes of the platform, tasks fulfilled by the Platform and the frequency of meetings.

Work programmes will also define targets (in line with the operational objectives defined in this impact assessment) and criteria on which to assess progress towards their achievement. Output indicators are linked to the operational objectives of the Platform. The examples of indicators that could be envisaged are: adoption of the definition of an EU curriculum on training, number of joint trainings and number of participants in the trainings, the adoption of EU-wide guidelines for inspectors and common principles or standards of inspections regarding undeclared work, the development of tools for cooperation etc. Progress will be assessed in the regular reports.

Four years after the Decision establishing the Platform entered into force it will be evaluated. The evaluation will assess, based on the result indicators, measuring for example the quality of the cooperation with other Member States, regular reporting plus further research, to what extent the Platform has contributed to the achievement of the specific objectives and whether there has been progress towards the general objective. This report will be submitted to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions.



## 9. ANNEXES

### 9.1. Annex I: Summary of the responses to a 1<sup>st</sup> and 2<sup>nd</sup> stage Consultations of Social Partners

A 1<sup>st</sup> stage consultation of social partners was carried out from 4 July 2013 to 4 October 2013. The purpose of the consultation was to obtain their views on the possible direction of European Union action aimed at enhancing cooperation between Member States in the prevention and deterrence of undeclared work.

The Commission received 15 replies from social partners<sup>56</sup>:

- 2 joint replies (TUNED - EUPAE; UNI Europa - EuroCommerce)
- 3 replies from trade unions (CESI, EPSU, ETUC)
- 10 replies from employers' organisations (BusinessEurope, CEEP, CER, CoESS, GEOPA-COPA, Eurociett, FIEC, EFCI, HOTREC, UEAPME)

The replies of the social partners will be analysed question by question.

- 1) Do you consider the description of the problem in this paper correct and sufficient?

Social partners agree that the overall description in the paper is correct.

However, some of them point out that there is no correlation between high taxes/social security contributions and high levels of undeclared work (ETUC, EPSU, TUNED-EUPAE).

Most of them agree that there are links between undeclared work and bogus self-employment and the latter should therefore be included in the problem description and commonly tackled at EU level (EFCI, FIEC, Geopa-Copa, ETUC, EPSU, CESI). CER suggests that also the false trainee, false volunteer, false manager and false representative might be mentioned. Only UNI Europa jointly with EuroCommerce and BusinessEurope are of the opinion that bogus self-employment should not be dealt together with undeclared work as bogus self-employment is a separate phenomenon and it is not undeclared, but wrongly declared activity.

- 2) Do you agree that action at EU level is justified? If so, what should be the main scope and objectives of that action?

All social partners agree that action at EU level is justified.

The main objective of that action should be to enhance cooperation between the responsible national authorities, such as labour inspectorates, social security and tax authorities in particular, by exchanging information and best practices, to fight and deter undeclared work.

- 3) Do you consider that a European platform as delineated above could be an appropriate vehicle for enhancing cooperation between Member States? Can you

<sup>56</sup>

For the acronyms please see the list of social partners' organisations <http://ec.europa.eu/social/BlobServlet?docId=2154&langId=en>

express your preferences as to the options listed under the different building blocks (i.e. membership, scope, tasks and form)?

Social partners mostly agree that a European platform could be an appropriate vehicle for enhancing cooperation between Member States.

Membership and scope. The majority of social partners underline that participation in this EU level cooperation should be mandatory for all Member States and that all relevant bodies should be included and cross-border as well as national issues should be covered (either straight away or later). HOTREC and Geopa-copa expressed the view that the Platform should focus only on cross-border issues. BusinessEurope, HOTREC and Geopa-Copa favor voluntary membership.

Tasks. Many replies stress that this EU level cooperation should be mostly about sharing best practices and mutual learning and develop specific expertise or manage operational cooperation either straight away or later. Some social partners were of the opinion that the platform should not go beyond sharing information and best practices (Geopa-Copa, BusinessEurope).

Form. Most of the employers' representatives are of the opinion that the platform should be established, but there is no need for a separate new structure. Instead, options such as a creation of a subgroup to an already existing group or better coordination of already existing groups, could be considered (FIEC, BusinessEurope, CEEP, UNI Europa - EuroCommerce, HOTREC, Geopa-Copa). Amongst Social Partners who suggested better coordination, some also pointed out that Eurofound could be seen as hosting the platform fighting against undeclared work as the agency has at its disposal relevant data both sectoral and national level (UNI Europa - EuroCommerce) and if needed its scope could be extended (CER).

Most of the trade unions (ETUC, EPSU, CESI) and some employers representatives (UEAPME, EFCI, Eurociett) favoured the establishment of an independent new body. In addition, it was pointed out that if such a new body would be created, its work should be interlinked with the existing groups and committees at EU level to avoid duplication (Eurociett, ETUC, BusinessEurope, UEAPME).

4) Do you think that the objectives could be achieved with already existing groups and committees, if their coordination is improved and/or scope expanded?

Please see responses provided for the previous question regarding the form of the Platform.

5) What role do you see for social partners in this framework?

Regarding Social Partners involvement in the Platform, it was stressed that European cross-sectoral level social partners should be involved in the platform. The sectoral social partners representing the sectors particularly affected, could also be associated (EPSU) as well as social partners at national level (UNI Europa - EuroCommerce)

6) Would you consider negotiating any initiative in this field?

All social partners found that as undeclared work is mainly the responsibility of the public authorities, social partners could not address the issues raised by the consultation through social partners negotiations. Some of them, however, pointed

out that they are expecting a 2<sup>nd</sup> stage consultation (UNI Europa - EuroCommerce, ETUC, EPSU).

A 2<sup>nd</sup> stage consultation of social partners was carried out from 30 January to 13 March 2014. The aim of the consultation was to obtain Social Partners' views on the content of the envisaged initiative on enhancing cooperation between Member States in the prevention and deterrence of undeclared work.

The Commission received 16 replies from social partners:

- 1 joint reply (UNI Europa – EFCI),
- 4 replies from the workers' representatives (ETUC, CESI, CEC, EPSU),
- 11 replies from employers' organisations (BusinessEurope, UEAPME, FIEC, CoESS, CEEMET, Geopa-Copa, CER, CEEP, EuroCommerce, HOTREC, Eurociett).

In general, social partners supported an action at EU level to prevent and deter undeclared work and reiterated their views expressed during the 1<sup>st</sup> stage consultation regarding the objectives, scope, tasks/initiatives, participation and form of the Platform.

Some new elements were provided regarding the objectives and tasks of the Platform.

In general, social partners agreed with the tasks/initiatives listed in the consultation document. Some employers' organisations, however, pointed out that due to differences between national systems, development of common principles/standards for inspections would not be suitable (BusinessEurope, UEAPME, CEEP, HOTREC). CER on the other hand, highlighted that the adoption of common standards for inspections should deserve more importance.

Objectives as listed in the consultation document were welcomed by the social partners. CEC suggested adding the creation of a European unit to fight undeclared work with autonomous inspection powers consisting of labour inspectors sent by the Member States.

New elements were provided regarding social partners' participation in the Platform. In general, they agreed that EU level social partners, both cross-sectoral and in sectors with high incidence of undeclared work should be involved in the work of the Platform as observers. However, ETUC stressed that social partners should be involved as members, instead of observers. CoESS suggested that social partners should be given a permanent observer status. In addition, EFCI-UNI Europa insisted that European social partners should be able to decide autonomously which representatives of the sectors affected by undeclared work will be represented in the Platform. EPSU stated that it should be for EU levels social partners to decide the nature of their involvement. CESI recommended that links could be made between the Platform and the respective European Social Dialogue Committees at cross-sectoral or sectoral level, depending on the topic. HOTREC suggested that social partners could be voluntary members of the Platform.

## 9.2. Annex II: Estimated size of the shadow economy and undeclared work in the EU

As stated in the 2007 Commission communication: "Undeclared work can be measured both directly and indirectly. Indirect methods are based on the comparison of macroeconomic aggregates (such as national accounts, electricity consumption, cash transactions). Indirect (especially monetary) methods often over-estimate the level of undeclared work and say little about its socio-economic characteristics. Direct methods, on the contrary, are based on statistical surveys and have advantages in terms of comparability and detail, but tend to under-report the extent of undeclared work."

Caution has to be taken when using indirect methods as there is wide agreement among experts that they over-estimate undeclared work and measure the whole shadow economy. Data on the size of the shadow economy are based on indirect methods and include undeclared work and underreporting of income<sup>57</sup>. The results of available estimates differ a lot depending on the methodology used, and e.g. in the case of Estonia it varies from 4% (estimate of the national Statistical Office) to around 28% (in Schneider 2012). Therefore the results of the work should be viewed against the policy settings in Member States that could set more or less favourable conditions for the shadow economy.<sup>58</sup> The report "Tax Reforms in EU Member States 2013" , published by the European Commission (DG TAXUD and DG ECFIN), states that the available results only provide a very rough indication. The levels should not be taken as an absolute measure of the phenomenon<sup>59</sup>.

Based on a different method and a different definition, the World Bank's research on informal workers<sup>60</sup> suggests a decline in the total informal economy, the latter including dependent work without a contract, informal self-employment and unpaid family work<sup>61</sup>.

Direct survey based methods of measurement have advantages in terms of comparability and detail, but tend to under-report the extent of undeclared work. Another important source is the European Employment Observatory, which collected national data in 2004 and 2007 for the share of undeclared work. The data is collected using different sources in different Member States<sup>62</sup> and, therefore, the reported national data for undeclared work are not fully comparable across countries. However, they provide a useful alternative. The divergences between indicators

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<sup>57</sup> Europe 2020 Thematic Fiche "Shadow economy and Undeclared Work"  
[http://ec.europa.eu/europe2020/pdf/themes/07\\_shadow\\_economy.pdf](http://ec.europa.eu/europe2020/pdf/themes/07_shadow_economy.pdf)

<sup>58</sup> Europe 2020 Thematic Fiche

<sup>59</sup> See page 77 (section 4.2.4) in European Commission (2013), Tax reforms in EU Member States, Taxation Paper 38 and European Economy 6/2012  
[http://ec.europa.eu/taxation\\_customs/resources/documents/taxation/gen\\_info/economic\\_analysis/tax\\_papers/taxation\\_paper\\_38.pdf](http://ec.europa.eu/taxation_customs/resources/documents/taxation/gen_info/economic_analysis/tax_papers/taxation_paper_38.pdf)  
[http://ec.europa.eu/economy\\_finance/publications/european\\_economy/2012/ee-2012-6\\_en.htm](http://ec.europa.eu/economy_finance/publications/european_economy/2012/ee-2012-6_en.htm)

<sup>60</sup> WB's research working paper 5912 on "Informal Workers across Europe": Michails Hazans, December 2011; for measurement issues see section 2.1 and tables 1 and 2.

<sup>61</sup> Europe 2020 Thematic Fiche

<sup>62</sup> Depending on availability, these figures are based on micro surveys, labour-force survey studies, macro studies or other available information.

stress the need for cautious assessment. The data for undeclared work points to a great deal of heterogeneity with estimates ranging from 2% to 30%. The estimated size of undeclared work is usually significantly lower in the reported national data compared to alternative measures of the shadow economy<sup>63</sup>.

