



European Platform
tackling undeclared work

European Platform tackling undeclared work – 2019 Annual Platform Survey

Tackling undeclared work in the collaborative economy and bogus self-employment, data exchange and data protection, and cross-border sanctions

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EXECUTIVE SUMMARY

This survey collected information from EU Member States, as well as Iceland and Norway, on three issues:

- Tackling undeclared work in the collaborative economy and bogus self-employment.
- Data exchange and data protection.
- Cross-border sanctions.

Of the 28 Platform members from EU Member States as well as Iceland and Norway, 28 out of 30 responses were received. In addition, the European Trade Union Confederation (ETUC) provided qualitative feedback on the role of social partners and their cooperation with enforcement authorities to tackle undeclared work in the areas covered by the survey.

Tackling undeclared work in the collaborative economy

- Currently, there is limited take-up of the full range of potential initiatives to tackle undeclared work in the collaborative economy. Initiatives used by more than half of the responding countries are:
 - State authorities advising and guiding service providers on the tax, social security and/or labour law obligations of their online platform activity (82 % of respondents).
 - State authorities demanding that online platforms disclose data on service providers, such as their names, contracts and/or transactions (68 % of respondents). The data is mostly used to target inspections.
- Other initiatives used by less than half but more than a third of respondents are:
 - Licensing/official authorisation introduced for service providers on online platforms (43 % of respondents).
 - Clarity provided on the differentiation between commercial and non-commercial activities in the collaborative economy (39 % of respondents).
 - Direct contact made by state authorities, advising online platform service providers to declare income received (36 % of respondents).
 - State authorities having information websites (36 % of respondents).
- There is little evidence of wide-scale success in tackling undeclared work in the collaborative economy. However, most respondents expect current (in some cases cross-border joint) inspections to yield results in the future.
- Key challenges when tackling undeclared work in the collaborative economy include:
 - The prevalence and intensity of platform work are increasing.
 - Undeclared work and bogus self-employment on online platforms appear to be increasing.
 - It is difficult to apply workers' rights to the non-standard forms of work found on online platforms.
 - Legislation is playing 'catch-up' with fast-moving developments.
 - It is proving difficult to verify the legal status of employment relationships on online platforms and to ensure compliance with labour law and tax obligations, especially in cross-border service provision.
 - Growing online platforms puts vulnerable people at risk.

Tackling bogus self-employment

- Self-employment is defined in the national legislation of 85 % of surveyed countries. Half of them have a legal definition of dependent employment. A definition of bogus self-employment in national legislation exists only in 25 % of countries.
- Tax/revenue authorities and labour inspectorates in 81 % and 78 % of responding countries respectively, have the power to tackle bogus self-employment.
- In tackling bogus self-employment, competent authorities have:
 - Initiated awareness campaigns focused on bogus self-employment.
 - Increased efforts towards this issue (e.g. more inspections).
 - Introduced or are developing legislative amendments.
 - Included specific risks related to bogus self-employment in their standard inspections and/or in risk assessment.
- Just under half (43 %) of all countries indicated that their competent authorities apply risk assessment to identify bogus self-employment.
- Challenges which persist in tackling bogus self-employment within countries include:
 - Difficulty in proving the employment relationship.
 - The public lacking understanding or having a negative attitude.
 - Regulation is lacking or not clear.
 - Problems in identifying those in bogus self-employment (they are often hidden).
 - Organisational issues, e.g. cooperating with other government bodies nationally and internationally.
- Cross-border inspections focusing on bogus self-employment are commonly conducted between neighbouring Western European countries, but are less common across other countries.
- Challenges to tackling cross-border bogus self-employment are:
 - Data sharing is slow and inefficient.
 - Legal definitions differ across countries.
 - The small-scale and widely dispersed nature of the bogus self-employed makes detection difficult.
 - Proving the 'dependent' relationship is difficult.

Data exchange and data protection

- Respondents from Eastern and Central European countries most often indicated that they do not experience any barriers in relation to GDPR. In comparison, the requirements are an issue for more than half of Southern and West European countries.
- Lack of resources to respond to GDPR requirements poses either a major or minor barrier to respondents from Northern and Southern European countries.
- All Southern European countries indicates that the loss of established communication channels between Member States (as they work to conform to GDPR rules) is a barrier to exchanging information to tackle cross-border undeclared work.
- The most commonly identified GDPR-related challenges to exchanging information between countries are language issues and poor translations (indicated by 54 % of

respondents), lack of a single point of contact (42 %) and slow speed of response (42 %).

- The most commonly identified GDPR-related challenges and solutions for exchanging data within countries are:
 - Regulation is not fit for purpose or confusing and needs to be clarified.
 - Data protection in itself can stand in the way of data exchange. Being clear about the purpose of the data exchange may alleviate that.
 - Implementation of data protection is challenging, and IT systems and skills may be lacking. Organisational measures, such as training and informative websites, can help.

Cross-border sanctions

- Sanctions for cases of cross-border undeclared work are not used very often, with most cases relating to the posting of workers. Northern and Western European countries most often request recovery or notification of sanctions, whereas Eastern and Central European countries most often receive these requests.
- Most of the sanctions applied for cross-border undeclared work are penalties and fines for companies (79 % of all responses).
- 61 % of countries indicated that they differentiate between sanctions and the recovery of unpaid social contributions, etc. The differentiation is most often made because they are different administrative processes, but they are also legally separated.
- Labour inspectorates (76 %) and tax/revenue administrations (68 %) are most often involved in determining the sanctions for cross-border undeclared work. However, the organisations generally work independently of each other.
- Labour inspectorates are most often responsible for notifying sanctions for cross-border undeclared work to non-national companies and/or workers, but in all Western Europe countries this falls to their tax/revenue administrations.
- A third of respondents applied cross-border sanctions related to undeclared work following information exchange in the Internal Market Information (IMI) posting module.

1 INTRODUCTION

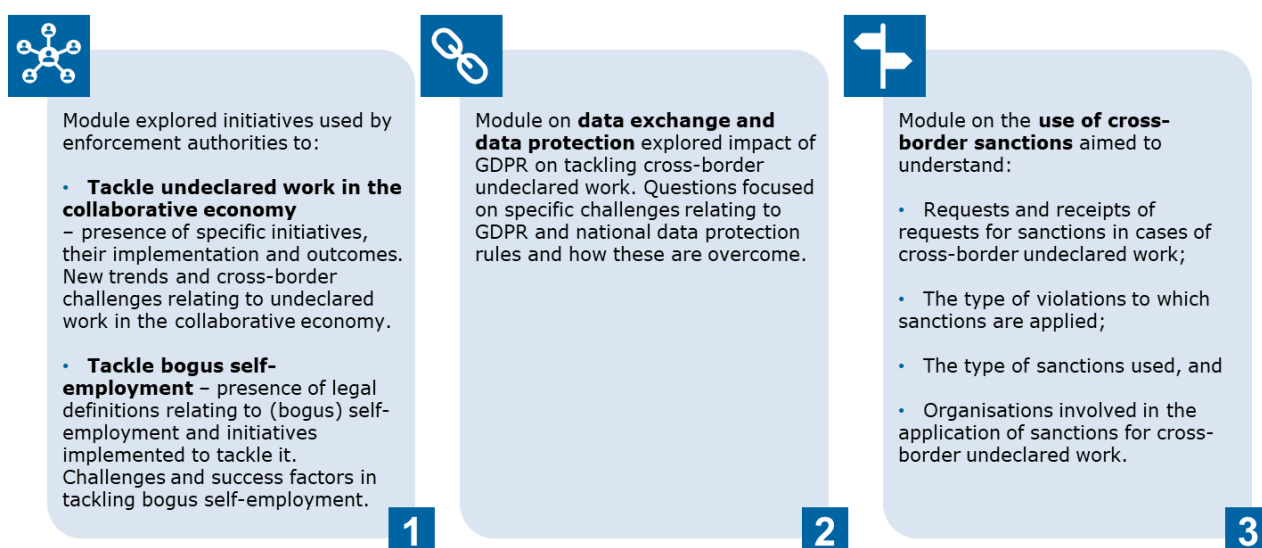
This report presents a detailed analysis of the third Annual Survey of Platform members from the EU Member States as well as Iceland and Norway (henceforth interchangeably referred to as 'respondents' and 'countries').

The survey was launched on 11 March 2019. The last response was received on 14 June 2019.

Either the Platform member or their alternate representative were asked to collate information from relevant organisations that are involved in tackling undeclared work within their country, and to submit a single answer.

The survey covered three modules, presented in Figure 1.

Figure 1. Scope of the Annual survey of Platform members



Source: ICF.

1.1 Responses received

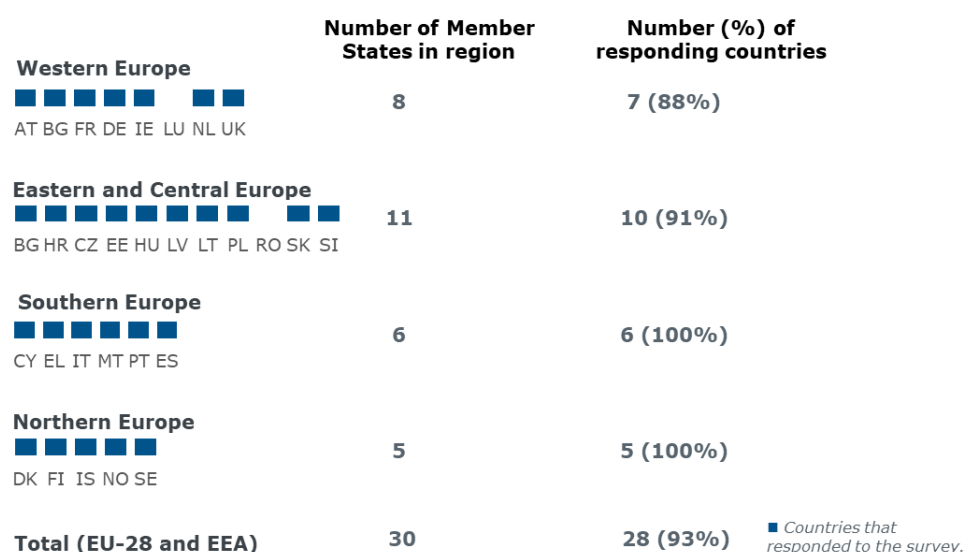
This report is based on 28 out of 30 possible responses from countries that are members (EU-28) and observers (Iceland and Norway) of the European Platform tackling undeclared work (the Platform). The ETUC's qualitative feedback on the role of social partners is presented where relevant across the report.

This report presents the survey results by four European regions¹ and for all respondents². With a 93 % response rate, representation across and within each region is representative (Figure 2).

¹ Western Europe (Belgium, Germany, Ireland, France, Luxembourg, Netherlands, Austria, United Kingdom), Eastern and Central Europe (Bulgaria, Czechia, Estonia, Croatia, Latvia, Lithuania, Hungary, Poland, Romania, Slovenia, Slovakia), Southern Europe (Greece, Spain, Italy, Cyprus, Malta, Portugal) and Northern Europe (Denmark, Finland, Iceland, Norway, Sweden).

² Responses were received from 26 Member States (Belgium, Bulgaria, Czechia, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Hungary, Malta, Netherlands, Austria, Poland, Portugal, Slovenia, Slovakia, Finland, Sweden, United Kingdom) and 2 EEA countries (Iceland, Norway).

Figure 2. Overview of respondents



Source: 2019 Annual Platform Survey, based on 28 responses.

1.2 Report structure

Section 2 presents responses on the first part of Module 1 on tackling work in the collaborative economy. Sub-sections focus on:

- Initiatives used by countries to tackle undeclared work in the collaborative economy.
- Challenges faced and successes achieved in tackling undeclared work in the collaborative economy.

Section 3 presents responses on the second part of Module 1 on bogus self-employment. Sub-sections focus on:

- Legal definitions related to different forms of self-employment.
- Enforcement authorities with legislative competence to tackle bogus self-employment.
- Initiatives used by countries to tackle bogus self-employment.
- Challenges faced and successes achieved in addressing bogus self-employment.

Section 4 presents the responses on Module 2 regarding data exchange and data protection (GDPR in particular). Sub-sections address:

- GDPR barriers to data exchange.
- GDPR and data protection challenges and solutions.

The final Section 5 presents responses on cross-border sanctions applied to undeclared work. Sub-sections discuss the:

- Use of cross-border sanctions in cases of undeclared work.
- Type of sanctions applied.
- Differentiation between sanctions and recovery of unpaid social security contributions.
- Use of the Internal Market Information (IMI) System's posting module.

2 TACKLING UNDECLARED WORK IN THE COLLABORATIVE ECONOMY

Key findings:

- Across 28 responding countries, there is currently limited take-up of the full range of potential initiatives to tackle undeclared work in the collaborative economy :
 - 82 % reported that state authorities provide advice and guidance to service providers on the tax, social security and/or labour law obligations of their online platform activity.
 - 68 % reported that state authorities have the power to demand that online platforms disclose data on service providers, such as their names, contracts and/or transactions. The data is mostly used to target inspections.
 - 43 % reported that licensing/official authorisation has been introduced for service providers on online platforms.
 - 39 % reported that there is clear differentiation between commercial and non-commercial activities in the collaborative economy.
 - 36 % reported that state authorities directly contact online platform service providers, advising them that they need to declare income received.
 - 36 % have information websites.
 - 32 % stated that a simplification of tax laws has been introduced for service providers on online platforms.
 - 25 % reported that online platforms are required to ensure that service providers are licensed/authorised.
 - 21 % reported that online platforms are required to inform service providers of their tax, social security and/or labour law obligations.
 - 18 % stated that limits have been imposed on the duration of activities (e.g. rentals) on online platforms.
 - 18 % have information hotlines.
 - 14 % reported that online platforms are required to collect tax revenues owed from service providers and forward them directly to the tax authority.
 - 14 % reported that online platforms are required to clearly define and communicate to service providers the difference between commercial and non-commercial activities.
 - 14 % operate awareness campaigns targeted at users.
 - 14 % operate awareness campaigns targeted at service providers.
 - 4 % operate awareness campaigns targeted at online platforms.
 - 4 % reported that online platforms are required to ensure that any limits on the number of registered service providers are respected.
- There is little evidence of wide-scale success in tackling undeclared work in the collaborative economy. However, most respondents expect current (in some cases cross-border joint) inspections to yield results in the future.
- Key challenges when tackling undeclared work in the collaborative economy include:
 - The prevalence and intensity of platform work are increasing.

