



# TACKLING UNDECLARED WORK IN THE CONSTRUCTION INDUSTRY

## TOOLKIT

WITH CONCRETE CASES FROM BELGIUM, FRANCE,  
BULGARIA, ITALY, SPAIN, ROMANIA AND AUSTRIA.

European Platform  
tackling undeclared work



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# TACKLING UNDECLARED WORK IN THE CONSTRUCTION INDUSTRY

## TOOLKIT

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# WHAT'S THE ISSUE?

Although no official definition of undeclared work exists in the European Union (EU), it is understood to mean

**‘any paid activities that are lawful as regards their nature but not declared to public authorities, taking into account differences in the regulatory systems of Member States’.<sup>1</sup>**

The three main reasons why paid activities are not declared to the authorities are:

- to evade payment of income, value-added or other taxes;
- to evade payment of social security contributions; and
- to evade certain labour standards (e.g. minimum wages, maximum hours).

The result is that different institutions are responsible for different aspects of undeclared work. Labour law violations are mostly the responsibility of labour inspectorates, tax non-compliance falls within the remit of the tax authorities, while social security and insurance fraud violations are dealt with by social insurance bodies.

In some countries (Sweden and Denmark), the trade unions have an exclusive competence and responsibility to ensure compliance with the applicable wages and working conditions. In other countries, the responsibility is shared by the national institutions and trade unions. It should also be noted that in some countries the national social partners of the construction industry have paritarian institutions which also have a shared enforcement competence, in line with the competence of the social partners to negotiate/conclude collective bargaining agreements.

<sup>1</sup> European Commission Communication ‘Stepping up the fight against undeclared work’, p. 2 COM (2007) 628

**THIS TOOLKIT** is the outcome of a European project called ‘Tackling undeclared work in the construction industry’ (TUWIC). Funded by the EU, it brought together construction employer federations, trade unions and enforcement authorities in seven countries (Austria, Belgium, Bulgaria, France, Italy, Romania and Spain).

**DESIGNED TO HELP UNDERSTAND UNDECLARED WORK AND HOW TO TACKLE IT**, this report is structured as follows: **SECTION 1** looks at the prevalence of undeclared work in the construction sector and its challenges, while **SECTION 2** contains an overview of national measures to tackle undeclared work in the construction industry in Austria, Belgium, Bulgaria, France, Italy, Romania and Spain.



## Who engages in undeclared work in the construction sector?

- **UNREGISTERED ENTERPRISES:** mostly self-employed sole traders and micro-enterprises.
- **REGISTERED BUSINESSES** that do not declare all their transactions or that use unregistered employment or under-declared employment (i.e. with part of the wage being paid officially, and part off the record as an 'envelope wage'): such businesses may also engage in **BOGUS SELF-EMPLOYMENT**.
- A smaller number of **SPECIALLY CREATED REGISTERED ENTERPRISES** that do not declare (or fully declare) their business activities. Often, these companies perform no genuine economic activities and act as labour supply companies, seeking to exploit the boundaries and complexities of the law to try to dodge their legal obligations. In many cases, they are merely **LETTERBOX COMPANIES**.

## Impacts of undeclared labour

Undeclared work, in its various forms, impacts us all. Employers who actively participate in undeclared work put businesses, workers and public services at a disadvantage by:

- distorting fair competition, which affects both the economy and trade;
- leaving workers without necessary insurance, protection, benefits and pensions;
- evading taxes and social security contributions, which undermines the sustainability of public finances and puts essential services at risk. This also leads to an increase in the taxes and social security premiums paid by law-abiding companies;
- creating pressure for a downward social convergence, where law-abiding companies no longer want to pay taxes and social premiums due to the actions of non-law-abiding companies;
- generating a need to invest additional resources, labour power and time in enforcement, which also has to be paid for;
- undermining faith in the law and the proper functioning of the labour market.



**FAIR WORK,  
FAIR PLAY**

**SAY NO**

**TO UNDECLARED WORK  
IN CONSTRUCTION**

The campaign logo of the European social partners of the construction industry (EFBWW and FIEC), to tackle undeclared work







# UNDECLARED WORK IN THE CONSTRUCTION SECTOR

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A comparison of the 2007, 2013 and 2019<sup>2</sup> Eurobarometer surveys (each comprising over 27,000 face-to-face interviews in all EU Member States) reveals that the European construction industry accounts for an increasingly large proportion of undeclared work. In 2007, 16% of all undeclared jobs were in the construction sector, compared with 19% in 2013 and 21% in 2019. Over a fifth of undeclared jobs are now in the European construction industry.

However, this varies from region to region. In 2019, in the Nordic nations and East-Central Europe, nearly a third (30%) of all undeclared work was in the construction sector, compared with just a fifth (20%) in Western Europe and only one in seven undeclared jobs (15%) in Southern Europe. Nevertheless, the proportion of undeclared work accounted for by construction has grown across all European regions.

There are also significant national variations. Whereas in 2019 45% of all undeclared work in Slovakia was in the construction sector, 41% in Bulgaria, 38% in Estonia and 36% in Latvia, the figure was just 14% in Italy and the Netherlands, 13% in Spain and 11% in Luxembourg. Consequently, when tackling undeclared work, there needs to be more of a focus on the

construction sector in some European regions and countries than in others.

Turning to the purchase of undeclared goods and services, Table 3 reveals that, in 2019, 10% of citizens across the 28 countries had knowingly purchased goods and services from the undeclared economy in the 12 months prior to the interview (compared with 11% in 2013 and 16% in 2007). Of all undeclared purchases, 30% (29% in 2013) were in the home repair, maintenance or improvement realm.

Again, there are variations across EU regions. The proportion of citizens purchasing undeclared repair and maintenance services is declining in all European regions with the exception of Southern Europe, where there has been a slight increase.

Of all undeclared purchases, 31% were for repairs and renovations in East-Central Europe and Southern Europe, 28% in Western Europe and 25% in the Nordic nations (see Table 4).

Again, there are significant national variations. While in 2019 44% of all undeclared purchases were for repairs and renovations in Greece, 42% in Bulgaria and 41% in Slovakia, the figure was just 22% in Austria, Lithuania and Portugal, 19% in Germany and Romania, and 14% in Finland.

<sup>2</sup> <https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/survey/getsurveydetail/instruments/special/surveyky/2250>

	2007 %	2013 %	2019 %
All 28 countries	16	19	21
Nordic	27	24	30
Western Europe	16	17	20
East-Central Europe	19	26	30
Southern Europe	3	12	15

Source: Eurobarometer surveys 2007, 2013 & 2019

**TABLE 1**  
Percentage of all undeclared jobs in the construction sector: by European region

## Working together – collaboration is essential

In most European countries, responsibility for tackling undeclared work is fragmented across different authorities responsible for tax, social security and labour law compliance. This can result in a 'silo' mentality and a lack of the necessary coordinated strategic approach. Similarly, Member States' involvement of the social partners can often be limited to mutual exchange and consultation. In some countries, however, the national social partners play an active role.

As undeclared labour in the construction industry has very specific features and characteristics, the national social partners should have an active role in identifying the challenges and solutions. Moreover, it is highly desirable to involve the national social partners actively in the implementation and enforcement of actions to tackle undeclared work. Over the years, the European social partners of the construction industry have on many occasions stressed the need for autonomous industrial relations in the construction industry at national and regional level and a structured cooperation with the national authorities.