**Table 5: Estimated size of the shadow economy and undeclared work in the EU**

| Country        | Size of shadow economy (in % of GDP), 2012 <sup>1</sup> | Undeclared work (% of GDP), 1992-2006 <sup>2</sup> | Country data or estimations <sup>3</sup> (% of GDP) | World Bank research <sup>4</sup> (% of extended labour force) | Demand of UDW <sup>5</sup> (% of respondents to Eurobarometer Survey 2013) | Supply of UDW <sup>6</sup> (% of respondents to Eurobarometer Survey 2013) | Envelope wages <sup>7</sup> (% of respondents to Eurobarometer Survey 2013) |
|----------------|---|--|---|---|--|--|---|
| Austria        | 7.6   | 1,5 (1995)   | No data   | 19.7  | 14   | 5  | 2   |
| Belgium        | 16.8  | 6-20   | No data   | 10.5  | 15   | 4  | 4   |
| Bulgaria       | 31.9  | 22-30 (2002)                                       | 20 (2011)   | 13.2  | 16   | 5  | 6   |
| Cyprus         | 25.6  | 10 (2007)  | 19.1 (2012)   | 53.0  | 16   | 2  | 2   |
| Croatia        | 29.0  | No data  | No data   | No data   | 17   | 7  | 8   |
| Czech Republic | 16.0  | 9-10 (1998)  | No data   | 12.5  | 19   | 4  | 5   |
| Denmark        | 13.4  | 3 (2005)   | No data   | 11.5  | 23   | 9  | 2   |
| Estonia        | 28.2  | 7-8 (2007)   | 8 (2011)  | 9.8   | 12   | 11   | 5   |
| Finland        | 13.3  | 4.2 (1992)   | No data   | 11.2  | 11   | 3  | 1   |

<sup>63</sup>

|             |      |                 |                 |         |    |    |    |
|-------------|------|-----------------|-----------------|---------|----|----|----|
| France      | 10.8 | 4-6.5<br>(1998) | No data         | 10.3    | 9  | 5  | 1  |
| Germany     | 13.3 | 7 (2007)        | No data         | 11.9    | 7  | 2  | 1  |
| Greece      | 24.0 | 24-30<br>(2007) | 36.3<br>(2012)  | 46.7    | 30 | 3  | 7  |
| Hungary     | 22.5 | 18<br>(1998)    | 16-17<br>(2006) | 9.4     | 11 | 4  | 6  |
| Ireland     | 12.7 | 8 (2002)        | No data         | 33.0    | 10 | 2  | 2  |
| Italy       | 21.6 | 6,4<br>(2006)   | 12.1<br>(2011)  | 22.4    | 12 | 2  | 2  |
| Latvia      | 26.1 | 16-18<br>(2007) | No data         | 8.0     | 28 | 11 | 11 |
| Lithuania   | 28.5 | 15-19<br>(2003) | No data         | 6.4     | 14 | 8  | 6  |
| Luxembourg  | 8.2  | No data         | No data         | No data | 14 | 5  | 3  |
| Malta       | 25.3 | 25<br>(1998)    | No data         | No data | 23 | 1  | 0  |
| Netherlands | 9.5  | 2 (1995)        | No data         | 12.6    | 29 | 11 | 3  |
| Poland      | 24.4 | 12-15<br>(2007) | 4.6<br>(2010)   | 21.6    | 5  | 3  | 5  |
| Portugal    | 19.4 | 15-37<br>(2004) |                 | 22.4    | 10 | 2  | 3  |
| Romania     | 29.1 | 16-21<br>(2007) | 31.4            | 11.8    | 10 | 3  | 7  |
| Slovakia    | 15.5 | 13-15<br>(200)  | No data         | 12.2    | 17 | 5  | 7  |
| Slovenia    | 23.6 | 17<br>(2003)    | No data         | 14.1    | 22 | 7  | 4  |
| Spain       | 19.2 | 12,3<br>(2006)  | 17<br>(2011)    | 18.8    | 8  | 5  | 5  |



|                |      |          |         |      |    |   |   |
|----------------|------|----------|---------|------|----|---|---|
| Sweden         | 14.3 | 5 (2006) | No data | 8.2  | 16 | 7 | 1 |
| United Kingdom | 10.1 | 2 (2000) | No data | 21.7 | 8  | 3 | 2 |

Sources: 1: Schneider, F. (2012), "Size and development of the Shadow Economy from 2003 to 2012: some new facts"<sup>64</sup>,

2: European Commission (2004, 2007), European Employment Observatory Review, Spring 2004 and Spring 2007,

3: EUROFOUND (2012), EU MS and Norway fact sheets on estimates and approaches to measure undeclared work.

4: World Bank's research working paper 5912 on "Informal Workers across Europe": Mihails Hazans, December 2011

5: Eurobarometer 2013, Replies to the question "Have you in the last 12 months paid for any goods or services of which you had a good reason to assume that they included undeclared work (e.g. because there was no invoice or VAT receipt)?"

6: Eurobarometer 2013, Replies to the question "Apart from a regular employment, have you yourself carried out any undeclared paid activities in the last 12 months?"

7: Eurobarometer 2013, Replies to the question "Sometimes employers prefer to pay all or part of the salary or the remuneration (for extra work, overtime hours or the part above a legal minimum) in cash and without declaring it to tax or social security authorities. Has your employer paid you any of your income in the last 12 months this way?"

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<sup>64</sup> This methodology faces strong criticism. One of the weaknesses is said to be that it tends to over-estimate the level of undeclared work and that country comparisons can be difficult. In addition, the Intersecretariat Working Group on National Accounts (ISWGNA) warned against the use of the Schneider's indicator in 2006. The ISWGNA gathers representatives of the five international organisations (European Commission, IMF, OECD, UN, World Bank) that have co-signed the international manual System of National Accounts, 1993.

**9.3. Annex III: Measures taken by Member States to prevent and fight undeclared work and actors involved in these measures**

**Table 6: Focus on three pillars**

| Labour   | Social Security | Tax |
|--|-----------------|-----|
| <b>Bulgaria, Cyprus, Belgium, Spain</b><br><b>Czech Republic, Greece, Austria, Denmark,</b><br><b>France, Ireland, Estonia, Finland,</b><br><b>Hungary, Italy, Germany, Sweden, UK</b><br><b>Luxembourg, Lithuania,</b><br><b>Latvia, Portugal,</b><br><b>Netherlands, Romania,</b><br><b>Poland, Slovakia, Slovenia</b> |                 |     |

As can be seen from the previous table, in most countries labour inspectorates are mostly in the forefront in dealing with the problem of undeclared work. It depends on where Member States' focus lies when fighting undeclared work, whether it is on labour inspection, social security or taxes, one of these three authorities is usually the leading and coordinating authority.

**Table 7: Actors involved in the measures to tackle undeclared work**

| MS        | Leading/Specific/Inter departmental body     | Other actors involved  |
|-----------|--|--|
| <b>AT</b> | Labour Inspectorate and Finance Police       | Ministry of Finance, Ministry of Social Affairs and Consumer Protection, Labour Inspectorate, Ministry of Economy, Family and Youth, Social Insurance Association for Entrepreneurs and Self-Employed Workers, Ministry of Health, Ministry of Interior Affairs, Ministry of Justice, Main Association of Social Insurance Providers, Chamber of Labour, social partners |
| <b>BE</b> | Social Information and Investigation Service | Public service Employment, Labour and Social Dialogue, National Social Security Office, National Employment Office, Ministry of Justice, Ministry of Social Security, social partners  |
| <b>BG</b> | Labour Inspectorate                          | Ministry of Labour and Social policy, National social Security Institute, National Revenue Agency, Social Partners   |

|           |  |   |
|-----------|--|---|
| <b>CY</b> | Labour Inspectorate                                | Ministry of Labour and Social Insurance, Treasury (competent authority for Public Procurement)  |
| <b>CZ</b> | Labour Inspectorate                                | Ministry of Labour and Social Affairs, Employment office, Ministry of the Interior  |
| <b>DE</b> | FKS ( <i>Finanzkontrolle Schwarzarbeit</i> )       | Ministry of Finance, Employment Agency, institutions of social assistance, competent authorities for asylum seekers, Customs, authorities for occupational safety, Police, social partners              |
| <b>DK</b> | Tax authority                                      | Labour Inspectorate, Ministry of Employment, social partners  |
| <b>EE</b> | Tax and Customs Board                              | Ministry of Social Affairs, Labour Inspectorate, Unemployment insurance Fund (Employment office), Ministry of Interior Affairs, Citizenship and Migration Board, Social Partners                        |
| <b>ES</b> | Labour and Social Security Inspectorate            | Ministry of Labour and Immigration, Permanent Observatory of Immigration,   |
| <b>FI</b> | Grey Economy Information Unit                      | Tax Administration, Ministry of Finance, Ministry of Employment and Economy, Police, Customs, Centre for Pensions, Health and Safety Authority, Authorities dealing with debt recovery and bankruptcies |
| <b>FR</b> | National delegation for fight against fraud (DNLF) | Ministry of Labour, Public Employment Service, Prefect of the Department, Police, judges, Office for Immigration and Integration  |
| <b>GR</b> | Labour Inspectorate (SEPE)                         | Ministry of Employment and Social Protection, Social Security fund for Salaried Workers, Special Social Security Inspection Agency, Workforce Employment Organisation (OAED), Ministry of Interior      |
| <b>HU</b> | Labour Inspectorate                                | The Ministry of National Economy, State Secretary for Employment Policy, National Tax and Customs Administration, Police  |
| <b>IE</b> | National Employment Rights Authority (NERA)        | Office of the Revenue Commissioners, Department of Social Protection, Police, MRCI (rights of migrant workers and their families)   |
| <b>LU</b> | Inter-administrative Unit for Combating            | Labour and Mines Inspectorate, Customs and Excise Administration, Police, Anti-Fraud Service  |

|           |  |   |
|-----------|--|---|
|           | Illegal Work (CIALTI)  | within the Administration of Registration and Property, Employment Administration, Occupational Health Division in the Ministry of Health, Membership Service of the Common Social Security Centre, Social Partners   |
| <b>IT</b> | Labour Inspectorate  | Ministry of Labour, Health and Social Policies, National Social Security Institute, Carabinieri (military force responsible for public order), Workplace Accident Insurance Institute, Customs Service, Revenue Agency, social partners.  |
| <b>LT</b> | Labour Inspectorate  | Ministry of Social Security and Labour, Tax Inspectorate, Ministry of Finance, Social Insurance Fund, Ministry of Interior, Police, Financial Crime Investigation Service   |
| <b>LV</b> | Labour Inspectorate  | Revenue Service, Ministry of Finance, Ministry of Welfare, Employment Agency, Social Insurance Agency, Police, Border Guard, Citizenship and Migration Board, Social Partners   |
| <b>MT</b> | Employment and Training Corporation's Law Compliance Unit              | Department of Social Security, Tax Compliance Unit, Vat Department, Police, Immigration.  |
| <b>NL</b> | Social intelligence and Investigation Service (SIOD), Inspectorate SZW | Ministry of Social Affairs and Employment, Ministry of Finance, Public Prosecutor, tax authorities, Social Security Office, Work Councils, Social Partners, local governments   |
| <b>NO</b> | Labour Inspectorate  | Ministry of Finance, Ministry of Labour, Tax Administration, Social Partners  |
| <b>PL</b> | Labour Inspectorate  | Ministry of Labour and Social Policy, Ministry of Finance, Social Security Institution  |
| <b>PT</b> | Authority for Working Conditions                                       | Ministry of Labour and Social Solidarity, Tax General-Directorate (DGCI), Public Prosecutor   |
| <b>RO</b> | Labour Inspectorate  | Ministry of Labour, Ministry of Finance, Financial Guard, Ministry of Administration and Interior, Builders' social fund, Office for Pensions and Other Forms of Social Security, Institute for Scientific Research in the Field of Work and Social Protection, Social Partners |
| <b>SE</b> | Tax Agency   | Ministry of Finance, Working Environment Authority, National council for Crime Prevention,  |

|           |                     |  |
|-----------|---------------------|--|
|           |                     | social partners  |
| <b>SK</b> | Labour Inspectorate | Ministry of Labour, Social Affairs and Family, Tax Administration, Ministry of Finance, Police, Ministry of Interior, Centre of Labour, Social Affairs and Family, Institute for Labour and Family, Social Development Fund, Social Implementing Agency.   |
| <b>SI</b> | Labour Inspectorate | Ministry of Labour, Family and Social Affairs, Ministry of Education, Employment Service, Social Partners  |
| <b>UK</b> |                     | Department for Work and Pensions, HM Revenue and Customs, Department of Environment, Food and Rural Affairs, Home Office/Border and Immigration Agency, Health and Safety Executive, Employment Agency Standards Inspectorate, Gangmasters Licensing Authority, HM Treasury, Office of National Statistics |
| <b>HR</b> |                     | Ministry of Finance, Ministry of Labour and Pension System, State Labour Inspectorate, Tax Administration, Croatian Employment Services, Ministry of Tourism, Ministry of Agriculture and Customs Administration, Social Partners through the Economic and Social Council.                                 |

Source: Eurofound study, Regioplan 2010

Given the negative consequences of undeclared work, all MS have in the last 10 years introduced measures to step up their fight against undeclared work. Deterrence is mostly used to influence people's behaviour with measures such as stricter sanctions and more effective inspection activities. In addition, Member States are using preventive measures, such as tax incentives, amnesties and awareness rising, to decrease the incidence of undeclared work and enable compliance with the existing rules. Member States have also put simplified administrative systems in place, with a view to reducing the cost of compliance with regulation.