- Undeclared work and bogus self-employment on online platforms appear to be increasing.
- It is difficult to apply workers' rights to the non-standard forms of work found on online platforms.
- Legislation is playing 'catch-up' with fast-moving developments.
- It is proving difficult to verify the legal status of employment relationships on online platforms and to ensure compliance with labour law and tax obligations, especially in cross-border service provision.
- Growing online platforms puts vulnerable people at risk.

Box 1. Definition of collaborative economy

Collaborative economy is a business model where activities are facilitated by creating an open and online platform for the provision of services often provided either digitally or on-the-ground by private individuals. It involves three categories of actors:

- **Online platform** connecting and facilitating transactions between service provider and the user.
- **Service providers** who share assets, resources, time and/or skills. These can be private individuals offering services on an occasional basis or service providers acting in their professional capacity.
- **User/client** of services.

The relation between the platform and service provider is often unclear in terms of their employment status. Service providers are often regarded as self-employed as a result of standard contractual arrangements established by the platform, or their employment status is unclear, affecting working conditions, and/or the services provided involve labour law violations, tax and social security evasion, and potentially therefore involves undeclared work and/or bogus self-employment.

Source: European Platform tackling undeclared work, Glossary after: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the regions: A European agenda for the collaborative economy Brussels, 2.6.2016 COM (2016) 356 final.

The first part of Module 1 of the 2019 Annual Platform survey focused on initiatives that are used to tackle undeclared work in the collaborative economy. These are presented in the first part of this section (2.1). The second part (2.2) summarises challenges and success factors in tackling undeclared work in the collaborative economy.

2.1 Initiatives used by countries to tackle undeclared work in the collaborative economy

Most commonly, **state authorities provide advice and guidance to service providers on the tax, social security and/or labour law obligations of their online platform activity** (82 % of countries that responded). All Northern European countries do this.

The second most common initiative is that **state authorities have the power to demand online platforms to disclose data on service providers** (68% of countries that responded), although this is less popular in Northern Europe.

The least common initiatives are i) requiring online platforms to ensure that any limits on the number of registered service providers are respected and ii) awareness campaigns targeted at online platforms, each only quoted in one response.

Full results are summarised in Table 1. A regional variation can be observed, with the most notable initiatives being (at more than 25 percentage points difference from the average):

- Introducing licensing or official authorisation for service providers on online platforms - this was introduced by 86 % of Western European countries responding, compared with 43 % of all respondents across Europe, and only 20 % of Northern European nations.
- Information websites, implemented by 36 % of all the countries that responded, were implemented by 80% of Northern European nations.
- 40% of Northern European nations required online platforms to collect tax revenues from service providers and forwarding these directly to the tax authority. Across all responding countries, that figure drops to 14 %.

Table 1. Policy initiatives used in countries to tackle undeclared work in the collaborative economy, by EU region: % of countries

Initiative	Total	Western Europe	Eastern and Central Europe	Southern Europe	Northern Europe
State authorities provide advice and guidance to service providers on the tax, social security and/or labour law obligations of their online platform activity	82 %	71 %	80 %	83 %	100 %
State authorities have the power to demand that online platforms disclose data on service providers	68 %	86 %	70 %	67 %	40 %
Licensing/official authorisation has been introduced for service providers on online platforms	43 %	86 %	30 %	33 %	20 %
There is a clear differentiation between commercial and non-commercial activities in the collaborative economy	39 %	57 %	20 %	33 %	60 %
State authorities directly contact service providers advising them that they need to declare income received	36 %	29 %	50 %	17 %	40 %
Information websites are used	36 %	29 %	20 %	33 %	80 %
A simplification of tax laws has been introduced for service providers on online platforms	32 %	43 %	10 %	50 %	40 %
Online platforms are required to ensure that the service providers are licensed/authorised	25 %	29 %	30 %	33 %	0 %

Initiative	Total	Western Europe	Eastern and Central Europe	Southern Europe	Northern Europe
Online platforms are required to inform service providers of their tax, social security and/or labour law obligations	21 %	29 %	20 %	17 %	20 %
Limits have been imposed on the duration of activities (e.g. rentals) on online platforms	18 %	29 %	0 %	17 %	40 %
Information hotlines are used	18 %	14 %	20 %	33 %	0 %
Online platforms are required to collect tax revenues owed from service providers and forward them directly to the tax authority	14 %	14 %	0 %	17 %	40 %
Online platforms are required to clearly define and communicate to service providers the difference between commercial and non-commercial activities	14 %	29 %	10 %	17 %	0 %
Awareness campaigns targeted at users/clients have been implemented	14 %	14 %	20 %	0 %	20 %
Awareness campaigns targeted at service providers have been implemented	14 %	14 %	20 %	0 %	20 %
Online platforms are required to ensure that any limits on the number of registered service providers are respected	4 %	14 %	0 %	0 %	0 %
Awareness campaigns targeted at online platforms have been implemented	4 %	0 %	10 %	0 %	0 %

Source: 2019 Annual Platform Survey, based on 28 responses.

Countries were asked to provide more information on each of these initiatives. Their responses are summarised in the sub-sections that follow.

State authorities provide advice and guidance to service providers on the tax, social security and/or labour law obligations of their online platform activity

This is the most popular initiative, implemented by 82 % of countries.

Most often, it is the **tax/revenue administration that provides this information** (12 of 23 responses), **closely followed by labour inspectorates** (11 out of 23 responses). Social security/insurance departments, immigration offices, police, cross-

governmental bodies and ministries of labour are mentioned by three to four respondents.

Advice and guidance is predominantly **provided through websites** (16 out of 23 responses). Other relevant media are phone or hotlines (six responses), emails (six responses), workshops (three responses), during inspections and in social media campaigns (two responses each). Four responses mentioned face-to-face interaction, and three mentioned verbal interaction.

The information provided is often about **general (labour law) legislation and/or tax and insurance obligations**. On occasion, information is provided on occupational health and safety, working conditions and information specifically on (bogus) self-employment. Notable cases are:

- In Estonia, face-to-face consulting sessions are provided across five locations, including consulting sessions for businesses, which can include legal advice if necessary. In addition, potential and current service providers can access information on the official websites of the Labour Inspectorate and Tax and Customs Board with the facility to contact these organisations.
- In Greece, the tax/revenue administration is currently working together with online platforms to develop and implement an agreement. This agreement will mean that online platforms must place specific links on their websites to government websites that provide guidance and information on i) relevant labour and tax laws and obligations to service providers, and ii) on how to register on the tax/revenue administration's website (which will be mandatory for any involvement in online platform activities).
- In Sweden, the tax/revenue administration's website explains how to declare income and informs users why income should be declared.

Figure 3. Countries where state authorities provide advice and guidance to service providers on the tax, social security and/or labour law obligations of their online platform activity



Source: 2019 Annual Platform Survey, based on 28 responses. Answers to the question: Do state authorities provide advice and guidance to potential or actual service providers on the tax, social security and/or labour law obligations of their platform activity?

State authorities directly contact service providers advising them that they need to declare income received

36 % of countries responded that their state authorities directly contact service providers, advising them that they need to declare income received. This was most popular in Eastern and Central European countries (50 % of countries responding) and least common in Southern European countries (17 %).

In most countries, this is only the case for workers at risk of non-compliance, where there is a suspicion of non-compliance, or for workers that are non-compliant. In other cases, contact take place as follows:

- Information is provided via employers' organisations.
- Online platforms, rather than service providers, are contacted and instructed how to inform service providers of their obligation to declare income received.
- Tax/revenue administrations contacting service providers directly.

Figure 4. Countries where state authorities directly contact service providers advising them that they need to declare income received



Source: 2019 Annual Platform Survey, based on 28 responses. Answers to the question: Do state authorities directly contact platform service providers advising them that they need to declare income received?

State authorities have the power to demand that online platforms disclose data on service providers

In 68 % of countries, state authorities have the power to demand that online platforms disclose data on service providers. 86 % of Western European countries asserted this, but only 40 % of Northern European nations (see Figure 5).

As Table 2 displays, **tax/revenue authorities usually possess this power**, which is the case for labour inspectorates in Southern and Western European countries (67 % and 57 % respectively compared with 39 % overall). In Western European countries, social security/insurance authorities also have that power (57 % compared with 25 % overall).

Of these countries, all indicated that disclosed data is used. Notably in Finland, there are plans to expand disclosure obligations of online platforms and use that data to pre-

populate the tax returns of individual taxpayers. In Lithuania, this data is already used to identify potential workers performing undeclared work and their employers.

In most countries, this **data is used during inspections** and in order to check whether contributions are due and/or whether tax and social security obligations are being met, including adherence to workers' rights.

Figure 5. Countries where state authorities have the power to demand that online platforms disclose data on service providers



Source: 2019 Annual Platform Survey, based on 28 responses. Answers to the question: Do state authorities have the power to demand that collaborative platforms disclose data on service providers, such as their names, contracts and/or transactions?

Table 2. Authorities that have the power to demand online platforms disclose data on service providers

Country	Labour Inspectorate	Ministry of labour	Tax/revenue administration	Social security/ insurance authority
Total	39 %	0 %	64 %	25 %
Eastern and Central Europe	30 %	0 %	70 %	0 %
Northern countries	0 %	0 %	40 %	20 %
Southern Europe	67 %	0 %	50 %	33 %
Western Europe	57 %	0 %	86 %	57 %

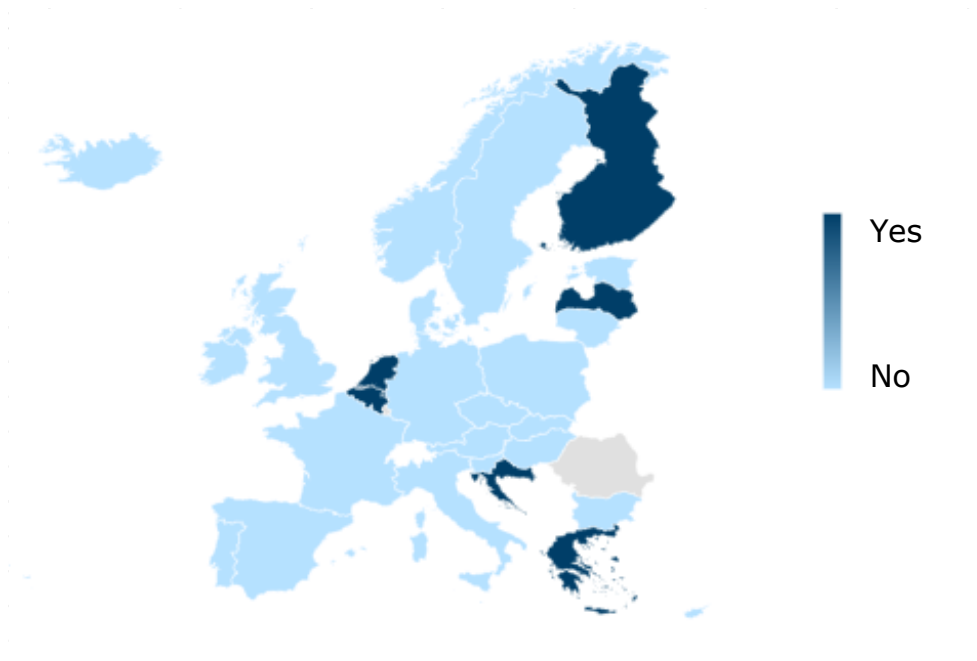
Source: 2019 Annual Platform Survey, based on 28 responses. Answers to the question: Which authority possesses these powers?

Online platforms are required to inform service providers of their tax, social security and/or labour law obligations

Only 21 % of countries indicated that online platforms operating in their country are required to inform service providers of their tax, social security and/or labour law obligations. There is no significant regional variation (see Figure 6). The survey picked up further information from these countries:

- Belgian workers are required to declare their activity on a certified online platform and declare income via a tax letter.
- Online platforms in Finland are only required to inform service providers of their tax, social security and/or labour law obligations when the relationship between the online platform and the service provider is a dependent employment relationship and wages are paid.
- Service providers in Greece will soon have to register online to perform platform work, using a link to an authority website which will hold relevant information.
- The Latvian tax/revenue administration collaborates with taxi/transport online platforms to get service providers to report their work via a website or mobile app.
- In the Netherlands, requirements for online platforms depend on the type of labour relationship between the platform and the service provider.

Figure 6. Countries requiring online platforms to inform service providers of their tax, social security and/or labour law obligations



Source: 2019 Annual Platform Survey, based on 28 responses. Answers to the question: Are collaborative platforms required to inform service providers of their tax, social security and/or labour law obligations?

Online platforms are required to take on some regulatory function

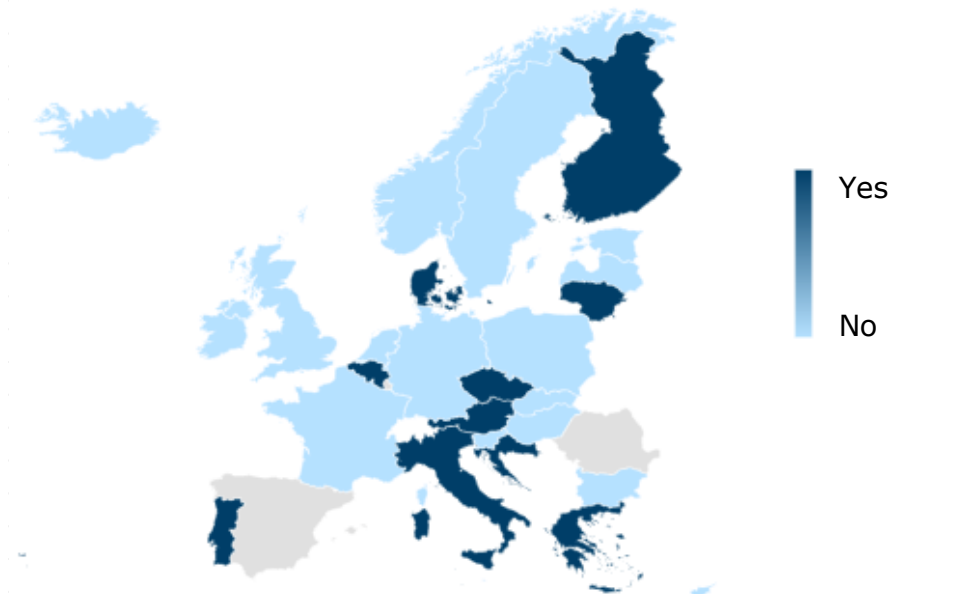
Requiring online platforms to take on some regulatory function is an initiative used in only 36 % of countries (corresponding to 10 respondents). There is no significant regional variation (see Figure 7).

