



Practitioners' toolkit: **cross-border concerted and joint inspections**



European Platform
tackling undeclared work

AUTHORS:

Ruslan Stefanov, Daniela Mineva and Petar Terziev
Vitosha Research EOOD (Center for the Study of Democracy Group)

In collaboration with ICF, Philippe Vanden Broeck and Prof Colin C. Williams

LEGAL NOTICE

This document has been prepared for the European Commission however, it reflects the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.

Luxembourg: Publications Office of the European Union, 2020.

© European Union, 2020

Reuse is authorised provided the source is acknowledged.

The reuse policy of European Commission documents is regulated by Decision 2011/833/EU
(OJ L 330, 14.12.2011, p. 39).

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

Cover image: © istock, 2019

PDF ISBN: 978-92-76-10177-2 DOI: 10.2767/58060 KE-01-19-850-EN-N

Created in 2016, the European Platform tackling undeclared work enhances cooperation between EU countries. This EU-level forum allows different actors, including social partners and enforcement authorities, such as labour inspectorates, tax and social security authorities, to exchange information and good practices; learn from each other and together; develop knowledge and evidence.

This publication has received financial support from the European Union Programme for Employment and Social Innovation "EaSI" (2014-2020). For further information please consult: <http://ec.europa.eu/social/easi>.

Table of contents

1. INTRODUCTION	4
1.1. Why invest in cross-border inspections?	4
1.2. What is the aim of the toolkit?	4
1.3. Who is the toolkit for?	5
2. STRATEGIC APPROACH TO CROSS-BORDER UNDECLARED WORK	6
2.1. Ensure political and operational buy-in	7
2.2. Enable staff to work across borders	7
2.3. Risk assessment	8
2.4. Mix different interventions	10
2.5. The role and status of officials from other participating Member States	12
2.6. EU support for strategic approaches to undeclared work	14
3. STEPS FOR SUCCESSFUL CONCERTED AND JOINT INSPECTIONS	15
3.1. Planning concerted and joint inspections	15
3.2. Implementing concerted and joint inspections	23
3.3. Following up concerted and joint inspections	26
4. CONCLUSION	29
BIBLIOGRAPHY	30
ANNEX 1 SUGGESTION FOR A MAPPING OF A 'WHO'S WHO' DIRECTORY	31
ANNEX 2 POSSIBLE MODEL AGREEMENT FOR A CONCERTED OR JOINT INSPECTION	33
ANNEX 3 POTENTIAL QUESTIONS FOR QUESTIONNAIRES IN CROSS-BORDER INSPECTIONS	37
ANNEX 4 SUGGESTED POST-INSPECTION/FOLLOW-UP REPORT	41

1. Introduction

1.1. Why invest in cross-border inspections?

Cross-border mobility and declared work across the EU underpin a fair and well-functioning labour market. But as labour mobility within the EU grows, so do concerns around undeclared work and social fraud. These concerns often derive from dynamic and complex schemes for evasion of taxes and social security contributions, such as fraudulent letterbox companies or bogus self-employment, which operate across borders, sometimes spanning multiple countries.

An effective combination of direct and indirect controls across borders can help enforcement bodies across Europe to address those issues. Concerted and joint inspections are part of these measures and can be an effective deterrent by bringing together the investigative powers, expertise and resources of multiple partners. They also encourage cooperation between enforcement bodies across the EU and demonstrate to the public that complex cross-border fraud is being tackled.

However, cross-border inspections remain until now limited¹ in number and can be hampered by incompatible legal frameworks within different Member States, as well as issues around resourcing and data sharing. Therefore, more efforts are needed at national and EU level to support and coordinate cross-border inspection activities.

1.2. What is the aim of the toolkit?

Effective cross-border inspections require national and EU-wide support. Given the current challenges to organise cross border inspections, this toolkit² offers guidance on how to prepare, implement, and follow up effective cross-border inspections to ensure that EU rules on labour mobility are enforced fairly, coherently and effectively.

Part 2 of the toolkit outlines the pre-conditions for effective cross-border inspections, advising national enforcement bodies how to address EU-wide undeclared work strategically, focusing on capacity building and risk-assessment.

Part 3 offers practical steps to adopt in national law and existing practice, structured along the three stages of cross-border inspections:



Planning



Implementing



Following-up

Boxes at the end of each section in part 3 outline the EU support required by enforcement bodies conducting concerted and joint inspections, as outlined by one of the objectives of the European Labour Authority.

Objectives and tasks of the European Labour Authority

The European Labour Authority (ELA) ensures that EU rules on labour mobility are enforced in a fair, simple and effective way. Fully operational by 2024, the ELA will be a permanent structure, made up of approximately 140 staff members, some of them seconded from Member States and acting as National Liaison Officers. Specifically, the ELA will:

- ▶ facilitate access for individuals and employers to information on their rights and obligations as well as to relevant services;
- ▶ support cooperation between EU countries in the cross-border enforcement of relevant Union law, including facilitating joint inspections; and
- ▶ mediate and facilitate a solution in cases of cross-border disputes between national authorities.

The European Platform tackling undeclared work will be integrated into the ELA as a permanent working group and the fight against undeclared work becomes a stand-alone task for the ELA.

Article 8 of the Regulation establishing a European Labour Authority defines concerted and joint inspections:

1 According to the results of the European Platform tackling undeclared work (the 'Platform') survey on cross-border concerted and joint actions (2019), labour inspectorates rarely engage in concerted and joint inspections (1-2 times annually). In 2018, seven Member States have not conducted any joint inspections, while only four (Denmark, France, Portugal and Sweden) performed more than 10 joint inspections.

2 The toolkit is part of a mutual learning process among members of the Platform in 2019 which included a thematic review workshop, a learning resource paper and a follow-up visit on the same topic.

- ▶ concerted inspections are inspections carried out in two or more Member States simultaneously regarding related cases, with each national authority operating in its own territory, and supported, where appropriate, by the staff of the Authority;
- ▶ joint inspections are inspections carried out in a Member State with the participation of the national authorities of one or more other Member States, and supported, where appropriate, by the staff of the Authority.

Source: Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344.

1.3. Who is the toolkit for?

The toolkit advises inspectors and managers within relevant enforcement bodies on tackling cross-border undeclared work.

Part 2 advises national policymakers how to strategically address cross-border undeclared work.

Boxes at the end of each section in part 3 outline EU support relevant to EU policymakers, in particular in the context of the new European Labour Authority.

2. Strategic approach to cross-border undeclared work

Cross-border undeclared work needs to be addressed strategically at national and EU-level. This generates political and operational commitment, ensures enforcement bodies are supported and adequately resourced and that the risks of cross-border undeclared work are sufficiently addressed.

A strategy on cross-border undeclared work defines goals to tackle EU-wide undeclared work, determines the most effective and efficient measures to meet those goals, allocates resources and monitors outcomes. Activities may include concerted and joint inspections and other cross-border approaches, such as data sharing and exchange, and joint prevention activities.

A strategic approach can be either part of the overarching strategy of an enforcement authority, or a self-contained strategy. For example, in Belgium, France and the Netherlands, cross-border inspections are already included within organisational strategic objectives and annual inspection plans.

This strategic approach allows enforcement bodies to plan future activities and develop measures to address cross-border undeclared work proactively and efficiently. Cross-border measures are regularly monitored and updated in a 'Plan-Do-Check-Act' approach, as illustrated in Figure 1.

Figure 1. Plan-Do-Check-Act cycle for a cross-border undeclared work strategy



Source: CSD/ICF.

2.1. Ensure political and operational buy-in

Political or high-level support is crucial to developing and implementing a strategic approach to cross-border undeclared work. Cross-border inspections often require more resources than national inspections. Commitment to such EU-level cooperation can guarantee that staff are recruited and sufficiently trained, and that systems exist to perform those activities efficiently.

A strategic approach based on a regular review of results ensures commitment by decision makers, as outlined in the example below.

Annual action plan to combat social fraud and social dumping, Belgium

In conjunction with the Social Information and Investigation Service (SIOD), the Belgian Labour Inspectorate develops an annual action plan to combat social fraud and social dumping, including at cross-border level. It focusses on certain sectors (construction, cleaning, HoReCa) and is then approved by the Government.

This action plan includes cross-border inspections, information exchange, bilateral agreements and campaigns with foreign counterparts. It is implemented by specialised teams (named Network teams, see next box) in the labour inspectorate and results are checked quarterly. As these results improve, the units are provided more resources to recruit more staff and develop IT capabilities.

Source: European Platform tackling undeclared work. Thematic review workshop (TRW) on cross-border concerted and joint inspections, Lisbon, Portugal, 28 February-1 March 2019.

2.2. Enable staff to work across borders

Successful cross-border inspections (and other forms of cooperation) depend on skilled, committed and sufficiently-resourced enforcement bodies. Soft skills such as intercultural awareness (the mindset or ability to 'think internationally'), networking and teamwork, but also knowledge of specific IT systems, languages and legal backgrounds are important competences for international cooperation.³ Using examples from colleagues who have taken part in successful cross-border actions can help motivate staff.

Measures to improve working culture among inspectors that work across borders include:

- ▶ long-term recruitment strategies (for example, having a graduate programme with a

specialisation in cross-border work combined with recruitment of diverse staff with working experience from other sectors with more international experience, e.g. from international departments in other public authorities or police forces);

- ▶ a focus on soft skills in recruitment and training (such as intercultural skills, working in different and remote teams or communication skills);
- ▶ working in specialised teams with at least one experienced cross-border inspector (see Network teams in Belgium below);
- ▶ more focus on language ability (for example by offering language training or the recruitment of bilingual inspectors);
- ▶ more exchange programmes for inspectors (for example, staff visits or joint training); and
- ▶ dedicated training (e.g. 'on-the-job' or training modules/manuals on how to work across borders, such as how to use the Internal Market Information (IMI) system or other data sharing platforms).

Cross-border teams

Specialised teams of cross-border inspectors can help focus resources on EU-wide undeclared work cases, as outlined below.

Network teams specialised in cross-border employment and the posting of workers, Belgium

The Belgian Labour Inspectorate created specialised teams (Network teams) to tackle undeclared work, as a result of an increase in cross-border employment and posting of workers.

Inspectors become specialists via a learning-by-doing approach, with training on legislation and via a tailored methodology. The latter includes a series of potential scenarios and procedures on how to investigate such a case and inspection materials, such as letter templates and questionnaires for workers. The work of the inspectors is closely supervised by team leaders who in turn report to advisors. Both need to ensure that team members are fully informed of any changes to the rules (new legislation, court rulings). This system ensures that the investigation methodology is applied consistently throughout operations at all times.

Source: European Platform tackling undeclared work. Thematic review workshop (TRW) on cross-border concerted and joint inspections, Lisbon, Portugal, 28 February-1 March 2019. European Platform tackling undeclared work (Forthcoming). Network teams, Belgium. Brussels: European Platform tackling undeclared work.

3 European Platform tackling undeclared work, (2019). Thematic review workshop: Future role and competence profile of labour inspectorates. 26-27 June 2019, Vilnius, Lithuania. Executive summary. Brussels: European Platform tackling undeclared work. Available at: <https://ec.europa.eu/social/BlobServlet?docId=21509&langId=en>

Cross-border concerted and joint inspection teams need to be assigned a clear set of tasks. Team leaders should be inspectors fully versed in relevant legislation and forms of and reasons behind undeclared work in specific sectors, as well as experienced in conducting cross-border inspections. If there are concerns about occupational health and safety or labour exploitation, the leading inspector needs to be familiar with relevant international standards and procedures.

2.3. Risk assessment

Strategies to address cross-border undeclared work are ideally based on shared risk assessment. This enables more efficient identification, analysis and evaluation of cross-border undeclared work cases and determines specific actions, while considering the strategic goals of enforcement bodies. An example of a joint risk assessment is outlined in the box below.