**Table 8: Policy approaches towards undeclared work**

| Approach   | Method            | Measures  |
|------------|-------------------|---|
| Deterrence | Improve detection | Data matching and sharing<br>Joining up strategy        |
|            | Penalties         | Joining up operations<br>Increase penalties for evasion |

|                     |                      |   |
|---------------------|----------------------|---|
| Enabling compliance | Preventative         | Simplification of compliance<br>Direct and indirect tax incentives<br>Smooth transition into self-employment<br>Introducing new categories of work<br>Micro-enterprise development  |
|                     | Curative             | Purchaser incentives:<br>- service vouchers<br>- targeted direct taxes<br>- targeted indirect taxes<br>Supplier incentives:<br>- society-wide amnesties<br>- voluntary disclosure<br>- business advisory and support services |
|                     | Fostering commitment | Promoting benefits of declared work<br>Education<br>Peer-to-peer surveillance<br>Tax fairness<br>Procedural justice<br>Redistributive justice   |

Source: "Tackling undeclared work in 27 European Union Member States and Norway: Approaches and measures since 2008", 2013 Eurofound

**Table 9: Classification of the measures to tackle undeclared work**

| MS | Type of UDW   | Deterrence measures (sanctions, inspections)   | Preventive measures   |
|----|---|--|---|
| AT | Social fraud by letterbox companies   | 2 laws on joint and several liability + 1 law on wage and social dumping   | Construction site database  |
| BE | Household sector, Social welfare benefit fraud  | Creation of Social Information and Investigation Service   | Service vouchers, DIMONA system for registration of workers with social security authority  |
| BG | Envelope wages, hidden turnover, tax evasion<br><br>New form: part-time work (full time in reality) | Distant connection of fiscal appliances with the computer system of the National Revenue Agency,<br><br>Tightened joint control between LI and National Revenue Agency<br><br>Hotline for reporting informal economy | National centre "Business to Rules" by social partners, Public council comprising representatives of the government control institutions, ministries, social partners and other stakeholders to achieve better coordination and cooperation at national |



| <b>MS</b> | <b>Type of UDW</b>   | <b>Deterrence measures<br/>(sanctions, inspections)</b>   | <b>Preventive measures</b>   |
|-----------|--|---|--|
|           |  | practices   | level.   |
| <b>CY</b> | Social security fraud  | <p>Mixed teams of inspectors, special telephone line for information</p> <p>Strengthening of obligations and penalties in public work contracts</p> <p>Obligation for an employer to present a copy of a specific employment attestation for its employees proving the registration by Social Insurance services</p>      |  |
| <b>CZ</b> | Envelope wages   | <p>Increasing sanctions in case of illegal work</p> <p>Bogus self-employment also covered by the definition of illegal work</p>   | Check in obligation for unemployed persons by local post office (bad practice example) |
| <b>DE</b> |  | <p>Alliances between social partners and Federal Ministry of Finance in certain sectors to raise awareness on UDW</p> <p>Minijobs – marginal part-time employees or marginal employment of short duration – employees are exempt from paying social security contributions, employers pay reduced contribution of 15%</p> |  |
| <b>DK</b> | <p>Services linked to home (building, construction)</p> <p>Bogus self-employment</p> | <p>Services amounting to more than 10 000 DKK have to be paid digitally, otherwise customer jointly responsible and will receive a penalty if the service provider does not</p>   | Pilot project "Home-Job Plan" to prevent UDW in homes, create jobs in construction.    |

| <b>MS</b> | <b>Type of UDW</b>                                     | <b>Deterrence measures<br/>(sanctions, inspections)</b>   | <b>Preventive measures</b>  |
|-----------|--|---|---|
|           | VAT & tax fraud  | declare tax and VAT.<br>Tax authorities have the right to visit personal homes if outdoor housework of professional character is carried out.   |   |
| <b>EE</b> | Envelope wages   | Targeted control of enterprises for undeclared work   | Awareness raising –<br>Information campaign<br>"Unpaid taxes will leave a mark"<br><br>Increase of minimum wage |
| <b>ES</b> | Non-payment of social security contributions and taxes | Introduction of various tax and administrative measures aimed at reducing public deficit.   | Amnesty period (first stage) followed by sanctions (second stage)<br><br>Regulation of domestic work            |
| <b>FI</b> | VAT fraud, construction sector                         | Legislative proposal for reserve value added tax in construction services (VAT is paid by the buyer as opposed to the seller).  |   |
| <b>FR</b> | Illegal work by migrant workers                        | 2009 "National Plan to fight undeclared work" to increase detection rate and joint investigations<br><br>Strengthening measures to identify infringements<br><br>Improve exchange of information between various inspection bodies<br><br>Authorize Public Employment Service to identify infringements of the rules relating to unemployment insurance and undeclared labour | Increased penalties for employing illegal migrants.   |
| <b>GR</b> | False self-  | (Planned, not enforced)<br>Administrative penalties in  | (Planned, not enforced)<br>introduction of Electronic   |

| <b>MS</b>       | <b>Type of UDW</b>  | <b>Deterrence measures<br/>(sanctions, inspections)</b>   | <b>Preventive measures</b>  |
|-----------------|---|---|---|
|                 | employment  | case Electronic Labour Card is not used correctly   | Labour Card to record the time and arrival of the worker  |
|                 |   |   |   |
| <b>HU</b>       | Working undeclared  | Activities by Labour Inspectorate   | Simplified employment act aiming at decreasing administrative burden when employing seasonal or temporary workers   |
| <b>IE</b>       | Labour intensive sectors(construction, retail, food and drink industry),Illegal work by migrant workers, tax evasion              | Activities by Labour Inspectorate<br>Criminal sanctions in case of illegal work   | Greater access to bank accounts by Revenue Commissioners, targeting specific sectors  |
| <b>LU<br/>X</b> | Domestic work, construction sector, HORECA  | Activities by Labour and Mines Inspectorate<br>Financial sanctions or closure of construction sites in case of UDW in the construction sector   | Introduction of an identity card('badge') to allow easier controls in the construction sector   |
| <b>IT</b>       | Irregular migrant workers.<br>Transport and communication, hotels and restaurants, agriculture, industry (textiles, construction) | Joint Inspection activities by labour inspectors, Inps and Inail inspectors and military personnel<br>A project offering traineeships through a network of public and private operators | A set of minimum parameters to be used by supervising authorities to assess the regularity of firms in terms of incidence levels of labour costs in construction works. |
| <b>LT</b>       | Wholesale trade and retail trade,   | Trust-phone line for registering UDW alerts   | Awareness raising and information campaign  |

| <b>MS</b> | <b>Type of UDW</b>  | <b>Deterrence measures<br/>(sanctions, inspections)</b>  | <b>Preventive measures</b>  |
|-----------|---|--|---|
|           | agriculture,<br>hotels and<br>restaurants   | Ad hoc standing groups on<br>illegal work control<br>carrying out inspection<br>activities.<br><br>Joint inspections of UDW<br>between the Lithuanian<br>and Latvian State Labour<br>Inspectorates on foreign<br>based companies |   |
| <b>LV</b> | UDW on<br>commercial<br>services sector,<br>trade,<br>construction  | Amendments in personal<br>income tax law and social<br>insurance law increasing<br>employers' responsibility<br>for UDW.   | Employers' Confederation<br>campaign(advertisement<br>campaign and online test for<br>measuring the impact of<br>individual's usual habits on<br>shadow economy with<br>advices for improvement)<br><br>Raising awareness |
| <b>MT</b> | Illegally<br>employed third<br>country<br>nationals<br><br>Construction<br>sector and the<br>bulky waste<br>and cleaning<br>services<br>sectors | New regulation against the<br>employment of third<br>country nationals-<br>increased sanctions<br><br>Joint inspections between<br>Police Immigration and<br>Law Compliance Unit<br>with ETC, the Public<br>Employment Service   |   |
| <b>NL</b> | Agriculture,<br>construction<br>and cleaning  | Hotline to report rogue<br>temporary agencies<br><br>Labour Inspectorate<br>intensified checks on<br>targeted sectors<br><br>Increased fines/ shutting<br>down companies for<br>knowingly hiring illegal<br>workers              | Registration requirement for<br>temporary employment<br>agencies  |
| <b>NO</b> | Cleaning<br>sector(househo<br>ld and  | Compulsory reporting and<br>registration scheme for<br>TWAs  | Awareness raising activities<br>through websites.<br>Possibility to check whether   |

| <b>MS</b> | <b>Type of UDW</b>   | <b>Deterrence measures<br/>(sanctions, inspections)</b>   | <b>Preventive measures</b>   |
|-----------|--|---|--|
|           | industrial cleaning sector)<br>Substandard wage and working conditions of labour migrants employed through TWA               | Companies offering cleaning services must be approved by the Labour Inspectorate to operate legally   | a company, the consumer intends to use, is registered.   |
| <b>PL</b> | Illegal work by migrants, tax evasion, UDW on childcare activities   | Fiscal cash registers obligatory for a wider circle of entrepreneurs  | New Act enables foreigners to legalise their stay upon requirements<br><br>New law allows for legal employment of nannies in households                  |
| <b>PT</b> | Tax evasion, Industrial sector, service sector, agriculture  | Fiscal Rescue Operation for the recovery of tax revenues diverted by the companies and illicitly not delivered to the State                               | Awareness raising and information campaign(under preparation)<br><br>Training course on UDW and irregular work directed to the labour inspectors         |
| <b>RO</b> | Agriculture, forestry, fishing   | New increased penalties and other sanctions for defaulting employers  | Mechanism of continuous assessment and monitoring of UDW and channelling control activities to targeted sectors.   |
| <b>SE</b> | Tax evasion mainly in sectors with high cash turnover and in the construction industry. UDW, most common in micro companies, | New law requires businesses selling goods and services in return of cash payments to have a certified cash register. Non-compliance implies high charges. | New law on reverse tax in the construction industry. The buyer pays the VAT.<br><br>Tax reduction amounting to 50% of labour cost for housework services |

| <b>MS</b> | <b>Type of UDW</b>   | <b>Deterrence measures<br/>(sanctions, inspections)</b>   | <b>Preventive measures</b>  |
|-----------|--|---|---|
|           | housework services sector.                                 |   |   |
| <b>SK</b> | Illegal work by migrants, tax evasion                      | <p>New laws tightening the controls and sanctions of UDW</p> <p>Increased powers for inspectors</p> <p>Increased fines for employment of illegal migrants</p>   |   |
| <b>SI</b> | Tax evasion, UDW on childcare services                     | <p>New law regulating childcare at home</p> <p>Amended Act introduced an assumption that an employment contract of an indefinite duration exist in case an unemployed person was caught at illegal employment</p> | Awareness raising through a public campaign   |
| <b>UK</b> | Tax evasion, high levels of UDW in the Construction sector | System of registration to the HMRC for firms(contractors and sub-contractors) in the construction sector. Brings businesses into the formal economy and ensures compliance with taxation laws                     | <p>Incentives to business to formalise their activities</p> <p>Awareness raising campaigns by HMRC</p>  |
| <b>HR</b> | UDW in small and medium enterprises, agriculture           | <p>Administrative and penal sanctions</p> <p>Use of peer-to-peer surveillance</p> <p>Mandatory registration of workers</p>  | <p>Simplification of compliance procedures</p> <p>Use of certified cash registers</p> <p>Changing minimum wage upwards</p> <p>Awarding of grants to employers to help finance the work of targeted groups of people</p> |



Source: Eurofound study

Short description of measures taken by Member States after 2009 on the basis of Eurofound study.