In 70% of cases, online platforms are required to ensure that service providers are licenced or authorised to work. Figure 8 summarises the answers to the three options provided to respondents.

The survey notes instances where licensing can be required only for specific services, such as taxi services (Austria, Czechia and Latvia) or rental activities including car, boat and home rental (Denmark). Greece is currently developing a licensing system through which online platforms will have to ensure that service providers have a unique registration number from the state before they can perform platform work.

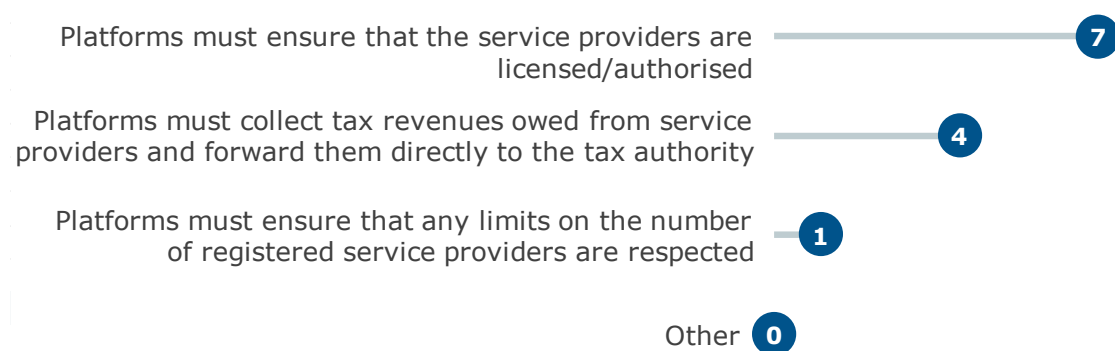
Furthermore, collection of tax revenues may only apply when there is an employment relationship in Finland and the UK, when payments are over a certain amount in Ireland (online platforms must report payments to the tax/revenue administration) or in specific industries in Italy (e.g. accommodation-sharing online platforms collect tourist tax).

Figure 7. Countries where online platforms are required to take on some regulatory function



Source: 2019 Annual Platform Survey, based on 26 responses. Answers to the question: Are collaborative platforms required to take on some regulatory functions (e.g. ensuring that the service providers are licensed / authorised; ensuring that any limits on the number of registered service providers are respected; collecting tax revenues owed from service providers and forwarding them directly to the tax authority)?

Figure 8. Types of regulatory functions



Source: 2019 Annual Platform Survey, based on 10 responses stating online platforms take on some regulatory function.

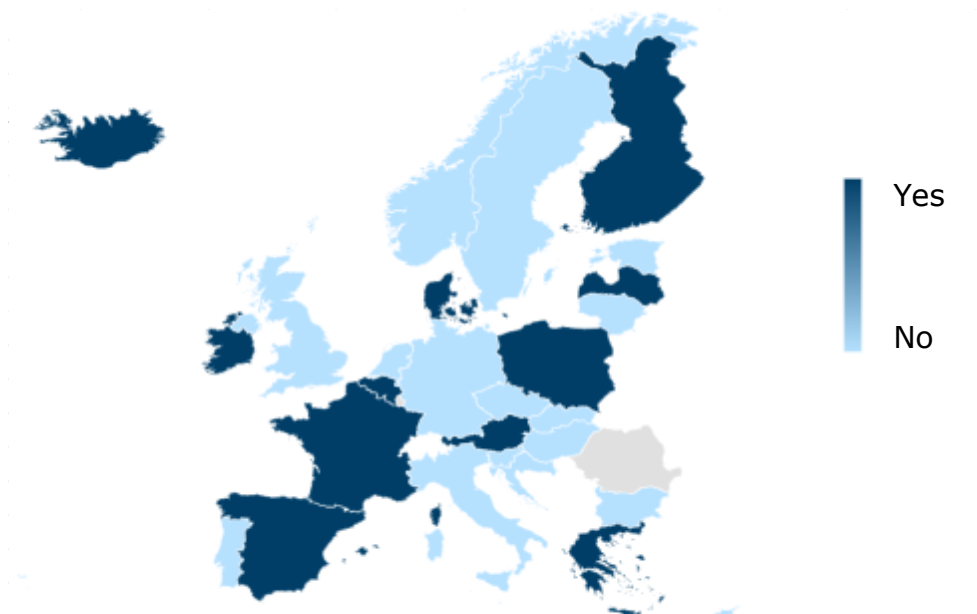
Authorities make a clear differentiation between commercial and non-commercial activities in the collaborative economy

For 39 % of countries, authorities clearly differentiate between commercial and non-commercial activities in the collaborative economy. This is more often the case in Northern European countries (60 %) and Western Europe (59 %), and less so in Eastern and Central European countries (20 %).

The differentiation between commercial and non-commercial activities is based on:

- Legislation and definitions specifying what is an economic activity and/or when a person or company needs to register for VAT (Denmark, Latvia, Poland and Spain).
- Thresholds (from EUR 3 000 in France to EUR 14 000 in Iceland), the number of transactions (e.g. 90 in France) or the length of property rental (90 days in Iceland).
- A case-by-case basis - depending on certain criteria, different laws apply (Finland).

Figure 9. Countries where the authorities make a clear differentiation between commercial and non-commercial activities in the collaborative economy



Source: 2019 Annual Platform Survey, based on 28 responses. Answers to the question: Do authorities make a clear differentiation between commercial and non-commercial activities in the collaborative economy?

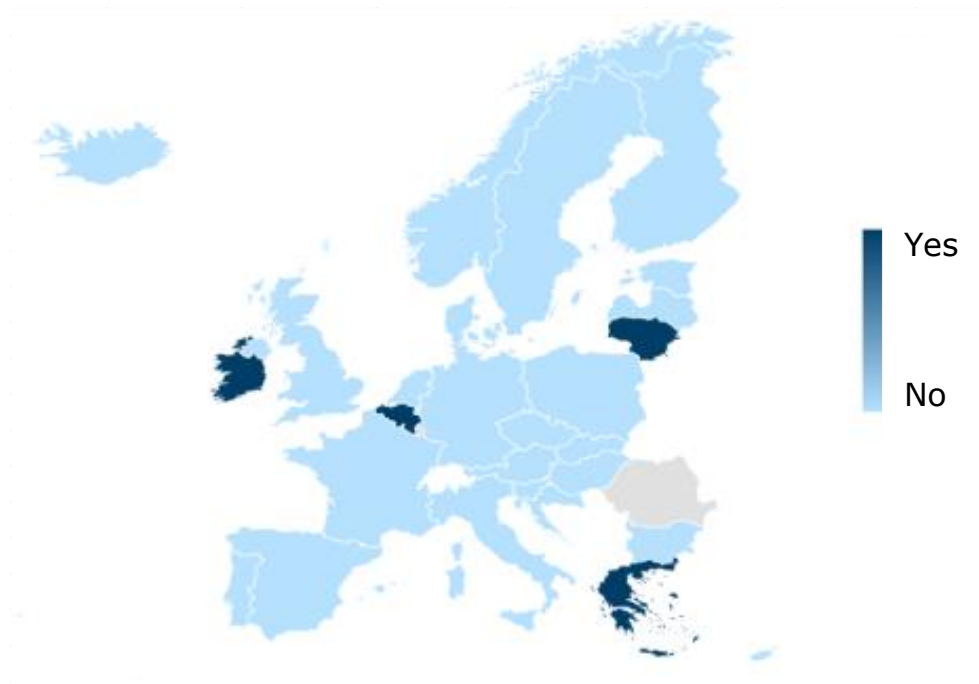
Online platforms are required to clearly define and communicate to service providers the difference between commercial and non-commercial activities

Only 14 % of countries indicated that online platforms operating in their country are required to clearly define and communicate to service providers the difference between commercial and non-commercial activities. Slightly more Western European countries indicated that online platforms must do this (29 %), and none of the Northern European countries.

In terms of how that communication take place:

- In Belgium, this requirement depends on the type of activity.
- In Greece, online platforms must link service providers to relevant government websites.
- In Ireland, where organisations are claiming to be charities, the organisation must be registered as such. A list of all registered charities is publicly available.

Figure 10. Countries where online platforms are required to clearly define and communicate to service providers the difference between commercial and non-commercial activities



Source: 2019 Annual Platform Survey, based on 28 responses. Answers to the question: Are collaborative platforms required to clearly define and communicate to service providers the difference between commercial and non-commercial activities?

A simplification of tax laws has been introduced for service providers on collaborative platforms

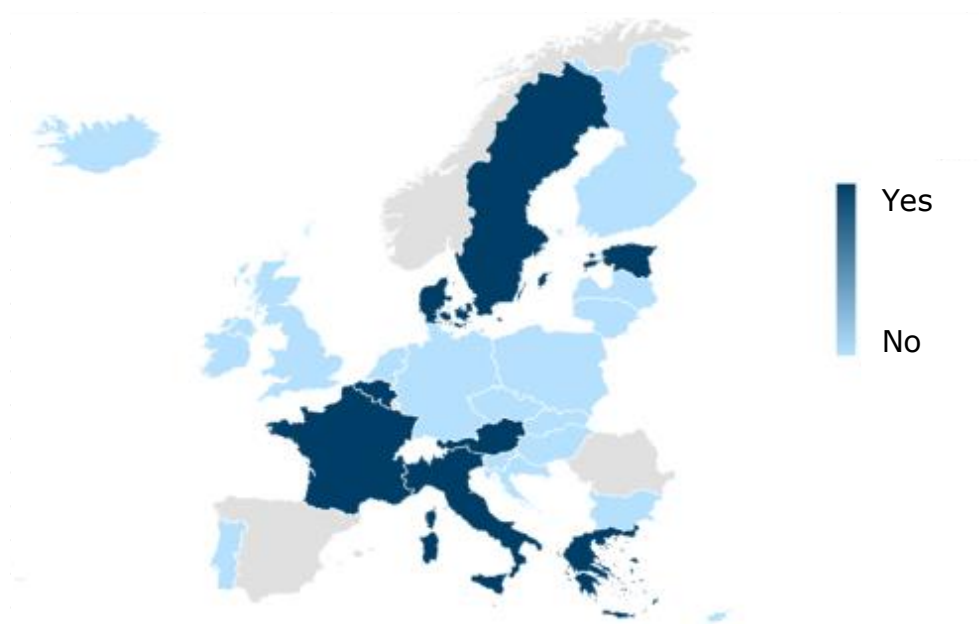
In 32 % of countries, a simplification of tax laws has been introduced for service providers on online platforms. This is more common in Southern European countries (50 %) and less common in Eastern and Central European countries (10 %). Most countries do not have specific provisions for online platform activities and the general tax legislation specifies eligibility for simplified tax regimes.

Simplifications involve the introduction of a threshold below which income does not need to be declared or a simplified regime applies (Austria, Belgium, France, Estonia and Sweden). Thresholds are set on an annual or monthly basis, and they vary depending on legal status (individual or self-employed) or type of activity (e.g. properly rental services). Individuals earning less than EUR 2 000 (Sweden) and EUR 6 130 (Belgium) per year do not have to declare their income or follow a simplified regime. In Austria, self-employed persons performing online platform activities 'on the side' and not exceeding EUR 720 monthly (or a total of EUR 12 000 per annum) do not need to declare this income. In France, a simplified tax regime exists for commercial services (home rental) or activities under EUR 3 000 and fewer than 20 transactions.

Finally, in terms of tax deductions and credits:

- Tax deductions in Denmark (of DKK 28 000, approximately EUR 3 750) are applied to those who voluntarily declare the amount earned from car, boat and home rental.
- All small and medium enterprises in Malta that hire highly qualified personnel from large businesses and that disseminate research and knowledge, are eligible for tax credits. An evaluation has been conducted on this, but outcomes are not available.

Figure 11. Countries where a simplification of tax laws was introduced for service providers on online platforms



Source: 2019 Annual Platform Survey, based on 26 responses. Answers to the question: Has there been any simplification of tax laws for service providers on collaborative platforms (e.g. to allow service providers to earn small amounts of income on platforms without paying tax to legitimise small-scale/non-commercial activities)?