Joint risk assessment in Belgium and the Netherlands

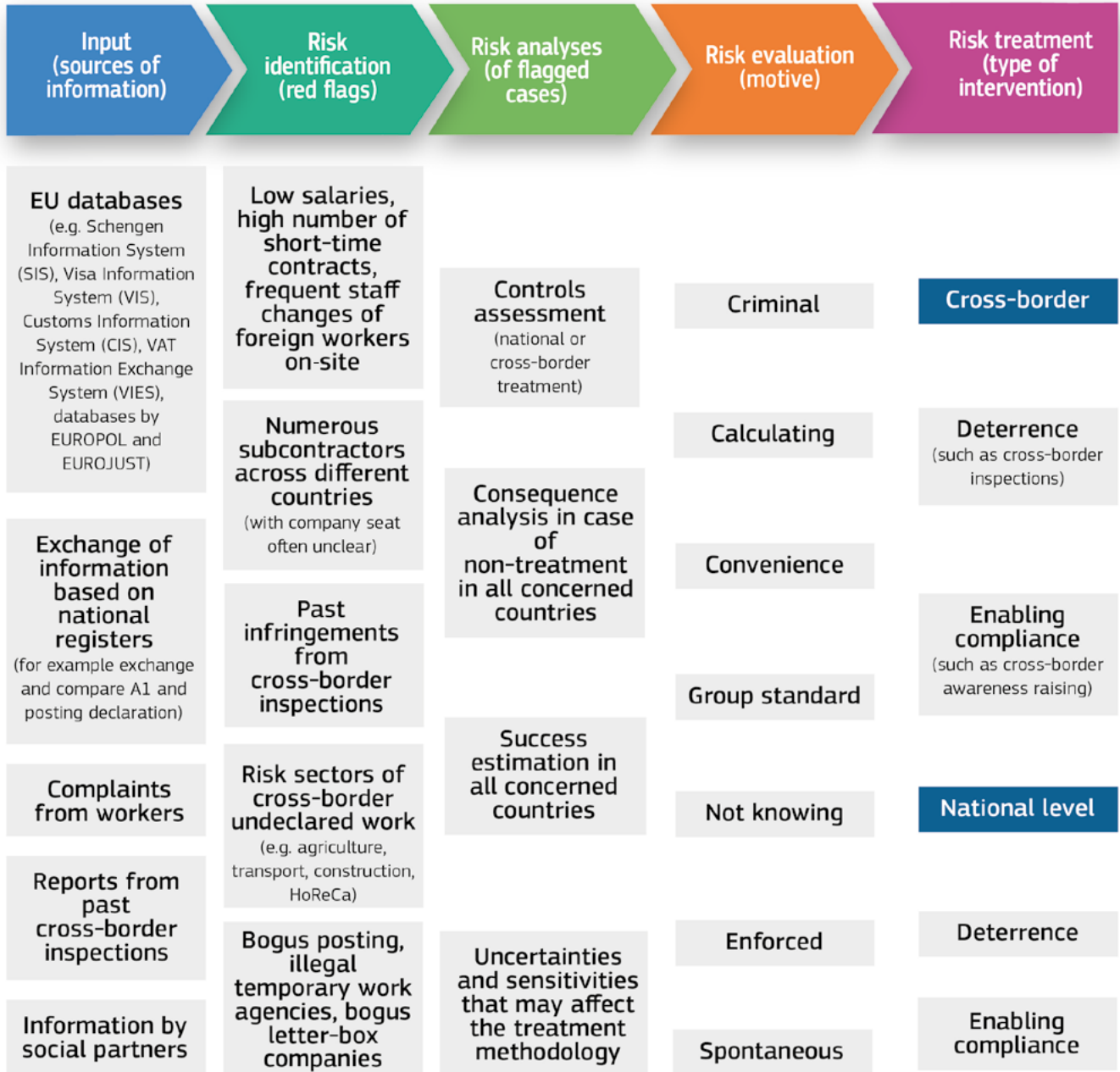
The Belgian and Dutch labour inspectorates cooperate based on an existing bilateral agreement and the Benelux Treaty. Cooperation is initiated via a comparison and ranking (using 'red flags') of the companies in national risk assessment tools. This includes analysing the most risk-prone sectors and companies through exchanged data, e.g. the Belgian Limosa declaration compared to the A1s delivered in the Netherlands.

Source: European Platform tackling undeclared work (2019). Survey on cross-border concerted and joint actions.

Cross-border cooperation can be based on identified joint risks of undeclared work and a further fine-tuning of risk-assessment systems using multiple steps, suggested in the figure below.

Risks can be categorised in line with specific economic sectors (e.g. agriculture, transport, construction, HoReCa), types of companies (e.g. letterbox companies, temporary work agencies) or groups of workers (e.g. posted workers, recruiters, frontier workers, long-term residents).

Figure 2. Risk assessment system towards tackling cross-border undeclared work



Source: CSD/ICF. Based on presentation from the Netherlands on the 'Intervention toolbox' at the follow-up visit on cross-border concerted and joint inspections, The Hague, The Netherlands, 3 July 2019. The red flags are based on: European Platform tackling undeclared work (2018). A learning resource from the thematic review workshop: Risk assessments for more efficient inspections.

2.4. Mix different interventions

Following a risk assessment, enforcement bodies need to identify which combination of cross-border measures is most effective to address the identified risks of undeclared work. The Dutch example below describes a method to plan interventions in a strategic way and to assess what measure or combination of measures works for which target group.

The Intervention toolbox, the Netherlands

The Dutch 'Intervention toolbox' begins with a review of potential risk groups and which aims to tailor intervention tools and ensure monitoring of results. The main stages of the toolbox are:

- ▶ focus on specific risk factors (e.g. underpayment, undocumented work, human exploitation or social fraud) or type of company (e.g. temporary work agencies, bogus self-employment);
- ▶ identify the motivation to engage in undeclared work, such as shortage of staff or unfair competition;
- ▶ create a mix of interventions (e.g. national cooperation, information exchange or joint inspections); and
- ▶ measure the effect of the interventions, including at operational, branch and at societal level.

The 'Intervention toolbox' helps to decide which interventions can be used for which undeclared work problems. For example, inspections are used for intended offenders, while awareness-raising campaigns are suggested for unintended offenders.

Source: European Platform tackling undeclared work. Follow-up visit on cross-border concerted and joint inspections, The Hague, The Netherlands, 3 July 2019. European Platform tackling undeclared work (Forthcoming). Intervention toolbox, the Netherlands. Brussels: European Platform tackling undeclared work.

2.4.1. When and what type of cross-border inspections to perform?




Concerted and joint inspections are often combined with other cross-border cooperation activities. Cross-border inspections are preceded by information sharing (see section 3.1.4 below) and should ideally go hand-in-hand with staff exchanges and joint training to establish working relations. They can be complemented by preventive measures, such as campaigns or information tools (see section 3.3.2 below).

The choice of when and what type of cross-border inspections to perform depends on the individual cases. Cross-border inspections are typically chosen as a method for tackling the most pertinent, large-scale and complex cross-border cases of potential undeclared work. For example, some fraudulent temporary work agencies or letterbox companies require different types of evidence, often from various countries. The decision to perform a cross-border inspection is therefore based on:

- ▶ the geographic scale of the case which covers two or occasionally more Member States (while the geographic scope of the initial cross-border inspection may be limited to two countries, it can lead to a larger-scale enquiry in different countries);
- ▶ the understanding that cross-border cases are more complex and sophisticated, and are used when violations cannot be proven through other means (such as clarifying questions via information exchange);
- ▶ when the motive for undeclared work is ingrained, so that indirect controls to increase commitment to legitimate behaviour will not work.

The type of cross-border inspection depends also on the scale and seriousness of the identified risks, as outlined in the table below.

Table 1. Examples of different types of cross-border inspections

When it should be applied	
<div style="background-color: #4caf50; color: white; padding: 10px; font-weight: bold; font-size: 1.2em;">Concerted inspections</div>	<p>Concerted inspections are often used to assess compliance of different sites of the same company in various countries by comparing documents and testimonies. They can be less resource-intensive (less coordination and no travel expenses required). They also tend to take place before joint inspections to establish the scale of the irregularity.⁴</p>
<div style="background-color: #2196f3; color: white; padding: 10px; font-weight: bold; font-size: 1.2em;">Joint inspections</div>	<p>In general, joint inspections benefit from the 'surprise effect' of the presence of foreign inspectors, who understand the language and cultural nuances of workers from another Member State, and from the shared experiences of the participating enforcement bodies.</p> <p>There are the following types of joint inspections:</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div style="text-align: center;">  <p>At one location in one country</p> <p>When there is need to generate in-depth knowledge or clarify specific case information at a location that cannot be clarified by information exchange alone. For example, such inspection can be appropriate for highlighting abusive posting of workers by communicating with them in their native language to determine if they were actually posted.</p> </div> <div style="text-align: center;">  <p>At multiple locations in one country</p> <p>When there is need to investigate a single company with several offices or branches or several companies in the same sector, located at multiple sites in one country.</p> </div> </div> <div style="text-align: center; margin-top: 20px;">  <p>At one or multiple locations in two or more Member States</p> <p>When there is need to address more complex and/or evolving cross-border undeclared work cases, such as temporary work agencies or networks operating in more than one Member State. For example, this could involve rapidly changing legal entities, or multiple sub-contractors.</p> </div>

Source: Based on: European Platform tackling undeclared work, (2019). Learning Resource Paper from the Thematic review workshop (TRW) on cross-border concerted and joint inspections, Lisbon, Portugal, 28 February-1 March 2019.

4 For example, this is the usual procedure for collaboration between Belgium and Romania.

Joint inspections in France and Poland

In 2018, three labour inspectors from the Polish National Labour Inspectorate and French labour inspectors participated in an inspection of a company in Lille and their Polish sub-contractor. The aim was to check the legality of employment and posting, as well as working conditions. Proceedings were along the inspection methodology applied by the French labour inspectors and based on French legal provisions and procedures (so only French labour inspectors could make decisions or instruct the inspected company). As a result, the failure of a posting notification was discovered and is followed up by the French inspectors.

In addition, in 2017, three Dutch inspectors took part in an inspection of a Polish company that was suspected of posting violations. Both countries worked together to gather information on the case (e.g. information about inspections carried out in the Netherlands, the scope of issues to be determined in the territory in Poland). The inspection itself was based on Polish legal provisions. Inspectors discovered that Dutch companies employed Polish students sent by a university internship scheme. This violated employment conditions of foreigners without work permits and remuneration provisions in the Netherlands. The Dutch employers were ordered to settle the financial benefits to the employees.

There are different approaches across Member States to regulate the presence and role of foreign inspectors during joint inspections. A recent Eurofound study indicates that most Member States have a legal basis for concerted and joint inspections.

The study also outlines that 19 Member States actually perform such inspections and use the evidence gathered in court.⁵ However, while legislation allows the presence of foreign inspectors, their investigation powers remain, for the most part, unspecified or open to interpretation. Denmark and France seem to stipulate explicitly in their legislation that foreign inspectors may only act as observers. There is also anecdotal evidence from Platform members which suggests they interpret the existing legal basis for cross-border inspections in a way which only allows foreign inspectors an observer status. For example, the Belgian social criminal code permits the presence of foreign inspectors to 'collect any information which may be useful for the purpose of carrying out the surveillance for which the latter are responsible'. But this is interpreted narrowly, so that foreign inspectors only act as observers to advise and support the domestic inspector.

To clarify the status of foreign inspectors, enforcement bodies can advocate their government to clarify the legal status and investigation powers of foreign inspectors. In the short term, the competences of seconded inspectors should be most efficiently deployed during joint inspections. These tasks are likely to include clarifying the legislation, required documents and interview questions needed to ensure sufficient evidence for prosecution in their Member States, as well as providing language support on-site.