Austria

*The Austrian government has, since 2004, introduced a series of legal measures to tackle the growing incidence of 'social fraud' practices, particularly in the construction sector. However, as these measures proved largely ineffective in terms of deterrence, a new employee registration law and new legislation on the liability of construction companies subcontracting work to other companies were introduced in 2007 and 2008, respectively, to come into effect in 2009. Experts consider the latter initiatives to be more promising in terms of tackling organized social fraud.*

*Several ministries are involved: the Federal Ministry of Finance ([BMF](#)), the Federal Ministry of Labour, Social Affairs and Consumer Protection ([BMASK](#)), the Federal Ministry of Health ([BMG](#)), the Federal Ministry of Interior Affairs ([BMI](#)) and the Federal Ministry of Justice ([BMJ](#)). Additionally, social insurance institutions like the BUAK and WGKK are involved, as are the social partners.*

*In order to target the prevention of wage and social dumping, a new law (Lohn- und Sozialdumping-Bekämpfungsgesetz, LSDB-G) entered into force on 1.05.2011, following an agreement between the social partners. The aim of the law is to ensure a fair competition between Austrian and foreign firms and to protect workers from underpayment.*

*With the LSDB-G a new system of controls was installed. The renamed finance police, is responsible for performing checks and controls at employers' sites. If the finance police find violations, they inform the newly established centre of excellence ([LSDB](#)) at the Vienna branch of the state health insurer ([WGKK](#)), which in turn files a complaint. This procedure applies to employees posted to Austria or those working for temporary agencies in the eight NMS. The wages of employees working for Austrian companies which are covered by the general social insurance law (ASVG) are controlled by the relevant insurance institutions themselves; in the construction sector, the Construction Workers' Annual Leave and Severance Pay Fund ([BUAK](#)) has control. The labour inspectorate ([Arbeitsinspektion](#)) is now also authorised to monitor compliance with respective collective agreements.*

*The social partners are concerned by the implementation of the law indirectly, as well – in as far as they provide counselling to both employers and employees with regards to the application of the law. They are by and large content with the design of the LSDB-G.*

Belgium

*The system of 'Local employment agencies' (Agences locales pour l'emploi/Plaatselijke werkgelegenheidsagentschappen, ALE/PWA) as from 2000 was the first attempt to transfer certain household services into the formal labour market in Belgium. Up to then, many of these services were made available through undeclared work. Through the ALE/PWA, long-term unemployed people can carry*

*out neighbourhood services for private persons, local authorities, non-profit associations or schools.*

*Main organisation responsible: Federal Public Service Employment, Labour and Social Dialogue (Service public fédéral Emploi, Travail et Concertation sociale/Federale Overheidsdienst Werkgelegenheid, Arbeid en Sociaal Overleg)*

*On 1 January 2004, the Belgian federal government launched a – still on-going – system of service vouchers in a new attempt to boost job creation by promoting the demand for domestic services and proximity services, and to offer an alternative to the local employment agencies' scheme. This is very much an incentive scheme.*

*The federal government of Belgium has set up the Social Information and Investigation Service (Service d'inspection et de recherche sociales/Sociale Inlichtingen- en Opsporingsdienst, SIRS/SIOD) to intensify and streamline the fight against social welfare benefit fraud. This new organisation is specifically designed to improve coordination between the various parties involved in fraud prevention. As part of this initiative, the competencies of social welfare inspectors have also been extended.*

*The initiative began in January 2003 under the direction of the Federal Board for the Fight against Illegal Work and Social Fraud and the Federal Coordination Committee. The project was renamed and reorganised in 2006 and is still on-going. The main target groups of the project include companies and social welfare inspection services.*

## **Bulgaria**

*In the last years, employer organisations and trade unions increased joint efforts to combat undeclared work through different initiatives, the most recent being the establishment of National centre 'Business to the rules'. The Centre started its work in April 2010 and is established in the framework of joint project 'Restriction and Prevention of Informal Economy' which is implemented by the Bulgarian Industrial Capital Association (representative employer organisation) in partnership with the Confederation of the Independent Trade Unions in Bulgaria in the period 2009 – 2013. The activities of the Centre aim at changing attitudes of employers and employees towards the informal economy and increasing public awareness of its damaging impact and consequences. The project is funded by the ESF OP Human Resources Development.*

## **Cyprus**

*Following a rapid growth of undeclared and illegal employment, mainly in the hotel and construction industries due to the high concentration of foreign workers in these activities, the Ministry of Labour and Social Insurance took action. One of the key-actions has been the establishment and operation of mixed teams of inspectors. These teams, which have been set up in April 2009, consist of three public servants/inspectors who belong to following three departments of the Ministry of Labour and Social Insurance: the Department of Labour Relations, in charge of the overall coordination of inspection teams, the Department of Labour and the Social Insurances services.*

*Currently four teams are undertaking inspections in workplaces. In most cases, inspections are carried out after complaints addressed to a special toll free phone number provided by the Department of Labour Relations. The role of the teams has been recently expanded and includes now the application of the Equal Treatment in Employment and Occupation Law of 2004 in order to ensure that all employees are treated equally, without any direct or indirect discrimination by their employer as regard wages and other benefits.*

*Strengthened obligations and penalties in public works contracts has been introduced in 2012 proposal (no. 340/2012 for the 'Inclusion and Modification of Terms in Standard Contracts for Public Works and Services) as a response to the increase of violations of labour legislation. The proposal includes a series of measures in relation to public procurement in order to support the enforcement of labour legislation.*

*Also in 2012, the Social Insurance Law of 2010 was modified in order to introduce an obligation for the employer to present -whenever requested- a copy of a specific employment attestation for its employees. This attestation includes among others the name, identity card-number, social insurance number, employer identification number and the signatures of both the employee and the employer. The attestation form is provided from the Social Insurance services. This obligation aims at limiting the cases of undeclared work.*

#### **Czech Republic**

*There is a big ESF-financed project to tackle illegal work by obliging registered unemployed to regularly present themselves at the nearest post office and report at the counter marked as 'Czech POINT'. The volume of illegal work has been growing during the crisis in recent years and that is why the state, Ministry of Labour and Social Affairs, is looking for methods of curtailing a shortfall in tax income.*

*The Czech Republic follows a combined approach of significant increase in sanctions (as from January 2012) and improved monitoring and control. So the State Labour Inspection Office (Státní úřad inspekce práce, SÚIP) will take on and enhance efficiency of inspections regarding undeclared work and foreign nationals' work from the Employment Office of the Czech Republic (Úřad práce ČR, ÚP ČR) and deepens cooperation in terms of inspections within the entire department. While SÚIP will become the project implementer the Employment Office of the Czech Republic and the Czech Social Security Administration (ČSSZ) will be partners.*

#### **Germany**

*In 2004, the law to fight undeclared work (Schwarzarbeitsbekämpfungsgesetz) entered into force, leading to a dedicated unit FKS (Finanzkontrolle Schwarzarbeit) within German customs (i.e. subordinated to the Federal Ministry of Finance - BMF) so to fight undeclared work in an integrated way. As part of this integrated strategy also alliances between the BMF and the social partners have been formed to fight undeclared work in a focused way in specific sectors these concern the construction sector (2004), transportation (2006), meat processing (2007), industrial cleaning (2008), painters (2010) and industrial textile services sector (2012).*

*The objective of these alliances is to raise awareness of UDW and ensure closer institutional cooperation (exchange of information), regular visits to establishments*

*checking for cases of UDW and the adherence to minimum wages between partners. FKS agreed to carry out more checks in the sector, including on weekends and after working hours.*

*As a result of the so-called HARTZ reforms (2004) regulations concerning marginal part-time employment were revised. Special privileges concerning tax and social security contribution payments were introduced for certain marginal employment contracts.*

*Also the introduction of the household cheque scheme led to more registration of marginal employees and the service offered by the Minijob Centre makes it easier to register domestic help with the authorities. Similarly also measures have been implemented to make it for private households more attractive to buy repair and maintenance services (small construction works) from the official market than on the black market (allowing private households to deduct the wage part of the repair costs up to a certain limit from the taxable income - 2009).*

#### **Denmark**

*From June 2011 until the end of 2013 the Danish are making use of the Home-Job Plan, which establishes a tax deduction for expenses paid for support and repairs at home. The drivers behind the bill were to prevent increased undeclared work or do-it-yourself work by offering tax deduction for user of home services. Furthermore, the short-term unemployed would find work in the micro and small companies. Similar measures that have been successful in Sweden and Finland were used as examples*

*New rules against undeclared work became effective on 1 July 2012. Rules regarding tax and tax deduction were amended by introducing an obligation of services amounting to 10 000 DKK and more to be paid digitally. In addition tax authorities will be able to inspect private property if outdoor work of a professional character is being done. All service providers will be asked to show ID. The objectives are to prevent and anticipate undeclared work in homes and houses through inspection and control of special service provider, and through this measure to raise awareness about the illegality of undeclared work, even in small economic areas, by sharing the responsibility and penalty of undeclared work between the person ordering and the person providing the service.*

#### **Estonia**

*In 2010 and 2011 an information campaign "Unpaid taxes will leave a mark" was implemented. The aim of the information campaign was to raise awareness of how the tax payer's money is used by the state. The campaign explained why it is important to pay taxes and what each citizen receives in return. The campaign was implemented in two parts, first in 2010 and the second part in 2011. The follow-up campaign kept the same main message although the sub-messages were geared towards the social and cultural aspects.*

*In 2012, extensive activities to tackle tax frauds and undeclared work were taken. For that purpose additional 90 tax officials were hired. First of the activities carried out, was the sending out of notification letters to those companies where average wages were considerably lower compared to the average of the region and economic sector, which could be an indication of undeclared payments to workers, additional*



*letters were sent to companies based on the risk assessment. The notification letters gave companies a certain time period to improve their tax behaviour. In those companies who did not improve their tax behaviour, a control of tax payments and accounting was initiated.*

*Tax and Customs Board has also made visits to company sites to control for business activities and actual number of employees working on sites. The officials concentrated specifically on those companies, where the declared wages were considerably below the average wages in the region. In companies, that did not change their tax behaviour after the control visits, additional controls, until taxes are declared, will be undertaken.*

*According to the Estonian Institute of Economic Research, there is clear pattern that shows that the share of persons receiving undeclared wages is higher in lower income groups. Thus, persons receiving minimum wages are a risk group in terms of undeclared income. In Estonia, national minimum wage rates are negotiated in bipartite agreements between the social partners, which are then translated to regulations by the Government. The minimum wages are applied across the whole economy. However, as a measure of tackling undeclared work, it is difficult to make direct links between the changes in minimum wages and reduction of undeclared work.*

## **Spain**

*Adoption of new legislation in 2011 to fight undeclared work. The plan was divided into two stages. First stage guaranteed an amnesty period, free of sanctions, allowing employers to regularise their workers. In the second stage, new measures and sanctions were applied to businesses employing undeclared workers.*

*In 2012, various tax and administrative measures were introduced aiming at reducing the public deficit. One of the objectives was to reduce underground economy and to increase the number of taxpayers who fulfil their tax obligations. The new legislation introduced new measures such as restriction on the use of cash payments in business, strengthening the tax collection capacity, increasing the liability of company successors, toughening of sanctions as a result of opposition of inspection.*

*In addition, a new regulation covering working conditions for domestic staff came into force on 1 January 2012. The new regulation puts household workers on the same level as normal employees in aspects such as wages and working time.*

## **Finland**

*Finland established in 2011 a Grey Economy Information Unit, which operates within the Tax Administration with the aim to investigate and report on undeclared economic activity. It was decided that a single permanent unit would perform the necessary tasks more efficiently than separate organisations or even their collaboration on a temporary basis. Important collaborating parties include police, Customs Bureau, Centre for Pensions, authorities dealing with health and safety as well as with debt recovery and bankruptcies.*

*Also in 2011 legislative proposal to establish reverse value added tax in the construction services came into force. It establishes a principle that regarding*

*construction services VAT is paid by the buyer (main contractor) as opposed to the seller (subcontractor) as is usually the case. The measure does not address undeclared work as such, but VAT fraud is often associated with undeclared work.*

*The Act on Contractor's Obligations and Liability When Work is Contracted Out was amended in 2012. The objective of the original legislation as well as the 2012 amendments is to combat undeclared economic activity and promote fair competition between companies, particularly in the construction sector. These amendments are based on observations that undeclared activity in construction sector is becoming more international and is also having more serious consequences and they consist of removing certain exemptions from the law and increasing penalties.*

#### France

*A "National plan to fight undeclared work" was adopted in 2009 for a two year period, which aimed at increasing the detection rate (5% annually) and sought also to increase joint investigations between a number of inspection bodies. Since 2010, the government and Parliament have adopted several Bills aimed at strengthening measures to identify infringements of the legal requirements to pay taxes and social security contributions. The main focus of these measures is to counter fraudulent employers who breach their statutory duty to declare accidents at work and occupation diseases, to improve the exchange of information between the various inspection bodies and to introduce a new measure whereby authorisation is given to employees of the French public employment service to identify rules relating to unemployment insurance and undeclared labour.*

