



Preventing under-declared employment through innovative approaches

26-27 October 2022



LEGAL NOTICE

© European Labour Authority, 2022

Reproduction is authorised provided the source is acknowledged.

For any use or reproduction of photos or other material that is not under the copyright of the European Labour Authority, permission must be sought directly from the copyright holders.

Neither the European Labour Authority nor any person acting on behalf of the European Labour Authority is responsible for the use which might be made of the following information.

The present document has been produced by Ruslan Stefanov, Daniela Mineva, Petar Terziev (Vitosha Research (CSD Group)) and Bettina Haidinger (FORBA), in collaboration with ICF and it has been financed by the European Labour Authority. The document has been prepared for the European Labour Authority, however, it reflects the views of the authors only. The information contained in this report does not reflect the views or the official position of the European Labour Authority or the European Platform tackling undeclared work.



Contents

1.0	Aim and objectives of the thematic workshop.....	1
2.0	Background.....	1
3.0	Policy measures for tackling under-declared employment	3
3.1	Efficiency of policy measures	3
3.2	Suggested approach to tackling under-declared employment	4
3.3	Deterrence policy measures	5
3.4	Preventive policy measures.....	6
4.0	Tackling under-declared employment in the road transport sector	7
4.1	Forms of under-declared work in road transport	7
4.2	Approaches to tackling under-declared work in road transport	9
	References.....	12
	Annex.....	15



1.0 Aim and objectives of the thematic workshop

The aim of this workshop is to enable enforcement authorities to share and deepen their understanding of how under-declared employment can be tackled through proven innovative approaches. Its objectives are to provide members of the European Platform tackling undeclared work (the Platform) and observers (or their nominees) with an opportunity to exchange practices, identify aspects that can be transferred to different settings, and deepen their understanding of:

- ▶ the range and type of measures available for tackling under-declared employment; and
- ▶ the actions that can be taken in different sectors, with a particular focus on road transport.

The conclusions from the workshop will feed into a learning resource paper, including policy approaches and procedures that can be transferred and adopted by enforcement authorities in the 27 European Union Member States (EU-27) and European Economic Area (EEA) countries.

2.0 Background

The Platform's glossary of terms¹ defines under-declared employment as a situation where 'formal employers pursue the illegal practice of reducing their tax and social security payments, and therefore labour costs, by under-declaring the remuneration of employees. This occurs when employers pay their formal employees two salaries: an official declared salary and an additional undeclared ('envelope') wage which is hidden from the authorities for tax and social security purposes. Alternatively, an employer can under-declare the number of hours an employee works so as to evade paying the minimum wage', especially in the case of low-skilled workers².

According to a 2019 Eurobarometer survey³, 1 in 33 formal employees received an additional 'envelope wage' from their formal employer in the year prior to the survey. Of those receiving an envelope wage, 42 % received this additional compensation for overtime/extra work, 29 % for both their regular work and overtime/extra work, and 25 % for their regular employment. This demonstrated that 'envelope wages' are more often used for overtime work, extra work or bonus payments than for remunerating regular work. In 2019, 34 % of those in under-declared employment received less than one-quarter of their gross salary as an envelope wage, 10 % received 25-49 % of their gross salary as an envelope wage, and 5 % received 50 % or more of their gross salary as an envelope wage. Under-declared employment seems to be more common among men (usually due to the physical aspect of manual work or services, where under-declared work is more likely to happen) and younger age groups⁴. The COVID-19 pandemic may have worsened this trend, as more and more regular work is transformed into remote and/or part-time work. Accurate data are not yet available for the EU-27 for 2022, but anecdotal evidence suggests that the character of declared work has changed, making detection of under-declared work more problematic.

¹ European Commission, Directorate-General for Employment, Social Affairs & Inclusion, (October 2018). Glossary of Terms. Available at: https://www.ela.europa.eu/sites/default/files/2021-09/Glossary%20v6-final_0.pdf [01.09.2022].

² Williams, C.C. and Horodnic, I.A. (2017). 'Evaluating the illegal employer practice of under-reporting employees' salaries', *British Journal of Industrial Relations*, Vol. 55, No. 1, pp. 83-111. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3589631 [02.09.2022].

³ European Commission, (2020). Eurobarometer 2019, Available at: <https://europa.eu/eurobarometer/surveys/detail/2250> [02.09.2022].

⁴ Ibid.



In order to break down under-declared employment into different types, the 2019 Eurobarometer survey uses a series of direct questions to formal employees. It found that in the past 12 months, 3 % of all formal employees reported receiving a cash supplement to their official declared wage and the amount was always the same, 4 % received cash supplements to their official declared wage, which varied according to professional achievements (e.g. meeting/exceeding their targets), 5 % reported that their pay varied depending on the total number of hours worked, but only a fixed amount was declared, and 10 % reported that their pay was fixed but they occasionally received additional undeclared payments (e.g. holiday allowances, 13th month wage, bonuses). Aggregating these responses, **22 % of all formal employees** engaged in at least one of these four types of under-declared employment during the past 12 months (compared to only 3 % when asked more generally if they had received an undeclared envelope wage in addition to their formal salary). This suggests that under-declared employment is far from a minor practice.

There are two broad types of under-declared employment:

- ▶ ‘Conventional’ under-declared employment, when formal employers pay their formal employees two salaries – an official declared salary and an additional undeclared ‘envelope’ wage. This can include several sub-categories:
 - ▷ under-declaration of working time;
 - ▷ payment of ‘envelope’ wage for over/extra work, regular work, or both;
 - ▷ payment of daily allowances as part of the (minimum) wage;
 - ▷ use of performance-based payment instead of the correct hourly rate.
- ▶ ‘Modern’ emergent forms of under-declared work:
 - ▷ non-declaring of a second job and under-declared self-employment;
 - ▷ not reporting income from online trade/services and the misuse of platform work;
 - ▷ concealing money transactions using crypto-currencies or unregulated/secretive electronic money transfers⁵.

