Challenges and policy approaches for tackling undeclared work among highly skilled workers

Learning resource paper from thematic review workshop

18-19 June 2024

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Contents

1.0   Introduction

Background

Despite the common assumption that people resort to undeclared work due to limited formal job market options, recent evidence from EU Member States shows a more complex scenario. A dual undeclared labour market has been revealed, where the upper tier comprises workers who often choose undeclared work and benefit from higher wages, better bargaining power, and additional benefits. In contrast, the lower tier consists of workers facing job insecurity, lower wages, and limited prospects. The 2019 Eurobarometer survey on undeclared work in 28 European countries highlights this dichotomy, uncovering more upper-tier than lower-tier undeclared workers in the service industry.

Interestingly, upper-tier workers are typically older, self-employed, and have extended full-time education, whereas the lower tier of undeclared service workers tends to be younger (15–24 years old), with fewer years of education, facing financial struggles, unemployment, or still studying (Williams and Kayaoglu, 2023). Despite this evidence, there is limited information regarding the participation of highly skilled workers in undeclared work.

To begin addressing this gap, a study titled "**Analysing the extent of undeclared work among highly skilled workers**" has been undertaken, focusing on investigating the prevalence, types, characteristics, and reasons for undeclared work among highly skilled workers (Horodnic and Horodnic, 2024). Based on the collected evidence and identified knowledge gaps within the study, this thematic review workshop - TRW - was convened to enable Platform members and observers to share and deepen their understanding of the challenges and potential solutions in tackling undeclared work among highly skilled workers.

This learning resource paper builds on discussions from the TRW, which was held in Bratislava, on 18-19 June 2024. The event gathered 18 participants from 11 EU Member States, including representatives of labour and social security inspectorates, tax authorities, and both national and EU-level social partners. The European Labour Authority (ELA) representatives, thematic experts, and members of the Platform support team were also present.

Who are the highly skilled workers?

The International Standard Classification of Occupations (ISCO-08) uses the **skill dimension** to classify occupations. The highly skilled workers are those with ISCO **skill levels 3 and 4**. The skill level, as defined by the International Standard Classification of Occupations (ISCO), is "a function of the complexity and range of tasks and duties to be performed in an occupation. Skill level is measured operationally by considering one or more of:

- ▶ the nature of the work performed in an occupation in relation to the characteristic tasks and duties defined for each ISCO-08 skill level;
- ▶ the level of formal education defined in terms of the International Standard Classification of Education (ISCED-97) (UNESCO, 1997) required for competent performance of the tasks and duties involved; and
- ▶ the amount of informal on-the-job training and/or previous experience in a related occupation required for competent performance of these tasks and duties."[1]

According to ISCO-08, highly skilled workers are those found in **major groups 1–3**, covering the following occupations: **managers, professionals, technicians, and associate professionals**. These groups, designated

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[1] Please see further details here: https://ilostat.ilo.org/methods/concepts-and-definitions/classification-occupation/

by a one-digit ISCO-08 code, are further organised into sub-major (2-digit), minor (3-digit), and unit (4-digit) groups[1].

Table 1. Highly skilled occupations in EU-27, by ISCO-08 one and two-digit levels

Major Groups	Sub Major Groups
1 Managers	11 Chief executives, senior officials and legislators
	12 Administrative and commercial managers
	13 Production and specialised services managers
	14 Hospitality, retail and other services managers
2 Professionals	21 Science and engineering professionals
	22 Health professionals
	23 Teaching professionals
	24 Business and administration professionals
	25 Information and communications technology professionals
	26 Legal, social and cultural professionals
3 Technicians and associate professionals	31 Science and engineering associate professionals
	32 Health associate professionals
	33 Business and administration associate professionals
	34 Legal, social, cultural and related associate professionals
	35 Information and communications technicians

Source: ILO, The International Standard Classification of Occupations (ISCO)

The occupations refer to the kind of work performed in a job and are valid irrespective of whether the individual is an employee, a business owner, or self-employed. Indeed, according to ISCO structure[2], owners and employees of businesses are "classified in Major Group 1 (Managers) if management tasks are a significant component of the work". As such, self-employed workers are included and analysed under the assumption that managerial tasks constitute a significant component of their work.

Due to their role in the workflow process, self-employed workers inherently assume managerial responsibilities similar to those of managers. By operating their own businesses, farms, or professional practices (Mațcu-Zaharia et al., 2024), they enjoy greater autonomy (Hundley, 2001) and flexibility in their working hours and methods (Boeri et al., 2020; IPSE, 2019; Mațcu-Zaharia et al., 2024). However, they also bear additional managerial duties such as hiring, negotiating with suppliers, and managing payroll (Prottas and Thompson, 2006) compared to employees. When they lack these characteristics, they are often deemed "bogus" or "dependent self-employed". Despite being registered as self-employed, they often resemble dependent employees: they have limited or no authority and control over the hiring process or how work is conducted, and they typically rely on a single major client or a very small number of clients for their income (Horodnic and Williams, 2020; Hunter and Leslie, 2018). This practice, where an employer classifies a worker as self-employed rather than an employee, poses a challenge for the enforcement authorities. It is widespread among highly skilled workers, especially in industries like information and communications technology (IT&C), media, and other sectors with a substantial number of freelancers or where the work is conducted *via* digital platforms.

The share of highly skilled workers in total employment in the EU

In 2022, highly skilled workers (according to ISCO-08 definition) constituted **no less than 43 % of the total employment within the European Union**[3]. **Projections indicate continued growth** across all highly skilled

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occupations in the EU from 2022 to 2035, except for positions such as hospitality and retail managers, which are expected to decrease[4].This highlights the importance of gaining a thorough understanding of undeclared work among highly skilled workers, which is essential for implementing tailored measures aimed at effectively addressing this issue.

Reduced emphasis on addressing undeclared work among highly skilled workers

While the extensive systematic review in the study "Analysing the extent of undeclared work among highly skilled workers" found limited previous research focused on this group, with most studies concentrating solely on specific professions or sectors within narrow geographic areas like single cities, regions, or countries (Horodnic and Horodnic, 2024), the TRW highlighted a similarly diminished emphasis on highly skilled workers among stakeholders. Prior to introducing the ISCO classification, a poll revealed that the majority of workshop participants initially viewed highly skilled workers as not being a priority for their authorities in activities related to detecting and tackling undeclared work.

2.0 Types and characteristics of undeclared work among highly skilled workers

2.1 Occupations, industries and sectors with high prevalence of undeclared work amongst highly skilled workers

During the TRW, authorities and social partners recognised the significant diversity within highly skilled occupations and discussed the occurrence of undeclared work across these various fields. Based on their experience and data, they specifically emphasised sectors such as *education, law, IT&C* (Information Technology and Communications)*, healthcare, media and creative industries (including the influencers)*, reinforcing the findings from limited previous research. Surprisingly, the experience of Denmark underlined a higher participation of highly skilled workers as compared to the rest of the workers in sectors such as construction, agriculture and real estate.

Box 1. Undeclared work of highly skilled workers in Denmark based on Labour Input Method estimates
By employing the Labour Input Method, the Danish Tax Agency is able to produce accurate and timely estimates of the prevalence of undeclared work in Denmark. This method has the potential to enhance the agency's strategic planning and operational capabilities, providing reliable data to address and monitor undeclared work effectively. The Labour Input methodology used utilises individual-level data instead of aggregated data from the Danish Labour Force Survey (the Danish contribution to the EU Labour Force Survey) and Danish tax data (e-Income).

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[4] based on Cedefop database (European Centre for the Development of Vocational Training); available at: https://www.cedefop.europa.eu/en

This means that the estimates of undeclared work can be broken down by individual characteristics, such as ISCO codes.

The method shows significant potential for transferability to other countries, provided that their tax data are highly accurate and can be matched to the national input to the EU Labour Force Survey. Given these conditions, the method can yield reliable estimates of undeclared work across different national contexts. A concise description of the methodology and the resulting estimates is provided below.