A holistic and sectoral approach entails joined-up and coordinated strategy and action in the fields of labour, tax and social security law, and the full involvement and cooperation of social partners and other stakeholders. The ultimate aim is not simply to eradicate undeclared work but to transform undeclared work into declared work, without losing sight of the need to punish abusive and fraudulent activity as a deterrent.

As undeclared labour also has a cultural or behavioural dimension, a consistent long-term strategy is needed. This implies a coherent policy approach and not fragmented policies, such as ad-hoc legislation, token inspections or amnesty measures.

For start-up ventures, temporary facilitating measures (such as VAT exemptions, lower taxes and social security premiums) are justified. As these measures are designed to facilitate the creation of start-ups, they should be temporary.

## The collaborative economy and possible links with undeclared work in construction

The European Commission defines the collaborative economy as business models where activities are facilitated by collaborative platforms that create an open marketplace for the temporary usage of goods or services often provided by private individuals.

Increasingly, we are seeing the emergence of platform work(ers) in the construction industry, often in the maintenance and repair subsector. For the construction industry, the business model of these platforms lies in the competitive advantage obtained by the pressure on overall labour costs. Using (often bogus) self-employed staff, the platforms push down prices by remunerating shifts, jobs and tasks at well below the legal minimum wage or collective agreements applicable to workers in the construction industry.

Within the collaborative economy, there is a clear distance, physical and otherwise, between the client, the intermediaries and the people doing the work. There are also many blurred employment relationships and untransparent service agreements. Ultimately, there is a significant risk that the collaborative economy will be a breeding ground for undeclared work.

In order to prevent undeclared work and false self-employment in the collaborative construction industry, specific policy and enforcement measures should be put in place. It is highly recommended that collaborative work in the construction industry only be allowed



Source: Special Eurobarometer 498 – "Undeclared Work in the European Union".  
Fieldwork: 9/ 2019



when all the platforms and players involved are preventively and continuously monitored for the activities/services they provide in the construction industry.

## Typical features of the construction industry

Four particular features of the construction industry deserve special attention: the work in supply chains, the fragmentation of work, the high level of mobility among construction workers, and the fierce competition between construction companies.

By their nature, most construction activities involve several companies with different specialisations. Sometimes these companies work consecutively, sometimes simultaneously. Traditionally, these specialisations are subcontracted or outsourced by a main contractor to other companies, which in turn also subcontract and/or outsource the work. This often results in a long chain of subcontractors, involving many companies. A major disadvantage of long subcontracting or outsourcing chains is the lack of transparency and accountability.

Although subcontracting in construction may be needed for some specialised work or to provide backup when the contractor's own capacity is depleted (for whatever reason), the overall effectiveness of excessively long subcontracting/outsourcing chains is very much open to doubt. Due to the lack of transparency and corporate accountability, liability in subcontracting processes in the construction industry is often regulated.<sup>3</sup>

The construction industry is characterised by a huge number of workplaces and many micro, small and medium-sized companies. These **FRAGMENTED LABOUR MARKETS** make it very difficult to monitor and control the presence of undeclared work. As the monitoring capacity of national institutions (and trade unions) is limited, smart and innovative (e.g. digital) controlling instruments are useful to monitor the construction labour market in an efficient and effective manner. Through the exchange of data (e.g. VAT declarations, building permits, social security contributions), data can be processed so that (targeted) inspections can be organised.

	Supplying undeclared work %	Of which, repairs or renovations %
<b>28 European countries</b>	<b>3</b>	<b>21</b>
<b>East-Central Europe</b>	<b>2</b>	<b>30</b>
Slovakia	3	45
Bulgaria	5	41
Latvia	6	36
Romania	2	33
Slovenia	5	33
Croatia	3	30
Lithuania	3	24
Czech Republic	4	24
Poland	1	23
Hungary	4	19
Estonia	6	38
<b>Nordic nations</b>	<b>6</b>	<b>30</b>
Sweden	7	31
Denmark	8	30
Finland	3	21
<b>Western Europe</b>	<b>4</b>	<b>20</b>
France	4	24
Belgium	6	24
Germany	3	21
Austria	4	20
United Kingdom	1	20
Ireland	5	16
Netherlands	10	14
Luxembourg	7	11
<b>Southern Europe</b>	<b>3</b>	<b>15</b>
Cyprus	1	31
Portugal	3	30
Malta	1	21
Greece	3	21
Italy	3	14
Spain	4	13

Source: 2019 special Eurobarometer survey on undeclared work

**TABLE 2**  
Supply of undeclared work: percentage in the construction sector

<sup>3</sup> <https://www.eurofound.europa.eu/publications/report/2008/labour-market/liability-in-subcontracting-processes-in-the-european-construction-sector>

Social identity cards, designed to improve monitoring, are a useful tool in this regard.<sup>4</sup> A recent European Court of Justice ruling (C-55/18) found that employers must keep a record of all hours worked by their workers each day, in order to ensure compliance with the rules on maximum weekly working time and rest breaks. This information could be included in the social ID card.

Undoubtedly, the construction industry is one of the most mobile of all sectors, with construction companies and workers continuously moving to deliver their services. There is also a very high level of cross-border mobility.<sup>5</sup> Over the years, the number of postings in construction has remained very high. One particular trend in recent years has been an increase in the number of temporary postings of workers in multiple Member States.<sup>6</sup> As there is an intrinsic link between undeclared labour and cross-border posting, special attention should be paid to the phenomenon of cross-border social fraud and abuse in the construction industry. Since this form of undeclared work is very specific, specialised monitoring and control tools are needed, as well as specialised monitoring institutions.<sup>7</sup> The current complex and in some cases contradictory EU legislation<sup>8</sup> makes it extremely difficult to implement and enforce a coherent policy to tackle undeclared work in cases of (temporary) cross-border employment.

Compared with other industries, the construction industry has rather low profit margins. It is also highly competitive. Construction companies will often bid at too low a price in tenders, in the expectation that they will make more money on a contract through 'variations'.<sup>9</sup> All this leads to fierce price competition, where margins can be increased by cutting down on labour costs. This is one of the main reasons why undeclared work is so prevalent in the construction industry and

why special attention should be paid to excluding abnormally low tenders.

As there is a clear link between undeclared work and abnormally low prices in tendering procedures, specific mandatory preventive measures must be embedded in public tendering rules to root out abnormally low prices.

## Using the full range of policy levers

The overarching objective is to:

- transform undeclared work into declared work, and thereby
- eradicate undeclared work.

For this there are a wide range of direct and indirect policy measures available.

**DIRECT APPROACHES** aim to reduce or increase the costs and therefore increase the benefits of operating on a declared basis. The cost reduction refers to direct financial advantages for those companies that can clearly demonstrate that they are law-abiding.<sup>10</sup> The cost increase relates to dissuasive financial sanctions for companies that are not law-abiding and are involved in undeclared activities.

Viewing those participating or considering participation in undeclared work in the construction sector as rational economic actors, who weigh up whether the pay-off is greater than the expected cost of detection and punishment, the objective is to alter the cost/benefit ratio confronting them.