The 2019 Eurobarometer survey also details modern forms of undeclared work. According to the survey, 9 % of the respondents had used either a mobile application, an online tool, or a specialised website to offer some of the undeclared goods or services in the last 12 months, while 4 % used such methods to offer all of their services⁶. While the Eurobarometer question on digital platforms refers to undeclared, rather than under-declared, work, it is likely that the increase in online services due to the COVID-19 pandemic in 2020 and 2021 created new forms of under-declared work.

The motivation for under-declared work can vary, depending on the economic situation of the person, the sector and availability of workplaces, tax morale, and trust in the government and institutions. Employees receiving envelope wages can be assigned to four different categories:

- ▶ **Under-declared by deception** – employees offered a job at a certain take-home pay rate by an employer who does not mention that only a portion will be officially declared;

⁵ European Platform tackling undeclared work, (October 2018). Report on tackling under-declared employment in the European Union. Fifth Plenary meeting of the European Platform tackling undeclared work. Available at: <https://www.ela.europa.eu/sites/default/files/2021-09/Outcomes%20Report%20Tackling%20under-declared%20employment%20in%20the%20EU.pdf> [01.09.2022].

⁶ European Commission, (2020). Eurobarometer 2019, Available at: <https://europa.eu/eurobarometer/surveys/detail/2250> [21.09.2022].



- ▶ **Reluctant voluntarists** – employees reluctantly consenting to under-declaration, due to the lack of alternative employment opportunities;
- ▶ **Monetary rationalists** – job candidates offered a choice between a higher take-home pay with a low amount as a declared salary and the rest as an envelope wage, or a much lower take-home pay if the salary is fully declared;
- ▶ **Pure voluntarists** – employees giving their unconditional agreement to receive envelope wages⁷.

3.0 Policy measures for tackling under-declared employment

3.1 Efficiency of policy measures

An evaluation of the results of the 2019 Eurobarometer survey shows that effective policy approaches for tackling under-declared employment include: increasing the **risk of detection** and improving **tax morale**, along with **horizontal and vertical trust**⁸. The statistical significance of the risk of detection is lower than horizontal trust, suggesting that the latter is a more important factor to address through policy interventions. Nevertheless, there is a need to improve vertical trust: 11 % of EU-27 citizens feel that the State does not provide them with adequate services and thus consider that they are justified in not paying taxes; 41 % declare that they tend not to trust the tax and social security authorities, and 40 % do not trust labour inspectorates.

Conventionally, enforcement authorities have tried to tackle wage under-reporting by using direct control measures to ensure that the cost of being caught and punished is greater than the pay-off from acting illegally. Authorities have raised punishments and fines and/or have sought to increase detection rates of cases of under-declared work. Governments have used strategies to improve the collection, distribution, and matching of data in order to identify discrepancies in wages, in particular between companies, in comparison to the sector average. However, inspections tend to be quite ineffective in tackling this form of undeclared work, as the employer and employees are officially registered, making it difficult for control bodies to detect the practice and verify the extent of non-compliance. No statistical association is found between the participation of employees in under-declared employment and the perceived level of penalty⁹. Little attention has been paid to giving employees and employers more attractive incentives to comply with the law. Findings from different studies suggest that the *status quo* of punishing wage under-reporting may not be the most effective route to compliance^{10,11}.

A shift from direct to indirect controls is likely to yield better results. Organisations that have undergone a change of focus from direct or 'hard' approaches (complying with formal rules, with strict control and imposition of penalties for non-compliance) to indirect or 'soft' approaches (developing a culture of compliance through motivation and nudging) provide a useful example of how this can be achieved. Examples of such approaches include workers'

⁷ European Platform tackling undeclared work, (2017). Under-declaring work, falsely declaring work: under-declared employment in the European Union. Available at: <https://ec.europa.eu/social/BlobServlet?docId=18376&langId=en> [15.09.2022].

⁸ 'Horizontal trust' refers to the trust in colleagues, friends, community members, while 'vertical trust' refers to trust in the government and public authorities.

⁹ European Commission, (2020). Trends in the undeclared economy and policy approaches. Available at: <https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8368&furtherPubs=yes> [02.09.2022].

¹⁰ Williams, C.C. and Horodnic, I.A., (2015). 'Evaluating the prevalence of the undeclared economy in Central and Eastern Europe: An institutional asymmetry perspective'. *European Journal of Industrial Relations*, Vol. 21, No. 4, pp. 389–406 [01.09.2022].

¹¹ Williams, C.C., and Horodnic, I.A., (2015). 'Tackling the informal economy in Southeast Europe: An institutional approach'. *Southeast European and Black Sea Studies*, Vol. 15, No. 4, pp. 519–539 [01.09.2022].



consultations, tax education for employers and employees, and awareness-raising campaigns¹². Instead of aiming for compliance through high-level centralised supervision and monitoring, strict rules, and established procedures, the goal could be to encourage company behaviour towards compliance¹³ and transform under-declared work into fully declared employment¹⁴.

