



International
Labour
Organization

Policy Brief Series

No.3 | October 2017

**Strengthening labour inspection
in combatting undeclared work.
ILO recommendations and the Greek case**



Project
funded by the
EUROPEAN UNION

Introduction

The drafting of this policy brief, stems from Output 1.5.1. of the ILO project “Supporting the transition from informal to formal economy and addressing undeclared work in Greece: identifying drivers and ensuring effective compliance”. The Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)¹, establishes the importance of “an adequate and appropriate system of inspection, extend coverage of labour inspection to all workplaces in the informal economy in order to protect workers, and provide guidance for enforcement bodies”.² In this view, this policy brief outlines the main recommendations set by the ILO for effective labour inspection to tackle undeclared work, followed by a description of the Greek Government’s strategy in this area.

ILO recommendations for effective labour inspection approaches to tackle undeclared work

A. Necessary conditions for effective labour inspection

- 1) Member States should undertake a proper assessment and diagnostic of factors, characteristics, causes and circumstances of informality in the national context to inform the design and implementation of laws and regulations, policies and other measures aiming to facilitate the transition to the formal economy.³
- 2) Social dialogue should be considered as a cross-cutting policy driver, embedded in all strategies and actions.
- 3) A comprehensive legal labour framework is required, this implying: (i) a clear definition of undeclared work (whether in law or/and at an administrative level),

where all expressions of the phenomenon are contemplated, and distinguished from different related concepts such as illegality, informality and labour and social fraud; (ii) a straight-forward drafting of the legislation, resulting in legislation easy to comply with, and to enforce by authorities; and (iii) with the powers of enforcement authorities being clearly stated. Up-to-date international labour standards play a key role for the improvement of administrative structures such as labour administration and labour inspection.⁴

4) An effective deterrence system should exist in line with a solid cooperation with the judiciary, reinforced by the following strategic guidelines: (i) effective and dissuasive sanctions to deter undeclared work (sanctions proportional to the infraction and summary enforcement procedures); and (ii) establishment of innovative approaches that encourage and improve compliance, integrated with other strategies for combating undeclared work.

5) National strategies for undeclared work should include a strong awareness raising dimension, with campaigns aiming at changing the national culture on what is not socially acceptable, not only because it is “legal” or “illegal”, but because of being a violation of fundamentals rights at work. Both prevention and deterrence measures should be included in the strategy.

¹

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R204

² Paragraph 27 of Recommendation no. 204.

³ Paragraph 8 of Recommendation no. 204.

⁴ ILO, 2014. Rules of the game: A brief introduction to international labour standards, Geneva: International Labour Office, p. 22.

B. Recommendations for strengthening labour inspection in combatting undeclared work

a. Setting strategies and plans and effective administration of resources

6) Adequate numbers of qualified staff as well as financial and other material resources must be provided to secure the effective discharge of the duties of the inspectorate.

7) Devising strategic plans and programmes on undeclared work should be done on a periodic basis in consultation with other relevant authorities and with the social partners. It entails, among others, the following elements: (i) the development of 'undeclared work risk indicators'; (ii) setting of clear targets and tailored approaches to address the diversity of characteristics, circumstances and needs of workers and economic units present in the undeclared economy; (iii) rights of vulnerable groups should constitute a priority, especially migrant workers' rights independently of their migration status; (iv) an appropriate balance with other priority areas should exist; and (v) regular monitor and evaluation should be undertaken to measure the progress and impact of inspection. The advantages: increase the effectiveness, improve transparency and establishes milestones as a basis for future planning.

8) Well-resourced information systems are a prerequisite for setting strategies and planning. Cross sharing of databases may lead to discovering infractions at all levels (social security, taxes, labour law, occupational safety and health), thus, the improvement of the quality and accessibility of data should be a main objective. New ways of using collected data and the media should be explored.