*In addition, law no 2011-672 of the 16 June 2011 on immigration, integration and nationality has increased the penalties for those employers who have committed fraud by failing to declare labour. This law transposed Directive 2009/52, which prohibits the employment of illegally resident third-country nationals in order to fight illegal immigration. The aim of this new measure is to reduce the prevalence of undeclared work and to encourage employers to adhere to the law. This measure also speeds up the enforcement process and provides harsher punishment to those employers that infringe the rules by issuing administrative sanctions as opposed to penal sanctions, which take longer to administer due to the fact that court hearing is required.*

#### Hungary

*In 2010, the Hungarian government introduced the Simplified Employment Act (2010/LXXV) to facilitate the notification by employer of employing seasonal and temporary (casual) workers. The aim is to simplify the complicated, slow and dysfunctional administrative burdens for seasonal employment. The regulation establishes a possibility for a mutually agreed simplified work contract, which can be declared by a simple text message or electronically via the Client Gate System. The most controversial and discussed was Art 10 of this law that regulates the entitlements to social benefits. For the time of simplified employment, the employees do not have an overall regular social security. They are only entitled to health care in case of accidents and job seeking allowances, but have no health insurance and only restricted pension claim for the period of this kind of employment.*

#### Greece



*A new Law (4144/2013) has been adopted in an attempt to fight illegal work. The Labour Inspectorate remains the body responsible for the enforcement of labour law but base on the new law the Financial Police is equally competent to control undeclared employment. The new law attempts also to fight undeclared employment of workers who illegally receive unemployment benefits. It introduced special fines for each worker who is employed while receiving unemployment benefit(EUR 3.000) and in the case where the worker receiving unemployment benefit was fired and consequently rehired by the same employer(EUR 5.000).*

*What is more, the government introduced the special electronic labour card which aims to ensure the timely fulfilment of labour and social security obligations of employers while compensating this by a decrease in the amount of social security contributions. It has not yet implemented in practice. Its implementation shall initially proceed at a pilot level in specific sectors and mostly at small-size enterprises in which UDW is more common. The 'labor card' electronically depicts the time of arrival and departure of the worker as well as his/her work hours. Such data shall be recorded via an online connection in an integrated central system for the three actors concerned with the labour market (IKA-ETAM, SEPE, OAED). To the enterprises, which are obliged to install the labour card system and which pay their contributions timely, as well as to the employees of such enterprises, a discount of up to ten per cent of the respective social security contributions shall be granted. Administrative penalties will be imposed in the case the use of such system is not conducted properly.*

#### **Ireland**

*The main sectors affected by UDW are those that are labour intensive, and where cost competition is pronounced, particularly construction, domestic services, hotels and catering, agriculture retail and the food and drink industry.*

*Ireland's labour inspectorate (NERA) has a central role in regulating the Employment Permits Acts, 2003 and 2006, the principal purpose of which is to provide for the regulation of employment of certain foreign nationals and to prohibit the employment of non-EEA nationals without an employment permit issued by the Department of Jobs, Enterprises and Innovation. Working without such a permit or employing someone without such a permit, is a criminal offence. NERA labour inspectors carry out workplace inspections, either in the form of a standard NERA Inspection (i.e by appointment, and include all employment legislation) or night inspections (specifically focusing on the Protection of Young Persons and Employment Permits Acts). Joint inspections have also been carried out as part of a wider investigations involving the Revenue Commissioners, the Department of Social Protection and An Garda Siochana(police). NERA is also empowered to exchange information with the Department of Social Protection and Revenue Commissioners.*

*In 2011 Revenue Commissioners have been given greater access to bank accounts. Revenue targeted specific 'shadow economy' activities to reduce tax evasion, such as construction, bars and restaurants, legal activities, landlords/rental properties, professionals. Also Revenue focused also to the oils sector generally. Businesses evading excise duty on oil, they are also likely to be evading other taxes. More specifically, in 2011, Revenue tightened regulations for licensed mineral oil traders to strengthen the control and supervision of the supply and distribution of diesel and*

*followed up by vigorous enforcement action against unlicensed outlets and those in breach of licensing conditions, resulting in the closure of 32 filling stations between July and December 2011 and the seizure of one million litres of mineral oil and detected nine oil laundries.*

*Finally, The Back to Work Enterprise Allowance(BTWEA) was established in March 1999 in order to encourage the long term unemployed to take up self-employment opportunities by allowing them to retain a reducing proportion of their social welfare payment plus secondary benefits. From May 1<sup>st</sup> 2009, the allowance is paid on a reducing scale over a two year period, i.e. 100% of a person's social welfare payment in year one and 75% in year two. Actors involved are the Department of Social Protection, Local Area Partnerships and Integrated Local Development Company.*

#### **Luxembourg**

*In 2000 the Interadministrative unit for combating illegal work was established. It is an informal unit intended to coordinate unannounced inspections in various fields of economic activity, coordinated by the Labour and Mines Inspectorate. UDW is not very spread except in domestic work and probably to smaller extent in the construction sector and HORECA.*

*In 2012, the sectoral social partners, the trade union federations of OGBL and LCGB and the employers' organisations agreed a new measure aiming at the facilitation of controls of illegal work on the construction sites. The new measure introduces an identity card ("badge"). The ID card will include the personnel data of each worker (the name of the employer, the contract signed, etc.). The sanctions in case of non-declared work should be financial or even closure of construction sites.*

#### **Italy**

*In 2010, Italian government launched a Special inspection plan in the agriculture and construction sectors in four southern Italian regions. The measure consists of a series of planned and coordinated inspection activities carried out jointly by labour inspectors, Inps and Inail inspectors and military personnel. The plan targeted seasonal agriculture activities. The plan envisaged also the involvement of social partners, through their joint bodies. Joint bodies could have disseminated information with a view to encourage the adoption of existing contractual arrangements, including flexible work. They could also participate in monitoring the local labour markets and provide services (labour intermediation or the certification of contracts).*

*In October 2010, the Ministry of Labour and Social Policies and the Regional Administrations under Objective Convergence of the EU, signed a programme agreement with the aim to provide 3,000 traineeships to both Italian and foreign nationals(unemployed or inactive) through a network of public and private operations. The traineeships concerned the sectors of construction, tourism and agriculture, in four southern regions (Calabria, Campania, Puglia and Sicily). The RE.LAR.R project started in June 2011 and lasted for one year.*

*Finally, the social partners in the construction sector, defined in October 2010 a set of minimum parameters to be used by supervising authorities to assess the regularity of firms in terms of the incidence of labour on total costs. The joint statement includes minimum incidence levels of labour costs in different types of construction works. The parameters shall be used only to promote the regularisation of irregular firms and they will be accompanied by a reduction in labour costs of firms which prove to have appropriate incidence of costs, by way of reduction in social contributions or taxes. When the system will be fully operative, failure to meet the parameters will imply a 'declaration of irregularity' which would only be cleared if the building firms pay the difference between the declared labour costs and the level required to reach the appropriate incidence. Actors involved are the sectoral social partners, the Joint National Committee for Construction Workers' Welfare Funds and the local Construction Workers' Welfare Funds.*

#### **Lithuania**

*In 2009 the State Labour Inspectorate (VDI) launched a campaign focused on public information and awareness-raising through various media channels and with the view to building no-tolerance towards UDW in the social and business environment. In additional, media were used to disseminate information on a trust-phone line at the VDI for registering undeclared work alerts and notifying on other violations of labour law.*

*Before 2011, UDW control was undertaken exclusively by carrying out inspections of selected companies. In 2011 VDI set up standing groups on illegal work control (SGIWC) in Lithuania's five largest cities to undertake control and prevention of UDW, comprised of two VDI inspectors (lawyers) each group. Members of SGIWC pay a visit to the company and having discovered illegal employees, make records of their findings, and prepare a case of administrative offence to be heard in court. The members of the SGIWC themselves represent the public interest in judicial proceedings concerning the use of UDW. Officers from other institutions (State Tax Authority (VMI), police (PD), Financial Crime Investigation Service(FNTT), etc.) are also frequently invited to assist in conducting the inspections. As construction, wholesale trade and retail trade, agriculture, hotels and restaurants are deemed to be the most risky sectors, SGIWC activities are mainly focused in these sectors.*

*The Lithuanian and Latvian State Labour Inspectorates, with a view to more effective control of UDW in foreign-based companies, conducted joint inspections in 2011. The Lithuanian VDI inspected two Latvian construction companies operating in Lithuania. The inspections included the identification of all employees working in the companies. At the same time, the Latvian VDI carried out the inspection of these two companies in Latvia. The inspections covered the documents related to the employment of persons identified in Lithuania. Inspections of this kind are also planned in the future, and in all Baltic States-Latvia, Estonia and Lithuania, with a focus on the sectors with the highest risk in terms of UDW.*

#### **Latvia**

*In 2011, the Latvian Employers' Confederation (LDDK) launched a national level campaign aimed at combating shadow economy and providing fair competition on the basis of individual involvement and explanation of individual's usual habits in terms of shadow economy. The campaign included advertisement campaign, an*

*online test for measuring the accumulated impact on the shadow economy from individual's usual habits, action with white envelopes, discussion with business representatives on fair competition, analysis of the results of the online test and elaboration of conclusions and proposals; and a relevant discussion in Latvian Parliament.*

*In 2010 the government adopted two short term Action plans, as regards combating the shadow economy and UDW. Several measures were implemented including the simplification of tax regime for micro-enterprises by consolidation several taxes into one, introduction of the declaration of material status, obligation to pay mandatory tax and social contributions from previously untaxed income that is now declared in the declaration of material status and all unpaid taxes for enterprises without fines for delay or tax violations.*

*Also amendments in two wage tax laws regarding social insurance and personal income tax, has been adopted. Now in case when UDW is identified, but no so regarding the fact of paid reimbursement and taxes, VID is mandated to recover from the employer the mandatory contribution/tax payment and the fine in amount which confirms to the threefold contribution/tax payment that is calculated on the basis of VID data on income of the person. Also now if it is not possible to determine a time period in which an employer has employed a person without entering into employment contract, the tax authority shall recover from the employer mandatory contributions/tax payments for three months. This applies for both laws.*

*National level trade union LBAS had conducted a competition, SMARTS, a game for students of general education aiming at increasing their awareness about labour rights and safety at work issues, as well as obtaining other skills that are useful for making a successful career.*

#### **Malta**

*A new legislation was introduced in 2011 against the employment of third country nationals (TCN). The legislation transposes the provisions of Directive 2009/52/EC of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third country nationals. The legislation provides for financial sanctions and other measures for the defaulting employers, including fines up to a maximum of 2,500 EUR and costs incurred for the return of illegally employed third-country nationals in those cases where return procedures follow, the exclusion from entitlement to some or all public benefits, aid or subsidies and more drastically, the suspension or cancellation of any license, permit or other authority to engage in any trade, business or other commercial activity.*

*The Law Compliance Unit within the Employment and Training Corporation (ETC), which is Malta's Public Employment Service(PES), is in charge of carrying out desk investigations and on-site inspections relating to cases of infringement. When a TCN is found working without a license, this is reported to the Malta Police Immigration, since such instances constitute violation of the Immigration Act. Also, since 2009, regular joint inspections between the two entities have been implemented in order to increase effectiveness.*

#### **Netherlands**



*On the first of January 2012 several labour laws came into effect intending to combat illegal employment and labour exploitation. One of the measures was the re-introduction of the registration requirement for temporary employment agencies which since 2007 have emerged enormously aimed at helping to find jobs for immigrants. Agencies that are not registered with the trade register will be fined, as will companies that hire staff from such agencies.*

*In combating fraud and exploitation, extra attention is to be paid to the middle men that form crucial links between the legal and illegal sphere, such as money launderers, frontmen and fixers helping illegal immigrants gain entry to the Netherlands. Checks to combat illegal employment are to be intensified in sectors that traditionally use large numbers of temporary employees such as hotels and restaurants, agriculture and cleaning. Companies breaking the law may be shut down and the maximum fines for knowingly hiring workers have been raised. Actors involved are the Labour Inspectorate (presently Inspectorate SZW), tax authorities, Work Councils, Social Partners (in particular the employer organisation of temp. agencies ABU).*