Most policy tools are deterrence measures, designed to dissuade companies from resorting to undeclared work due to the risk of penalties

<sup>4</sup> <https://www.efbww.eu/publications-and-downloads/reports-and-studies/nunc-auctor-elit-sit-amet-accumsan-pretium/36-a>

<sup>5</sup> <https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8242&furtherPubs=yes>

<sup>6</sup> <https://ec.europa.eu/social/main.jsp?langId=en&catId=89&furtherNews=yes&newsId=9555>

<sup>7</sup> For this reason, the European Labour Authority was set up in 2019.

<sup>8</sup> A specific example: the EU Regulation covering temporary cross-border social security is based on the home country principle, while the EU Directive dealing with temporary cross-border wages and working conditions is based on host country rules.

<sup>9</sup> <https://www.kreo.net/blog/why-are-construction-profit-margins-so-low>

<sup>10</sup> However, some argue that no specific (financial) advantages should be given to companies that are simply abiding by the law.

	2007 %	2013 %	2019 %
EU	16	11	10
Nordic	30	17	14
Western Europe	18	10	9
East-Central Europe	17	11	10
Southern Europe	9	12	13

Source: Eurobarometer surveys 2007, 2013 & 2019

**TABLE 3**  
Percentage of citizens purchasing undeclared repair and maintenance services

and sanctions. This can, of course, be achieved by imposing substantial penalties and severe sanctions on those caught. As well as fines, innovative forms of sanction are emerging in many countries, such as the use of 'non-compliance lists' that prohibit offenders from applying for public support programmes or public procurement tenders, or 'naming and shaming' initiatives where the names of offenders are made public.

However, substantial penalties and severe sanctions are extremely ineffective if they are not properly enforced. Enforcement means that they have real effect, i.e. entail genuine penalties and sanctions. Far too often there are simply too few controls/inspections, and penalties and sanctions are not applied because they are overturned by administrative or legal (court) procedures. In these cases, so-called deterrent penalty and sanction tools are fake solutions.

The costs of undeclared work can also be increased by increasing the perceived or actual likelihood of detection (e.g. by means of workplace inspections; IT systems to enable data matching; initiatives to register workers prior to starting work or on their first day of work; ID cards in the workplace; coordinated data sharing initiatives across government; joint inspections; and the use of peer-to-peer surveillance such as telephone hotlines). This focus on increasing the costs of undeclared work will help to achieve the goal of eradicating undeclared work.

Without these tools, a contractor is more likely to decide that the benefits of working undeclared outweigh the possible cost of being caught.

It should be noted that effective and efficient action requires a combination of direct measures aimed at transforming undeclared work into declared work and eradicating undeclared work. This ensures that prevention, control and enforcement tools are used in an optimum manner.

Direct approaches can be divided into supply-side and demand-side incentives and deterrents to transform and eradicate undeclared work. This relates to the client-contractor relationship, where the contractor supplies undeclared work in response to client demand. Within the construction industry, we cannot tackle undeclared work if we ignore the relationship between the client and the contractor.

	Purchasing undeclared goods or services %	Of which, repairs or renovations %
<b>28 European countries</b>	<b>10</b>	<b>30</b>
<b>East-Central Europe</b>	<b>10</b>	<b>31</b>
Bulgaria	17	42
Slovakia	12	41
Czech Republic	16	34
Hungary	15	33
Poland	5	32
Croatia	18	28
Slovenia	11	28
Estonia	13	26
Latvia	21	23
Lithuania	16	22
Romania	7	19
<b>Western Europe</b>	<b>9</b>	<b>28</b>
United Kingdom	5	39
Ireland	14	35
Belgium	16	34
France	8	31
Netherlands	27	28
Luxembourg	13	24
Austria	12	22
Germany	7	19
<b>Southern Europe</b>	<b>13</b>	<b>31</b>
Greece	27	44
Malta	30	36
Spain	9	32
Italy	12	28
Cyprus	16	27
Portugal	16	22
<b>Nordic countries</b>	<b>14</b>	<b>25</b>
Denmark	16	36
Sweden	13	24
Finland	14	14

Source: 2019 Eurobarometer survey on undeclared work

**TABLE 4**  
Purchase of goods and services in the undeclared economy: percentage from the construction sector



On the supply side, the identified incentives and deterrents are simplifying compliance, amnesties, whistle-blower systems, targeted controls, dissuasive penalties/sanctions and advisory/support services for those wishing to move from the undeclared into the declared realm. These incentives and deterrents are active and designed to force changes.

A positive indirect consequence of supply-side incentives and deterrents is that they can encourage self-regulation. In order to avoid direct measures, actors could develop their own tools aimed at preventing external intervention. In general, however, self-regulation does not happen automatically. It will only occur if the negative measures are deemed to outweigh the disadvantage/cost of self-regulation and the latter is considered a less harmful instrument, over which the actors concerned have control.

On the demand side of undeclared labour, incentives and deterrents target 'clients', i.e. the individuals or bodies that potentially benefit from lower end prices. In the construction industry, clients are often (but not always) the owners of the building or construction project. In the case of (private) home repair, maintenance and improvement work, clients could be rewarded for using declared goods and services (e.g. through income tax deductions on the costs of using declared services; issuing vouchers so that consumers only pay a proportion of the hourly wage rate, leaving the remaining part to be covered by the state; and the use of indirect tax deductions). The same approach could be used for larger clients, giving them specific incentives.

On the deterrence side, clients should not be exempted from dissuasive sanctions. After all, they are often the beneficiaries of the lower prices charged. In addition, clients have more control (and therefore a responsibility) over the price leverage mechanism.

**INDIRECT APPROACHES** recognise that citizens and construction businesses are not just rational economic actors that simply calculate the costs and benefits. They are also social actors who engage in undeclared work because their norms, values and beliefs do not align with the laws and regulations, for example due to a lack of trust in the state and what it is seeking to achieve. Very likely this is triggered by the large sums of money which circulate in the construction industry, the limited inspections and controls and the fierce competition between companies.

To bring about such an alignment, a two-pronged strategy is needed. On the one hand, indirect policy approaches seek to change norms, values and beliefs regarding the acceptability of participating in undeclared work, to bring them into line with the laws and regulations (by means of awareness-raising campaigns and educational initiatives, for example). But changing norms, values and beliefs is not easy. It requires a clear vision, long-term commitment and persuasive arguments. Also, the advantages and need for change must be very clear. Generally speaking, people tend to prefer the status quo and are reluctant to accept changes.

These indirect policy approaches should also bring about institutional change. This may involve adapting the internal processes of formal institutions, training and professionalising public officials, and reducing the internal administrative burden. These measures will undoubtedly improve the perception amongst citizens and businesses that there is procedural and distributive fairness and justice, and so enhance trust in government and its functioning.

There is both evidence and a consensus that using direct and indirect measures together is the most effective and efficient way to tackle undeclared work in the construction industry.<sup>11</sup>

<sup>11</sup> Williams, C.C. (2017). *Developing a holistic approach towards undeclared work*. European Commission, Brussels.