In Portugal, priorities are set based on the indicators produced by the information system, cross checked with information provided by social security and social partners as a result of this, the action plan for 2008-2010 recognized as requiring major attention cases of totally or partially undeclared work; irregular use of fixed-term employment contracts; temporary work, placing and posting of workers in sectors reaching from the construction industry to seasonal works in agriculture and tourism. The multiannual plan established that 60 per cent of the 12,000 establishments to be inspected in the area of labour relations should be selected on basis of the risk of social fraud. One national coordinated campaign was developed every 3 months using all or a majority of labour inspectors. A central department prepared the intervention, developed guidelines, monitored execution and ensured coherence of approaches, and, for more complex or demanding action, intervened with the teams of inspectors in the field.

9) Adequate training should be imparted on a regular basis to labour inspectors dealing with undeclared work, focusing on applicable legislation, identification of different types of labour and social fraud, understanding of accountability and finances and the complementary roles of other institutions tackling similar subjects. Special attention should be given to sensitization training to prepare inspectors to deal with undeclared workers who may be in abusive employment situations and who lack the language skills, knowledge or representation to effectively defend their own interests.

10) Specialization of groups with specific and enhanced training on undeclared work issues, constituted by members of different State agencies in order to act in an integrated and coordinated manner, have proven to be a good practice.

b. Proactive role of the Labour Inspectorate

11) With the aim of seeking a sustainable transition to the formal economy, narrow thinking should be avoided by labour inspectors, making full use of all inspection powers and prerogatives in order to attain compliance, and leveraging action of all actors that may influence compliance.

12) Inspection visits should consider all aspects related to undeclared work and not solely the undeclared status of the worker (worker's benefits, OSH conditions, working time, among others).

c. Cooperation

13) Clear criteria of cooperative action among different enforcement authorities should be fostered through legislation, cooperation agreements (Memorandum of understanding) and strategies. Governments should pursue on improving and consolidating the networking, providing the policy and legal background so that effective forms of cooperation can be established. This includes: (i) cross sharing of data; (ii) joint inspection actions (between labour relations, occupational safety and health, social security, tax and migration enforcement authorities); (iii) fostering social dialogue and engaging with workers and employers organizations; (iv) international and regional cooperation.

At country level, France was one of the first countries to establish an innovative system of cooperation by setting up an inter-ministerial team to fight against illegal work in 1997, *Délégation Interministérielle à la Lutte contre le travail illégal* (DILTI), and currently with the *Délégation nationale à la lutte contre la fraude* (DLNF), in charge of inter-ministries coordination.

In Spain, a Fraud Observatory involving the General Treasury of Social Security and the labour inspectorate was created in 2008 for permanent update of a catalogue of fraudulent practices and risk profiles in different sectors, establishment of action protocols and study of legal gaps.

The Greek Case

The Greek government has shown a strong commitment to tackle undeclared work by placing it as a priority and successfully incorporating most of the good practices outlined in the preceding section. Proofs of this are the following highlights:

As regards the legal framework, Greece laws provide for a definition of undeclared work⁵ and the Government made a commitment to ratify the ILO Labour Inspection (Agriculture) Convention, 1969 (No. 129), before the end of December 2018.⁶

In January 2017, the Ministry of Labour, Social Security and Social Solidarity (central authority) disseminated its Strategic Development Goals for 2017,⁷ including as Strategic objective No 2 the “development of policies and actions to tackle undeclared work and all forms of delinquency in workplaces”. Three key actions related to strengthening the labour inspection activity to tackle undeclared work must be identified:

(i) The development of a diagnostic report: a comprehensive document that evaluates the extent, nature and drivers of the undeclared economy in Greece followed by recommendations regarding how this sphere can be tackled. On 6 July 2016, the Diagnostic Report was endorsed by the Greek Government and the social partners in a high level tripartite validation meeting, illustrating the Government's effective application of social dialogue as a cross-cutting policy driver.

(ii) The elaboration of the Roadmap: an integrated strategic approach, designed by the Greek Government and social partners

⁵ Article 32 (paragraph 7) of Law 3996/2011: ‘Wherever in this Act, the term “undeclared work” means any paid activities that are lawful as regards their nature but not declared to the public authorities, in breach of the rules.’

⁶ Deliverable no.4, Section c. “Policy measures” of the Roadmap.

