European Platform
tackling undeclared work

Cross-border actions tackling undeclared work

Ruslan Stefanov, Daniela Mineva, Petar Terziev

Vitosha Research EOOD
(Center for the Study of Democracy Group)

In collaboration with ICF

September 2019

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

EXECUTIVE SUMMARY 1
1. INTRODUCTION 5
2. THE RISING CHALLENGE OF CROSS-BORDER UNDECLARED WORK 6
2.1 Forms of cross-border undeclared work 8
2.1.1 Undeclared work among EU mobile workers residing in another Member State: long-term vs short-term mobility 8
2.1.2 Undeclared work among posted workers 9
2.1.3 Fraudulent letterbox companies 9
2.1.4 Undeclared work among frontier and seasonal workers 10
2.1.5 Bogus self-employment 11
3. STATE OF PLAY OF COOPERATION ACTIONS IN THE EUROPEAN UNION 11
3.1 Prevalence and types of cooperation actions 14
3.2 Main characteristics of cooperation actions 16
3.2.1 Scope 16
3.2.2 Key sectors 17
3.2.3 Key areas and objectives covered 20
3.3 Geographical clusters of cooperation 22
3.3.1 Collaborative practices of main receiving countries in terms of labour mobility 26
3.3.2 Cross-border cooperation between EU Member States and European Economic Area (EEA) States 29
3.4 Steps taken during joint and concerted inspections 30
3.4.1 Key approaches and procedures 31
3.4.2 Exchange of information: barriers and solutions 36
3.4.3 Cooperating with other national authorities 36
3.5 Common follow-up activities 39
3.6 Challenges and key success factors 40
3.6.1 Challenges 41
3.6.2 Suggested improvements 41
3.6.3 Future issues to tackle 42
4. CONCLUSIONS AND RECOMMENDATIONS 43
BIBLIOGRAPHY 45
ANNEX I: LIST OF INSTITUTIONS TO WHICH EXPERTS INTERVIEWED ON CROSS-BORDER UNDECLARED WORK CASE STUDIES ARE AFFILIATED 48

EXECUTIVE SUMMARY

This paper aims to **provide a deeper understanding of cross-border cooperation tackling undeclared work, with a focus on concerted and joint inspections** conducted between European Union Member States[1]. It includes the results of a survey of members of the European Platform tackling undeclared work (hereafter 'the Platform') and analyses the details of cross-border actions implemented between enforcement authorities (with a particular emphasis on labour inspectorates, social security bodies, labour and social security ministries, tax authorities) of EU Member States. The survey aimed to measure aspects such as:

- Forms of cooperation actions used and their frequency.
- Main issues at which such actions are directed.
- Understanding the steps taken during these actions.
- Mapping the geographical patterns of cooperation.
- Assessing the key sectors that cooperation actions need to target.
- Factors for successful cooperation.
- Key challenges faced by enforcement bodies in carrying out cooperation actions.

The paper is **part of a set of Platform documents**, which provide the basis for a more strategic approach towards cross-border concerted and joint inspections and related actions. These include: (i) a learning resource paper from a Thematic review workshop on 'Cross-border concerted and joint inspections' held in Lisbon on 28 February-1 March 2019; and (ii) a practitioners' toolkit that can serve as a template of how to conduct and scale up joint cross-border inspections. These can serve as a basis for future action, including in the context of the European Labour Authority (ELA).

The paper confirms earlier Platform findings that there is a **lack of emphasis among enforcement authorities on tackling cross-border undeclared work**. It also draws on available, yet limited, data and proxy indicators on cross-border undeclared work in the EU (e.g. the 2013 Special Eurobarometer survey on undeclared work in the European Union[2] and labour mobility numbers[3]). While this data needs to be interpreted carefully, it provides additional information on the potential scale of cross-border undeclared work and the cooperation required to tackle it.

Forms of cross-border undeclared work

Cross-border labour mobility has notably increased in recent years. Other things being equal, this has increased the risk of a higher prevalence of cross-border undeclared work. In 2017, 17 million citizens lived or worked in a Member State other than that of their nationality[4]. When combining figures from the Special Eurobarometer with data on labour mobility, data suggests that **more than 700 000 people could have engaged in some form of cross-border undeclared work[5] in 2017**. Further investigation would be needed to achieve a more precise measure of cross-border undeclared work in the EU. However, this rough estimate already suggests that the labour market in Europe would benefit from national authorities engaging further in cross-border cooperation to tackle undeclared work.

Over the past decade, the rise in cross-border mobility in the EU has taken place alongside other **factors contributing to a higher probability of cross-border undeclared work**

[1] This paper also covers the EEA Member State – Norway.
[2] European Commission, (2014). Special Eurobarometer 402: Undeclared work in the European Union. Brussels: European Commission.
[3] Fries-Tersch E., et al., (2019). 2018 annual report on intra-EU labour mobility. Brussels: European Commission.
[4] Fries-Tersch E., et al., (2019). 2018 annual report on intra-EU labour mobility. Brussels: European Commission.
[5] Assuming 4.2 % of the 17 million movers were engaged in undeclared work.

occurring. The digitisation of the economy, the spread of non-banking channels of payment, the rise of the gig and shared economies, the acceleration of company turnover – to name a few - have all **enabled new forms of (or enabled more complex) cross-border undeclared work**. Together, these factors call for closer cross-border cooperation between national systems to tackle undeclared work.

Specific types of cross-border undeclared work, such as fraudulent letterbox companies acting as temporary work agencies, bogus self-employment, fraudulent posting of workers, require broader and better cross-border cooperation between Member States' authorities. This paper presents further evidence of how cross-border cooperation in tackling undeclared work currently performs, and what steps may be needed to improve it in the future.

Cross-border cooperation: state of play

The most common forms of cooperation that Platform member authorities engage in to tackle cross-border undeclared work are **joint inspections** and **staff exchange**. Authorities still mainly take a deterrent approach towards tackling cross-border undeclared work, although some also use preventative measures such as awareness-raising campaigns. The survey results reveal a significant discrepancy between enforcement authorities across the EU in the frequency of conducting joint inspections. Denmark, Sweden, Portugal and France reportedly organised more than 10 joint inspections during 2018, while seven Member States did not conduct any. This shows **considerable scope for improvement and mutual learning opportunities**, which the Platform and the European Labour Authority can help realise. In particular, joint inspections could be better supported by other cooperation actions preceding or superseding them.

At **sectoral level**, survey results suggest that the **transport** sector would benefit the most from conducting more cooperation actions. This sector has witnessed the most significant increase in cross-border activity among EU-13, which simultaneously poses a high threat of non-compliance with labour laws. Enforcement authorities have also voiced significant demand for more cross-border cooperation to tackle undeclared work in the **construction** sector. Finally, demand for further cross-border action remains high in the **HoReCa** sector, which faces considerable cross-border undeclared work.

The analysis of **geographical patterns** of cross-border cooperation through concerted and joint inspections reveals that Member States mainly engage in such actions with their neighbouring countries. Significant **gaps exist in the conduct of cross-border inspections** between Member States that do not border each other directly. Cross-border concerted and joint inspections do not appear to follow the pattern of cross-border labour flows. There is **limited cooperation between Member States with some of the largest flows of working-age movers**[6]. This does not automatically imply higher cross-border undeclared work or the need for action on all cases of intra-EU mobility. But it could still be an indication of a risk that warrants cross-border consideration. For example, the latest available annual data shows that 924 000 Romanian citizens moved to Italy, however the countries did not report to have engaged in joint inspections despite the increased risk of cross-border undeclared work. Similarly, 734 000 and 559 000 Polish citizens moved to the United Kingdom and Germany without prompting respective authorities to engage in more cross-border joint inspections.

However, Platform activities[7] indicate more frequent cross-border joint inspections taking place between Member States to tackle undeclared work than the current survey suggests. This discrepancy can indicate that **joint inspections are ad hoc in character, rather than part of a strategic cross-border cooperation**. Hence, Member States can **build**

[6] The term 'movers' refers to citizens who reside in a country other than their country of citizenship. The term is used in the annual reports on intra-EU labour mobility published by European Commission.
[7] European Platform tackling undeclared work, (2017-2019). Thematic review workshops on bilateral agreements, memoranda of understanding, risk assessment and cross-border inspections.

on and scale up existing forms of cooperation, including those introduced through the Platform.

Member State authorities differ significantly in the steps they take in concerted and joint inspections and how often they conduct them. These differences pose a potential challenge for the organisation and conduct of joint and concerted inspections and could provide the opportunity for Platform action to streamline them. In terms of frequency of implementation, responses show that **exchange of information, case analysis, identifying problems and common interests before the start of the joint action** are the most practiced steps in joint inspections. Authorities also consider the exchange of information prior to the beginning and during inspections as the most important success factor. The least implemented step is **agreeing or settling budget or expenses**. Yet, authorities also note that good resource endowment is a key factor for success in joint cross-border inspections. This is most likely an indication of the difficulties surrounding sharing the financial burden of joint inspections. This was also raised as a key concern in the earlier Platform review of cross-border bilateral agreements (BAs) and memoranda of understanding (MoU). One potential solution is **the development of a more strategic approach towards cross-border cooperation on tackling undeclared work,** by including it as a distinct priority within national strategic documents in this domain.

Cooperation with third parties (such as social partners) and other national authorities (not directly tasked with tackling undeclared work) is considered crucial for success. Member States use various forms of formal and informal channels to cooperate with third parties. The existence of a prior cooperation agreement or experience is a factor affecting the speed of carrying out (and the impact of) cross-border actions. **The level and quality of cross-border cooperation between Member States very often depend on the coherence and quality of internal cooperation** between different authorities within cooperating Member States.

A **key challenge** for cross-border cooperation actions is the **difference in legislation** between Member States, which regulates presence on other Member States' territory, investigative powers, and gathering legal evidence in line with personal data protection. Enforcement authorities also face language barriers, human resources shortages, the high costs of cooperation actions and issues around the EU General Data Protection Regulation (GDPR).

In conclusion, this paper highlights **considerable scope for improving cross-border cooperation** to tackle undeclared work in the EU. There are significant differences between the level of engagement and the existing capacity of Member States in cross-border cooperation. Currently, national authorities remain predominantly focused on ad hoc measures to tackle cross-border undeclared work. What is therefore needed is **the inclusion of a cross-border component in national strategies for tackling undeclared work**, or the development of independent national strategies for tackling cross-border undeclared work altogether. The Platform and the European Labour Authority can offer important added value here. Particular **focus could be put on**: the transport sector; establishing principles for settling budgets and expenses in cross-border cases; generating better solutions for recurrent language issues; and dealing more effectively with fraudulent temporary work agencies and letterbox companies. The **European Labour Authority** will provide support to Member States in the area of joint and concerted inspections. Finally, the paper provides **positive examples** of financial instruments supporting cross-border cooperation actions tackling undeclared work, such as the European Social Fund, Norway Grants and the EU Programme for Employment and Social Innovation.

Recommendations

Overall, the paper highlights the following **recommendations** for action at the EU / Platform level and at Member State level.

For EU / Platform level:

EU level support, particularly involving the European Labour Authority and the European Platform tackling undeclared work, can play an important role in enabling cross-border cooperation. The following recommendations derive from this study:

- Develop universal **template agreements / toolkits for cross-border inspections and actions** that would allow quicker planning and deployment of such activities, as well as more strategic training and capacity building. This could also include developing standardised approaches / universal templates towards cooperation with relevant third parties (government and non-government).
- Design and support **joint training between more and less experienced Member States' enforcement bodies** tackling cross-border undeclared work. Provide a framework/platform for mutual learning experiences.
- Develop a **database, presenting and comparing the competences of relevant authorities and the legal base, norms and requirements** that relate to uncovering undeclared work risks (e.g. data protection and data exchange rules, minimum wages, existing collective agreements, minimum working time, legal documents mandatory for each company in each EU Member State). The database could then be gradually expanded to include other aspects. For example, the creation of EU-wide lists of experts (including interpreters or specialists in labour law), which Member States can call upon for a specific cross-border cooperation action.
- Work towards **establishing principles for settling budgets and expenses** within bilateral agreements or, if there are no signed BAs or MoUs, develop a common framework at EU level for financing and budgeting cross-border actions.
- Increase the capacity of members to tackle **fraudulent temporary work agencies** and undeclared work related to the **shared economy**, notably by continuing the expansion and usability of the Platform virtual library.

For national enforcement bodies:

- Increase cross-border cooperation between the main sending and receiving Member States of working-age movers to reduce their risk of cross-border undeclared work. In particular, aim to **introduce cross-border cooperation in national strategies** tackling undeclared work, and set aside adequate resources for implementing such measures.
- Focus on **establishing and/or intensifying national cooperation** with relevant authorities (social security, tax, migration. police, etc.) on tackling cross-border undeclared work. This would increase their capacities for cross-border cooperation (both in terms of neighbouring countries and among non-border countries).
- Establish integrated **national databases and data sharing protocols** to enable joint risk assessment with Member States that receive or send the highest number of working-age movers.
- Address any challenges related to **differences in national legislation and clarifying national inspection procedures**, including rules for involving inspectors from other Member States.

1. INTRODUCTION

This paper contributes to one of the objectives of the European Platform tackling undeclared work, namely to improve the capacity of Member States' different relevant authorities and actors to tackle undeclared work with regard to its cross-border aspects. It also improves the knowledge base and builds on the findings from the Platform Thematic review workshop on 'Cross-border concerted and joint inspections', which was held in Lisbon between 28 February-1 March 2019 (see Executive Summary here). Notably, the workshop confirmed earlier Platform findings around a **lack of emphasis in enforcement authorities on tackling cross-border undeclared work** and a concentration on tackling national level undeclared work. Indeed, few examples of national strategies on tackling cross-border undeclared work, and few national strategies on tackling undeclared work consider the cross-border component.

Undeclared work at national and cross-border (EU) level is characterised by various forms of fraudulent behaviour[8]. Enforcement bodies face diverse examples of undeclared work, ranging from simple home maintenance[9], where people attempt to avoid social security costs, to dynamic and complex schemes for tax evasion such as letterbox companies that operate beyond national borders[10]. **The complexity and dynamics are further compounded once undeclared work crosses EU borders**. The capacity of national enforcement authorities to tackle cross-border undeclared work is significantly weaker than when they act in their national jurisdictions.

Member States face **multiple obstacles in tackling undeclared work at cross-border level**[11]. These challenges include: data-sharing issues, lack of interoperability between databases, inadequate and/or incompatible legal frameworks and ambiguous definitions, insufficient resources, difficulties in detecting undeclared work, competence and language issues. Bilateral Agreements (BAs) and Memorandums of Understanding (MoUs) have provided some basis for cross-border cooperation in tackling undeclared work but fall short in the scope and flexibility to allow for a more comprehensive approach. This calls for **EU level coordinated cooperation** to tackle cross-border undeclared work.

The aims of this study are to assess current practices around cross-border cooperation and the extent and nature of cooperation between Member State authorities in tackling cross-border undeclared work in all its forms. The paper concentrates primarily, but not exclusively, on current practices around cross-border concerted and joint inspections. These are defined as follows:

- **Concerted inspections** are inspections carried out in two or more Member States simultaneously on related cases, with each national authority operating in its own territory.
- **Joint inspections** are inspections carried out in a Member State with the participation of the national authorities of one or more other Member States[12].

The paper **covers all forms of cooperation between national authorities**, whether they are part of concerted and joint inspections or conducted separately (e.g. information exchange, awareness-raising efforts, use of information tools, joint training, visits, staff exchanges, etc.). Cooperation actions against illicit trafficking of people and serious labour exploitation, and those related to health and safety at work, are not included in the paper (except when those abuses are directly linked to undeclared work, or enable better

[8] ILO, (2013). Labour Inspection and Undeclared Work in the EU. Geneva: ILO.
[9] European Commission, (2014). Special Eurobarometer 402: Undeclared work in the European Union. Brussels: European Commission.
[10] ILO, (2013). Labour Inspection and Undeclared Work in the EU. Geneva: ILO.
[11] European Platform tackling undeclared work, (2018). Survey report: obstacles to tackling undeclared work at the cross-border and national levels, bilateral and national agreements, and complaint reporting tools.
[12] 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).

cooperation due to different legal regimes). Based on this assessment and previous studies conducted for the European Platform tackling undeclared work, this paper provides a more detailed picture of the pattern of cross-border cooperation and the pattern of cross-border undeclared work in the EU.

The **methodology** of this paper is based primarily on a quantitative survey conducted among members of the European Platform tackling undeclared work, representing the enforcement authorities of each Member State, Iceland and Norway. The survey questionnaire first measured the types and frequency of cross-border cooperation actions used by enforcement authorities over the past 12 months. It further tracked the pattern of cooperation between national enforcement authorities and sought to identify its main objectives and issues. An essential element of the survey was to track the success factors and challenges underpinning the conduct of cooperation actions. Lastly, in an open-end format, participants were asked to provide concrete examples of cross-border cooperation.

Altogether 22 Members States and Norway responded to the survey. While this response rate provides a good representation of existing cross-border cooperation patterns in Europe, gaps inevitably exist. For example, not all Member States provided examples of cooperation actions.

The analysis in this report comprises the findings from the survey and information from additional desk research, including previous studies relating to cross-border undeclared work within the EU.

2. THE RISING CHALLENGE OF CROSS-BORDER UNDECLARED WORK

The work of the European Platform tackling undeclared work has generated a body of evidence that suggests **cross-border undeclared work risks have been on the rise in the EU**. This is linked to **a combination of factors**, such as the increase in labour mobility, the digitisation of services and the emergence of the shared economy, the acceleration of and ease to relocate companies, among other factors.