3.2 Suggested approach to tackling under-declared employment

When determining the best approach to tackling under-declared employment, the policy conclusions of the 2018 Platform Plenary meeting¹⁵ could be considered:

- ▶ The use of a full range of direct and indirect policy measures can be applied to tackling under-declared employment, similar to the approach for tackling undeclared work (see Annex), with the aim of effectively transforming under-declared employment into fully declared employment. Initiatives that could be pursued include:
 - ▷ Using penalties that facilitate the transformation of under-declared employment into fully declared employment by reducing the size of the fine by the amount of time that the employer subsequently employs the worker on a full-time declared basis.
 - ▷ Relying on data mining and matching to detect under-declared employment, using dynamic benchmarking to identify anomalies/outliers. In addition, data mining and analysis should be used in a preventive manner to identify the targets for such campaigns. A strategic approach to database design is required, by asking the question ‘what data do we *need* in order to identify under-declared employment?’ rather than ‘what data do we *possess* that we could use to identify under-declared employment?’.
 - ▷ Launching awareness-raising campaigns and education initiatives on the benefits of fully declared work, targeting both employers and employees.
 - ▷ Using notification letters to ‘nudge’ employers and employees towards operating on a fully declared basis.
 - ▷ Experimenting with different ways of combining and sequencing these policy measures to determine what is most effective. For instance, data mining could be followed by targeted notification letters, awareness-raising campaigns could be followed by notification letters (based on the data mining of risky businesses), and data mining could be followed by a targeted awareness-raising campaign using notification letters.

¹² European Platform tackling undeclared work, (2018). A practitioner toolkit from the thematic review workshop on ‘Information tools and approaches to reach out to workers and companies in the fight against undeclared work’. Available at: <https://ec.europa.eu/social/BlobServlet?docId=20864&langId=en> [21.09.2022].

¹³ Williams, C. C. and Horodnic, I.A., (2015). ‘Tackling the informal economy in Southeast Europe: An institutional approach’. *Southeast European and Black Sea Studies*, Vol. 15, No. 4, pp. 519–539. [01.09.2022].

¹⁴ Williams C.C. and Horodnic, I.A., (2016). Developing a holistic approach for tackling undeclared work: background paper. Brussels: European Commission. Available at: https://www.researchgate.net/publication/311354713_Developing_a_Holistic_Approach_for_Tackling_Undeclared_Work_background_paper [23.09.2022].

¹⁵ European Platform tackling undeclared work, (October 2018). Report on tackling under-declared employment in the European Union. Fifth Plenary meeting of the European Platform tackling undeclared work. Available at: <https://www.ela.europa.eu/sites/default/files/2021-09/Outcomes%20Report%20Tackling%20under-declared%20employment%20in%20the%20EU.pdf> [01.09.2022].



- ▶ There is a need for Member States to keep abreast of emerging forms of under-declared work and to identify means of addressing these new types of non-compliance.

3.3 Deterrence policy measures

Data mining and matching is crucial for detecting companies, employees and sectors with a high risk of under-declared employment. These could be then targeted through nudge/notification letters, awareness-raising campaigns, education and training for managers, regularisation incentives, etc. The report from the 2018 Plenary meeting¹⁶ lists several indicators that could be used to identify risky businesses:

- ▶ Average salary in a company compared with average salary in the same sector/region;
- ▶ Average salary of a certain occupation/profession in the business does not correspond with the average salary within the same occupation/profession in the country, sector and/or region;
- ▶ A large proportion of a company's employees are working part-time compared to other similar businesses;
- ▶ The number of employees/total wages paid is not appropriate to the turnover;
- ▶ Complaints have been received about undeclared work;
- ▶ The business has previous violations related to undeclared work;
- ▶ Businesses where a higher proportion of workers receive the minimum wage than in other similar businesses.

Further information is available in the 2019 practitioner toolkit from the thematic review workshop on 'Risk assessment for more efficient inspections'¹⁷.

Data mining and matching at national and cross-border level may be challenging, as the process requires the inter-connection of various databases and/or exchange of information procedures with other relevant bodies. For example, in Belgium, the LIMOSA declarations (for posted employed or self-employed people) cannot be cross-checked with the authorities of the country of origin as there is no interoperability with local databases. The existence of common identifiers and definitions is an important prerequisite for such interoperability¹⁸.

Other types of deterrence measures – and similarly essential to successful risk assessment – include cooperation, exchange of information and joint actions by relevant authorities.

In order to gain further knowledge on deterrence policy measures, the questions below will be addressed during the Parallel Working Group Discussion I. All workshop participants will be **strongly encouraged to** interact and provide any valuable input or feedback relevant to their Member State in respect of success factors, or existing gaps and obstacles in implementing policies for tackling under-declared work.

¹⁶ European Platform tackling undeclared work, (October 2018). Report on tackling under-declared employment in the European Union. Fifth Plenary meeting of the European Platform tackling undeclared work. Available at: <https://www.ela.europa.eu/sites/default/files/2021-09/Outcomes%20Report%20Tackling%20under-declared%20employment%20in%20the%20EU.pdf> [01.09.2022].

¹⁷ European Platform tackling undeclared work, (2019). A practitioner toolkit from the thematic review workshop on 'Risk assessment for more efficient inspections'. Available at: <https://ec.europa.eu/social/BlobServlet?docId=20862&langId=en> [02.09.2022].

¹⁸ European Platform tackling undeclared work, (2019). A practitioner toolkit from the thematic review workshop on 'Risk assessment for more efficient inspections'. Available at: <https://ec.europa.eu/social/BlobServlet?docId=20862&langId=en> [02.09.2022].