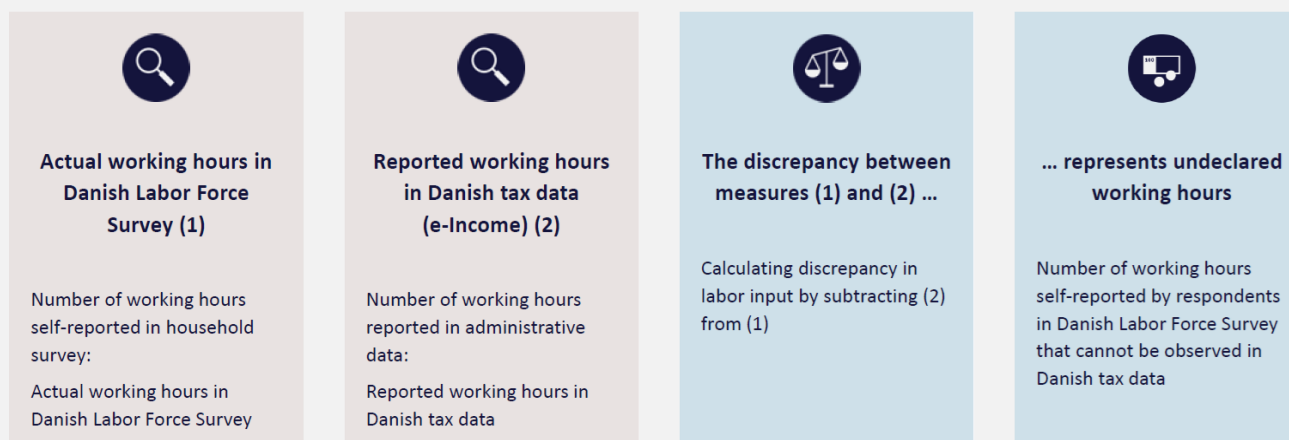## Data extracted from Danish Labour Force Survey (measured quarterly)

▶ Only the employed population working in Denmark is considered.

▶ Approx. 60,000 unique employed individuals in database from 2014 and 2015.

▶ Distinction has been made between wage earners and non-wage earners (primarily self-employed individuals). The vast majority are wage earners.

▶ The actual working hours are calculated based on the question: *How many hours did you actually work [in a specific reference week]?*

▶ For each respondent, actual working hours in a quarter is estimated by multiplying the actual working hours by 13 (i.e. the number of weeks in a quarter)

Data extracted from Danish tax data (e-Income)

▶ This dataset comprises the salaries and working hours reported by employers to e-Income system of the Danish tax administration

▶ In order to use it for research purposes the data is cleaned and anonymised by the Statistics office in Denmark. As such, the Danish Tax Agency do not have access to the personal data of the respondents.

▶ For each individual, working hours are aggregated per quarter to match respondent data in Danish Labour Force Survey

Based on the data derived from the two datasets, the undeclared working hours are calculated as described in Figure 1 below.

Figure 1. The Labour Input Method used by the Danish Tax Agency

| Actual working hours in Danish Labor Force Survey (1)	Reported working hours in Danish tax data (e-Income) (2)	The discrepancy between measures (1) and (2) ...	... represents undeclared working hours
Number of working hours self-reported in household survey:	Number of working hours reported in administrative data:	Calculating discrepancy in labor input by subtracting (2) from (1)	Number of working hours self-reported by respondents in Danish Labor Force Survey that cannot be observed in Danish tax data
Actual working hours in Danish Labor Force Survey	Reported working hours in Danish tax data		

Source: based on the presentation by the Danish Tax Agency at the Thematic Review Workshop on 18-19 June 2024

Based on the Labour Input Method, the findings indicate that the proportion of highly skilled wage workers involved in undeclared work (i.e. with undeclared working hours) is slightly lower compared to other workers. Specifically, there is only a 2 percentage point difference in the rate of undeclared work between highly skilled workers and other workers, observed in both 2014 and 2015.

Figure 2. The proportion of employed workers engaged in undeclared work (highly skilled workers compared to other workers), 2014 and 2015
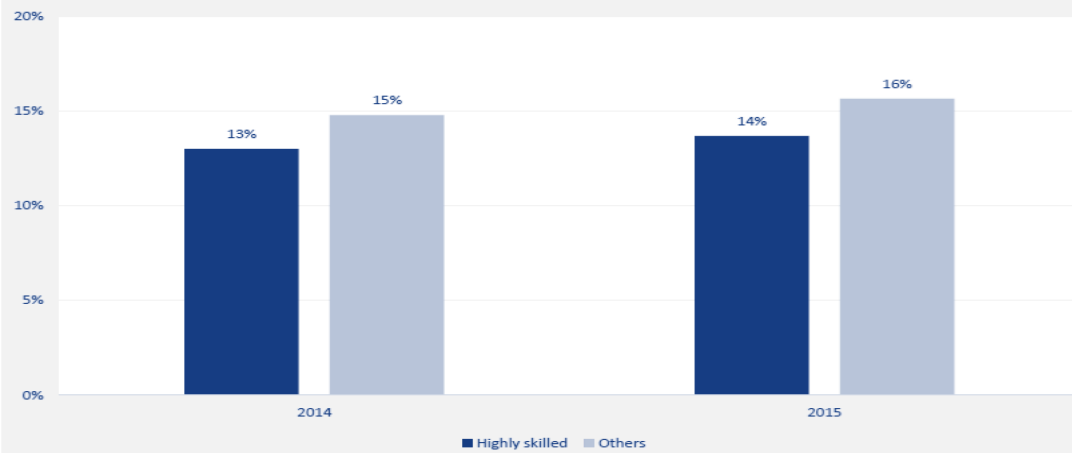
Source: based on the presentation by the Danish Tax Agency at the Thematic Review Workshop on 18-19 June 2024

Taking a more detailed look at different sectors, the analysis uncovers two important findings. Firstly, as Figure 3 illustrates, undeclared work involving highly skilled workers is evident across all sectors. Secondly, it appears that in sectors traditionally associated with higher levels of undeclared work—such as construction, agriculture, forestry and fishing, arts and entertainment, and real estate—a higher proportion of highly skilled workers are engaged in undeclared activities compared to other workers. These results highlight the importance of not overlooking highly skilled workers in efforts to detect and tackle undeclared work.
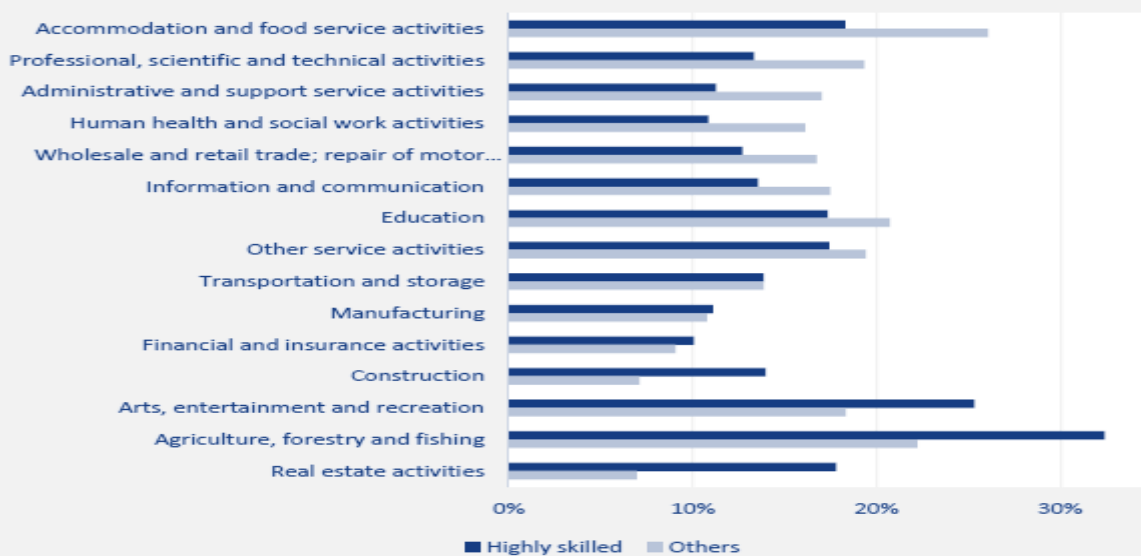
Figure 3. The proportion of employed workers engaged in undeclared work by sector (highly skilled workers compared to other workers), 2014 and 2015

Source: based on the presentation by the Danish Tax Agency at the Thematic Review Workshop on 18-19 June 2024