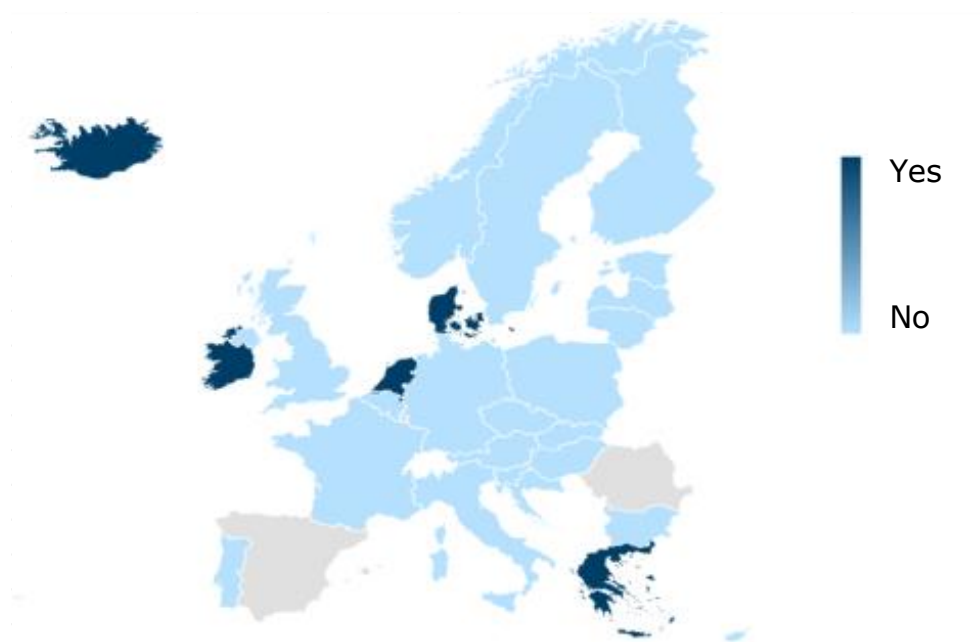
Limits have been imposed on the duration of activities on online platforms

Only 18% of respondents indicated that their country has imposed limits on the duration of activities on online platforms. Limits have more commonly been imposed in Northern countries (40 %). No Eastern and Central European country indicated such limits.

In the five countries where limits have been imposed, all related to accommodation rental. The limit on short-term accommodation or rental of property varies across countries from 70 (Denmark) to 90 days (Iceland, Ireland), up to one year (Greece). In Iceland the limit is also expressed in total revenue (approximately EUR 14 000).

These limits are important because renting may result in undeclared income. Imposing limits on the duration of activities may therefore reduce the prevalence and level of such undeclared income, although there is no evidence of whether this is indeed the case.

Figure 12. Countries in which limits have been imposed on the duration of activities on collaborative platforms



Source: 2019 Annual Platform Survey, based on 27 responses. Answers to the question: Are limits imposed on the duration of activities (e.g. length of rental property) on collaborative platforms?

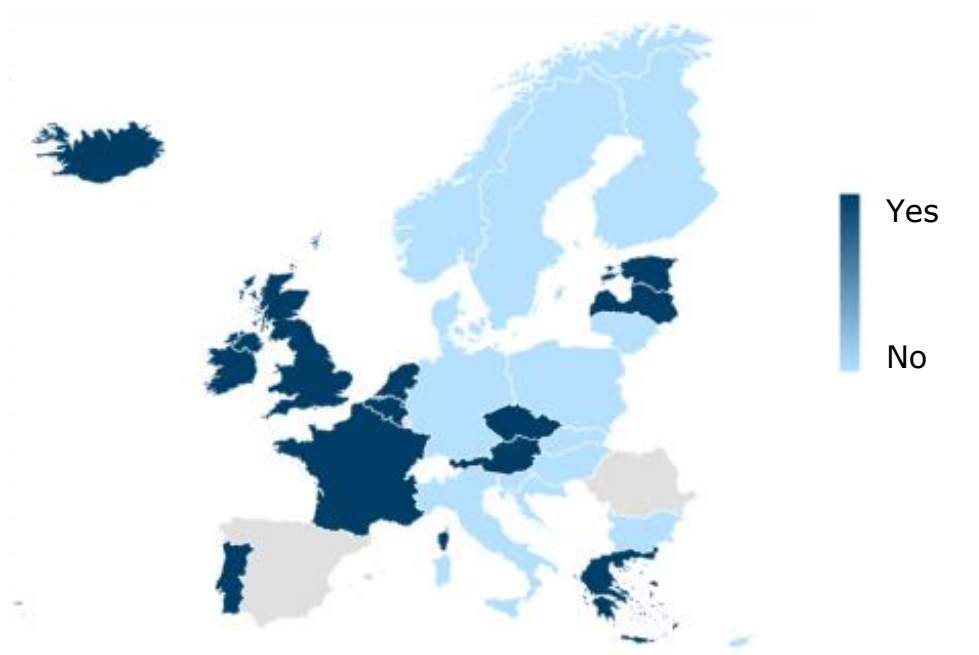
Licensing/official authorisation has been introduced for service providers on online platforms

43 % of countries have introduced licensing or official authorisation for service providers on online platforms. This was introduced in 86 % of Western European countries, less commonly so in other regions (20 to 33 %).

In most cases, licensing or official authorisation for service providers apply only in specific industries. The most commonly mentioned is taxi services or ride sharing. The Dutch response indicated that such service providers must complete driver training.

Rentals are also licensed in Ireland (short-term home rentals must be registered), Iceland (where short-term home rentals surpass the maximum duration) and Austria (car rentals). In Latvia, this also applies to credit services. Finally, in Greece, as part of the new law, all service providers will need to be registered and as such, licensed to perform platform activities.

Figure 13. Countries that introduced licensing or official authorisation for service providers on online platforms



Source: 2019 Annual Platform Survey, based on 27 responses. Answers to the question: Has licensing or official authorisation been introduced for service providers on collaborative platforms?

Preventative initiatives

44 % of countries introduced preventative initiatives (Figure 14). This mostly involves information websites (36 %), which have been commonly used in Northern European countries (80 %),

The different types of preventative initiatives are illustrated in Figure 15. Informative websites remain the most commonly used initiative. As respondents provided more information on information websites, not all the information refers exclusively to undeclared work in the collaborative economy. In some cases, the information can be more broadly about undeclared work (e.g. Malta, Estonia) or specifically related to a sector such as home rental (e.g. Iceland).

Below is an overview of information websites dedicated to undeclared work in the collaborative economy:

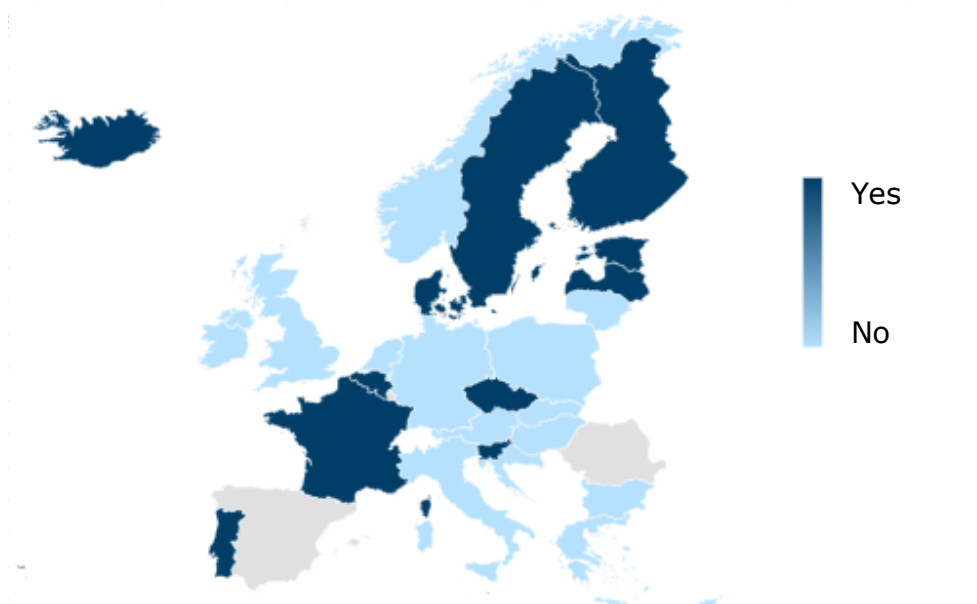
- The Danish [cross-government website about the collaborative economy](#) provides relevant guidance.
- The Finnish tax/revenue administration conducted a [survey of collaborative economy platforms](#) and published [articles about new ways of working](#).
- The [French Ministry of Labour published a report](#) on platform workers but focusing on the legal aspects of employment relations in collaborative economy.
- In Iceland, the [Sheriff's website](#) provides information on laws, regulation and licensing for home rental. In addition, there is also a [private party information website](#) aimed at those who wish to use online platforms for rentals.
- In [Portugal](#), the [Labour Conditions Authority](#) provides information about collaborative economy.

Other undeclared work focused websites:

- The [Danish tax agency's guidance website for foreign workers](#) and the website of the [Financial Administration of the Republic of Slovenia](#).

- A [Czech website of customs administration](#) provides explanation of regulations and controls on undeclared work when employing foreigners.
- The [Maltese governmental job matching portal](#) has a tool to report undeclared work.
- In Estonia, a campaign entitled 'Thank you for paying taxes' was launched to encourage citizens to pay honestly (including tax) for goods and services.

Figure 14. Countries that introduced preventative initiatives



Source: 2019 Annual Platform Survey, based on 27 responses. Answers to the question: Have any additional initiatives been pursued to prevent undeclared work in the collaborative economy (e.g. incentives, awareness campaigns or advice and guidance)?

Figure 15. Types of preventative initiatives used across the EU and by European region

	Total	Western Europe	Eastern and Central Europe	Southern Europe	Northern Europe
Awareness campaigns targeting:					
users	14%	14%	20%	0%	20%
service providers	14%	14%	20%	0%	20%
platforms	4%	0%	10%	0%	0%
Information:					
websites	36%	29%	20%	33%	80%
hotlines	18%	14%	20%	33%	0%

Source: 2019 Annual Platform Survey, based on 27 responses.

2.2 Successes and barriers in tackling undeclared work in the collaborative economy

Successes in tackling undeclared work in the collaborative economy

Three respondents spoke of processes and procedures, which are likely to yield positive outcomes and successes when tackling undeclared work in the collaborative economy.

Poland and Slovenia reported on **(ongoing) inspections in the collaborative economy**, where inspections have been targeting online platforms. In Poland, these inspections have revealed several irregularities.

Finland reported on **joint efforts to tackle undeclared work in the collaborative economy**. In Finland, various authorities have jointly produced information and

guidance pages dedicated to the collaborative economy, including information on their statutory responsibilities and obligations.

Challenges in tackling undeclared work in the collaborative economy

Countries are facing new challenges from emerging online platforms and new forms of work. These are summarised below.

Applying workers' rights to non-standard forms of work

Service providers who are self-employed on online platforms have less social protection than dependent workers. Five countries highlighted difficulties in applying labour law and collective bargaining agreements to these groups, notably the fact that the legal framework for social insurance and benefits is designed to cover dependent employment (for one respondent). Other employment relationships, such as bogus self-employment, trade-in longer-term gain and protection in exchange for short-term income and uncertain employment.

Intensity of bogus self-employment and platform work

Respondents from seven countries indicated that undeclared work on online platforms is growing. In some cases, this concerns specific types of services (e.g. 'proximity' services such as taxi and food delivery services, or the care sector). According to one respondent, the mobility of workers in the hospitality, transport, care and construction industry contributes to this.

Legislation is playing 'catch-up' with fast-moving developments

Three respondents pointed out that developments in the collaborative economy are moving fast and that introducing new legislation is slow and rigid. This does not help authorities to respond well to such a fast rate of change.

Issues in the verification of legal status of the employment relation and compliance with labour law and tax obligations, in particular across borders

Five respondents mentioned that compliance with labour law and tax obligations is difficult to verify in inspections, especially in cross-border cases. In the case of non-standard employment relations, it can be difficult to identify what constitutes undeclared work. Undeclared work is also often hidden, which makes it difficult to prove (e.g. the leasing of real estate or account sharing on online platforms, where the account is linked to one person, but the work is performed by another).

Undeclared work is increasing

More companies and workers appear to engage in undeclared work, which is likely a consequence of the growing collaborative economy. This is a concern voiced by three countries. One response adds that online platforms, which often facilitate low-paid work and form an opportunity to perform work undeclared, may also generate demand for more low-paid work at risk of being undeclared (e.g. accommodation-sharing online platforms generate a demand for cleaning services).

When asked whether there is evidence that these trends lead to a loss in revenue, respondents stressed that it is difficult to provide definitive evidence of the scale of lost revenue. However, the following suggest that there is a loss of revenue:

- Owners of online platforms aim for the lowest levels of social and fiscal cost and social protection for service providers.
- A portion of home rentals are not registered and therefore appropriate tax cannot be levied, results in revenue loss.
- Online platforms operate in areas with traditionally large undeclared economies (e.g. taxis), although cooperation with these online platforms also provides an opportunity to move some of this out of the undeclared economy.

- Online platforms make it easier to provide services, meaning it may also be easier to perform a portion of this work undeclared.
- Service providers do not always understand their obligations, which may lead to revenue loss.
- An increase in online platforms and a self-employed workforce leads to a reduction in tax receipts.

3 TACKLING BOGUS SELF-EMPLOYMENT

Key findings: Self-employment is defined in the national legislation of 85 % of surveyed countries. 50 % of countries have a legal definition of dependent employment. The definition of bogus self-employment in national legislation exists only in 25 % of countries.

- Tax/revenue authorities and labour inspectorates in 81 % and 78 % of responding countries respectively, have the power to tackle bogus self-employment.
- In tackling bogus self-employment, competent authorities have:
 - Initiated awareness campaigns focused on bogus self-employment.
 - Increased efforts towards this issue (e.g. more inspections).
 - Introduced or are developing legislative amendments.
 - Included specific risks related to bogus self-employment in their standard inspections and/or in the risk assessment.
- Just under half (43 %) of all countries indicated that their competent authorities apply risk assessment to identify bogus self-employment:
 - Risk assessment, however, is under-developed and commonly uses the economic sector as an indicator of risk.
- Challenges which persist in tackling bogus self-employment within countries include:
 - Difficulty in proving the employment relationship.
 - Lack of understanding or a negative attitude of the public.
 - Regulation is lacking or not clear.
 - Problems in identifying those in bogus self-employment (they are often hidden).
 - Organisational issues, e.g. cooperating with other government bodies nationally and internationally.
- Cross-border inspections focusing on bogus self-employment are commonly conducted between neighbouring Western European countries but are less common across other countries.
- Challenges to tackling cross-border bogus self-employment are:
 - Data sharing is slow and inefficient.
 - Legal definitions differ across countries.
 - The small-scale and widely dispersed nature of the bogus self-employed makes detection difficult.
 - Proving that the relationship is 'dependent' is difficult.