## THE EU PROJECT „TACKLING UNDECLARED WORK IN THE CONSTRUCTION INDUSTRY“ (TUWIC)

The EU-funded TUWIC project aimed to facilitate the implementation of an holistic approach on undeclared work (UDW) in the construction sector. The project was rolled out in seven Member States (Austria, Belgium, Bulgaria, France, Italy, Romania and Spain). In each country, construction trade unions, employer federations and enforcement authorities worked together to develop a range of policy initiatives spanning the full spectrum of possible action to tackle undeclared work in the construction sector. These initiatives are summarised in **FIGURE 1**. The TUWIC project exemplifies what can be achieved through tripartite cooperation and how social partners can play a leading role in transforming undeclared work into declared work.

Given that over a fifth (21%) of undeclared jobs in Europe are in the construction sector, taking forward these TUWIC policy initiatives will have a significant impact on the European undeclared economy.

### BEST PRACTICES FROM BELGIUM

By Frederic De Wispelaere,  
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Based on a discussion paper, it was decided to draw up a 'state of play' of the current extent of undeclared work in the Belgian construction sector and the actions being taken to tackle it. A national conference was also held on 20 February 2020.

Undeclared work remains a daily reality in the Belgian economy, not least in the construction sector. It creates unfair competition for companies that do follow the rules and means that workers do not benefit from social protection and labour standards. Undeclared work also means that clients have no guarantees when it comes to poorly executed work. Last but not least, it leads to a fall in public revenues and therefore to an erosion of social security funding.

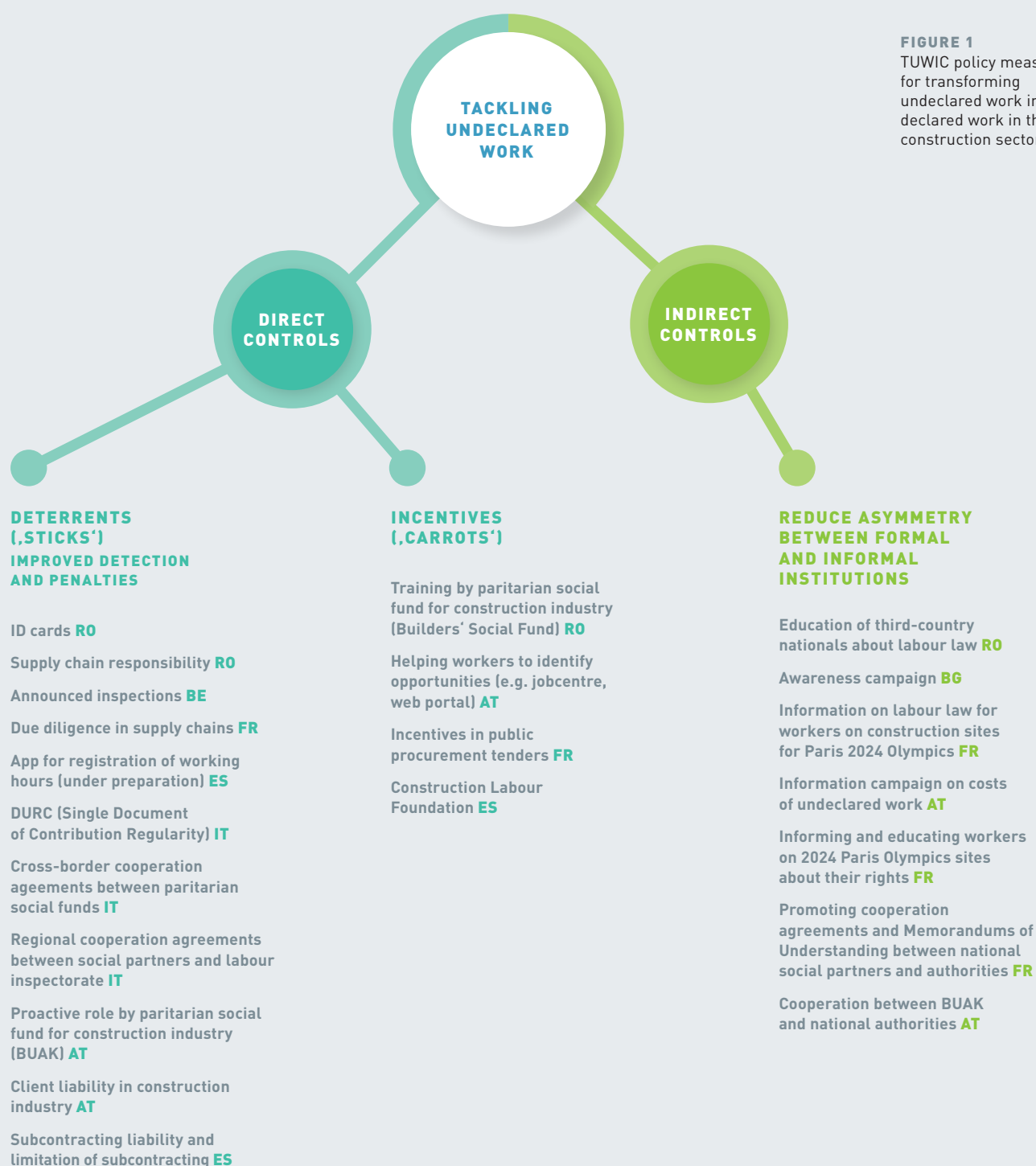
A combination of measures will always be needed to tackle undeclared work, taking into account the three circumstances ('pressure', 'opportunity' and 'rationalisation') that prompt a company or an individual to resort to undeclared work. Here, a distinction should be drawn

between tackling undeclared work in business-to-business (B2B) activities and in business-to-consumer (B2C) activities. At the same time, measures will be needed at European as well as national level.

Over the past decade, undeclared work in the Belgian construction sector has acquired a strong transnational dimension. The number of incoming posted workers and self-employed workers in the Belgian construction sector has skyrocketed. Use of such workers has also led to abuses. However, the monitoring and enforcement of these abuses by social inspectorates is made harder by the need for effective cross-border cooperation. Nevertheless, momentum is arguably building in the fight against cross-border social fraud and undeclared work. For example, the provisions of Directive (EU) 2018/957 have to be transposed into national law by 30 July 2020. This means that a major effort is required by the relevant social inspectorates in the second half of 2020 to inform stakeholders (among other things via the single national website, by updating and translating the sectoral guidelines and checklists published by the Social Intelligence and Investigation Service (SIOD/SIRS), and via so-called 'flash inspections'), and afterwards to carry out checks on Belgian contractors who use posting as well



**FIGURE 1**  
Tuwic policy measures  
for transforming  
undeclared work into  
declared work in the  
construction sector



as on the foreign service providers themselves. In addition, the debate on the revision of the Regulation on the coordination of social security systems is still ongoing. Better verification of posting conditions by the competent public authorities prior to issuing an A1 form is key to tackling cross-border fraud through posting.

Checks on payment of the correct level of social security contributions in the sending Member State should also be enhanced, primarily through exchange of information between the competent authorities in the receiving and sending Member States. In addition, cross-border cooperation will be necessary to ensure (more effective)

enforcement of financial sanctions. In that respect, the recently established European Labour Authority (ELA) will be an important partner in the fight against cross-border social fraud.