2.2   Types of undeclared work amongst highly skilled workers

Undeclared work is prevalent across all highly skilled occupations, but each industry displays unique characteristics and highly skilled workers employ different methods for engaging in such activities or other work-related infringements. Specific particularities in various professions and industries have also been highlighted during the TRW. For instance, *in science and engineering*, as well as *IT&C*, undeclared freelancing and dependent self-employment are common. In *healthcare*, practices such as undeclared medical services, individual practices with underreported earnings, informal payments, and dependent self-employment are prevalent. In the field of *education*, additional side activities like undeclared private tutoring are often observed. The *law and media* industries frequently involve false cases of volunteering, internships, or training.
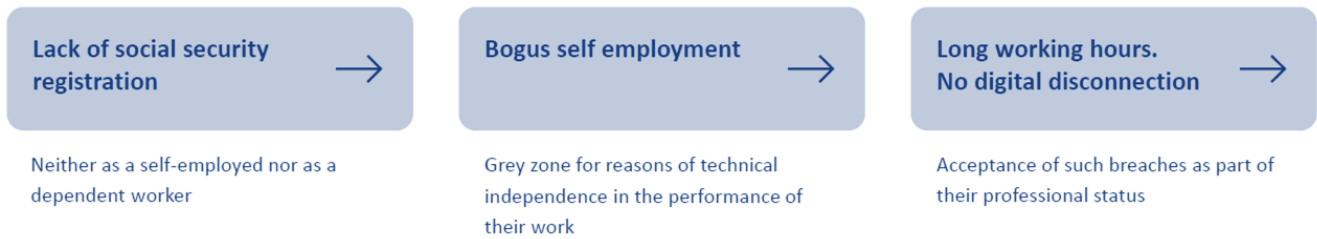
Nonetheless, previous research indicates that highly skilled workers commonly engage in undeclared work, primarily by **under-declaring their income**. This includes receiving **envelope wages** for employed individuals and **under-reporting income** among the self-employed. Additionally, **dependent self-employment** is a prevalent practice among highly skilled workers, particularly in certain industries such as IT&C, media and healthcare (Horodnic and Horodnic, 2024). These findings are reinforced by the experiences of the authorities participating in the TRW. The most common forms of undeclared work observed by these authorities are as follows: fully undeclared self-employment, under-declaring income by self-employed individuals, under-declared work by employees, bogus self-employment and, the least prevalent, unregistered employment (i.e., working without a contract).

Another form of infringement identified during the TRW was related to the **long working hours of those holding supervision, management or trust position** in Greece (their professional status ensures that they are exempted from working time regulations). Similar issues have been identified in Spain in relation to **long working hours** (no digital disconnection) amongst highly skilled workers, as well as the **lack of social security registration** and **bogus self-employment**, as displayed in Figure 4. Bogus/dependent self-employment has also been highlighted by social partners in Slovakia, providing evidence from a report by the Value for Money Division of the Slovak Ministry of Finance. This report[5] indicates that Slovakia has the highest percentage of self-employed individuals with a single client in the EU, estimating that there could currently be approximately 123,000 dependent self-employed persons, including highly skilled professionals in large IT companies, healthcare or even public institutions.

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[5] Available at: https://www.mfsr.sk/files/sk/financie/hodnota-za-peniaze/analyzy-uhp/fiktivni_zivnostnici_komentar-uhp_maj2024.pdf
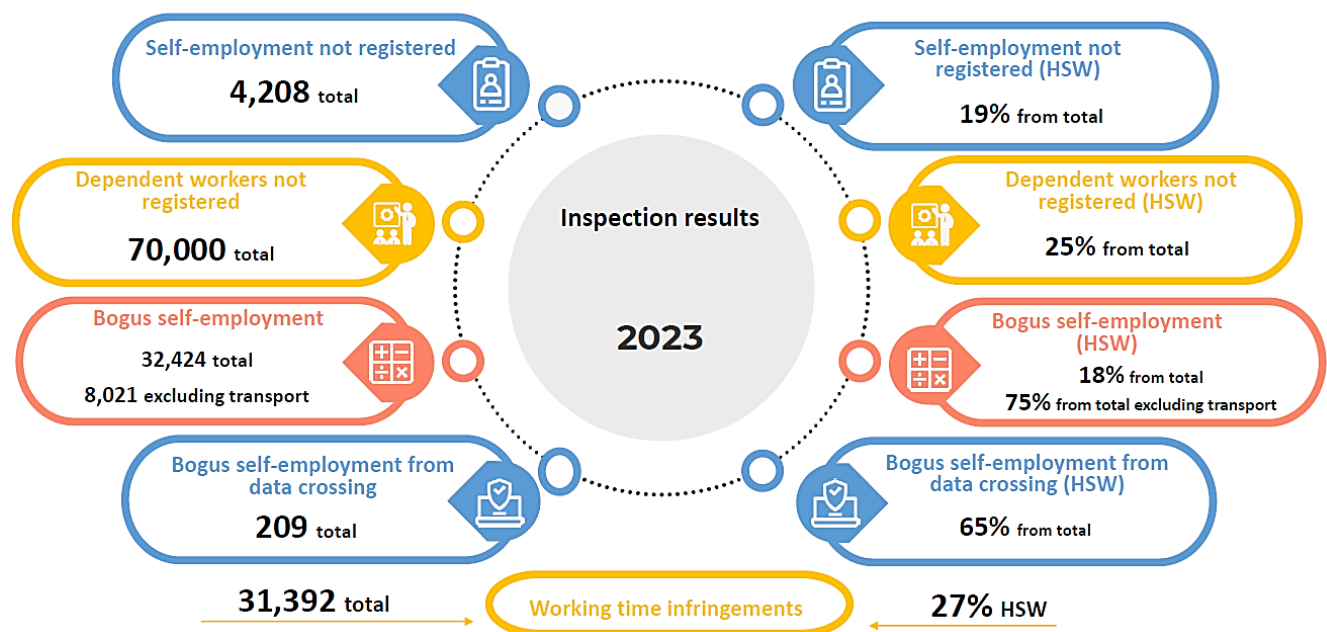
Figure 4. Infringements usually detected among highly skilled workers in Spain

Lack of social security registration	→	Bogus self employment	→	Long working hours. No digital disconnection	→
Neither as a self-employed nor as a dependent worker		Grey zone for reasons of technical independence in the performance of their work		Acceptance of such breaches as part of their professional status	

Source: based on the presentation by the Spanish Labour and Social Security Inspectorate at the Thematic Review Workshop on 18-19 June 2024

Figure 5 displays the results of the inspections conducted by the Spanish Labour and Social Security Inspectorate in 2023. The participation of highly skilled workers in undeclared work and other work-related infringements is significant. Highly skilled workers constitute 19 % of the total self-employed individuals who are not registered, 25 % of the dependent workers not registered (i.e. unregistered employment), and 27 % of those who are in breach of working time regulations. Notably, results from 2023, which cover all economic sectors except transport (with delivery platforms excluded), indicate that around 75 % of individuals engaged in bogus self-employment are highly skilled workers. Additionally, although the number of actions resulting from cross-checks is limited, the positive outcomes predominantly involve highly skilled workers, accounting for 65 % of total cases of bogus self-employment identified from data crossing.

Figure 5. The results of the inspections conducted by the Spanish Labour and Social Security Inspectorate in 2023

Self-employment not registered
4,208 total

Self-employment not registered (HSW)
19% from total

Dependent workers not registered
70,000 total

Dependent workers not registered (HSW)
25% from total

Bogus self-employment
32,424 total
8,021 excluding transport

Bogus self-employment (HSW)
18% from total
75% from total excluding transport

Inspection results

2023

Bogus self-employment from data crossing
209 total

Bogus self-employment from data crossing (HSW)
65% from total

31,392 total → Working time infringements ← **27%** HSW

Source: based on the presentation by the Spanish Labour and Social Security Inspectorate at the Thematic Review Workshop on 18-19 June 2024

2.3   Contributing factors and motives of undeclared work among highly skilled workers

There is limited information available to deeply understand the reasons why highly skilled workers engage in undeclared work or bogus self-employment and the contributing factors pushing them in undeclared activities. Nevertheless, the participants to the TRW identified monetary incentives as the main motivation for engaging in undeclared work by this segment of workers. Indeed, it has been highlighted that highly skilled workers have higher incomes compared to other groups of workers, resulting in higher taxation. Consequently, they have a greater motivation to find avenues for reducing their tax and contribution payments, such as through "tax optimisation". Monetary incentives can also be one of the main motives for which employers and workers prefer bogus self-employment instead of dependent workers. An illustrative example of a comparison between the tax and contribution obligations of employees and self-employed individuals in Slovakia is provided in Box 2.