While, at national level, these factors have been identified and taken into consideration when designing measures to tackle undeclared work, there seems to be considerably less action at cross-border level. There is also insufficient **reliable or complete data on risk factors and cross-border undeclared work** to guide policy responses. Therefore, the current paper assessed the risk of cross-border undeclared work based on available data from the 2014 Special Eurobarometer and from the annual reports on labour mobility. These datasets come with several caveats, which need to be carefully considered when interpreting their results.

Box 1: Definition of cross-border undeclared work

In the context of this study, cross-border undeclared work refers to all forms of undeclared work conducted by EU citizens within the territory of a Member State that they are not a citizen of. This includes undeclared work by: EU citizens residing and conducting undeclared work in another Member State (not the one they originate from), frontier workers residing in one Member State and conducting undeclared work in another (commuting daily or weekly), and posted workers who engage in undeclared work during their posting to another Member State.

Cross-border labour mobility has noticeably increased in recent years[13]. 17 million citizens lived or worked in a Member State other than that of their nationality in 2017, which was more than a two-fold increase compared to a decade ago[14]. Other things being

[13] COM(2018) 131 final, Proposal for a Regulation of the European Parliament and of the Council establishing a European Labour Authority – General approach, Brussels, 13 March 2018.
[14] Fries-Tersch E., et al., (2019). 2018 annual report on intra-EU labour mobility. Brussels: European Commission.

equal, this can have resulted in an increase in cross-border undeclared work. At the same time, there have been additional risk factors at play, such as: further digitisation of economies and the emergence of shared services (further blurring the boundaries between employment, self-employment, and service provision); the increasing speed and ease of business relocation; the emergence of more complex non-banking payment methods, allowing to conceal the source and the final destination of payments, and the underlying reasons for transfers.

Data from the 2014 special Eurobarometer on undeclared work[15] suggests that **2.6 % of workers self-reported to have engaged in cross-border undeclared work** in the last 12 months. The self-reporting at national level, i.e. in the country of one's nationality, stood at 3.8 %. At the same time, 4.2 % of those currently working abroad in the EU and 5.6 % of those who worked abroad in the EU in the past, reported to have engaged in undeclared work in the last 12 months. The last two datasets indicate that **the risk of cross-border undeclared work is potentially higher than self-reported**. These numbers need further precision to guide policy responses[16]. Yet, they are enough to indicate that national authorities need to be paying more attention to the cross-border dimension of undeclared work.

Table 1. Undeclared work in the EU-28

Indicator	Undeclared work (UDW) in last 12 months	UDW, by nationality				Working abroad in EU – ever did (% conducting UDW in last 12 months)							
Sub-indicator		In MS of their nationality		Not in MS of their nationality		Yes, currently		Yes, in the past + No (i.e., all the rest)		Yes, in the past + No			
										Yes, in the past		No	
Unit	%	%	N	**%**	**N**	**%**	**N**	%	N	**%**	**N**	%	N
EU-28	3.8	3.8	26937	**2.6**	**626**	**4.2**	**546**	3.7	26942	**5.6**	**2207**	3.6	24735

Note: N is the number of respondents on the basis of which the respective share is calculated.

Source: Williams C.C., (2018). Estimation of cross-border undeclared work on the basis of 2014 Special Eurobarometer 402: Undeclared work in the EU. Unpublished data.

Special Eurobarometer and mobility data only provide a baseline guidance on the potential size and dynamics of cross-border undeclared work. This data also fails to account for the diversity in forms of cross-border undeclared work, which have been identified through the work of the Platform.

Intra-EU labour mobility cannot be considered a universal proxy for focusing cross-border actions to tackle undeclared work, including inspections. But it is one of the few proxies available and it can serve as a starting point for cross-border risk-assessment analyses.

In-depth interviews with experts (see Annex 1 for the institutions they are affiliated to) and media analyses suggest that **cross-border undeclared work primarily follows the East-West mobility axis**. In Spain, Romanian undeclared workers are found in the agriculture and construction sectors. In the Belgian construction sector, undeclared workers come from Germany, Poland, Slovakia and Bulgaria. In Sweden, the most frequently mentioned undeclared workers are from the Baltic Member States, Poland and Romania. However, the pattern of cross-border undeclared work is not limited to the East-West mobility axis. Although more limited, results of media analyses suggest the existence of cross-border undeclared work in the South-North mobility axis. These cases, although

[15] European Commission, (2014). Special Eurobarometer 402: Undeclared work in the European Union. Brussels: European Commission.

[16] The key shortcoming of this indicator is that the share of foreign nationals surveyed in the Special Eurobarometer 402 in Member States (2.3 %) is lower than their share in total population (7.8 %) and their representation in the working population (8.8 %).

acknowledged, are typically not considered the most significant to the labour authorities of receiving Member States.

Undeclared work with a cross-border dimension is a sector-specific phenomenon, primarily concentrated in low-skilled, labour intensive jobs[17]. Cross-border undeclared work seems particularly prevalent in the **construction** sector[18]. Another sector that has often featured in case studies is **transport**; there are over 2 million workers in the road transport sector who cross intra-EU borders on a daily basis to transport goods or passengers[19]. Cross-border undeclared work is also apparent in the **agriculture** sector, similarly characterised by the prevalence of low-skilled, labour-intensive work, and in the **meat processing** sector (media analysis indicates cases in Belgium and Germany)[20]. These four sectors also face **barriers to inspecting cross-border undeclared work**. Significant numbers of workers are concentrated on one working site or spread across many changing locations, which requires labour authorities to organise inspections with other institutions.

Accounting for different forms of cross-border undeclared work would enable better guidance on targeting cross-border cooperation actions. Indeed, **different forms of cross-border undeclared work require different levels and combination of actions**. The section below presents various forms of undeclared work which Platform members identified as among the most problematic, calling for action.

2.1 Forms of cross-border undeclared work

Cross-border undeclared work within the EU takes different forms. Each specific form of a contractual agreement can lead to a different expression of fraud and undeclared work. Within the regulations established by the EU for intra-EU labour mobility, cross-border patterns of undeclared work are even more complex. Such work can be part of both **long- and short-term movements**. Long-term EU movers can engage in undeclared work similar to that performed by nationals of the host state. **Short-term labour movers** in the EU can be categorised as posted workers or as cross-border / frontier work and seasonal employment. **Tackling different forms of cross-border undeclared work requires different sets of joint actions** from enforcement authorities. However, not all forms of cross-border undeclared work require a cross-border response.

2.1.1 Undeclared work among EU mobile workers residing in another Member State: long-term vs short-term mobility

There are significantly more cases of long-term EU labour movement (longer than 12 months) than cases of short-term labour movement (shorter than 12 months)[21]. Despite the occurrence of undeclared work among EU-nationals residing in a Member State other than their place of origin, **national authorities still consider undeclared work first and foremost a national issue**. This is partially supported by the Special Eurobarometer data, which highlights that undeclared work is an issue in all EU-28 Member States. Yet

[17] See exemplary case studies: Mineva D., Horodnic I., (2018). Case studies on cross-border cooperation. Brussels: European Platform tackling undeclared work. Available online at: https://ec.europa.eu/social/BlobServlet?docId=19080&langId=en

[18] Cremers J. et. al., (2017). Tackling undeclared work in the construction industry: A learning resource. Brussels: European Platform tackling undeclared work. Available online at: http://ec.europa.eu/social/BlobServlet?docId=18132&langId=en

[19] COM, (2018) 131 final, Proposal for a Regulation of the European Parliament and of the Council establishing a European Labour Authority – Impact Assessment Report, Brussels, 13 March 2018. Available online at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018SC0068&from=HR

[20] Scholl-Mazurek K. et al. (2016). Social Dumping by subcontracting: How German employers in construction and meat processing evade EU labour provisions. Berlin: Polish Social Council. Available online at: https://migrationonline.cz/germany_country_report.pdf

[21] Fries-Tersch E., et al., (2019). 2018 annual report on intra-EU labour mobility. Brussels: European Commission.

the primary reason is that labour, tax and social regulations are essentially defined at national level[22].

A factor that differentiates domestic undeclared workers from undeclared EU-movers, is that the latter might avoid paying taxes and social security contributions because they plan to remain in the host Member State for a shorter period. This case is supported in existing research, which argues that **short-term mobility incentivises workers to engage in undeclared work**[23]. Undeclared work conducted by EU-nationals significantly depends on the sector in which it occurs. They typically differ from the domestic population by entering more labour-intensive sectors of the economy.

2.1.2 Undeclared work among posted workers

Posting is based on Directive 96/71 EC, which defines a posted worker as a 'worker who, for a limited period of time, carries out his (or her) work in the territory of an EU Member State other than the State in which he (or she) normally works'.

The overall purpose of the Posting of Workers Directive is to provide a framework in which to regulate the working conditions of workers sent by their employers to perform a service in another Member State for a limited time, while simultaneously allowing competition between companies within the internal market. Non-compliance with posting rules (such as payments below the minimum pay set by the law or collective agreements, rest, working conditions, etc.)[24] is considered cross-border undeclared work. Non-payment of social security contributions in the sending Member State by letterbox companies is frequently observed and also constitutes undeclared work. Aside from the example of posting workers via a letterbox company, other forms of undeclared work include payment of a fixed salary, negotiated before the posting but which later demands extra work. Undeclared work of posted workers might also involve **undue deductions from the salary for accommodation and food**, unpaid compensation for unused paid leave during the contract, unpaid overtime and lack of payment during official holidays, etc.[25]. In such cases, employees are not informed of their rights regarding payment regulations. Some companies that employ posted workers also circumvent the regulations around working and living conditions.

2.1.3 Fraudulent letterbox companies

Due to the freedom of establishment in the internal market, companies of one Member State may have their registered office, central administration or principal place of business in another EU Member State[26]. A letterbox company engaging in cross-border undeclared work in the EU is one that is permanently established in one Member State and subcontracts its workers, who are registered as posted workers to another company located in another Member State. Importantly, if the basic criteria for organisation and registration in a Member State are fulfilled, the letterbox company is legal. **The fraudulent letterbox company does not perform real activities in the Member State where it is registered**, it has no working staff and consists only of an office where it is registered[27].

---

[22] European Commission, (2014). Special Eurobarometer 402: Undeclared work in the European Union. Brussels: European Commission.
[23] McKay, (2014). Transnational Aspects of undeclared work and the role of EU legislation. European Labour Law Journal, 5(2) 116-131.
[24] A revised Directive was adopted on 28 June 2018 and will enter into force on 30 July 2020. The main changes foresee that: all the mandatory elements of remuneration apply to posted workers (instead of only the 'minimum rates of pay'); the rules of the receiving Member State apply on workers' accommodation and allowances or reimbursement of expenses during the posting assignment; for long-term postings (longer than 12 or 18 months) an extended set of terms and conditions of employment of the receiving Member State apply.
[25] Bulgarian Labour Inspection, (2018). Communication on the occasion of 24 inspections in 7 firms posting workers to Belgium (15 June 2018).
[26] Cremers J., (2014). Letterbox companies and abuse of the posting rules: How the primacy of economic freedoms and weak enforcement give rise to social dumping. ETUI Policy Brief, 2014(5).
[27] OECD Glossary of Tax Terms cited in Hastings T., Cremers J., (2017, p.2). Developing an Approach for Tackling Letterbox Companies. A learning resource. European Platform tackling undeclared work.

The relationship between letterbox companies and cross-border undeclared work often involves posted workers and temporary work agencies. The fraudulent use of letterbox companies involves intentionally **establishing a letterbox company in another Member State with the purpose of abusing the rules for posting of workers and cross-border recruitment** to avoid social security contributions, taxes and/or to circumvent labour regulations (such as overtime, underpayment of wages, poor working conditions). There are many examples of letterbox companies explicitly designed to avoid legal and regulatory obligations such as tax and social security contributions[28]. These companies are specifically used to circumvent the Posted Workers Directive by being established by a company in a Member State with higher social security contributions but registered in a Member State with lower social security contributions. Thus, the differentials in social security contributions allow the company to cut costs. Such letterbox companies are used to **hide permanent workers as posted workers**. Overall, the formation of letterbox companies is an 'ostensible contractual framework to justify – in compliance with Directive 96/71/EC – the application of the more convenient labour regulations of the Member State where the subcontractor is established in lieu of those of the host Member State'[29].

2.1.4 Undeclared work among frontier and seasonal workers

Cross-border workers are defined as EU/EFTA citizens who live in one EU or EFTA Member State and work (employed or self-employed) in another, regardless of their exact citizenship[30]. The legal definition of cross-border workers also includes frontier **workers and seasonal workers**.

Frontier workers are those who work in one Member State and reside in another and commute daily or weekly between the two. According to Regulation (EC) No. 883/2004, frontier workers are covered by the social security system of the Member State of work and not the Member State of residence.

Undeclared frontier workers are those who declare their employment only partially or remain fully undeclared to the authorities of the Member State of employment, meaning their tax and social security contributions are not paid. Similar to undeclared work conducted by nationals, undeclared work performed by frontier workers can be fully undeclared or it can occur as under-declared work where envelope wages are received. The negative effect of this type of undeclared work is primarily on the frontier workers themselves who receive no health cover or access to pensions in either Member State.

Seasonal workers are citizens of one country who come to work in another Member State for a limited time. The length of their employment is often defined by the seasonal nature of the undertaking and is limited to eight months[31]. Undeclared seasonal work can be concentrated in the agriculture and HoReCa sectors.

[28] Heinen A., Muller A., Kessler B., (2017). Liability in Subcontracting Chains: National Rules and the Need for a European Framework. European Parliament: Legal and Parliamentary Affairs.
[29] Eurofound, (2017). Fraudulent contracting of work: Abusing the posting of workers (Belgium, Finland and Italy). Dublin: Eurofound.
[30] Fries-Tersch E., et al., (2017, p.78). 2016 annual report on intra-EU labour mobility. Brussels: European Commission.
[31] Seasonal workers are defined in Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community, Article 1(c); they enjoy the right to free movement according to Regulation (EU) No 492/2011 and equal treatment with nationals according to Directive 2014/54/EU.

2.1.5 Bogus self-employment[32]

Bogus self-employment[33] – the intersection between subordinate employment and self-employment[34] – constitutes another form of cross-border undeclared work among long- and short-term EU movers. Here, the self-employed have only one source of work, rather than multiple clients as in regular self-employment, making bogus self-employment **dependent work disguised as self-employment**[35]. Bogus self-employment is an abuse of the rules of self-employment to avoid paying tax, social security contributions, sick pay and holiday pay, none of which employers are obliged to provide to self-employed workers. Employers who hire bogus self-employed in the EU can save between 35-50 % of the cost of employing a worker[36]. Similar to other forms of cross-border undeclared work, bogus self-employment might provide short-term profits for the worker but, in the long-term, it creates issues since workers have no access to social security, pension or healthcare benefits (unless they make their own provisions to contribute to these systems).

3. STATE OF PLAY OF COOPERATION ACTIONS IN THE EUROPEAN UNION

The current paper is based on a survey on the use of cooperation actions for tackling cross-border undeclared work in the EU/EEA. The results are based on responses received from 22 members of the European Platform tackling undeclared work from the EU and one EEA country – Norway[37] (Table 2). Respondents included representatives from labour inspectorates, social security authorities, ministries of labour and social security, tax authorities, etc. Labour and social security enforcement bodies as well as ministries constitute the majority of respondents. Hence, it is important to note that there has been a natural bias in their answers towards prioritising the issues related to labour and social security. The results are still relevant for other government domains, as typically labour and social security aspects of undeclared work are associated with tax, health and safety, mobility and migration, crime and other irregularities. The survey results provide an overview of the types, main characteristics, geographical coverage, challenges and success factors of cooperation actions, including inspections implemented by enforcement authorities in EU/EEA Member States to tackle cross-border undeclared work.

[32] For a more detailed review of bogus self-employment in the EU, see: Heyes, Hastings, (2017). Learning resource in the practices of enforcement bodies in detecting and preventing bogus self-employment. European Platform tackling undeclared work. The Platform has also produced several good practice fiches on the same topic.
[33] Also referred to as: 'dependent', 'false', 'sham', 'fake' self-employment. See: Williams C.C., Lapeyre, (2017). Dependent self-employment: Trends, challenges and policy responses in the EU. Working Paper No. 228. Geneva: ILO.
[34] Williams C.C., Lapeyre, (2017). Dependent self-employment: Trends, challenges and policy responses in the EU. Working Paper No. 228. Geneva: ILO.
[35] McKay, (2014). Transnational Aspects of undeclared work and the role of EU legislation. European Labour Law Journal, 5(2) 116-131.
[36] Jorens Y., (2010, p.29). Self-employment and Bogus Self-employment in the European Construction Industry, Country Report: The Netherlands. European Federation of Building and Woodworkers and FIEC.
[37] Responses were received from 22 Member States (Belgium, Czechia, Denmark, Estonia, Ireland, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Hungary, Netherlands, Austria, Poland, Portugal, Slovakia, Finland, Sweden, United Kingdom) and one EEA country – Norway.

Table 2. Survey responses by region

Region[38]	Number of Member States in region	Number (%) of responding countries
Eastern and Central Europe	11	9 (82%)
Nordic EU Member States	3	3 (100%)
Southern Europe	6	4 (67%)
Western Europe	8	6 (75%)
EEA Member States[39]	2	1 (50%)

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

The paper explores the different cooperation actions that Member States' authorities implement to tackle cross-border undeclared work, emphasising the analysis of patterns of cross-border concerted and joint inspections[40].