The huge amount of attention given to the issue of 'social dumping' through posting can sometimes create the impression that 'national' undeclared work is no longer a problem. Yet it remains a challenge that cannot and should not be ignored. In fact, undeclared work was already a reality before social dumping through posting became a hot topic of debate. The results of public opinion surveys (see the recent 'Special Eurobarometer 498 on undeclared work') and inspections by social inspectorates confirm that undeclared work is still a reality in the Belgian construction sector. According to the National Bank of Belgium, around a fifth of the wealth generated by the construction sector comes from activities in the black economy. This estimate of the extent of undeclared work is considerably higher than for other sectors. The phenomenon is still all too often excused or downplayed: 'undeclared work is the oil that keeps the economy going'. It still seems to be culturally accepted in Belgium. This highlights the vital importance of inspectorates and the criminal justice system. After all, enforcement cannot be left to the social partners because 'self-regulation' is always going to be difficult. Infringement rates remain very high, despite the fact that the social inspectorates have been focusing on the sector for decades. So we cannot and must not lower our guard. Consequently, any update to the 'Plan for fair competition in the construction sector' should not focus on social dumping alone but should also consider purely national undeclared work. This could be done by involving the tax inspectorates more in consultations and inspections. Indeed, social inspectorates are much less involved in tackling undeclared work in B2C activities. Tax inspectorates have an important role to play in this area, in terms of both verifying the income of self-employed workers and checking construction-related VAT returns.

The recent exemption from payment of wage withholding tax for shift work in the construction and related sectors, together with the so-called 'tax shift', undoubtedly represents a sizeable tax break for the construction sector and therefore a significant tax expense for the Belgian government. Such measures should normally lead to a decrease in undeclared work and an increase in the number of regular jobs. This leads us to the observation that assessments of the extent of and trend in undeclared work and efforts to tackle it are based too heavily on feeling rather than fact. It 'feels' as if undeclared work has decreased, it 'feels' as if the tax shift is causing an increase in the number of national workers, and so on. Consequently, there is an urgent need for much better monitoring of the phenomenon, with before and after evaluations of the measures taken to combat it, starting with an evaluation of the 'Plan for fair competition in the construction sector', of the exemption from payment of wage withholding tax for shift work in the construction and related sectors, and finally of the 'law on side jobs'. As part of the reform of social inspectorates, it was decided to strengthen the strategic and coordinating role of the SIOD/SIRS, among other things by setting up a scientifically-based Knowledge Centre on Social Fraud, one of whose aims is to develop an evidence-based strategy to tackle social fraud. This initiative is to be applauded.

Finally, one can argue that unfair competition in the construction sector, caused by some players paying no, or lower, social security contributions or other taxes, has been legalised to a significant extent by a range of atypical forms of employment (posting, self-employment in a secondary activity, 'law on side jobs', etc.). This has resulted in the absence of a level playing field. Moreover, there are insufficient guarantees that players operating in the sector have the minimum professional knowledge required. This is a very unhealthy and therefore an untenable situation. It means that the number of people paying taxes in Belgium, as well as their tax base, are declining. That is why efforts must be made to increase the proportion of employed and self-employed workers on Belgian construction sites who are taxed in a 'normal' way in Belgium.

# BEST PRACTICES FROM FRANCE

By Anouk Lavaure,  
Directorate-General for Labour

In France, the trade unions representing construction workers and public works employers' organisations took part in the project. A number of organisations and public bodies linked to the building of the Paris 2024 Olympic Games infrastructure were also involved.

The Directorate-General for Labour (Direction Générale du Travail, DGT) coordinated the French participation, with the close involvement of the Ile-de-France regional directorate for business and employment (Direccte), since most of the Olympic activities and facilities are located in the Paris region. The actions were based on initiatives by the social partners, with support from public authorities.

The project partners agreed that the project's meeting facilities would be used to establish better information and coordination between the French social partners of the construction industry and all the institutions, authorities and organisations involved in building infrastructure for the Paris Olympics. Several information exchanges and coordination meetings between all partners were held.

An initial exchange of views between all partners took place to identify the expectations/challenges of the various stakeholders and pre-existing initiatives and to map out initial courses of action.

An information and discussion meeting on the organisation of the London Olympics 2012 was held, at which the effective coordination between UK construction unions and the Olympic Delivery Authority (ODA) and London Organising Committee for the Olympic Games (LOCOG) was presented. This coordination strongly emphasised social aspects in the workplaces, such as OSH, housing, working conditions, and so on. The London Games were the safest Olympics ever, with a reported injury rate of 0.17 per 100,000 person-hours and no fatal accidents. The coordination was enshrined in a cooperation agreement and a memorandum of understanding signed by all partners. The following provisions were included in the agreements:

- Ensuring a quality Games experience for all
- Education, training and induction
- Health, safety and welfare
- Equality, diversity and inclusion
- Facilitating the effective contribution of trade unions
- Direct employment
- Trade union membership
- Pay and benefits.

At the same event, the Belgian Construction Confederation, which represents employers in the industry, presented its actions to identify abnormally low prices in public tenders.

Finally, the Building and Wood Workers' International (BWI) presented three labour inspection experiences at major sporting events:

- Labour inspection with the 2018 FIFA World Cup Russia Local Organising Committee, including a memorandum of understanding with the committee
- Labour inspection with the FIFA World Cup Qatar 2022 Supreme Committee for Delivery & Legacy, including a memorandum of understanding with the committee
- Joint inspection at VINCI-QDVC projects in Qatar based on an International Framework Agreement (IFA).

These international best practices were useful, practical and transferable to the relevant French authorities, especially the body in charge of the Olympic structures (SOLIDEO), and the French social partners of the construction industry.

The project partners also discussed the recruitment needs in public works and construction in the Ile-de-France region (i.e. Greater Paris), the framework agreement for the development of employment and skills to support companies in their recruitment, the Social Charter for the Olympic Games signed by the French inter-professional social partner and professional organisations, which pays particular attention to information and rights for posted workers, as well as the agreement on objectives between SOLIDEO and each client.

All partners agreed to continue working in three areas:

- Closely involving all project owners in the effective implementation of identified best practices
- Assisting tendering authorities, contractors and clients in the drafting of calls/replies



for public tenders and setting rules for the assessment of valid candidates' offers (in line with the tools developed by the Belgian Construction Confederation)

- Improving information tools for workers and companies on their rights and obligations prior to recruitment and during construction works, drawing inspiration from the multilingual website [www.constructionworkers.eu](http://www.constructionworkers.eu).<sup>12</sup>

Various needs were brought forward during the discussions:

- Improving sustainable public procurement
- Supporting the development and implementation of a process to promote networking between stakeholders, based on a 'pathway' approach including training, information, completion of mandatory formalities, etc.
- Identifying additional best practices and existing tools for securing site access
- Possibly appointing a 'social coordinator for the accommodation of posted workers'.

<sup>12</sup> This website is managed by the EFBWW



Stepping up labour inspections on the building sites for the Paris Olympic Games 2024.

## BEST PRACTICES FROM BULGARIA

By Vanya Tividosheva

The national social partners of the Bulgarian construction industry agree that undeclared work is highly problematic and that construction is one of the worst affected sectors.

The Bulgarian national initiatives on undeclared work in the construction industry aimed to strengthen tripartite dialogue, facilitate discussions between the social partners and the authorities, and identify (new) solutions for tackling undeclared work in the construction industry.