> **Box 2. Comparison of the tax and contribution obligations of employees and self-employed individuals in Slovakia**
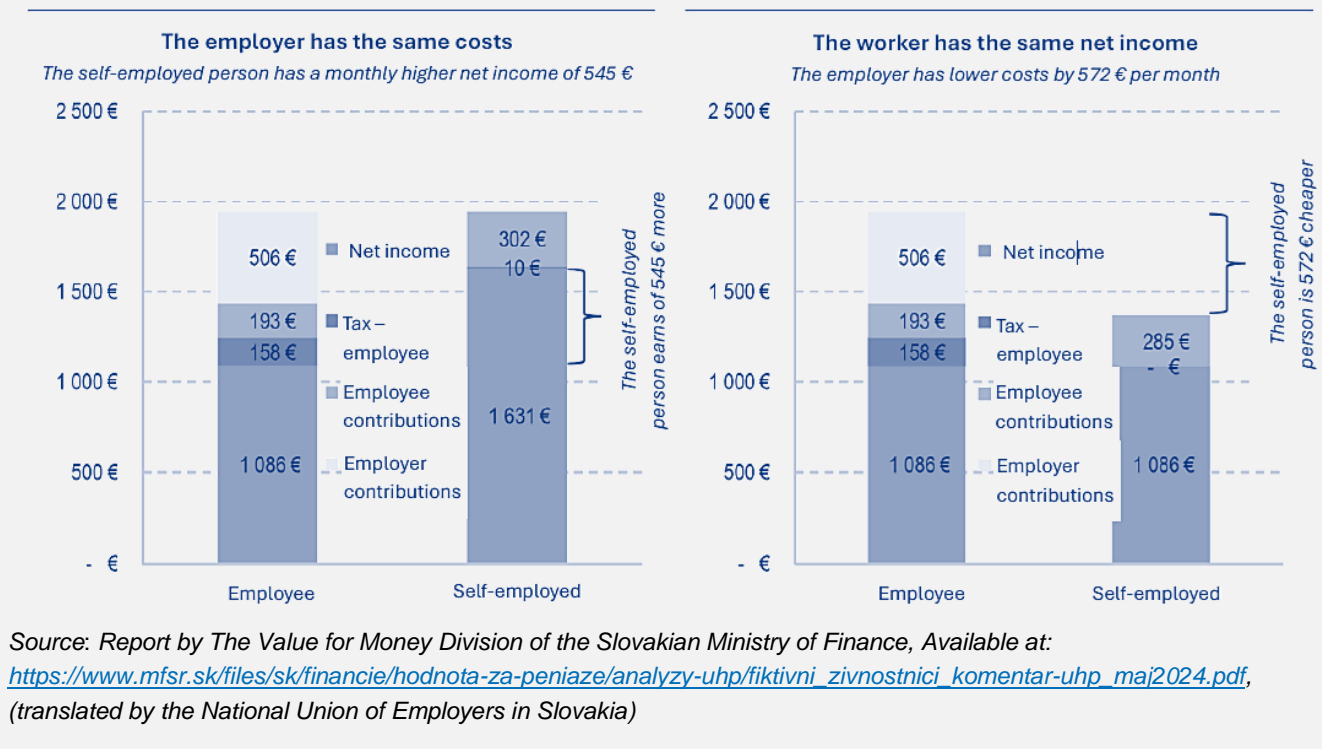>
> According to data from the Supreme Audit Office of the Slovak Republic, Slovakia has a high proportion of so-called bogus self-employed individuals in the labour market, as evidenced by data not only from Eurostat and the OECD, but also from the Social Insurance Institution. According to statistical data, the number of bogus self-employed individuals in Slovakia has increased over the last ten years from 84 000 to almost 110 000. Since bogus self-employed individuals pay six times less tax on the total cost of their work for the first year of their activity and 2.3 times less for subsequent years, the budget of the Social Insurance Institution of the State loses significant sources of revenue.[6] The proportion of the bogus self-employed individuals who are liable to pay social security contributions is 54.5% of the total number. On average, more than 159 thousand bogus self – employed individuals do not pay social contributions.[7]
>
> According to data from the National Union of Employers in Slovakia (from a report by The Value for Money Division of the Slovak Ministry of Finance), illustrated in Figure 6, with the same net income for both an employee and a bogus self-employed person, corresponding to the average wage, a bogus self-employed person costs the employer 6,864 euros less per year (572 euros per month). Self-employed individuals can reduce their tax base by claiming flat-rate expenses of up to 60 % of their revenues. After applying the non-taxable portion of their base, their income tax is zero, leaving only contributions to be paid. Furthermore, in the first year of self-employment, they do not pay any social contribution, making the cost difference between employees and self-employed individuals even larger on average. Consequently, this significant disparity may encourage both employers and employees to prefer self-employment over standard employment contracts.

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[6] Slovensko kraľuje rebríčku fiktívnych živnostníkov, bude to mať výrazne negatívny dopad na ich dôchodky - NKU - SR (gov.sk)

[7] (NE)SAMOSTATNE ZÁROBKOVO ČINNÉ OSOBY (gov.sk)

Figure 6. Comparison of the tax and contribution obligations of employees and self-employed individuals in Slovakia

Source: *Report by The Value for Money Division of the Slovakian Ministry of Finance, Available at:*
https://www.mfsr.sk/files/sk/financie/hodnota-za-peniaze/analyzy-uhp/fiktivni_zivnostnici_komentar-uhp_maj2024.pdf,
(translated by the National Union of Employers in Slovakia)

Other motivational factors identified by the participants in the TRW included dissatisfaction with public goods and services, lack of trust in public authorities, especially regarding future social protection benefits such as pensions. It emerged that highly skilled workers rely more on private pensions and investments than on public social benefits, display a desire for freedom on when and where to work, and show reluctance to deal with complex procedures or bureaucracy, particularly for side jobs. Additionally, it was highlighted that some specific groups may resort to undeclared work due to limited alternative opportunities. This is particularly true for individuals just starting their careers, such as doctors or IT professionals, who may feel compelled to accept envelope wages or engage in bogus self-employment. Similarly, in the arts and recreation industries securing declared work, especially in the form of permanent, full-time positions, is challenging.

In terms of contributing factors to the prevalence of undeclared work among highly skilled workers, certain factors specific to some sectors have been identified by one or several participants, such as:

▶ Education sector/ Tutoring – the use of word-of-mouth advertising and social networks makes it difficult to detect private tutoring;

▶ IT sector – conducting work online from private homes as well as cross-border nature of work in many instances makes detection challenging;

▶ Healthcare sector – undeclared work and informal payments are culturally accepted and perceived as a standard practice in some of the EU Member States;

▶ Law sector – in some cases trainees may represent clients in court without being registered as workers.

▶ Media sector - demand for highly skilled workers from this sector who have high bargaining power and often prefer self-employment or undeclared work over standard working contracts.

▶ Construction – a high use of self-employed as contractors instead of standard working contracts.

3.0 Challenges for tackling undeclared work among highly skilled workers

Participants shared experiences regarding the challenges enforcement authorities face in detecting and addressing undeclared work among highly skilled workers, including legal and regulatory barriers. They also explored how informal networks and societal norms contribute to the persistence of undeclared work within this group. The key points are summarised below:

▶ The majority of the participants found **more challenging** tackling undeclared work among highly skilled workers than for other categories of workers.

▶ Under-declared work and income, as well as dependent self-employment (commonly observed among highly skilled workers), present **greater challenges in detection and verification** compared to other forms of undeclared work, such as unregistered work.

▶ The *high heterogeneity* among highly skilled workers poses specific challenges. For instance, *IT&C freelance work* shares similarities with platform-based work, including difficulties in monitoring remote work, limited data on workers caused by the use of pseudonyms, the frequent cross-border nature of this type of work, the emergence of new types of platforms and work arrangements, and varying legal statuses of workers across different countries or jurisdictions. Many workers may not be aware of their obligations when engaging in undeclared work involuntary, and self-employed are at higher risk of under-declaring income. Social norms strongly influence the *education* and *healthcare* sectors. *Large consultancy firms* might sometimes obstruct investigations, necessitating that enforcement authorities seek assistance from law enforcement and technical experts to access companies` computer systems. *Media and law firms* also encounter issues with false volunteering, internships, and training claims.

▶ **Telework is much more common** among highly skilled workers, and authorities have restrictions in checking private residences, making it difficult to find evidence of non-compliance or undeclared work. Additionally, the tax liabilities for teleworkers and cross-border workers are complex due to the diversity of national laws and international treaties. Cooperation between different EU Member States is required for specific situations where cross-border work is involved which pose **difficulties in assessing workers' fiscal residence of**. Similarly, there is **limited access to information**, especially among labour inspectorates, to enable a better paper trail and money tracking *(i.e.* for assessing the real income of highly skilled workers, their fiscal residence, etc.).

▶ Issues with **privacy data** and **GDPR** complicate the exchange of information between authorities, making it challenging to find evidence of undeclared work among highly skilled workers. As such, finding a balance between privacy and compliance is necessary.

▶ **The emergence of new income sources, such as content creation** on digital platforms (e.g. YouTube), presents challenges for authorities and makes it difficult to identify who has performed the work and for

whom. Influencers frequently receive income in non-traditional forms (e.g. gifts) and may be unaware of their tax obligations.