Discussion questions

Parallel Working Group Discussion I – Sharing learning on the effectiveness of deterrence policy measures for tackling under-declared employment

- ▶ What deterrent measures are used in your enforcement authority/country to tackle under-declared work?
- ▶ What different types of deterrent measures would you like to use in your enforcement authority/country to tackle under-declared work, and why?
- ▶ What are the challenges in introducing a wider range of deterrent measures beyond those already in place aimed at tackling under-declared employment?

3.4 Preventive policy measures

A number of preventive policy measures have been deployed by labour authorities across the EU-27 and could serve as a basis for developing new and innovative policy versions or combinations.

Creating awareness of the benefits of fully declared work, encouraging voluntary disclosure, and regaining trust in public institutions are among the key success factors in reducing under-declared employment. For example, notification letters have proven an effective instrument to prompt action on the part of higher-risk companies and raise awareness among workers. Another preventive measure that could be applied relates to the use of **joint or chain liability**. **Awareness-raising campaigns, apps and lotteries** should also have a prominent place in any under-declared work prevention strategy.

Compliance and regularisation could be promoted through **decreasing the fine** in cases where the worker is subsequently correctly employed for a certain period (e.g. in Greece), or the use of **white-lists**¹⁹ (e.g. Latvian In-depth Co-operation Programme launched in 2018; Italian Quality Agricultural Work Network). Another preventive policy measure that can be applied is the introduction of a **ceiling for cash transactions**, i.e. application of upper limit for the cash available to pay salaries to employees. Developing incentives for individuals to use cards is one way forward. Argentina for example, offers a 5 % value-added tax (VAT) discount on debit card transactions, and 3 % on credit card purchases. In **Greece**, the Foundation for Economic & Industrial Research (2015) estimated that the tax revenues increase by 0.24 percentage points (p.p.) for every p.p. growth in the use of payment cards²⁰.

In order to gain further knowledge on preventive policy measures, the questions below will be addressed during the Parallel Working Group Discussion II. All workshop participants will be **strongly encouraged to** interact and provide any valuable input or feedback relevant to their Member State.

Discussion questions

Working Group Discussion II – Sharing learning on the effectiveness of preventative policy measures for tackling under-declared employment

- ▶ Are there examples of the effective use of preventative policy measures to tackle under-declared employment in your country?

¹⁹ 'White-lists' include companies that comply with labour, tax and other relevant laws. Inclusion in the white-lists provides those company with quicker VAT refunds, advantages during public procurement checks, and promotion of their brand among customers and business partners.

²⁰ Ibid.



- ▶ What different types of preventative policy measures could be used to tackle under-declared employment?
- ▶ What are the challenges in introducing preventative policy measures to tackle under-declared employment?

4.0 Tackling under-declared employment in the road transport sector

Road transport is attracting increased attention as a sector highly susceptible to under-declared work. The international road transport sector is an important area for European Labour authority (ELA) activities, as Member States implement new regulations relating to the social aspects of road transport ('Mobility Package I')²¹.

Road transport can have both a cross-border and a national dimension. In addition, it involves the operation of heavy commercial vehicles (HCVs) for long-distance haulage and light commercial vehicles (LCVs) for courier, express and parcel (CEP) delivery, coaches and individual passenger transport. Such differentiations are important as they entail different sets of EU and national regulations for transport operators. Transport operations by LCVs are only partly covered by European legislation and then only in cross-border transport. The prerequisites for working as a transport operator of HCVs are far more stringent than those for operators with an LCV fleet.

A comprehensive regulatory framework is in place at EU and national level to prevent labour law and social security violations/infringements, including under-declared work. However, enforcement of legislation is cumbersome and creates conditions in which under-declared work can emerge. Enforcement bodies need to develop or refine targeted data mining approaches, as well as preventive and deterrence measures that consider the specifics of road transport in order to better tackle under-declared work in the sector.

4.1 Forms of under-declared work in road transport

Under-declared work appears in various forms in the road transport sector in the EU and follows patterns similar to other sectors:

- ▶ **Non-compliant registration:** In international transport, drivers are often not registered correctly and paid accordingly. Non-compliant registration can take the form of incorrectly specifying the place of drivers' employment (habitual place of work) in a country with low wages and social standards, while the driver in fact works in other countries. Another form of non-compliant registration is non-declared posting, when drivers performing cabotage or different kinds of cross-trade operations, and should be declared and treated as posted workers but are not^{22,23}. Both forms result in under-payment, as drivers are paid according to the wage level of the country of origin, even though they are entitled to the wage level of the destination country.

²¹ European Commission, (2022). Mobility Package I. Further information available at: https://transport.ec.europa.eu/transport-modes/road/mobility-package-i_en

²² Haidinger, B., and Papouschek, U., (2021). Cross-border road freight transport and fair work. Evidence from Austria and Slovenia. TransFair Research Report. Vienna. FORBA. Available at: <https://transfair-project.eu/wp-content/uploads/2021/09/TransFair-Cross-border-road-transport-and-Fair-work-AT-SI.pdf> [14.09.2022].

²³ de Smedt, L. and de Wispelaere, F., (2020). Road freight transport in the EU: In search of a balance between the economic and social dimension of the internal market. A quantitative sectoral analysis. TransFair Research Report. Leuven. HIVA/KU Leuven. Available at: https://transfair-project.eu/wp-content/uploads/2020/12/1st-TransFair-Report-deSmedt_deWispelaere.pdf [14.09.2022].