Box 2: Definition of bogus self-employment

Often referred to as false self-employment or dependent self-employment, bogus self-employment is an employment relationship where a worker is formally registered as

self-employed but works under the same working conditions as those of direct employees and/or they depend on a single employer for a main part of their income.

Although there is no universally accepted definition of bogus self-employment, and the definition in legislation varies across different Member States, there is some consensus. Firstly, there is a consensus that bogus self-employment is an employment relationship where workers are self-employed but have a *de facto* employment relationship. Secondly, there is a consensus that two types of dependence are important, namely *economic dependence* and *personal dependence*. Economic dependence exists where a worker generates their income from one or mainly from one employer, while personal dependence refers to subordination and lack of authority on working methods, content of work, time and place. However, there is no consensus on whether both forms of dependence need to be present, or only one, and the measures used to define economic and personal dependence.

Source: C.C.Williams, M. Llobera and A. Hordonic (forthcoming) *Tackling undeclared work in the collaborative economy and bogus self-employment*, European Platform Tackling Undeclared Work, Brussels.

This chapter covers the following findings:

- An overview of the legal provisions in each country.
- An overview of initiatives used in countries to tackle bogus self-employment.
- The challenges and success factors in tackling bogus self-employment.

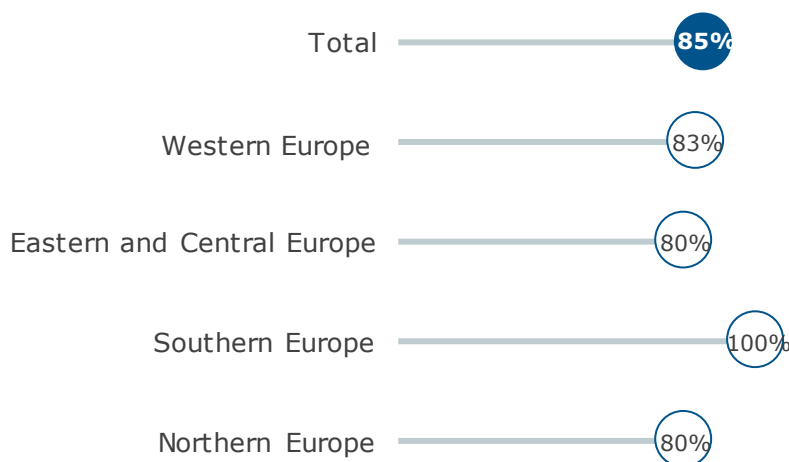
3.1 Legal definitions of employment relationships

A pre-requisite for tackling bogus self-employment is that countries must be able to differentiate between dependent employment, self-employment and bogus self-employment. This requires legal definitions.

Legal definitions of self-employment

Self-employment is commonly legally defined in national law (85 % of countries indicated that this was the case). All Southern European countries indicated that they had such a legal definition.

Figure 16. Almost all countries have a definition of self-employment in national law (proportion of respondents across Europe and per region)

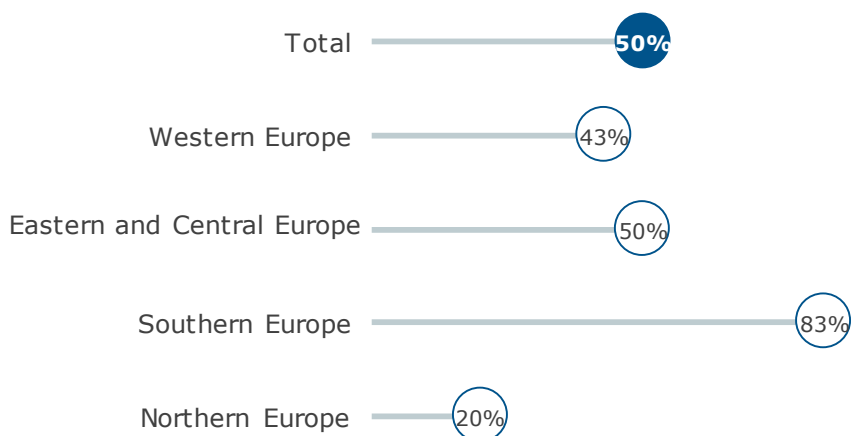


Source: 2019 Annual Platform Survey, based on 27 responses. Answers to the question: Is there a definition of self-employment in your national law?

Legal definitions of dependent employment

Half of all countries indicated that dependent employment is legally defined in their country's law. Most Southern European countries indicated they had such a legal definition (83 %), whereas only 20 % (one) of Northern European countries did as well.

Figure 17. Half of all countries have a definition of dependent employment in national law (proportion of respondents across Europe and per region)



Source: 2019 Annual Platform Survey, based on 28 responses. Answers to the question: Is there a definition of dependent employment in your national law?

Legal definitions of bogus/dependent self-employment

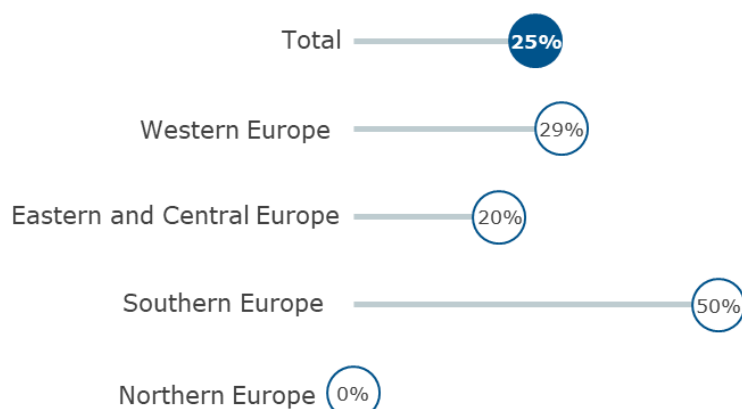
A quarter of all responses indicated that bogus/dependent self-employment is legally defined in national law or can be implied from existing laws. 50% of all Southern European countries indicated they had such a legal definition. None of the Northern European countries have such a definition.

25 % of countries have a defined (hybrid) legal category of bogus/dependent self-employment, namely Belgium, Czechia, Greece, Ireland, Malta, Portugal and Slovakia.

Other countries maintained the binary divide between employment and self-employment and their approach towards bogus/dependent self-employment included:

- Presuming that these are employees fall within the scope of employment protection legislation.
- Reversing the burden of proving employee status.
- Listing criteria to classify workers as either employees or self-employed.

Figure 18. Few countries have a definition of bogus self-employment in national law (proportion of respondents across Europe and per region)



Source: 2019 Annual Platform Survey, based on 26 responses. Answers to the question: Is there a definition of dependent / bogus self-employment in your national law?

3.2 Enforcement authorities with legislative competence to tackle bogus-self employment

In 81 % of countries the tax/revenue authorities have been given power to tackle bogus self-employment. This is the case for all Northern European nations.

Labour inspectorates are almost equally often involved, with 78 % stating that the labour inspectorates in their country have competence to tackle bogus self-employment. However, although labour inspectorates are involved in all Eastern and Central European countries, only just over half (57 % and 60 %) of respondents from Western and Northern European countries respectively assign their labour inspectorates with this legislative competence.

In relation to assigning competence to social security/insurance authorities, 52 % of all countries said these authorities had competence to tackle bogus self-employment. **A large majority of Western European countries answered that social security/insurance authorities are competent** (86 %) compared to just 20 % in Eastern and Central Europe. Ministries of Labour are tasked with this competence only in Southern European countries.

In 30 % of countries, legislative competence is shared with other organisations, mostly in Western European countries (71 %). These organisations are:

- The (labour) courts or wider judicial sector, including the police (France, Greece and Ireland).
- Organisation for holiday and severance pay in the Austrian construction sector (BUAK: *Bauarbeiter-Urlaubs- und Abfertigungskasse*).
- Pension insurance organisation and dedicated Financial Control of Undeclared Work of the Customs Administration (FKS) (Germany).
- Labour offices (Slovakia).
- The UK Gangmasters and Labour Abuse Authority (GLAA) which regulates the supply of workers to the agricultural, horticultural and shellfish industries.

Table 3. Enforcement authorities with legislative competence to tackle bogus-self employment

Country	Labour Inspectorate	Ministry of labour	Tax/ revenue authority	Social security/ insurance authority	Other
Total	78%	7%	81%	52%	30%
Western Europe	57%	0%	71%	86%	71%
Eastern and Central Europe	100%	0%	80%	20%	20%
Northern Europe	60%	0%	100%	60%	0%
Southern Europe	80%	40%	80%	60%	20%

Source: 2019 Annual Platform Survey, based on 27 responses. Answers to the question: Which enforcement authorities have legislative competences to tackle bogus self-employment?

3.3 New initiatives for tackling bogus self-employment

Information points to four areas where countries develop news initiatives:

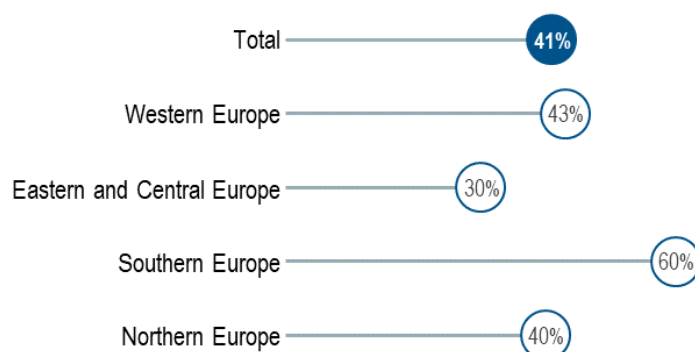
- **Risk:** In five countries, competent authorities include specific risks relating to bogus self-employment in their standard inspections and/or in risk assessment.
- **Information:** Four countries mentioned that a campaign has been introduced in their country to create more awareness of bogus self-employment. Notably:
 - The Irish Department of Employment and Social Protection ran a campaign through online and radio adverts in May 2018. It reached out to bogus self-employed workers and explained the implications to their social welfare benefits and employment rights.
 - To help inform workers and employers, the Czech authorities hold seminars in which they address issues around bogus self-employment.
- **Investing efforts:** Four countries increased efforts by national authorities in tackling bogus self-employment. For example, the Estonian tax administration reached an agreement with an accommodation-sharing online platform, enabling automatic reporting of earnings. The authorities are also working on a self-assessment tool for workers to test if they are at risk of being bogus self-employed. Such a tool already exists in Austria. In Slovakia, Italy and Malta, the number of inspections on undeclared work have increased, including inspections on bogus self-employment. As a response, a Slovak special inspection unit focused on undeclared work was established.
- **Legislative changes:** In three countries, legislative changes have been made or are in development (Latvia, Netherlands and Portugal). In Latvia, legislative amendments have specified the number of 'micro-enterprises' that a single natural person may be employed by, as well as self-employed persons having to make compulsory social contributions of at least 5 %. In the Netherlands, amendments are currently in development. In Portugal, a specific procedure has been introduced for the prosecution of bogus self-employment.

Countries applying risk assessments to identify bogus self-employment

Just under half (43 %) of countries indicated that their competent authorities apply risk assessment to identify bogus self-employment. In Southern European countries this is more commonly applied (60 % indicated risk assessments are carried out).

A common indicator for assessing risk is the sector of activity. With bogus self-employment, competent authorities also tend to look at the number of employers the (potentially bogus) self-employed person works for. More detailed examples of indicators and tools used are presented in Table 4.

Figure 19. Proportion of countries that indicated their competent authorities apply risk assessments to identify bogus self-employment



Source: 2019 Annual Platform Survey, based on 27 responses. Answers to the question: Is risk assessment undertaken to identify instances of bogus self-employment?

Table 4. Description of indicators and tools used in risk assessments to identify bogus self-employment

Country	Description
Estonia	<ul style="list-style-type: none"> a) The company conducts transactions with companies managed by members of its management body b) Transactions are regular c) The transactions pay for a provision of service
Latvia	<p>These indicators are not specifically for bogus self-employment, but also cover bogus self-employment (but are better detected during inspections than through risk analysis):</p> <ul style="list-style-type: none"> a) Type of income indicated is 'income from other economic activities' b) Personal income tax is not withheld as part of the salary c) Natural persons are 'not economic operators or individual merchants' d) Turnover per employee is higher than the industry average
Slovakia	<ul style="list-style-type: none"> a) Size of the employer b) Previous violations by the employer c) The legal form of the employer d) The sector of economic activity
Sweden	<ul style="list-style-type: none"> a) Any previous violations and having in place proper processes b) Space for error c) Perceived risk of discovery d) Motivation e) Institutional quality (i.e. trust)
Italy	<p>Some examples for detection in the construction sector:</p> <ul style="list-style-type: none"> a) Ownership of the tools etc b) Business risk c) Multiple clients or single client d) Type of activity carried out
Portugal	Economic dependence (specifically when one contracting entity constitutes more than 80 % of all work by a self-employed person)
Austria	A special questionnaire is used (no information on questions was provided)
France	Datamining and statistics
Ireland	Special focus on construction sector as a specific high-risk area

Source: 2019 Annual Platform Survey. Answers to the question: Please describe the indicators used in risk assessment.

Finally, few counties provided information on the number of identified cases of bogus self-employment:

- The Austrian BUAK identified 560 suspected cases of bogus self-employment in Austria's construction industry in 2017. This increased slightly to 564 in 2018.
- Czechia found 510 cases of bogus self-employment in 2018, up from 308 in 2017.
- In Italy in 2017 the authorities detected 5 628 cases of irregular employment relationships (including, but not exclusively, bogus self-employment). In 2018, this declined to 5 474 cases.
- In Slovenia, there were 95 infringements related to bogus self-employment between January 2018 to the end of November 2018.

3.4 Challenges and success factors to tackling bogus self-employment

Challenges to tackling bogus self-employment within countries

The survey reveals a diverse picture of challenges across responding countries, highlighting:

- Difficulties proving the employment relationship (6 respondents).
- Issues in understanding and/or the attitude of the public (6 respondents)
- Issues around regulation (five respondents).
- Identifying individuals in bogus self-employment (four respondents)
- Organisational issues, e.g. cooperation between government bodies nationally and internationally (four respondents).