This should be put into context. A series of reports published by the European Platform tackling undeclared work call for enforcement authorities to move away from deterrent policies towards a more holistic approach instead[41]. At cross-border level, **deterrent approaches** are practices such as concerted and joint inspections, both of which aim to detect and sanction non-compliance. Better detection implies more data exchange between enforcement bodies. Part of a deterrent approach is the exchange of data between cooperating enforcement authorities. It is important to emphasise the relevance of using **preventative approaches**, which promote methods to prevent work from becoming undeclared, or to transform undeclared into declared work, without resorting to inspections or repressive actions. At cross-border level, such practice can be the conduct of **joint awareness-raising campaigns**.

Cross-border cooperation[42] does not only involve deterrent and incentivising methods. A range of activities relate to **improving the capabilities and human capital of enforcement authorities**. Through bilateral agreements, other forms of collaboration or through the European Platform tackling undeclared work, enforcement bodies mutually learn from each other to increase their capacity to i) tackle undeclared work and to ii) handle the fluid nature of undeclared work. At cross-border level, enforcement authorities can organise **knowledge exchanges**, such as those shared through the Platform. Mutual

[38] Eastern and Central Europe (Bulgaria, Czechia, Estonia, Croatia, Latvia, Lithuania, Hungary, Poland, Romania, Slovenia, Slovakia), Western Europe (Belgium, Germany, Ireland, France, Luxembourg, Netherlands, Austria, United Kingdom), Southern Europe (Greece, Spain, Italy, Cyprus, Malta, Portugal) and Nordic countries (Denmark, Finland, Sweden).
[39] Among the EEA Member States, the Platform members are Norway and Iceland.
[40] See definitions above.
[41] A 'holistic approach' to tackling undeclared work refers to 'Where national governments use a whole government approach to tackle undeclared work, by joining-up on the policy and enforcement level of both strategy and operations, the fields of labour, tax and social security law, and involve and cooperate with social partners and other stakeholders. This approach involves using the full range of *direct* and *indirect* policy measures available to enhance the power of, and trust in, authorities respectively' in Williams C.C., (2016). Developing a Holistic Approach for Tackling Undeclared Work. European Platform tackling undeclared work.
[42] Cross-border cooperation and enforcement: voluntary cooperation between EU/EEA countries national competent authorities to enforce legal obligations and combat undeclared work, occupational health and safety, etc. of mobile workers and businesses. This can involve the exchange of information and data, investigations and inspections, and/or preventative activities. See: Williams C.C., (2017). Developing a Holistic Approach for Tackling Undeclared Work: A learning resource from the Seminar of the European Platform Tackling Undeclared Work, Brussels, 2 December 2016. Brussels: European Platform tackling undeclared work.

learning can also take place in the field through **joint training, staff exchanges** and/or in the form of joint inspections[43]. It is important to keep in mind the adaptive nature of undeclared work, which requires practices from inspectorates at cross-border level to evolve over time. Table 3 below provides a typology of cross-border cooperation actions in the context of preventing and deterring cross-border undeclared work.

Table 3. Typology of cross-border cooperation actions

1. DETERRENCE ACTIONS
Concerted inspections
Concerted inspections are inspections carried out in two or more Member States simultaneously on related cases, with each national authority operating in its own territory[44].
Joint inspections
Joint inspections are inspections carried out in a Member State with the participation of the national authorities of one or more other Member State(s). Joint inspections can take place at: • One location: joint inspections which are carried out at only one site in one Member State. • Multiple locations: joint inspections which are carried out at more than one site, in one or more Member State(s).
Data sharing
Data sharing is the process of making available to others data collected or used for tackling undeclared work. Data sharing can take place between enforcement authorities in different Member States. It can concern one specific case of cross-border undeclared work or involve sharing large volumes of data to conduct joint risk assessment. Data sharing can involve single pieces of data, such as the ones exchanged through the Internal Market Information System (IMI) or can refer to the provision of specific information on specific case studies. It can also extend to the provision of cross-border access to whole databases.
Joint procedures
Joint procedures are common internal guidelines, protocols and templates set up by two or more enforcement authorities in different Member States to take cross-border cooperation actions. These procedures establish how joint inspections, training, data sharing and awareness-raising between the enforcement authorities should be conducted.
2. PREVENTATIVE ACTIONS
Knowledge exchange
Knowledge exchange is a mutual learning activity or process, which brings together enforcement authorities, social partners, and other stakeholders to share ideas, evidence and expertise that furthers their capacity. The scope of the exchange can be

[43] At the Thematic review workshop: 'Cross-Border concerted and joint inspections' (28 February-1 March 2019, Lisbon, Portugal) the Platform members noted that many joint inspections are conducted as part of learning visits.

[44] 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.

linked to a specific sector (e.g. road transport, construction) or a specific topic (e.g. letterbox companies). Through different formats (seminars, workshops, conferences, online platforms) knowledge exchange can provide new insight into a topic.

Staff exchange

Staff exchange is the process of returned visits between enforcement authorities of two or more Member States, during which the staff of the visiting authority is integrated into the daily routine of the other(s). Staff exchanges facilitate learning by doing and information exchange, establishing mutual trust and kick-starting future joint activities. The exchange can involve staff learning visits, joint activities and joint inspections or joint training sessions. Staff exchange programmes can be part of BAs or MoUs, or EU funded programmes and conducted on a regular basis. Through them, enforcement authorities can mutually build their capacity and prepare their staff to better collaborate with each other.

Joint training

Joint training is an activity organised for the mutual instruction of the staff of one enforcement authority by another. Joint training sessions are oriented towards the preparation of inspectors for the conduct of cross-border concerted and joint inspections. During the trainings, inspectors get acquainted with each other's legal base and procedures. Joint trainings can be accompanied with training materials, guides, good practice templates, etc.

Awareness-raising

Awareness-raising activities aim to tackle undeclared work by shaping norms, values and beliefs to align them with the laws and regulations in one or more Member State(s). At cross-border level, joint awareness-raising can take the form of one-off information events (e.g. press release on the results of joint inspections, radio or television announcements and social media posts) or continuous communication campaigns (e.g. informing vulnerable workers or companies of their rights, compliance communication confirming desired behaviour and/or increasing the perceived risk of being caught). The outreach and impact can be strengthened by involving social partners (trade unions, employer's organisations and/or NGOs). Cross-border awareness-raising campaigns can focus on specific topics (e.g. seasonal undeclared work, bogus self-employment), target groups (vulnerable workers, businesses, or consumers) and sectors (transport, construction, agriculture).

Source: Expanding on the Platform's glossary[45] of terms and definitions established by the European Labour Authority[46].

3.1 Prevalence and types of cooperation actions

Key findings:

- The most prevalent forms of cooperation that labour authorities currently implement are (in this order): knowledge exchange, staff exchange and joint inspections.

[45] Williams, C.C., (2018). European Platform tackling undeclared work: glossary of terms. European Platform tackling undeclared work.
[46] 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.

- Nevertheless, concerted and joint inspections and cooperation actions remain limited in number and ad hoc. Half the Member States report at least one joint action annually. Only two Member States have developed joint procedures.
- Less common, but very much needed, are joint trainings, joint procedures and awareness-raising campaigns.

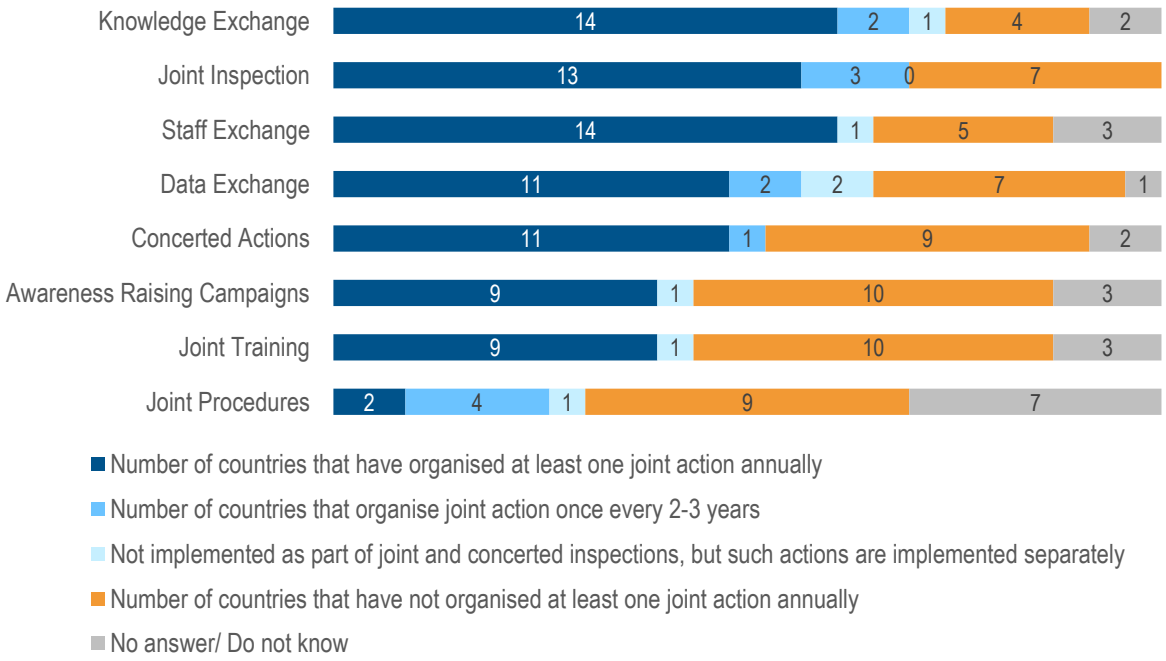
Results from the survey confirm key findings from previous Platform studies that **deterrent measures are most commonly** used in cross-border cooperation tackling undeclared work. They also reveal that the **most prevalent forms of cooperation actions** by Member States are knowledge exchange, joint inspections, and staff exchange between enforcement bodies. Less than half of the respondents use incentivising measures such as awareness-raising campaigns, data exchange and concerted inspections. The **least common forms** are joint training, joint procedures and awareness-raising campaigns.

Member States differ significantly in the number of cooperation actions they organise (Figure 1). The number of Member States that report no cooperation action at all is worryingly high, in particular as concerns joint procedures, joint training and awareness-raising campaigns. This illustrates **considerable scope for improvement and mutual learning opportunities** through more comprehensive inclusion of supplementary forms of joints actions. Joint inspections could be better supported by other cooperation actions preceding or superseding them.

The **most active Member States in terms of joint inspections** are Denmark, France, Portugal and Sweden, which report to have organised more than 10 joint inspections during 2018. Seven Member States have not implemented any inspections during the same year. Concerted inspections are less frequently organised. Fourteen Member States organised knowledge exchange, with five reporting never to have done so.

Figure 1. Prevalence of forms of cooperation

Answers to the question: In the last year (January-December 2018), how often have the following types of joint actions been implemented in relation to joint and/or concerted inspections?



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

The following case study describes a comprehensive approach to cooperation, which includes both preventative and deterrent methods to tackling cross-border undeclared work.

Box 2: Cooperation agreement for trainings, exchange of inspectors and awareness-raising campaigns[47] [48] (Estonia-Finland)

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 cooperation actions to be carried out. The two parties agreed to:

- Exchange information, which mostly referred to cases of Estonian workers posted in Southern Finland.
- Meet twice a year to cover common topics and discuss serious cases, including work-related accidents, that involve Estonian posted workers in Finland.
- Exchange inspectors regularly; for example, during the biennial visit to Finland, Estonian representatives undertake a practical day in the form of a training course, including joint inspections at construction sites employing Estonian posted workers.
- Carry out awareness-raising actions, directed towards informing Estonian posted workers of their rights and obligations while working in Finland.

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

3.2 Main characteristics of cooperation actions

Key findings:

- Cooperation actions are primarily directed towards solving labour law and social security issues.
- Concerted and joint inspections are most needed in the transport and construction sectors, followed by meat processing, fishing and cleaning sectors.
- Member States cooperate mainly with their respective immediate neighbour-countries. However, the density of interconnections is weak on both the West-East, as well as the North-South dimension, the main axes of labour mobility within the EU.
- Cooperation actions across the EU occur mainly between national labour inspectorates. However, some Member States also frequently cooperate in cooperation actions with tax agencies and police forces of other Member States (e.g. Netherlands-Belgium, France-Germany).

3.2.1 Scope

Most cooperation actions reported by Member States are directed towards solving **labour law issues, followed by social security and mobility issues** related to undeclared work (Figure 2). Undeclared work related to the non-payment of taxes and to non-compliance with health and safety regulations remain less represented in cross-border cooperation actions. These results could also be linked to the prevalence of labour and

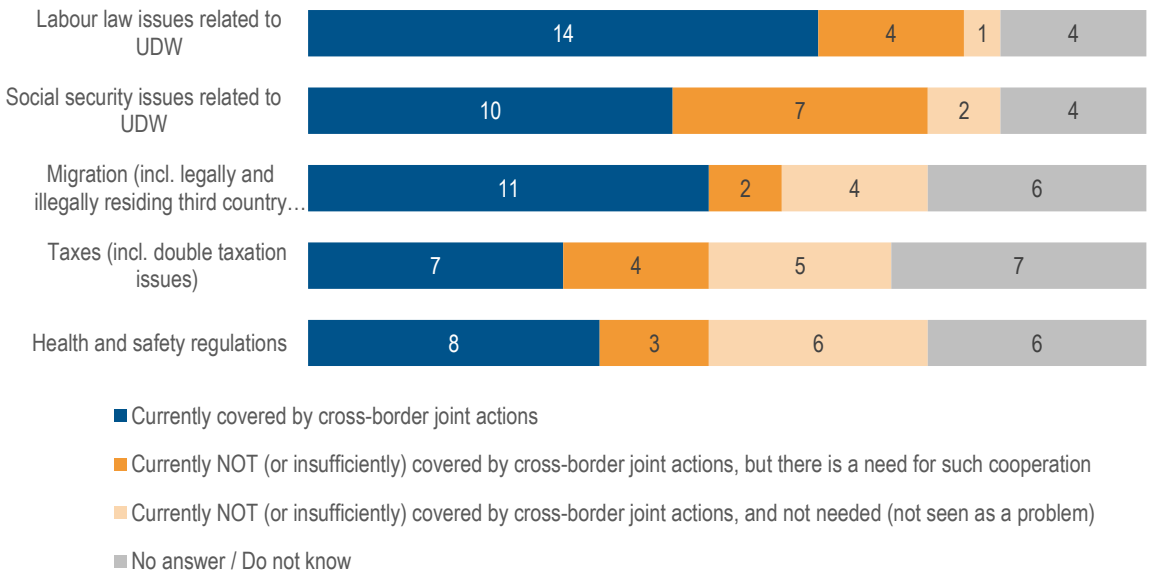
[47] European Platform tackling undeclared work, (2018). Agreement on Cooperation between the Labour Inspectorate of Estonia and the Division of Occupational Health and Safety of the Regional State Administrative Agency for Southern Finland.
[48] Labour Inspectorate of Estonia and Division of Occupational Health and Safety of the Regional State Administrative Agency for Southern Finland, (2014). Agreement on cooperation.

social security authorities among Platform members. Respondents see the biggest need in expanding the scope of their cross-border cooperation in the area of social security. Although this reflects a natural bias of individual respondents (most come from state authorities dealing with labour and social security issues), it can suggest that the level of cooperation across authorities responsible for tackling different aspects of undeclared work in the EU could be improved. The most immediate direction seems to be the inclusion of more actions in the area of social security and taxes related to cross-border undeclared work.

Many authorities either did not answer or consider that there is no need to include **areas of migration, taxes and health and safety in cross-border cooperation**. As noted earlier, this is likely due to the fact that the majority of respondents came from labour and social security authorities. Yet, it underscores an important learning point, which has emerged from other Platform activities, namely that the complex character of cross-border undeclared work requires a more strategic national (whole of government) approach[49]. In addition, Platform studies have shown that countries which have better integrated (across different authorities) national responses towards undeclared work are also better prepared for cross-border cooperation. One way to enlarge the scope of cooperation at cross-border level is through better cooperation at EU level between labour authorities or the European Labour Authority and enforcement authorities, such as Europol, Eurojust and OLAF. Developing standard cooperation procedures between such bodies would help to concentrate the limited resources on their core competence issues, while achieving better efficiency of joint responses.

Figure 2. Scope of current cross-border cooperation

Answers to the question: Which of the following areas is within the scope of your current cross-border cooperation including concerted/joint actions?



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

3.2.2 Key sectors

The majority of respondents pointed out that cooperation actions are most needed in the **transport and construction sectors**. The sector reported to require relatively less cooperation actions is **HoReCa**. This is likely to relate to this sector being more strongly

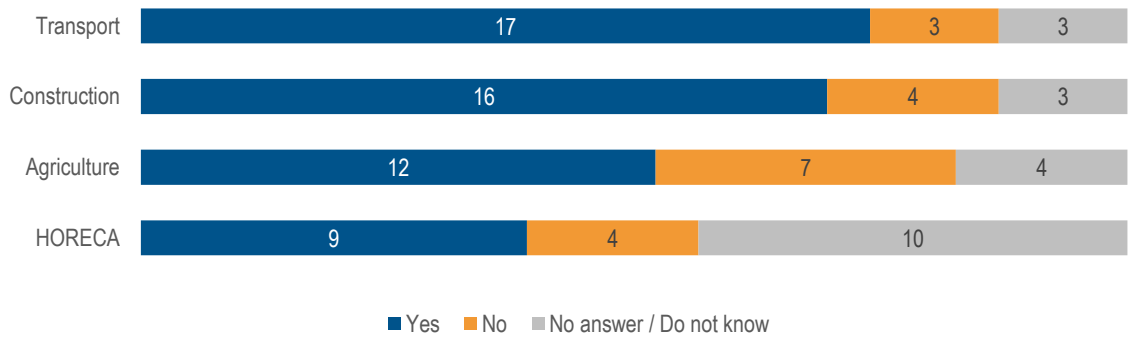
[49] European Platform tackling undeclared work, (2019). Thematic review workshop: 'Cross-border concerted and joint inspections' (28 February-1 March 2019, Lisbon, Portugal).

embedded within the local economies, and having less to do with its cross-border character (Figure 3). Other sectors that scored high on the agenda of respondents include **meat processing, fishing and cleaning**. In particular, respondents noted that all sectors with a labour shortage pose a risk for undeclared work.