- ▶ **Under-declaring working hours and not declaring the right amount of social security contributions** by employing drivers on a part-time basis and paying the rest in cash. This widespread form of under-declared work occurs when employers partly pay their formal employees with an ‘envelope’ wage. Typical payments in road transport that lead to underpayment and diminish drivers’ social security entitlements include: payment per kilometre or tonnage, or topping up the minimum wage by daily allowances instead of paying the correct remuneration per hour.
- ▶ **Another sector-specific form of under-declared work is non-compliance with rest and driving times, sometimes including manipulation of the tachograph.** Drivers may try to disguise the number of working hours by misusing the tachograph or using two driver cards. For enforcement bodies, the manipulation of devices in the truck can be difficult to check and misuses of the tachograph have become elaborate, using magnet or software manipulation. Waiting time is often not recorded or paid, and rest time is not dedicated to rest but to the completion of other tasks, e.g. unloading and loading or paperwork. Regulation (EC) 561/2006, on rest and driving time, applies to both national and international transport operations by HCVs and from 2026 onwards for LCVs engaged in cross-border transport.
- ▶ **Under-declared work of third-country nationals:** Driver shortage in road haulage is a major sectoral problem and is increasingly met by labour supply from low-income countries outside the EU²⁴. Research shows that third-country nationals are often not well-informed about their rights and entitlements and can have an insecure residence status. In CEP delivery, transport operators often recruit vulnerable groups in the labour market, including third-country nationals with insecure, short-term employment permits or permits that are only valid for specific employment, who then work under-declared²⁵.
- ▶ **Under-declared work in subcontracting chains:** Studies show that the typical driver is employed by small or medium-sized companies that are contracted by large logistics service providers^{26,27} or (online) retailers^{28,29}. Long subcontracting chains occur in both long-distance haulage involving HCVs and in national CEP delivery involving LCVs. The cost pressure on the subcontracted companies is high and they are often economically dependent on the client. Such constellations foster under-declared work and create the pressing question of who is responsible – and thus liable – for drivers’ correct remuneration, social security contributions, and working conditions.

²⁴ de Smedt, L. and de Wispelaere, F., (2020). Road freight transport in the EU: In search of a balance between the economic and social dimension of the internal market. A quantitative sectoral analysis. TransFair Research Report. Leuven. HIVA/KU Leuven. Available at: https://transfair-project.eu/wp-content/uploads/2020/12/1st-TransFair-Report-deSmedt_deWispelaere.pdf [14.09.2022].

²⁵ Kohlenberger, J., Zilinskaite, M., Hajro, A., Vafiadis, I., and Bikic, S., (2021). *Systemrelevant, aber unsichtbar: Arbeitsbedingungen migrantischer und geflüchteter Amazon-Zusteller*innen während der COVID-19- Pandemie*. Wien. Wirtschaftsuniversität Wien. Available at: https://wien.arbeiterkammer.at/interessenvertretung/arbeitsmarkt/Studie_AmazonPaketzustellerInnen_2021.pdf [14.09.2022].

²⁶ Haidinger, B. and Papouschek, U., (2021). Cross-border road freight transport and fair work. Evidence from Austria and Slovenia. TransFair Research Report. Vienna. FORBA. Available at: <https://transfair-project.eu/wp-content/uploads/2021/09/TransFair-Cross-border-road-transport-and-Fair-work-AT-SI.pdf> [14.09.2022].

²⁷ de Smedt, L. and de Wispelaere, F., (2020). Road freight transport in the EU: In search of a balance between the economic and social dimension of the internal market. A quantitative sectoral analysis. TransFair Research Report. Leuven. HIVA/KU Leuven. Available at: https://transfair-project.eu/wp-content/uploads/2020/12/1st-TransFair-Report-deSmedt_deWispelaere.pdf [14.09.2022].

²⁸ Harnay, P., (2020). ‘Dépendance économique dans les relations de sous-traitance: quels critères? Le cas des chauffeurs-livreurs de la messagerie’. *Droit et Société*, Vol. 104, No. 1, pp. 189–209.

²⁹ Moore, S., and Newsome, K., (2018). ‘Paying for free delivery: dependent self-employment as a measure of precarity in parcel delivery’. *Work, Employment and Society*, Vol. 32, No. 3, pp. 475–492.



4.2 Approaches to tackling under-declared work in road transport

Approaches to tackling under-declared work in road transport involve the implementation of increased sanctions, improved detection, inter-institutional and cross-border cooperation, and introduction of sector-specific inspection instruments. Mobility Package I provides comprehensive legislative measures in the form of increased sanctions and improved detection to tackle under-declared work in international road transport.

Box 6. Mobility Package I

Mobility Package I includes the following measures:

- ▶ Clarification of the conditions under which a driver on international journeys is regarded as a posted worker. The ELA already published a leaflet³⁰ on the new rules, targeting posted drivers.
- ▶ Improved data matching through updating and upgrading databases and registers containing transport-relevant information in order to improve risk assessment and detection of non-compliant transport operator behaviour (i.e. the Internal Market Information System for Road Transport³¹; the European Register for Road Transport Undertakings (ERRU) and a risk assessment system).
- ▶ A typical road transport inspection tool is the analogue, digital or smart tachograph. The obligatory instalment of smart tachographs³² in freight vehicles by 2025 (LCVs operating in cross-border transport by 2026) is an important new rule and should simplify the inspection of driving and rest times, as well as working time.

Other types of measures include:

- ▶ To detect under-declared work in national and international transport, different enforcement bodies (labour inspectorates, financial police/customs, road police on behalf of transport ministries) need to cooperate and exchange relevant data efficiently. **Cooperation obligations** are explicitly mentioned in the EU legislation, and efficient cooperation practices are developed to different degrees in the Member States. The ELA supports such cooperation through concerted³³ and joint³⁴ inspections.
- ▶ In addition to the tachograph, other (digital) tools documenting the work process (e.g. handheld devices, GPS data) help to detect under-declared work. **Targeted instruments**, such as an obligatory consignment note, a checklist or a questionnaire used when labour inspectors interview drivers, could facilitate the detection of undeclared work at roadside inspections.