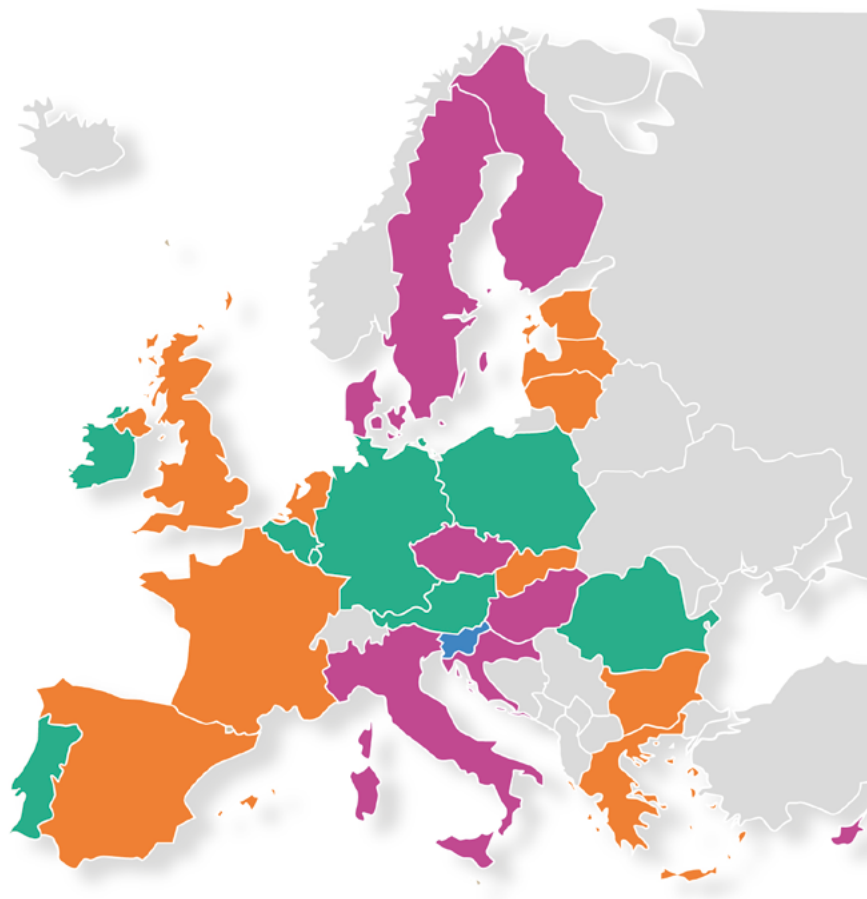
2.5. The role and status of officials from other participating Member States

In many Member States, foreign inspectors have 'observer' status, meaning they cannot issue legal remedies or apply sanctions. They can primarily offer guidance and translation support and gather information on potential violations that can be used to build a case.

⁵ These countries are Austria, Belgium, Bulgaria, Croatia, Denmark, Estonia, Finland, France, Greece, Ireland, Latvia, Lithuania, Luxembourg, the Netherlands, Portugal, Romania, Spain, Sweden and the UK. Denmark and France specifically accept foreign inspectors only as observers. Eurofound (2019). Joint cross-border labour inspections and evidence gathered in their course. Available online at: <https://www.eurofound.europa.eu/sites/default/files/wpef19062.pdf>.

Figure 3. Legal basis facilitating cross-border inspections

- **Legislation**
AT, BE, DE, IE, LU, PL,
PT, RO
- **Bilateral agreements**
BG, EE, EL, ES, FR, LT,
LV, NL, SK, UK
- **Other**
SI
- **No legal basis**
CY, CZ, DK, FI, HR, HU,
IT, MT, SE



Source: Eurofound (2019). Joint cross-border labour inspections and evidence gathered in their course.

2.6. EU support for strategic approaches to undeclared work

The following EU-level assistance, guidance and resources could help address cross-border undeclared work more strategically.

Basic support	Comprehensive support
Strengthening capacity building of national authorities	
<p>Developing handbooks and manuals (online and print) to cover the EU legislation concerning undeclared work and social fraud, tools for information exchange (training on the Internal Market Information system (IMI)) and practical steps to organise concerted and joint inspections.</p>	<p>Developing and implementing a training programme (online and classroom) to cover the EU legislation concerning undeclared work and social fraud, tools for information exchange (IMI training) and practical steps to organise concerted and joint inspections.</p>
<p>Promoting exchange of personnel between enforcement bodies in existing EU programmes.</p>	<p>Introducing an EU-wide funded secondment programme of staff in enforcement bodies to motivate inspectors to work in a cross-border context and to exchange on specific cross-border undeclared work cases.</p>
<p>Promoting mutual learning between enforcement bodies in existing EU programmes.</p>	<p>Organising enhanced peer learning activities on planning, implementing and following up cross-border inspections.</p> <p>Developing and implementing a 'benchlearning' programme that informs exchange and mutual learning between enforcement bodies by and assessment of organisations along a set of criteria to identify good practice and to follow-up mutual learning activities.</p>
Assessing risks and carrying out analysis regarding labour mobility and social security coordination	
<p>Supporting national bodies to improve their risk assessment systems by mutual learning activities in existing EU programmes.</p>	<p>Developing a database for cross-border risk analysis (standalone or based on interconnection of national databases). This firstly requires an assessment of national data sources and a comparison of risk assessment systems, with the help of data-miners, data analysts, labour market specialists and researchers.</p> <p>Such a database could include a register of companies working across borders. It can be based on the EU Portal for Business Registers, enriched with information on ownership/management data, corporate finance, tax and social debts. This enables the provision of lists of suspect companies and reports on undeclared economic activity in specific companies and sectors to identify potential cases for joint and concerted inspection.</p>

3. Steps for successful concerted and joint inspections

3.1. Planning concerted and joint inspections

Planning cross-border inspections ensures the success

of activities and that resources are efficiently allocated. Figure 4 below covers suggested steps to plan cross-border inspections.

Figure 4. Key steps in planning concerted and joint inspections



Source: CSD/ICF.

3.1.1. Step 1. Identify and clarify a case

Ideally, cases to be inspected should be identified through the strategic approach, based on serious complaints, reoccurring issues and risk assessment outcomes which are outlined above.

Where cooperation between two enforcement bodies already exists, both parties compare their identified risks. If authorities have not cooperated before, the first step is to establish contact with the relevant counterpart from the other country.

Risk issues, fraud schemes and target groups can be further clarified through preliminary research and national or cross-border exchange of information. Enforcement bodies can share information via personal contacts, or liaison contact fiches (which in some countries are established via bilateral agreements). Depending on the type of information, data transfer via IMI, other EU systems⁶ or encrypted digital communication might be necessary.

Enforcement bodies then assess if and what form of a cross-border inspection is needed, and how they can be combined with other cross-border activities (see section 2.4.1 above). This evidence-based approach can also help to communicate the mutual benefits to partner organisations, creating commitment and motivation to work on a cross-border inspection together.

Inspection partners then decide on the objective or desired outcome of the cross-border inspection. As an inspection can lead to criminal or administrative proceedings, enforcement bodies should discuss what type of evidence (and format of the documents) a public prosecutor or another administrative authority may require. It is therefore recommended to clarify the requirements with the prosecutor or the administrative authority. This can be clarified in a draft agreement (see also step 8 of this section [drafting a model agreement] and step 2 in implementing cross-border inspections [verify evidence in the appropriate format]).

⁶ E.g. Electronic Exchange of Social Security Information, Schengen Information System (SIS) II, Visa Information System (VIS), EUROPOL, EUROJUST, EUROFISC or Frontex.

3.1.2. Step 2. Involve third parties

Third parties, such as social partners and other law enforcement authorities (tax and revenue, police or prosecution) can contribute technical, legal and IT support.

Social partners (employer associations and trade unions) can help highlight labour law irregularities or even fraud schemes by labour market analysis and local information on working conditions and subcontractors. For example, in some countries, social partners check compliance with collective agreements; information that can complement risk analysis or inspection activities. Social partners can also help prepare cross-border inspections, supporting with expertise on assessing labour, health and safety standards. As in national inspections,⁷ social partners could also participate in cross-border inspections to support inspectors with their knowledge about the sector and specific undeclared work phenomena. However, as with the status of foreign inspectors, the status of a social partner representative may also encounter legal barriers.

Collaboration with social partners can be built upon existing cooperation structures, for example by incorporating inspection activities into sectoral agreements. Regular strategic meetings between social partners and enforcement bodies, joint campaigns and collaboration in the EU-funded EURODETACHEMENT projects on posting of workers⁸ have contributed to the initiation of joint inspection activities in this area.

Police and prosecutors can support cross-border inspections in high-risk sectors or complex fraud and labour exploitation cases through serious measures (e.g. closing workplaces), alternative investigation techniques (phone tapping or house search) and by guaranteeing the safety of inspectors.

An example of collaboration between the police, the labour inspectorate and social partners is outlined below.

Cooperation with partners

Portugal and Spain

Increased cross-border workers in the region of Galicia (Spain) and North of Portugal created a specific need for cooperation:

- ▶ Portuguese courts needed to collect information from Spanish authorities on labour-related accidents to allocate compensation to workers;
- ▶ the Portuguese Authority for Working Conditions needed to request verification from the Spanish authorities of workers' complaints on housing conditions;
- ▶ the Portuguese authorities were unfamiliar with the minimum wage for posted workers in Spain.

As a result, Spain and Portugal developed a range of joint activities including inspections and information exchange, with input from various stakeholders. Portuguese tax authorities offered advice on how to detect tax violations beyond labour law infringements. Social partners, municipalities, professional schools and universities provided practical insight into business practices, working conditions and problems arising in the sectors concerned.

Therefore, joint inspections between Portugal and Spain in the construction sector are informed by social partners and social security authorities. In addition, labour inspectors from Portugal and Spain are joined by other partners during the inspection: police forces prevented workers from fleeing the inspection sites, social security authorities checked information about the social security status of posted workers and health and safety authorities assessed working conditions.

Norway and Lithuania

The Norwegian Labour Inspection Authority and the Lithuanian Labour Inspectorate performed a joint inspection in March 2018 in Lithuania to tackle unregistered activities in the construction sector. Labour inspectors, police officers, tax inspectors and migration authorities were involved. As a result, both countries established good working relations and learned about the locally applicable legislation. More concerted and joint inspections are planned from 2019 to 2021, along with other cooperation activities (staff exchange for learning, joint inspections and information campaigns).

⁷ European Platform tackling undeclared work (Forthcoming). Social partners success stories. Brussels: European Platform tackling undeclared work.

⁸ <http://www.eurodetachment-travail.eu/Default.asp?rub=&lang=en>

Spain and Romania

Since 2016, the Spanish Labour and Social Security Inspectorate is part of joint investigations organised by the Spanish and Romanian police forces in Spain. These action last one week and are focused on human trafficking and labour exploitation. Labour inspectors' competences also include the detection of human trafficking and labour exploitation, while they also monitor undeclared work, social security, working conditions and health and safety regulations. Further cooperation included a joint inspection in July 2019 in which also a Romanian labour inspector participated, with support from the Platform. In addition, an awareness raising campaign directed towards Romanian workers in Spain has been coordinated between the Spanish Labour Inspectorate and the Romanian Embassy in Spain.

As a result, workers in inspected companies benefited from the efforts of three authorities from different countries to improve their situation, and they were able to communicate during the inspections in their own language.

Source: European Platform tackling undeclared work. Thematic review workshop (TRW) on cross-border concerted and joint inspections, Lisbon, Portugal, 28 February-1 March 2019.

The enforcement bodies implementing the concerted or joint inspection could also seek technical support or legal advice from EU-level bodies. For example, EUROPOL can facilitate site entry for criminal investigations or inspections (a solution used in Croatia⁹), provide EU-wide company data and secure data exchange. Specific cases of social benefit contribution fraud might allow for a European investigation order, a Joint Investigation Team or even cross-border enforcement via a European Arrest Warrant (EAW) or the mutual recognition or financial penalties. EUROJUST can clarify legal issues related to the admissibility of evidence, powers of different authorities and advise on the appropriate investigation techniques for the case.

However, competent authorities regarding judicial and police cooperation at a national level are not the same as social security institutions and it requires good national cooperation practice to ensure effective cross-border cooperation.