These are the sectors that are also currently in the focus of labour authorities in relation to undeclared work. They are the ones that have seen the most labour mobility within the EU in the past decade, which has also been connected to increasing risks of cross-border undeclared work.

Figure 3. Sectors in need of future cross-border cooperation

Answers to the question: In the next three to five years, in which sectors do you think there will be the most need for joint and/or concerted actions in your country?



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

The **road transport** sector was one of the sectors most affected following the 2004 and 2007 EU enlargement. The pursuit of cost efficiency encouraged those involved in the sector to transition from Western Europe towards Eastern and Central European Member States. This transition provided opportunities for companies to reduce labour costs, including through illegitimate practices. The sector faces issues such as bogus self-employment, bogus posting of workers, wholly or partially undeclared work[50], fraudulent temporary work agencies and abuse of letterbox companies. In addition, the road transport sector is highly regulated, which creates numerous possibilities and incentives to exploit differences between Member States[51]. There are sector-specific regulations at EU level that regulate aspects such as: driving and rest time; access to the European road haulage market; and the establishment of transport companies. Results from the survey for this paper further support the need for cooperation actions between enforcement bodies to tackle highly heterogeneous and complex cross-border patterns of undeclared work in the transport sector.

One fifth of all the undeclared work in the EU takes place in the **construction** sector[52]. But there is noticeable variation between EU regions in terms of concentration of undeclared work in this sector. In the Nordic Member States, Eastern and Central European countries, one-quarter of all undeclared work is in the construction sector, but only 17 % in Western Europe and 12 % in Southern Europe. The sector is characterised by both undeclared work on an individual basis, such as home maintenance, and the use of organised schemes of letterbox companies and bogus posting of workers on a trans-national basis. In particular, the latter raised the need for more and better cross-border

[50] Haidinger B., (2018). Tackling undeclared work in the road transport industry. European Platform tackling undeclared work.
[51] European Platform tackling undeclared work, (2018). Platform seminar: 'Tools and approaches to tackle undeclared work in the road transport sector' (1 June 2018, Brussels, Belgium).
[52] Cramer J., et al., (2017). Tackling undeclared work in the construction industry. A learning resource. European Platform Tackling Undeclared Work.

prevention and deterrence actions, including joint inspections. In many cases of posted workers within the construction sector, **a dual employer market is evident**, where large construction companies subcontract smaller ones that, in turn, hire fraudulently posted workers. Media reports on cross-border undeclared work in different EU countries, such as Belgium, France and Sweden have raised popular awareness on the topic and pressed for action.

When it comes to cross-border undeclared work in the construction sector, cross-border joint inspections can be more effective than inspections conducted only by national enforcement authorities. These inspections are particularly effective in instances of posted workers, because the cooperating authorities would be able to share and compare information on posted workers while the inspection is conducted. A joint or concerted inspection conducted in multiple Member States can be particularly effective to fight fraudulent temporary work agencies and letterbox companies. It can simultaneously investigate a construction site at which cross-border undeclared work is detected, and the whole network of fraudulent posting companies. Visiting inspectors from another Member State can also contribute during the inspection by i) providing a better understanding of the sending country's labour and social security regulations, ii) ensuring that interviews with workers are carried out in their native language, or iii) informing undeclared workers of their rights and obligations under both countries' laws.

The **agriculture** sector is characterised by a high share of workers without permanent contracts (20 % of workers)[53]. Some 32 % of all employees in this sector do not have written contracts. It also has the highest concentration of seasonal workers (31.7 %). An estimated 9 % of agricultural employees receive their salary through envelope wages. The prevalence of undeclared work in this sector can be attributed to the structure of the supply chain within the horticultural industry. In particular, the increased market power and concentration of the retail food industry and the food processing industry within the sector has generated greater cost pressure on food producers. These factors have encouraged the use of illegitimate labour practices, including undeclared work across borders. The agriculture sector is particularly reliant on undeclared workers from other Member States and third-country nationals working illegally.[54]. But a number of inspections conducted by the Labour and Social Security Inspectorate of Spain show that Romanian undeclared workers are still present in the sector. A potential explanation can come from the 'network effect' during recruitment, where workers who are established in the sector attract more workers from their country of origin and engage them in undeclared work. Similar to other sectors, reports from the European Platform tackling undeclared work suggest there is a need to engage in a coherent policy approach for this sector[55], that includes deterrence and prevention measures. This can include the use of joint inspections and awareness-raising campaigns directed at workers regarding their rights, and campaigns to promote transition from undeclared to declared work. Measures such as cross-border joint inspections can be complemented by bilateral agreements or by involving social partners[56].

[53] Williams C.C., Horodnic A., (2018). Tackling undeclared work in the agricultural sector. European Platform tackling undeclared work.
[54] Sandu D., (2006). Exploring Europe through work migrations: 1990-2006 cited in Sandu D. et al. Living Abroad on a Temporary Basis. The Economic Migration of Romanians: 1990-2006. Bucharest: Open Society Foundation: 13-40.
[55] See: Williams C.C., Horodnic A., (2018). Tackling undeclared work in the agricultural sector. European Platform tackling undeclared work.
[56] Cramer J., et al., (2017). Tackling undeclared work in the construction industry. A learning resource. European Platform tackling undeclared work.

3.2.3 Key areas and objectives covered

Key findings:

- Cross-border actions mainly involve the detection of undeclared work and the protection of labour rights of non-residents and foreigners (EU and third country nationals).
- Further cooperation actions are needed to tackle new forms of undeclared work linked to the shared or digital economy and the abusive use of letterbox companies.
- 11 Member States note that they currently do not cover fraudulent temporary work agencies through cooperation actions but want to do so in future.
- Many countries already cover in their cooperation actions the protection of labour rights of non-residents and foreigners (EU and third country nationals). Five Member States (Czechia, Estonia, Greece, Hungary, and Slovakia) do not currently cover this but consider it would become a key objective for cross-border joint actions in the future.
- Portugal and Spain are the only Member States to have set preventing occupational accidents through awareness-raising actions and inspections as an objective for cross-border joint actions.

Cross-border actions mainly cover the **detection of undeclared work and the protection of labour rights of non-residents and foreigners** (EU and third country nationals) (Figure 4). Significant number of respondents also state that cooperation actions organised by enforcement authorities cover the prevention of undeclared work and the tackling of fraudulent temporary work agencies.

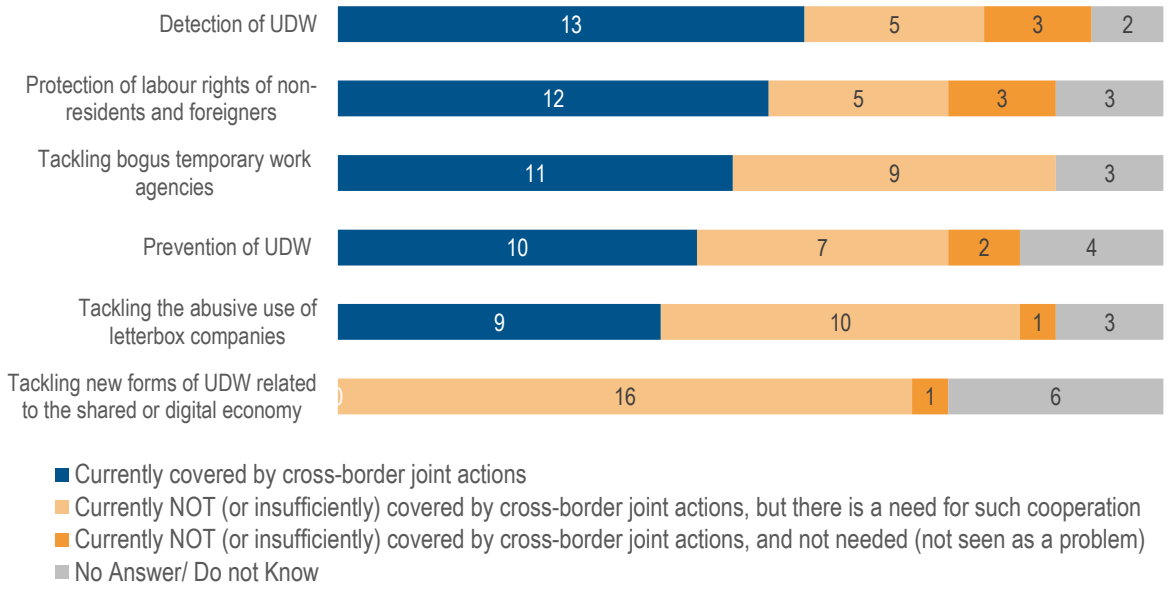
The two areas where respondents anticipate **the most need** for cooperation actions in the future are:

- Tackling new forms of undeclared work linked to the shared or digital economy.
- Tackling abusive use of letterbox companies.

While letterbox companies have already been included in cooperation actions by many Member States, new forms of undeclared work relating to the shared or digital economy are currently not covered. This implies that labour authorities could improve their approach towards tackling these cross-border issues, particularly collaboration with other enforcement authorities. Letterbox companies are a notable issue in the transport sector, a sector that respondents say is likely to remain problematic in the future.

Figure 4. Key areas / main objectives covered by cooperation actions

Answers to the question: Which of the following key areas / main objectives are covered by your country's existing (or current) cross-border cooperation, including concerted and/or joint actions?

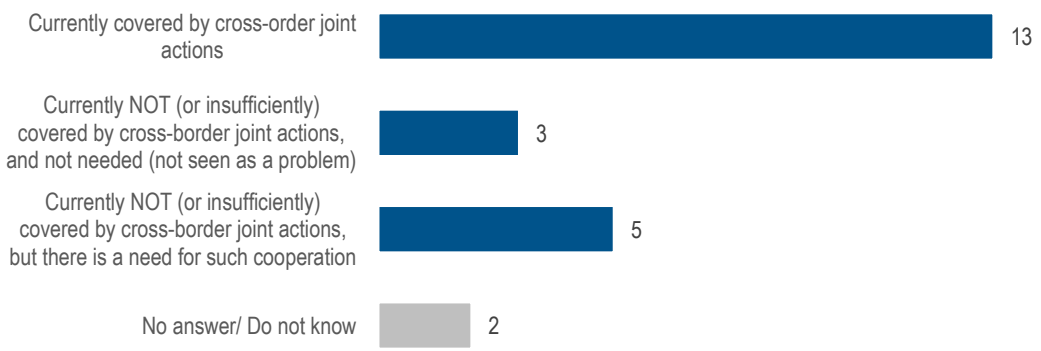


Source: European Platform tackling undeclared work (2019). Survey on cross-border cooperation actions.

Thirteen Member States report that **preventing undeclared work** is currently covered by cross-border cooperation actions. Seven countries report that it is currently not or insufficiently covered, and that it needs to be covered in the future (Figure 5). Respondents from Estonia, France, Cyprus, Austria, and Slovakia claim they do not currently cover **detection of undeclared work** through cooperation actions, but that there is a **need** for such cooperation. Finally, Czechia, Greece and Hungary report that detection of undeclared work **does not need** to be covered by cooperation actions.

Figure 5. Share of countries where detection of undeclared work is a key priority for cooperation actions

Answers to the question: Which of the following key areas / main objectives are covered by your country's existing (or current) cross-border cooperation, including concerted and/or joint actions?



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

Many countries already cover the protection of labour rights for non-residents and foreigners (EU and third country nationals) (11 Member States and Norway). In five Member States (Czechia Estonia, Greece, Hungary, and Slovakia) this is not covered and could be a key objective of future cooperation actions. Denmark, Croatia and Austria claim that protection of labour rights of non-residents and foreigners (EU and third country nationals) does not need to be included in the scope of cooperation actions.

One of the largest discrepancies between Member States relates to **tackling fraudulent temporary work agencies**. Eleven Member States (Belgium, Denmark, Ireland, Spain, France, Croatia, Latvia, Lithuania, Netherlands, Norway, Poland and Portugal) report to have tackled fraudulent temporary work agencies as a key priority for cooperation actions, while nine (Czechia, Estonia, Greece, Hungary, Austria, Slovakia, Finland, Sweden) state they do not currently cover fraudulent temporary work agencies through cooperation actions, but will need to do so in future.

An area that no Member State covered as a key objective for cooperation action is **tackling new forms of undeclared work related to the shared or digital economy**. In 16 Member States, cooperation actions do not or insufficiently cover this area, but all express the need for future cooperation here. Respondents from Norway also state that tackling new forms of undeclared work related to the shared or digital economy is not covered by cooperation actions and they do not currently consider it an objective.

Finally, in terms of preventing **occupational accidents** through awareness-raising actions and inspections, Portugal is the only Member State to have set such an objective for cross-border cooperation action. Sweden does not currently have such an objective, but stated it is an area in need of cooperation between Member States.

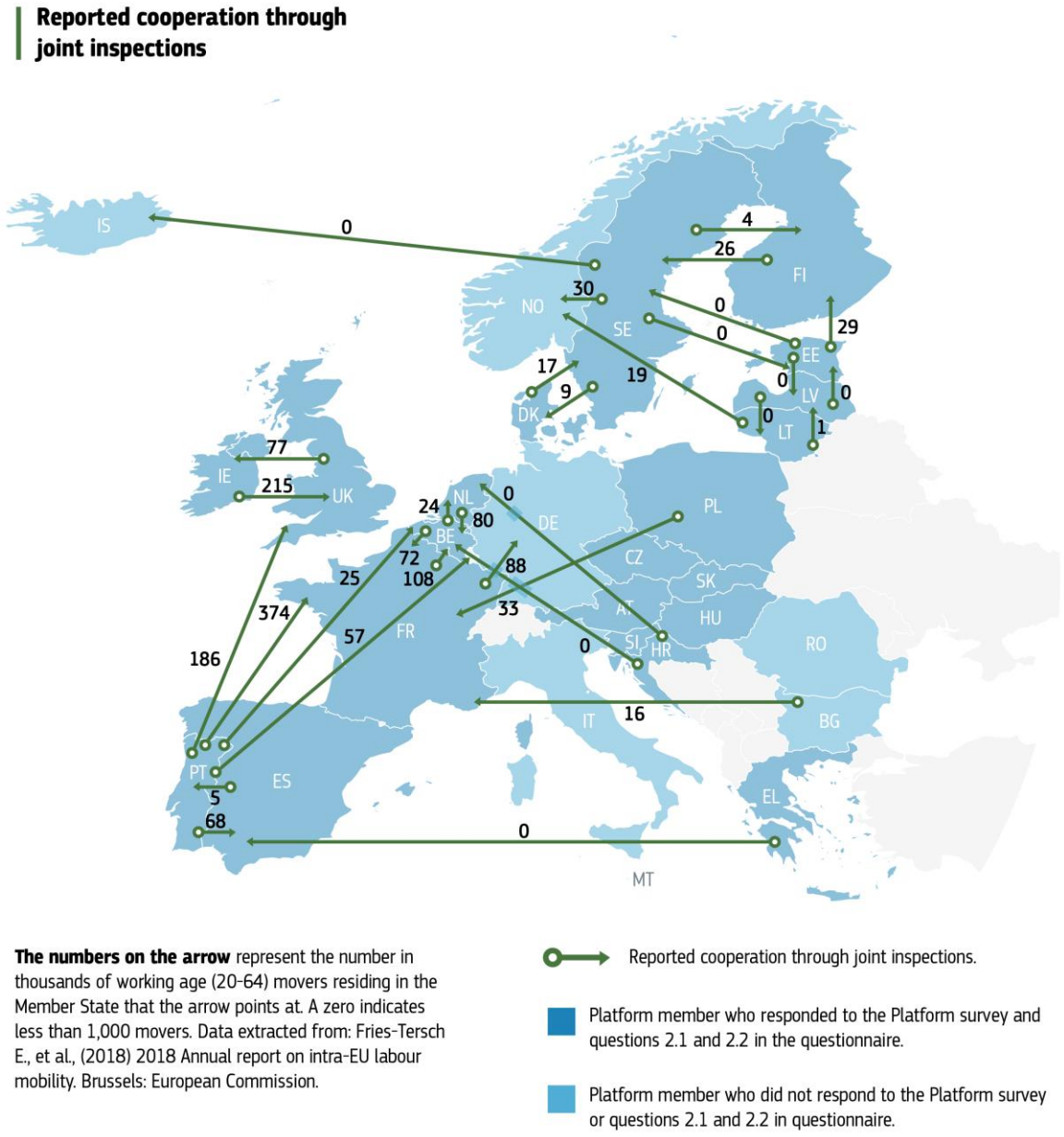
3.3 Geographical clusters of cooperation

EU Member States are interconnected in their efforts to tackle cross-border undeclared work, but closer cooperation exists between certain countries and regions. As shown in the figures overleaf (Figures 6, 7 and 8), cooperation is most developed between Western countries, with weaker links between and within other regions. The density of reported interconnections is weak between both Western, Eastern and Central European Member States, and the Northern and Southern countries. Member States cooperate **mainly with their respective neighbours**. Yet, specific examples of cooperation through concerted or joint inspections (Figure 8) exist among more Member States than reported in the survey (Figures 6 and 7). This might be an indication of the ad hoc nature of cooperation on inspections.