³⁰ European Labour Authority, (2022). Posted drivers – know your rights and obligations. Available at: <https://www.ela.europa.eu/sites/default/files/2022-06/ela-posted-drivers-leaflet.pdf> [14.09.2022].

³¹ European Labour Authority, (2022). Introductory presentations on the new modules of IMI system for road transport. Available at: <https://www.ela.europa.eu/sites/default/files/2022-01/Presentation%20ELA%20Workshop%20-%20Afternoon%20session%20-public.pdf> [14.09.2022].

³² Regulation (EU) 2020/1054 of the European Parliament and of the Council of 15 July 2020 amending Regulation (EC) No 561/2006 as regards minimum requirements on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods and Regulation (EU) No 165/2014 as regards positioning by means of tachographs. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32020R1054> [14.09.2022].

³³ European Labour Authority, (17 June 2022). 18 EU Member States participated in road transport inspections in eight countries organised by ELA this week. Available at: <https://www.ela.europa.eu/en/news/18-eu-member-states-participated-road-transport-inspections-8-countries-organised-ela-week> [14.09.2022].

³⁴ European Labour Authority, (8 June 2022). ELA supported large-scale inspection in the Port of Zeebrugge, Belgium. Available at: <https://www.ela.europa.eu/en/news/ela-supported-large-scale-inspection-port-zeebrugge-belgium> [14.09.2022].



- ▶ Indirect approaches aiming at changing norms, values and beliefs, thereby encouraging compliance with existing formal regulations include **awareness-raising campaigns³⁵ or educational initiatives**.
- ▶ Tackling **the liability of the client** for working conditions in the transport chain is an important means of combating under-declared work and ensuring that the real beneficiary is liable.

The inspection instruments and approaches in road transport are comprehensive. The challenges lie in the transferability of country-specific approaches to other national contexts, and in the effective and practical implementation of tools:

- ▶ A range of **digital control devices** exist and electronic data sharing, registration and control tools (ERRU, IMI, Risk Rating System - RRS) could be used to tackle under-declared employment. However, not all tools are accessible by all inspectorates and some inspectorates use specific tools more than others.
- ▶ The **tachograph** is a key instrument for drivers and enforcement bodies to control under-declared work. However, its use and data reading could be improved, as it is a useful archive of drivers' working time documentation. Enforcement could be improved if inspectors were better trained on the new tachographs and tools.
- ▶ During inspections, inspectors must deal with **language barriers** when inspecting vehicles, transport and payroll documents, and when communicating with drivers. For enforcement bodies, direct and multilingual communication with drivers is crucial if they are to obtain information about company infringements and thus protect drivers.
- ▶ Progress is needed in establishing **sustainable and strategic cross-institutional and cross-border cooperation of enforcement bodies**, focusing on sectoral specifics and developing sector-specific risk assessment.
- ▶ A key problem when effectively enforcing regulations is the **insufficient cross-border collection of administrative penalties**, and the **difficulty in enforcing wage claims**, especially in cross-border situations. Improving procedural fairness for transport workers in cases where drivers are reliant on information, as well as cooperation of enforcement bodies and support structures (e.g. trade unions) from different countries would discourage transport operators from employing drivers under-declared and encourage drivers to submit wage claims.

Discussion questions

Working Group Discussion III: Sharing learning on tackling under-declared employment in the road transport sector

Below you find questions that will be addressed during the Parallel Working Group Discussion III. We strongly encourage you to reflect upon them and provide any valuable input or feedback regarding elements of success or existing gaps and obstacles in implementing policies in tackling under-declared work in road transport.

- ▶ Are there examples of the effective use of policy measures to tackle under-declared employment in the road transport sector?
- ▶ What different types of policy measures (both deterrence and preventative) could be used to tackle under-declared employment in the road transport sector?

³⁵ An innovative awareness-raising campaign using the video 'The Truck Driver's Mother' was launched by the Norwegian Labour Inspectorate. Available at: <https://www.youtube.com/watch?v=52xl6CDqsXE> [14.09.2022].



- ▶ What are the challenges in introducing policy measures to tackle under-declared employment in the road transport sector?