*In March 2012 the Inspectorate of the Ministry of Social Affairs opened a hotline to report rogue temporary agencies. The hotline is open for the complaints of companies working with temporary agencies and for complaints of victims. It is part of a broad, inclusive approach, in which several Ministries and the branch itself cooperate, along with Labour Inspectorate, Secondment agencies, the Association of Secondment Agencies and SNCU. Interpol can be called in and an agreement has been reached with the Flemish government.*

*Also, intervention teams of the SZW Inspectorate (former Labour Inspectorate) which were introduced in 2003, are presently becoming more effective in tackling USW. They intensified their checks and concentrate their inspection work on sectors with dubious reputation: agriculture, construction and cleaning. The Inspectorate apart from uncovering UDW also cooperates with all relevant institutions (local governments, Tax Office, Social Security Office, Office for the Administration of Employee Insurance Benefits, the police, the Ministry of Finance and the Public Prosecutor), so fines and even jail conviction can be imposed.*

## **Norway**

*In 2008 the central social partners in Norwegian working and business life and the Ministry of Finance and Tax Administration, renegotiated an agreement already established in 1997 as a means to tackle growing black economy. The alliance aims to increase knowledge of the tax system and consequences of tax evasion to contribute to increased compliance and create equal competition in business life. Specific measures include awareness raising activities through websites. A website makes it possible to check whether the company, the consumer intends to use, is register in the Register Centre.*

*On January 2009 the Norwegian government implemented a compulsory reporting and registration scheme for TWAs. For a TWA to be allowed into the register, it has to present documentation proving that it has been listed in the national company register and in the Norwegian tax authorities. Also, a supplement provision has been introduced to the Labour Market Act and placed a ban on hiring workers from companies that are not registered. Customers of TWA are responsible for checking*

*whether the agency they intend to use is registered through the Labour Inspectorate's web-page. It is the customer of the TWA (the hirer) who is given an order by the Inspectorate if the agency used is not listed in the register. The order is followed by a fine, if not followed up.*

*The Norwegian cleaning sector (services for households and industrial cleaning sector) has been heavily exposed to social dumping and UDW. In 2011 the National Federation of Service Industries (NHO Service) and Norwegian Union of General Workers have collaborated on a tripartite sector program to secure the working environment and decent wage and working conditions in the sector. As a result of the collaboration, the Ministry of Labour now implements a regulation which requires that all companies offering cleaning services must be approved by the Labour Inspectorate to operate legally. To be approved the companies need to document that they meet requirements for residence permit for all employees, registration and reporting obligations to public registers, wage and working conditions based on the collective agreements, health and safety requirements. Finally, it is required that all employees of approved companies carry ID-cards received from the Labour Inspectorate. The latter is responsible for running the approval scheme and carrying out inspections to control that cleaning companies follow the requirements for approval. If not, both the approval and the ID-cards will be drawn back.*

#### **Poland**

*In 2012, a new Act was passed in Poland which enables foreigners to legalize their stay, first temporarily, and in the long perspective, permanently, upon requirements, thereby allowing them to exit the informal economy and gradually integrate with the Polish society. Who can apply: any foreign citizen staying unlawful in Poland as of 1 January 2012, provided that their stay continued with no interruption since at least 20 December 2007, or since at least 1 January 2010, and who prior to that date had been definitely refused the refugee status, or further proceeding for the award of the refugee status were carried out for them on 1 January 2010. The residence permit is granted for two-year period, and must be renewed once it expires. A foreigner, who was awarded the permit, is allowed to undertake a job on the basis of an employment contract without work permit.*

*In 2011 the Polish Parliament adopted the Act on Care over Children Aged Three and Less in an attempt to fill the lack of care facilities for young children, which hampered the return of parents (especially, mothers) to the labour market. It provides an alternative path to the organised care provided by crèches, namely officially hiring a nanny. The law allows for legal employment of nannies in households and stipulates a number of requirements the parents and the nanny are obliged to meet, including among others, the signing of an activation contract, registration of parties with the Social Security Institution, responsibilities as concerned the income tax and social insurance contributions.*

*Finally the Ministry of Finance with the aim to curb tax evasion practices and to increase the volume of tax revenue collected by the state, adopted a decision to widen the category of entrepreneurs obliged to use a fiscal cash register. The binds the following types of entrepreneurs: attorneys at law, solicitors, tax advisors, physicians, running private practices, funeral homes, translators, human resources and recruiting services etc.*

## Portugal

*UDW in Portugal has been a focus of the Authority for Working Conditions' (ACT) inspection activity.*

*In the country over 50,000 companies appropriate the personal income tax (IRS) which is deduced from the wage of their employees or other service providers, of the corporate tax (IRC) as well as of the TVA charged on their clients. A new computer information system and a vast operation, the Fiscal Rescue Operation was launched in 2008, aiming at the recovering of tax revenues diverted by companies. The computer system automatically detects, in a systematic and permanent way, the situation of non-payment of taxes. The defaulting companies are issued notifications (at least 3) to regularize the situation voluntarily. In case of non-compliance, fiscal charges will follow. This operation involves all the DGCI's regional and local services which get specific guidelines for intervention in order to recover the tax revenues. At the end, the inquiry files were sent to the Public Prosecutor's Office.*

*A training course on the topic of undeclared and irregular work addressed to the labour inspectors was organized by ACT (Authority for Working Conditions') in 2009 with the objective of understanding the varied forms of UDW and irregular work in the context of the current legal framework in order to recognize methodologies and procedures of inspection activities adequate to ACT's strategic objectives and to the public policies. The training of the labour inspectors included both theoretical and practical parts which took place between April 2009 and March 2010. Domestic work, home working, rural labour, and micro and small enterprises have been identified as realities deserving particular focus.*

*Finally a national campaign to be implemented by the ACT on undeclared work is under consideration and preparation. The Campaign may have three main axis, awareness and information, education and integration and inspection, and focus on several recipients with different types of responsibilities and interventions: citizens in general, children and young people, employees, work beneficiaries and workers. The initiative may include measures including the promotion of actions aimed at targeted groups namely the public opinion(means like TV, print and broadcast etc.) and specific audiences(with means like poster, phone line informative, the campaign website etc.).*

## Romania

*In 2009 the Romanian Government signed a Memorandum of Understanding with the European Commission for the purpose of creating a 'Mechanism to Monitor, Control, and Reduce the Rate of Illegal Work in Romania'. The aims pursued by the Mechanism include among others the continuous assessment and monitoring of UDW and illegal employment (involvement of national research capacities and improved methods of collection and processing of information) and the channeling of prevention and control activities to areas of highest density. Measures to reach the objectives include the set-up of an Inter-ministerial Committee against UDW (2010) formed by representatives of Government's General Secretariat, Ministry of Labour, Ministry of Public Finance, Ministry of Administration and Interior and the National Institute of Statistics and a National strategy to reduce the rate of UDW as well as a plan of action to implement the strategy, for the period 2010-2012.*



*What is more, amendments were brought to the existing legislative framework, toughening the penalties for defaulting employers and employees. The amendments on the Labour Code increased five-times the penalties, which are now 2,500-5000EUR for defaulting employers, for each person found to perform illegal work, and 100 and 220EUR for employees. The new amendments provide also for stricter penalties depending on the severity of the breach including criminal liability, forfeiture of the right to enjoy public services or subsidies, or even the shut-down of business, or temporary or permanent withdrawal of the operation license.*

*Finally, the National Trade Union Bloc, a national trade union confederation, has been conducting, during the period 2010-2012, a project titled 'Observer Office', in fact a platform of debate on labour market issues and economic trends in Romania, through which the social partners can voice their opinions and may benefit from the assistance of independent experts. In 2011, the platform carried a Report in order to assess the extent of informal economy in the labour market. They used a research method based on questionnaires and conducted on-site interviews in the targeted households. The study reveals that 3.4 million persons are involved in informal employment (2.9 million) or working in the informal sector (0.5 million). Of the 2.9 million people work in informal employment, 87.3% work in agriculture, forestry and fishing, and 12.7% perform non-agricultural work.*

#### **Sweden**

*In Sweden, the housework services sector, such as home reparation and maintenance, cleaning, basic gardening, babysitting etc. have traditionally been a sector where work to a large extent is carried out undeclared. Since December 2008, Swedish citizens can apply for a tax reduction on housework services (which includes household and renovation services), amounting to 50% of the labour cost with the aim to boost employment in the sector and transforming UDW to legal work. SEK 100,000 (EUR 11,850), which is equivalent to a maximum tax reduction of SEK 50,000 (EUR 6,000) for each individual in one year was set as the maximum threshold.*

*As of 1 July 2007 and in order to tackle VAT fraud and UDW in the construction industry, the government introduced a law on reverse VAT. This means that the buyer, not the seller (a company which performs and sells construction services), must file and pay VAT, however only if the purchaser of the service is not a construction company.*

*Finally, as of 1 January 2010, businesses selling goods and services in return of cash payments (includes payments by debit cards) must have a certified cash register. The aim was to complicate businesses to withhold income and to protect serious business owners from unfair competition and reduce UDW. A certified cash register has a black box which reads registrations made by the cash register and only staff of the Swedish Tax Agency can access the information in it. The businesses bear the cost of the cash registers and if the companies do not comply with the law, a fee of 1,190EUR will be imposed to them by the Swedish Tax Agency. If the company continues not to comply with the law within a year a fee of 23,800EUR is charged.*

#### **Slovakia**

*New legislative measures were introduced tightening the control and sanction of UDW with the aim to aggravate the conditions for carrying out illegal work and deter employers, employees and the self-employed persons from doing it. The new measures have tightened the reporting obligation of the employer. Since 2009, employers in selected risky industries are obliged to report employment not only to the Social Insurance Agency (SP), but also to the competent Labour Inspectorate (NIP), while since July 2011, employers are obliged to report employment to the SP prior to the commencement of the inspection.*

*The powers of the labour inspectors have also been increased. Firstly, labour inspectors report illegal employment to the prosecuting authorities for the purpose of prosecution. Secondly, the NIP introduces a central publicly accessible list of natural personal and legal entities, which in the past five years violated the prohibition of illegal work and illegal employment. Labour inspectors report illegal employment to the trade office with the purpose of revocation of the trade license due to repeated violations of the prohibition of illegal work/employment. Thirdly, labour inspectorates may also submit a proposal to abolish agencies of temporary employment and agencies of supported employment. The labour inspectors report illegal work to the SP, to the labour offices, tax offices and police. Finally upon their request, the police may provide assistance for carrying out the inspections.*

*Repressive measures have also been strengthened, including the increase of penalties for UDW increased. The maximum rate increased from 33,000 EUR to 200,000 EUR. Since September 2011 the work of the labour inspectors outside their districts has also been introduced.*

*What is more, in order to prevent illegal migration and illegal employment, Slovakia transposed the Directive No.2009/52/EC as regards the minimum standards for sanctions and measures against employers employing citizens from third country who illegally stay at the territory of the MS. The legislator introduced a duty to inform the Office of Labour, Social Affairs and Family on the commencement of the employment of a third-country citizen. If it is found out that the employer employed the person illegally, he/she is listed in a public list on the internet and is excluded from participation in public procurements. An illegally working foreigner may be administratively expelled and an exclusion order may be imposed for one to five years. The fine for illegal work is up to 331 EUR for the foreigner and from 2,000 to 200,000 EUR for the employer.*

*Lastly, since 2004 a new legislation is in place which has helped liberalizing the labour market. The employers have been allowed to a larger extent to employ persons in the form of external work contracts, when they don't have to pay contributions to the retirement and health insurance for their employees. From 2013 onwards, the amendment to the Act No.461/2003 on social insurance is expected, which anticipates an increase in insurance levies for works performed based on the external work contracts, but not in the same amount as the levies for the standard employment relations.*

## **Slovenia**

*The Prevention of Illegal Work and Employment Act which has been adopted in 2000 aims to detect and prevent UDW by defining the different forms of UDW. The law has been amended three times, in 2006, 2010 and 2012. The amendment of the law in*

2006 simplifies the process of proving the elements of the employment relationship as it assumes that the unemployed person caught at illegal employment has an employment relationship for an indefinite period. After the labour inspector established UDW, a legal entity or an entrepreneur shall deliver, within three days, such a written contract of employment to the worker and should the contract not be delivered, the worker may seek judicial protection.