Firstly, it can be difficult to **prove that there is a dependent employment relationship**. For example, records may not be kept. One response refers to legal entities (companies) that are purposely set up to circumvent regular employment. For example, the (bogus) self-employed person may own a share in the company, in which case it becomes difficult to prove that a regular wage is being paid rather than a dividend/share of the profit. Two respondents stated that the process for proving a dependent employment relationship is onerous.

The **understanding and attitude** (one may follow from the other) of the public towards (tackling) bogus self-employment is complex. Some members of the public do not understand the differences and consequences of a traditional employment relation and self-employment, and some cannot assess whether they are in employment or dependent self-employment. Creating this understanding, as well as addressing the public's motivations to engage in bogus self-employment might help tackle bogus self-employment and an unwillingness of the public to move out of dependent self-employment. It can also help them be more cooperative during inspections. One respondent pointed out that foreign workers, in particular, are a group who often do not know their rights and in this way present a challenge.

Regulation is the main challenge identified by the Dutch, highlighting that the lack of a clear definition of bogus self-employment causes problems. While a Dutch research institute has attempted to establish such a definition, it was not generally accepted and was not introduced to the law. The same issue is highlighted in other responses: legal provisions currently in place are not sufficient or not sufficiently clear to create a universal understanding of what constitutes bogus self-employment. In Finland, this is leading to different interpretations across different government bodies. One response added that case law relating to bogus self-employment is unfavourable, and a clearer legal definition would make it easier to tackle the issue.

Proving that the employment relationship is misclassified is one issue, but **instances of bogus self-employment must be found first**. This is an issue mentioned by four

countries. In Finland, so called 'invoicing service companies' engage entrepreneurs. In reality, these entrepreneurs are dependent self-employed, where companies take care of taxation but not (always) of insurance payments. This leads to various issues, for example in the case of debt (some invoicing service companies offer the option to withdraw income as virtual currency, bypassing debt regulation) and in the case of legal disqualifications from engaging in business activities (legally these entrepreneurs are salaried persons rather than self-employed). In Finland, this comes from actors not recognising that it is bogus self-employment or otherwise not seeing it as an issue, linking back to the earlier issue of understanding and awareness.

Cooperation between organisations and lack of appropriate capacity is another challenge in tackling bogus self-employment, with the following aspects mentioned by individual countries:

- The understanding of bogus self-employment varies between government bodies, which can lead to different interpretations.
- The nature of some forms of self-employment is fundamentally blurred, making it difficult to assess whether it constitutes a dependent or independent relationship. Further legal clarity is needed.
- Different definitions between responding countries pose a challenge in tackling cross-border bogus self-employment.
- The lack of in-depth analytical capacity, the lack of data availability and the need for a stronger cross-government approach must be addressed. In Denmark, to address this, a joint project with the Labour Inspectorate, tax/revenue administration and the police has been set up. It is dedicated to bogus self-employment and to ensure compliance with tax and labour regulations.

Exacerbating these challenges, seven countries said that **undeclared work and/or bogus self-employment on online platforms is growing**. In some cases, this concerns specific types of services (e.g. in France and Denmark this mainly concerns 'proximity' services such as taxi and food delivery services while in Ireland this concerns the care sector). According to one respondent, the mobility of workers in the hospitality, transport, care and construction industry contributes to this.

In addition, two respondents stressed that certain **workers were being pushed into bogus self-employment**, which could lead to extortion. For groups that are disadvantaged when entering the labour market, such as immigrants and refugees, involuntary dependent self-employment may be their only option to work, sometimes being paid less than the minimum wage.

Several responses suggested that **awareness raising activities, together with consistent inspections**, will help tackle bogus self-employment. Similarly, suggestions were made to address the lack of awareness of foreign workers by sharing and increasing the accessibility of information on working conditions, labour law and advice from public services. Other respondents pointed out the necessity to have **clear definitions** of what constitutes bogus self-employment, either by developing clear definitions or good guides that can be consistently applied. Better and more cooperation nationally and internationally will also help tackling bogus self-employment.

Successes in tackling bogus self-employment

A number of respondents provided information on successful initiatives tackling bogus self-employment, including new procedures, risks assessments and better cooperation between enforcement authorities. Responses varied from describing enforcement actions to outlining specific initiatives:

- Portugal and Slovakia spoke of an improvement in procedures, notably creating a procedure to prosecute bogus self-employment in Portugal.

- In Belgium and Norway, national authorities now work closer together in tackling bogus self-employment. Notably in Belgium (and in France), bogus self-employment has been condemned by the courts.
- Denmark and Estonia described a package of initiatives that are currently proving to be successful.
 - In Denmark, a joint initiative between the Labour Inspectorate, tax/revenue administration and police is dedicated to tackling bogus self-employment and ensuring compliance to labour and tax regulations.
 - In Estonia, the tax/revenue administration introduced a risk assessment dedicated to identifying and tackling bogus self-employment. This assessment targets persons at risk of being bogus self-employed and offers them to 'get their house in order' with the help of the administration. Where such procedures have started, subjects have mostly been interested in being cooperative and coming to a solution before further inspection is initiated. Secondly, the Labour Inspectorate proactively creates awareness with relevant target groups on what constitutes legal employment relations through an electronic newsletter. This includes a questions and answers (Q&A) section in which readers can pose their questions to legal experts. This is a popular part of the newsletter. The Labour Inspectorate also ensures presence and dissemination of information via traditional and social media, sometimes in cooperation with the tax/revenue administration. Finally, concrete measures targeted at employers, such as the obligation to register any workers (whether self-employed, salaried or posted) helps Estonia successfully map and address the issue. The efforts by the Estonian tax/revenue administration have contributed to an additional twelve million euros in labour costs. In addition, the Labour Inspectorate sent information on the benefits of proper labour relations to 9 690 newly registered enterprises.

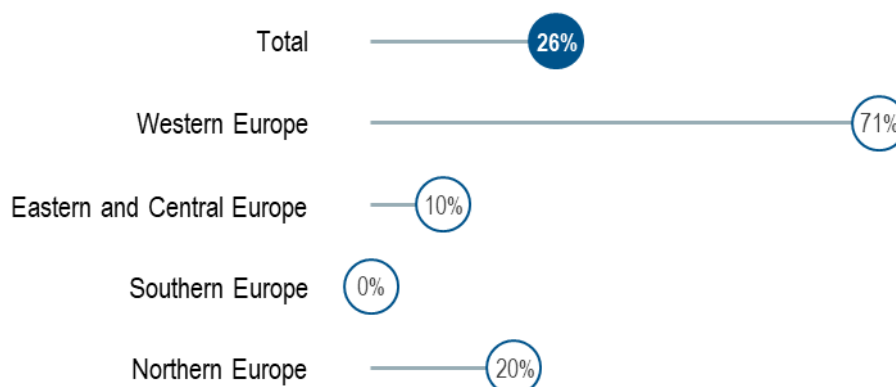
Cross-border inspections carried out in relation to bogus self-employment and challenges associated with them

Cross-border inspections related to bogus self-employment are **commonly conducted in Western European countries, but this is less the case in other countries**. Indeed, 71 % of Western European countries performed these inspections, while the average across all countries is 26 %.

Often, **joint cross-border inspections** (in particular between Western European countries) are **based on geographical proximity**:

- The Netherlands and Belgium conducted a joint cross-border inspection which was part of an investigation into bogus self-employment (Belgium: BENELUX inspections).
- Joint inspections by the German and French authorities were carried out, based on a bilateral agreement on cooperation in tackling undeclared work and cross-border abuse of social benefits associated with employment.
- The Irish authorities worked with their counterparts in Northern Ireland in the construction area, in order to ensure that tax and social insurance contributions were made to the appropriate authority.

Figure 20. Proportion of countries conducting cross-border inspections focusing on bogus self-employment



Source: 2019 Annual Platform Survey, based on 27 responses. Answers to the question: Are cross-border inspections carried out in relation to bogus self-employment?

Challenges to tackling cross-border bogus self-employment

There is a consensus on the main challenges to tackling cross-border bogus self-employment. Some of these are not specifically related to bogus self-employment but rather associated with conducting cross-border inspections in general.

Regardless of the inspected issue, data exchange, better cooperation at national and cross-border level and language skills of inspectors could always be better to conduct cross-border inspections in more efficient manner. Nine responses stated that **data sharing could be more efficient and timelier**. Five responses stressed the need for **better cooperation** between labour inspectorates for joint inspections and controls. Finally, several respondents pointed to **language difficulties** when investigating cross-border cases of bogus self-employment.

Challenges to tackling bogus self-employment at cross-border level relate to differences in legal definitions or lack thereof. The scale of bogus self-employment also differs across Member States; it sometimes might not be high on the policy agenda, and Member States might not be willing to dedicate resources to tackle it. Eight respondents stated that **different legal definitions of (bogus) self-employment across countries** makes tackling this a difficult task. For example, a worker can be classified as an independent self-employed in Belgium, but as salaried in France. In that domain, eight responses also stressed the lack of clear definitions or the need to have clearer definitions in place.

A fundamental difficulty in tackling the issue seems to come from the nature of the issue. Bogus self-employment **is often smaller scale (i.e. small activities) and widely dispersed. This makes detection difficult**. Even if detection is possible, **proving the nature of the employment relationship may then be difficult legally**. The complexity of this situation may be exacerbated when documents are missing, or appropriate registrations have not taken place.

Finally, resources to tackle cross-border bogus self-employment are also not always available. This issue is highlighted by three responses. This could be due to **misaligned inspection priorities**, such as a focus on tax revenue versus workers' conditions, or a lack of interest.

4 DATA EXCHANGE AND DATA PROTECTION

Key findings:

- GDPR requirements are perceived as an issue to exchanging information between Member States in tackling undeclared work for more than half of Southern and West European countries. Respondents from Eastern and Central European countries experience no barriers at all in most cases. Specific barriers are more prevalent in the following European regions:
 - All respondents from Northern and Southern European countries indicated that the resources required to respond to GDPR requirements posed some barrier (either major or minor).
 - All Southern European countries highlighted that the loss of established communication channels, due to the need to update data protection rules, was a barrier to exchanging information.
- The most commonly identified GDPR-related challenges to exchanging information between countries were:
 - Language issues and poor translations (54 % of respondents).
 - Lack of a single point of contact (42 % of respondents).
 - The speed of response (42 % of respondents).
- The most commonly identified GDPR-related challenges and solutions for exchanging data within countries were:
 - Regulation that is not fit for purpose or confusing – here clarifications would help.
 - Data protection that stands in the way of data exchange – here being clear about the purpose of the data exchange may alleviate that.
 - Implementation of data protection, with lacking IT systems and skills – here, organisational measures, such as training and informative intranet pages can help.

Module 2 of the 2019 Annual Platform survey focused on challenges to data exchange following data protection regulation, and the General Data Protection Regulation (EU) 2016/679 (GDPR) in particular. The aim was to begin to understand the challenges surrounding data exchange and data protection in enforcement authorities in European countries and the impacts this has on tackling undeclared work.

This chapter addresses in turn:

- Respondents' views on barriers to data exchange between countries.
- Respondents' views on barriers and solutions to data exchange within countries.
- Solutions to challenges posed by GDPR and data protection in general.

4.1 Data protection barriers to data exchange between countries

Countries do experience some barriers to exchanging information. 70 % of countries responded that they see the resources needed to respond to GDPR requirements as a major or minor barrier. Changes to GDPR regulation requires additional resources to update existing data exchange protocols. 52 % see GDPR requirements themselves as a major or minor barrier to exchanging information between Member States when tackling cross-border undeclared work. The loss of established communication channels, due to the need to conform to GDPR rules, is not

seen as a barrier by 56 % of respondents, and only 11 % indicated that this is a major barrier. This is summarised in Table 5.

Table 5. Barriers to exchanging information due to GDPR

Barrier	Major barrier	Minor barrier	Not a barrier at all	Do not know
The resources needed to respond to GDPR requirements	22 %	48 %	26 %	4 %
GDPR requirements themselves	22 %	30 %	30 %	15 %
The loss of established communication channels due to the need to update to the GDPR rules	11 %	19 %	56 %	15 %

Source: 2019 Annual Platform Survey, based on 27 responses
 Note: Responses for 'GDPR requirements themselves' do not add up to a 100 % as one country of 27 respondents to this Module did not answer this question. Answers to the question: Do you think that the General Data Protection Regulation (GDPR) is a barrier to exchanging information between Member States in their activities of tackling cross-border undeclared work?

However, the results in Table 5 mask regional variation. Across these types of barriers, Platform members from **Eastern and Central European countries most often indicate they experience no barriers at all**. This is the largest regional group, making up almost half of all respondents and therefore having the greatest influence on results reported in Table 5.

Results also suggest that the resources required to respond to GDPR requirements are no barrier at all for half of all Eastern and Central European countries and almost a third of Western European countries. On the other hand, **all respondents from Northern and Southern European countries indicated that resources posed either a major or minor barrier**.