References

- BTB-ABVV, (2022). Logbook. Available at: <https://transfair-project.eu/wp-content/uploads/2022/04/Booklet-Using-Tachograph-to-document-Working-Time-BTB-ABVV.pdf>
- de Smedt, L. and de Wispelaere, F., (2020). Road freight transport in the EU: In search of a balance between the economic and social dimension of the internal market. A quantitative sectoral analysis. TransFair Research Report. Leuven. HIVA/KU Leuven. Available at: https://transfair-project.eu/wp-content/uploads/2020/12/1st-TransFair-Report-deSmedt_deWispelaere.pdf [14.09.2022].
- Estonian Tax and Customs Board. Thank you for paying taxes. Available at: <https://palk.emta.ee> [15.09.2022].
- European Commission, (2020). Eurobarometer 2019. Available at: <https://europa.eu/eurobarometer/surveys/detail/2250> [02.09.2022].
- European Commission, (2020). Trends in the undeclared economy and policy approaches. Available at: <https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8368&furtherPubs=yes> [02.09.2022].
- European Commission, Directorate-General for Employment, Social Affairs & Inclusion, (October 2018). Glossary of Terms. Available at: https://www.ela.europa.eu/sites/default/files/2021-09/Glossary%20v6-final_0.pdf [01.09.2022].
- European Labour Authority, (2022). Introductory presentations on the new modules of IMI system for road transport. Available at: <https://www.ela.europa.eu/sites/default/files/2022-01/Presentation%20ELA%20Workshop%20-%20Afternoon%20session%20-public.pdf> [14.09.2022].
- European Labour Authority, (17 June 2022). 18 EU Member States participated in road transport inspections in eight countries organised by ELA this week. Available at: <https://www.ela.europa.eu/en/news/18-eu-member-states-participated-road-transport-inspections-8-countries-organised-ela-week> [14.09.2022].
- European Labour Authority, (2022). Posted drivers – know your rights and obligations. Available at: <https://www.ela.europa.eu/sites/default/files/2022-06/ela-posted-drivers-leaflet.pdf> [14.09.2022].
- European Labour Authority, (8 June 2022). ELA supported large-scale inspection in the Port of Zeebrugge, Belgium. Available at: <https://www.ela.europa.eu/en/news/ela-supported-large-scale-inspection-port-zeebrugge-belgium> [14.09.2022].
- European Platform tackling undeclared work, (2017). Action Alliances against undeclared work and illegal employment between the Federal Ministry of Finance and the social partners. Available at: <https://ec.europa.eu/social/ajax/BlobServlet?docId=18056&langId=en> [02.09.2022].
- European Platform tackling undeclared work, (2017). Compliance reports, Finland. Available at: <https://ec.europa.eu/social/BlobServlet?docId=18511&langId=en> [02.09.2022].
- European Platform tackling undeclared work, (2017). Joint operation group between public agencies. Available at: <https://ec.europa.eu/social/BlobServlet?docId=17229&langId=en> [02.09.2022].
- European Platform tackling undeclared work, (2017). Tackling undeclared work in the media sector, Portugal. Available at: <https://ec.europa.eu/social/BlobServlet?docId=18740&langId=en> [02.09.2022].
- European Platform tackling undeclared work, (2017). Under-declaring work, falsely declaring work: under-declared employment in the European Union. Available at: <https://ec.europa.eu/social/BlobServlet?docId=18376&langId=en> [15.09.2022].
- European Platform tackling undeclared work, (2018). A learning resource from the thematic review workshop 'Risk Assessments for More Efficient Inspections'. Available at: <https://www.ela.europa.eu/sites/default/files/2021-09/Risk%20Assessments%20Learning%20Resource%20Paper.pdf> [02.09.2022].



- European Platform tackling undeclared work, (2019). A practitioner toolkit from the thematic review workshop on 'Risk assessment for more efficient inspections'. Available at: <https://ec.europa.eu/social/BlobServlet?docId=20862&langId=en> [02.09.2022].
- European Platform tackling undeclared work, (2019). Multiagency initiative on tackling social dumping – the role of letterbox companies. Available at: <https://ec.europa.eu/social/ajax/BlobServlet?docId=21557&langId=en> [02.09.2022].
- European Platform tackling undeclared work, (2020). Dolsis Platform. Available at: <https://ec.europa.eu/social/BlobServlet?docId=22204&langId=en> [02.09.2022].
- European Platform tackling undeclared work, (October 2018). Report on tackling under-declared employment in the European Union. Fifth Plenary meeting of the European Platform tackling undeclared work. Available at: <https://www.ela.europa.eu/sites/default/files/2021-09/Outcomes%20Report%20Tackling%20under-declared%20employment%20in%20the%20EU.pdf> [01.09.2022].
- European Platform tackling undeclared work, (October 2018). Report on tackling under-declared employment in the European Union. Fifth Plenary meeting of the European Platform tackling undeclared work. Available at: <https://www.ela.europa.eu/sites/default/files/2021-09/Outcomes%20Report%20Tackling%20under-declared%20employment%20in%20the%20EU.pdf> [01.09.2022].
- Haidinger, B. and Papouschek, U., (2021). Cross-border road freight transport and fair work. Evidence from Austria and Slovenia. TransFair Research Report. Vienna. FORBA. Available at: <https://transfair-project.eu/wp-content/uploads/2021/09/TransFair-Cross-border-road-transport-and-Fair-work-AT-SI.pdf> [14.09.2022].
- Harnay, P., (2020). 'Dépendance économique dans les relations de sous-traitance: quels critères? Le cas des chauffeurs-livreurs de la messagerie'. *Droit et Société*, Vol. 104, No. 1, pp. 189–209.
- Joint Audit of Payroll Taxes and Contributions (GPLB), (2022). Available at: [https://www.wko.at/service/arbeitsrecht-sozialrecht/pruefung-lohnabhaengiger-abgaben-und-beitraege\(plab\).html](https://www.wko.at/service/arbeitsrecht-sozialrecht/pruefung-lohnabhaengiger-abgaben-und-beitraege(plab).html) [14.09.2022].
- Kohlenberger, J., Zilinskaite, M., Hajro, A., Vafiadis, I. and Bikic, S., (2021). *Systemrelevant, aber unsichtbar: Arbeitsbedingungen migrantischer und geflüchteter Amazon-Zusteller*innen während der COVID-19-Pandemie*. Wien. Wirtschaftsuniversität Wien. Available at: <https://emedien.arbeiterkammer.at/viewer/ppnresolver?idchecked=AC16357638> [14.09.2022].
- Moore, S. and Newsome, K., (2018). 'Paying for free delivery: dependent self-employment as a measure of precarity in parcel delivery'. *Work, Employment and Society*, Vol. 32, No. 3, pp. 475–492.
- Norwegian Labour Inspectorate, 'The Truck Driver's Mother'. Video. Available at: <https://www.youtube.com/watch?v=52xI6CDqsXE> [14.09.2022].
- Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85. Available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32006R0561> [01.09.2022].
- Regulation (EU) 2020/1054 of the European Parliament and of the Council of 15 July 2020 amending Regulation (EC) No 561/2006 as regards minimum requirements on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods and Regulation (EU) No 165/2014 as regards positioning by means of tachographs. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32020R1054> [14.09.2022].
- Williams C.C. and Horodnic, I.A., (2016). Developing a holistic approach for tackling undeclared work: background paper. Brussels: European Commission. Available at: https://www.researchgate.net/publication/311354713_Developing_a_Holistic_Approach_for_Tackling_Undeclared_Work_background_paper [23.09.2022].