The key national sectoral partners were:

- trade unions: the Federation of Construction, Industry and Water Supply – Podkrepa (FCIW PODKREPA) and the Federation of Independent Trade Unions in Construction (FITUC);
- the Bulgarian Construction Chamber (BCC), the employers' federation for the construction industry;
- the General Labour Inspectorate Executive Agency.

Key business organisations, trade unions and state authorities worked together on designing the concept for national events, promoting EU tools (European Platform tackling undeclared work), and allocating responsibilities and tasks for finding and implementing solutions to overcome the problems associated with undeclared work.

The national social partners in the construction sector committed to work together and demonstrated a common interest in sharing experiences and providing expertise in several areas of intervention:

- Raising awareness on the importance of tackling undeclared work in construction
- Exchanging information on the measures undertaken by every organisation involved in the partnership
- Promoting common European values for decent work
- Identifying and designing common concepts for joint actions, both within the project activities and as follow-up initiatives.

During the implementation period, three social partner meetings took place and two national events were organised.

At the first social partners' meeting, which took place on 23 April 2019, the social partners identified the following possible actions in Bulgaria:

**1. PREVENTION MEASURES** for tackling undeclared work in the construction sector, such as developing information material on the partners' websites and disseminating it through social media.

**2. CONTROL MEASURES** in the form of joint on-site visits to building contractors with representatives of the General Labour Inspectorate Executive Agency, FCIW PODKREPA and FITUC.

**3. LEGISLATIVE CHANGES**, such as those initiated by the BCC and supported by FCIW PODKREPA and FITUC.

The proposed changes concern the Spatial Development Act. The Bulgarian social partners of the construction industry propose that large developments (such as large housing projects, public buildings and hotels with a capacity of more than 100 clients) may only be built by construction companies listed in the Central Professional Register of Builders (kept by the Bulgarian Construction Chamber).

#### **4. PROMOTIONAL AND COMMUNICATION ACTIVITIES**

In order to strengthen the cooperation, it was decided to agree on a memorandum of partnership to be drawn up and signed by the national social partners of the construction industry. The memorandum would include a specific article on tackling undeclared work in the construction sector and clearly define the roles and responsibilities of each partner.

The TUVIC project partners identified young construction (high school and vocational training) students as the target group for their joint promotional and communication activities.

The students would receive an information leaflet and a presentation, prepared by all project partners, focusing on prevention and awareness-raising of undeclared work in the construction industry. This would be implemented as follows:

- The BCC would provide a list of all vocational and educational schools that educate/train construction students.
- All partners would schedule various visits at the construction training centres and schools.
- All partners would send their available information and material on undeclared work in the construction sector to an external expert, who would prepare a summary of the available information. The expert would also systemise the presentation.
- The Bulgarian social partners of the construction industry and the General Labour Inspectorate Executive Agency would validate the deliverables provided by the external expert.

Young people entering the labour market were identified as the target group. The information materials should be electronic, video-based materials (YouTube, Vbox, Instagram). The campaign would also actively promote existing UDW materials and platforms. The campaign would take place nationwide and would be rolled out in vocational high schools in the construction sector. FCIW PODKREPA and FITUC would develop the scripts and materials for the campaign. The General Labour Inspectorate Executive Agency would be involved in the events and would assist with a review of the materials.

At a second national TUVIC meeting, the partners presented and discussed the prepared materials and continued working on the implementation of activities geared towards specific target groups.

The partners underlined the need to share and use best-practice experiences from other Member States in tackling undeclared work. In addition, they proposed a common European approach for addressing the issue.

The national TUVIC partners agreed that there should be differentiated promotion for each specific target sub-group, for example:

- e-materials and social media for students;
- printed materials (simple flyers) for workers;
- additional information and awareness activities for VET centres training students over the age of 16;
- meetings with employers (members of the Bulgarian Construction Chamber);
- social media campaigns for clients.

The partners agreed to use the annual National Employment Action Plan (NEAP) as a financial instrument to implement the activities in training centres and to develop future projects on preventative measures to tackle undeclared work.

The partners also agreed that the existing national collective agreement for the construction industry should be strengthened. They proposed to stress decent work and expand the scope of the agreement to cover other sectors that have a direct impact on construction, such as the lighting, wood processing and textile industries.

### **ACTIVITIES DURING THE COVID-19 EMERGENCY PERIOD**

During the emergency period in Bulgaria triggered by COVID-19, all schools were closed and distance e-learning was provided. In this context, the Bulgarian partners had to adapt their work and were obliged to cancel/postpone the physical school meetings.

### **FOLLOW-UP ACTIVITIES AND INFORMATION CAMPAIGN**

The information campaign will start as soon as the COVID-19 restrictions are lifted. The social partners will target VET construction students and adult learners at VET centres. The campaign will include:

- presentations in VET schools at the beginning and end of the 2020/21 academic year (September 2020 and May-June 2021);
- presentations at VET centres for adults, to be delivered at the earliest opportunity after the centres re-open their learning facilities.

The presentation will be uploaded to the e-repository maintained by the Ministry of Education and Science as an open tool for any teachers who wish to use it.

## **BEST PRACTICES FROM ITALY**

By Filca Cisl, Feneal Uil, Fillea Cgil and Ance

In Italy, “the informal economy” is a scourge, in terms of both distortion of the labour market and loss of income for the State, resulting in lower wages and worse conditions for workers. The latest surveys show that the informal economy accounts for 210 billion euros, equal to 12.4% of Italy’s GDP, and involves 3.7 million workers.

In 2018, checks carried out by Italian labour inspectors (144,163 companies inspected) revealed 42,306 workers involved in undeclared work. On average, there is one undeclared worker for every three companies inspected. Therefore, it was necessary to promote collaboration between the different actors involved in order to fight undeclared work.

A broad national tripartite meeting addressed the issue of undeclared work in construction. This meeting was attended by:

- the social partners in the construction sector (FENEAL-UIL, FILCA-CISL, FILLEA-CGIL and ANCE)
- the sectoral paritarian funds of the construction industry (National Commission for Building Funds – CNCE, National Commission for Accident Prevention, Hygiene and the Working Environment – CNCPT and National Body for Training and Vocational Training in Building – FORMEDIL)
- the National Labour Inspectorate (INL)
- representatives of employers’ associations and trade unions in the regions of Bari, Brescia, Caserta and Macerata, who presented the best practices in place in their areas.

The meeting highlighted the importance of working together to tackle undeclared work as well as “contractual dumping”, i.e. companies which do not apply the correct collective bargaining agreement when tendering for construction works, in order to be able to submit offers at a clearly lower cost. In addition, the importance of the bilateral control and monitoring system on construction sites was highlighted.

The CNCE plays a strategic role in tackling cross-border social fraud and abuses. Since 2008, it has signed various transnational bilateral mutual



recognition agreements with its counterparts in Germany, Austria, France and the Republic of San Marino. These agreements stipulate that the Italian paritarian bodies are recognised when workers are temporarily posted from Italy to one of the signatory countries.

The national cooperation between the social partners of the construction industry, including the support of paritarian bodies, are crucial for the signing of protocols/agreements.