A specific **cluster of cooperating countries** exists between the Nordic and Baltic states. For example, the Norwegian and Finnish labour inspectorates generally cooperate with the Estonian, Latvian and Lithuanian inspectorates. Similarly, in Sweden, the most common partner countries are neighbouring Denmark, Iceland and Norway. A similar cluster of partnering countries exists between Belgium, France and the Netherlands. These three countries also have strong partnerships with geographically distant Member States such as Bulgaria, Croatia and Portugal. Notably, Belgium and France have the highest number of cooperation practices with Member States they do not border.

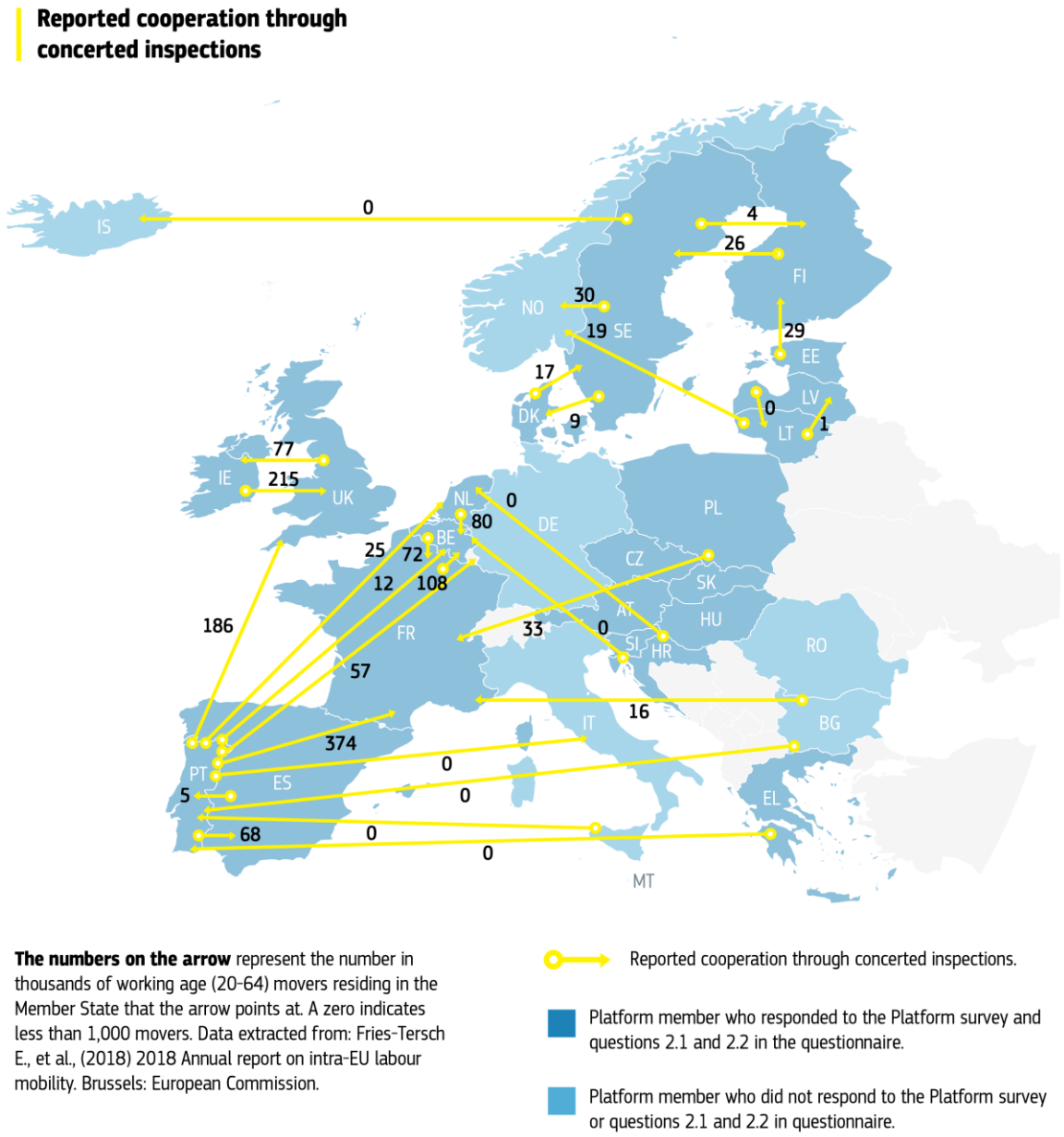
Cooperation actions mainly occur between national labour authorities and inspectorates. However, some Member States regularly cooperate in cooperation actions with tax agencies and police forces of other Member States. For example, the labour inspectorate in the Netherlands reports the Belgian labour inspectorate, tax inspectorate and police as their main partners. While this reflects the natural bias of the Platform, in which most of the members are labour or social security authorities, it indicates a genuine need for further efforts to arrive at a more comprehensive approach to tackling cross-border undeclared work. In this respect the Platform could contribute to enhancing cooperation actions by providing a European level dimension of cooperation with other law enforcement agencies.

Figure 6. Reported cross-border cooperation through joint inspections between EU/EEA Member States



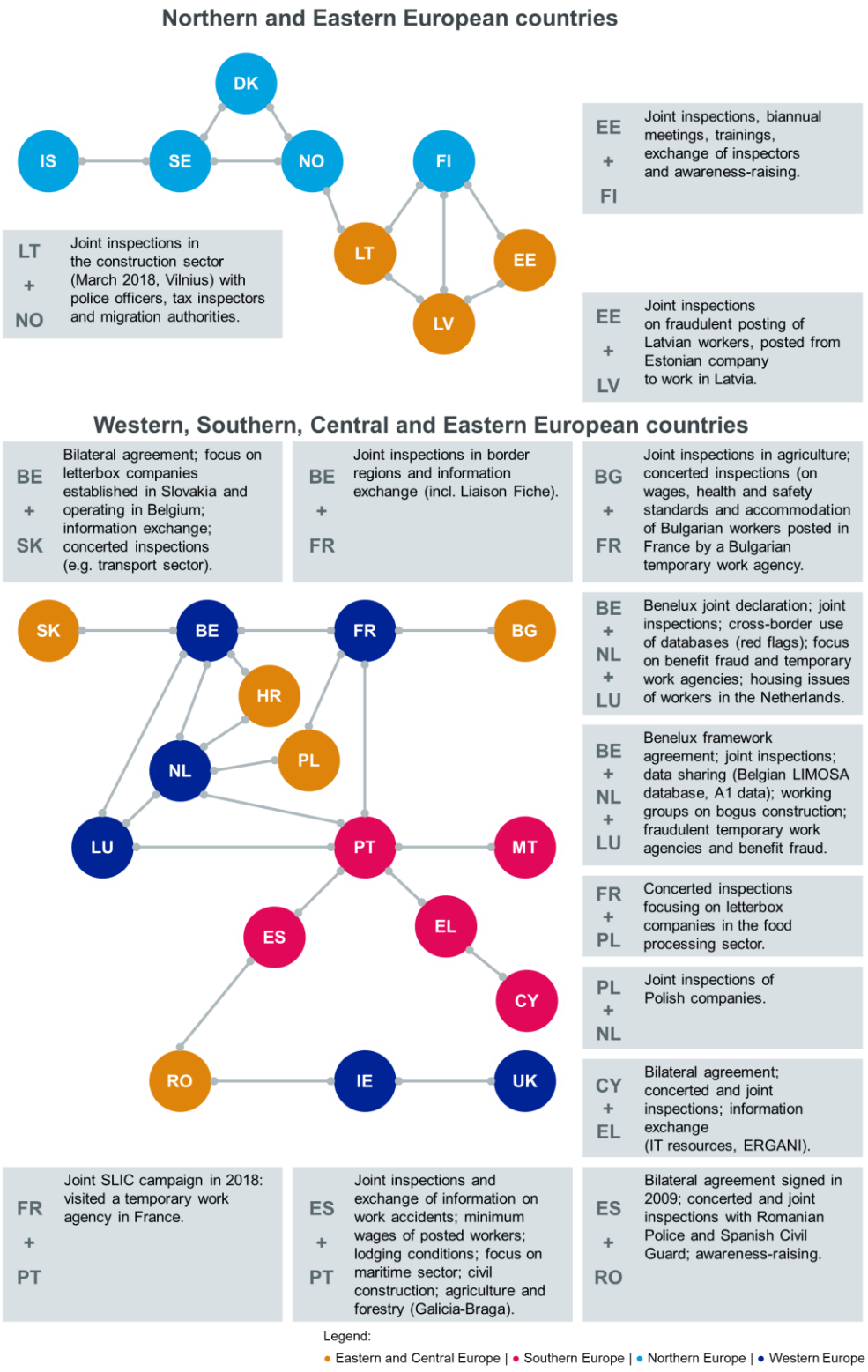
This figure reflects the answers given by members of the European Platform tackling undeclared work to the following survey questions: Q2.1. Which countries have been your main counterparts during the joint and/or concerted actions? and Q2.2. Please list the types of the public authorities you have collaborated most often with during the joint and/or concerted actions.

Figure 7. Reported cross-border cooperation through concerted inspections between EU/EEA Member States



This figure reflects the answers given by members of the European Platform tackling undeclared work to the following survey questions: Q2.1. Which countries have been your main counterparts during the joint and/or concerted actions? and Q2.2. Please list the types of the public authorities you have collaborated most often with during the joint and/or concerted actions.

Figure 8. Selected examples of cross-border concerted and joint inspections provided by Platform members



Source: CSD/ICF, based on: February 2019 survey for the Thematic review workshop 'Cross-border concerted and joint inspections' in Lisbon (28 February-1 March 2019), good practice fiches and reports by the European Platform tackling undeclared work.

One caveat to the findings of the survey is the lack of clear estimates of cross-border patterns of undeclared work. Studies on undeclared work mainly concentrate on measuring and comparing results within Member States, but do not measure the flows between them. This requires comparing the survey results with proxy indicators. A useful method to assess the level of collaboration between Member States is to compare it with the patterns of labour mobility, although such patterns do not necessarily translate into patterns of cross-border undeclared work. Figures 6, 7 above illustrate the **pattern of concerted and joint inspections that responding Member States engage in, integrated with data on intra-EU labour mobility**. It should be noted that not all Member States provided answers to the survey and that it cannot be assumed that all the answers are exhaustive and complete. Figure 8 demonstrates that the **actual experience with cooperation is much richer than reported in the survey**. Yet, comparing mobility flows to cooperation is one of the few methods available to provide information on the need for further cooperation.

Some of the findings from comparing patterns of cooperation and patterns of labour mobility concur with other observations or Platform studies. An important finding is that Member States not only cooperate mostly with their immediate neighbours, but **the current patterns or intensity of cooperation between Member States are not necessarily linked to the flow of labour mobility**. For example, the strong interconnection between enforcement authorities in the Baltic and Nordic Member States and between EEA countries is not linked to the highest levels of labour mobility in the EU: it does not exceed 80 000 working-age movers[57] and, in most cases, is fewer than 30 000 workers[58]. This suggests that natural cooperation patterns might be less attuned to the current dynamics of intra-EU movements of labour. Cooperation tends to be path dependent and mirrors overall stronger links between neighbouring countries that are also established outside the area of labour. They might also reflect history of cooperation, common language and closer legislation frameworks.

This also **underscores the importance of cooperation in addressing emerging trends in cross-border undeclared work movements**, requiring quick recognition and action between two or more Member States.

3.3.1 Collaborative practices of main receiving countries in terms of labour mobility

Across the five **main receiving countries** of labour mobility in the EU (Germany, UK, France, Spain and Italy which host 74 % of all movers), respective patterns of cooperation are not equally concentrated.

France mostly interconnects with other Member States in terms of organisation and conduct of concerted and joint inspections. A 2018 Platform survey also revealed that it has the highest number of bilateral agreements among all Member States (13 reported BAs)[59]. More importantly, France closely collaborates with the labour inspectorate of Portugal, the main sending Member State toward France (374 000 working age Portuguese were located in France in 2017) and with the Benelux countries, particularly Belgium (72 000 Belgian workers reside in France and 108 000 French workers reside in Belgium).

[57] The 2018 intra-EU labour mobility report shows that 80 000 working age Swedes reside in Norway.
[58] Fries-Tersch E., et al., (2019). 2018 annual report on intra-EU labour mobility. Brussels: European Commission.
[59] European Platform tackling undeclared work, (2018). 2018 survey report on obstacles to tackling undeclared work at the cross-border and national levels, bilateral and national agreements, and complaint reporting tools.

Box 3: Concerted inspection (Bulgaria-France)

In 2018, the Bulgarian and French labour inspectorates conducted concerted inspection on a cross-border undeclared work case. It was implemented as part of the Senior Labour Inspectors Committee (SLIC) 2017-2019 campaign.

20 Bulgarian workers that were sent to work in France by a temporary work agency (registered in Bulgaria by a French citizen) filed a complaint about outstanding wages and social security contributions to the General Labour Inspectorate (GLI) in Bulgaria. The Bulgarian authorities shared this information via an Internal Market Information system (IMI) which led to a concerted inspection by the Bulgarian and the French authorities.

The inspection in Bulgaria focused on analysing the activities of the temporary work agency. In France, the investigation resulted in ongoing penal proceedings. The French authorities provided information to the employees on how they can obtain access to legal recourse. As a result of this cooperation action, enough evidence was obtained to progress towards penal proceedings, i.e. establishing the absence of activity and de-registration of the temporary work agency in Bulgaria and fraud company in France. It also resulted in better cooperation between the inspectorates. The two labour inspectorates gained better understanding of the administrative and penal procedures in France and Bulgaria. The capacity for analysis and treatment of documents produced by the two agencies also improved.

Source: European Platform tackling undeclared work (2019). Survey on Cross-cooperation actions.

Spain reported close collaboration with Portugal. The pattern of labour mobility is primarily from Portugal towards Spain (68 000 as of 2017)[60]. The two enforcement authorities have established a strong partnership with multiple examples of cooperation actions. Actions extend to health and safety issues in the workplace, inspections tackling labour exploitation and modern slavery of third-country nationals. There have already been more than 39 joint inspections and further examples of information exchange, including joint tools and exchange of good practices. The enforcement authorities of both Member States have an existing bilateral agreement since 2003. A Memorandum of Cooperation was signed in 2017 by the ministries of labour, focused on the efficient implementation of activities between the authorities in the two countries. Their most recent cooperation action is the Iberian Campaign on Work Accidents conducted between 2016 and 2018. This campaign focused on joint planning of interventions tackling undeclared work, joint inspections and educational seminars, training and workshops.

Spain cooperates to a lesser extent with Romania, the primary sending Member State towards its territory, with 524 000 working-age residents. The current level of cooperation between the two countries focuses on information exchange as well as four joint inspections coordinated between the Spanish labour inspectorate ITSS (*Inspeccion de Trabajo y Seguridad Socia*l) and relevant Romanian authorities including the Romanian Police and the Romanian embassy in Spain, but less with the Romanian labour inspectorate[61]. Yet, in July 2019 the two countries' labour authorities held a successful joint inspection in the garlic sector, supported by the platform[62]. No cooperation actions were reported with Bulgaria (130 000 working age Bulgarians resided in Spain in 2017), Italy (122 000) or the UK (94 000).

[60] Fries-Tersch E., et al., (2018). 2018 annual report on intra-EU labour mobility. Brussels: European Commission.
[61] European Platform tackling undeclared work, (2019). Presentation 'Next Steps for Cross-border cooperation' at the Thematic review workshop: 'Cross-Border concerted and joint inspections' (28 February-1 March 2019, Lisbon, Portugal).
[62] European Platform tackling undeclared work, (2019). Joint inspection visit with Romania of agricultural workers in the province of Albacete. Good practice fiche (forthcoming).

In order to have a larger impact on tackling cross-border undeclared work, **cross-border cooperation needs to go beyond ad hoc actions, looking at more joint risk assessment and sharing of risk analyses and data.**

Two of the largest receiving Member States, Germany and Italy, did not provide responses to the survey. In addition, no Member State reported close collaboration on joint inspections with these two countries. France is the exception and reported collaboration with Germany in joint inspections. None of the Eastern and Central European Member States reported conducting joint and/or concerted inspections with German authorities. The UK, the second largest receiver of working-age movers, has only collaborated with Ireland in a joint inspection and has conducted a concerted inspection with Portugal. Furthermore, the availability of bilateral agreements seems to confirm the limited cooperation status of these large receiving countries. Italy and Germany both have one bilateral agreement each for tackling undeclared work, while the UK has none. In other words, **these three Member States seem to have in place limited cross-border cooperation with the rest of the EU.**

Box 4: Cooperation between ACT Portugal, Braga Local unit and STSS, Spain (Portugal-Spain)

The economic crisis reduced job opportunities in Portugal and prompted workers to move to other Member States. Portugal has since become a primary sending country towards France, Spain and Belgium. In these countries, around 54 % of posted workers are concentrated in the construction sector. A third of posted workers originate from the Braga region in Portugal.

In 2018, the labour inspectorate in the Braga region recognised that joint inspections were needed in the naval and civil construction sectors between North Portugal and the Galicia region in Spain.

The Braga unit and the Spanish inspectorates tried different methods to communicate. they started to use the Internal Market Information system (IMI) in 2019. The focus of inspections organised by the Braga unit centres mainly on tackling undeclared work and fraudulent posting of workers (several inspectors have undergone specialised training on posting of workers), the construction trade, and the psychological risks associated with dangerous work.

Source: Presentation at the Thematic review workshop 'Cross-border concerted and joint inspections' in Lisbon (28 February-1 March 2019).

Belgium and Portugal are good examples of strong cross-border cooperation between Member States beyond direct neighbours, with the former a major receiver of movers and the latter a major sending country. Both countries conduct cooperation actions with bordering countries as well as with regions further afield. For example, Portugal cooperates with Greece, Malta and the Netherlands, while Belgium cooperates with Croatia. Both also conduct concerted and joint inspections with Member States with which they have significant and minimal labour mobility. This diversity of cooperation patterns suggests a strategic choice towards organising and conducting inspections with other EU Member States and thus making fuller use of European cooperation potential. It could also be interpreted as higher or rising capacity to engage in such cooperation.