- Williams, C.C. and Horodnic, I.A., (2015) 'Evaluating the prevalence of the undeclared economy in Central and Eastern Europe: An institutional asymmetry perspective'. *European Journal of Industrial Relations*, Vol. 21, No. 4, pp. 389–406.
- Williams, C.C. and Horodnic, I.A., (2015). 'Tackling the informal economy in Southeast Europe: An institutional approach'. *Southeast European and Black Sea Studies*, Vol. 15, No. 4, pp. 519–539.
- Williams, C., (2021). Measures to tackle the key drivers of wage under-reporting in Latvia. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3878237 [02.09.2022].
- Williams, C.C. and Horodnic, I.A., (2017). 'Evaluating the illegal employer practice of under-reporting employees' salaries', *British Journal of Industrial Relations*, Vol. 55, No. 1, pp. 83-111. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3589631 [02.09.2022].
- Windebank, J. and Martinez-Perez, A., (2018). 'Gender divisions of domestic labour and paid domestic services'. *The Service Industries Journal*, Vol. 38, No. 11-12, pp. 875-895.



Annex

Table 1. Direct policy measures

Implementing more effective sanctions

- Penalties and fines for employers or companies to deter participation in wage under-reporting
- Penalties that transform wage under-reporting into declared work
- Penalties for citizens or businesses who buy goods or services from the undeclared economy
- Non-compliance lists ('black-lists') for employers
- Exclusion of sanctioned businesses from bidding for public procurement contracts
- 'Naming and shaming' lists

Improving the risk of detection, including developing data mining, data matching and data sharing

- Data mining and matching
- Data sharing
- Risk assessment (e.g. how to identify risky businesses)
- Improving effectiveness of workplace inspections
- Registration of workers prior to starting work or on first day/week of work
- Coordination of operations across departments (e.g. joint operations/workplace inspections)
- Coordination of data mining and data sharing across government departments
- Complaint reporting tools (e.g. telephone hotlines to inform about abuses/cases)
- Certification of business, certifying payments of social contributions and taxes
- Mandatory ID in the workplace

Improving ease and benefits of engaging in fully declared work

Supply-side incentives

- Simplify compliance
- Notification letters
- Advisory inspections
- Compliance ('white-lists') and non-compliance lists
- Society-wide amnesties
- Voluntary disclosure/regularisation schemes
- 'Formalisation' advice to start-ups
- 'Formalisation' support services to existing businesses
- Direct tax incentives (e.g. exemptions, deductions)
- Targeted VAT reductions
- Provide free record-keeping software to businesses
- Provide fact sheets on record-keeping requirements
- Provide free advice/training on record-keeping
- Gradual formalisation schemes
- Initiatives to ease transition from unemployment into self-employment/employment
- Access to free marketing

Demand-side incentives

- Service vouchers
- Targeted direct tax incentives (e.g. income tax reduction/subsidy)
- Targeted indirect taxes (e.g. VAT reductions)
- Initiatives for customers to request receipts
- 'Black box' cash registers
- Supply chain responsibility



Source: ICF/CSD, based on: Williams, C.C. and Horodnic, I.A., (2016). Developing a holistic approach for tackling undeclared work: background paper. Brussels: European Commission. Available at: https://www.researchgate.net/publication/311354713_Developing_a_Holistic_Approach_for_Tackling_Undeclared_Work_background_paper

Table 2. Indirect policy measures

Implementing education and awareness-raising campaigns

- Information and advice units (e.g. advice 'call centres' within enforcement authorities)
- Campaigns to inform suppliers of wage under-reporting of the risks and costs of working undeclared
- Campaigns to inform suppliers of wage under-reporting of the benefits of formalising their work (e.g. informing them where their taxes are spent)
- Campaigns to inform users of wage under-reporting of the problems of purchasing goods and services from the undeclared economy
- Campaigns to inform users of wage under-reporting of the benefits of declared work (e.g. informing citizens of the public goods and services they receive with the taxes collected)
- Campaigns to improve horizontal trust (e.g. competing firms, other citizens)
- Campaigns to improve vertical trust in government

Modernising formal institutions

- Improving the degree to which customers of enforcement agencies believe they have been treated in a respectful, impartial and responsible manner (e.g. some more customer-friendly initiative)
- Information on the work and achievements of the enforcement authority
- Information to taxpayers on how their taxes are spent
- Actions to tackle wider structural economic and social determinants of undeclared work

Source: ICF/CSD, based on: Williams, C.C. and Horodnic, I.A., (2016). Developing a holistic approach for tackling undeclared work: background paper. Brussels: European Commission. Available at: https://www.researchgate.net/publication/311354713_Developing_a_Holistic_Approach_for_Tackling_Undeclared_Work_background_paper