▶ EU regulations require digital platforms to disclose earnings information, but this requirement does not extend to non-EU platforms. Indeed, the Council of the European Union has formally adopted directives imposing reporting obligations on both platforms[8], referred to as 'DAC-7,' intended to increase tax transparency and tackle tax evasion and avoidance in the digital economy and 'CESOP'[9], and on platform workers[10]. . For example, Article 17 of Proposal for the DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on improving working conditions in platform work states that "Member States shall ensure that digital labour platforms make the following information available to competent authorities, as well as to representatives of persons performing platform work:: (a) the number of persons performing platform work through the digital labour platform concerned on a regular basis and their contractual or employment status; (b) the general terms and conditions, determined by the digital labour platform and applicable to those contractual relationships; (c) the average duration of activity, the average weekly number of hours worked per person and the average income from activity of persons performing platform work on a regular basis through the digital labour platform concerned; (d) the intermediaries the digital labour platform has a contractual relationship with; and on work performed by persons performing platform work and their employment status to competent national authorities. ".

▶ The **social media groups and informal networks** pose additional challenges in detection of undeclared work of highly skilled workers.

▶ **Lower willingness of highly skilled workers to cooperate** with enforcement authorities.

▶ **Lower number of complaints** from this category of workers.

▶ The workers possess **strong skills and knowledge for concealing their undeclared work**.

▶ The **lack of collaboration between the enforcement authorities and professional associations** (e.g., for doctors, lawyers, accountants) for fostering a culture of compliance. Indeed, a poll question during the TRW revealed that 80 % of authorities represented by participants lacked a joint action plan or data exchange scheme with other authorities or professional associations specifically dedicated to tackling undeclared work among highly skilled workers.

▶ Highly skilled workers commonly operate as **self-employed or entrepreneurs and are typically not affiliated with trade unions**. Additionally, **bogus self-employment** is frequently utilised among highly skilled workers, using various methods to circumvent formal employer-employee contractual agreements. For example, in Finland, natural persons (workers not officially registered as self-employed) often use billing companies. However, this practice can potentially obscure the fact that these individuals should actually be under an employment contract with the company they work for.

▶ **There are cases where highly skilled workers prefer self-employment over standard employment contracts** to avoid dependence on a single employer. As mentioned earlier, in Portugal, there is a high

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[8] Council Directive (EU) 2021/514 of 22 March 2021 amending Directive 2011/16/EU on administrative cooperation in the field of taxation, available at: https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32021L0514
[9] Council Directive (EU) 2020/284 of 18 February 2020 amending Directive 2006/112/EC as regards introducing certain requirements for payment service providers, available at: https://eur-lex.europa.eu/eli/dir/2020/284/oj
[10] https://www.consilium.europa.eu/en/press/press-releases/2024/03/11/platform-workers-council-confirms-agreement-on-new-rules-to-improve-their-working-conditions/

demand for highly skilled workers in the media sector, granting them substantial bargaining power in choosing their employment arrangements. The National Union of Employers in Slovakia also pointed out a similar issue. A survey among its members revealed that workers sometimes only accept roles as self-employed individuals (i.e. in the energy and electronics sectors) due to a shortage of qualified workforce. Members of The Entrepreneurs Association of Slovakia also face the same issue, particularly with CNC operators, electricians, maintenance workers, and locksmiths, where workers are opting for self-employment over traditional employer-employee relationships. This trend is particularly prominent among younger candidates, and it is motivated by significant differences in taxation and social contributions between self-employment and traditional employment, especially in the first year of work when social contributions are not required for self-employed individuals.

The Finnish Tax Administration offered an in-depth analysis of the challenges associated with addressing undeclared work among highly skilled workers in the platform economy (Box 3).

Box 3. Challenges with undeclared work among skilled platform economy workers in Finland

The Finnish Tax Administration has extensive rights to obtain information, and third parties may be obliged to report or provide information. Employers have obligations related to employee income tax, including providing detailed information about wages and salaries to the Income Register within five days of payment, and withholding and remitting taxes to the Tax Administration. A key challenge with highly skilled workers is that they often operate as entrepreneurs, impacting the obligations of all parties involved. These obligations include withholding tax, registration, and reporting requirements. When work is performed by an entrepreneur or self-employed person who is registered in the preliminary tax withholding register, the client's obligations are more limited. Consequently, this increases the risk of underdeclared income.

Tax liability is determined by national law, but international circumstances and tax treaties influence when Finland has the right to tax income, as well as the obligation of parties to report it to Finnish authorities. Key questions to consider include:

- ▶ Who performed the work?

- ▶ What type of work was done?

- ▶ For whom was the work performed?

- ▶ Where and for how long was the work conducted?

- ▶ Under what type of contract was the work carried out?

Because there are many factors influencing parties' obligations, responsibilities, and rights, there is a constant risk of accidental non-declaration. Even highly skilled professionals may remain unaware of their tax obligations. However, intentional exploitation of tax system vulnerabilities can also be used to conceal income and evade taxes. In addition, the advancement of technology has enabled teleworking from anywhere in the world, posing challenges for enforcement authorities in verifying the location of work. This makes it difficult to determine tax liability to Finland and impacts employers' obligations to report income when employees telework from abroad. Highly skilled workers, seeking flexibility in their work arrangements, further complicate matters by choosing where and when to work, making it challenging for employers to meet their obligations. Moreover, the possibility of cross-border employment arrangements adds complexity, potentially shifting responsibilities between countries. For example, influencers may not perceive their earnings as income, viewing them instead

as gifts or complimentary access to ticketed events. Alternatively, they might be unaware of their obligation to report this income and handle deductions themselves. In 2021, an estimated 70 % of income related to content production went unreported. As such, the Finnish Tax Administration boosted efforts to monitor income earned *via* platforms in 2023, and this was publicised in the press[11].

Box 3 is based on the presentation by the Finnish Tax Administration at the Thematic Review Workshop on 18-19 June 2024.

4.0 Policies approaches for tackling undeclared work among highly skilled workers

During the TRW, participants shared experiences on policy measures to address undeclared work among highly skilled workers. They also discussed potential practical solutions for improving detection and tackling undeclared work, as detailed in the following sections.

4.1 Good practices identified during the thematic review workshop

Despite the challenges involved, certain EU Member States have implemented specific measures to address undeclared work among highly skilled workers.

Two of these measures are related to **addressing the misclassification of workers**, namely: addressing misclassification of workers as holding supervisory, managerial, or trust positions in companies to circumvent working time directives in Greece (Box 4) and establishing specialised team of labour inspectors to combat bogus self-employment in the media sector in Portugal (Box 5).

Box 4. Measures to tackle under-declared overtime work by workers misclassified as holding supervisory, managerial, or trust positions in Greece

In Greece, a significant issue refers to the misclassification of highly skilled workers who are incorrectly categorised as holding supervisory, managerial, or trust positions. This misclassification results in these workers being exempted from their rightful working time rights. The problem stems from a lack of specific criteria in the previous legal framework, which made it difficult for inspectors to accurately assess whether these workers should indeed be classified as employees in supervisory roles, as defined by Article 2 of the Hours of Work (Industry) Convention, 1919 (No. 1)[12]. Such instances of misclassification have been observed in various sectors such as banking, insurance, and retail (including supermarkets), where individuals who are assigned titles like assistant manager undertake duties such as store opening and closing, handling merchandise, and performing regular staff duties as needed. Despite these responsibilities, courts have often found that these employees do not meet the criteria for genuine managerial roles and thus should not be exempt from standard labour

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[11] Finnish YouTuber faces charges over €80k in unpaid taxes, https://yle.fi/a/74-20082947
[12] Hours of Work (Industry) Convention, 1919 (No. 1), available at:
https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C001

protections. For instance, a case involved a bank employee titled as "manager" despite earning a monthly salary of only 1,500 Euros, further illustrating the disconnection between job titles and actual job responsibilities under the legal framework.

