



**European Platform Undeclared Work**

# **2018 European Platform Undeclared Work Survey Report:**

**obstacles to tackling undeclared work at the  
cross-border and national levels, bilateral  
and national agreements, and complaint  
reporting tools**

May 2018

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This publication has received financial support from the European Union Programme for Employment and Social Innovation "EaSI" (2014-2020). For further information please consult:

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## Executive Summary

Responses were received from 45 authorities with responsibilities for tackling undeclared work in 25 Member States (MS), most of whom were labour inspectorates or Ministries of Labour.

### Obstacles to tackling undeclared work at the cross-border level

Authorities were asked to identify the 3 main obstacles to tackling undeclared work at the cross-border level and 3 changes that would help overcome these barriers.

#### Main obstacles to tackling undeclared work at the cross-border level:

- **Barriers to, or lack of, data sharing** (37 responses, often cited by Western European, but less often by Eastern and Central European, authorities) including: lack of, or slow, cooperation between Member States; low frequency of data sharing; lack of openness between Member States; lack of information on specific topics (e.g., 'wages abroad', 'tax payers abroad', 'social security data'); unclear what the responsible national body is in Member States; and the interoperability of databases;
- **Legal framework/legislative issues** (15 responses) including: data protection legislation prevents data sharing; difficulties in establishing the place of liability; limitations to national competence; application of the social security coordination regulation; the need for a European minimum wage; and requiring foreign companies to have a representative in the Member State.
- **Inadequate resources** (10 responses, particularly from Nordic countries), including lack of: staff, funding, and time devoted to tackling undeclared work; and knowledge and experience.
- **Difficulties in detecting undeclared work** (9 responses, more often from Eastern and Central European authorities), including: establishing contact with foreign employers and employees, and difficulties checking where tax was paid and to find locations for inspection (e.g., when a wrong address is provided).
- **Language issues** (8 responses, predominantly from Southern and Eastern and Central European authorities), including staff language skills, but also poor translations in IMI.

#### Main changes to more effectively tackle undeclared work at cross-border level:

- **Improved data sharing**, including:
  - more (timely) cooperation and information exchange (28 responses);
  - being able to access each other's information systems (7 responses);
  - having a shared information system/database at the EU level (7 responses);
  - having single point of contact for cooperation (6 responses);
  - increasing interoperability of existing systems (4 responses).
- **Joint operations** (12 responses), including joint inspections (4 responses), knowledge exchanges such as workshops (4 responses), staff exchanges (3 responses), or generally joint procedures.
- **More resources** (6 responses), including more time and more inspectors. All Nordic countries highlight this as an issue.
- **Overcoming privacy or data protection legislation barriers** to information exchange (3 responses).
- **Need for common definitions** (3 responses).

## VAT Information from other Member States

Article 55.3 of Regulation (EU) N° 904/2010 stipulates that both the asking Member State and the Member State receiving the request should have legislation in place allowing the use of the requested data.

Of the 12 authorities stating they receive information from other Member States, 7 used this data to measure the level of activity on the national territory of a service provider, or whether there is a volume of non-substantial activity in the Member State where the provider is established. 6 used the data to determine the link between the originator and service provider, 5 to identify the permanent nature of this activity, and 2 to put in perspective the number of employees mobilised. One authority used the information to check that the correct VAT has been declared and assess the correct VAT. Another received data under Regulation 904 but did not use this directly for tackling undeclared work.

Authorities were also asked whether there is legislation in their Member State that enables the exchange of information on VAT between the tax authority and other authorities involved in fighting undeclared work. Most authorities (53%) do not know or stated this was not relevant to them. Of the 20 authorities replying yes or no, 75% indicated that their Member State did have legislation.

Suggestions for improvements to the VAT information available in national databases or through the VAT Information Exchange Systems (VIES) are:

- To increase the interoperability of databases of relevant national authorities;
- Provide information on the number of employees and residency of foreign employees broken down by nationality/tax residency;
- Provide monthly information on the company's turnover, and;
- Expand European regulation to explicitly allow access to tax data for enforcement authorities in charge of tackling undeclared work.

## Obstacles to tackling undeclared work within Member States

Authorities were asked to identify the 3 main obstacles to tackling undeclared work within their Member State and 3 changes that would help overcome these barriers. This reveals that the **obstacles and solutions for tackling undeclared work are similar within Member States to those at the cross-border level.**

### Main obstacles to tackling undeclared work within Member States:

- Better **access and sharing of data** between institutions (12 responses), raised particularly by Southern European authorities and labour inspectorates.
- **Lack of resources** - staff and funding (8 responses).
- **'Burden of proof'** (7 responses).
- **Legislative complexity** or shortcomings, including lack of clear definitions (7 responses), which was mentioned by a relatively large number of authorities from Eastern and Central Europe.
- **Difficulties in identifying or detecting** undeclared work (6 responses).
- Undeclared work **not the priority objective** (5 responses).
- **Data protection** legislation barriers (4 responses).
- **Absence of a joined-up national approach** (4 responses).

- **Lack of awareness** with employees/society of benefits of declaring work (4 responses).
- **Absence of more preventative or proactive approach** (2 responses).
- **Technological issues** - competence and web platforms (2 responses)

#### **Main improvements needed to overcome the barriers:**

- **Better data sharing** (10 responses, with a large number from Southern European authorities), including development of a common or standardised database (3 responses); better cooperation between national authorities (2 responses), interoperability between databases (1 response) and access to and exploitation of the VIES database (1 response).
- Resolving **legislative complexity or shortcomings** (9 responses), including legal obligations for data sharing between authorities or by employers by applying conditionality (2 responses), clarification or extensions to legal definitions (2 responses). Nordic authorities and tax administrations highlight this as an area for improvement relatively often.
- **Increased resources** (8 responses), mainly mentioned by authorities from Central and Eastern Europe, as well as labour inspectorates and Ministries of Labour.
- **Better use of data** (6 responses), including better data mining<sup>1</sup>, risk analysis and the use of data by inspectors directly.
- **Better data collection** (6 responses), including gathering more data from third parties and allocating ID numbers to businesses across the EU.
- **Higher quality data** (3 responses) in terms of detail and context to enable more in-depth investigation.
- **Preventative measures** (i.e., awareness of benefits of registering work, and better incentives to register work, especially for employees) (4 responses), particularly mentioned by Eastern and Central European authorities and tax administrations.
- **Joining-up national strategy** (2 responses)
- **Stronger or better deterrents** (2 responses)

#### **Bilateral Agreements (BAs) and Memoranda of Understanding (MoU) on undeclared work**

**Only 18 of the 25 Member States (72%) have BAs or MoUs on undeclared work.**

- Respondents reported on 55 BAs/MoUs. France (13) and Belgium (10) reported the highest number.
- Most of the signatories are **labour inspectorates** or **Ministries of Labour**. Tax administrations less frequently report involvement in BAs/MoUs.
- 96% of BAs/MoUs cover **information exchange**, 71% cover **best practice exchange**, 60% cover **exchange of experts or training** and 53% **joint operations**.

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<sup>1</sup> De Wispelaere, F., Pacolet, J., Rotaru, V., Naylor, S., Gillis, D. and Alogogianni, E. (2017) *Data mining for more efficient enforcement: a practitioner's toolkit from the thematic workshop of the European Platform Undeclared Work*, European Commission, Brussels.

- 85% of the BAs/MoUs reported relate to the **posting of workers**, over two thirds cover **labour law** and over half cover **social security fraud**. Furthermore, almost one third of the BAs/MoUs refer to **health and safety regulations**.

Taking all BAs and MoUs reported, many gaps exist in coverage. Indeed, for bilateral agreements to cover all two-country combinations of the 28 Member States, 378 BAs/MoUs would be required on each issue. Given that there are multifarious topics (e.g., posting of workers, labour law, social security fraud, health and safety regulation, migration), some 2,000 bilateral/two-country agreements would be needed to cover just these topics (and this excludes many tax compliance issues). Given that only 55 BAs/MoUs have been reported across all these topics (and even though some are multi-lateral), **these 55 BA/MoUs cover only approximately 2% of the total possible cross-country agreements**. For fuller coverage, many more bilateral agreements are required.

## **National Agreements (NAs) and intra-country Memoranda of Understanding (MoU) on undeclared work**

Agreements to cooperate are not only developed at the inter-country level. They are also implemented at the intra-country level to enable a more joined-up holistic approach towards tackling undeclared work. The first Annual Platform Survey report revealed that only one-fifth of Member States have a single coordinating body responsible for tackling undeclared work. In most Member States, different authorities are responsible for tackling varying aspects of undeclared work (e.g., tax administrations for tax non-compliance, labour inspectorates for violations of labour law, and social security/insurance institutions for social contribution violations). As such, **NAs and MoUs are essential if a joined-up coordinated approach is to be achieved when tackling undeclared work**.

56% of authorities responding indicate some National Agreement (NA) or Memorandum of Understanding (MoU) within their Member State on undeclared work. 24% indicate they do not know and 20% that there are no such agreements. Indeed, **only 18 of the 25 Member States (i.e. 72%) responding indicated the presence of NAs or MoUs:**

- A total of 70 NAs and/or MoUs at national level were reported by these 18 Member States. Spain and Germany reported the highest number (11).
- Most of the signatories are **labour inspectorates** or **Ministries of Labour**.
- NAs/MoUs almost universally cover **information exchange**. Two-thirds cover **data sharing**, and over half cover **joint operations**.
- National strategies on undeclared work, best practice exchanges, data mining, joint advisory committees and exchanges of experts or training are less often covered.
- 60% (42) of the NAs/MoUs cover **social security** and 51% (or 36) cover **labour law**, 36% (or 25) cover the **posting of workers** and approximately one quarter cover migration, health and safety regulations and taxes. The topic of double taxation is covered by only 3% of NAs/MoUs.

In sum, the evidence is that **many more NAs/MoUs are required if a joined-up coordinated is to be achieved when tackling undeclared work at Member State level**. These are required at the level of **(i) strategy, (ii) operations and (iii) data mining and sharing**.

## **Complaint reporting tools**

82% of authorities responding stated that complaint reporting tools are available in their Member State. 38 tools were reported, of which 89% (34) allow **anonymous reporting**.

Complaints reported via these tools result in a **risk assessment or sifting process** in the case of only 71% of these complaint reporting tools. For 24% of the complaint reporting tools, all complaints reported lead to inspections.

Sifting processes are more often used by **tax administrations** (all their reported tools) and by **Western and Southern European** Member States (for 89% and 86% of their tools respectively).

The criteria used to assess the level of risk and sift which complaints should be followed-up with inspection visits appear to be often lacking in rigour and not to be grounded in a solid evidence-base.



## 1 Introduction

This report presents a detailed analysis of the second Annual survey of members of the European Platform Tackling Undeclared Work. The survey consisted of 3 separate modules:

Module 1 focussed on the obstacles faced by enforcement authorities in tackling undeclared work firstly, at the Member State level and secondly, at the cross-border level;

Module 2 assessed the number and content of Bilateral agreements and cross-border Memoranda of Understanding (MoU), and on National Agreement and MoUs within Member States, concerning the tackling of undeclared work, and;

Module 3 looked at the prevalence and character of complaint reporting tools, and how they are used.

The Platform member in each Member State was invited to respond, and to forward the survey to other relevant national authorities involved in tackling undeclared work to also respond. In so doing, the survey sought to capture the full spectrum of views of the various authorities involved in tackling of undeclared work.

### Survey coverage

Module 1 on “obstacles faced by enforcement authorities in tackling undeclared work” included questions on the following topics:

- Obstacles to tackling undeclared work at the cross-border level
  - Obstacles to availability, access and use of data for tackling cross-border UDW;
  - Capacity, capability and supporting infrastructure for tackling cross-border UDW;
  - Number of full-time equivalent employees focused on cross-border data sharing;
  - Main obstacles to cooperating with other enforcement authorities and potential solutions;
- VAT information in relation to Article 55.3 of Regulation (EU) No. 904/2010 from other Member States.
- Obstacles to tackling undeclared work at the Member State level
  - Obstacles to availability, access and use of data for tackling UDW;
  - Capacity, capability and supporting infrastructure for tackling UDW;
  - Open ended-question on main obstacles and possible solutions;

Module 2 on Bilateral and National Agreements<sup>2</sup> included questions on:

- The part of undeclared work covered by the Agreements;
- The authorities involved in the Agreement, and;
- The scope of cooperation.

Module 3 on complaint reporting tools, sought to provide an inventory of such tools across the Member States and information on:

- The medium used for reporting;

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<sup>2</sup> Stefanov, R. and Mineva, D. (2017) *Practitioner’s Toolkit: drafting, implementing, reviewing and improving bilateral agreements and Memoranda of Understanding to tackle undeclared work*, European Commission, Brussels.

- Whether this is anonymous;
- How relevant authorities act on reports, and;
- If this involves a risk assessment, what criteria are used in the process.

## Survey methodology

The survey questionnaire was administered online using Survey Gizmo. The survey was launched in December 2017 and closed in February 2018.

## Responses received

By the final survey deadline (23 February) and after follow-up with individual respondents, 45 completed survey responses had been received from 25 Member States.

The characteristics of the respondents are reported in section 2.

## Report structure

The remainder of the report is structured as follows:

Section 2 provides background information on:

- Member States of respondents;
- Functions of their authorities;

Section 3 presents respondents' answers on obstacles they experience to cross-border cooperation in tackling undeclared work:

- Main obstacles;
- Availability, access and use of data for cross-border activities;
- Capacity, capability and supporting infrastructure;
- Content of data shares;
- Solutions to barriers.

Section 4 presents respondents' views on the provision of VAT information in relation to Article 55.3 of Regulation (EU) No. 904/2010.

Section 5 presents respondents' answers on the obstacles they experience to tackling undeclared work within their own Member State:

- Main obstacles;
- Availability, access and use of data for cross-border activities;
- Capacity, capability and supporting infrastructure;
- Solutions to barriers.