What is more, the lawmaker introduced a specific law in order to combat illegal childcare work. The Kindergarten Act of 2008 defines the status of guardian of children at home providing that childcare at home can be carried out by natural person that has been registered at the Ministry of Education and satisfies conditions in terms of education and impunity for crimes. Guardian can take care of a group of not more than six children.

Finally, a public campaign aimed at preventing UDW was launched on August 2010 by the Ministry of Labour, Family and Social Affairs, in cooperation with the competent supervisory authorities and with the support of the social partners, some of whom have also sponsored of the campaign. It consisted of various promotional means (hoarding posters, brochures, radio ads, ads in business magazines and web banners). The campaign which lasted till end of 2010 aimed to inform about the benefits of paying taxes and social security contributions to the welfare state and to raise awareness about the negative effects of UDW for the consumers and the fair market competition.

#### United Kingdom

HM Revenue and Customs is an arm of the UK public authorities that concerns itself with the collection of tax revenues from businesses and employees. HMRC developed numerous campaigns targeted at the reducing of the hidden economy over the last few years. These include a range of incentives for businesses to formalize their activities as well as inform and influence public opinion on the issue of UDW.

HMRC implemented a specific scheme for the construction sector (CIS) which covers payments made by contractors to subcontractors in order to ensure that the correct level of tax and National Insurance Contributions are paid. In particular, the form of the CIS is a system of registration cards for firms in the sector introduced in 1999 designed to ensure compliance in paying taxes by declaring work undertaken. Regulatory support for the scheme was introduced under The Income Tax Construction Industry Scheme Regulations 2005 which stipulates that subcontractors within the industry must be registered with HMRC and that contractors must also verify that subcontractors are registered under the scheme. This means that both parties in the contractor-subcontractor relationship should be known entities to the tax authorities and that they undertake full declaration of work undertaken. Parties registered under CIS are obliged to submit monthly returns online to HMRC. Rules for payments for construction work are also laid down in the CIS.

#### Croatia

A new project was introduced in 2012 and aims at making it easier to employ seasonal workers in agriculture in a formal way by issuing vouchers. In particular, the obligation of the employer is that for each recorded day of work the employee is given a daily coupon. All unused vouchers can be exchanged for cash. The new

*system gives larger incentives for declaring seasonal work because under the previous law social contributions had to be paid for the entire month, even if the weather allowed only five days of working.*

*Incentives have been put in place in order to increase employment of unemployed groups who are at risk of turning to UDW: those over 50 years old, young people with no work experience, long-term unemployed, people with disabilities. The employment of those people warrants the awarding of grants to employers to help finance their work. Incentives are also provided to unemployed people who want to become self-employed.*

*In 2006, the government initialized a project termed HITRO.hr intended to eliminate administration barriers in order to enable citizens and entrepreneurs to have quicker and simpler access to information and services all in one location, thereby indirectly encouraging formalization. HITRO.hr comprises several services: the establishment of Limited Liability Company, e-Regos (Central Registry of Insured Persons), e-Tax, eVAT, e-Pension, e-Craft, e-Cadastre, and e-Corner. As part of this project, a multifunctional smart card (FINA e-card) has been introduced and is intended for electronic business, simplifying and speeding up business processes and eliminating unnecessary paperwork. The e-card therefore saves time and money for businesses willing to operate electronically.*

*A Eurofound study 'Tackling UDW in Croatia and four EU candidate countries' (2013), provides for more detailed policy measures that Croatia undertakes to combat UDW. Penalties include administrative and penal sanctions for purchasers/companies and suppliers/employees. Other measures to improve detection include workplace inspections, use of peer-to-peer surveillance, registration of workers prior to starting work or on first day and mandatory ID in the workplace. Preventive measures include simplification of compliance procedures, technological innovations (certified cash registers), social security incentives, changing minimum wage upwards, restricting free movement of foreign workers. Other measures involve public awareness raising campaigns.*

#### **9.4. Annex IV: Mapping of the initiatives and activities in different policy fields linked to undeclared work at EU level**

##### Detailed description of the bodies mentioned in section 3.5.

Senior Labour Inspectors Committee (SLIC). The members of the Committee are senior representatives of labour inspection services of the Member States. SLIC gives its opinion to the Commission on all problems relating to the enforcement by the Member States of Community law on health and safety at work or on matters covering other areas of Community social legislation which have an impact on health and safety at work.<sup>65</sup> In September 2004 (revised in 2009) SLIC set out a number of “Common principles for Labour Inspection in relation to health and safety in the workplace”<sup>66</sup>. It is worth noting that they include organizational criteria, methods and practical measures that can apply not only to the enforcement of the OSH legislation, but to the enforcement of labour law and the monitoring of undeclared work, E.g.: among the “core principles” is stated that labour inspectors should have the powers of entry to workplace without notice, to carry out inspections and investigations at the workplace, to require employers and employees to supply information relevant to an inspection or investigation, to apply or to arrange the application of sanctions when these are deemed to be necessary.

Administrative Commission for the Coordination of the Social Security Schemes. The Administrative Commission has as one of its tasks to facilitate the uniform application of Community law, especially by promoting exchange of experience and best administrative practices and to foster and develop cooperation between Member States and their institutions in social security matters and to facilitate realisation of actions of cross-border cooperation activities in the area of coordination of social security systems.

The Committee of Experts on Posting of Workers<sup>67</sup>. The Committee's main tasks are to support and assist the Member States in identifying and promoting the exchange of experience and good practices and to promote the exchange of relevant information, including information on existing forms of administrative cooperation between Member States and/or social partners. The Committee also engages in an in-depth examination of practical cross-border enforcement problems in order to solve existing problems. These tasks are limited to the issues related to the Directive 96/71/EC concerning posting of workers in the framework of the provision of services. Members of the group should involve the public, such as labour inspectorates, responsible for the control of the legislation applicable to posted workers as well as social partners.

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<sup>67</sup> Commission Decision of 19 December 2008 setting up the Committee of Experts on Posting of Workers (2009, 17, EC), OJ L 8, 13.1.2009, p. 26



**Employment Committee (EMCO).** According to the Treaty Article 150, the main task of the Committee is to monitor the employment situation and employment policies in the Member States and the Union. The Committee promotes exchanges of information and experience between Member States and with the Commission. It comprises of experts possessing outstanding competence in the field of employment and labour market policy in the Member States<sup>68</sup>

**Social Protection Committee (SPC).** According to the Treaty Article 160 the tasks of the Committee are to monitor the social situation and the development of social protection policies in the member States and the Union and to promote exchanges of information, experience and good practice between Member States and with the Commission. Their field of activities is limited to social protection policies.

**Table 10: EU level activities linked to undeclared work in the fields of labour law, health and safety, social inclusion, coordination of social security and employment**

| Policy field                     | Instrument/Action  | Targeted pillar/issue             | Comments (Type of instrument/action or deliverables etc.)  |
|----------------------------------|--|-----------------------------------|--|
| Labour law<br>Working conditions | Charter of Fundamental Human Rights  | Labour/Social                     | Legal framework<br><br>Social rights, working conditions<br>(Art 5,15, 31, 32)<br><br>Sanctions, investigations<br>(Art 8, 16, 17, 47) |
|                                  | Directive 91/533<br>Written agreement (and other Labour Law directives)      | Labour                            | Legislative instrument   |
|                                  | Posting of workers directive 96/71 and Proposal for an Enforcement Directive | Labour/Social/Cross-border issues | Legal framework/ Proposal for an Enforcement Directive from March 2012 is currently under inter-institutional negotiations             |

<sup>68</sup> Council Decision of 24 January 2000 establishing the Employment Committee (2000/98/EC), OJ L 29, 4.2.2000, p. 21

|  |  |   |  |
|--|--|---|--|
|  | Expert committee<br>On posting of workers  | Labour/Social/Cross-border issues/Internal Market | Administrative cooperation between competent authorities |
|  | IMI Pilot project  | Labour/Social/Cross-border issues                 | Administrative cooperation between competent authorities |
|  | Commission Communication<br>"Stepping up the fight against undeclared work" (2007)   | Labour/social/tax                                 | Communication  |
|  | Project ICENUW<br>"Implementing Cooperation in a European Network against undeclared work" (2010)  | Labour/social                                     | Cross-border cooperation between labour inspectorates    |
|  | "Feasibility of establishing a European platform for cooperation between labour inspectorates, and other relevant monitoring and enforcement bodies with the aim of preventing and fighting undeclared work" (2010, Regioplan study) | Labour/social/tax                                 | Study, basis for the IA.                                 |



|                   |  |   |   |
|-------------------|--|---|---|
|                   | Joint management project with ILO "Labour Inspection strategies for combatting undeclared work in Europe" (September 2013) | Labour Inspectorates  | Exchange of best practices, recommendations/ Participants of the project ES, IT, FR, IE, BE, RO, NL.      |
|                   | Eurofound  | Labour Social   | Agency, studies on undeclared work, database on measures on undeclared work (2009, update in Spring 2013) |
| Health and safety | Health and safety legislation  | Health and safety/Labour inspectorates                            | Legislative instruments/Legal framework   |
|                   | Senior Labour Inspectors Committee (SLIC)  | Labour Inspectorates  | Cooperation between LIs   |
|                   | SLIC "Common principles for Labour Inspection in relation to health and safety in the workplace"                           | Labour inspectorates/Health and safety/Labour Law/Undeclared work | Common principles   |
|                   | Project CIBELES "Convergence of Inspectorates building a European level enforcement system" (2012)                         | Labour inspectorates  | Cross-border enforcement/principles to establish a network for exchanging information                     |

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|                                      | European Agency for Safety and Health at Work   | Health and safety | Agency   |
| Social security/<br>Social inclusion | Implementing Regulation 987/2009 of the 883/2004 on the coordination of social security schemes | Social security   | Legislation/Administrative cooperation   |
|                                      | Electronic exchange of social security information EESSI  | Social security   | Administrative cooperation tool  |
|                                      | Administrative Commission for the coordination of social security schemes                       | Social security   | Administrative cooperation   |
|                                      | Social Protection Committee (SPC)   | Social policy     | Open method of coordination between Member States and the Commission/ Exchange of best practices |
|                                      | A1 form for employees who work temporarily in other Member State(s)                             | Social security   | Proof of social security payments in a Member State  |
|                                      | Social Investment Package + Communication "Towards Social Investment for Growth and Cohesion –  | Social inclusion  | Policy instrument  |

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|            | including implementing the European Social Fund 2014-2020" COM(2013)83  |                         |   |
| Employment | Europe 2020 Strategy, Employment Guideline No 7, European Semester, Country Specific Recommendations, Thematic fiche on undeclared work (being drafted) | Employment              | Policy instruments/ CSRs on shadow economy/tax compliance/undeclared work |
|            | Employment Package (April 2012) + Communication "Towards a job-rich recovery" COM(2012)173  | Employment/job creation | Policy instrument   |
|            | Public consultation on personal and household services, SWD (2012)95  | Labour/social/tax       | Sectorial instrument/Public consultation                                  |

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|                      | Mutual Learning Programme (MLP) peer review on "Combatting undeclared work as a growing challenge in the context of high unemployment" (2012) | Labour/social/tax | Exchange of best practices/Participating Member States CZ, EE, DE, GR, IE, LV, LT,SK and Croatia, Serbia, Turkey) |
|                      | Employment Committee (EMCO)   | Employment        | Open method of coordination/ Exchange of best practices   |
|                      | Eurobarometer survey on undeclared work (2007, 2013)  | Labour/social/tax | Analytical instrument/data  |
|                      | Employment and Social Developments in Europe 2013, special chapter on Undeclared work (beginning 2014)  | Employment/social | Analytical document   |
| Cross-cutting issues | European Social Fund (ESF)  | Labour/social     | Financial instrument  |
|                      | PROGRESS (proposal for PSCI from 2014)  | Labour/social     | Financial instrument  |

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|  | Greece ESF Operational Programme "Upgrading of mechanisms to monitor undeclared work" | Labour inspectorates/capacity building | Financial Assistance/Technical assistance to support the reform of Labour Inspectorate/capacity building/together with ILO |
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**Table 11: EU level activities linked to undeclared work in other policy fields**

|                              | Instrument/Action  | Related aspect /pillar/area/issue to undeclared work  | Comments (type of instrument or action, deliverables etc.) |
|------------------------------|--|---|--|
| Internal market and services | Directive 2006/123/EC on services in the internal market<br>Article 49 and 56 TFUE | Posted workers/cross border movement/self-employment  | Legal framework<br>Limosa ECJ ruling C-577/10              |
| Enterprise and industry      | Entrepreneurship 2020 Action Plan  | Bogus self-employment                                 | Policy instrument  |
| Justice                      | Charter of Fundamental Human Rights  | Social rights, working conditions (Art 5, 15, 31, 32) | Legal framework  |
|                              |  | Sanctions, investigations (Art 8, 16, 17, 47)         |  |