⁷ Ministry of Labour, Social Security and Social Solidarity, Circular, 1341/425, 12/1/2017

with the support of the ILO and of the Structural Reform Support Service/EU, with the objective of achieving a balanced regulatory and policy framework for preventive and appropriate corrective measures that will facilitate the transition to the formal economy and tackle undeclared work. It consists of inter-related actions and recommendations, with the objective of bridging the major and minor gaps identified by the diagnostic report. Feasibility and resource allocation issues were taken into account and specific timeframes and future milestones were proposed. It entails 18 outputs divided into five areas of work: (a) institutional reforms and actions (two outputs); (b) data interoperability (five outputs); (c) policy measures (eight outputs); (d) information and awareness campaigns (two outputs); and (e) miscellaneous actions (one output).

(iii) The drafting and implementation of the Contribution Operational Plan:⁸ validated in a tripartite level meeting⁹, the action plan has three components: (1) implementation of an information campaign for the social partners at the region of Attica; (2) specialized training for inspectors of all the relevant bodies; and (3) the implementation of targeted joint inspections. All three components have taken place.

Component (1): One common Leaflet (targeted at employers and workers) was developed explaining procedures to tackle undeclared work and indicating how to reach the labour inspectorate in such cases. This leaflet was shared with the social partners and made available on the undeclaredwork website.

⁸ Implementation of multiple deliverables of The Roadmap: Section b. data interoperability (Deliverables 1, 3 and 5); Section d. Information and Awareness Campaigns (Deliverable 1) and Section e. Miscellaneous actions (Deliverable 1) of the Roadmap.

⁹ Held on 26th October 2016 among the Greek Government, the ILO and the social partners.

Component (2): In order to strengthen labour inspector's skills to deal with situations of undeclared work, two training workshops took place on the 26th and 27th of April, 2017. The workshops were attended by 180 participants, including all labour inspectors of the region where the pilot campaign takes place (Attica), and the inspectors from the Social Security Institution (EFKA), the Financial Police and the Financial Crime Unit (SDOE), involved in the campaign, as well as representatives from the Trade Union and the Employers Organizations.

Component (3): A Cooperation Protocol was established among the labour inspectorate (SEPE), the Unified Social Insurance Institution (EFCA) and the Economic Police and the Financial and Economic Crime Unit (SDOE), concerning the basic principles and the methodology for the implementation of the program. It includes, the inspection of 1 125 enterprises from specific sectors in the Metropolitan Municipality of Athens (which were strategically selected using the SEPE risk analysis MIS) and 200 inspections with joint inspection echelons. A report on these inspections will be completed on 15 October 2017 and will include proposals for exploiting the results of the action.

Information systems constitute the cornerstone of effective strategic planning and reliable information for decision making. In this view, the SEPE IT system was installed recently. The system can handle the web site and HR management and allows inspectors to have virtual case files, collect all the related information and limit and monitor access to case files. Furthermore, proposals for a new information system for fraud detection have been drafted, including a three year roadmap to gradually achieve the interoperability of the available information systems.¹⁰ Due to its recent evolution, SEPE's information system,

¹⁰ Section b. "data interoperability of the Roadmap, including 5 deliverables of the Roadmap.

appears to be the best initial candidate to be the consolidated information system.

Conclusions

Undeclared work is one of the main issues of the Greek economy. For this reason, in addition to advice and enforcement of any provision concerning working conditions and OSH, SEPE is also entrusted, in particular since the promulgation of Law No. 3996/2011, with additional functions as the control of undeclared work, as well as the control of the

legality of the employment of foreign workers from developing countries.

Following EU good practices and ILO recommendations to tackle undeclared work, SEPE is adopting and implementing many initiatives to reinforce the role and the effectiveness of the Greek Labour Inspection in the fight against the informal economy. Many of these initiatives are being tested in the ongoing pilot labour inspection campaign, whose evaluation and conclusions will be essential to decide about future measures.

See more on facilitating transition from the informal to the formal economy and tackling undeclared work in Greece:

- Informal economy Unit, Employment Policy Department, ILO:
<http://www.ilo.org/employment/units/emp-invest/informal-economy/lang--en/index.htm>
 - ILO project website on Tackling undeclared work in Greece:
<http://adilotiergasia.org/>
 - ILO Labour administration and inspection Programme:
<http://www.ilo.org/global/topics/labour-administration-inspection/lang--en/index.htm>
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