A good example is the introduction of the Single Document of Contribution Regularity (DURC) which certifies that a company has fulfilled all its social security, insurance and tax obligations. The DURC is required to participate in calls for tenders, as a way of guaranteeing regularity and counteracting undeclared work in the labour market. It is jointly issued by the national social security Institute INPS, the national occupational accident insurance institute INAIL and the Casse Edili (paritarian welfare funds for the construction industry). The paritarian bodies for the construction industry, CNCPT (for health and safety) and FORMEDIL (for education and professional training) also play a crucial role.

The percentage of unregistered workers in the construction industry is now slowly decreasing. However, the percentage of workers who are covered by the wrong collective agreement for the work that they do remains high. In a bid to tackle this (new) phenomenon, the social partners and the authorities have agreed to share data in order to improve monitoring and enforcement of the applicable collective agreements. A memorandum of understanding has been signed to this end.

There follows a brief description of the regional protocols for tackling undeclared work in the construction industry:

**BARI:** Two protocols aim to enforce strict compliance with the correct collective agreement. Every week, each building site has to provide information about who will be present on the site. The workers on these sites must wear a special badge containing specific information such as their name and qualifications.

**BRESCIA:** Protocols have been signed by the local social partners, the local labour inspectorate, the local authorities (municipalities and provinces) and Orders of independent contractors. A digital dashboard for construction sites has also been set up. This system collects and exchanges data about building sites at province level. The data is cross-checked, which improves the monitoring of building sites.

**CASERTA:** A protocol has been signed to help prevent and crack down on organised crime in the construction industry. A system of prior verification, linked to various databases on health and safety conditions, workers on construction sites, and workers' skills and qualifications, serves to improve enforcement.

**MACERATA:** A regional agreement has been signed to establish and test IT systems for detecting individuals authorised to be present on building sites and to strengthen the instruments for preventing criminal infiltration into public tendering through the monitoring of workflows. In addition, an electronic badge for construction workers has been created, containing details about the workers, their employment contract and other personal data.

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The Italian DURC document that confirms whether a construction company has paid the correct social security contributions.

## BEST PRACTICES FROM SPAIN

By the national partners of the project:  
CNC as employers' representative, UGT-FICA,  
CCOO Construcción y Servicios as workers' representatives  
and ITSS (Ministry for Labour and Social Economy)

In recent years, a number of measures have been introduced in Spain that have helped to reduce accidents and improve occupational risk prevention and working conditions (including wages, working conditions, working hours, etc.). These arrangements have also decreased undeclared work in the construction industry. Some measures are the result of a social dialogue process, and many aspects of them were/are unprecedented in the EU.

Overall, the Spanish social partners of the construction industry (CNC, UGT-FICA/CCOO Construcción y Servicios) acknowledge the positive contribution made to labour market regulation by the General National Collective Agreement for the Construction Sector, which is generally applicable to all construction companies and workers. The existence of a uniform set of regulations for the whole of Spain and the establishment of a single regulatory framework negotiated by CNC and UGT-FICA/CCOO Construcción y Servicios have had beneficial and stimulating effects for the proper development of labour relations in the construction sector.

**LAW 32/2006 OF 18 OCTOBER ON SUBCONTRACTING IN THE CONSTRUCTION SECTOR**, and its regulatory development through Royal Decree 1109/2007, require companies that carry out construction activities

and participate in the subcontracting chain to be entered on the Register of Accredited Companies (REA). This means that employers have to prove that they have personnel trained in prevention and the material means to carry out the work. The legislation also states that subcontracting is limited to three levels as a general rule and self-employed workers are not allowed to subcontract their services to another company. A particular feature of the law is that subcontracted companies are not permitted to provide labour only, the aim being to combat the illegal transfer of workers. The Spanish law also stipulates that 30% of the workforce has to be employed on a permanent basis. In order to improve controls, the law also requires the creation of a transparent Subcontracting Book. This document, which must remain on the construction site at all times, includes, among other things, details of the subcontracted work carried out on a particular site by subcontractors and self-employed workers, in chronological order from the beginning of the work, their level of subcontracting and client company, the nature of their contract and the person responsible for organising and managing each subcontractor.

The Spanish paritarian body for the construction industry **FUNDACIÓN LABORAL DE LA CONSTRUCCIÓN (FLC)** has launched a new online tool called Gesinprec, which companies in the construction industry can use to carry out comprehensive prevention management. This free-of-charge support programme allows companies to upload documentation on social security contributions, making it easier to check that subcontractors are complying with their obligations.

The Spanish professional card, issued by the Spanish labour fund of the construction industry. The card contains valuable information on the professional qualifications of the construction workers.



The Spanish Professional Construction Card (TPC) is a sectoral tool closely linked to OSH training available to all workers in the construction sector. The TPC can also include information from the worker about other training, professional qualifications and experience in the sector. The TPC is issued by the FLC.

A bipartite body created in 1992 by the signatory parties to the General National Collective Agreement for the Construction Sector, the FLC plays a key role in providing companies and workers with the resources they need to be more professional, safer and better qualified and to help them towards a more successful future. Its field of action covers the prevention of occupational risks, professional training and activities related to employment, taking into account the possibilities offered by innovation, new technologies and sustainability to continue building this progressing sector.

Reference must also be made to the recent negotiation whereby the requirement to keep a record of each worker's working day is included in the 6th General Agreement for the Construction Sector, in accordance with the new wording of Article 34.9 of the Workers' Statute given by Royal Decree-Law 8/2019 on urgent measures for social protection and the fight against labour insecurity with respect to working hours.

The FLC is currently preparing a tool for recording daily working time, which will facilitate compliance with this legislation.

Last but not least, it should be noted that the **SPANISH LABOUR AND SOCIAL SECURITY INSPECTORATE** has a general remit, which means that its monitoring of compliance with regulations and collective agreements extends to the areas of labour relations, OSH, social security, employment and working conditions of foreign citizens. The construction sector is a priority sector for the Labour and Social Security Inspectorate: in 2018, 17.47% of its inspections were carried out at construction companies.

## BEST PRACTICES FROM ROMANIA

By Dacian Micu,  
Head of HR, HIDROCONSTRUCTIA SA,  
appointed by the social partners  
as national expert for the project

A particular feature of the Romanian construction industry is that the labour market is partially regulated by a collective agreement. Unfortunately, this agreement is no longer generally binding and is poorly monitored and enforced. This has a negative impact on the image of the construction sector, which is one of the biggest obstacles to attracting new workers.

A major problem for the Romanian construction industry is the skills and brain drain. Between 2009 and 2017, over 260,000 construction workers, both skilled and unskilled, left the country, looking for better-paid jobs in Western Europe. As a result, Romania has a shortage of approximately 200,000 construction workers.

The main causes of undeclared work in the Romanian construction industry are costs, lack of social values, poor awareness and the typical characteristics of the industry (complexity, abuse of subcontracting, temporary activity and migrants as a vulnerable group).

The Romanian government has now decided to pursue a two-pronged strategy. On the one hand, the national labour authorities have launched several inspection campaigns targeting the construction industry. On the other hand, the government has brought forward fiscal and budgetary measures to prevent many construction businesses from disappearing from the market. The new legislation stipulates a minimum gross salary of RON 3,000 per month (approx. EUR 615) at national level for the construction sector, compared with RON 2,080 generally. The combination of these two measures has seen the number of newly registered employees increase by 13,000. Very likely these workers switched from undeclared work to regular employment.