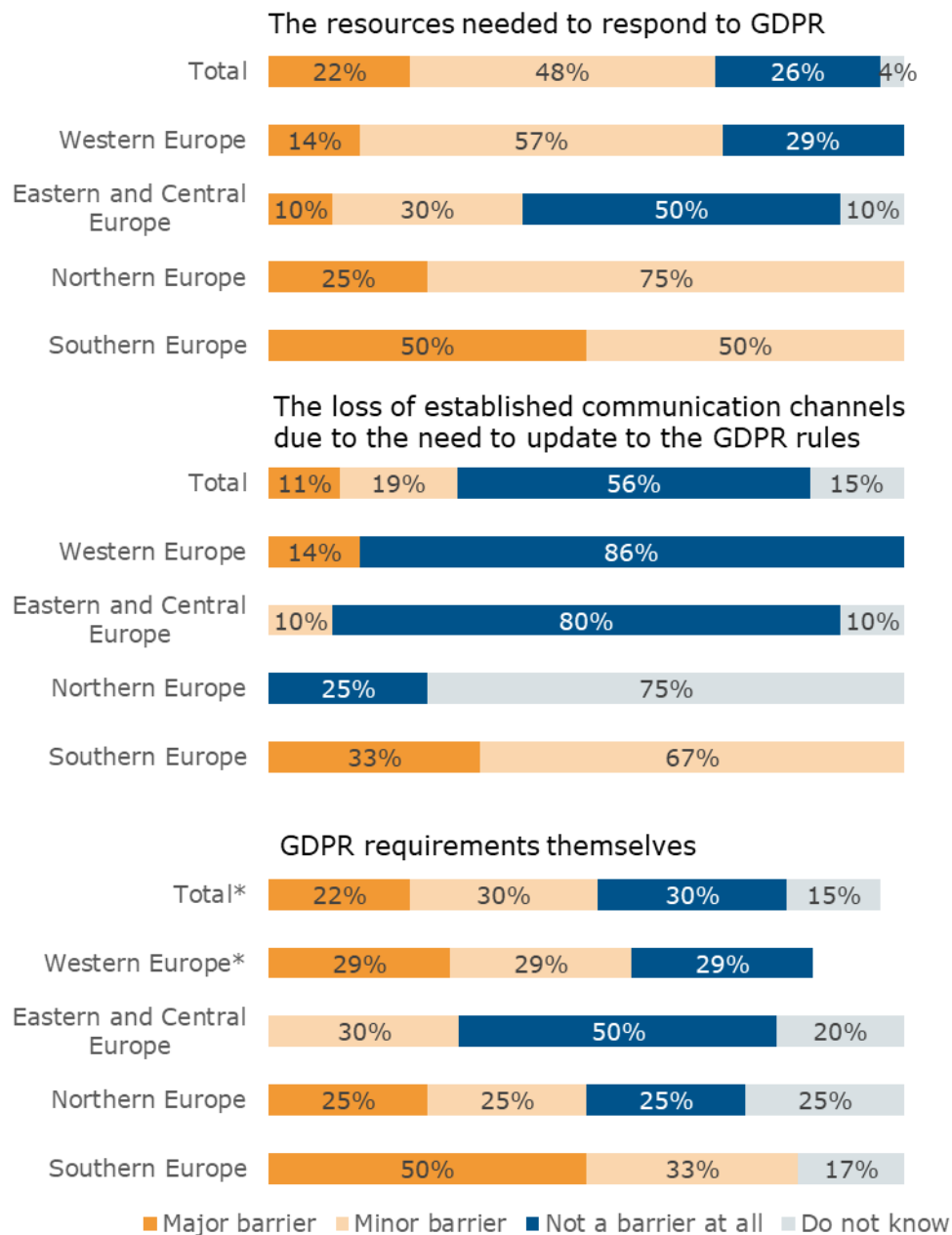
The loss of established communication channels due to GDPR requirements is generally not perceived as a barrier. Over 80 % of respondents from Western and Eastern and Central European countries said this was not a barrier. However, **all respondents from Southern European countries said that the loss of established communication channels were a minor (66 % of respondents) or major (33% of respondents) barrier** to exchanging information. Email and other electronic communication was particularly affected, making it much more complicated. Other impacts of GDPR requirements to existing communication channels reported in the survey included:

- Information must be anonymised when using external service providers.
- Data exchange is hindered by the different requirements between countries on data sharing, e.g. non-personal information.
- Communication between public administration databases is affected.
- Information exchange on posted workers occurs solely through IMI because of GDPR.

Finally, **GDPR requirements themselves are perceived as an issue for more than half of Southern and West European countries**. They are a major issue for half of the respondents from Southern European countries and for almost a third of Western European countries. GDPR requirements are a minor issue for another third of respondents from Southern and Western European countries. Half of the respondents from Northern European countries also indicated GDPR requirements themselves are either a major or a minor issue. The only region where the majority of respondents indicated GDPR requirements are not a barrier at all is in Eastern and Central Europe,

with 50 % responding in this way. Only 30 % of respondents from Eastern and Central Europe indicated GDPR requirements themselves were an issue at all, compared to 52 % respondents overall.

Figure 21. Main barriers to exchanging information between countries due to GDPR, by European region



*Note: * Responses do not add up to a 100 % as one country of 27 respondents to this Module did not answer this question.*

Source: 2019 Annual Platform Survey, based on 27 responses. Answers to the question: Do you think that the General Data Protection Regulation (GDPR) is a barrier to exchanging information between Member States in their activities of tackling cross-border undeclared work?

Other barriers

This section discusses the specific GDPR-related challenges (as presented in a Table 6) encountered by Member States when exchanging information between countries. While the survey question asked specifically about GDPR, it is recognised that some of the answers are capturing wider challenges surrounding exchange of data, which may be exacerbated by GDPR requirements.

The **most commonly identified challenges (54 %) are language issues and poor translations**, which can concern the data that is exchanged or the national legal base transposing GDPR and opinions given by national personal data protection authorities. This challenge is particularly felt by Eastern and Central European countries (70 % of all respondents from this region). One respondent mentioned that competent authorities do not use the working languages recognised by the IMI system, and the translating tool can provide low quality translations. This pushes the use of erroneous translations in investigations.

For 42% of respondents, the **lack of a single point of contact** is also an issue, although this is less so the case for Western European respondents (17 %). One respondent mentioned that the enforcement authority registered in the IMI system is not actually competent in responding to some requests.

The **speed of response** is also a challenge for 42 % of countries, although this is not an issue for Northern European countries (only one respondent of a Northern European country chose this option). One respondent stressed that not all countries could obtain the information required, and several respondents indicated that in some cases their authorities received the requested information very late. Another response said that requests for information to other enforcement authorities were simply refused.

40% of respondents presented other challenges in relation to data exchange, where regional variations are interesting to highlight:

- Almost all respondents from **Western Europe (83 %)** indicated that the **lack or absence of secure channels was a specific challenge**, compared to 20 to 33 % of respondents in other regions. For example, requests that are out of scope of IMI have to be made via email, although according to GDPR, data should not be shared this way.
- **Interoperability of databases is perceived as a particular issue in Northern Europe** (75 % of respondents) and Southern Europe (50 % of respondents), but not in Eastern and Central Europe (10 % of respondents). For example, tax and customs data can be difficult to obtain from other countries' competent authorities. This could be due to the extra time and resource associated with administrative tasks to respond to requests for data exchange, as for each such request GDPR requirements must be met. This means that the justification for each data exchange (including meeting GDPR requirements) must be filed.
- Over one-third of respondents stressed that a general challenge around information exchange of personal data is to ensure that there is a **legal basis** for the exchange, according to the relevant data protection regulation, and that sufficient security measures are in place when transferring the information. Cross-border cooperation (in particular in the context of inspections) can be challenging when having to establish the lawfulness of processing of data (for example, when establishing the authenticity of Portable Documents (PD) A1 forms).
- **Understanding other countries' national restrictions** (38 %) was mentioned in all regions except Northern Europe. The difficulty lies in countries employing different approaches to dealing with GDPR (for example in coordinating cross-border preventative measures, data gathering on non-personal information), and from the different types of data that can be exchanged.

- Western European respondents more frequently indicated that **acquiring and understanding other countries' data protection legislation** was challenging (67 % compared to 27 % in all surveyed countries). For example, understanding the provisions for confidentiality in individual countries is important, as they can sometimes even prevent disclosure of information.

Table 6. Challenges experienced when exchanging information between countries

Challenge	Total	Western Europe	Eastern and Central Europe	Northern Europe	Southern Europe
Language issues/poor translations*	54 %	33 %	70 %	50 %	50 %
No single point of contact	42 %	17 %	50 %	50 %	50 %
Speed of response	42 %	50 %	50 %	25 %	33 %
Lack or absence of secure channels	38 %	83 %	20 %	25 %	33 %
Understanding other countries' national restrictions (art. 23 GDPR) e.g. right to access, rectification and erasure	38 %	50 %	40 %	0 %	50 %
Lack of proper legal basis	35 %	17 %	40 %	50 %	33 %
Interoperability of databases	35 %	33 %	10 %	75 %	50 %
Lack of capabilities / skills to use systems	35 %	67 %	30 %	25 %	17 %
Different standards between countries on level of security appropriate to the risk	31 %	50 %	30 %	25 %	17 %
Lack of openness	27 %	50 %	30 %	0 %	17 %
Acquiring and understanding other countries' data protection legislation	27 %	67 %	10 %	25 %	17 %
Knowing which authorities are 'competent authorities' under article 3, 7 of Directive 2016/680	23 %	33 %	10 %	25 %	33 %
Different templates / procedures for data protection impact assessment	19 %	33 %	0 %	25 %	33 %
Justifying need for the information when making a request	15 %	50 %	10 %	0 %	0 %

Note: *Challenge related to exchange of data in general and GDPR specifically.

Source: 2019 Annual Platform Survey, based on 26 responses. Answers to the question: What specific GDPR challenges do you currently experience when exchanging information between countries?

Other legislation impacting data exchange between countries

A few respondents provided information on other data protection legislation that prevents the exchange of information between countries. They mentioned the following legislation impacting data exchange:

- **National legislation transposing GDPR.**
- **National legislation governing tasks performed by enforcement authorities and lawfulness of data processing.** National legislation on social data protection, tax and occupational health and safety create stringent rules on sharing information and determine what they can and cannot share. Other individual laws at national and EU levels contain restrictions on data processing. Complex interactions between the law at different levels make it difficult for enforcement authorities to navigate and create barriers when attempting data transfer.
- **EU level regulations and restrictions.** For one respondent, VAT information system legislation prevents access for labour and tax authorities without the agreement of another countries' competent authorities. In addition, the restrictions set within the IMI limit the types of data that Member States would like to exchange.

4.2 Data protection barriers and solutions to data exchange within countries

Respondents were asked to indicate the most important challenges when exchanging information within their own country, rather than exchanging information across countries. This sub section summarises their responses.

Challenges to sharing information within countries

The GDPR and data protection challenges to sharing information within countries can be grouped into four types of challenges.

The first challenge concerns legal elements. The GDPR and data protection can create uncertainty or confusion over how to comply with the regulations, or they require legal changes when sharing data within borders. Northern European countries in particular found this uncertainty to be a challenge. For two of them, uncertainty existed around the interpretation and the application of specific provisions of GDPR Article 14 (the right of an individual to be informed about the collection and use of their personal data when this data has not been obtained directly from the subject, i.e. informing the individuals). Uncertainty also persists around Article 6 on the lawfulness of processing the information (and whether a legal basis exists in accordance to this Article when seeking to exchange information). In addition, a plethora of national and EU-level legislation governing data protection causes confusion. A cohesive, all-encompassing framework of data protection regulation would make it easier to determine which legislation applies.

The second of challenge is that data protection legislation itself is experienced as a challenge (not referring to changes or difficulty in interpretation). Generally, the strict legal requirements that follow from data protection legislation limit data sharing possibilities. This can affect data exchange between national authorities and can impact the data itself, as well as requirements to the functional security of IT systems.

The third type of challenge concerns the implementation of data protection regulation as an organisational challenge (five respondents). This concerns the application of rules to all the activities of the organisation, and more particularly the collection and transfer of data and the logging of data processing events (as covered by Article 6 of the GDPR). Justifying the necessity of data exchange can also be a challenge in itself. Furthermore, a general lack of clear authority and slow internal processes related to GDPR and data protection are also challenging when exchanging information within a country.

The fourth challenge concerns the IT systems or the skills required to use these systems, in relation to data protection and/or GDPR (six responses). Three respondents highlighted security as a challenge, such as encrypting data when exchanging information. Others pointed to a wider lack of technical resources to support data exchanges between national authorities, difficulties in having to understand other systems and achieving better cooperation (in particular establishing electronic data shares) between enforcement authorities.

4.3 Solutions to challenges posed by GDPR and data protection

Results find that solutions must focus on providing legal clarity, organisational guidelines and support, ensuring IT systems are fit for purpose and ensuring there is a clear purpose for the exchange of data.

13 responses focused on the **need for legal clarity to avoid confusion and ambiguity** and to overcome the challenges posed by GDPR and data protection regulation. More specifically, it was suggested that:

- Law and practice should be aligned.
- National and EU-level legislation were needed to clarify competencies and obligations of different authorities
- Harmonisation of national data protection regulation was required throughout Europe, in particular regarding data in the social domain.

Clear organisational guidelines and support was mentioned as necessary to overcome the challenges posed by GDPR and data regulation. The specific type of support required was to:

- Ensure clear guidelines for employees, in particular in the form of a Data Protection Officer.
- Provide training for employees.
- Control and verify compliance by employees.
- Implement safeguards in organisational processes, such as the use of passwords, deleting data after a certain period of time, restricting access based on authorisation profiles.
- Continuously verify organisational practices to align with changing regulation and to keep data secure.

One specific type of organisational support mentioned by four responses focused on the need to **adapt existing IT systems and processes to ensure they are fit-for-purpose**. Three responses elaborated that compatibility of IT systems between relevant national databases, or a single data sharing tool would help, as well as ensuring cross-organisational access.

Furthermore, three countries highlighted the need to **be clear about the purpose of data exchange**. Data sharing requests should not be random, but targeted and in the public interest.

5 CROSS-BORDER SANCTIONS

Key findings:

- Sanctions for cases of cross-border undeclared work are not used very often:
 - Northern and Western European countries most often requested sanctions.
 - Eastern and Central European countries most often received requests.
- Most requests for sanctions relate to the posting of workers.
- The sanctions applied for cross-border undeclared work are mainly penalties and fines for companies (79 % of all responses across the EU).
- 61 % of countries indicated that they differentiate between sanctions and the recovery of unpaid social contributions.
 - Differentiation is most often made because they are different administrative processes, but they are also legally separated.
- Labour inspectorates (76 %) and tax/revenue administrations (68 %) are most often involved in determining the sanctions for cross-border undeclared work.
- The organisations involved generally work independently of each other.
- Labour inspectorates are most often responsible for notifying sanctions for cross-border undeclared work to non-national companies and/or workers, but in all Western Europe countries this falls to their tax/revenue administrations.
- A third of respondents applied cross-border sanctions related to undeclared work following a posting situation addressed under the IMI posting module.