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|  | Fundamental Rights Agency FRA  | Reports on domestic work, irregular migrants (role of labour inspectorate) , Roma survey  | Agency   |
|  |  | Research (2013) Severe forms of labour Exploitation in MS (role of labour inspectorates ) | Research   |
|  | Framework Decision 2005/214 Mutual rec. of financial penalties                             | Cross-border enforcement  | Legislative instrument   |
|  | 2000 Mutual Legal Assistance Convention  | Cross-border cooperation  | Legislative instrument   |
|  | Framework Decision on European Arrest warrant 2002/584/JHA                                 | Cross-border enforcement  | Legislative instrument (List of offences includes trafficking in human beings and fraud) |
|  | Data protection directive 95/46/EC   | Data protection, administrative cooperation   | Legislative instrument   |
|  | Cooperation between justice and Police in criminal matters Framework decision 2008/977/JHA | Data protection, administrative cooperation   | Legislative instrument   |

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| Home Affairs | Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals   | Migrants/Role of the inspection bodies | Legislative instrument/Contact Committee |
|              | Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State | Labour immigration                     | Legislative instrument/Contact Committee |
|              | Commission proposal for a directive on the conditions of entry and residence of third-country nationals for the purposes of seasonal employment   | Labour immigration                     | Legislative instrument/Contact Committee |



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|  | <p>Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims and replacing Council Framework Decision 2002/629/JHA</p> | <p>Trafficking in human beings</p> | <p>Legislative instrument, deadline for transposition expired on 06 April 2013.</p> <p>Recital 26 makes reference to Directive 2009/52/EC which provides for sanctions for employers of illegally staying third-country nationals who, while not having been charged with or convicted of trafficking in human beings, use work or services exacted from a person with the knowledge that that person is a victim of such trafficking.</p>   |
|  | <p>Communication from the Commission "EU Strategy towards Eradication of Trafficking in Human Beings 2012-2016", COM (2012) 286</p>                                  | <p>Trafficking in human beings</p> | <p>Policy instrument. It identifies five priorities and contains 40 concrete actions to be delivered by 2016. Three deliverables relate to trafficking for labour exploitation: 1) collection of case law, 2) a best practice guide for public authorities on the monitoring and enforcement of temporary work agencies and intermediary agencies, in cooperation with European Foundation for the Improvement of Living and Working Conditions (Eurofound) and 3) strengthening cooperation with labour, social, health and safety inspectors, as well as fisheries inspectors,</p> |

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| Taxation and customs | Communication from the Commission "An action plan to strengthen the fight against tax fraud and tax evasion" COM(2012) 722                                 |  | Policy instrument. Framework for activities. It identifies 34 actions aimed at preventing and fighting tax fraud and tax evasion, to be developed between 2012 and beyond 2014. Action 18 to be undertaken in 2013 underlines the necessity to promote stronger cooperation with other law enforcement bodies, in particular the authorities responsible for anti-money laundering, justice and social security. |
|                      | Commission Recommendation of 6.12.12 on aggressive tax planning  | Fight against tax evasion, avoidance, tax havens   | Policy instrument<br>This instrument addresses the use of complex and artificial arrangements by certain taxpayers. Through this recommendation, Member States are encouraged to include a clause in their bilateral tax treaties and to use a common general anti-abuse rule.   |
|                      | Commission Recommendation of 6.12.12 regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters | Fight against tax evasion, avoidance of tax havens | Policy instrument.<br>Through the recommendation, Member States are encouraged to adopt a set of criteria to identify jurisdictions not complying with minimum standards of good governance in tax matters (tax havens) and a toolbox of measures to consider whether third countries comply or not with those standards. Tax havens may be used to conceal the income from undeclared work.                     |

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|  | Platform for Tax Good Governance  | Tax evasion and avoidance  | <p>Dialogue and exchange of expertise foreseen under Action 9 of the Commission Action plan to fight against tax fraud and tax evasion.</p> <p>Composed of experts of MS and stakeholders to provide assistance in preparing the Commission's report on the application of the 2 recommendations on aggressive tax planning and good governance in tax matters.</p> |
|  | Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures. | Mutual recovery assistance | <p>This directive sets out the rules by which European Union (EU) countries must provide assistance for the recovery of any claims relating to taxes, duties and other measures levied in another EU country. This directive aims to improve and facilitate the mutual recovery assistance within the EU.</p>   |
|  | Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax.            | Fight against VAT fraud    | <p>The regulation establishes common rules and procedures for administrative cooperation and information exchanges between national competent authorities to properly apply value added tax (VAT) and to combat VAT fraud.</p>  |

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|  | <p>Council Directive 2011/16/EU on administrative cooperation in the field of taxation</p> | <p>Income from employment/administrative cooperation</p> | <p>Legislative instrument</p> <p>This directive lays down the rules and procedures under which MS cooperate with each other with a view to exchanging information that is foreseeably relevant to the administrations and enforcements of all taxes except customs duties, VAT and excise duties.</p> <p>In particular, the directive foresees automatic exchange of available information relating to income from employment as of 1.1.2015.</p>  |
|  | <p>EU tax identification number (EU TIN)</p>   | <p>Cross-border aspect</p>                               | <p>Potential future practical tool and action 22 of the Commission Action plan to fight against tax fraud and tax evasion</p> <p>TINs – only national up to now and composed in different ways – are considered to provide the best means of identifying taxpayers under automatic exchange of information, provided they are correctly identified and registered by third parties, which is not the case in many instances today. To overcome these drawbacks, the Commission is studying the possibility of creating EU TINs that would be built along the same rules.</p> |

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|  | Working Party on Tax Questions  |                           | Legislative forum<br><br>Council working group competent for discussing tax questions and for negotiating the legislative proposals tabled by the Commission.   |
|  | Tax policy group  |                           | Dialogue and exchange of views.<br><br>Commission Expert group composed of High Level representatives of Ministers of finance<br><br>High-level policy discussion relating to taxation.   |
|  | Committee on administrative cooperation in taxation                         |                           | Comitology committee foreseen by Directive 2011/16 for administrative cooperation between tax competent authorities.<br><br>Committee which gives opinions on the draft Commission's implementing acts provided for by Directive 2011/16/EU       |
|  | Working Group on administrative cooperation in the field of direct taxation |                           | Commission expert group composed of representatives from Member States' national administrations aiming at facilitating the exchange of information, experience and good practices in the area of administrative cooperation for direct taxation. |
|  | Platform for Tax Good Governance  | Tax evasion and avoidance | Dialogue and exchange of expertise  |

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| Transport | Directive 2003/59/EC on initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods and passengers | Essential requirements for being a driver, administrative cooperation                             | Legislative framework<br>This directive on the establishment of a EU-wide standard for initial qualification and periodic training of drivers was not established for this purpose but as an unintended consequence it might work in some cases as a first filter for the access to the profession of any undeclared worker. |
|           | Directive 2002/15/EC on the organisation of working time of persons performing mobile road transport activities                                  | Working conditions, bogus self-employment   | Legislative framework, self-employed drivers covered recently by the working time rules<br><br>No harmonized enforcement   |
|           | Directive 2006/22/EC on enforcement of provisions of regulations 561/2006 and 3821/85 concerning social rules in road transport                  | administrative cooperation on enforcement, risk rating systems                                    | Legislative framework for road side checks and controls at premises of undertakings.   |
|           | European Register for Road Transport Undertakings (ERRU)   | Administrative cooperation, categorisation of infringements, good reputation of transport company | Exchange of information on infringements committed by transport undertakings and on fitness of transport managers;   |



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|  | Administrative cooperation  | Experts group, exchange of info, establishing guidance on implementation of ERRU                                  | ERRU Working Group  |
|  | Infringement Working Group  | Admin. coop. on enforcement   | Experts group, exchange of information, establishing guidance notes, elaborating categorisation of infringements against the EU road transport laws |
|  | Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonization of technical requirements and administrative procedures in the field of civil aviation- Subpart N, flight crew, Subpart O, cabin crew, Subpart Q, flight and duty time limitations and rest requirements | Essential requirements for being a pilot, a cabin crew and flight and duty time limitations and rest requirements | Legislative framework.  |
|  | Regulation (EC) No 216/2008 of 20 February 2008 on common rules in the field of civil aviation  | Essential requirements for being a pilot, a cabin crew  | Legislative framework,  |

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|   | Study on the Effects of the implementation of the EU aviation common market on employment and on working conditions in the Air Transport Sector over the period 1997/2010 | Stresses the development of the outsourcing, the temporary agency work and the false self-employment in the air transport sector | Study<br>This study raised the need for a better enforcement of the Directive 1999/70/EC on fixed-term work and directive 2008/104/EC on temporary agency work                  |
|   | Regulation (EC) 593/2008 of 17 June 2008 on the law applicable to contractual obligations (Rome I)  | Labour/cross - border/international market<br>Protection against contractual abuses  | Introduces the principle of protection of the weaker parties by the rules more favourable to their interests and that of the country with which there is the closest connection |
| Agriculture and Rural Development             | Proposal for CAP reform 2014-2020   | Incentives to declare employment   | Financial instrument  |
| Eurostat                                      | Gross national income Committee (GNI Committee)   | (poss.) Data on undeclared work  | Statistics  |
| Economic and Financial Affairs                | Improving tax governance in EU Member States: Criteria for successful policies. European Economy. Occasional Papers. 114. August 2012                                     | Improving tax governance, including a reduction of informal economy also through tax measures                                    | Analytical document   |
| Economic and Financial Affairs and Employment | Defining and monitoring economic adjustment programmes in   | Tax/employment   | For example the Economic Adjustment Programme for Greece includes a call for "strengthening labour market institutions, smoothing wage  |

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| nt       | programme countries |            | <p>bargaining at all levels and fighting undeclared work".<br/> <a href="http://ec.europa.eu/economy_finance/articles/financial_operations/pdf/2012-04-18-greece-comm_en.pdf">http://ec.europa.eu/economy_finance/articles/financial_operations/pdf/2012-04-18-greece-comm_en.pdf</a><br/> <a href="http://ec.europa.eu/economy_finance/publications/occasional_paper/2011/pdf/ocp82_en.pdf">http://ec.europa.eu/economy_finance/publications/occasional_paper/2011/pdf/ocp82_en.pdf</a></p> <p>The Memorandum of understanding (MoU) with Romania called Romania to "Tackle undeclared work by significantly increasing the intensity of controls and applying sufficiently dissuasive administrative fines in case of non-compliance. The government will publish a yearly monitoring report on its website."</p> <p><a href="http://ec.europa.eu/economy_finance/publications/publications15409_en.pdf">http://ec.europa.eu/economy_finance/publications/publications15409_en.pdf</a></p> <p><a href="http://ec.europa.eu/economy_finance/articles/financial_operations/pdf/2010-02-25-smou_romania_en.pdf">http://ec.europa.eu/economy_finance/articles/financial_operations/pdf/2010-02-25-smou_romania_en.pdf</a></p> <p>The supplemental MoU with Latvia stated that " By end-March 2010, adopt the proposals as regards tackling the grey economy and undeclared work through, inter alia, significantly increasing the intensity of controls and improved coordination among relevant authorities, and applying sufficiently dissuasive administrative fines in case of non-compliance."</p> |
| Economic | Tax reforms in EU   | Discussion | Analytical document with  |

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| and<br>Financial<br>Affairs and<br>Taxation<br>and<br>Customs<br>Union | Member States<br>(annual report)  | of tax policy<br>challenges  | regular section on "improving<br>tax governance".   |
| Maritime<br>Affairs and<br>Fisheries                                   | Implementation of<br>ILO Convention C<br>188 (written work<br>agreement, list of<br>the crew, pay slip)<br><br>Strengthening<br>cooperation between<br>inspection bodies<br>tasked of control on<br>board vessels | Only<br>estimation<br>on value of<br>unpaid<br>work,<br>especially<br>within<br>family<br>business | No data available. To be noted<br>that fishing is often a part-<br>time/seasonal occupation |