The provisions of the Hours of Work (Industry) Convention, 1919 (No. 1) do not apply to individuals in supervisory, managerial, or trusted positions. While these individuals remain classified as employees, they are exempt from certain labour law provisions such as:
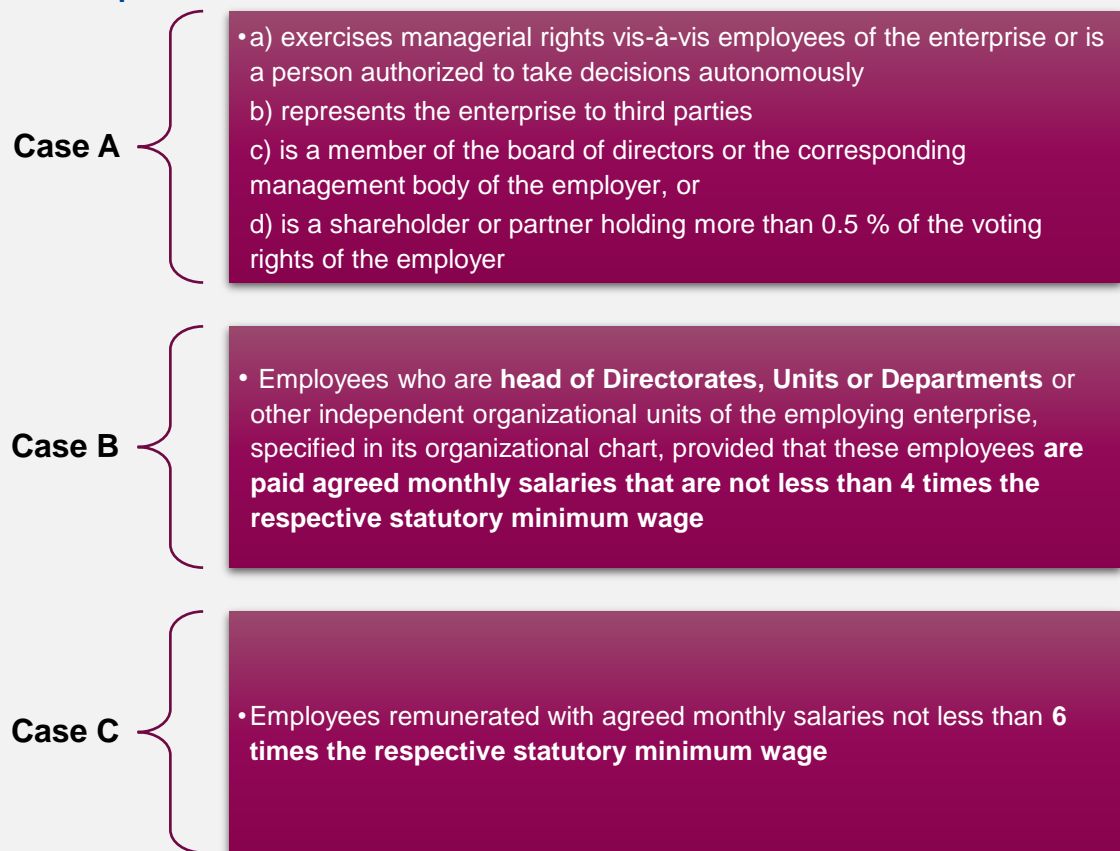
- ▶ Limits on working hours

- ▶ 8-hour workday regulations

- ▶ Weekly rest periods

- ▶ Compensation or additional pay for overtime, work on Sundays and holidays, night work, or work away from home

In court cases, the rationale behind decisions often revolves around the definition of a managerial position. "The concept of a managerial position, whether or not the employee has the title of holder of the managerial position, is determined on the basis of the objective criteria of good faith and experience and reasonableness by the nature and kind of the services provided. These services are considered as a whole and by the specific relationship of the person providing them both to the employer and to the other employees". As such, different legal statuses apply to employees with managerial duties compared to individuals holding managerial positions.

Building on this rationale, a new legal framework for managerial workers have been introduced in Greece. According to MD No. 90972/15.11.2021 (B' 5393), employers are required to register certain relevant data in the ERGANI database. As such, the employer is obliged to:

- ▶ Fill in a digital form indicating whether the worker holds a supervisory, management, or trust position (YES/NO). The form should be submitted either before the commencement of work or promptly after the worker acquires a supervisory, management, or trust position under their current contract. In case of any changes, a new declaration must be submitted accordingly.

- ▶ If YES, then specify under which criteria the worker falls under the above definition by selecting A, B, or C case. If the same individual meets multiple criteria in cases A, B, and C, this information should be noted in their employment contract. However, when submitting the relevant details to the "ERGANI" database, only one criterion must be selected.

Figure 7. Options in the ERGANI registration form for the workers holding a supervisory, management, or trust position

Case A
- a) exercises managerial rights vis-à-vis employees of the enterprise or is a person authorized to take decisions autonomously
  b) represents the enterprise to third parties
  c) is a member of the board of directors or the corresponding management body of the employer, or
  d) is a shareholder or partner holding more than 0.5 % of the voting rights of the employer

Case B
- Employees who are **head of Directorates, Units or Departments** or other independent organizational units of the employing enterprise, specified in its organizational chart, provided that these employees **are paid agreed monthly salaries that are not less than 4 times the respective statutory minimum wage**

Case C
- Employees remunerated with agreed monthly salaries not less than **6 times the respective statutory minimum wage**

When determining the agreed monthly remuneration under cases B and C, the calculation includes the explicitly agreed monthly salary along with any additional amounts or benefits when calculating the termination compensation for the employment contract.

Based on this form, during audits, labour inspectors can verify whether employees meet the conditions outlined in the Hours of Work (Industry) Convention, 1919 (No. 1). As such, the new regulation gives labour inspectors a tool to reduce under-declared work (e.g., unpaid overtime) that arises from the misclassification of highly skilled workers who are incorrectly designated as holding supervisor, managerial, or trust positions.

Source: based on the presentation by the Hellenic Labour Inspectorate at the Thematic Review Workshop on 18-19 June 2024

Box 5. The establishment of a specialised team of labour inspectors to combat bogus self-employment in the media sector in Portugal

In Portugal, there is a high demand for highly skilled workers in the media sector, who often prefer (dependent) self-employment or undeclared work over standard employment contracts. Since 2015, a specialised team within the Authority for Working Conditions in Portugal has been dedicated to addressing undeclared work, initially concentrating on the media sector. This team tackles all forms of undeclared work, as follows:

- ▶ Unregistered employment

- ▶ Concealment of employment contracts (false situations of volunteering, internships, training, self-employment, provision of services)

- ▶ Under-declaration of remuneration

- ▶ Irregular assignment of workers

The main tasks of the team tackling undeclared work include:

- ▶ Plan and coordinate inspection

- ▶ Carry out inspection visits and participate in inspection actions with other entities

- ▶ Cooperate with other services and entities with inspection powers or criminal investigation powers

- ▶ Design methodologies, tools, and other support documents

- ▶ Investigate complaints or reports

- ▶ Promote cooperation with public or private entities that have relevant information

Two main methodologies are used by the specialised team, namely: actions implemented at the initiative of the authority and reactive actions (i.e. investigating complaints from workers).

An action implemented at the initiative of the authority in 2023 referred to notification to verify the regularity of the employment relationship sent to all sectors. As such, the Authority for Working Conditions has notified 9,699 enterprises to regularise the employment relationship of economically dependent self-employed workers, including 434 companies in the media sector. The procedure and the applied sanction are presented in the Figure 8 below. Inspectors used a questionnaire that enable to identify who is the employer. Based on their findings, fines have been imposed for violations of Article 12 of the Labor Code. In 2022, 25 % of these fines were issued to companies in the media sector. In 2023, a new provision (Article 12A) was added to the Labour Code, focusing on electronic platforms. Consequently, the highest number of fines in 2023 (70 % of a total of 1,194) were issued to companies using electronic platforms.