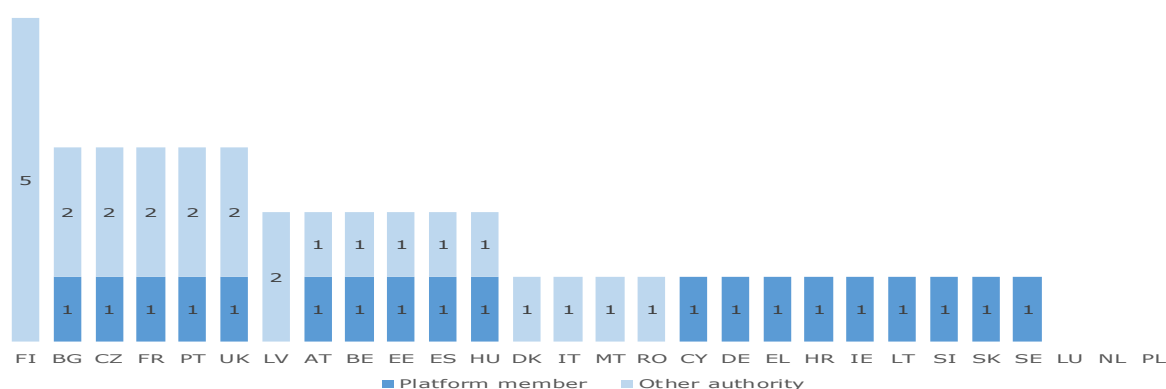
Section 6 presents respondents' answers on National and Bilateral agreements related to tackling undeclared work:

- Bilateral Agreements and cross-border MoUs related to tackling undeclared work
- National Agreements and MoUs within Member States related to tackling undeclared work

Section 7 presents respondents' answers on their use of complaint reporting tools.

## 2 Respondents

Figure 1. Member States in which respondents are based



Source: 2018 UDW Platform Survey

Examining the responses:

- 19 platform members and 26 other authorities from 25 Member States submitted a response;
- For 6 Member States (Finland, Italy, Latvia, Denmark, Malta and Romania), other authorities responded rather than the platform member;
- 3 Member States (Luxembourg, The Netherlands, Poland) did not respond;
- For 13 Member States, 1 response was submitted;
- For 5 Member States, 2 responses were submitted;
- For another 5 Member States, 3 responses were submitted;
- The highest number of responses submitted was from Finland (5).

The responses received are not skewed towards a particular geographical region of the EU.<sup>3</sup> Table 1 below provides the number of Member States that make up each region (and proportion of EU countries located in this region) in the first column, and the second column the number of authorities responding (and proportion).

Table 1. Number and proportion of respondents by region

Region	Number (%) of Member States in region	Number (%) of responses received
Eastern and Central Europe	11 (39%)	17 (38%)
Nordic countries	3 (11%)	7 (16%)
Southern Europe	6 (21%)	9 (20%)
Western Europe	8 (29%)	12 (27%)

<sup>3</sup> Eastern and Central Europe (Czech Republic, Poland, Slovenia, Estonia, Hungary, Slovak Rep., Romania, Lithuania, Bulgaria, Croatia, Latvia), Western Europe (UK, Ireland, Germany, France, Belgium, Luxembourg, Austria, Netherlands), Southern Europe (Malta, Cyprus, Italy, Portugal, Spain and Greece) and Nordic countries (Finland, Sweden and Denmark).

47% (n=21) of the responses came from labour inspectorates or Ministries of Labour. Of the remainder, the following each provided 18% (n=8) of the responses:

- Tax administrations;
- Social security/insurance departments;
- Other authorities.

58% of the authorities responding focus on tackling work not declared to the authorities for labour law purposes (n=26), while almost half (47%) focus on work not declared to the authorities for social security or insurance purposes (n=21). About a quarter (24%, n=11) focus on work not declared to the authorities for tax purposes. Of the 10 with some other focus, 4 mentioned occupational safety and health and 2 stated their focus is not just on undeclared work but more broadly on illegal employment.

As Table 2 reveals, it is important to understand that 62.5% of all tax administrations responding are from Eastern and Central Europe, and 50% of all social security/insurance authorities responding are from Western Europe.

*Table 2. Number and proportion of types of authorities by region*

	<b>Labour Inspectorate/ Ministry of Labour</b>	<b>Other</b>	<b>Social security/ insurance departments</b>	<b>Tax administrations</b>
Eastern and Central Europe	8 (37.5%)	3 (37.5%)	1 (12.5%)	5 (62.5%)
Nordic countries	4 (19.0%)	1 (12.5%)	1 (12.5%)	1 (12.5%)
Southern Europe	6 (29.5%)	0 (0.0%)	2 (25.0%)	1 (12.5%)
Western Europe	3 (14.0%)	4 (50.0%)	4 (50.0%)	1 (12.5%)
Total	21 (100%)	8 (100%)	8 (100%)	8 (100%)

The implication is that any differences in, for example, the responses from tax administrations could be due to nearly two-thirds of tax administrations responding being from East-Central Europe, rather than due to them being tax administrations *per se*. Caution is therefore urged when interpreting some of the results.

### 3 Obstacles to tackling undeclared work at the cross-border level

#### Key Findings

##### Main barriers to tackling undeclared work at the cross-border level:

- **Barriers to, or lack of, data sharing** (37 responses, often cited by Western European, but less often by Eastern and Central European authorities)
- **Legal framework/legislative issues** (15 responses)
- **Inadequate resources** (10 responses, particularly from Nordic countries), including lack of:
- **Difficulties in detecting undeclared work** (9 responses, more often from Eastern and Central European authorities),
- **Language issues** (8 responses, predominantly from Southern and Eastern and Central European authorities)

##### Most common improvements requested to enable undeclared work to be more effectively tackled at cross-border level:

- **Improved data sharing**, including: more (timely) cooperation and information exchange (28 responses); being able to access each other's information systems (7 responses); having a shared information system/database at the EU level (7 responses); having single point of contact for cooperation (6 responses); and increasing interoperability of existing systems (4 responses).
- **Joint operations** (12 responses), including joint inspections (4 responses), knowledge exchanges such as workshops (4 responses), staff exchanges (3 responses), or generally joint procedures.
- **More resources** (6 responses), including more time and more inspectors. All Nordic countries highlight this as an issue.
- **Overcoming privacy or data protection legislation barriers** to information exchange (3 responses).
- **Need for common definitions** (3 responses).

#### Three main obstacles

Authorities were asked in an open-ended manner to identify the three main obstacles to tackling undeclared work at the EU/cross-border level.

The **barriers to, or lack of, data sharing**, is the main issue (37 responses). The issues included:

- Lack of cooperation (or slow cooperation) between Member States (4 responses);
- Too low frequency (currently annual, but monthly would be preferred);
- Lack of openness between Member States;
- Lack of information about specific topics ('wages abroad', 'tax payers abroad', 'social security data', 'employees' and 'employers', the latter with specific reference to letterbox companies).
- data protection legislation is a barrier to sharing data (4 responses);
- It is not clear what the responsible national body is in Member States (3 responses);
- The interoperability of databases poses a barrier (2 responses);

Aside from data sharing causing obstacles, other obstacles are mentioned as well.

15 responses highlight **legal framework/legislative issues**. Specific issues raised include: difficulties in establishing the place of liability; limitations to national competence, 'application of the social security coordination regulation'; the need for a European minimum wage; and requiring foreign companies to have a representative in the Member State.

**Inadequate resources** can be another obstacle to tackling undeclared work (10 responses), including: the lack of staff (3 responses); lack of funding (3 responses); and lack of time that can be devoted to tackling undeclared work; and lack of knowledge and experience.

Another 11 responses explicitly mentioned the absence of commonality in the cross-border tackling of undeclared work. This includes the absence of a shared database (4 responses); a lack of common definitions (3 responses) and common protocols and processes, including joint inspections (3 responses) and; focus on local targets rather than cross-border.

Difficulties in **detecting undeclared work** is mentioned in 9 responses. In particular establishing contact with foreign employers (and employees), was mentioned by 2 authorities. More specifically, individual authorities point out it is difficult to check where tax was paid and to find locations for inspection (for example, when a wrong address is provided).

The **language skills** of staff is mentioned as a barrier in 8 responses. 2 specifically mention staff, but poor translations in IMI are also an issue.

### Results by EU region

- Barriers to, or lack of, data sharing was more commonly raised as an obstacle by Western European authorities. 14 of the 37 authorities mentioning this (i.e. more than half) were Western European. Moreover, all 4 respondents highlighting data protection legislation as a barrier to cross-border operation were Western European.
- Barriers to, or lack of, data sharing was less often raised by Eastern and Central European authorities.
- Authorities from East-Central Europe more often identify the difficulties in detecting undeclared work.
- Language barriers are mainly raised by Southern European (2) and Eastern and Central European (4) authorities:
  - In these regions, the issue is the language capabilities of staff;
  - When raised as an issue in Western Europe (2), this explicitly relates to translations in IMI.
- The absence of a common understanding or approach to tackling undeclared work is mainly raised by Western European authorities:
  - 4 of 7 responses indicating this are from Western Europe.
- Nordic countries more often pointed to a lack of resources:
  - 4 out of 10 responses mentioning this come from Nordic countries, which make up only 16% of the sample;
  - None of the Western European authorities mention resources as a major obstacle.

### Results by type of enforcement authority

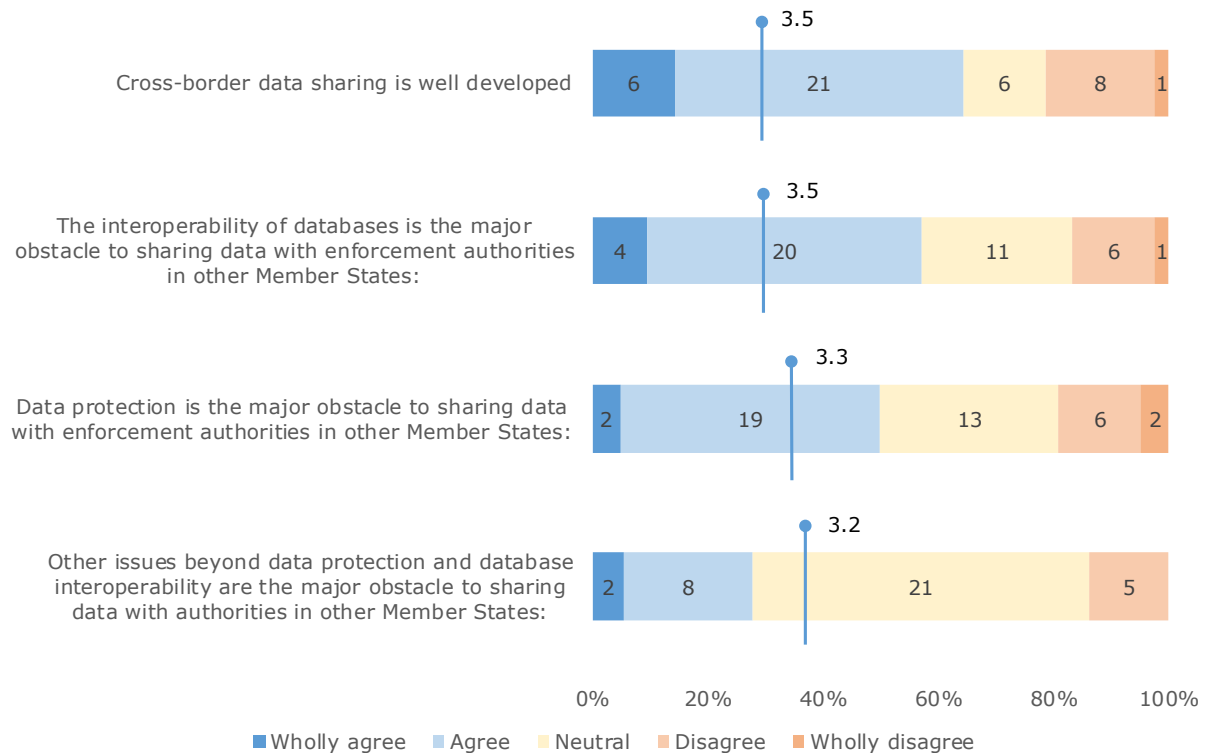
- A lack of common understanding and/or approach as well as lack of resources were almost exclusively mentioned by labour inspectorates and Ministries of Labour.
- Barriers to, or lack of, data sharing was more often highlighted as a barrier by social security/insurance departments:
  - 10 of 37 (27%) responses highlighting this as a barrier came from this type of organisation, whereas social security/insurance departments make up only 18% of the sample.

Both Western European as well as social security/insurance departments more often mention barriers to, or lack of, data sharing as an obstacle to cross-border cooperation.

### Availability, access and use of data for cross-border activities

Authorities were asked to rate their agreement with four statements regarding the availability, access and use of data at the cross-border level for tackling undeclared work. Those answering 'Don't know' or 'Not applicable' are omitted (see notes). Ratings used a scale from 5 = wholly agree, to 1 = Wholly disagree. Numbers in the horizontal bars are the number of responses, while the vertical line is the average.

Figure 2. Statements on availability, access and use of data for tackling UDW at the cross-border level



Source: 2018 UDW Platform Survey

Note: The figure omits the those stating do not know or not applicable.

The major obstacles to sharing data with enforcement authorities in other Member States are seen to be:

- the lack of interoperability of databases (stated by 57%, with a mean score of 3.5 out of 5).
- data protection issues (stated by 50%; mean is 3.3 out of 5);
- Only 10 respondents stated that other issues are a major obstacle. While this was rated 3.2 out of 5, more authorities responded they did not know or the question

did not apply and are therefore not included in the rating. Other obstacles included: the absence of a legal basis to share data (2); poor or slow cooperation with some other Member States (2); lack of resource (1); absence of a structured system for data sharing at the European level (1) and lack of competency of the enforcement authority (1).