Box 5: Bilateral agreements for joint inspections in tackling benefit fraud and fraudulent temporary work agencies (Belgium-Luxembourg-Netherlands)

The Belgian and Dutch labour inspectorates conduct cooperation actions, backed by an existing bilateral agreement and the Benelux Treaty. They aim at tackling undeclared work, bogus employment schemes, benefit fraud and fraudulent temporary work agencies. This is a multidisciplinary cooperation initiated by the exchange of information on the detected red flags (problematic areas) on undeclared work via the use of data-based risk assessments (i.e. analysis of the most risk-prone sectors, activities, and

companies through the use of large data-sets and the exchange of data). As part of the Benelux agreement, joint inspections are also organised, which guarantee the enforcement of sanctions in cooperating states. This cooperation also aims to procure the support of other Member States in introducing European measures to fight social dumping. Survey responses from Belgium and the Netherlands further suggest that cooperation can be optimised by identifying the applicable social security legislation and establishing how the authorities involved can be given responsibility around collecting social security contributions.

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

Comparing the flows of cross-border mobility, as a proxy to higher undeclared work risk, with the pattern of cross-border cooperation highlights the potential need for further actions. For example, **Poland and Romania, as sending countries, do not conduct concerted and joint inspections with the main receiving countries** of working-age Romanians and Polish movers – Germany, the UK, Italy and Spain. Similar issues exist with Ireland. On the other hand, the **three Baltic States appear highly cooperative** with their neighbouring Nordic countries. Despite the strong cooperation between Nordic and Baltic countries, the highest labour outflow from Lithuania and the Baltic Member States is not towards the Nordic countries, but towards the United Kingdom. This flow of labour is not covered by any cross-border cooperation. Strong cooperation seems to also exist between Bulgaria and Poland with France, and Croatia with Belgium and Luxembourg. However, five Member States did not report strong cooperation in joint inspections with others: Czechia, Hungary, Austria, Slovenia, and Slovakia. All are estimated to have a higher than average propensity of workers to engage in cross-border undeclared work in another Member States. Therefore, more cooperation actions are needed, beyond joint training between Member States in Eastern and Western Europe. In particular, Central European Member States could increase their organisation and participation in concerted and joint inspections.

Overall, analysing the existing patterns of cross-border cooperation and potential patterns of cross-border undeclared work suggests **that there is significant potential for expanding current cooperation arrangements**. Most Member States collaborate with their close neighbours, but rarely with more distant Member States. A potential explanation for this practice can be attributed to regional economic interdependence and patterns of frontier labour mobility. For example, the cooperation between the Labour Inspectorate of Braga, Portugal with the ITSS, Spain (see earlier Box 4).

3.3.2 Cross-border cooperation between EU Member States and European Economic Area (EEA) States

Norway has a different pattern of cross-border cooperation to that within the EU. The 2018 intra-EU labour mobility report showed that Norway counts 50 000 Polish residents, 30 000 Swedish and 19 000 Lithuanian working-age EU movers (among a total of 183 000 movers), while 52 000 Norwegian working-age movers reside in EU-28[63]. The Norwegian Labour Inspection Authority has established bilateral agreements with the labour inspectorates of Bulgaria, Estonia, Lithuania, Poland and Romania. All include in their scope:

- Cross-border cooperation.
- Information activities (rights and obligations).
- Sharing best practices.

[63] Fries-Tersch E., et al., (2019). 2018 annual report on intra-EU labour mobility. Brussels: European Commission.

Also Norway planned to sign in 2019 a bilateral agreement with Latvia. The Norwegian Labour Inspection Authority recognises the need to strengthen cooperation with EU enforcement authorities to counteract undeclared work.

Box 6: Cooperation between labour inspectorates (Lithuania-Norway)

The cooperation between the two countries was established through a pilot project run during 2016-2017; a bilateral agreement was subsequently signed in 2017. During that time, both inspectorates established strong communication, through which they discussed their state legislation, the organisation and procedures within their institutions. They also regularly communicated via the Internal Market Information system (IMI) and over the phone regarding issues around undeclared work.

Both countries are currently launching a new project that will run between 2019 and 2021 and will involve:

- Cross-border concerted and joint inspections.
- Use of IMI.
- Staff exchange to learn about organisation, legislation, priorities and culture of the other country.
- Tripartite seminar (Norway and Lithuania).
- Information campaign (Norway and Lithuania).
- Sharing experiences in establishing cooperation between authorities.
- Annual seminars to share best practices.

Source: Presentation at the Thematic review workshop 'Cross-border concerted and joint inspections' in Lisbon (28 February-1 March 2019).

3.4 Steps taken during joint and concerted inspections

Key findings:

- Member States differ significantly in the steps they take during joint inspections. The most common involve information exchange, case analysis, identifying problems before the start of the joint inspection, assigning national team leaders, conducting interviews with employers, workers and subcontractors.
- The least implemented steps are agreeing or settling budget or expenses, and agreeing to make enquiries in several locations in more than one Member State during concerted and/or joint inspections. The involvement of third parties, law enforcement and special investigative techniques are also rarely used.
- Lack of information exchange before the joint inspection undermines its speed and quality. Training between more and less experienced inspectorates could help standardise the key steps for organising and conducting a successful concerted and/or joint inspection.
- In several Member States, the process of establishing contact with other authorities is based on pre-existing guidelines.
- The stronger the cooperation between the labour inspectorate and other relevant authorities with a Member State, the faster the process of conducting joint cross-border inspection is.

3.4.1 Key approaches and procedures

Representatives of enforcement authorities were asked about the steps they take while conducting concerted and joint inspections and how often they occur (Figure 9). Results show that Member States' practices differ, which may pose a challenge for organising and conducting joint inspections. Since some Member States are more experienced than others, a potential solution is **training between more and less experienced inspectorates** to follow established good practices.

The **exchange of information, case analysis, identifying problems and common interests before the start of the joint inspection** are the most practiced steps. Twelve respondents reported taking these steps every time and two said they take them often[64]. **Prior information exchange and open channels of communication between enforcement authorities** are recognised by most respondents as (very) important for successful cross-border cooperation (Figure 10). The lack of prior information exchange hinders the speed and quality of the cooperation and joint inspections conducted.

Assigning **national team leaders** is a step practiced during every joint inspection (Figure 9). Team leaders initiate the exchange of information before each inspection to clarify all details of the case; they arrange joint meetings to discuss legal and procedural issues; they distribute the tasks between team members; they serve as first point of contact with the inspected company; and they manage and oversee the quality and the implementation of the inspection, the analysis of collected evidence and any follow-up activities.

Interviews with employers, workers, subcontractors and other parties via labour inspectors feature in every joint inspection in 10 Member States, with five further respondents stating they implement this step often.

The survey indicates that the **least implemented step** is **agreeing or settling budget or expenses** (11 responses). Only Denmark and Poland report taking this step every time, while Croatia, Ireland and Norway take it often. This is an indication that each side finances its own participation due to budget constraints. Indeed, Finland reports that each Member State covers its own costs related to the joint inspection, and suggests that financial support from an EU-level authority would be desirable for conducting joint inspections. The respondent from Estonia emphasises that they mainly organise joint inspections during projects or based on cross-border cooperation agreements, where the budget for the joint inspection comes from the project itself. Respondents also indicate that **resource availability (financing) is a very important factor for the success of cooperation actions** (Figure 10). For inspections and other cooperation actions to be successful, it is vital for enforcement authorities to establish principles for settling budget and expenses.

The European Commission has already taken steps to address this gap through specific calls for proposals under the EU Programme for Employment and Social Innovation (EaSI). The European Social Fund's programmes in the Member States can also provide adequate support. Some costs of cross-border cooperation could also be covered through the Platform (e.g. staff exchange, cooperation actions, mutual assistance projects). The European Commission has regularly published calls for proposals in the area of posting of workers to foster administrative cooperation. Specific calls have also targeted the area of undeclared work, including by supporting joint activities and cross-border projects[65]. Four projects currently co-finance activities that directly relate to tackling cross-border undeclared work through cooperation actions. The project 'Tackling Undeclared Work in the Nordic Countries 2.0', led by the Swedish Work Environment Authority, builds on the pre-existing cooperation between Nordic and Baltic

[64] The respondents indicated the frequency on a 5-point scale: every time, often, sometimes, rarely, not implemented.
[65] European Union Programme for Employment and Social Innovation 2014-2020 (EaSI – Progress Axis), Call for proposals VP/2018/012.

enforcement authorities. The project 'No tolerance for undeclared work' aims to build capacity and introduce institutional reform in enforcement authorities in Cyprus, including through staff exchange with Belgium, Greece, the Netherlands and Romania. The project 'Raise Up' with project partners from Italy, Bulgaria, North Macedonia, etc. aims to raise awareness among cross-border undeclared workers in the agriculture sector in Italy. The project 'Tackling undeclared work in the construction industry', led by European social partners of the construction industry (EFBWW-FIEC) in collaboration with social partners from Belgium, France, Austria, Italy, Romania, Bulgaria and Spain, aims to devise a European campaign on prevention/awareness of undeclared work in the construction industry and to foster national initiatives that address the structural conditions that cause undeclared work in this sector.

Funding provided by Norway Grants focuses on supporting projects in Southern, Eastern and Central European Member States. For example, the Joint Cooperation Centre in Oslo used this funding to cooperate with Estonian authorities in order to investigate and subsequently prosecute an Estonian company that had Ukrainian workers operating in Norway.

Finally, a step that is also **infrequently implemented** is 'agreeing on making enquiries in several locations in more than one Member State during joint/concerted action'. Eight Member States have not implemented this step.

Further analysis is needed to gain a full understanding of the necessary steps and the required expertise (at each step) to implement joint/concerted inspections. In particular, steps relating to the follow-up and the review of the outcome of joint inspection are often underused (financial penalties, tax and social security contributions, trial venue, prosecution, etc.)[66]. The variation in steps taken in concerted and joint inspections indicates the lack of a shared strategic approach towards cross-border cooperation. It calls for more standardisation or model agreements in carrying out concerted and joint inspections, which would bring down costs, shorten time to respond and reduce administrative friction and ad hoc negotiations. Some of the steps can be **critically important for streamlining cross-border cooperation action on undeclared work,** which include (in descending order of responses 'very important' and 'important' in Figure 10): (i) prior information exchange and open exchange channels (similar to what IMI provides); (ii) linguistic capacity, available translations of key materials, common language; (iii) existing data/information; (iv) clarification of procedures; (v) existing legal basis enabling cooperation; (vi) resource availability (financing), etc. These are the steps on which the Platform and the European Labour Authority could focus their efforts in the future. All of them have underpinned the draft regulation on establishing the European Labour Authority (ELA).

Prior clarification of procedures for cooperation is among the aspects that respondents claim most significantly improves the success of cooperation actions (Figure 10). The operation can be improved through:

- Setting clear common targets.
- Assigning leadership of cross-border action.
- Applying investigative methods.

Some practices were not perceived as critical to the success of cross-border cooperation. This is linked to the institutional bias of the respondents, most of whom come from labour and social security authorities. It is also important to underline that actions have been assessed as important in comparative perspective. Hence, approaches and procedures which have been evaluated as less important, should not be viewed as redundant.

[66] European Platform tackling undeclared work, (2019). Thematic review workshop: 'Cross-border concerted and joint inspections' (28 February-1 March 2019, Lisbon, Portugal).

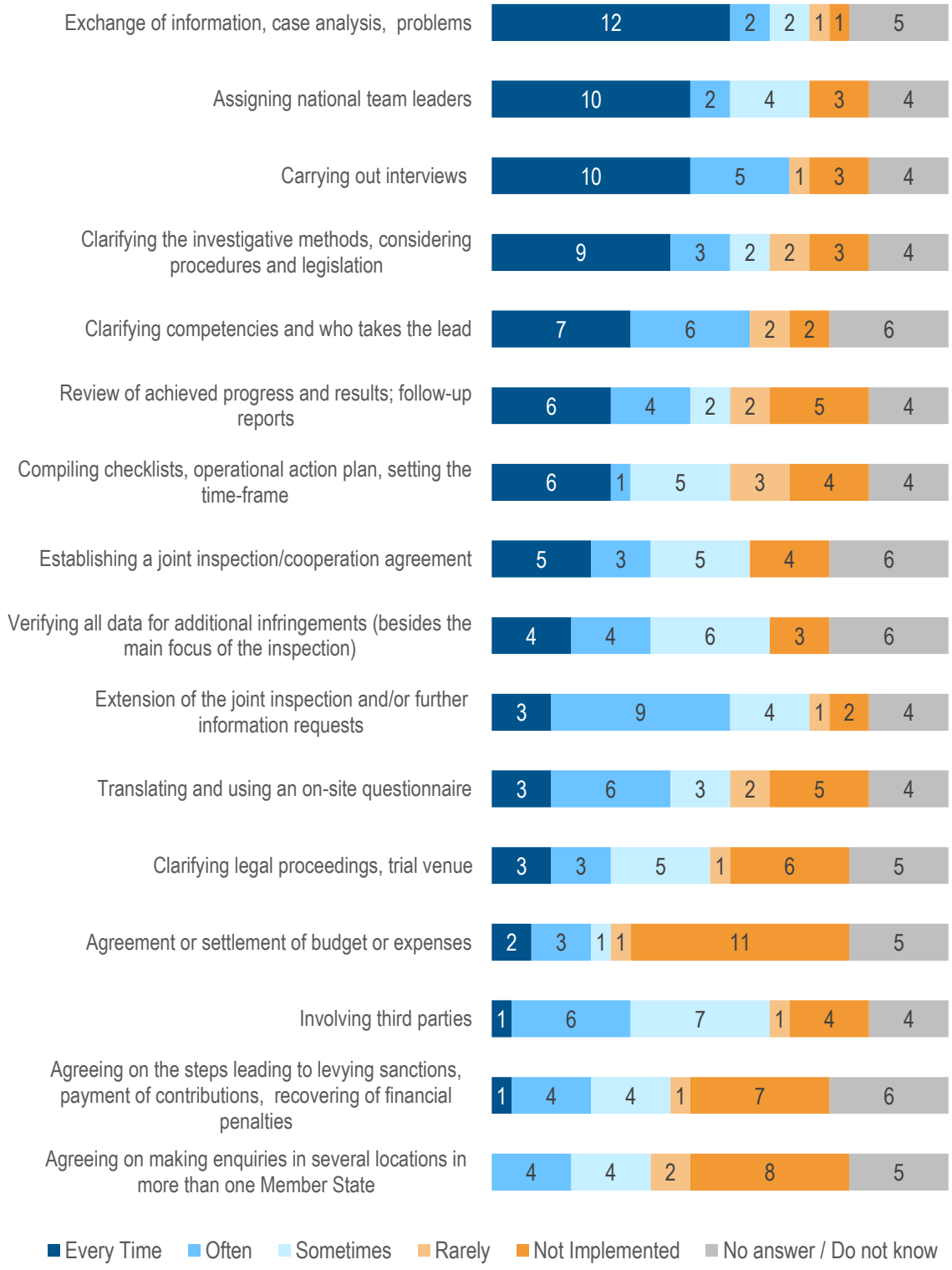
A significant number of respondents perceive the involvement of third parties in the cooperation actions as neutral. This was pointed out in two instances, one in the general involvement of social partners, police and prosecution and EU-level bodies, and the other in the specific involvement of third parties to act as advisors and/or observers. This implies that the **focus is placed on strong cooperation between enforcement authorities, with the role of third parties becoming relevant only in specific cases**. The need for social partners is regarded as a vital aspect for tackling undeclared work in specific sectors such as transport[67], agriculture[68] and construction. For example, the European Transport Workers Federation informs drivers of their rights and entitlements and supports them when claiming wages and rights in a cross-national setting[69].

The use of criminal law and special investigative techniques were perceived as relatively less important for the success of a cooperation action (Figure 10). However, the advantages of a criminal approach and the possibility of Europol and Eurojust assisting in introducing special investigative techniques and securing the legality of the exchanged evidence have been underlined in various instances. For example, Croatia used Europol's assistance because it has the authority to make inspections across the EU. The national desk of Eurojust can offer advice to labour authorities during inspections, particularly involving large cases or criminal affairs, human trafficking, money laundering, falsification of documents, organised social fraud.

[67] European Platform tackling undeclared work, (2018). Platform seminar: 'Tools and approaches to tackle undeclared work in the road transport sector' (1 June 2018, Brussels, Belgium).
[68] Williams C.C., (2019). Learning resource: Tackling undeclared work in the agricultural sector. European Platform tackling undeclared work.
[69] European Platform tackling undeclared work, (2018). Platform seminar: 'Tools and approaches to tackle undeclared work in the road transport sector' (1 June 2018, Brussels, Belgium).

