





European Platform Undeclared Work

The Labour Auditor: dealing with labour-related frauds

Belgium


	<p>Summary</p> <p>The Labour Auditor is a service for the investigation and prosecution of social criminal law infringementsⁱ that may involve organised social fraud, in particular the performance of undeclared work e.g. non-declaration of employment or social security contributions, non-declaration of employment of foreign workers, and/or the use of letterbox companies.</p>
<p>Title of the practice in original language</p>	<p><i>Auditorats du travail / Arbeidsauditoraten</i></p>
<p>Name(s) of authorities/bodies/ organisations involved</p>	<ul style="list-style-type: none"> • The Federal inspection services (Service d'information et de recherche sociale – SIRS (in French); Sociale Inlichtingen- en opsporingsdienst - SIOD (in Flemish)); • The Federal inspectorate on labour security (Inspection du Travail / Arbeidinspectie); • The Flemish social inspection (Afdeling Vlaamse Sociale Inspectie); • The Brussels labour inspectorate (Direction de l'Inspection régionale de l'Emploi de Bruxelles/Gewestelijke Werkgelegenheidsinspectie - Brussel) ; • The Wallonia labour inspectorate (Inspection sociale – Wallonie).
<p>Sectors</p>	<p>All</p>
<p>Target groups</p>	<ul style="list-style-type: none"> • Employers/companies and workers involved in labour-related criminal offences (directly targeted).
<p>Purpose of measure</p>	<p>Deterrence: improve detection</p>

	<p>Aims and objectives</p> <p>The Labour Auditor investigates and prosecutes criminal offences in matters related to social and labour law. It is managed at the national level and its priorities are defined by the Board of the Prosecutors General.</p>
<p>Background context</p>	<p>The Labour Auditor was created in 1970. The aim was to provide a specialised focus on matters falling within the jurisdiction of the labour courts and to guarantee the retention of this specialisation through a separate</p>



	<p>framework. More recently, the focus has shifted from administrative and advisory tasks towards investigation and prosecution.</p>
<p>Key objectives of the measure</p>	<p>General objectives:</p> <ul style="list-style-type: none"> • To investigate and prosecute criminal offences in matters related to social and labour law. <p>Specific objectives:</p> <ul style="list-style-type: none"> • To protect the basic social rights of citizens; • To protect the rights of victims of social fraud; • To protect collective rights regarding social issues; • To protect the right to social security and fair working conditions.
<p>Main activities</p>	<p>The Labour Auditor carries out the tasks of the public prosecutor for all matters falling within the jurisdiction of the labour courts such as:</p> <ul style="list-style-type: none"> • Leading investigations and prosecuting criminal offences in matters of social and labour law, such as organised social fraud, economic exploitation of workers, infringement of labour safety and health rules, obstruction of supervision by a labour inspector, the employment of foreign workers not in possession of a valid residence permit; • Requesting inquiries from social inspectorates; • Acting against the offender as a public prosecutor in the criminal court in cases of violation of social criminal laws; • Monitoring the regularity of the actions of the police and the inspection services. <p>Priorities are determined by the Board of the Prosecutors General, by means of general directives and specific directives in dealing with social dumping, trafficking in human beings and domicile-related fraud.ⁱⁱ</p>
<p>Funding/organisational resources</p>	<p>The activities of the Labour Auditor are funded by the state. Approximately 100 magistrates and 300 administrative staff work at the Labour Auditor in eight different offices across the country. Larger offices have around 20 magistrates and 70 administrative staff while smaller offices have approximately 3-4 magistrates and 15 administrative staff.</p>



	<p>Outcomes</p> <p>The Labour Auditor has led to increased detection and prosecution of social fraud. It uses a case-by-case approach to assess which response is likely to be the most effective between administrative sanctions and judicial investigation and prosecution.</p>
<p>Achievement of objectives</p>	<ul style="list-style-type: none">• Nationwide, the Labour Auditor deals with approximately 20 000 cases of organised social fraud per year. Of these, approximately 2 000 are prosecuted before the court. In the other cases financial settlements are concluded or administrative fines or other administrative sanctions are applied.• In 2018 the Labour Auditor office in Gent processed more than 4 000 penal cases.• An annual report of activities is sent by each office to the High Council of Justice.
<p>Lessons learnt and success factors</p>	<ul style="list-style-type: none">• Since social fraud is increasingly a cross-border phenomenon, cooperation with other services in other countries is extremely important.• Digital tools are extremely important to tackle cybercrime.• A case-by-case approach to assess which response is likely to be the most effective in a given situation (administrative means and/or judicial investigation and prosecution);• A key factor has been the cooperation with other services concerning information related to social and labour law violations;• The use of investigative methods by the judicial authorities is more effective when tackling undeclared work in letterbox companies, compared to social inspections services;• Judicial authorities may take dissuasive measures, such as confiscations of bank accounts, vehicles etc.
<p>Transferability</p>	<p>The possibility to transfer this practice depends on the specific history and evolution of a country's judicial system. It is important that the services put in place are able to specialise and work across borders.</p>

<p>Further information</p>	
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Useful sources and resources	Labour Auditor https://www.om-mp.be/nl/uw-om/arbeidsauditoraten Overview on the social enforcement apparatus in Belgium https://www.siod.belgie.be/nl/siod
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ⁱ In general, the intervention of the labour prosecutor is mandatory when it comes to the rights of the citizen in relation to social security and social assistance. Source: <https://web.archive.org/web/20161003221053/http://www.om-mp.be/page/2389/1/arbeidsauditoraten.html>

ⁱⁱ Domicile-related fraud is the use of an inaccurate or fictitious address in order to receive benefits.