### Results by EU region

- With regards to how well cross-border data sharing is developed, authorities from Nordic countries and Southern Europe more often disagree this is well developed, while authorities from East-Central Europe are less likely to disagree:
  - 33% of authorities from Nordic and Southern European Member States disagreed that cross-border data sharing is well developed, while 7% of authorities from East-Central Europe disagreed. This compares to 21% across the EU.
- With regards to data protection, authorities from Nordic and Southern Europe less often disagreed that data protection is a major obstacle, whereas authorities from Eastern and Central Europe more often disagreed:
  - None of the Nordic authorities and 11% of Southern European authorities disagreed data protection is a major obstacle, while 33% of Eastern and Central European authorities disagreed. This compares to 19% across the EU.
- Authorities from Southern Europe less often indicated interoperability is a major obstacle:
  - 38% of Southern European authorities indicated interoperability of databases is a major issue, versus 57% across the EU.
- Authorities from Western Europe more often indicate other issues are major obstacles, while authorities from Nordic Member States are more likely to disagree other issues form major obstacles:
  - 40% of responses from Western Europe indicate other issues are major obstacles, while 14% of authorities from Nordic nations agree with this. This compares to 28% across the EU;
  - Of 5 authorities from Western Europe who indicate this is the case, 3 elaborate that these issues concern other Member States' enforcement agencies lacking access to relevant databases, as well as a lack of resources in their own organisation.

### Results by type of enforcement authority

- Labour inspectorates/Ministries of Labour and tax administrations less often disagreed that cross-border data sharing is well developed than social security/insurance and other authorities:
  - 16% of labour inspectorates/Ministries of Labour and none of the tax administrations disagreed that cross-border data sharing is well developed vs 38% of both social security/insurance departments and other authorities;
  - Tax administrations were also more likely to agree cross-border data sharing is well developed: 86% of tax administrations agreed versus 64% of all respondents;
  - Other authorities were less likely to agree: 38% of these authorities agreed compared to 64% of all respondents.
- Labour inspectorates/Ministries of Labour less often disagreed that data protection is the major obstacle to sharing data with authorities in other Member States:



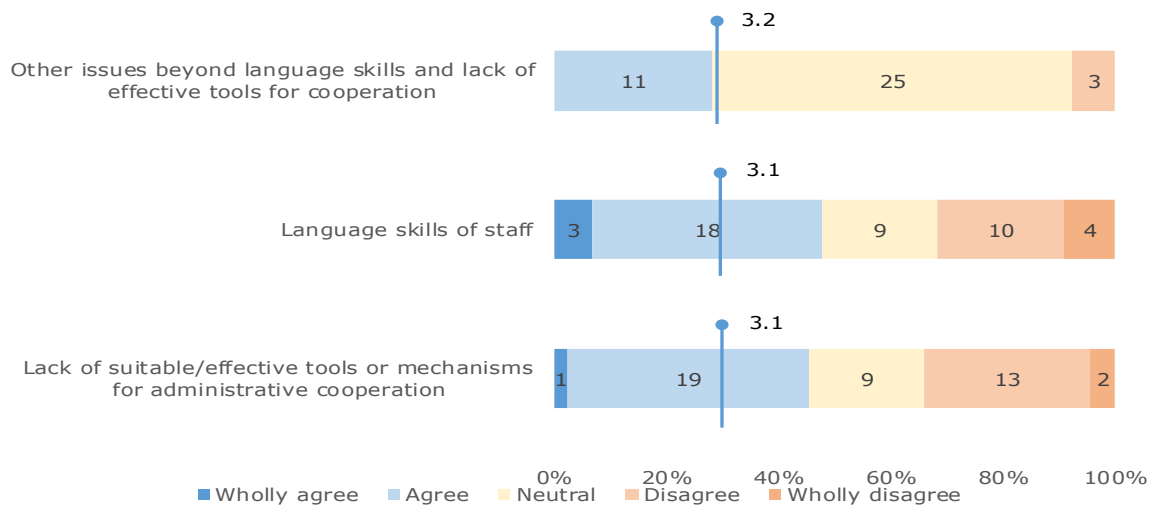
- 5% of labour inspectorates/Ministries of Labour disagreed this was an issue, whereas 25% of social security/insurance departments, 43% of tax administrations and 29% of other authorities disagreed.
- Labour inspectorates/Ministries of Labour less often disagree that interoperability of databases is a major obstacle, while tax administration more often point to this as a major obstacle:
  - 10% of labour inspectorates/Ministries of Labour disagreed this was an issue, whereas 38% of tax administrations disagreed. Across all respondents, 17% disagreed.

Note that both tax administrations and authorities from East-Central Europe less often disagreed that cross-border data sharing is well developed. Most of this type of authority that responded to the survey came from East-Central Europe, so there is a risk that results by type are influenced by a regional bias. However, none of the tax administrations from other regions disagreed, so the statement seems to hold regardless of region.

### Capacity, capability and supporting infrastructure

Authorities were asked to rate their level of agreement with a set of 3 statements regarding obstacles to their capacity, capability and supporting infrastructure for tackling undeclared work at the cross-border level. Those answering 'Don't know' or 'Not applicable' (see notes) are excluded. Ratings used a scale from 5 – wholly agree, to 1 – Wholly disagree. Numbers in the horizontal bars are the number of responses, the number at the vertical line is the average.

Figure 3. Statements on obstacles to their capacity, capability and supporting infrastructure for tackling UDW at the cross-border level



Source: 2018 UDW Platform Survey

Note: The figure omits 'Don't know' and 'Not applicable'.

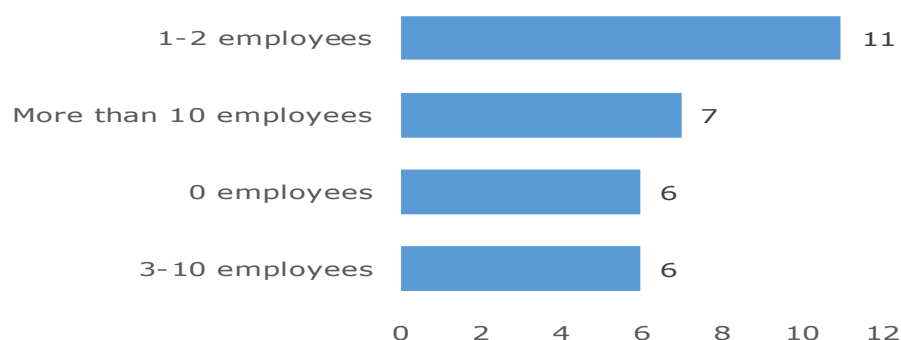
The major obstacles to cross-border cooperation on tackling undeclared work in terms of the capacities, capabilities and supporting infrastructure are:

- Lack of language skills (stated by 48%; mean is 3.1 out of 5)
- Lack of effective tools of mechanism for administrative cooperation (stated by 45%; mean is 3.1 out of 5)

- Other issues were raised by 11 authorities. This was scored at a mean of 3.2 out of 5, but more authorities responded they did not know or the question was not applicable and therefore do not count towards the rating. Other issues included:
  - different legal arrangements and definitions between Member States (3 responses), in terms of what data to collect and what data can be exchanged.
  - Resources in terms of time, money and staff (2 responses).

A follow-up question asking about the number of staff (FTE) spending time asking for, or providing, information on cross-border issues related to undeclared work reveals that 6 have no employees working on this, 11 have 1-2 employees, 6 have 3-10 employees and 7 have more than 10 employees. Most authorities did not respond to this question.

Figure 4. Number of employees (in terms of full-time equivalent employees) who spend their time asking for, or providing, information on cross-border issues related to undeclared work



Source: 2018 UDW Platform Survey

Note: The figure omits 14 non-responses.

Two authorities mentioned issues with IMI: one of these relate to the competent authorities of some Member States not being present in IMI, and another pointed out that some of the words in IMI translations are not understandable. Individual authorities furthermore mention:

- While tools are in place, they are not always used optimally;
- Data exchanges on case-by-case bases take a long time to complete, at which point the suspected company has already moved outside the jurisdiction of the investigating authority;
- There is no legal basis for sharing data, and;
- There is no possibility for joint controls outside of a bilateral agreement.

### Results by EU region

- Authorities from Nordic and Southern European Member States less often agree that language skills of staff are an obstacle to cross-border cooperation, while Eastern and Central European authorities more often state this is the case:
  - Only 14% of authorities from Nordic Member States and 33% from South European Member States agree this is an obstacle, whereas 75% from East-Central Europe indicate this is a major obstacle. This compares to 48% at the EU level;

- Authorities from Nordic Member States less often agree that lack of suitable/effective tools or mechanisms for administrative cooperation form an obstacle.
- Other issues in terms of the capacities, capabilities and supporting infrastructure are more often mentioned by authorities from Southern Europe (43%) and less often by Eastern and Central European authorities (20%);
  - Other issues mentioned by authorities from Southern European Member States are difficulties with IMI translations, staff shortages and cross-border differences in relevant legislation and definitions.

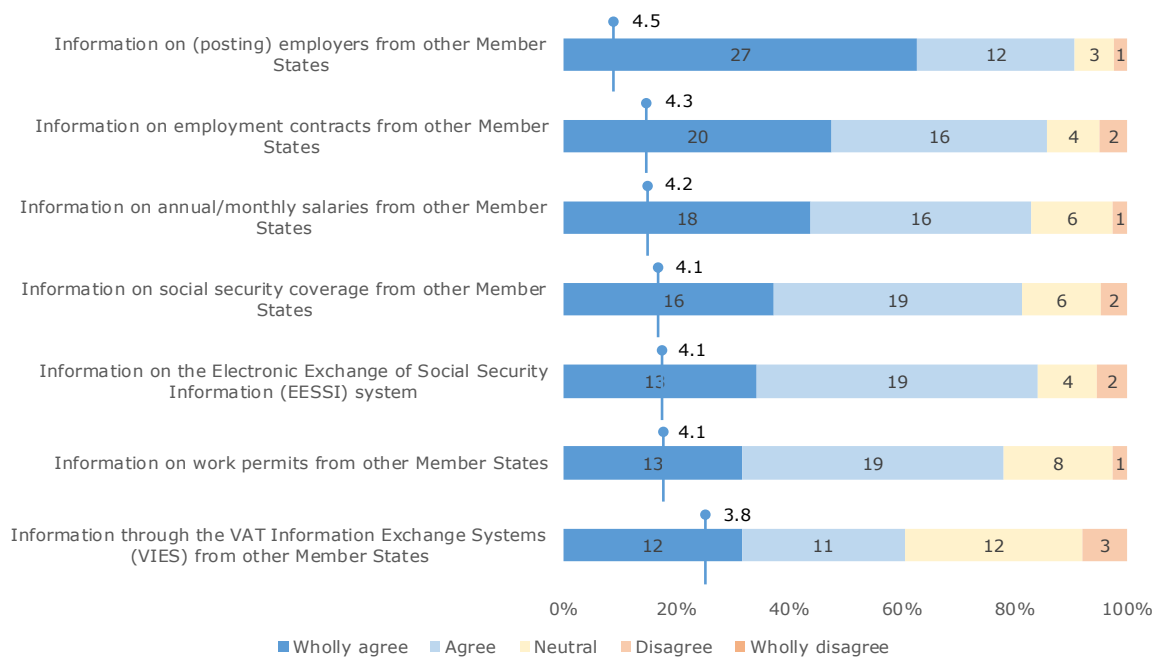
### Results by type of enforcement authority

- Labour inspectorates and Ministries of Labour more often agreed that Language skills of staff form an obstacle, whereas tax administrations agreed less often:
  - 60% of labour inspectorates and Ministries of Labour agreed this was an issue, while only 25% of tax administrations agreed to this. This compares to 48% across all responses.
- Lack of suitable and/or effective tools or mechanisms for administrative cooperation was relatively more often indicated as a barrier by social security/insurance departments and less often by tax administrations:
  - 75% of social security/insurance departments agreed this was an issue, while none of the tax departments agreed this was an issue. On average across the survey, 45% agreed with this;
  - Tax departments also explicitly disagreed with this statement: 88% (all but one) disagreed while across the survey only 34% disagreed.
- Other issues were predominantly raised by tax administrations:
  - 67% agreed other issues formed obstacles, compared to 28% across the survey;
  - Issues raised by tax administrations include differences in legal arrangement around data collection and sharing across the Member States, as well as a lack of legal basis for data sharing, and resourcing issues. One respondent points out there are good tools and other opportunities for cooperation but that these are not always used to their full potential.

### What types of data exchange would be beneficial?

Authorities were asked what data would be beneficial to them in tackling undeclared work. Figures 5 summarises the results in the same way as previous figures, omitting authorities which answered 'Don't know' or 'Not applicable' (see notes). Respondents answering 'Don't know' or 'Not applicable' are also not included in the more detailed analysis under the figure. Ratings used a scale from 5 – wholly agree, to 1 – Wholly disagree. Numbers in the horizontal bars are the number of responses, the number at the vertical line is the average.

Figure 5. Information that would be beneficial to the enforcement authority



Source: 2018 UDW Platform Survey

Note: The figure omits those stating do not know or not applicable

The type of data exchange that enforcement authorities most commonly agree would be beneficial is **information on (posting) employers from other Member States** (e.g. existence and legal status of a company, the owner and the turnover, including split between different Member States). 39 (91%) agree or wholly agree that this would be useful (with a mean of 4.5 out of 5).

When describing any obstacles they experience receiving this information,

- 4 mention IMI as the only source of information on this, of whom 2 assert information receipt through IMI can be slow or is sometimes not received;
- 2 note non-compliance by companies is an issue;
- 2 that requests for this information take time to process (without specifying IMI)
- 1 that relevant information is not kept on posting of workers;
- 1 that data on different topics is required, as separate pieces of information alone cannot provide enough proof;
- 1 that data protection and lack of EU procedures are barriers to receiving information on this topic;
- 1 that interpretation of received documents in other languages can be problematic and;
- 1 that quality and accuracy of data provided by other Member States forms an obstacle.

86% assert that receiving information on **employment contracts** would be beneficial in tackling undeclared work, with an average rating of 4.3 out of 5. When describing obstacles to receiving information on employment contracts (whether it is in written form, its duration, working time, workplace and status of the contract),

- 7 indicate that the main obstacle is that they simply do not currently receive this data, of whom 4 add that this would be useful;
- 7 currently experience issues around data collection, of whom 4 mention that this data is not structurally recorded;

- 1 points out that the responsible body for collecting this information differs across Member States;
- 1 points out this type of information is not kept available during the posting of workers;
- 4 highlight legal issues as a barrier to receipt of this information, including data protection legislation, the lack of EU procedures (mentioned by 1), lack of knowledge of other Member States' legal frameworks (mentioned by 1) and Directive 91/533 on the information to be provided by the employer regarding the working conditions abroad needing revision to be an additional instrument in the fight against UDW (mentioned by 1);
- 2 point out that having to send requests to other authorities is an obstacle to them receiving information; and
- 2 point out that employment contracts do not provide (necessarily accurate) information that would help to tackle undeclared work.