Figure 8. Procedure for regularising the employment relationship of economically dependent self-employed workers in Portugal
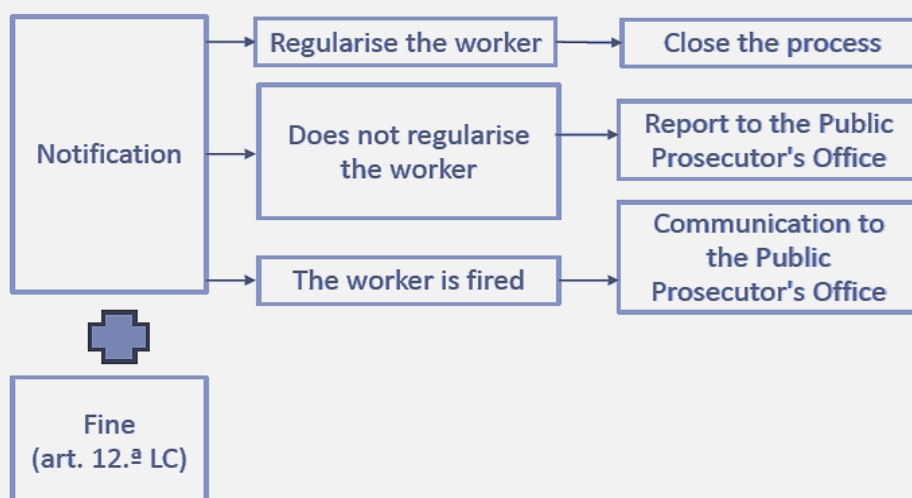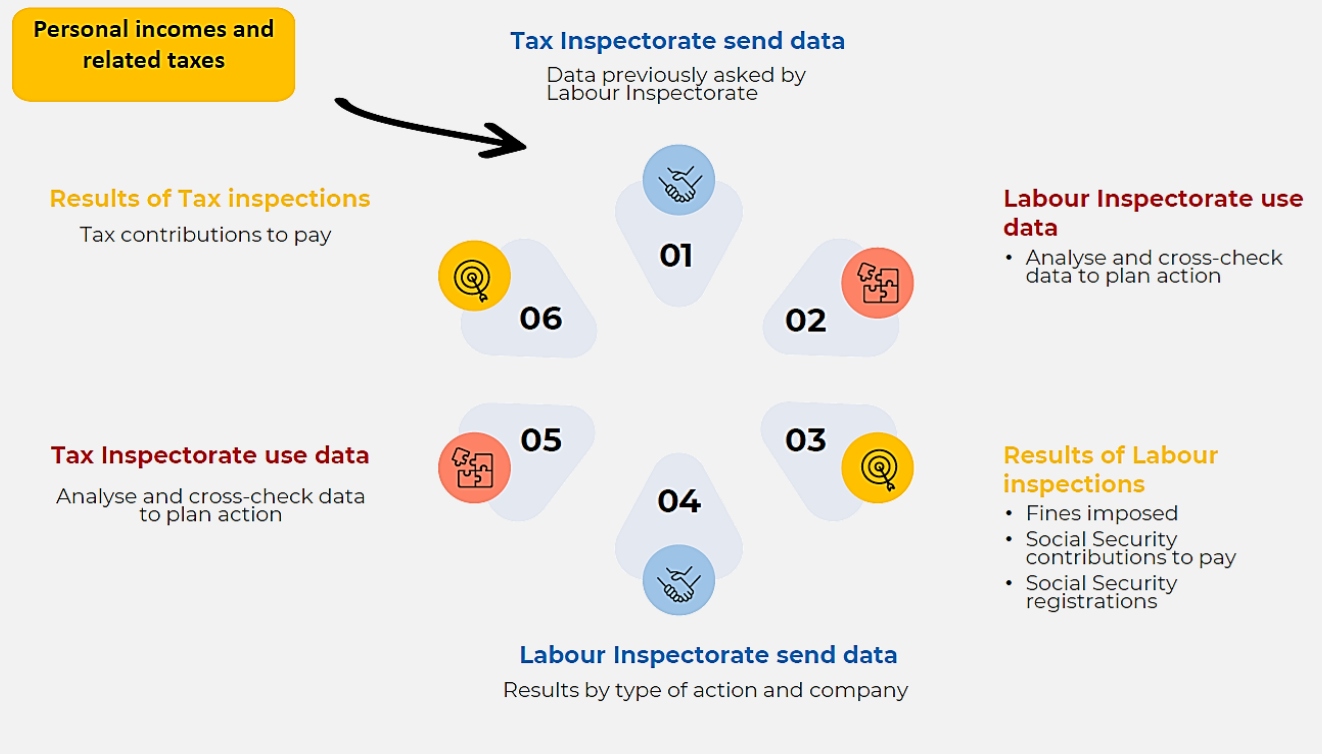
Another good practice identified during the TRW is the facilitation of data exchange between authorities, exemplified by the cyclical approach in Spain, as detailed in Box 6.

Box 6. Data exchange between the Labour and Social Security Inspectorate and Tax Administration in Spain

Since 2011, there has been a significant improvement in data exchange and coordination between the Labour and Social Security Inspectorate and the Tax Administration, which has been continuously refined to its current state. As depicted in Figure 9, the Labour and Social Security Inspectorate initiates by requesting essential data from the Tax Authority. Upon receiving the data, it undergoes cross-checking with their own records and is utilised for strategic inspection planning. Companies and self-employed identified as high-risk during these checks are inspected, and corresponding measures are imposed on them (e.g., fines, payments toward social security contributions or registration). Subsequently, this data is transmitted to the Tax Authority, which uses it for further verification (e.g., ensuring compliance with imposed measures) and to plan actions aimed at enforcing the payment of tax contributions.

Between 2013 and 2023, a substantial volume of records on data exchange between the two institutions was documented, with no less than 66,149 companies audited by both institutions. Over the last decade, the number of candidates for inspection has increased by 57 %, and the declared salary amounts have risen by 92 %, as indicated in Table 2.

Figure 9. The cycle process of data exchange and cooperation between the Labour and Social Security Inspectorate and Tax Administration

Personal incomes and related taxes

Tax Inspectorate send data
Data previously asked by Labour Inspectorate

01

Labour Inspectorate use data
• Analyse and cross-check data to plan action

02

Results of Tax inspections
Tax contributions to pay

06

03

Results of Labour inspections
• Fines imposed
• Social Security contributions to pay
• Social Security registrations

Tax Inspectorate use data
Analyse and cross-check data to plan action

05

04

Labour Inspectorate send data
Results by type of action and company

Source: based on the presentation by the Spanish Tax Administration at the Thematic Review Workshop on 18-19 June 2024

Table 2. Information exchange between 2013 and 2023: from Tax Administration to Labour and Social Security Inspectorate

Year	Number of Records	Number of companies	Workers affected	Full payment of money
2013	159,165	59,921	114,202	6,287,260,994 €
2022	222,545	93,890	151,598	12,099,870,325 €
Total	2,068,503	836,907	1,431,422	
▲ %	40%	57%	33%	92%

Source: based on the presentation by the Spanish Tax Administration at the Thematic Review Workshop on 18-19 June 2024

However, in Spain, there is a relatively low number of highly skilled workers compared to other European countries. However, their participation in undeclared work and other related worker infringements should not be overlooked, as highlighted in Figure 5. Despite the limited number of actions resulting from cross-checks, the positive outcomes of the Labour and Social Security Inspectorate primarily involve highly skilled workers, constituting 65 % of the total cases of bogus self-employment identified through data matching.

In summary, the collaboration between the two authorities yields very positive outcomes not only for highly skilled workers but also across all sectors and types of workers. This cyclical approach can be replicated in other EU Member States.

* Box 6 is based on the presentation by the Spanish Labour and Social Security Inspectorate and the Spanish Tax Administration at the Thematic Review Workshop on 18-19 June 2024.

In addition, an illustrative example of using public data to identify potential dependent self-employment among IT&C workers comes from a Slovak case study, which showcases the importance of fully utilising the available data to improve detection. According to information from the Slovak National Union of Employers, labour and tax inspectors could uncover the use of dependent self-employed individuals by utilising data from job offers (job portals), financial statements, and other public sources. Financial statements can be used to identify potential dependent self-employed individuals. Cases may raise suspicion during risk analysis if the ratio of personal expenses to company revenues is notably lower than the sector average. This is because self-employed fees are typically classified as service expenses in corporate accounting. By analysing the top 30 IT companies in Slovakia, it becomes possible to detect potential fictitious entrepreneurs (highlighted in dark blue in Figure 10) based on the disparity between personal expenses and services expenses. Such analysis can be easily applied to other industries and EU Member States. In addition, according to a study by the Slovak Supreme Audit Office, digital tools could help to identify bogus self-employed individuals. By connecting the information systems of the Slovak Financial Administration, the Social Insurance Institution, and health insurance companies, data on employees who have switched to bogus self-employment without any change in their income could be identified[13].

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[13]
https://www.nku.gov.sk/documents/33855/34228/%28Ne%29samostatne%20z%C3%A1robkovo%20%C4%8Dinn%C3%A9%20osoby.pdf/283c5cc7-80fc-c823-30e4-7b5cea9507a2 (p1)

Figure 10. Analysis of personnel expenses versus services expenses from the public financial statements in top 30 IT companies in Slovakia
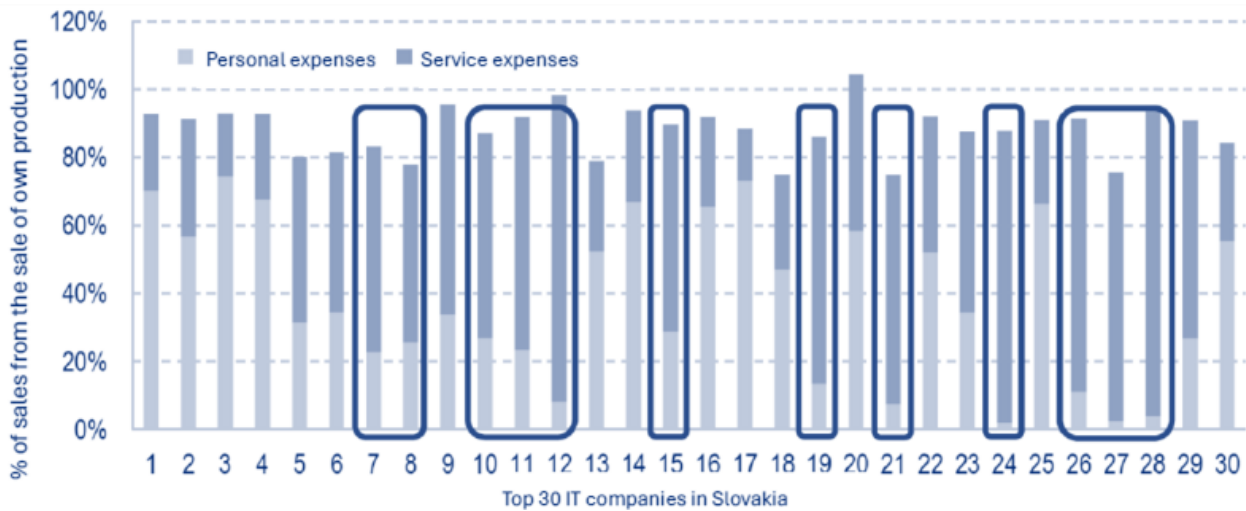
Source: Report by The Value for Money unit of the Slovakian Ministry of Finance, available at:
https://www.mfsr.sk/files/sk/financie/hodnota-za-peniaze/analyzy-uhp/fiktivni_zivnostnici_komentar-uhp_maj2024.pdf
(translated by the National Union of Employers in Slovakia)

Finally, combined measures aimed at increasing awareness and providing guidelines for declaring income from tutoring, as well as improving deterrence by implementing procedures to prevent undeclared work and conflicts of interest in the education system have been identified in Romania (Box 7).