Figure 9. Frequency of implementing the various steps necessary for implementing concerted and joint inspections

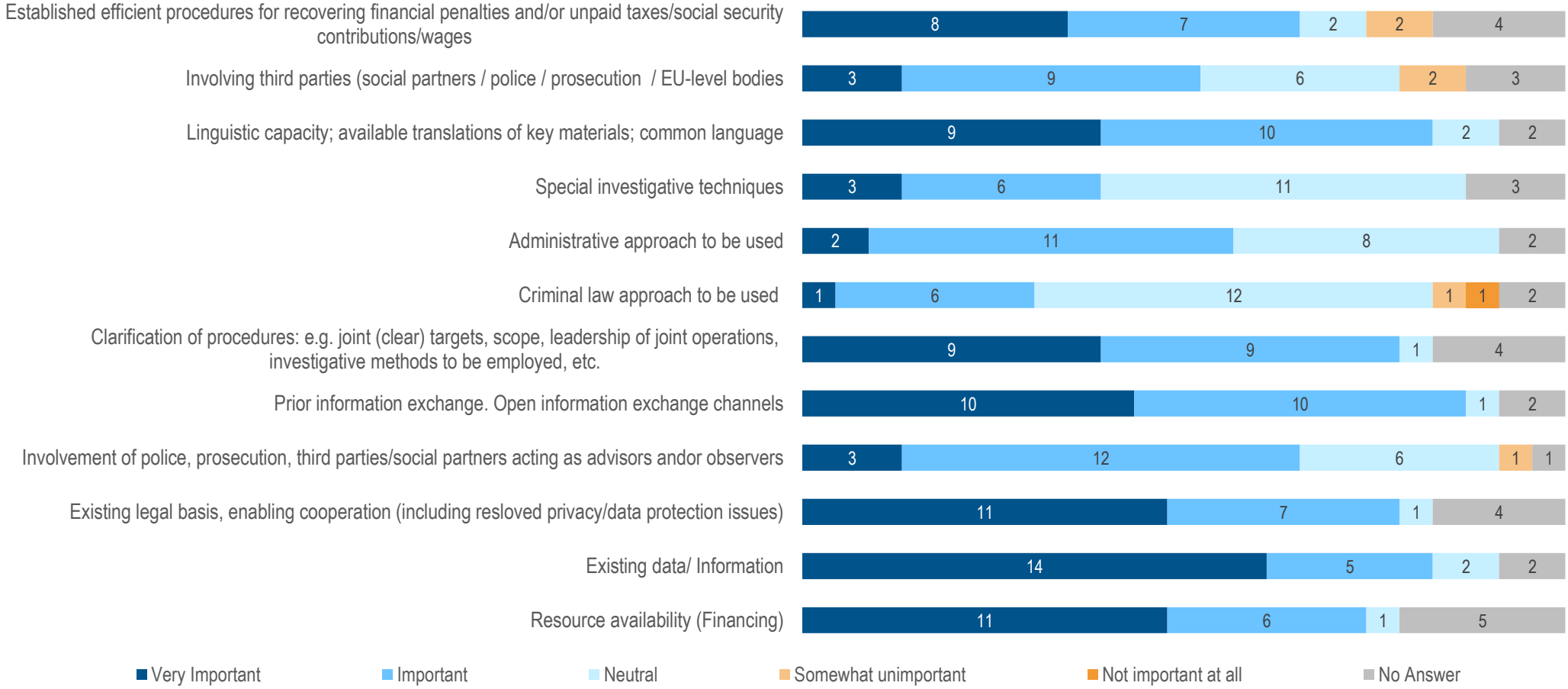
Answers to the question: How often are the following steps in joint and/or concerted inspections initiated and organised?



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

Figure 10. Key approaches and procedures for successful joint and/or concerted cross-border actions.

Answers to the question: How important do you consider the following issues for the success of joint and/or concerted cross-border actions?



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

3.4.2 Exchange of information: barriers and solutions

Results from the survey confirm that **exchange of information is key to success** in cross-border actions tackling undeclared work and join/concerted inspections. Access to data/information is recognised as the most important factor for the success of a cooperation action (14 respondents see it as very important and 5 as important). However, this is a major challenge and key documents are often unavailable (e.g. from the national tax authorities or foreign partner institutions, due to data being regarded as 'confidential' or 'company secret')[70]. Members of the European Platform tackling undeclared work have highlighted that the speed of information exchange is critical, notably in instances of work-related accidents[71]. Finally, survey respondents have also raised the issue of content-related differences in the documentation exchanged by Member States during cooperation actions, and in particular during cross-border inspections. The heterogeneity of documents that are exchanged could lead to delays in the speed of response or to diminished usability of documents as evidence of labour law violations.

3.4.3 Cooperating with other national authorities

The inclusion of other types of national authorities in cooperation actions is critical in specific situations, as was the case in two joint inspections between Spain and Portugal on the Port of Peniche (in 2016) and Port of Vigo (2017). Due to the suspected case of illegal employment of third-country nationals, the labour inspectorates cooperated with the Maritime and Port Authorities of Portugal and Spain, including the Civil Guard[72], which had the capacity to monitor the vessels.

Box 7: Joint inspection on tackling undeclared work on fishing vessels and compliance with the Maritime Labour Convention (MLC2006)[73] (Portugal-Spain)

In 2016, a joint inspection was conducted involving the Portuguese Authority for Working Conditions (ACT), the General Directorate for Natural Resources, Safety and Maritime Services (DGRM), the National Maritime Authority of Spain, the Labour and Social Security Inspectorate State Agency (OE ITSS) of Spain and the General Secretariat of Fisheries of Spain (GSF). The cooperation between ITSS and ACT, which coordinated the joint inspection, was supported by a pre-existing bilateral agreement. Participants in the joint inspection were:

- ACT labour inspectors.
- ITSS inspectors.
- Fisheries inspectors.
- One senior officer from GSF.
- Two fisheries inspectors from DGRM.
- The captain of Peniche Harbour.
- Maritime Police.

The purpose was to detect undeclared work and illegal workers on board Spanish vessels unloading fish in Portuguese harbours. The joint inspection involved:

[70] In its 2019 Work Programme the Platform has put special emphasis on data protection and data exchange as critical elements of effective cross-border cooperation in tackling undeclared work.
[71] European Platform tackling undeclared work, (2019). Thematic review workshop: 'Cross-border concerted and joint inspections' (28 February-1 March 2019, Lisbon, Portugal).
[72] Guimarães L., Vicente J. G., (2018). Presentation: 'Operational arrangements for Joint inspections: Portugal-Spain cooperation'. ELA Advisory Committee meeting (10 October 2018).
[73] Authority for Working Conditions (ACT), Labor and Social Security Inspectorate (ITSS). Campaign for the Prevention of Work Accidents. Available online.

- Communication between the entities involved, taking into account their competences.
- Joint briefing: definition of the intervention plan and dissemination of relevant information (time schedule, cargo and crew on board).
- With the support of the Maritime Police and the Port Authorities to reach the vessels, verification of all workers' identities by both Spanish and Portuguese inspectors.
- Occupational Safety and Health conditions checked by the authorities.
- Debriefing and sharing information.

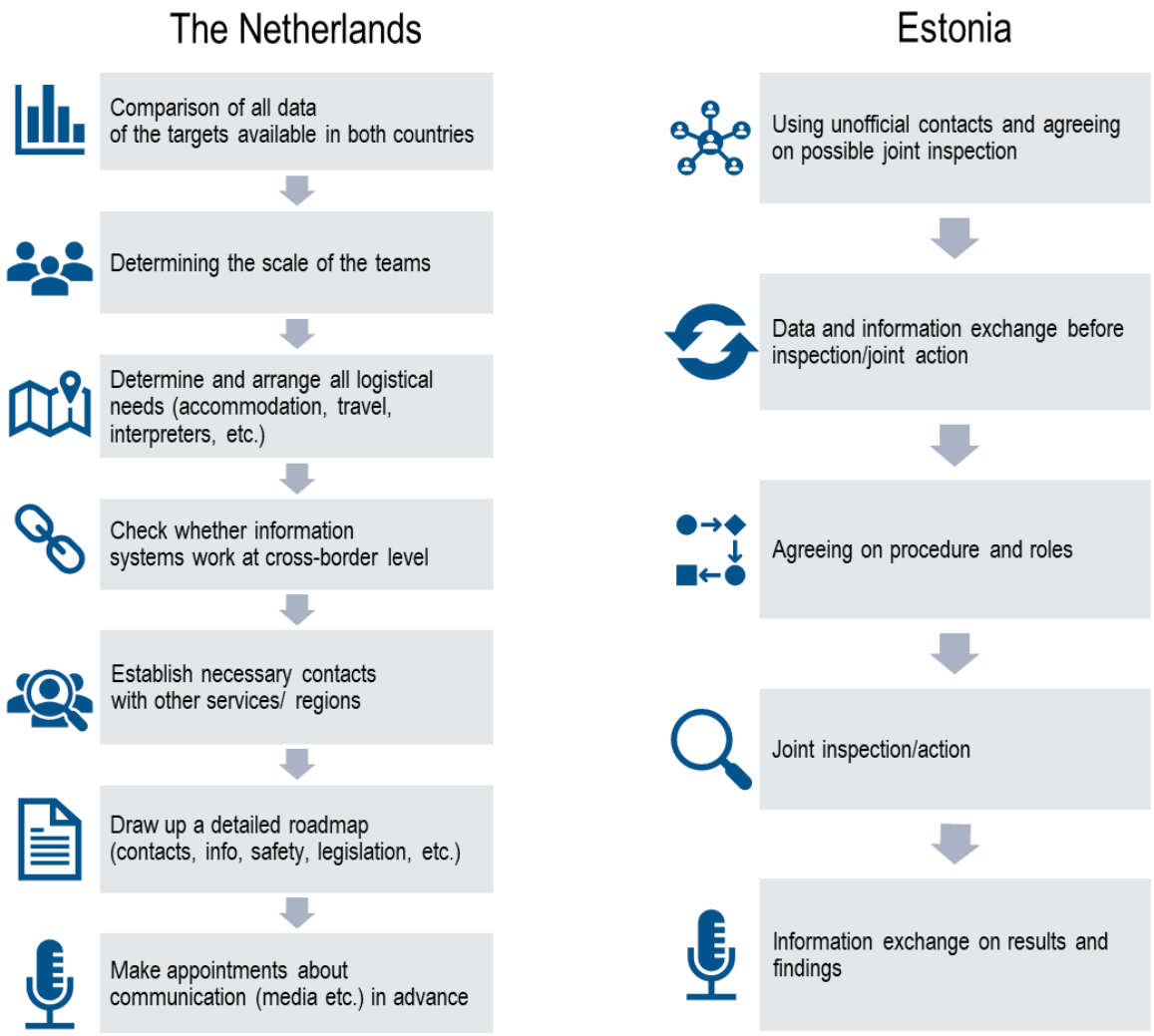
Source: European Platform tackling undeclared work (2019). Survey on cross-border cooperation actions.

If the **involvement of other national authorities in a joint or concerted inspection** is perceived as beneficial, cooperation is negotiated and established through meetings in person, by email and telephone communications with representatives of these authorities. The initial communication sets the parameters for the concerted or joint inspections. With regards to the preparation period, several respondents suggested that it is important for a representative of the institution to be made responsible for the preparation of the joint inspection and for resolving other procedures, such as technical issues prior to the implementation of the joint inspection.

The more pre-existing cooperation there is between enforcement authorities at the national level, the faster the process of conducting joint inspections with other Member States will be. For example, one respondent pointed out that due to existing agreements and prior cooperation with the police, a phone call is sufficient for them to receive the relevant support.

Member States **differ in how they organise cooperation with other national authorities** (Figure 11). For example, although both the Netherlands and Estonia adopt a systematic approach to intra-national cooperation on cross-border action, the Netherlands invest significant effort to determine the need to involve other parties.

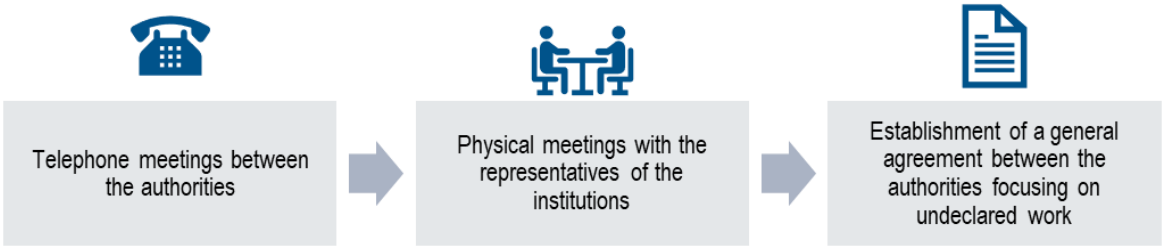
Figure 11. Process of establishing contact with other national authorities for cooperation actions and joint inspections in the Netherlands and Estonia



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

It is also important to consider the number of authorities responsible for tackling undeclared work within the Member State and how well defined their cooperation is in advance. In Sweden, while eight authorities are responsible, they have well-established cooperation routine. The process in that case is much shorter (Figure 12).

Figure 12. The process of establishing contact with third parties for the conduct of joint cross-border action in Sweden



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

In several Member States, the process of establishing contact with other authorities is based on **pre-existing guidelines**. For example, Norway has guidelines in place for the cooperation between national authorities. There are seven established joint centres for cooperation between the labour inspectorate, the tax authorities, the social security, welfare and police authorities. This eases decisions when national authorities need to collectively engage in cross-border actions.

Box 8: The Benelux 'Roadbook' on cross-border joint inspections of fraudulent temporary work agencies

The 'Roadbook' is a template which specifies the legal and operational aspects of each individual inspection. It starts with an agreement on target companies, based on risk analysis and data sharing. It also contains user-friendly information about relevant legislation in each country concerned and the competences of all parties involved in the inspection. The Roadbook lists the team leaders in each country, the aims and detailed information on coordination on the day of the inspection. As a result, this template helps to increase understanding of foreign regulations, and establishes a procedure for well-prepared cross-border inspection activities.

3.5 Common follow-up activities

Key findings:

- Follow-up activities to joint and/or concerted inspections are rare.
- Dissemination of information is one of the most frequently mentioned follow-up actions. Impact and efficiency evaluations and awareness-raising activities are largely lacking.
- Issuing press releases to the media featuring key inspection results can be used as a preventive measure.
- Some Member States organise debriefings via liaison office requests or prepare post-inspection reports.

Responses to the survey confirm that dissemination of information is a critical aspect of any follow-up process. The **Greek** authorities ensure that findings from cooperation actions and in particular joint inspections are disseminated to the administration of the labour inspectorate and to cooperating institutions (at national and cross-border level) and other stakeholders. Similarly, **Belgium** gathers results and lessons learnt from the cooperation actions (including joint and concerted inspections) and disseminates the information to cooperating institutions nationally. However, respondents did not further trial monitoring, evaluation or corrections in the efficiency of the inspection procedure, awareness-raising campaigns, etc.

In **Poland,** if joint inspections are carried out in cooperation with different national institutions (e.g. labour inspectorate with border guard representatives), each institution produces its own post-inspection report and applies legal measures in accordance with its competence. If joint inspections are carried out with representatives of supervisory authorities for working conditions from other countries, a follow-up includes sending information on the findings to the partner institution so that it may take any action relevant to its own competence. Other countries produce post-inspection reports, or apply a similar procedure:

- In **Slovakia**, once a joint inspection is concluded, a report on activities is prepared and submitted to higher authorities.
- In **France**, a debriefing is organised following the joint inspection to exchange information via liaison sheets.
- In **Estonia**, if the police, labour inspectorate and tax inspectorate have conducted a joint inspection, all the data collected during the process is consolidated and

reported after the action. In the case of investigating third-country nationals, the entire procedure is processed by the Estonian police, and where fraudulent posting of workers is involved, it is processed by the Estonian labour inspectorate.

- In the **Netherlands,** the labour inspectorate's communication department follows up with the media on cross-border inspections through press releases, compliance communication and social media campaigns[74]. Within the country, it communicates news related to joint inspections as well as any valuable experience gained. Externally, the communication is less frequent because it takes more time to analyse and present the outcomes. Messages are tailored to show positive attitude and cross-border thinking.
- In **Belgium** press releases are issued to the media, featuring key inspection results as a preventive measure[75].
- In **Spain** information on the joint inspection is first registered in the INTEGRA system (the ITSS[76] database) by the inspectors involved. The INTEGRA system always allows the information from the complete action to be verified. All the relevant information is registered within the system and can also be used at central level for statistical purposes.

Two countries did not specify follow-up processes in any concrete form (such as the elaboration of a mandatory document or report). In **Ireland**, once the joint inspection is concluded, the country's enforcement authority progresses the case under the criminal code if needed, while the cooperating enforcement authority of the other Member State progresses the case under theirs. In **Croatia,** the follow-up depends on the established agreement between the authorities, although they most often exchange documentation and information on the inspection.

The follow-up to concerted and joint cross-border inspections is often the phase of the process that determines whether the action is successful or not. It would be therefore important for enforcement authorities to develop specific steps for following up, particularly in relation to imposing administrative fines, moving on with any related criminal investigation or using the findings from the inspection(s) to develop appropriate preventative responses. For example, if there is no follow up with fines and/or criminal investigation (in duly defined cases) of undeclared work offences, then the deterrence and preventative effect of concerted and joint cross-border inspections would be limited, and re-offending will easily occur. The Platform has developed a model toolkit for concerted and joint inspections, including follow-up steps.

3.6 Challenges and key success factors

Key findings:

- Enforcement authorities need to be motivated, trained and familiarised with the key differences in legislative norms and procedures to achieve more effective cross-border cooperation actions.
- Enforcement authorities face difficulties in setting up secure information exchange channels.
- Other challenges include language barriers, lack of human resources, sharing of expenses over cooperation actions (including joint inspections), and issues around GDPR.
- Cooperation actions could specifically focus on tackling fraudulent temporary work agencies, particularly, inter alia, in the agriculture sector.

[74] European Platform tackling undeclared work, (2019). Presentation at the Follow up visit: 'Cross-border concerted and joint inspections' (3 July 2019, The Hague, Netherlands).
[75] Shared during the Thematic review workshop: 'Cross-border concerted and joint inspections' (28 February-1 March 2019, Lisbon, Portugal). European Platform tackling undeclared work.
[76] Labour and Social Security Inspectorate, *Inspección de Trabajo y Seguridad Social* (ITSS).