84% assert that receiving information on the **Electronic Exchange of Social Security Information (EESSI) system** would be beneficial, with an average rating of 4.1 out of 5. Current obstacles to receiving information on the EESI system predominantly stem from authorities not using this system: 17 authorities raise this as an issue, 8 of whom explain they do not have access, 3 currently have to receive data on this from other enforcement agencies, 3 are not the competent authority to access it and 1 states they do not know how to access it. One organisation elaborates it would be useful for them to have direct access as this would save costs associated with acquiring the information indirectly via other authorities and would make inspections timelier. 4 authorities point out that they do use it, but it is too early to tell what barriers are. One individual organisation mentions data protection legislation as an issue.

83% assert that receiving information on **annual/monthly salaries** would be beneficial in tackling undeclared work, with an average rating of 4.3 out of 5. When describing obstacles to receiving information on annual/monthly salaries (e.g., to find out for which activities, in what Member State, and for what working time, employees are remunerated),

- 4 responses mention information on the minimum wage, 3 of whom specify that where Member States' minimum wages are not based on a legal agreement (but for example collective agreements), which creates issues. Without mentioning the minimum wage, one organisation points to the many different national provisions around salaries and the difficulty finding information corresponding to these national provisions;
- 3 simply indicate they currently do not receive information on this;
- 1 that in some cases this information is not made available;
- 1 that information is currently gathered through requests to employers or via inspections on construction sites;
- 1 that there are issues determining which parts of income relate to working in country A and which in country B;
- 1 that this information is not kept available during the posting of workers;
- 1 that the usefulness of this data from other Member states depends on the quality and accuracy, and;
- 1 that the person who receives the salary for whom information is received can be a challenge.

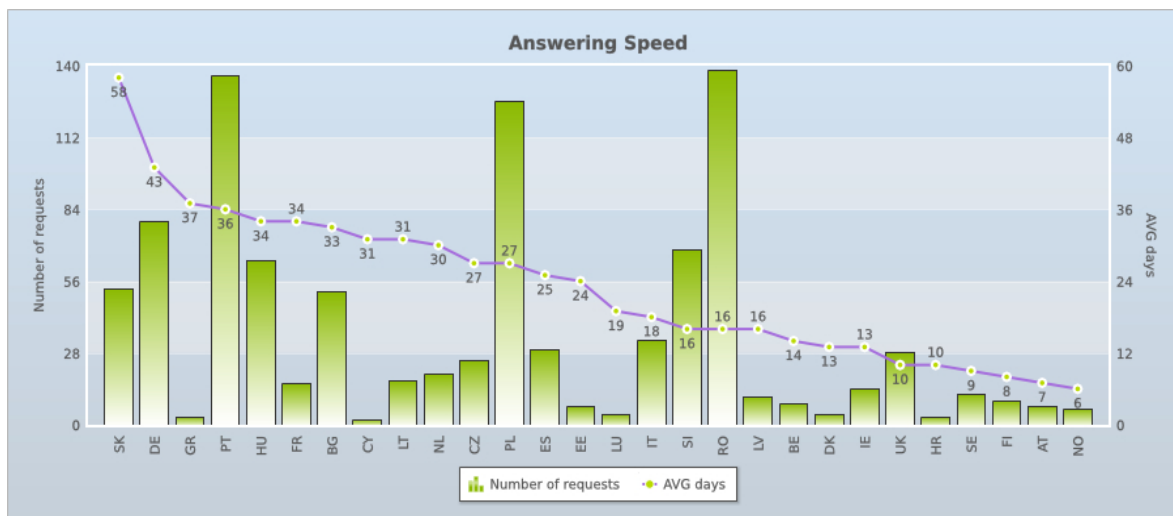
81% assert that receiving information on **social security coverage** would be beneficial, with a mean ranking of 4.1 out of 5. The most mentioned obstacle is not receiving information on this topic at all. 6 authorities mention having experience of this, 4 of whom highlight it takes a long time to receive (1 organisation refers to this in context of the IMI system and another to slow response times from other Member States' liaison offices) and

2 authorities mention not having direct access being a barrier. One organisation mentions it has experienced difficulties in verifying information from A1 forms and that this procedure for obtaining cross-border social security information takes long and does not always yield results. IMI is mentioned several times by various respondent. Various statistics are available from the Commission's website. The figure below presents the number of requests received by Member States on the posting of workers and the average number of days it takes them to respond. The figure illustrates that some Member States receive the largest number of requests and it is not unlikely that because of this high demand, some Member States may not be able to answer all requests on this topic on time.<sup>4</sup>

Another obstacle mentioned by an individual organisation with regards to receiving information on social security coverage is the absence of 'individual social security coverage of controlled workers'.

78% of respondents state that information on **work permits** (e.g., when third-country workers and/or trainees claim a contract with a company in another Member State) from other Member States would be useful. 4 mention this is not relevant to their mandate. Another 4 do not receive this information currently. 3 authorities point out that it is difficult and time consuming to obtain this information. Another barrier to receiving information on work permits is the issue of non-compliance or misuse of work permits by companies. 1 respondent highlights this as an issue in the context of posting workers, whereas another points out that usefulness of data on this topic is dependent on the quality and accuracy of the information.

Figure 6. Number of requests on posting of workers to Member States via IMI and average days to answer a request



Source: European Commission: [http://ec.europa.eu/internal\\_market/imi-net/statistics/index\\_en.htm#t\\_0\\_4](http://ec.europa.eu/internal_market/imi-net/statistics/index_en.htm#t_0_4)

Of all the forms of information that would be beneficial, receiving information through the **VAT Information Exchange Systems (VIES)** is least likely to be considered as being beneficial. Just 61% view it as beneficial, and the mean score is 3.8 out of 5. 5 responded that this is not relevant to their organisation. Considering most respondents are either labour inspectorates or Ministries of Labour, this is not surprising and may also explain the lower average score. 6 respondents indicated they already have access, though 1 mentioned that an issue they experience with this data is not being able to use it on a structured basis. 2 others mentioned the information is of limited use as it can only address

<sup>4</sup> Statistics on the proportions of requests answered in time are available, but do not distinguish between topic of request (Posting of Workers or e.g. Patients Rights).

VAT issues. 1 said that cooperation between the labour Inspectorate and VAT authority in their Member State is absent and that this is the main barrier.

### Results by EU region

- Authorities from Western Europe were less likely to agree that information on work permits from other Member States would be beneficial, whereas authorities from Nordic nations more often agree this would be beneficial:
  - 55% of authorities from Western Europe agreed, and all authorities from Nordic nations agreed (excluding one who ticked 'not applicable'). Across the EU, 78% agreed this would be beneficial.
- Authorities from Southern Europe less often agreed that information on annual/monthly salaries from other Member States would be beneficial to them:
  - 56% of authorities from this region agreed while across the EU, 83% agreed.
- Nordic Member States less often agreed that receiving information through the VIES would be beneficial:
  - Half of all authorities from Nordic Member States were neutral about this;
  - 33% of authorities from Nordic Member States agreed compared to 76% of authorities across the EU.

### Results by type of enforcement authority

- Social security/insurance departments and other authorities less often agreed that information on work permits from other Member States would be beneficial, whereas tax administrations were more likely to agree that this would be beneficial:
  - 50% of social security/insurance departments and other authorities agreed this information would be beneficial, while 100% of tax administrations (omitting one 'Not applicable' response) agreed this would be beneficial. This compares to 78% of all authorities agreeing.
- Social security/insurance departments and tax administrations more often agreed that information through the VIES would be beneficial:
  - 80% of social security/insurance departments and 88% of tax administrations agreed, compared to 61% of authorities across the survey.

### ***What three changes would enable your enforcement authority to more effectively tackle undeclared work at the cross-border level?***

Authorities were asked in an open-ended manner to identify the three changes that would help overcome these barriers.

As most responses mention lack of - or barriers to data sharing as the main obstacle to tackling undeclared work in a cross-border context, it is not surprising that the most mentioned changes required are related to **data sharing**, namely:

- having more (timely) cooperation and information exchange;
- having a single point of contact for cooperation (6 responses);
- increasing interoperability of existing systems (4 responses);
- being able to access each other's information systems (7 responses); and
- having a shared information system/database at the EU level (7 responses).

12 responses mention **joint operations**, either through joint inspections (4 responses), knowledge exchanges (4 responses) for example through workshops, staff exchanges (3 responses), or generally joint procedures.

Having **more resources** is mentioned in 6 responses, including more time and more inspectors.

Overcoming **privacy or data protection legislation barriers** to information exchange is mentioned in 3 responses.

The need for **common definitions** is stated in 3 responses.

### Results by EU region

- 3 of 4 responses mentioning increasing interoperability of data and information sharing systems are from Southern European authorities.
- The 6 responses mentioning having more resources is exclusively mentioned by Nordic Member States.
- Having a single point of contact for cross-border cooperation is almost exclusively mentioned by Western European authorities.

### Results by type of enforcement authority

- Joint operations and more resources at the cross-border level are (almost) exclusively mentioned by labour inspectorates and Ministries of Labour:
  - More resources, as per the regional results, was mentioned only by Nordic labour inspectorates and Ministries of Labour.
- Having access to each other's information system and/or databases is more often mentioned by social security/insurance departments:
  - 3 of 7 responses (43%) mentioning this are from social security/insurance departments, while these constitute just 18% of the total sample.



## 4 VAT information from other Member States

### Key findings

To encourage administrative cooperation to combat fraud in the field of Value Added Tax (VAT), Article 55.3 of Regulation (EU) N° 904/2010 stipulates that both the asking Member State and the Member State receiving the request should have legislation in place allowing the use of the requested data. When asked whether legislation is in place, more than half responding either do not know or state this is not relevant.

Of the 12 authorities stating they receive information from other Member States, 7 used this data to measure the level of activity on the national territory of a service provider, or whether there is a volume of non-substantial activity in the Member State where the provider is established. 6 used the data to determine the link between the originator and service provider, 5 to identify the permanent nature of this activity, and 2 to put in perspective the number of employees mobilised. One authority used the information to check that the correct VAT has been declared and assess the correct VAT. Another received data under Regulation 904 but did not use this directly for tackling undeclared work.

Authorities were also asked whether there is legislation in their Member State that enables the exchange of information on VAT between the tax authority and other authorities involved in fighting undeclared work. Most authorities (53%) do not know or stated this was not relevant to them. Of the 20 authorities replying yes or no, 75% indicated that their Member State did have legislation.

Several authorities suggested improvements to the VAT information available in national databases or through the VIES. These improvements were:

- Increase the interoperability of databases of relevant national authorities;
- Provide information on the number of employees and residency of foreign employees broken down by nationality/tax residency;
- Provide monthly information on the company's turnover, and;
- Expand European regulation to explicitly allow access to tax data for enforcement authorities in charge of tackling undeclared work (mentioned by 2 authorities both from France).

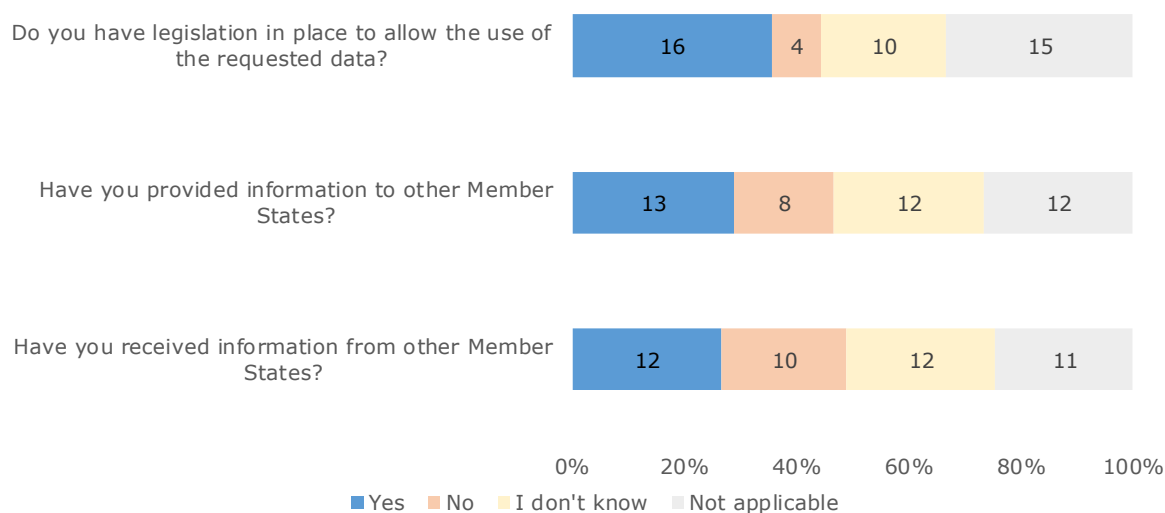
An additional section of module 1 asked authorities about their use of VAT information from other Member States when tackling undeclared work, in the context of Article 55.3 of Regulation (EU) No 904/2010. To encourage administrative cooperation to combat fraud in the field of value added tax (VAT), this stipulates that both the asking Member State and the Member State receiving the request should have legislation in place allowing the use of the requested data. Authorities were asked whether they have legislation in place to allow the use of the requested data; whether they provide information to other Member States and; whether they receive information from other Member States.

For these questions, more than half responded either 'don't know' or 'not applicable'. This is a much higher proportion than for the rest of the questionnaire. This might reflect the high number of labour inspectorates and Ministries of Labour responding, and smaller number of for example tax administrations.

Of those replying 'Yes' or 'No':

- 80% stated they have legislation in place to allow the use of the requested data;
- 62% provided information to other Member States; and
- 55% that they received information from other Member States.