3.1.3. Step 3. Get to know foreign counterparts

Enforcement bodies need to establish a good working relationship to conduct inspections together. To find out which organisation deals with which issue (undeclared work, social security fraud, labour exploitation) enforcement bodies can develop an overview of their foreign counterparts, including legislation, respective investigation power and contact. This can be based on relevant information in existing bilateral agreements or other agreements, such as the Belgian-Dutch roadbook (see section 3.1.8)

However, it may be more efficient to have an EU-wide 'who's who' directory of organisations across Europe (see 3.1.9 on EU support for planning cross-border inspections and Annex 1 for further mapping suggestions). Once the relevant partnerships have been established, the responsibilities, legal power, resources and competences of each needs to be determined from the outset. This information only needs to be established once for each partner organisation and can be referenced in all future cross-border activities. This information should include:

- ▶ legislation (list of the most relevant acts);
- ▶ national regulations, including minimum wage, working hours, legal documents mandatory for each worker/company;
- ▶ jurisdiction and remit of the organisation (most relevant legislation);
- ▶ areas of activity covered (outline whether organisation covers labour law, social security, health and safety);
- ▶ criminal offences and sanctions for non-compliance and statutory notice;

⁹ European Platform tackling undeclared work. Thematic review workshop (TRW) on cross-border concerted and joint inspections, Lisbon, Portugal, 28 February-1 March 2019.

- ▶ administrative offences and sanctions for non-compliance and statutory notice;
- ▶ powers with regards to inspections, information sharing, role in relation to labour exploitation, role in relation to human trafficking;
- ▶ data collected/held by the organisation and what type of information might not be available (for example, work schedules are only kept in some countries); and
- ▶ key contacts, including address, phone, e-mail, website, social media, name of chief executive.

Information about inspection powers determines what the partner organisation can and cannot do; whether they have the legal right to enter premises (with or without warrant), to seize evidence or use surveillance. Ideally, these powers are described against the list of labour law infringements available in both countries' legislation. Information about collected data is also relevant to the risk analysis and validity of evidence.

3.1.4. Exchange information about the case

Information exchange, for example on wages, tax-payer status and characteristics, social security payments, reported working hours, previous infringements and results from past inspections, are required to build a case.

The method of data sharing should be established by enforcement bodies. A distinction can be made between the ad-hoc exchange of information about individual companies or workers (via personal contact or IMI) and access to a database or providing datasets. The latter might be interesting in order to conduct common risk analyses, but other types of evidence from the actual inspections can be required to build the evidence base for a successful prosecution.

Enforcement bodies need to distinguish between data that can be used legally in the concerned Member States as evidence to prosecute, and data that can only be shared to build a better case. This also depends on whether the case might lead to criminal or administrative proceedings (see section 3.1.1) in which case information needs to strictly follow data protection rules and other legal requirements, so it can be used as evidence.

Examples of how information exchange and cross-border inspections operate hand-in-hand are presented in the following box.

Examples of information exchange leading to joint inspections

The cooperation agreement between the Labour Inspectorate of Estonia and the Division of Occupational Health and Safety of the Regional State Administrative Agency for Southern Finland, signed in 2014, enabled a series of joint actions. The countries exchanged information, mostly on cases of Estonian workers posted in Southern Finland. The collaboration resulted in joint inspections at construction sites in Finland, employing Estonian posted workers, and awareness-raising activities.

In 2017, the General Labour Inspectorate in Bulgaria identified temporary work agencies registered in Bulgaria, posting workers temporarily to France. Based on this information and data from the register of posted workers in France, both labour inspectorates analysed economic sectors and regions with the highest number of posted Bulgarian workers. Accordingly, within the pilot project under the European campaign of the Senior Labour Inspectors' Committee 'Occupational Safety and Health of Temporary Agency Workers and Cross-Border Workers 2017-2019', joint inspections with the participation of Bulgarian and French labour inspectors in six temporary work agencies in Bulgaria and in four undertakings in France took place.

In 2018, The Authority for Working Conditions from Portugal recognised that joint inspections would benefit the naval and civil construction sectors between northern Portugal and the Galicia region in Spain. Using IMI in 2019, inspections were consequently organised by the two countries, focusing on fraudulent posting of workers.

Source: European Platform tackling undeclared work (2019). Survey on Cross-border concerted and joint actions; Presentations at Thematic review workshop (TRW) on cross-border concerted and joint inspections, Lisbon, Portugal, 28 February-1 March 2019.

Issues to exchange data can be overcome by the following solutions:

Table 2. Data exchange issues and proposed solutions

Issue	Solution
<p>Meeting legal requirements</p>	<ul style="list-style-type: none"> ▶ Information obtained via IMI is generally accepted by the courts. It is a secure way to share data with multiple Member States. Other rules, such as the right to a fair trial need to be followed, which implies that the investigative powers exercised by seconded inspectors in the foreign national territory are not contrary to national law (see also section 2.5 above on ‘the role and status of officials from other participating Member States’); ▶ Sharing national databases and registers requires a legal possibility to do so and that the foreign counterpart fulfils all GDPR conditions. Such an approach is currently piloted between the Belgian Social Security Office and the Dutch Labour Inspectorate on the basis; ▶ Seeking technical support and legal advice from EUROJUST, EUROPOL, and EUROFISC (for example, national EUROJUST liaison officers can also advise on national evidence requirements); ▶ Ensuring encryption and password-protected databases, computers, laptops, mobile phones; ▶ Using common templates that are along national legislation and data protection rules.
<p>Meeting data protection requirements (e.g. the correct application of GDPR)</p>	<ul style="list-style-type: none"> ▶ Train and appoint Data Protection Officers in relevant enforcement bodies; ▶ Use guidelines: the European Data Protection Board (EDPB) guidelines¹⁰ and the data protection guidelines for IMI users;¹¹ ▶ Use secure IT systems such as IMI for data transfer; ▶ Bear in mind that employment relations, remuneration and tax payments are considered as ‘tasks carried out in the public interest’; so disclosure of personal data is considered appropriate if needed for the proper management of public funds; and national enforcement bodies can keep centralised registers and other systems for processing personal data; ▶ Where ‘tasks carried out in the public interest’ are not clarified in a legal act, or national legislation has not (yet) been harmonised with GDPR, it is recommended that the shared information is at least linked to data grounded in Article 3 of Directive 96/71/EC.¹²

Source: CSD/ICF.

10 European Data Protection Board, (2018). GDPR: Guidelines, Recommendations, Best Practices. Available at: https://edpb.europa.eu/our-work-tools/general-guidance/gdpr-guidelines-recommendations-best-practices_en

11 European Commission, (2019). Data protection guidelines for IMI users. Brussels: European Commission. Available online at: http://ec.europa.eu/internal_market/imi-net/docs/data_protection/data_protection_guidelines_en.pdf

12 Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services or the Enforcement Directive 2014/67/EU of 15 May 2014.

3.1.5. Step 5. Decide the type of concerted or joint inspection

If partners decide that a cross-border inspection is the most efficient way to address a case of undeclared work, they need to determine the most appropriate type of concerted and joint inspections (see section 2.4.1 above) and make the following preparations:

- ▶ concerted inspections do not require full understanding of the investigative powers of the partner organisation on-site. However, they do require good understanding of the legal base of the partner countries involved, the documents required as evidence and the most appropriate investigative techniques or external assistance (by police, social partners, etc.). As concerted inspections may still require on-site visits (by the enforcement authorities in each country), both Member States should agree on the questions to be asked during interviews and the type of testimonials needed;
- ▶ joint inspection at one or more company sites in one country: for this type of action, the teams and team leaders, the briefings with all participating authorities and the tasks during the inspection need to be established and understood;
- ▶ joint inspection at one or more locations in two or more Member States. Prosecution of complex fraudulent networks operating across the EU/EEA requires additional efforts, such as coordination meetings and data collection from multiple sources. For example, a fraudulent letterbox company may require search of private apartments and/or phone tapping or suspension of banking discretion. Criminal activity within rapidly evolving forms of cross-border undeclared work can be tracked with support from the police, customs, or tax authorities. EU enforcement agencies such as EUROJUST, EUROPOL, EMPACT-THB (trafficking in humans) can also help. In more complex undeclared work cases, it is advisable to share activities and findings with other Member States.

The inspection method depends on the case and needs to be defined by the partners. Approaches vary from 'follow-the-money'¹³ tracing subcontracting chains, or the method below for dealing with letterbox companies:

- ▶ conducting interviews via sector specific questionnaires with employees and self-employed at their workplace;
- ▶ conducting interviews with local customers to check contracts, as well as interviews with managers of local user companies;
- ▶ liaising with social partners to get more specific information;
- ▶ potentially, asking EUROJUST (or the national prosecutor) to employ special investigative techniques (for example, house searches in the country of the workplace and abroad) to get more evidence on the existence of letterbox companies;
- ▶ prosecuting local clients, so-called co-contractors;
- ▶ encouraging workers to join civil proceedings, so that they can obtain compensation.

3.1.6. Step 6. Identify the inspection premises

Inspectors can consider the following aspects to select the premises for the inspection:

- ▶ economic sector in which the company operates. Significant differences exist between an inspection of a construction site, in an agricultural field or a site in the HoReCa: there are different registration and licencing regulations, working hours, and types of documents held by the company;
- ▶ number of workers. Information on the number of registered and actual (including undeclared) workers helps determine the number of inspectors needed on-site;
- ▶ geographical location. Information about the company's operation support the decision which company sites should be visited;
- ▶ unregistered work sites. In case of vague or insufficient information (e.g. a warning that fraudulent activity is occurring in a specific area with no prior registration), inspectors investigate the regions where the undeclared work site might be located;
- ▶ history of a company's working conditions and compliance. Conclusions from previous inspections might indicate that certain issues need re-checking.

¹³ Used in criminal procedures to freeze bank accounts or to seize goods by order of the prosecutor, with the aim to collect criminal sanction and to confiscate amounts which correspond to the amount of the illegally obtained financial benefit by committing the infringements (social contributions, tax, unpaid wages).

3.1.7. Step 7. Select appropriate timing

Cross-border inspections must be timed carefully, which also depends on whether they are proactive or reactive:

- ▶ proactive visits can be regular (preventative inspections), a follow-up to check compliance and part of a strategic approach to target identified risk companies or sectors;
- ▶ reactive visits tend to follow an accident or complaint registered by workers, trade-unions, non-governmental organisations or employers, an IMI request from another Member State, or media attention.

Both types of inspection can be announced or unannounced. The timing of a cross-border inspection therefore depends on these factors, plus sector-specific characteristics. Joint inspections can have a stronger effect if carried out simultaneously in each Member State. This creates a 'surprise' effect which may lead to more evidence.

3.1.8. Step 8. Draft a model agreement

A model agreement (see following example and Annex 2) details the entire process of the inspection. Most importantly, it sets out required tasks and the collection method of evidence to meet the objective of the cross-border inspection. It should list the legislative requirements of the content, collection and format of documents in all concerned countries. For example, in certain countries, official stamps and signatures may be needed, rather than the basic printouts acceptable elsewhere.

Potential challenges and mitigation strategies can also be considered, such as evidence gaps in criminal or administrative proceedings or the expected difficulties to collect contributions of financial/administrative penalties abroad.

It is also recommended to include logistical aspects, including cost sharing arrangements. Costs for operational meetings, the participation of seconded inspectors and translation are often covered by the participating enforcement bodies¹⁴ and the instruments for staff exchange and visits by the European Platform tackling undeclared work.

Roadbook used in joint Benelux inspections

The roadbook used in Benelux joint inspections of fraudulent temporary employment agencies offers a good example of detailing the legal and operational aspects of each inspection. It begins with agreement on target companies and their scope, based on risk analysis and data sharing, and identifies stakeholders (such as regional social partners).

It also includes user-friendly information about relevant legislation in each country involved and the competences of all the parties. The operational component of the roadbook lists team leaders in each country and the intended goals and provides detailed information on the practical logistics of the inspection (team contact details, tasks, interpreters, questions to be asked).

This operational section is updated following each inspection, while the legal information can remain the same. This template has helped generate better understanding on foreign regulations and to establish a procedure for efficient inspection activities.

Source: European Platform tackling undeclared work. Follow-up visit on cross-border concerted and joint inspections, The Hague, The Netherlands, 3 July 2019.

¹⁴ European Platform tackling undeclared work (2019). Survey on cross-border concerted and joint actions.