Box 7. Guidelines for declaring income from tutoring and procedures to prevent undeclared work and conflicts of interest in the education system in Romania

Undeclared tutoring was rather common in Romania, with a recent study revealing that one in three children received paid private tutoring during the 2019-2020 school year, typically through informal payment arrangements and seldom with formal contracts or tax receipts (Pup, 2021).

Authorities were aware of this phenomenon and have started implementing policies targeting teachers. For instance, in 2022, the National Agency for Fiscal Administration (ANAF) launched an information campaign and offered guidance on declaring tutoring income[14]. As a result of these activities, both the number of teachers declaring their income and the average income declared by each teacher increased in 2022 compared to 2020. Efforts to support the transition of private paid tutoring to the declared economy were further strengthened in 2023 and 2024. For example, in 2023, ANAF developed a dedicated guide for tutoring titled "Guide on the tax

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[14] Fiscal obligations regarding Iincome obtained from private tutoring by natural persons (in Romanian), available at:
https://static.anaf.ro/static/10/Iasi/material_informativ_21-06-2022.pdf

treatment applicable to income obtained from private tutoring provided privately by natural persons"[15], and in 2024, they offered an online seminar[16] on how to declare income from tutoring.

In addition, a new procedure to prevent undeclared work and conflicts of interest in the education system has been implemented in 2024. Order No. 3051 adopted in January 2024 by the Ministry of Education requires the pre-university teachers to complete and submit a declaration of interest by 31st of December of each year. This declaration states that they do not provide private tutoring to children from their own classes (prohibited by this order) and includes the names and surnames of those they tutor in that academic year. The declaration is subject to penalties under the Penal Code for false statements. False declaration can result in warning, wage reduction or even dismissal. The responsible entities for ensuring the completion of the declaration of interest by the teachers are each of the county school inspectorates and the Bucharest municipality school inspectorate. The directors of pre-university schools are required to ensure that teaching staff under their supervision submit their declarations of interest to the designated person responsible for handling such declarations. The school principal is obligated to publish the declarations of interest on the school's website. Personal data must be anonymised, except for the teacher's name and surname.

Therefore, this order provided a tool for compliance and monitoring by ANAF, which can verify the public data from the schools' websites and gain an overview of the undeclared private tutoring phenomenon.

Box 6 is based on the presentation by the Romanian National Agency for Fiscal Administration (ANAF) at the Thematic Review Workshop on 18-19 June 2024.

4.2   Key lessons learned and practical suggestions

In terms of measures for improving detection and tackling undeclared work amongst highly skilled workers, participants first highlighted the need to improve **data mining and data exchange between authorities (national and cross-national).** The case study on Slovakia detailed above highlights the importance of **data mining** public sources—such as job offers, financial statements, and other information—to identify potential dependent self-employment among IT&C workers, demonstrating how analysing discrepancies between personal and service expenses can uncover bogus self-employed**.**

Moving to the **data exchange between authorities**, the TRW revealed reduced collaboration regarding undeclared work among highly skilled workers and general concerns about not violating GDPR regulations when sharing information with other authorities. In this respect, the example of Norway, which developed the 'National Guidelines for Information Sharing Between Enforcement Agencies, Police, and Private Entities to Combat Criminality,' could be taken into consideration as an example of a good practice by EU Member States. The main aim of the Norwegian initiative was to clear up uncertainties about data protection regulations, which could otherwise hinder effective collaboration between different agencies in preventing and combating labour market crime. This guide is designed as a practical tool for caseworkers who deal with confidentiality and information sharing daily. It explains what information one agency can share and what it can expect to receive from other enforcement agencies.

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[15] Guide on the tax treatment applicable to income obtained from private tutoring provided privately by natural persons (in Romanian), available at: https://static.anaf.ro/static/10/Anaf/AsistentaContribuabili_r/Ghid_meditatii_2023.pdf

[16] List of web seminars by ANAF, https://static.anaf.ro/static/10/Anaf/Informatii_R/intalniri.htm

Other **practical suggestions** formulated by the TRW participants to more effectively tackle undeclared work among highly skilled workers include:

- ▶ **Targeted actions** for this category of workers (i.e. joint actions between agencies, information campaigns, notification letters). Ranking the riskiest professions in terms of engagement in undeclared work is essential, as this group of workers is highly heterogeneous and requires different approaches.

- ▶ **Collaboration with professional associations** such as accountants, architects, lawyers. This could include initiatives such as the "train-the-trainers" programme by the Labour Inspectorate in Cyprus, targeting certified accountants with events designed to update their knowledge of current labour legislation. The trainees will then act as trainers, spreading the message to their clients and employees, which will lower the costs for the Labour Inspectorate in achieving its educational and awareness-raising goals. TRW participants also highlighted the need for joint initiatives with professional associations to foster a compliance culture and leverage these associations' influence to standardise compliance practices and educate their members on the importance of declared work.

- ▶ Improving **cooperation with other private companies**, such as banks, to enable a clearer view of individuals' actual income.

- ▶ **Involving social partners** to collect information about the situation of highly skilled workers who generally have a low unionisation rate

- ▶ Develop and promote **campaigns** that highlight the benefits of compliance for employers, employees and self-employed. Similarly, awareness campaigns about declaring income are crucial, as people can be highly skilled in their line of work, but they may still be unaware of their tax-related obligations and responsibilities. Developing financial literacy is crucial, especially concerning contributions to pension systems (such as those paid by the self-employed), and more importantly, with regard to supplementary pensions.

- ▶ Actions to **promote Code of Conducts/Ethics** in large companies among different professions. For instance, in Poland, trainees in different sectors were previously allowed to work without receiving a salary. However, after incorporating a provision in the Code of Ethics requiring them to be paid, they now receive compensation for their work.

- ▶ Focus on **building relationships** with small companies and self-employed **to foster a culture of compliance**. Measures acknowledging employers and self-employed' efforts adopting codes of conduct or promoting culture of compliance and measures to provide incentives to ensure continued compliance could be considered.

- ▶ **Reduce the discrepancies in taxation and social contributions that are owed by** self-employed and employees.

- ▶ Adapting to the changing world of labour (i.e. freelancers, platform work, digital nomads, influencers). The **collaboration and mutual learning among EU Member States** to address undeclared work among highly skilled workers is essential. Data exchange between member states regarding the taxation of platform work is expected to improve based on the DAC-7 Directive[17], which addresses due diligence and reporting obligations for digital platform operators across EU Member States.

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[17] Council Directive (EU) 2021/514 of 22 March 2021 amending Directive 2011/16/EU on administrative cooperation in the field of taxation, available at: https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32021L0514

- ► Considering the use of computer forensics to improve the assessment of working time and digital disconnection for workers.

In addition, the information provided by the social partners stressed the importance of:

- ► Strengthening labour inspectorate capabilities, raising awareness about dependent self-employment especially among employers who may unknowingly violate the Labour Code by using dependent self-employed workers, and tackling motivations for circumventing the Labour Code (i.e., easier to obtain business permits than work permits, leading to "employing" self-employed foreigners) (Value for Money unit);

- ► Reducing the tax and contribution burden on employees to narrow the gap compared to self-employed individuals, considering a transitional period of at least two years to fill regular job positions through relationships with self-employed persons, possibly targeting specific shortage professions, and enhancing flexibility in employment options (the National Union of Employers from Slovakia).

By focusing on highly skilled workers, the TRW enhanced participants' ability to identify, address, and ultimately tackle undeclared work among this group of workers.

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