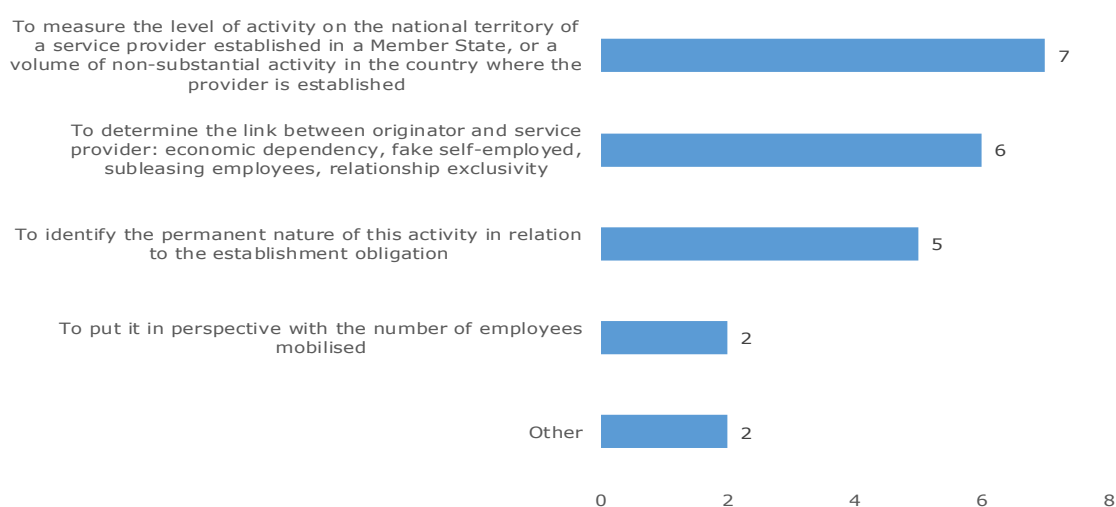
Figure 7. Using VAT information from other Member States



Source: 2018 UDW Platform Survey

The 12 authorities responding they had received information from other Member States were asked for what purpose the data was used. Most used this to measure the level of activity on the national territory of a service provider in a Member state, or a volume of non-substantial activity in the country where the provider is established. However, almost equally often this information was used to determine the link between the originator and service provider, and to identify the permanent nature of the activity in relation to the establishment obligation,

Figure 8. Purposes to which data on VAT information from other Member States is used for

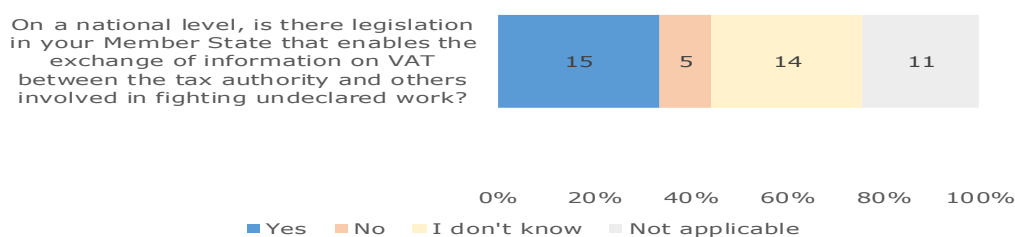


Source: 2018 UDW Platform Survey

Information was less often used to put it in perspective with the number of employees mobilised. One authority highlighted they also used the information to check that the correct VAT has been declared and to assess the correct VAT. Another authority said they did receive data under Regulation (EU) No 904/2010, but did not use this directly for tackling undeclared work.

Authorities were also asked whether there is legislation in their Member State that enables the exchange of information on VAT between the tax authority and others involved in fighting undeclared work. The figure below summarises responses and includes answers stating 'Don't know' or 'Not applicable'.

Figure 9. Legislation on national level that enables exchange of information on VAT



Source: 2018 UDW Platform Survey

Most authorities (56%) do not know whether there is legislation in their Member State that enables the exchange of information on VAT between the tax authority and others involved in fighting undeclared work, or indicated that this was not applicable to them. This might reflect the high number of labour inspectorates and Ministries of Labour responding, and smaller number of for instance tax administrations. It could also indicate that there is no exchange of information between these labour inspectorates/Ministries of Labour and authorities owning the VAT data. Of the authorities replying yes or no, 75% indicated that their Member State did have legislation enabling the exchange of information on VAT between tax authorities and others involved in fighting undeclared work.

Several authorities offered comments on what improvements to the information available in national databases or through the VIES, or simply provided comments on how this works within their organisation.

Suggestions for improvements:

- Increase the interoperability of databases of relevant national authorities;
- Information on the number of employees and residency of foreign employees broken down by nationality/tax residency;
- Monthly information on the company's turnover, and;
- Expand European regulation to explicitly allow access to tax data for enforcement authorities in charge of tackling undeclared work (mentioned by 2 authorities both from France).

Other comments:

- Information sharing amongst VAT authorities and the labour Inspectorate is regulated by collaboration agreements on the national level; and
- Two authorities (both labour inspectorates or Labour Ministries) point out that VAT information are not seen as relevant to the work they undertake.

## Results by EU region

- Authorities from Western Europe less often have legislation to use requested data:
  - 17% from Western Europe vs 36% across EU said legislation is in place;
  - 17% from Western Europe vs 9% across EU said legislation is not in place.
- Authorities from Western Europe more often said they do not have experience providing and receiving information from other Member States:
  - 33% from Western Europe vs 18% across EU said they did not provide information;
  - 42% from Western Europe vs 22% across EU said they did not receive information.
- Authorities from Eastern and Central Europe more often did have legislation in place to use requested data:
  - 47% from Eastern and Central Europe vs 36% across EU said legislation is in place.
- Authorities from Western Europe agreed more often that they (would) benefit from having access and/or receiving information through VIES from other Member States, and Nordic Member States less often:
  - Across the EU, 61% agreed: 73% of authorities from Western Europe agreed and 33% of Nordic Member States agreed.

## Results by type of enforcement authority

- Tax administrations more often said legislation is in place:
  - 100% of tax administrations vs 36% across all authorities said legislation is in place.
- Tax administrations also more often said they have experience in providing and receiving information from other Member States:
  - 75% of tax administrations (provide and send) vs 29% provide and 27% receive across authorities.
- Social security/insurance departments more often said they do NOT have experience providing and receiving information from other Member States:
  - 50% of social security/insurance departments said they do not have experience providing and receiving information vs 18% (not providing) and 22% (not receiving) across authorities.
- Social security/insurance departments and tax administration more often agreed that that they (would) benefit from having access and/or receiving information through VIES from other Member States:
  - 80% of social security/insurance departments and 88% of tax administrations (wholly) agreed vs 61% across authorities;
  - Other organisation less often agreed that they would benefit from VIES;
  - 33% of other authorities agreed vs 61% across all authorities.
- All authorities who used information from other Member States to put it in perspective with the number of employees mobilised, were tax administrations.

## 5 Obstacles to tackling undeclared work within Member States

### Key Findings

Authorities were asked to identify the 3 main obstacles to tackling undeclared work within their Member State and 3 changes that would help overcome these barriers. This reveals that the **obstacles and solutions for tackling undeclared work are similar within MS to those at the cross-border level.**

#### Main obstacles/barriers to tackling undeclared work within your MS:

- Better access and sharing of data between institutions (12 responses), raised particularly by Southern European authorities and labour inspectorates.
- Lack of resources - staff and funding (8 responses).
- 'Burden of proof' (7 responses).
- Legislative complexity or shortcomings, including lack of clear definitions (7 responses), which was mentioned by a relatively large number of authorities from Eastern and Central Europe.
- Difficulties in identifying or detecting undeclared work (6 responses).
- Undeclared work not the priority objective (5 responses).
- Data protection legislation barriers (4 responses).
- Absence of a joined-up national approach (4 responses).
- Lack of awareness with employees/society of benefits of declaring work (4 responses).
- Absence of more preventative or proactive approach (2 responses).
- Technological issues - competence and web platforms (2 responses)

#### Main improvements needed to overcome the barriers:

- **Better data sharing** (10 responses, with a large number from South European authorities), including development of a common or standardised database (3 responses); better cooperation between national authorities (2 responses), interoperability between databases (1 response) and access to and exploitation of the VIES database (1 response).
- Resolving **legislative complexity or shortcomings** (9 responses), including legal obligations for data sharing between authorities or by employers by applying conditionality (2 responses), clarification or extensions to legal definitions (2 responses). Nordic authorities and tax administrations highlight this as an area for improvement relatively often.
- **Increased resources** (8 responses), mainly mentioned by authorities from Central and Eastern Europe, as well as labour inspectorates and Ministries of Labour.
- **Better use of data** (6 responses), including better data mining, risk analysis and the use of data by inspectors directly.
- **Better data collection** (6 responses), including gathering more data from third parties and allocating ID numbers to businesses across the EU.
- **Higher quality data** (3 responses) in terms of detail and context to enable more in-depth investigation.
- **Preventative measures** (i.e., awareness of benefits of registering work, and better incentives to register work, especially for employees) (4 responses), particularly mentioned by Eastern and Central European authorities and tax administrations.
- **Joining-up national strategy** (2 responses)
- **Stronger or better deterrents** (2 responses)

### Three main obstacles

Authorities were asked to identify the 3 main obstacles to tackling undeclared work within their Member State.

12 responses mentioned the need for **better access and sharing of data** between institutions. Some report not having access to relevant data, or not having any access at all. Others report not having the right tools to share data.

8 responses mention a **lack of resources**, of whom 5 specifically mention staff. Lack of funding is also mentioned, as well as an increase in workload following the recession causing resource issues.

7 responses mentioned the '**burden of proof**'. Building a case to prosecute a company for undeclared work takes a lot of capacity in collecting proof, and (suspected) perpetrators actively try to hide it which makes this even more difficult.

7 responses mention **legislative complexity** or shortcomings, 3 of which point to a lack of clear definitions being an obstacle to effectively tackling undeclared work. This obstacle is predominantly raised by authorities from Eastern and Central Europe.

6 responses mention that **difficulties in identifying or detecting undeclared work** is a major obstacle as the nature of it means it is not easily observable.

5 responses note that while they are involved in tackling undeclared, this is **not the priority objective** implying other work takes precedence. One organisation highlights that if there was more political buy-in to tackling undeclared work, this would help them be more effective in addressing it.

4 responses mention data protection legislation barriers (3 from Western Europe and 1 Nordic nation) as an obstacle for tackling undeclared work within the Member State.

4 responses point out that to effectively tackle undeclared work, the involvement of several national competent authorities is required. These responses note an **absence of a joined-up national approach** or strategic ownership within the Member State.

4 responses mention a **lack of awareness** with employees/society of benefits of declaring work as an important obstacle to tackling undeclared work. This is mentioned by 3 Eastern and Central European authorities and 1 South European authority.

2 responses emphasise the absence of more **preventative** or proactive approaches as a barrier.

2 responses mention **technological** issues can pose barriers as well. One points to the need for good IT competences of labour inspectors, whilst the other points to IT enablers for undeclared work, in particular web platforms.

A few other barriers mentioned by individual authorities are:

- High seasonal employment posing a challenge to tackling undeclared work;
- Bogus self-employment;
- Involvement of third country companies and;
- Lenient penalty systems.

### Results by EU region

- The need for better access to and sharing of data was almost exclusively highlighted by Southern European authorities (6 out of 7).
- Authorities from the Southern and East-Central Europe more often pointed to a lack of resources:
  - Both Southern, and Eastern and Central European authorities mentioned this obstacle 3 times out of a total of 8.

- Legislative complexity as a barrier to tackling undeclared work was only mentioned by Eastern and Central European authorities.
- Lack of awareness of the benefits of declaring work to society is only raised by Southern and Eastern and Central European authorities.

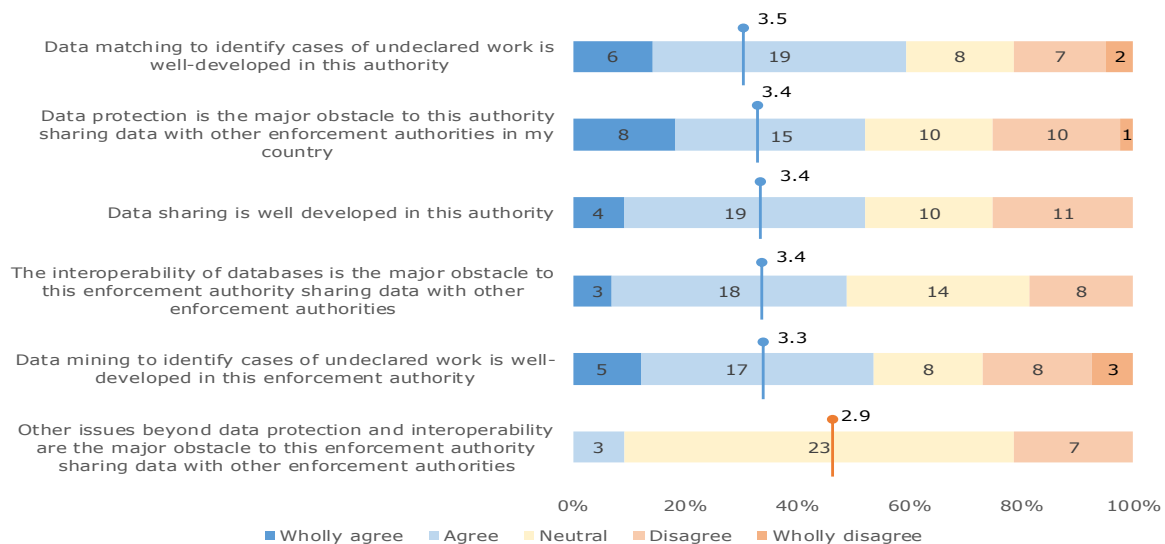
### Results by type of enforcement authority

- Difficulties around the identification and/or detection of undeclared work was more commonly mentioned by tax administrations:
  - 3 out of 6 responses (50%) mentioning this barrier to tackling undeclared work were tax administrations (18% of the sample).
- Labour inspectorates and Ministries of Labour more commonly highlighted the need for better access to and sharing of data:
  - 10 out of 12 responses (83%) mentioning this were labour inspectorates or Ministries of Labour (47% of sample).