3.1.9. EU support for planning cross-border inspections

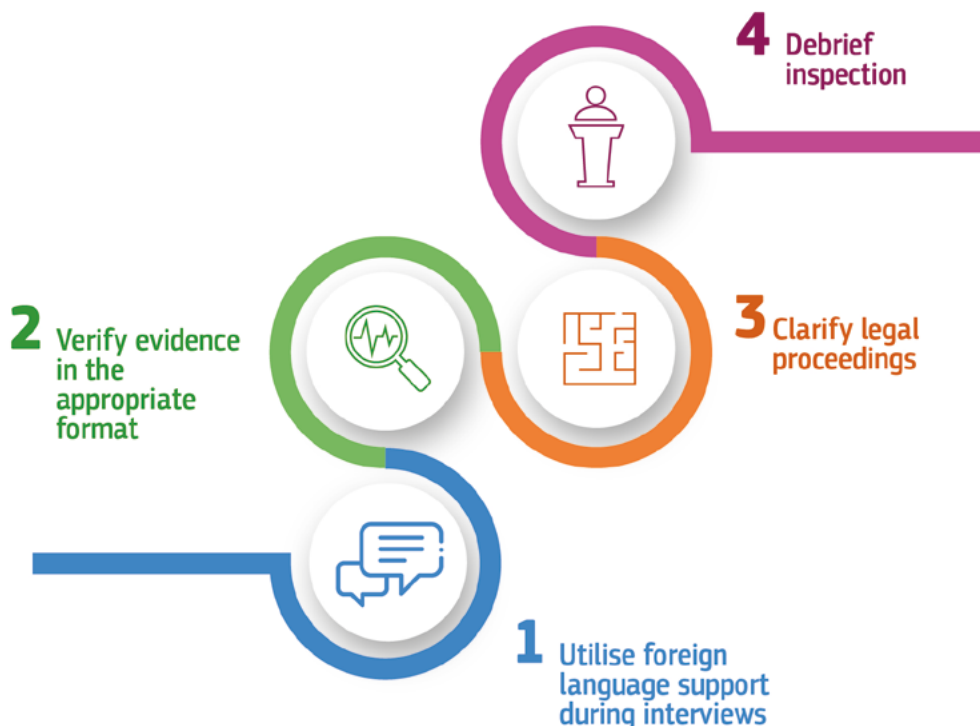
The following EU-level assistance, guidance and resources can be useful to plan cross-border inspections.

Basic support	Comprehensive support
Coordinate and support concerted and joint inspections	
Creating a 'who's who' directory of relevant organisations across the EU and their legislative remit and investigation powers and the data they collect and are allowed to collect and information on the format of documents to be used as evidence in every Member State (see suggested approach in Annex 1).	Basic support option, plus: Providing guidelines on coordination and training for National Liaison Officers on using the directory and passing on information to respective inspection teams.
Providing liaison with EUROPOL and EUROJUST to investigate and prosecute cases, where necessary, e.g. cases of human trafficking or complex fraudulent networks. National Liaison Officers may request support from EUROJUST and/or EUROPOL for information from their database, legal/practical steps to cooperate with a Joint Investigation Team and facilitate secure data exchange.	Developing guidance on the involvement of social partners in cross-border inspections. Establishing permanent working structures and agreements with EUROPOL and EUROJUST to operationalise cooperation procedures.
Developing model agreements for concerted or joint inspections.	Funding operational costs of meetings to prepare and implement agreements.
Facilitate cooperation and the exchange of information between Member States	
Providing a secure information channel for handling sensitive cases and documents (including areas beyond the current 14 IMI modules on posting of workers, professional qualifications, services, cross-border transport of Euro-cash, patients' rights, GDPR, etc.).	Developing training and guidance material on electronic tools, such as IMI and the Electronic Exchange of Social Security Information (EESSI). Supporting National Liaison Officers to promote cooperation and information exchange.

3.2. Implementing concerted and joint inspections

The figure and the text below describe the on-site stages of concerted and joint inspections.

Figure 5. Key steps in implementing concerted and joint inspections



During the implementation phase, all team members ideally follow the instructions set out in an agreement, roadmap or action plan. Decisions (including any unexpected developments or necessary flexibility within the agreements) are made by team leaders via specified communication channels.

Inspectors look to clarify details of inspection cases, for example by identifying all activities and workers on-site. The employer or responsible manager is asked to provide a list of all registered workers, their employment status (labour contracts and contract type: self-employed, employees of a subcontractor or temporary workers), their working hours, wages, A1 forms, work and residence permits. This information is then checked against statements of workers, documents and official registers or databases. The same check could be applied to employees of a subcontractor (in a follow-up visit).

3.2.1. Step 1. Utilise foreign language support during interviews

During joint inspections, foreign inspectors can earn the trust of workers by speaking their native language. This also makes it easier to assess workers' documents and inform them of their rights. Identifying the relationship between workers and employers is not always straightforward, since many workers are temporary or are recruited by external parties. Communicating in the appropriate language helps identify the relevant employer.

Multi-lingual questionnaires (with questions set at planning stage) and electronic devices to translate help address language barriers. Phones and tablets can also be used to access information such as company data in social security/tax/business registers, to verify data on a particular worker or company or to communicate with workers on-site, as illustrated in the following example.

Language support during inspections, Ireland

The Workplace Relations Commission (WRC) in Ireland uses various tools to overcome language barriers during joint inspections.

Around 10 % of the inspectorate are foreign language labour inspectors specifically recruited to communicate with foreign workers in their native language. All offices have at least one language inspector, all of whom are Eastern European since their compatriots form the greatest proportion of foreign workers. As well as English, they speak at least one other language and operate as ordinary inspectors to be called upon when needed.

The WRC's website¹⁵ contains the main guidelines, published in the language spoken by employees in high risk sectors, such as domestic workers and fisheries. Online translation tools are also embedded in the home page to automatically translate web material into the respective language. Inspectors also use translation apps on their devices.

The WRC uses multi-lingual information sheets to give to employees, containing contact details and where to access additional information. Multi-lingual questionnaires are currently being developed.

Source: The Workplace Relations Commission, Ireland.

Multi-lingual questionnaires need to follow national legislation, including data protection rules.

Qualified interpreters can help comply with the Salduz¹⁶ regulations by explaining to the subject of interrogation the content of his or her rights. For example, in Belgium, investigations can switch from administrative to penal procedures at any stage of the investigation, so inspectors apply the Salduz regulation from the first interrogation onwards.

Inspection checklist¹⁷

The information to be verified depends on the scope of the investigation (for example, working hours are not relevant to a letterbox company). Generally, the following information is relevant to a cross-border inspection:

- ☑ full identification of the worker;
- ☑ full identification of the employer and subcontractor(s);
- ☑ nature of the contractual relationship and social security status;
- ☑ exact date of signature of the contract, and/or date of commencement of work (the two may not coincide);
- ☑ validity of the employment contract (as necessary);
- ☑ in case of a probation period, its stated duration and terms;
- ☑ job title and/or job specification (professional category);
- ☑ employee structure (team/department), if available;
- ☑ salary, payment modalities and/or calculation method;
- ☑ supplementary payments and subsidies or entitlements paid to the worker in the prescribed manner;
- ☑ working hours and daily record of workers on-site (timesheets), compensation in lieu of overtime;
- ☑ the type and duration of annual leave (minimal, additional, extended); and
- ☑ A1 forms and prior declaration for posted workers (if any).

3.2.2. Step 2. Verify evidence in the appropriate format

Compiled documentation needs to be in a legitimate format to be recognised as evidence in all relevant countries (see above in sections 3.1.4 [exchanging information about the case] and 3.1.8 [drafting a model agreement]).

Following an on-site visit, gathered information is checked and analysed (e.g. a comparison of documents listing workers' benefits with those officially reported). Partners need to decide which evidence can best be used for further follow-up. This also depends on their national regulations, for example evidence may lead to possible criminal prosecutions in one Member State and administrative proceedings in the other Member State.

This process can uncover additional infringements or inconsistencies, prompting further communication and information requests to partner authorities¹⁸ and further inspections. For example, if focusing on any easily detectable infringement indicating serious criminal behaviour does not prove the expected violations, it still might show behaviour patterns and provide information to build up a case.

15 https://www.workplacelrelations.ie/en/publications_forms/other_language_publications/

16 Based on the 2008 European Court of Human Rights decision in case of Salduz v. Turkey. The court held that people have the right to access a lawyer in criminal affairs (e.g. interrogation by labour inspectorate in undeclared work cases which could potentially lead to penal prosecution.)

17 International Labour Organization, (2017). Conducting Labour Inspections on Constructions: A guide for labour inspectors. Geneva: International Labour Organization. Available online at: https://www.ilo.org/beirut/publications/WCMS_570678/lang-en/index.htm

18 For example, there may be doubt about the genuine status of the posting or the genuine status of a worker, self-employed status or even the existence of a legal labour relation as such.

3.2.3. Step 3. Clarify legal proceedings

Once facts are clarified, evidence can be used in consequent administrative or criminal procedures. Enforcement bodies should consider required evidence needed by the prosecutor or administrative authorities to proceed, via detailed reports and evidence.

A criminal law approach is relevant to large-scale and complex cases, involving different types of violation. Here, cooperation with the police and EUROPOL and EUROJUST (outlined in Step 5 of the planning phase above) is useful to proceed with prosecution or to determine further investigation.

Administrative or criminal procedures can result in financial penalties, public tenders being withdrawn, recovery of unpaid wages and social security contributions or withdrawal of fraudulent benefits. Depending on the severity of the case, the relevant authorities may decide to apply a temporary business closure penalty to prevent a company declaring insolvency to evade responsibility.

3.2.4. Step 4. Debrief inspection

Following the cross-border inspection, a debrief aims to:

- ▶ discuss any proven non-compliance and possible legal consequences, focusing on measures to be taken as soon as possible;

- ▶ summarise additional information requirements and agree to share documents;
- ▶ inform and follow-up on enforcement outlined in step 5 of the planning phase;
- ▶ offer guidance on how employers and all undeclared workers need to proceed;
- ▶ pass on all relevant information to other bodies when infringements fall within their scope of competence (in both Member States);
- ▶ self-assess lessons learnt from planning and implementing the cross-border inspection(s);
- ▶ prepare inspection report(s) and determine where they will be available (enforcement body's database).

The team can then agree on future actions and their timeframe. Inspectors may also want to schedule a follow-up visit to verify those actions have been set in motion.

Third parties (social partners, police and prosecution) involved in the cross-border activity can also offer an external, unbiased view during the debriefing, if relevant and if permitted by national legislation.

3.2.5. EU support to implement cross-border inspections

The following EU-level assistance, guidance and resources can be useful to implement cross-border inspections.

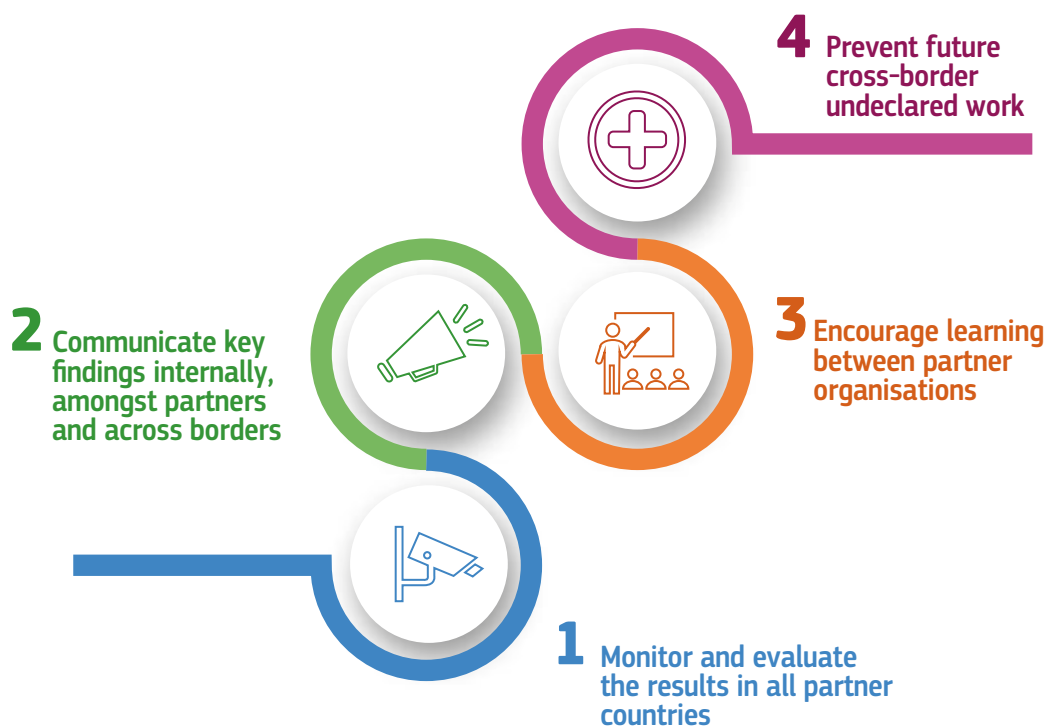
Basic support	Comprehensive support
Coordinate and support concerted and joint inspections	
<p>Developing standardised questionnaires to conduct interviews during inspections, recommended to include all essential questions regardless of the Member State.</p> <p>These could be available in every official EU language and relevant third country languages.</p>	<p>Creating a dedicated helpdesk for cross-border inspections that could include:</p> <ul style="list-style-type: none"> ▶ Repository of all relevant material and guidance, including standardised questionnaires. ▶ Translator team to provide online or on-site support. ▶ Team of legal experts to provide support on GDPR, secure evidence, interpretation of national or EU legislation.

