

Undeclared work in construction

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European Platform Undeclared Work



Introduction

- Construction always figures in most member states on top of the list of sectors characterised by informal work
- Little sectoral information or research on size and structure of undeclared work is available
- No uniform legal definition. Every authority defines according to different legislative or conventional rules (labour market, tax, social security trade licensing & registration, etc.).
- Proxy evidence of a wide variety of used arrangements and the impact on the industry can be found in the enforcement experiences of social partners and the labour inspectorate





Working method

- Desktop research; analyses of earlier European and national overall studies
- Assessment of existing multidisciplinary studies on construction specific findings
- Examination of available research and country reports based on a variety of methods used
- Surveys and other relevant analytic data
- Examination of the findings and evaluation





Findings about size and nature

Three features:

- work carried out by workers (and self-employed) next to a regular job/pay with payment cash-in-hand
- bogus practices with unregistered self-employment (both national and foreign)
- dubious agencies/traffickers supplying cheap illegal labour; undeclared/non-registered work increased after introduction of the internal market





A qualitative view

- Regular work besides undeclared labour/moonlighting
- Underreporting by employers and/or workers
- Partly substitution in this segment of the undeclared market with cheaper foreign undeclared moonlighting
- Questionable self-employment
- Unemployed and other social benefit users not prominently represented
- Undeclared is spread over nationals and foreign workers





A common frame missing

- The European social partners in construction tend to look at it from a broad perspective: undeclared work arises from non-compliance with legal and conventional regulations in the field of taxation, social security, labour law and working conditions
- The reference is *Lex loci laboris* or the competence in the territory where the work is performed
- The need for a more uniform definition of the employment status and of self-employment
- To avoid competition between Member States in the social field
- Adequate implementation of labour law and social security rules from a transnational perspective





Concluding remarks 1

- Measures taken have only a minor effect as long as the target group does not correspond to the main actors in undeclared work in construction
- Different categories ask for different treatment and different measures
- The accumulation of breaches forces to concerted action and mixed strategies





Concluding remarks 2

- Differences between the absence of rules and the non-compliance with rules, notably between coverage and compliance can no longer be solved within the national territory; an effective policy goes beyond national boundaries
- Improvement in overall cooperation and coordination (between authorities involved) to ensure compliance with legal provisions





Concluding remarks 3

- The relationship between different actors (customers, employers, workers, institutions for labour supply, public authorities) must be integrated in a regulatory framework that determines the obligations of all actors
- This implies liability in the chain of subcontracting, control over the hiring in and out and the work of agencies, monitoring the influx of workers





Policy options





Basic questions

- What is the regulatory frame?
- Who is in charge?
- Which areas have to be tackled?
- Are the instruments adequate?
- Is it possible to trace and explore best practices?
- How to fine-tune the different levels of action?





The EU and national legislator

- Reflect on the (fragmentation of the) competence of enforcement authorities
- If the competence is dispersed, completion is necessary
- Promotion of concerted actions / targeted campaigns
- Local action has to be imbedded in a coherent European and national frame
- The EU has to pay attention to possible inconsistencies between different policy areas
- Reflect on the introduction of sanctioning with a transnational effect





The social partners

- Enforcement is a joint responsibility; in fact it should be an integral part of the bargaining agenda
- The image of the industry is at stake and asks for continuous promotional campaigns
- Develop cross-border contacts and table the issue of undeclared work in meetings
- Elaborate frequent exchange with other actors (labour inspectorate, tax and social security authorities)