### Availability, access and use of data to tackle undeclared work within the Member State

Authorities were asked to rate their agreement with a set of 4 statements regarding availability, access and use of data to tackle undeclared work within their own Member State. The figure below presents their responses. The figure and subsequent analysis omits authorities who answered 'Don't know' or 'Not applicable' (see notes). Ratings used a scale from 5 – wholly agree, to 1 – Wholly disagree. Numbers in the horizontal bars are the number of responses, the number at the vertical line is the average.

Figure 10. Statements on availability, access and use of data to tackle undeclared work within the Member State



Source: 2018 UDW Platform Survey

Note: The figure omits do not know and no applicable responses

60% of enforcement authorities agree or wholly agree that **data matching** (i.e., the large-scale comparison of records/files collected or held for different purposes) is well developed in their authority (mean score is 3.5 out of 5), 52% that **data sharing** (i.e., the process of making data available to other enforcement authorities) is well developed in their



authority (mean score is 3.4 out of 5) , and 54% that **data mining** (i.e., a set of automated techniques used to extract buried or previously unknown pieces of information from large databases) is well developed in their authority (mean score is 3.3 out of 5).

52% agree that *data protection* is the major obstacle to their authority sharing data with other enforcement authorities in their Member State (mean score is 3.4), 49% argued that *the interoperability of data bases* is the major obstacle to their authority sharing data with other enforcement authorities in their Member State (mean score is 3.4) and 9% that *other issues* beyond data protection and interoperability is the major obstacle to their authority sharing data with other enforcement authorities in their Member State (mean score is 2.9), including limited access to and interoperability between relevant national institutions and that their institution does not have the in-house knowledge, expertise and tools for data mining and matching.

### Results by EU region

- Authorities from Nordic Member States less often agree and more often disagree that data mining is well developed in their Member States, whereas Southern European authorities more often agree and less often disagree that it is well developed in their Member State:
  - 17% of authorities from Nordic Member States agree and 67% disagree;
  - 78% of authorities from Southern Europe agree and 11% disagree;
  - Across the whole EU, 54% agreed and 27% disagreed.
- Authorities from Nordic Member States also more often disagreed that data matching is well developed in their Member States, while authorities from Southern Europe more often agreed:
  - 43% of authorities from Nordic countries disagree vs. 21% across the EU;
  - 78% of authorities from Southern Europe agreed vs. 60% across the EU.
- Authorities from both Nordic countries and Southern Europe less often agreed and more often disagreed that data sharing is well developed in their Member States, whereas authorities from East-Central Europe more often agreed and less often disagreed:
  - 29% of Nordic and 33% of Southern European authorities agreed, while 69% of Eastern and Central European authorities agreed;
  - This compares to 52% agreeing in the EU as a whole;
  - 43% of Nordic and 33% of Southern European authorities disagreed data sharing is well developed, while only 13% of East-central European authorities disagreed;
  - This compares with 25% disagreeing for the EU as whole.
- The reverse is the case with regards to data protection forming an obstacle: authorities from both Nordic and Southern Europe more often agreed and less often disagreed, whereas authorities from East-Central Europe less often agreed and more often disagreed:
  - 71% of Nordic and 67% of South European authorities agreed, while 38% of Central and Eastern European Member States agreed;
  - This compares to 52% agreeing for the EU as a whole;
  - 14% of Nordic and 11% of South European authorities disagreed data sharing is well developed, while 38% of authorities from Eastern and Central Europe disagreed;
  - This compares to 25% disagreeing for the EU as a whole.



- Authorities from Western Europe less often agreed that the interoperability of databases is a major obstacle;
  - Only 25% agreed compared to 49% across the EU.

### Results by type of enforcement authority

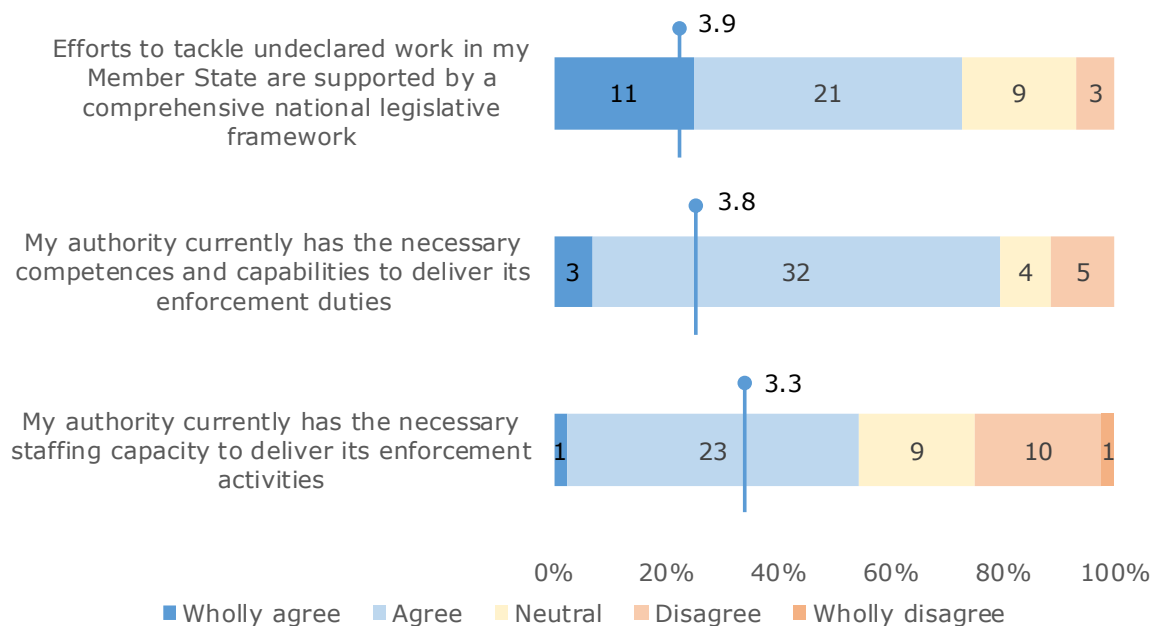
- Tax administrations and social security/insurance departments more often agree that data mining is well developed:
  - 71% of social security/insurance departments and 88% of tax administrations agree compared to 54% across all authorities;
  - None of the tax administrations disagree (27% disagree across all authorities).
- Tax administrations and social security/insurance departments also more often agree that data matching is well developed, while other authorities more often disagree:
  - 86% of social security/insurance departments and 88% of tax administrations agree, while only 29% of other authorities agree;
  - This compares to 60% of all authorities agreeing.
- Tax administrations more often agree that data sharing is well developed, while other authorities less often agree:
  - 88% of tax administrations agree, while only 38% of other authorities agree;
  - This compares to 52% of all authorities agreeing.
- Data protection seems to be less of a barrier for social security/insurance departments and tax administrations than labour inspectorates and Ministries of Labour:
  - Only 10% of labour inspectorates and Ministries of Labour disagree data protection is a major obstacle, while 38% of social security/insurance departments and 50% of tax administrations disagree;
  - This compares with 25% across all authorities disagreeing.
- Interoperability of databases is a major issue for labour inspectorates and less so for all other types of authorities:
  - 63% of labour inspectorates and Ministries of Labour agree this is a major issue, none disagree;
  - 50% of social security/insurance departments, 25% of tax administrations and other authorities disagree this is an issue, and no more than half agree.

As most tax administrations responding were Eastern and Central European this European region, it is possible that the results by type of organisation has a regional bias. Looking at tax administrations not from East-Central Europe (only 3 responses), in each case only one response deviated from the norm.

### Capacity, capability and supporting infrastructure

Authorities were asked to rate their agreement with a set of three statements regarding capacity, capability and supporting infrastructure. The figure below presents their responses. The figure omits authorities who answered 'Don't know' or 'Not applicable' (see notes). Ratings used a scale from 5 – wholly agree, to 1 – Wholly disagree. Numbers in the horizontal bars are the number of responses, the number at the vertical line is the average.

Figure 11. Statements on capacity, capability and supporting infrastructure to tackle undeclared work within the Member State



Source: 2018 UDW Platform Survey

Note: The figure omits the following: 1 'Not applicable' for all statements.

75% of authorities agreed that efforts to tackle undeclared work in their Member State are supported by a comprehensive national legislative framework (3.9 out of 5), 80% agreed that their authority has the necessary competences and capabilities to deliver its enforcement duties (3.8 out of 5) and 55% agreed that their authority has the necessary staffing capacity to deliver its enforcement activities (3.3 out of 5).

Some authorities highlight other obstacles in terms of capacity, capability and supportive infrastructure. These are:

- Interoperability of databases across relevant national authorities;
- Underlying political commitment to tackling undeclared work;
- Awareness in society of the benefits of declared work;
- Difficulties in identifying employers and employees, for example through new and changing forms of work such as e-commerce and the collaborative economy;
- Lacking tools, in particular software systems and tools to help identify areas for investigation in terms of undeclared work (e.g. risk assessment);
- High staff turnover within the enforcement authority;
- Insufficient support from the current legal system, e.g. in providing the mandate to suspend employers' activities in case of undeclared work.

### Results by EU region

- Southern and Eastern and Central European authorities more often disagreed that they have the necessary staffing capacity, and also capability and supporting infrastructure to deliver its enforcement duties, whereas Western European and Nordic authorities more often agreed they did:

- 44% of Southern European and 38% of Eastern and Central European authorities disagreed they have the staffing capacity, and 22% of South European and 19% of Eastern and Central European Member States disagreed they have the capability and infrastructure;
- In contrast, only 8% of Western and no Nordic authorities disagreed that they have enough staffing capacity, and none disagreed they have the necessary capability and supporting infrastructure;
- Staffing appears to be a particular issue for Southern European authorities, as only 33% agreed they have the necessary staffing capacity (55% across all authorities).

### Results by type of enforcement authority

- Social security/insurance departments more often disagreed they have the necessary staffing capacity, capability, supporting infrastructure and supporting national legislative framework:
  - 38% disagreed they have sufficient staffing capacity (25% across all authorities);
  - 38% disagreed they have the necessary capacity, capability and supporting infrastructure (11% across all authorities); and
  - 25% disagreed their efforts were supported by a comprehensive national legislative framework (7% across all authorities).
- Other authorities less often disagreed they have the necessary staffing capacity, capability, supporting infrastructure and supporting national legislative framework:
  - None of these authorities disagreed.
- Tax administrations less often agreed they had sufficient staffing capacity, but more often agreed they had the appropriate capability and supporting infrastructure:
  - Only 25% of tax administrations agreed they had sufficient staffing (55% across all authorities);
  - All tax administrations agreed they had the right capability and supporting infrastructure (80% across all authorities).

Tax administrations as well as authorities from Eastern and Central European Member States seem to indicate they do not have sufficient capacity. As most responses from this type of organisation came from this region, there might be some regional bias. Indeed, looking at tax administrations from regions other than East-Central Europe, they agree they have sufficient capacity, suggesting it is a regional problem.

### What three changes would help overcome these barriers?

Authorities were asked to identify the 3 main changes that could help them overcome the barriers to tackling undeclared work within their Member State.

10 responses mentioned **better data sharing**, of which 3 mentioned the development of a common or standardised database; 2 mentioned better cooperation between national authorities, 1 mentioned better interoperability and 1 mentioned access to and exploitation of the VIES database.

9 responses mention resolving **legislative complexity or shortcomings** as a change that would help the organisation more effectively tackle undeclared work, two of which mention legal obligations for data sharing between authorities or by employers (in the latter case: for example by applying conditionality). Other responses call for extensions or clarifications of legal definitions.

8 responses argue that **increased resources** would enable their authority to better be able to tackle undeclared work.

**Better use of data** and **better data collection** are both mentioned in 6 responses each. Better data collection includes suggestions such as gathering more data from third parties and allocating ID numbers to businesses across the EU. Suggestions for better data use include data mining, risks analysis and the use of data by inspectors directly.

3 responses also highlight the need for **higher quality data**, not in terms of (big) data analysis, but with an eye for detail and context, i.e. more in-depth investigations.

4 responses point out that changes in the level of awareness of the benefits of registering work, and better incentives to register work (especially for employees), would enable them to better combat the issue of undeclared work.

Having a more **joined-up national strategy** is subsequently mentioned by 2 responses as a change that would help their organisation better tackle undeclared work

2 responses mention **stronger or better deterrents** would help them tackle the issue better.

### Results by EU region

- Authorities from Southern Europe more often mention that better data sharing would help them be more effective in tackling undeclared work:
  - 5 out of 10 (50%) responses mentioning this change are Southern European authorities (20% of total sample);
- Authorities from Western Europe more often point to better data collection as being a beneficial change for tackling undeclared work at the Member State level:
  - 4 out of 6 (67%) of responses mentioning this change are Western European (27% of the total sample).
- Addressing issues around legislative complexity or shortcomings in the legislative framework are more commonly mentioned by Nordic countries:
  - 4 out of 9 (44%) mentioning this as a change are Nordic countries (16% of the total sample).
- More resources to tackle undeclared work was more commonly highlighted by Eastern and Central European authorities:
  - 6 out of 8 (75%) responses mentioning more resources are East-central European (38% of the total sample).
- Authorities from East-Central Europe also more commonly point out that a better awareness of the benefits of declared work would help them in tackling undeclared work:
  - 3 out of 4 responses mentioning this come from this EU region;
  - The other response is from a Southern European organisation;

### Results by type of enforcement authority

- **Tax authorities** more often mention addressing **legislative complexity or shortcomings in current legislative frameworks, and better awareness raising of the benefits of declared work**, as changes that would help them better tackle undeclared work at the Member State level:
  - Tax authorities make up 18% of the sample while;
  - 6 of 9 (67%) responses mentioning addressing legislative issues were tax authorities; and

- 3 out of 4 (75%) responses mentioning a better awareness of the benefits of registered work were tax authorities.
- For **labour inspectorates and Ministries of Labour, better data sharing, more resources and more in-depth inspections are the priorities:**
  - Labour inspectorates and Ministries of Labour make up 47% of the total respondents, while
  - 7 out of 10 (70%) responses that mentioned a better data share were labour inspectorates or Ministries of Labour;
  - 6 out of 7 (86%) of responses that mentioned more resources were labour inspectorates or Ministries of Labour; and
  - All responses (3) mentioning more in-depth inspections were submitted by labour inspectorates or Ministries of Labour.