3.3. Following up concerted and joint inspections

Results from cross-border inspections are useful to boost inspection criteria. A follow-up plan, outlined in the agreement, enhances future inspections and other cooperation activities, finetunes the risk assessment process and feeds into the overall strategy of the enforcement authority towards tackling undeclared work.

However, in practice, measuring the impact of cross-border inspections rarely occurs. This is often because enforcement bodies focus on immediate results related to organisational KPIs (e.g. the number of inspections), rather than potential long-term impact (e.g. changes in behaviour).¹⁹

Figure 6. Key steps in following-up concerted and joint inspections



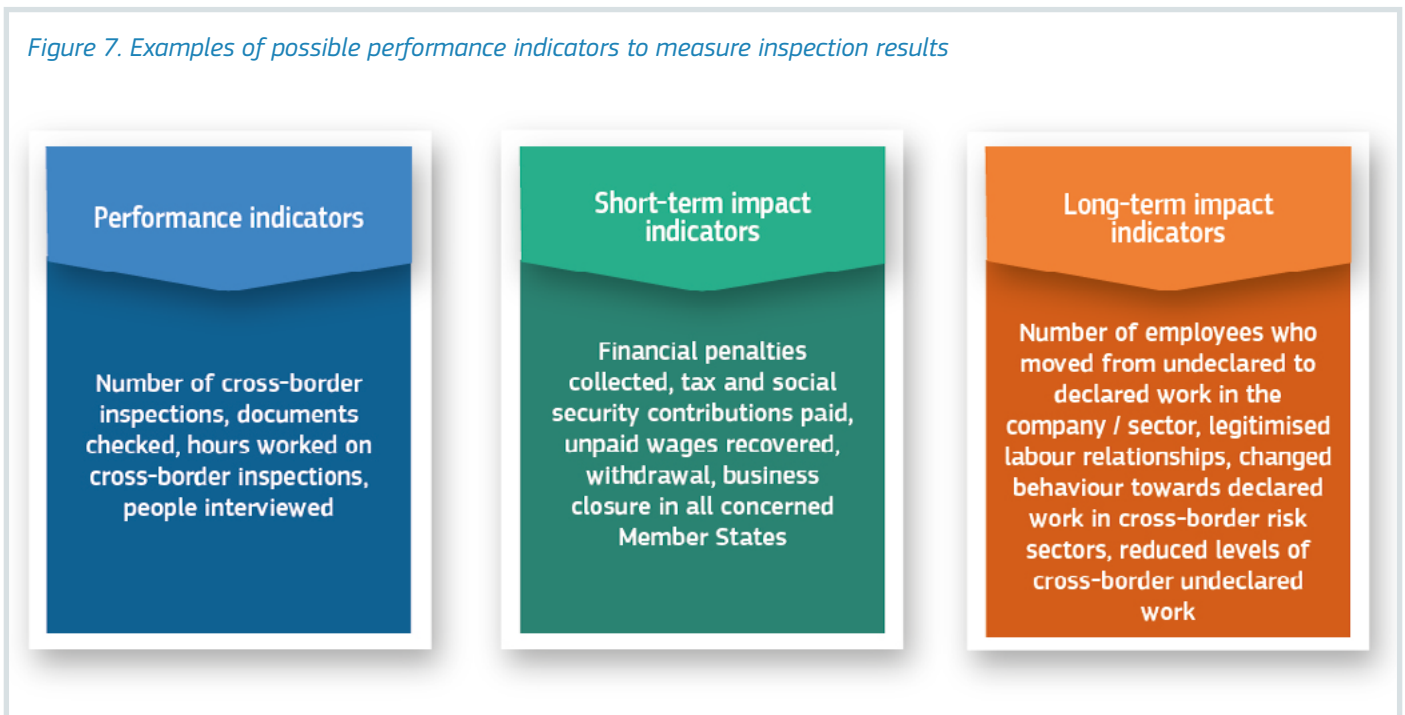
3.3.1. Step 1. Monitor and evaluate the results

Cross-border inspections are evaluated to check they have met pre-set inspection targets and to identify any unforeseen impact from the action. This can be achieved using pre-defined indicator systems to measure the inspection targets (e.g. SMART²⁰).

19 European Platform tackling undeclared work. Follow-up visit on cross-border concerted and joint inspections, The Hague, The Netherlands, 3 July 2019.

20 SMART: Specific, measurable, attainable, realistic and timebound.

Figure 7. Examples of possible performance indicators to measure inspection results



A post-inspection/follow-up report²¹ is useful to inform future activities and help disseminate results to partners. It can include the following sections:

- ▶ overview of the pre-defined hypothesis regarding the identified undeclared work scheme, its causes and size/manifestation;
- ▶ overview of the key results from the inspection confirming or rejecting this hypothesis (outlining usable and exchangeable evidence);
- ▶ description of the inspection process (how many people participated, when and where, what investigation methods were used, key steps);
- ▶ observed side effects (e.g. raised awareness) and any external factors influencing the inspection;
- ▶ key conclusions for improving future inspections, procedures and measures.
- ▶ further steps or enquiries needed in a case (additional information to be provided, further inspections); and
- ▶ determine how and to whom to disseminate results, such as other authorities to develop further measures (e.g. procurement bodies) or to raise awareness.

As outlined above, inspection results can inform the overall strategy towards tackling undeclared work in a system of 'Plan-Do-Check-Act'. This helps enforcement bodies to re-assess cross-border undeclared work and thus adapt to its changing patterns.

Inspection results therefore justify the allocation of sufficient human resources and funding for future cross-border inspections. The results can also be used to advocate for legal amendments, for example, to define the role of inspectors in other Member States.

3.3.2. Step 2. Communicate key findings

Alongside communicating with enforcement bodies outlined in the planning phase, internal and external communication can maximise the impact of cross-border inspections:

- ▶ Externally, to inform other authorities, including those in other Member States; to enhance understanding of complex cases operating in several countries; to improve measures by countering or preventing similar fraud schemes, and to share lessons learnt. Sharing results widely with the public (via social media, leaflets, press releases) can also increase the impact of an inspection (see the text box below);

²¹ Annex 4 provides a more detailed list of the elements to be included in post-inspection/follow-up report.

- ▶ Internally, to share results and lessons learnt with colleagues and to inspire a cross-border working culture.

Joint press release, the Netherlands

The Dutch Labour Inspectorate employs various modes of external communication, including press releases, compliance communication and social media campaigns (linked to events such as Decent Work Day) to disseminate information about the outcome of cross-border inspections.

Press releases aimed at labour inspectorate staff are also a useful way to share relevant experiences, generate a positive attitude and interest from other staff members, and encourage cross-border cooperation.

Source: European Platform tackling undeclared work. Follow-up visit on cross-border concerted and joint inspections, The Hague, The Netherlands, 3 July 2019.

useful information to be collected during future cross-border inspections.

Results can also be used to revise training and manuals, develop good practices for sharing success stories, improve templates (agreements, on-site questionnaires) and update contacts and legal information.

3.3.4. Step 4. Prevent future cross-border undeclared work

Where cross-border inspections uncover wide-spread problems within the labour market, inspection results can be used to develop awareness raising campaigns to tackle them.

Key findings can be shared via various media and channels (paid, social and internal).²² In addition, joint inspections successful in one sector may be followed-up with 'flash inspections'.²³

3.3.3. Step 3. Encourage learning

Inspection results can offer insight into emerging fraud schemes and fine-tune risk assessment systems by creating new red flags or risk indicators and highlighting

3.3.5. EU support to follow-up cross-border inspections

The following EU-level assistance, guidance and resources can help follow-up cross-border inspections.

Basic support	Comprehensive support
Coordinate and support concerted and joint inspections	
Developing a reporting template for inspections and an EU database of cross-border inspection reports.	Developing a database with results, potential sanctions and lessons learnt from all cross-border concerted and joint inspections (via reporting templates), linked to a wider EU risk assessment system.
Strengthening capacity building of national authorities	
Offering guidance on internal and external communication of results to enforcement bodies.	Organising peer learning activities on planning, implementing and following up cross-border inspections. Link to research on the effectiveness and identified good practice of conferenced and joint inspections. Include results from cross-border inspections in the EU to target high-risk sectors, specific workers and companies in widespread campaign to tackle undeclared work.

²² European Platform tackling undeclared work (2019). Practitioner toolkit on information tools and approaches to reach out to workers and companies in the fight against undeclared work. Available online at: <https://ec.europa.eu/social/BlobServlet?docId=20864&langId=en>

²³ 'Flash inspections' in Belgium have mainly a preventive character and are published prior to the website of the Social Information and Investigation Service (SIOD) and communicated to the social partners. The aim is to increase raise awareness of social legislation, and to trigger behavior change by announced inspections. At the same time, there are also checklists available on the website, to pre-warn employers and the self-employed of what will be checked during a flash inspection. See also: European Platform tackling undeclared work (Forthcoming). Intervention toolbox, the Netherlands. Brussels: European Platform tackling undeclared work.

4. Conclusion

Concerted and joint inspections can effectively tackle complex fraud schemes by amalgamating resources, information and knowledge from various enforcement bodies. Inspections can also enhance prevention and compliance by providing valuable information on the motivation of offenders and guidance on future cross-border cooperation activities.

This toolkit outlines model steps to plan, implement and follow-up cross-border inspections, and the desired EU support at each of the three inspection stages, particularly relevant following the creation of the European Labour Authority. As such, enforcement bodies can collaborate to enforce EU rules on labour mobility effectively, ultimately supporting fair and well-functioning labour markets.

Bibliography

European Commission, (2019). 2018 Annual Report on Intra-EU Labour Mobility. Brussels: European Commission. Available online at: <https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8174&furtherPubs=yes>

European Commission, (2019). Data protection guidelines for IMI users. Brussels: European Commission. Available online at: https://ec.europa.eu/internal_market/imi-net/docs/data_protection/data_protection_guidelines_en.pdf

European Data Protection Board, (2018). GDPR: Guidelines, Recommendations, Best Practices. Available at: https://edpb.europa.eu/our-work-tools/general-guidance/gdpr-guidelines-recommendations-best-practices_en

European Platform tackling undeclared work, (Forthcoming). Social partners success stories. Small-scale study.