The Romanian social partners of the construction industry agree that the most important way to reduce the amount of undeclared work in the construction sector is through coherent long-term and sustainable policies on public



investment. This would create economic predictability for companies, making it possible to recruit workers on a permanent basis and on higher salaries.

The social partners of the Romanian construction industry have identified the following best practices for tackling undeclared work in the construction industry:

- Education and awareness campaigns for workers and employers (involving all social partners), including flyers in Romanian, English and other languages
- Cooperation between national companies and the social partners to train their workers on issues related to the fight against undeclared work, highlighting the benefits for workers and their families
- Encouraging workers to join the Builders' Social Fund (CSC) by educating and raising awareness about the benefits of membership
- Translating relevant legislation for the benefit of (mainly non-EU) migrants employed in Romania.

Overall, the social partners of the Romanian construction industry are in favour of specific sectoral solutions, namely:

- a mandatory social identity card for all construction workers; and
- specific legislative measures for encouraging responsible supply chains.

13 A public corporation entrusted with the autonomous administration of statutory tasks. It also serves as the social partners' institution in the construction industry and plays an important role in the enforcement of legislation to combat violations in this sector.

## BEST PRACTICES FROM AUSTRIA

By Margarita Glaser,  
Austrian Holiday and Severance Pay Fund  
(Bauarbeiter-Urlaubs- und Abfertigungskasse,  
BUAK<sup>13</sup>)

In recent years, a whole series of measures have been implemented successfully to reduce undeclared work within the Austrian construction industry. Undeclared work in the broadest sense causes not only negative macroeconomic effects but also considerable disadvantages for individual workers. For example, fraudulently false registrations can significantly reduce workers' entitlements in the event of unemployment, sickness, holidays and retirement. The macroeconomic impact of reduced social security contributions and possible additional payments to individual workers in the form of unemployment benefits or pensions affects all taxpayers.

Since the Wage and Social Dumping Control Act came into effect on 1 May 2011, BUAK has been authorised to conduct inspections at construction sites and to file complaints to the responsible district administrative authority in cases of underpayment of workers. The purpose of the Act is to achieve equal employment market and wage conditions for Austrian and foreign workers alike. The underpayment of wages is not only a civil law matter, but also an administrative criminal offence. BUAK currently employs 34 inspectors who carry out inspections on Austrian construction sites.

The construction site database set up by BUAK in 2012 provides fast and transparent information about construction sites in Austria. Depending on the size of the construction site, the obligation to report is the responsibility of either the client or the contractor working on the construction site. Inspectors from BUAK and other institutions thus have much faster access to information on the location and start date of construction projects in order to carry out site inspections.

In unclear cases, workers can be invited to a hearing at BUAK to clarify the situation. Inspectors check directly at the construction site whether an employment relationship has been reported to BUAK. Through the targeted collection and processing of this information,

BUAK directly contributes to the prevention of social fraud in the construction industry.

Since 1 January 2018, employers have been obliged to report electronically to BUAK the actual place of work and the actual working time of part-time workers. Reporting a part-time agreement in the case of full-time employment was not uncommon in the construction industry. With the introduction of the obligation to report, the number of part-time workers in the construction industry has been reduced by almost 40%. A breach of this reporting obligation constitutes an administrative offence.

The Client Liability Act introduced a new liability provision for clients of construction services into the General Social Security Act (ASVG). The new liability provisions are intended to counteract the loss of social security contributions due to social fraud. Accordingly, when awarding works contracts to subcontractors, the contracting authority is in principle liable for the contractor's social security contributions up to 20% of the contract amount.

Nevertheless, the possibility of posting workers within the EU has opened up new ways of circumventing national labour and social security legislation, which are much more difficult for the competent institutions to address.

## **1. FAKE POSTING**

An employer who wishes to carry out construction work in Austria but does not wish to shoulder the higher Austrian social security contributions/ancillary wage costs can currently legally circumvent national law. The most common way of doing this is by setting up a company abroad, registering its employees within the social security system of the 'country of origin' and then posting them to Austria. In the worst case, these employees are an Austrian managing director and employees resident in Austria who have no connection with the country of origin of the posting company in which they are registered for social security. The employer can thus show PDA1 documents from the country of origin, even though Austrian labour law and social security law should apply.

## **2. NON-HARMONISED RULES ON POSTING**

A considerable problem in the context of posting is that the current Posting of Workers Directive (which clarifies the permitted posting period) is not harmonised with the Coordination Regulation 883/2004 (which stipulates the length of time that a posted worker remains in the social security system of his/her home country). As a consequence, the rules are hard for both employers and enforcement agencies to understand, which poses problems on the ground.

## **3. CROSS-BORDER ENFORCEMENT OF ADMINISTRATIVE PENALTIES**

The implementation of the Enforcement Directive 2014/67 in the Member States should facilitate the cross-border enforcement of administrative sanctions. It states that administrative violations must be punished in the same way for both national and posting companies, and requires effective enforcement of sanctions (usually the imposition of fines) to the same extent for all operators. However, this is not currently the case.

BUAK has identified that undeclared work in the broadest sense is most frequently connected with postings from other EU countries. In 2019, the suspected rate of underpayment detected during construction site inspections throughout Austria was almost 37% for workers posted to Austria. For employees of Austrian companies, the rate was below 1%.

BUAK also observes that workers who have been posted to Austria subsequently often also work for domestic companies. The posting to Austria can be the beginning of their integration into the Austrian labour market.

The Austrian social partners of the construction industry note that the existing national schemes are achieving the desired success in tackling undeclared work within Austria. While national provisions alone cannot prevent UDW problems in connection with postings, they do keep them in check.

There is currently a shortage of skilled workers in Austrian construction companies. According to employers' representatives, some employers are even willing to pay bonuses if a worker recommends another worker who is subsequently recruited.

At the national TUWIC meetings, it was agreed that it would be advantageous to find some efficient way of bringing employers and workers together in order to a) meet the demand for skilled workers and b) ensure that workers are paid properly for the work they do, in accordance with Austrian labour law. One way to achieve this would be to create a platform, such as a user-friendly website, where workers and employers could come together easily. To make this as accessible as possible, workers and employers should be able to create a profile within a few minutes (by ticking boxes, for example). Also, the platform could use an algorithm to identify suitable matches based on pre-selected characteristics such as skills/qualifications, activity or place of work. To avoid language difficulties, the website should be translated into the most commonly spoken languages.

**MORE INFORMATION CAMPAIGNS** aimed at both workers and employers would be useful to promote awareness of the aforementioned negative effects of undeclared work among these groups. It can be assumed that most workers only consider their current pay (both declared and undeclared) and do not think about the downsides of undeclared work such as reduced pension or unemployment benefits. If they are not aware of these personal disadvantages, they are unlikely to protest about false reporting of their work.

Workers need to realise that they will benefit more in the long term if their work is correctly declared. Again, it is important to provide information in workers' native languages. The individual benefits for employers must be made unattractive by appropriate sanctions for false declarations. Where sanctions already exist and are sufficient, it would be useful to highlight these in information campaigns targeting employers.



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European platform  
tackling undeclared work