## 6 Bilateral Agreements and cross-border MoUs related to undeclared work

### Key Findings

**Only 18 of the 25 Member States (72%) have BAs or MoUs on undeclared work.**

- Respondents reported on 55 BAs/MoUs. France (13) and Belgium (10) reported the highest number.
- Most of the signatories are **labour inspectorates** or **Ministries of Labour**. Tax administrations less frequently report involvement in BAs/MoUs.
- 96% of BAs/MoUs cover **information exchange**, 71% cover **best practice exchange**, 60% cover **exchange of experts or training** and 53% **joint operations**.
- 85% of the BAs/MoUs mentioned by respondents relate to the **posting of workers**, over two thirds cover **labour law** and over half cover **social security fraud**. Furthermore, almost one third of the BAs/MoUs refer to **health and safety regulations**.

Taking all BAs and MoUs reported, many gaps exist in coverage. Indeed, for bilateral agreements to cover all two-country combinations of the 28 Member States, 378 BAs/MoUs would be required on each issue. Many gaps therefore exist. Given that there are multifarious topics on undeclared work (e.g., posting of workers, labour law, social security fraud, health and safety regulation, migration), some 2,000 bilateral/two-country agreements would be needed to cover just these topics (and this excludes many tax compliance issues). Given that only 55 BAs/MoUs have been reported across all these topics (and even though some are multi-lateral), **these 55 BA/MoUs cover only some 2% of the total possible cross-country agreements.**

This section explores the extent to which there are Bilateral Agreements and/or cross-country Memoranda of Understanding related to tackling undeclared work, their scope of cooperation, and the involved parties.

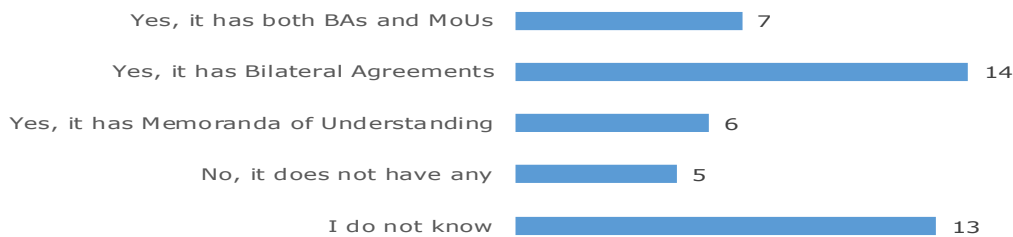
Although this is the first known attempt to document the Bilateral Agreements (BAs) and Memoranda of Understanding (MoUs) that exist across the EU related to undeclared work, not all authorities replied to the survey and there is some evidence, as will be shown, that this survey has not captured all BAs and MoUs.

The following definitions apply:

- **Bilateral Agreements (BAs):** Concluded between Member States/EEA countries in written form and governed by European and/or international law. BAs are agreements between two Member States/EEA Countries which describe in detail the specific responsibilities of, and actions to be taken by each of the parties, with a view to accomplishing their goals in the area of undeclared work. BAs create legally binding rights and obligations.
- **Memorandum of Understanding (MoU):** Less formal instrument than BAs and NAs, often setting out operational arrangements under a framework agreement on a national or international level. MoUs entail general principles of cooperation describing broad concepts of mutual understanding, goals and plans shared by the parties. They are usually non-binding. MoUs can cover agreements between enforcement bodies either within Member States or between Member States/EEA countries.

27 of the 45 authorities responding stated that their Member State had Bilateral Agreements or Memoranda of Understanding with other Member States on undeclared work: 7 of the 45 authorities stated that their Member State had both BAs and MoUs, 14 that their Member State has BAs, and 6 that it has MoUs. A further 5 of the 45 (11%) authorities responding stated that their Member State does not have any BAs or MoUs and 13 (29%) that they do not know.

*Figure 12. Does your Member State have Bilateral Agreements or Memoranda of Understanding with other Member States that concern the tackling of undeclared work?*



*Source: 2018 UDW Platform Survey*

The authorities responding, however, often had only partial knowledge of the BAs and MoUs existing in their Member State. This is clearly displayed in Table 3. In Hungary and Portugal, for example, one authority responded that there are no BAs or MoUs, but another authority indicates that such BAs or MoUs do exist. As such, to achieve a fuller picture of BAs and MoUs in relation to undeclared work at the Member State level, the responses of the different authorities responding in each Member State need to be combined.

When the responses of the authorities in each Member State are combined, the finding in Table 3 is that **18 out of 25 Member States (i.e. 72%) have BAs or MoUs related to undeclared work**. Meanwhile, **5 out of 25 Member States (20%) do not have BAs or MoUs**, and 9 out of 25 Member States (36%) indicate that they do not know.

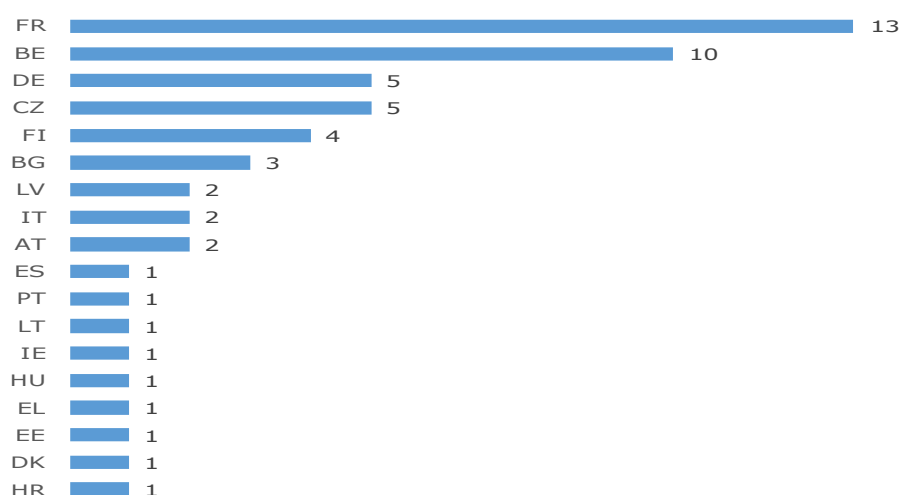
The 18 Member States indicating the existence of either BAs or MoUs reported a total of **55 BAs and MoUs**. As Figure 13 reveals, France reports the highest number of BAs and MoUs (13, or 24% of the total), followed by Belgium (10, or 18% of the total). One outcome is that when examining the distribution of BA's and/or MoUs by EU region, the responses indicate they are clustered in a few Western European Member States.

Table 3. Responses from organisation by answer and Member State

Member State	Responses indicating presence of BA or MoU	Responses indicating absence of BA or MoU	Respondents who do not know
Austria	2		
Belgium	2		
Bulgaria	3		
Cyprus			1
Croatia	1		
Czech Republic	2		1
Denmark	1		
Estonia	1		1
Finland	2		3
France	3		
Germany	1		
Greece	1		
Hungary	1	1	
Ireland	1		
Italy	1		
Latvia	1		
Lithuania	1		
Malta			1
Portugal	1	1	1
Romania		1	
Slovakia			1
Slovenia		1	
Spain	1		1
Sweden		1	
UK			1
Total Member States	18	5	9
Total responses	27	5	13

Source: 2018 UDW Platform Survey

Figure 13. Number of BAs and/or MoUs by Member State



Source: 2018 UDW Platform Survey

Table 4 reports the type of authority who are signatories to these BAs and/or MoUs. Of the BAs/MoUs reported by respondents, most of the signatories are labour inspectorates or Ministries of Labour. These types of authorities also make up the largest proportion of all responses. 'Other' authorities are relatively often signatories to BAs and/or MoUs, while the involvement of tax administrations is not often reported. Whether this is due to a lack of BAs and/or MoUs involving tax administrations, or whether it is due to a limited number of responses from tax authorities, is not known. Given that most authorities have reported BAs and MoUs in which they are directly involved, it appears relatively safe to conclude that BAs and/or MoUs probably exist between tax administrations which have not necessarily been captured in this survey.

Table 4. Number of BAs and/or MoUs by signatory

Member State	No of BAs and/or MoUs	Labour Inspectorate/ Ministry of Labour	Tax/ revenue of administration	Social security/ insurance departments	Other
FR	13	13		4	1
BE	10	5		2	6
CZ	5	4		1	
DE	5	4			5
FI	4	1		3	
BG	3	3			
AT	2				2
IT	2	2			
LV	2	1	1		
HR	1	2		1	
DK	1	1			

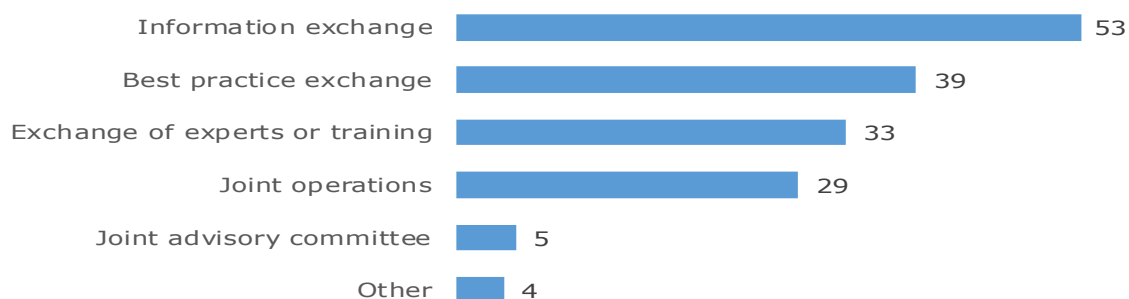


Member State	No of BAs and/or MoUs	Labour Inspectorate/ Ministry of Labour	Tax/ revenue administration	Social security/ insurance departments	Other
EE	1		1		1
EL	1	1			
HU	1		1		
IE	1	1			
LT	1	1			
PT	1	1			
ES	1	2			1
EU (#)	55	45	3	11	16
EU (%)	100%	82%	5%	20%	29%

Source: 2018 UDW Platform Survey

Figure 14 reports the functional scope of each BA/MoU. The majority (96%) cover **information exchange**, followed by **best practice exchange** (71%), **exchange of experts or training** (60%) and **joint operations** (53%). Only 9% of the BAs/MoUs reported in the survey cover **joint advisory committees**.

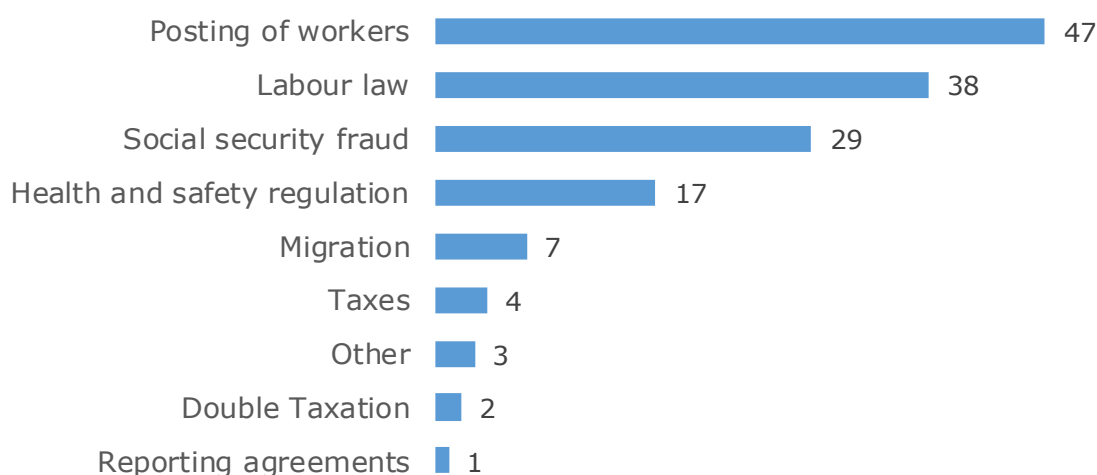
Figure 14. Scope of cooperation of reported BAs/MoUs



Source: 2018 UDW Platform Survey

Figure 15, meanwhile, indicates the topic areas covered by these BAs and MoUs. Any BA/MoU can cover more than one aspect of undeclared work. Some 85% of the BAs/MoUs (85%) reported relate to the posting of workers, more than two thirds cover labour law and over a half cover social security fraud. Furthermore, almost one third of the BAs/MoUs cover health and safety regulations. Migration, taxes, double taxation and reporting agreements are the topic areas least covered by the BAs/MoUs.

Figure 15. Topic areas covered by the BAs/MoUs



Source: 2018 UDW Platform Survey

Here, the BAs and MoUs covering each of these topic areas are analysed more closely.

### BAs and MoUs on posting of workers

Of the 47 reported BAs and MoUs on the posting of workers, these are almost universally information exchanges (46 out of 47: 98%). The majority of these BAs/MoUs also include best practice exchange (34 of 47: 72%), exchanges of experts or training (30 of 47: 60%) and joint operations (27 of 47: 57%). Bulgaria has BAs/MoUs on this topic that cover the posting of workers with 15 other Member States, although none with Nordic countries, and includes some Member States whose respondent to this survey did not report any BAs or MoUs. Bulgaria is followed by France and Belgium, both of which have agreements covering the posting of workers with 9 other Member States. MoUs and BAs on this topic, reported by other Member States, include cooperation with at most 5 other Member States and most Member States responding have BAs/MoUs with only 2 other Member States.

### BAs and MoUs on labour law

Of the 38 reported BAs and MoUs that cover labour law, these – as on the posting of workers – are almost universally information exchanges (37 out of 38: 97%). The majority also include the exchange of experts or training (29 of 38: 76%), exchange of best practice (28 of 38: 74%) and joint operations (24 of 38: 63%). However, BAs/MoUs that cover labour law more often include exchange of experts or training (76% of BAs/MoUs that cover labour law versus 60% across all BAs/MoUs). The MoU/BAs reported by Bulgaria includes the most Member States: 15 other Member States in total (but no Nordic countries). This is followed by France. Other Member States have BAs/MoUs on this topic with 6 or fewer other Member States.