European Platform tackling undeclared work, (2019). Executive summary of the follow-up visit on concerted and joint inspections, 3 July 2019, The Hague, The Netherlands. Brussels: European Platform tackling undeclared work. Available online at: <https://ec.europa.eu/social/BlobServlet?docId=21512&langId=en>

European Platform tackling undeclared work, (2019). Thematic review workshop: Future role and competence profile of labour inspectorates. 26-27 June 2019, Vilnius, Lithuania. Executive summary. Brussels: European Platform tackling undeclared work. Available online at: <https://ec.europa.eu/social/BlobServlet?docId=21509&langId=en>

European Platform tackling undeclared work, (2019). Cross-border concerted and joint inspections in the fight against undeclared work: Learning Resource Paper from the thematic review workshop on cross-border concerted and joint inspections. Available online at: <https://ec.europa.eu/social/BlobServlet?docId=21430&langId=en>

European Platform tackling undeclared work, (2019). Social Criminal Code, Belgium. Brussels: European Platform tackling undeclared work. Available online at: <https://ec.europa.eu/social/BlobServlet?docId=18535&langId=en>

European Platform tackling undeclared work, (2019). Practitioner toolkit: Information tools and Approaches to Reach Out to Workers and Companies in the Fight against Undeclared Work. Brussels: European Union. Available online at: <https://ec.europa.eu/social/BlobServlet?docId=20864&langId=en>

European Platform tackling undeclared work, (2017). Developing an approach for tackling letterbox companies: a learning resource paper from the seminar 'How to identify and tackle fraudulent letterbox companies'. Available online at: <https://ec.europa.eu/social/BlobServlet?docId=18961&langId=en>

European Platform tackling undeclared work, (2016). Developing a Holistic Approach for Tackling Undeclared Work. Brussels: European Platform tackling undeclared work. Available online at: <http://ec.europa.eu/social/BlobServlet?docId=17242&langId=en>

International Labour Organization, (2017). Conducting Labour Inspections on Constructions: A guide for labour inspectors. Geneva: International Labour Organization. Available online at: https://www.ilo.org/beirut/publications/WCMS_570678/lang--en/index.htm

McKay S., (2014). Transnational Aspects of Undeclared Work and the Role of EU Legislation. European Labour Law Journal. Sage. pp. 116-131.

Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344 (Text with relevance for the EEA and for Switzerland), published in the Official Journal of the European Union on 11 July 2019. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32019R1149>

Welz C., Biletta I., Contreras R.R., (2019). Joint cross-border labour inspections and evidence gathered in their course. Working Paper. Brussels: European Foundation for the Improvement of Living and Working Conditions. Available online at: <https://www.eurofound.europa.eu/sites/default/files/wpef19062.pdf>

Annex 1

SUGGESTION FOR A MAPPING OF A 'WHO'S WHO' DIRECTORY

Overview of organisations

Organisations dealing with undeclared work	Aspects to consider when filling in the overview
	<i>Insert country.</i>
	<i>Insert name of organisation.</i>
Legislation	<p><i>List of the most relevant acts establishing the organisation and jurisdiction.</i></p> <p><i>List additional legislation inspectors check compliance with.</i></p>
National regulations	<i>List relevant regulations, such as minimum wage, working hours, legal documents mandatory for each worker/ company.</i>
Investigative powers <ul style="list-style-type: none"> <input type="checkbox"/> Inspection of workplaces <input type="checkbox"/> Right to interview <input type="checkbox"/> Right to identify persons <input type="checkbox"/> Entry to work premises <input type="checkbox"/> Entry under court warrant, e.g. in private premises <input type="checkbox"/> Search, demand, copy, or removal of documents or computer files <input type="checkbox"/> Record (photo, video, audio) during inspection <input type="checkbox"/> Seize documents under court warrants <input type="checkbox"/> Undertake criminal investigations <input type="checkbox"/> Use surveillance <input type="checkbox"/> Provide access to or intercept communications data 	<i>Please tick appropriate box and note down any remarks.</i>

Criminal offences and sanctions for non-compliance and statutory notice	<i>List fines or other sanctions, include also most common criminal offences.</i> <i>List if legislation foresees issue of compliance/plenary notice and sanctions for failure to comply to notice.</i>
Administrative offences and sanctions for non-compliance and statutory notice	<i>List fines or other sanctions, include also most common administrative offences.</i>
Data collected/held by the organisation	<i>Please list, also what type of information might not be available (for example, work schedules are only kept in some countries).</i>
Restrictions imposed by Data Protection legislation	
Remarks regarding the content, collection and format of documents to be used as evidence	<i>List required aspects, for example are the use of photos or cameras acceptable for data collection, are stamps necessary or do printouts suffice?</i>
Contact	<i>List key contacts, including address, phone, e-mail, website, social media, name of chief executive.</i>
Other relevant public authorities	<i>List relevant authorities, such as organisation dealing with migration, social security, posted worker abuse forced labour/labour exploitation, health and safety, tax.</i>

Source: European Platform tackling undeclared work. Follow-up visit on cross-border concerted and joint inspections, The Hague, The Netherlands, 3 July 2019.

Annex 2

POSSIBLE MODEL AGREEMENT FOR A CONCERTED OR JOINT INSPECTION

Outline of the model agreement	Aspects to consider when filling in the overview
<p>Parties to the agreement</p> <p>1. Member State A: Name of the enforcement body: National Liaison Officer:</p> <p>2. Member State B: Name of the enforcement body: National Liaison Officer:</p> <p>3. Member State C: Name of the enforcement body: National Liaison Officer:</p>	<p><i>Involved parties may decide to invite other Member States to become parties to this agreement.</i></p>
<p>Scope of the inspection(s)</p> <p>Parties agree to set up a <input type="checkbox"/> joint inspection team <input type="checkbox"/> concerted inspection team</p> <p>in the following Member State(s) (in accordance with national law):</p> <p>Parties agree that the concerted/joint inspection teams will operate for <i>[please indicate specific duration]</i>.</p>	
<p>Inspected entity/ies</p>	<p><i>List address and other relevant information about the case, e.g. company size, number of workers, sites, CEOs, etc.</i></p>
<p>Background of the concerted/joint inspection</p>	<p><i>List all relevant information about the case and evidence already available, for example via preliminary research, joint risk assessment and previous investigations and infringements (if applicable).</i></p> <p><i>Does the alleged behaviour (subject of the scope) constitute a criminal offence in the concerned countries?</i></p>

Objective of the concerted/joint inspection

The concerted/joint inspection aims to tackle:

- Cross-border undeclared work or social fraud, social security contributions and or unlawfully obtained social benefits
- Letterbox companies and fictitious company constructions
- Bogus self-employed
- Networks of illegal employment of illegal third country nationals
- Bogus or illegal temporary work agencies
- Serious non-compliance with labour rights of intra-EU mobile workers
- Trafficking in humans with serious labour exploitation

This description should outline if the investigation is carried out under labour law, social security law or both. List other crimes related to the issues, e.g. human trafficking or criminal networks.

List also approach, e.g. criminal or administrative collection of due contributions.

Targets are:

Targets can be penalties recovered, recovered contributions, business closure, etc.

Long-term targets are:

Long-term targets can be a reduction of undeclared work in the specific sector.

Inspection teams

Team leaders

Name	Member State	Authority	Job title	Contact

Deputy team leaders

Name	Member State	Authority	Job title	Contact

Team members

Name	Member State	Authority	Job title	Contact

<p>Cooperation (if applicable)</p> <p>EUROJUST</p> <p><input type="checkbox"/> assistance requested</p> <p><input type="checkbox"/> assistance agreed and validated</p> <p>National Liaison officer for Member State A: National Liaison officer for Member State B:</p> <p>In case participation of staff is foreseen, list name and contact details from EUROJUST staff here:</p>	<p><i>EUROJUST can help to clarify and solve legal problems – admissibility of evidence, powers, investigation techniques, securing prosecution.</i></p>
<p>EUROPOL</p> <p><input type="checkbox"/> assistance requested</p> <p><input type="checkbox"/> assistance agreed and validated</p> <p>National Liaison officer for Member State A: National Liaison officer for Member State B:</p> <p>In case participation of staff is foreseen, list name and contact details from EUROPOL staff here:</p>	<p><i>EUROPOL can provide a site entry for criminal investigations, providing EU wide company data and real-time secure exchange of data.</i></p>
<p>Other stakeholders</p>	<p><i>List possible partners, such as social partners, other law enforcement bodies (police, prosecution, etc).</i></p>
<p>Logistical arrangements</p> <p>Operational meetings will take place <i>[insert frequency of meeting]</i> via <i>[insert communication, e.g. phone conference]</i>. Meetings will be held in <i>[insert working language]</i>.</p> <p>The parties will ensure they consult with each other whenever needed.</p>	
<p>Resources required:</p>	<p><i>List equipment (office, accommodation, travel, IT equipment).</i></p>
<p>Costs</p>	<p><i>List who will cover what costs.</i></p>
<p>Gathering of information and evidence</p> <p>Communication channels are:</p>	<p><i>Use secure channels to ensure acceptance of evidence by courts (IMI/EUROJUST/EUROPOL/secure laptops).</i></p>
<p>Staff members responsible for information exchange:</p>	<p><i>Ensure evidence is used for the purpose for which it was gathered. Keep case-related personal data to a minimum.</i></p>

<p>Specific arrangements related to seconded members</p>	<p>Agree on specific conditions under which seconded team members in joint inspections may carry out investigations such as entering the workplace, identification and interrogation of persons, checking documents, and coercive measures such as seizure of documents, seals, rules regarding the defence.</p> <p>This can be based on a mapping of legislative remit, their investigation powers and the data they collect and are allowed to collect.</p>
<p>Description of the concerted/joint inspection</p> <p>The concerted/joint inspection will take place at <i>[insert date]</i> at <i>[insert time]</i> at <i>[insert address(es) where concerted/joint inspection takes place]</i>.</p>	
<p>Goals of the concerted/joint inspection are:</p>	<p>List specific goal of the activity (obtaining documentation, hearing employees, etc).</p>
<p>Document to be obtained:</p>	<p>These documents can include work schedules, pay slips, A1 statements, contracts, etc. Needs to be accepted in both Member States.</p>
<p>Pre-agreed format of documents:</p>	
<p>Composition of team(s) and tasks of (each) team:</p>	
<p>Inspection method:</p>	<p>The inspection method describes a step-by-step approach for team members beginning with the entry on-site and the sequence of interviewing employees and employers.</p>
<p>Questionnaires to be used:</p>	<p>Questions need to be pre-defined.</p>
<p>Considerations:</p>	<p>List factors that may require specific attention, e.g. reactions on-site, false documents, company cars.</p> <p>List safety instructions, relevant for the concerned country.</p>
<p>Health and safety</p>	
<p>Risks</p>	<p>List possible risks that might contribute to failure of inspection.</p>
<p>Debriefing A debrief meetings will take place <i>[insert date]</i> via <i>[insert communication, e.g. phone conference]</i>. The report will be written by:</p>	<p>List date for debriefing and aspects to discuss such as performance of the team, lessons learned and method, as well as prosecution.</p>

Annex 3

POTENTIAL QUESTIONS FOR QUESTIONNAIRES IN CROSS-BORDER INSPECTIONS

QUESTIONNAIRE EMPLOYEE (intra-EU mobility)

Identification and Status

- 1 What is your surname and first name - date of birth - address in XXXXXXX (country where you work)- address in your home country – please show your identity papers (copy if possible), your work permit (if applicable)?
- 2 Do you have a residence permit in this country XXXX (if applicable)? Do you have proof that you have registered with the authorities (e.g. city council) of this country XXXX where you stay (if applicable)?
- 3 How long have you been working in this country XXXXX (starting date)? Have you been working in XXXXXX without interruption since this starting date? Where do you take your compensatory rest, your holidays?
- 4 Are you in the possession of an A1-form (portable document regarding social security) (if applicable)?
- 5 Are you in the possession of a (prior to) posting of workers declaration form (if applicable)?
- 6 Do you work here as an employee or are you self-employed? What activities and function do you perform at this workplace (description)?

Relationship with the employer

- 7 Have you already been on the company site in your homeland? How are the offices equipped? Are there any personnel working there?
- 8 Who is your employer? Do you know the CEO/responsible person, the address of the company? Via which channel, contact person, employer did you come to this workplace? Since when have you been employed by this employer? How did you find this employer? (e.g. job application through advertisement, someone you know, internet, etc.)
- 9 Did you have to pay money to be able to work in this workplace in XXXXX? How much? To whom?
- 10 Did you sign a written labour contract with the employer? Do you have a copy with you? Is this contract registered somewhere? Who signed this contract? Was this done in your presence? Where and in which country was this labour contract agreed and signed? Were you also informed that you were going to be seconded/employed in another country XXXXXX?
- 11 Did you have to pass a test to be able to start this job? Who tested you?