Module 3 of the 2019 Annual Platform survey examines the use of cross-border sanctions by countries, where these relate to undeclared work. This chapter reports findings on:

- Where sanctions are used in cases of cross-border undeclared work.
- The type of sanctions applied.
- Whether countries differentiate between sanctions and the recovery of unpaid social security contributions, taxes, etc.
- The application of sanctions under the Internal Market Information (IMI) posting module.

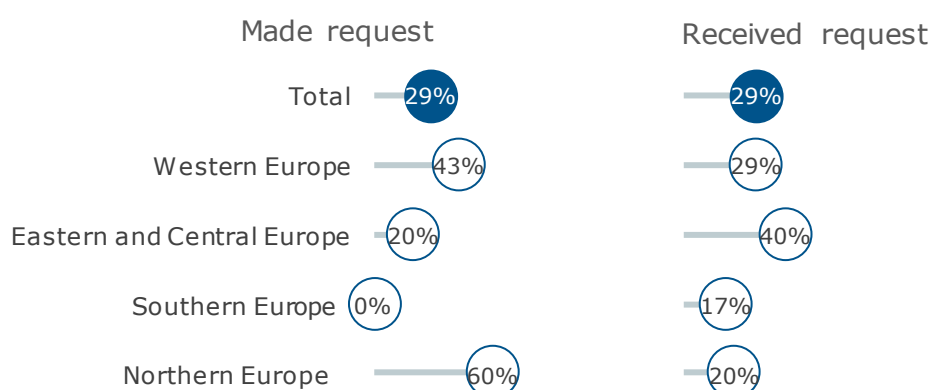
5.1 Use of sanctions for cross-border undeclared work

Sanctions for cross-border undeclared work are **not used very often**. Figure 22 and Table 7 show that **North European countries most often made a request for sanctions** (60 % of respondents from this region), followed by Western European countries (43 % of respondents from this region). **Eastern and Central European countries most often indicated they received such requests**: 40 % of respondents from this region had received a request. In Southern European countries, no respondent indicated that they made requests for sanctions in cases of cross-border undeclared work, and only one indicated receiving such a request.

Overall, the number of sanctions requested is low. Requested sanctions in the past two years vary from two in Iceland to around ten in Belgium and the Netherlands, and nearly 20 in Sweden. The number of requests received ranged from four in Germany and Portugal, to over 30 in Hungary and 36 in Poland in the past two years.

The **types of violations** for which cross-border sanctions have been used to tackle undeclared work relate to minimum wage violations and tax non-compliance.

Figure 22. Proportion of responses who indicated their country made and received a request for a sanction



Source: 2019 Annual Platform Survey, based on 28 responses. Answers to the two questions: (i) Have you in the past 2 years requested sanctions in the case of cross-border instances of undeclared work? (ii) Have you in the past 2 years received requests for sanctions in the case of cross-border instances of undeclared work?

Table 7. Sanctions for cross-border undeclared work

Region	Requested sanctions for cross-border undeclared work	Received requests for sanctions on cross-border undeclared work
Western Europe	3: Austria, Belgium, Netherlands	2: Belgium, Germany
Eastern and Central Europe	2: Czechia, Slovenia	4: Hungary, Latvia, Poland, Slovenia
Northern Europe	3: Denmark, Iceland, Sweden	1: Sweden
Southern Europe	0	1: Portugal

Source: 2019 Annual Platform Survey, based on 28 responses.

5.2 Type of sanctions applied

Most of the sanctions applied for cross-border undeclared work are penalties and fines for companies (79 % across the EU). In Southern European countries, sanctions are more often penalties and fines for workers (60 % across Southern European countries, compared to 36 % across Europe).

Non-compliance lists ('blacklists') are used the least, although they are relatively common in Western European countries (57 % of respondents compared to 32 % across Europe). Other sanctions used include:

- Closure of the company for a period of time.
- Prosecutions under criminal law.
- Prohibition to participate in public tenders.
- Penalties and fines linked to social security benefit fraud.
- Payment freezes.
- Publication of decisions to sanction (i.e. 'naming and shaming').

Table 8. Type of sanctions applied across the EU and by region

Type of sanction	Total	Western Europe	Northern Europe	Southern Europe	Eastern and Central Europe
Use of penalties and fines for workers	36 %	43 %	30 %	60 %	17 %
Use of penalties and fines for companies	79 %	86 %	90 %	60 %	67 %
Use of blacklists	32 %	57 %	30 %	20 %	17 %

Source: 2019 Annual Platform Survey, based on 28 responses. Answers to the question: What sanctions (financial or otherwise) can be applied in your Member State?

5.3 Differentiation between sanctions and recovery of unpaid social security contributions etc.

Most countries (61 %) differentiate between sanctions and the recovery of unpaid social security contributions. However, this is much less common in Eastern and Central European countries (40 %).

Most countries referred to **different administrative procedures** which, by their existence, differentiate between sanctions and/or fines and the recovery of unpaid social security contributions. Often this is simply due to competence being assigned to different authorities (e.g. labour inspectorates: fines for undeclared work; social security authorities: recovery of unpaid social contributions; tax/revenue administrations: tax non-compliance sanctions).

Other countries also referred to a **different legal basis** for sanctions and recovery of unpaid contributions. Although not directly evident from their responses, it is likely that this also leads to a differentiation in administrative procedures.

Just two responses mentioned that, within the same procedure, there is a strict differentiation between the fine and the obligation to pay owed contributions.

Table 9. Countries that differentiate between sanctions and recovery of unpaid social security contributions etc.

Region	Yes	Countries
Total	61 %	
Western Europe	71 %	Austria, Belgium, France, Germany, Netherlands
Eastern and Central Europe	40 %	Bulgaria, Czechia, Slovakia, Slovenia
Northern Europe	80 %	Denmark, Finland, Iceland, Norway
Southern Europe	67 %	Cyprus, Italy, Portugal, Spain

Source: 2019 Annual Platform Survey, based on 28 responses. Answers to the questions: When notifying sanctions do you differentiate between sanctions and recovery of unpaid social security contributions, taxes, etc.?

Processes for determining sanctions for cross-border undeclared work

Over 50 % of all responses indicated that tax/revenue administrations, labour inspectorates and social security authorities were involved in the process of determining sanctions for cross-border undeclared work. About a third of responses indicated that other organisations were also involved. **Labour inspectorates (76 %) and tax/revenue administrations (68 %) are most often involved in the process of determining sanctions for cross-border undeclared work.** Labour inspectorates are particularly often involved in Southern (83 %) and Eastern and Central European countries (89 %), whereas tax/revenue administrations are more often involved in Western European countries (83 %) and the Northern European nations (75 %). Social Security authorities are often involved in Western European countries (83 %).

Table 10. Organisations involved in determining sanctions for cross-border cases of undeclared work

Type of organisation	of Total	Western Europe	Northern Europe	Southern Europe	Eastern Central Europe	and
Tax/revenue administrations	68 %	83 %	75 %	50 %	67 %	
Labour inspectorates	76 %	67 %	50 %	83 %	89 %	
Social security authorities	64 %	83 %	50 %	67 %	56 %	
Other organisation	36 %	50 %	25 %	33 %	44 %	

Source: 2019 Annual Platform Survey, based on 25 responses. Answers to the question: How is the national workflow / process for determining sanctions currently organised for cross-border cases of undeclared work?

In most cases, organisations work autonomously in determining sanctions. Only a few respondents reported that several organisations work together. For organisational responsibilities, where this information was provided by respondents, Table 11 provides a summary.

Table 11. Responsibilities in determining sanctions for cross-border cases of undeclared work

Tax/revenue administrations	
• When acting autonomously	
Germany	Tax collection, prosecution and fines for tax offences according to the Tax Code.
Netherlands	The Dutch tax/revenue administration is the responsible organisation regarding tax and social security in cases of cross-border undeclared work, including the imposition of fines. While they do act autonomously, collaboration with the Labour Inspectorate does occur during inspections.
Slovenia	The Financial administration imposes sanctions on companies and workers under the Prevention of Undeclared Work and Employment Act. Information is then sent to social security authorities and the Ministry of Public Administration who prohibit these companies from employing foreign workers, acquiring A1 certificates and from participation in public procurement.

↪ When working together	
Denmark	A special unit in the Danish tax administration deals with administrative sanctions. Larger cases are handled by the police and courts under criminal law.
Portugal	Recovery of taxes.
Unknown if cooperating or autonomous	
Austria	The Austrian tax/revenue administration carry out inspections in cases where employees work outside of Austria and are not subjected to Austria's General Social Security Law.
Labour Inspectorates	
• When acting autonomously	
Iceland	Determine sanctions in cases of violations of provisions on posted workers, including cross-border sanctions in cases where the representative of the company employing posted workers is not in Iceland. The Labour Inspectorate can obtain relevant information from other government bodies.
Italy	The process when applying a sanction in cross-border cases of undeclared work is the same as for national cases of undeclared work.
Netherlands	The Dutch Labour Inspectorate is responsible for inspections on cross-border cases of undeclared work.
Slovakia	The Labour Inspectorate is the main responsible organisation in undeclared work and the posting of workers in a cross-border context.
Slovenia	Responsibilities of the Labour Inspectorate regarding undeclared work are captured in law. These include: informing the customs authority of (suspect) cases of undeclared work; informing the tax/revenue administration where tax payments and social security contributions have wrongfully not been made; informing the Health Insurance Institute of any injury, disease or death of a person in undeclared employment; right to link and access data for Slovenia's tax/revenue administration and social security/insurance department to prevent undeclared work of people performing 'supplementary work' and to check their rights to social insurance.
↪ When working together	
Poland	The Polish Labour Inspectorate notifies Polish employers posting Polish employees abroad of any sanctions imposed by a requesting authority, or of any requests to recover a fine. If the request to recover a fine meets the formal requirements as specified in the 'Act of 10 June 2016 on the posting of workers in the framework of the provision of services', the Labour Inspectorate, after notifying the employer, forwards the request to the tax/revenue administration ('unless a voluntary payment of an administrative financial penalty or an administrative fine was made').
Unknown if cooperating or autonomous	
Czechia	The process when applying a sanction in cross-border cases of undeclared work is the same as for national cases of undeclared work. There is only a difference in the way individual documents are delivered and the decision imposing the sanction which takes into account: the protected legal interest; the nature and severity of the offence, in particular the manner of its commission; its consequences, and

	circumstances under which it was committed, as well as circumstances of the given person / entity.
Spain	The Labour Inspectorate proposes sanctions to the competent Labour Authorities.
Social Security Authorities	
• When acting autonomously	
Germany	The German Social Security Authority is responsible for the collection of contributions as well as the prosecution of offences in its area of competence.
↻ When working together	
Portugal	The Portuguese Social Security Authorities are responsible for the recovery of unpaid social security contributions, although it is not specified how they collaborate with other organisations involved (presumably the tax/revenue administration).
Slovakia	The Slovak Social Insurance Agency works together with the Labour Inspectorate.
Unknown if cooperating or autonomous	
Austria	The Vienna Regional Health Insurance Fund (<i>Wiener Gebietskrankenkasse</i>) verifies wages of employees who are not covered by the General Social Security Act, and the health insurance providers carry out tasks (including identifying offences) for employees who are covered by the General Social Security Act, employees who are not covered by the Act but usually work in Austria, and people working from home.
Finland	The Finnish Centre for Pensions can decide to force insurance payments, also in cross-border cases of undeclared work. This entails an insurance company collecting the contributions and imposing a negligence fee as a sanction.

Source: 2019 Annual Platform Survey, based on 25 responses. Answers to the question: Please describe the responsibility of tax, social security administration and labour inspectorates, and whether they act autonomously or work together when determining sanctions:

Across the EU, **labour inspectorates are most often responsible for notifying sanctions for cross-border undeclared work to non-national companies and/or workers**. However, this is biased by the large number of Eastern and Central European countries in which labour inspectorates are responsible for this process (80 % of them). This is equal to eight out of 27 countries that responded to the survey. Across all other regions, only four countries indicated that their labour inspectorate was responsible.

An analysis by region shows that tax/revenue administrations and social security/insurance authorities are more often responsible in Western European countries. Of the nine other organisations that also had responsibility, a third were regional in scope and another third were specific executive agencies.

Almost half the respondents indicated that more than one organisation was responsible (13 out of 27). Nine countries provided more information on the roles of the different bodies involved. In most cases, this meant different organisations were responsible for tasks within the scope of their organisation. Two responses indicated that different organisations worked together in some cases. In both cases, one organisation dealt with the sanction in the first instance, seeking the help of another in complex cases or forwarding the case if the fine is not paid.

Table 12. Organisations responsible for notifying cross-border sanctions to non-national companies and/or workers

Type of organisation	Total	Western Europe	Northern Europe	Southern Europe	Eastern and Central Europe
Labour Inspectorate	59 %	33 %	40 %	67 %	80 %
Tax/revenue administration	41 %	100 %	40 %	17 %	20 %
Social security/ insurance authority	30 %	83 %	20 %	33 %	0 %
Ministry of Finance	7 %	0 %	0 %	0 %	20 %

Source: 2019 Annual Platform Survey, based on 27 responses. Answers to the question: Which organisation(s) in your country notifies cross-border sanctions to non-national companies / workers?

5.4 Use of the Internal Market Information (IMI) System's posting module

The IMI posting module allows users to exchange sensitive data such as information on disciplinary, administrative or criminal sanctions³. **Just over a third** of responding countries **applied cross-border sanctions related to undeclared work following an information exchange under the IMI posting module**. There were no significant regional variations across Europe.

Table 13. Cross-border sanctions related to undeclared work following an information exchange under the IMI posting module

Region	Yes	Countries
Total	38 %	
Western Europe	40 %	Germany, Belgium
Eastern and Central Europe	40 %	Czechia, Croatia, Slovakia, Poland
Northern Europe	33 %	Iceland
Southern Europe	33 %	Portugal, Cyprus

Source: 2019 Annual Platform Survey, based on 24 responses. Answers to the questions: Have cases of cross-border sanctions related to undeclared work following a posting situation been applied under the Internal Market Information (IMI) posting module?

³ CSD (forthcoming 2019). Exchange of information and data protection in tackling undeclared work, European Platform Tackling Undeclared Work, Brussels.