3.6.1 Challenges

Labour authorities were asked in an open-ended question to identify the main challenges and barriers they face during cooperation actions, including joint inspections. Overall, most labour authorities highlighted key barriers coming from **differences in legislative norms and procedures** in national legislation with regards to the treatment of undeclared work and cross-border cooperation[77]. Member States from all regions of the EU face such issues. The presence of similar or shared legislative arrangements with respect to undeclared work and cross-border cooperation was rated as very important by 11 Member States, and as important by seven. No one responded that it is not important.

Other, often cited issues relate to **language barriers, human resources, expenses over cooperation actions as well as the GDPR**. Sharing the financial costs associated with cooperation actions is one of the more difficult issues Member State are facing. This could be linked to the fact that budgetary resources for cross-border actions are rarely planned within national budgets, if tackling cross-border undeclared work is not recognised as a priority. It could also be linked to budget sharing discussions leading to questions of 'who benefits most', which stall cooperation. These considerations confirm the important role for the European Labour Authority in ensuring financial support for cooperation actions (including concerted and joint inspections), as this would provide clear European added value.

In some cases, the national law might not allow for active participation of a third person (e.g. a labour inspector from another Member State) during inspections. One way to involve inspectors from other countries is to give them the status of an 'invited expert' or 'observer' who, in turn, is bound by strict confidentiality rules. Another possible solution proposed is the organisation of joint-action days on labour exploitation (e.g. within the EMPACT project, implemented jointly with the police). However, it should be noted that police activities are carried out with their own legal remit.

Another respondent of the survey points to **the absence of a (secure) channel for cooperation between Member States**, which could help exchange information and better understand the differences in laws and regulations. The respondent recommends the extension of possibilities for Member States to collaborate in direct inspection activities, information sharing, collecting fees and imposing sanctions across borders. In addition, common European legislation to verify and validate outcomes and results of future concerted and joint inspections could help to use such information as evidence for legal persecution or imposition of penalties.

3.6.2 Suggested improvements

The following improvements were suggested to tackle current barriers between Member States at EU-level:

- Develop standard questionnaires for workers and enterprises in plain language adapted to the specific legal framework of each country.
- Secure Internal Market Information system (IMI) translation modules.
- Facilitate understanding of missions / means of action / procedures / sanctions / modes of proof between Member States.
- Provide information on the national legislation in each Member State.
- Create a common culture by developing and implementing a training programme on common themes.
- Provide access to language training programmes according to needs and territorial realities.

[77] Issues arising from the difference in legislation were highlighted by representatives of Latvia, Lithuania, Poland, Czechia, Greece, Denmark, Sweden, Hungary, Slovakia, and France.

- Recognise and value joint inspections, their follow-up and results.
- Ensure external communication on joint inspections to prevent fraud.
- Install a communication channel between Member State authorities to enable secure and in-depth, informal exchanges.

Further steps were proposed to tackle the current challenges at Member State level:

- Elaborate joint procedures for cross-border cooperation actions and inspections.
- Provide legal security to observers from another Member State.
- Secure the value of the findings made by the authorities of other Member States.
- Develop specialised and trained teams in each country to monitor all aspects of cross-border related regulations, including institutional competence for cross-border cooperation actions and inspections.

3.6.3 Future issues to tackle

Within the next three to five years, the area where cooperation actions **will be most needed**, according to respondents, is **tackling fraudulent temporary work agencies**.

One respondent indicates that cooperation actions will need to focus on tackling fraudulent temporary work agencies specifically **in the agriculture sector**. Another issue that will mainly require cooperation actions is tackling the **abusive use of letterbox companies**. Here, one respondent highlights that cooperation should be aimed at **education and guidance on employment rights and sanctions for failing to comply with the law**.

Enforcement authorities could also better share intelligence and improve mechanisms for identifying and tackling organised (criminal) networks (e.g. through consolidating existing databases, performing risk analysis through data mining, increasing their specialised knowledge and expertise).

4. CONCLUSIONS AND RECOMMENDATIONS

The current paper confirms that there are **many existing gaps in cross-border concerted and joint inspections and related cooperation actions** that continue to hamper the effective tackling of cross-border undeclared work.

There are significant differences between the level of engagement and the existing capacity of different Member States in cross-border cooperation. Despite a substantial increase in cross-border mobility, which leads to a rise in the level and complexity of cross-border undeclared work, Member States' authorities remain predominantly focused on ad hoc measures to tackle cross-border undeclared work. This ad hoc character of cooperation needs to be expanded into coherent and continuous practices to tackle the cross-border dimension of undeclared work, so that enforcement authorities can realise their full deterrence and prevention potential.

What is therefore needed is **the inclusion of a cross-border component in national strategies for tackling undeclared work**, or the development of independent national strategies for tackling cross-border undeclared work altogether. This requires the development of strategic objectives and key performance indicators focusing on tackling cross-border undeclared work, so that national enforcement authorities take the issue of cross-border cooperation more seriously. Doing so would also ensure that adequate resources for more comprehensive tackling of cross-border work are deployed. Currently, enforcement authorities consider the lack of resources as one of the important issues hindering the success; however, this is very rarely agreed between cooperating parties in existing practices of cross-border inspections and actions.

The most common forms of cooperation actions that enforcement authorities engage in are joint **inspections and staff exchange** programmes. Member States engage in cooperation actions mainly with their **neighbouring countries**. Comparing findings from the survey with existing data on labour mobility reveals that cross-border **concerted and joint inspections do not appear to follow the pattern of labour mobility**. There are no joint and/or concerted inspections between some of the Member States with the largest flows of working-age movers. Significant gaps exist in cross-border cooperation between Member States that do not border each other. In particular, more comprehensive approaches to cross-border cooperation actions along the East-West mobility axes in Europe are lacking. A possible blueprint in this respect can be found in the level and scope of cooperation between Baltic and Nordic countries, which have been showing greater propensity and capacity to cooperate.

Some of the **main challenges** to joint inspections and related actions are: (i) the **difference in legislation** between Member States (presence on the territory of another Member State, investigative powers, gathering legal evidence while respecting personal data protection); (ii) the lack of **linguistic capacities**; and (iii) the **lack of existing data** and databases, including channels to exchange such data for better **risk assessments** to be carried out. Within the next three to five years, the area where cooperation actions and related capacity-building **will be most needed**, according to respondents, is the **shared economy** and the **tackling of fraudulent temporary work agencies**.

Overall, the paper highlights that there is **room for expanding and improving cross-border cooperation actions to tackle undeclared work in the EU**. Several important recommendations for action by the EU and the Platform merit attention.

For EU / Platform level:

EU level support, particularly involving the European Labour Authority and the European Platform tackling undeclared work, can play an important role in enabling cross-border cooperation. The following recommendations derive from this paper:

- Develop universal **template agreements / toolkits for cross-border inspections and actions** that would allow quicker planning and deployment of such activities, as well as more strategic training and capacity building. This could

also include developing standardised approaches / universal templates towards cooperation with relevant third parties (government and non-government).

- Design and support **joint training between more and less experienced Member States' enforcement authorities** tackling cross-border undeclared work. Provide a framework/platform for mutual learning experiences.
- Develop a **database, presenting and comparing the competences of relevant authorities and the legal base, norms and requirements** that relate to uncovering undeclared work risks (e.g. data protection and data exchange rules, minimum wages, existing collective agreements, minimum working time, legal documents mandatory for each company in each EU Member State). The database could then be gradually expanded to include other aspects. For example, the creation of EU-wide lists of experts (including interpreters or specialists in labour law), which Member States can call upon for a specific cross-border cooperation action.
- Focus on cooperation actions in high-risk sectors across Europe, such as the **transport** sector, introducing expertise with thematic review workshops and related actions.
- Increase the capacity of members to tackle **fraudulent temporary work agencies** and undeclared work related to the **shared economy**, notably by continuing the expansion and usability of the Platform virtual.

For national enforcement bodies:

- Increase cross-border cooperation between the main sending and receiving Member States of working-age movers to reduce their risk of cross-border undeclared work. In particular, aim to **introduce cross-border cooperation in national strategies** tackling undeclared work, and set aside adequate resources for implementing such measures.
- Focus on **establishing and/or intensifying national cooperation** with relevant authorities (social security, tax, migration, police, etc.) on tackling cross-border undeclared work. This would increase their capacities for cross-border cooperation (both in terms of neighbouring countries and among non-border countries).
- Establish integrated **national databases and data sharing protocols** to enable joint risk assessment with Member States that receive or send the highest number of working-age movers.
- Address any challenges related to **differences in national legislation and clarifying national inspection procedures**, including rules for involving inspectors from other Member States.

BIBLIOGRAPHY

Authority for Working Conditions (ACT) and Labour and Social Security Inspectorate (ITSS). Concerted and joint inspections within the European Labour Authority – a reflection on roles, principles and organisational requirements. Internal document.

Authority for Working Conditions (ACT), Labor and Social Security Inspectorate (ITSS). Campaign for the Prevention of Work Accidents. Available at: http://www.act.gov.pt/(pt-PT)/Campanhas/Campanhasrealizadas/CampanhaIbericadePrevencaodeAcidentesdeTrabalho/Paginas/default.aspx

COM, (2018) 131 final, Proposal for a Regulation of the European Parliament and of the Council establishing a European Labour Authority – Impact Assessment Report, Brussels, 13 March 2018. Available online at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018SC0068&from=HRCremers

J., (2014). Letterbox companies and abuse of the posting rules: How the primacy of economic freedoms and weak enforcement give rise to social dumping. ETUI Policy Brief, 2014(5).

Cramer J., et al., (2017). Tackling undeclared work in the construction industry. A learning resource. Brussels: European Platform tackling undeclared work. Available at: https://ec.europa.eu/social/BlobServlet?docId=18132&langId=en

Eurofound, (2017). Fraudulent contracting of work: Abusing the posting of workers (Belgium, Finland and Italy). Dublin: Eurofound.

European Commission, (2014). Special Eurobarometer 402: Undeclared work in the European Union. Brussels: European Commission.

European Platform tackling undeclared work, (2019). Presentation at the Follow up visit: 'Cross-border concerted and joint inspections' (3 July 2019, The Hague, Netherlands).

European Platform tackling undeclared work, (2019). Thematic review workshop: 'Cross-border concerted and joint inspections' (28 February-1 March 2019, Lisbon, Portugal). Brussels: European Platform tackling undeclared work. Available at: https://ec.europa.eu/social/BlobServlet?docId=20868&langId=en

European Platform tackling undeclared work, (2018). Platform seminar: 'Tools and approaches to tackle undeclared work in the road transport sector' (1 June 2018, Brussels, Belgium).

European Platform tackling undeclared work, (2019). Presentation 'Next Steps for Cross-border cooperation' at the Thematic review workshop: 'Cross-Border concerted and joint inspections' (28 February-1 March 2019, Lisbon, Portugal).

European Platform tackling undeclared work, (2018). 2018 survey report on obstacles to tackling undeclared work at the cross-border and national levels, bilateral and national agreements, and complaint reporting tools. Brussels: European Platform tackling undeclared work. Available at: https://ec.europa.eu/social/BlobServlet?docId=20208&langId=en

European Platform tackling undeclared work, (2018). Good practice: Agreement on Cooperation between the Labour Inspectorate of Estonia and the Division of Occupational Health and Safety of the Regional State Administrative Agency for Southern Finland. Brussels: European Platform tackling undeclared work. Available at: https://ec.europa.eu/social/BlobServlet?docId=19451&langId=en

European Platform tackling undeclared work, (2019). Joint inspection visit with Romania of agricultural workers in the province of Albacete. Forthcoming.

European Platform tackling undeclared work. (2019). Good practice: Joint inspection with Portugal on tackling undeclared work on fishing vessels and compliance with the Maritime Labour Convention. Brussels: European Platform tackling undeclared work. Available at: https://ec.europa.eu/social/BlobServlet?docId=21479&langId=en

European Platform tackling undeclared work. (2018). Good practice: Cross-border co-operation between Belgian and Dutch enforcement authorities in the fight against fraudulent or illegally operating Temporary Work Agencies (TWA). Brussels: European Platform tackling undeclared work. Available at: https://ec.europa.eu/social/BlobServlet?docId=19797&langId=en.

European Platform tackling undeclared work. (2017). Good practice: Benelux Cross-border Cooperation. Brussels: European Platform tackling undeclared work. Available at: https://ec.europa.eu/social/BlobServlet?docId=18526&langId=en.

Fries-Tersch E., et al., (2019) 2018 Annual report on intra-EU labour mobility. Brussels. Available at: https://ec.europa.eu/social/BlobServlet?docId=20685&langId=ro

Fries-Tersch E., et al., (2018). 2017 annual report on intra-EU labour mobility. Brussels: European Commission. Available at: https://publications.europa.eu/en/publication-detail/-/publication/cd298a3c-c06d-11e8-9893-01aa75ed71a1/language-en

Fries-Tersch E., et al., (2017, p.78). 2016 annual report on intra-EU labour mobility. Brussels: European Commission. Available at: https://publications.europa.eu/en/publication-detail/-/publication/ddaa71cc-3e9a-11e7-a08e-01aa75ed71a1/language-en

Guimarães L., Vicente J. G., (2018). Presentation: 'Operational arrangements for Joint inspections: Portugal-Spain cooperation'. ELA Advisory Committee meeting (10 October 2018).

Haidinger B., (2018). Takling undeclared work in the road transport industry. Brussels: European Platform tackling undeclared work. Available at: https://ec.europa.eu/social/BlobServlet?docId=19913&langId=en

Hastings T., Cremers J., 2017). Developing an Approach for Tackling Letterbox Companies. A learning resource. Brussels: European Platform tackling undeclared work. Available at: https://ec.europa.eu/social/BlobServlet?docId=18961&langId=en

Heinen A., Muller A., Kessler B., (2017). Liability in Subcontracting Chains: National Rules and the Need for a European Framework. European Parliament: Legal and Parliamentary Affairs.

ILO, (2013). Labour Inspection and Undeclared Work in the EU. Geneva: ILO. Available at: https://www.ilo.org/labadmin/info/pubs/WCMS_220021/lang--en/index.htm

Jorens Y., (2010). Self-employment and Bogus Self-employment in the European Construction Industry, Country Report: The Netherlands. European Federation of Building and Woodworkers and FIEC.

Labour Inspectorate of Estonia and Division of Occupational Health and Safety of the Regional State Administrative Agency for Southern Finland, (2014). Available at: https://www.ti.ee/fileadmin/user_upload/failid/dokumendid/Organisatsioon/Toeoeinspektsioon/Leping.pdf

Labour Inspectorate of Estonia and the Labour Inspection Authority of the Kingdom of Norway. (2018). Agreement concerning cooperation and mutual exchange of information. Available at: https://www.ti.ee/fileadmin/user_upload/dokumendid/Organisatsioon/Toeoe inspektsioon/Eesti-Norra_koostoolepe.pdf

McKay, (2014). Transnational Aspects of undeclared work and the role of EU legislation. European Labour Law Journal, 5(2) 116-131

Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community, Available online at: http://eur lex.europa.eu/legalcontent/EN/TXT/?uri=CELEX%3A31971R1408

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

Sandu D., (2006). Exploring Europe through work migrations: 1990-2006 cited in Sandu D. et al. Living Abroad on a Temporary Basis. The Economic Migration of Romanians: 1990-2006. Bucharest: Open Society Foundation: 13-40.

Scholl-Mazurek K. et al. (2016). Social Dumping by subcontracting: How German employers in construction and meat processing evade EU labour provisions. Berlin: Polish Social Council. Available online at: https://migrationonline.cz/germany_country_report.pdf

Williams C.C., Horodnic A., (2018). Tackling undeclared work in the agricultural sector. Brussels: European Platform tackling undeclared work. Available at: https://ec.europa.eu/social/BlobServlet?docId=20424&langId=en

Williams C.C., (2017). Developing a Holistic Approach for Tackling Undeclared Work: A learning resource from the Seminar of the European Platform Tackling Undeclared Work, Brussels, 2nd December 2016. Brussels: European Platform tackling undeclared work. Available online at: https://ec.europa.eu/social/BlobServlet?docId=17242&langId=en

Williams, C.C., (2018). European Platform tackling undeclared work: glossary of terms. Brussels: European Platform tackling undeclared work. Available at:https://ec.europa.eu/social/BlobServlet?docId=20304&langId=en

Williams C.C., Lapeyre, (2017). Dependent self-employment: Trends, challenges and policy responses in the EU. Working Paper No. 228. Geneva: ILO.

Williams C.C., (2019). Learning resource: Tackling undeclared work in the agricultural sector. Brussels: European Platform tackling undeclared work.

ANNEX I: LIST OF INSTITUTIONS TO WHICH EXPERTS INTERVIEWED ON CROSS-BORDER UNDECLARED WORK CASE STUDIES ARE AFFILIATED

Affiliation	Country
Ministry of Labour, Migrations and Social Security	Spain
Ministry of Labour, Employment, Vocational Training and Social Dialogue General Directorate of Labour	France
International Relations Unit, Labour Inspection	Romania
Federal Customs Administration, Finanzkontrolle Schwarzarbeit (FKS)	Germany
HIVA	Belgium
Labour Inspectorate of the Belgium Federal State	Belgium
Labour and Social Security Inspectorate of Spain	Spain
Chief Labour Inspectorate	Poland
Swedish Work Environment Authority	Sweden
Ministry of Labour and Pension System, Labour Inspectorate	Croatia
EURES	Italy
Directorate "Labour law, social security and labour conditions" Ministry of Labour and Social Policy	Bulgaria
Ministry of Labour, Family, Social Affairs and Equal Opportunities	Slovenia