Getting to the workplace

- 12 Did you immediately start working in this country XXXXXX or did you work in another country first? Where? With whom? Did you start immediately in this workplace in XXXXXX or did you first work in another place in XXXXXX (for the same employer?)?
- 13 How did you come here? With your own transport, or where you transported? Did you have to pay for this transport and, if so, to whom? What route did you follow? Were there any other people on this trip (e.g. people on the bus) and, if so, are all these people employed here or did they get off earlier (maybe in another country)?
- 14 Do you always work in the same workplace or do you intermittently also work in other workplaces in this country XXXXXX? Who decides this?

Working time

- 16 Who controls your work? Is there a foreman? Who? What language do they speak?
- 17 How many days a week do you work here (from ... to...)? How many hours a week do you work? From what time till what time? When did you start this morning? Do you have a badge for access to the workplace? Are there any timetables or timesheets kept? Who controls the badge and timesheets?
- 18 Who decides the working hours and possible breaks? Who writes down the hours you have worked? How many breaks do you get and how many have you had today?
- 19 Do you have to work overtime? Who gives the orders for this?

Salary

- 20 How much salary do you actually earn for this job on this site in XXXXX? How is your salary calculated - by the hour, per kg, per piece, per kilometre? Are you paid a supplementary salary bonus for in case of overtime? What was the salary communicated to you when the contract was agreed (amount in X or in EUR)?
- 21 If your salary is paid per kg, per piece, per kilometre, how is this controlled? Can you exercise any control on how this is measured? How do you know if this measurement is correct? Who weighs, counts, etc. Have you already encountered irregularities in these matters? Can you protest when you do not agree with the measuring?
- 22 Are you reimbursed expenses on top of your salary? For what, and how much?
- 23 Are certain amounts deducted from your salary for the benefit of other people?
- 24 Do you receive any wage (or part of it) in cash? How is this arranged? In a closed envelope?
- 25 When, how often and in what form is your salary paid? By whom? Did you make any specific agreements in your labour contract? Are all the agreements upheld by the employer? When was your last payment? Have you already received pay slips? If you were not paid in the past, or not paid on time, or when money was deducted, what reason did the employer give?
-

Board and lodging

- 26 Where do you stay? Do you live there alone or with others? Who arranged for you to stay there? How are the living conditions (do you have a bathroom/shower, fridge, separate bedroom)?
- 27 Who pays for your accommodation XXXXX? Does your employer deduct rent from your salary, expenses for electricity, water, internet?
- 28 Who pays for your food? If you have to buy your own food, do you always have enough money for this and, if not, what do you eat? Does your employer deduct money for food?
- 29 Transfers: How do you move between your (temporary?) residence and the workplace?
-

Line Management

- 30 Are you free to leave the workplace if you feel like it? Are you free to return to your homeland if you want?
- 31 Who controls if your work is up to the standards demanded?
- 32 Who do you have to ask for leave?
- 33 Who do you inform if you are ill? Who do you have to send your sick leave note to? Are you paid while ill?
-

Social security and tax declaration, personnel registers

- 34 Is your personal data held on a register (to your knowledge)? Are you registered in the records of your employer in your homeland?
- 35 Are you declared to the social security office and tax office in your homeland? In this country XXXXXX? Is your salary declared in your homeland or this country XXXXXX? How do you know?
- 36 Do you enjoy social or other benefits in your home country (sickness, invalidity, unemployment)? Or in this country XXXXXX?
- 37 Do you work more than 183 days (+/- 6 months)²⁴ in this country XXXXXX? Do you pay personnel income tax in your country or in this country XXXXXX?
-

²⁴ If working more than 183 days the full national/local tax regulation of the working country is applicable.

Violation of rights and/or possible exploitation

- | | |
|----|---|
| 38 | Has the employer confiscated your identity card or residence/labour permit while you work in this country XXXXXX? |
| 39 | Do you feel you are not treated properly here (concerning wages, working hours, how you work, living conditions, etc.)? Have you received all the salary you are owed (based on your contract) for work done up to now? If not, how much salary are you owed? |
| 40 | Are you aware that you are entitled to a higher wage standard for labour in this country XXXXXX? (if applicable) |
| 41 | Do you feel exploited in this workplace? Do you have colleagues who have been badly treated/underpaid by the employer? |
| 42 | Has the employer or anyone who works for him (foreman or similar) ever threatened you? |
| 43 | If you decide to stop working, how would that affect the salary you are owed? Have you been told you would have to pay compensation? |

Health and Safety

- | | |
|----|--|
| 44 | Do you know the health and safety representative at the workplace? Have you been given safety training in a language you understand? |
| 45 | Does your employer ensure safety regulations are met? Do specific safety measures apply to certain work (e.g. safety equipment, work at certain heights)? Have you (or a colleague) been a victim of a work-related accident in the past while working for this employer in XXXXX? How did the employer react (provided transportation to hospital, provided medical care, called a doctor, etc.)? Did this accident result in underpayment or deduction of your salary? |
| 46 | Did you receive (protective) work clothes? From whom? |
| 47 | To whom do the tools you work with belong (small hand tools)? |

QUESTIONNAIRE SELF-EMPLOYED

- | | |
|----|---|
| 1 | Where is the company registered? Name, address, TAX and social security numbers? |
| 2 | Do you have a permanent address in this country XXXXX? |
| 3 | If established in XXXXXX: VAT-number or company-number. Do you have a certificate of self-employment, and since when? |
| 4 | Which social security office for self-employment are you registered with, since when? |
| 5 | Did you initially work as an employee, for whom? |
| 6 | Is the company you work for here your direct customer? |
| 7 | Did you sign a building/commercial contract with this firm? Can you prove this? |
| 8 | Do you write invoices and how are they drawn up? Do you receive guidelines on how to write them? |
| 9 | Who decides where and when you work? |
| 10 | Who controls your work? |
| 11 | Who advertised for your role? How? |
| 12 | What activities do you perform here (description)? |
| 13 | Do you use your own materials? Who supplies the raw materials and the other materials? Are they billed to you? |
| 14 | How do you travel to the workplace? |
| 15 | What time did you start work this morning and what time do you usually finish work? Do you work the same hours as the employees of other contractors? |
| 16 | What was your start date? |
| 17 | By whom and when were you contacted to come and work at this site (name and address)? Were you previously contacted by them? |
| 18 | Who gives you your work assignments? |

QUESTIONNAIRE WORKING PARTNER/ACTIVE CO-SHAREHOLDER

1	Are you given legal advice about residency, self-employment, partnership/company law in this country XXXXXX? Who explained this to you? In which language?
2	Where do you live, and since when? Who also lives there? Do you pay rent, and to whom? Who owns or rents the property? Did you have to sign a rental contract?
3	Who contacted you in your homeland to work in XXXXXX? Did you understand you would be a partner/self-employed?
4	What work did you do in your homeland? Under what statute? What training did you receive?
5	Were you the founder of this partnership? If not, who was and how did you become a partner?
6	Where is the registered office located? Who is the business manager?
7	How many shares do you own, since when? How were they obtained? How much did you pay for them, how did you pay, and to whom? Did you have to sign a document to become a partner?
8	Are there any other partners? Who?
9	Have you attended partnership or board meetings? If so, who was present and where did it take place? Did you have a right to vote on decisions?
10	Have you already received a dividend from the partnership? Do you have power of attorney for the bank accounts? In which banks?
11	Who buys the material and raw materials? Who usually performs the administrative work? Who manages the financial affairs?
12	What decisions can you make as partner? Who negotiates with customers and main contractors? Can you decide when you work, when you return to your country (how often?), when you take leave? Can you accept or reject work? Can you find your own clients? Who negotiates with contractors about the work?
13	With which self-employment office are you enrolled, how did this registration take place? Who helped you with this? Who pays the contributions to this office?
14	Do you know whether the company makes any profit or loss?
15	Can you make your own arrangements for work? If not, who tells you when you need to work?
16	Do you keep track of the number of hours worked? Why?
17	Can you decide to perform other tasks or work different hours? Are you managed on-site? By whom, how and when? In which language does that happen? Is there a team leader? Who? What language do they speak?
18	How much self-employed contribution do you pay? Are you aware of the social security system?

Annex 4

SUGGESTED POST-INSPECTION/FOLLOW-UP REPORT

<p>Description of the inspection</p>	<ul style="list-style-type: none"> ▶ Institutions/enforcement bodies in each Member State directly involved and respective team leaders. ▶ Description of the undeclared work case before the inspections. ▶ Purpose of the concerted or joint inspection and issues inspected. ▶ Results/findings of the concerted or joint inspection. ▶ Date and address where the inspection took place. ▶ Description of the process of the concerted or joint inspection – how many people were involved, what investigation methods were used? ▶ Name, address of the company (companies) or natural persons (employers) subject to inspection. ▶ Cooperation with EUROPOL, EUROJUST, or other third parties. 	
<p>Results</p>	<p>Evidence based infringements <i>(tick the boxes that apply)</i></p>	<p>Evidence of infringements requiring further enquiry <i>(tick the boxes that apply)</i></p>
<p>Cross-border undeclared work or social fraud, social security contributions and/ or illegal social benefits claimed</p>		
<p>Letterbox companies</p>		
<p>Bogus self-employment</p>		
<p>Networks of illegal employment of third country nationals</p>		
<p>Fraudulent temporary work agencies</p>		
<p>Serious non-compliance with labour rights of EU mobile workers</p>		
<p>Human trafficking</p>		
<p>Other findings, please list</p>		
<p>Any unexpected results?</p>		
<p>Holistic approach (and findings) or specific purpose?</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Labour law <input type="checkbox"/> Social security <input type="checkbox"/> Tax law <input type="checkbox"/> Company law <input type="checkbox"/> Criminal law <input type="checkbox"/> Immigration Law 	
<p>Number of people investigated</p>	<p>Employees: Self-employed: Other status (e.g. company owner, volunteers):</p>	

Number of people interviewed	Employees: Self-employed: Other status (e.g. company owner, volunteers):	
Number of people suspected to be involved in undeclared work or other infringements following initial data analysis	Employees <i>(indicate also citizenship)</i>	Self-employed <i>(indicate also citizenship)</i>
Cross-border undeclared work or social fraud, social security contributions and/ or illegal social benefits claimed		
Letterbox companies		
Bogus self-employment		
Networks of illegal employment of third country nationals		
Fraudulent temporary work agencies		
Serious non-compliance with labour rights of EU mobile workers		
Human trafficking		
Other		
Can collected data be used as evidence by the inspection team?		
Is additional information or secure evidence needed? Which?		
Please clarify who will lead any follow-up to a concerted/joint inspection?	Member State A	Member State B
Criminal prosecution (is a public prosecutor already involved?)		
Administrative fine		
Recovery of social contributions		
Payment of wages		
Recovery of undue social benefits		
Tax contributions		
Other coercive measures (license withdrawal, public procurement, etc.)		
Follow-up inspections		
Did you communicate results to other relevant authorities, in other Member States?		
What are the lessons learnt? What strategic and operational changes are necessary to update the strategy to address cross-border undeclared work?		
Are further inspections needed?		
Are further cross-border actions, e.g. preventative campaigns, planned?		
Where will this report be stored (inspection database)?		

Getting in touch with the EU

In person

All over the European Union there are hundreds of Europe Direct Information Centres. You can find the address of the centre nearest you at: <http://europa.eu/contact>

On the phone or by e-mail

Europe Direct is a service that answers your questions about the European Union. You can contact this service

- by freephone: 00 800 6 7 8 9 10 11 (certain operators may charge for these calls),
- at the following standard number: +32 22999696 or
- by electronic mail via: <http://europa.eu/contact>

Finding information about the EU

Online

Information about the European Union in all the official languages of the EU is available on the Europa website at:

<http://europa.eu>

EU Publications

You can download or order free and priced EU publications from EU Bookshop at: <http://bookshop.europa.eu>.

Multiple copies of free publications may be obtained by contacting Europe Direct or your local information centre

(see <http://europa.eu/contact>)

EU law and related documents

For access to legal information from the EU, including all EU law since 1951 in all the official language versions, go to EUR-Lex at: <http://eur-lex.europa.eu>

Open data from the EU

The EU Open Data Portal (<http://data.europa.eu/euodp/en/data>) provides access to datasets from the EU. Data can be downloaded and reused for free, both for commercial and non-commercial purposes.



Publications Office
of the European Union