### BAs and MoUs on social security fraud

There are 29 reported BAs and MoUs that cover social security fraud. All agreements include information exchange. They often also include an element of best practice exchange (25 of 29: 86% compared to 71% across BAs/MoUs). 18 of 29 (62%) include exchanges of experts or training and half include joint operations. In total, respondents from 10 Member States report these agreements. Bulgaria provides the same information as under the abovementioned BAs and MoUs and includes the highest number of Member States in its cooperation. After Bulgaria, Belgian BAs and MoUs covering social security

fraud include the most Member States: 7 Member States are involved in the cooperation. Other Member States involve no more than 5 other Member States.

### **BAs and MoUs on health and safety regulation**

17 BAs and MoUs were reported that cover health and safety regulations. Most of these again cover information exchange (16 of 17: 94%) and to a lesser extent best practice exchange: 11 of 16 (65%). Compared to all BAs and MoUs, those that cover health and safety regulations appear to proportionally more often have exchange of experts or training within their scope: 13 of 17 (76%) compared to 60% across all reported agreements. Respondents from 12 Member States reported BAs or MoUs on this topic area.

### **BAs and MoUs on migration**

BAs and MoUs that cover migration are less present than the above topics: 7 such BAs/MoUs were reported. Most of these are reported by Belgian respondents. Their scope reflects MoUs/BAs in general (i.e. universally including information exchange and many also include best practice exchange, exchange of experts or training and joint operations). 4 Member States reported these 7 BAs/MoUs. For 3 of these reporting Member States, the cooperation includes (predominantly) neighbouring Member States.

### **BAs and MoUs on other topics**

BAs and MoUs that cover taxes, double taxation and reporting agreements (e.g. on interest paid on bank accounts) were not reported as much as the other topics. There were reports of 4 BAs/MoUs on taxes, 2 on double taxation and 1 on tax reporting agreements. These were all reported by Eastern and Central European Member States (the exception being Austria) and almost exclusively involve exchange of information. Estonia reports for its BAs/MoUs on taxes and double taxation that it cooperated with all EU28 Member States.

Finally, 3 BAs/MoUs were reported on other individual topics:

- the receipt of transfer benefits while working in another Member State (Austria);
- Trafficking of human beings (Belgium), and
- Reporting on construction sites (between Finland and Estonia).

### **Coverage**

Analysing all BAs and MoUs reported on the different aspects of undeclared work, there are significant gaps. **To fully cover all bilateral combinations across 28 Member States, 378 two-country agreements would be required on each topic.** Given that there are multifarious topics on undeclared work (e.g., posting of workers, labour law, social security fraud, health and safety regulation, migration), some 2,000 bilateral/two-country agreements would be needed to cover just these topics (and this excludes many tax compliance issues). Given that only 55 BAs/MoUs have been reported across all these topics, many gaps therefore exist. **These 55 BA/MoUs cover approximately 2% of the possible potential bilateral/two-country agreements.**

Table 5 below shows all BAs and MoUs (regardless of the aspect of undeclared work covered, or scope of cooperation) by reporting Member State and the number of times the Member State was reported by others to be included in a cooperation established by BAs and/or MoUs. None approach anywhere near the 27 co-operations required to cover all other current Member States.

Table 5. Geographic coverage of cooperation between Member States

	<b>As the Member State reporting cooperation</b>	<b>As a reported Member State in the cooperation</b>
Austria	2	3
Belgium	10	7
Bulgaria	3	6
Cyprus	None of the respondents from this MS knew about BAs and/or MoUs	2
Czech Republic	5	5
Germany	5	8
Denmark	1	3
Estonia	1	6
Greece	1	2
Spain	1	5
Finland	4	1
France	13	10
Hungary	1	2
Croatia	1	1
Ireland	1	1
Italy	2	3
Lithuania	1	4
Luxembourg	No authorities from this MS responded	7
Latvia	2	2
Malta	0	1
Netherlands	No authorities from this MS responded	10
Poland	No authorities from this MS responded	7
Portugal	1	7
Romania	All respondents from this MS indicated there were no BAs and/or MoUs	5
Sweden	All respondents from this MS indicated there were no BAs and/or MoUs	3
Slovenia	All respondents from this MS indicated there were no BAs and/or MoUs	2
Slovakia	None of the respondents from this MS knew about BAs and/or MoUs	4
United Kingdom	None of the respondents from this MS knew about BAs and/or MoUs	3

Source: 2018 UDW Platform Survey

Firstly, it shows that Member States whose respondents did not know about BAs/MoUs (Cyprus, Slovakia and the UK) or said that there were none (Romania, Sweden and Slovenia) are mentioned by other Member States to be involved in their agreements. Also, the 3 Member States who did not respond to the survey (Luxembourg, Poland and the Netherlands) are often mentioned by others, particularly the Netherlands.

Some Member States are more often reported to be part of a cooperation than they report themselves. Examples are Bulgaria, Germany, Estonia, Spain, Lithuania and Portugal. In the cases of Bulgaria, Lithuania, Estonia and Spain, this is due to agreements covering cooperation with multiple Member States. In the case of Germany and Portugal, all respondents from these Member States were only able to report BAs and MoUs that their authority was involved in, hence the discrepancy between the number of reported BAs/MoUs and the number of times these Member States are reported to be involved could be due to underreporting of BAs/MoUs.

Yet other Member States more often report BA/MoUs than that they are reported by others as being involved in these agreements. These are Belgium, Finland and France. Respondents from these Member States gave comprehensive overviews (either because of multiple authorities reporting relevant agreements for their own authority, or one authority being able to provide a full list), while this may not be reflected by other Member States where a single respondent was able to only report on BAs or MoUs their authority is directly involved in.

Finally, several Member States do not report on many MoUs or BAs that cover undeclared work, nor are they mentioned often by others. Member States with 2 or fewer reports of BAs/MoUs that are also mentioned only once or twice are Greece, Hungary, Croatia, Ireland, Latvia and Malta.

## 7 National Agreements and intra-country MoUs related to undeclared work

### Key Findings

Agreements to cooperate are not only developed at the inter-country level. They are also implemented at the intra-country level to enable a more joined-up holistic approach towards tackling undeclared work. The first Annual Platform Survey report revealed that only one-fifth of Member States have a single coordinating body responsible for tackling undeclared work. In most Member States, different authorities are responsible for tackling varying aspects of undeclared work (e.g., tax administrations for tax non-compliance, labour inspectorates for violations of labour law, and social security/insurance institutions for social contribution violations). As such, **NAs and MoUs are essential if a joined-up coordinated approach is to be achieved when tackling undeclared work.**

56% of authorities responding indicate some National Agreement (NA) or Memorandum of Understanding (MoU) within their Member State on undeclared work. However, 24% indicate they do not know and 20% that there are no such agreements. Indeed, **18 of the 25 Member States (i.e. 72%) responding indicated the presence of NAs or MoUs:**

- A total of 70 NAs and/or MoUs at national level were reported by these 18 Member States. Spain and Germany reported the highest number of NAs/MoUs at national level (11).
- Most of the signatories are **labour inspectorates** or **Ministries of Labour**.
- NAs/MoUs almost universally cover **information exchange**. Two-thirds cover **data sharing**, and over half cover **joint operations**.
- National strategies on undeclared work, best practice exchanges, data mining, joint advisory committees and exchanges of experts or training are less often covered.
- 60% (42) of the NAs/MoUs cover **social security** and 51% (or 36) cover **labour law**.
- 36% (or 25) cover the posting of workers and approximately one quarter cover migration, health and safety regulations and taxes. The topic of double taxation is covered by only 3% of NAs/MoUs.

In sum, the evidence is that **many more NAs/MoUs are required if a joined-up coordinated is to be achieved when tackling undeclared work at Member State level.** These are required at the level of **(i) strategy, (ii) operations and (iii) data mining and sharing.**

Cooperation Agreements and Memorandum of Understanding are not only developed at the inter-country level. They are also used at the intra-country level to enable a more joined-up holistic approach towards tackling undeclared work that “uses in a strategic and coordinated manner the full range of both the direct and indirect policy approaches and measures available to increase the power of, and trust in, authorities respectively” (Williams, 2017).

Indeed, the first Annual Platform Survey report revealed that only one-fifth of Member States have one single coordinating body responsible for tackling undeclared work (Williams and Puts, 2017). Instead, most Member States adopt a ‘silos’ approach in which different authorities are responsible for tackling different aspects of the fight against undeclared work (e.g., tax administrations for tax non-compliance, labour inspectorates for violations of labour law, and social security/insurance institutions for social contribution violations). In this institutional context, **there is a need for National Agreements and**

**intra-country MoUs if a joined-up coordinated approach is to be achieved when tackling undeclared work.** Indeed, the Platform has produced a toolkit to help Member States produce such cooperation agreements and MoUs (Stefanov and Minerva, 2017). This section examines the degree to which this is currently happening.

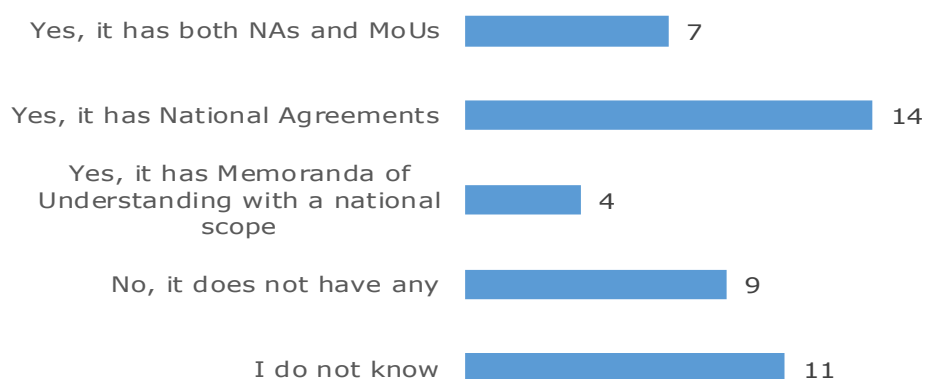
The following definitions here apply:

**National Agreements (NAs):** Instruments for cooperation between two or more national institutions, and/or involve cooperation with relevant stakeholders such as trade unions and/or employer associations to undertake activities defined either by law or policy to tackle undeclared work. NAs can have many different forms such as legal prescriptions, Strategic Documents and Action Plans, Executive Orders, etc.

**Memorandum of Understanding (MoU):** Less formal instrument than NAs, often setting out operational arrangements under a framework agreement on a national level. MoUs entail general principles of cooperation describing broad concepts of mutual understanding, goals and plans shared by the parties. They are usually non-binding. MoUs here cover agreements between enforcement bodies within Member States.

Most respondents indicated that their Member State has National Agreements or Memoranda of Understanding within their country that concern the tackling of undeclared work. In total, **25 of the 45 authorities responding stated that their Member State has either NAs or MoUs.** Of these, 7 of 45 respondents mentioned their Member State had both NAs and MoUs, 14 indicated that their Member State has NAs and 4 said it has MoUs. A further 9 respondents said that their Member State does not have any NAs or MoUs and 11 indicated that they do not know.

*Figure 16. Does your enforcement authority have any National Agreements or MoUs that are national in scope?*



*Source: 2018 UDW Platform Survey*

While 25 of the 45 authorities (56%) stated that their Member State had a NA or MoU in place, and only 9 out of 45 (20%) do not, this does not reflect the proportion of Member States with such NAs/MoUs. As multiple authorities from the same Member State were able to respond, there is some duplication. Table 6 summarises the responses from all authorities by indicating whether their Member State had either a NA and/or MoU, neither, or did not know, by Member State.

Table 6. Responses from organisation by answer and Member State

Member State	Responses indicating presence of NA or MoU	Responses indicating absence of NA or MoU	Respondents who do not know
Austria	1	0	1
Belgium	2	0	0
Bulgaria	3	0	0
Cyprus	0	1	0
Croatia	0	1	0
Czech Republic	1	1	1
Denmark	1	0	0
Estonia	1	0	1
Finland	1	2	2
France	1	0	2
Germany	1	0	0
Greece	0	0	1
Hungary	1	1	0
Ireland	1	0	0
Italy	1	0	0
Latvia	2	0	0
Lithuania	1	0	0
Malta	0	0	1
Portugal	2	1	0
Romania	0	0	1
Slovakia	0	1	0
Slovenia	1	0	0
Spain	2	0	0
Sweden	0	1	0
UK	2	0	1
Total Member States	18	8	9
Total responses	25	9	11

Source: 2018 UDW Platform Survey

Table 6 reveals that responses indicating the absence of NA's and/or MoUs are clustered in a few predominantly Western European Member States. Hence, although 25 of 45 (i.e. 56%) of authorities responding indicated a presence of NAs or MoUs, **18 of the 25 Member States (i.e. 72%) responding indicated the presence of NAs or MoUs.** Furthermore, while 9 out of 45 (20%) of the authorities responding said there were no NAs or MoUs, **8 of the 25 Member States (32%) indicated the absence of NAs or**



**MoUs.** Finally, 11 out of 25 Member States (44%) indicated they did not know. These figures are because authorities from the same Member State responded differently.

It could be the case that authorities indicating an absence, or who say they do not know, are not involved in the agreement and therefore not aware; while those authorities from the same Member State indicating a presence are involved and therefore aware.<sup>5</sup> Indeed, most respondents (22 of 25: 88%) only responded on those NAs and/or MoUs that their organisation was involved in. Further regional analysis shows that:

Out of the 12 respondents from **Western European Member States**, 8 indicated that their Member State has either or both NAs and MoUs. 4 respondents mentioned that they did not know, though for each of these respondents (from FR (2), AT, UK), another organisation from the same Member State indicated their Member State did have NA's and/or MoUs in place. No respondents indicated that their Member State do not have these agreements in place.

Out of 17 respondents from **Eastern and Central Europe**, 7 indicated their Member State has MoUs and/or NAs. A further 4 respondents indicated that their Member State does not have any NAs or MoUs. 2 of these respondents had peer authorities from the same Member State indicate that they did have these agreements (CZ, HU). The other two responses from other Member States that indicated absence of these agreements were Slovakia and Hungary, both of which only had one respondent). 3 said that they didn't know (RO, CZ, EE), of which 2 (CZ, EE) had peer organisation respond that their Member State does have NAs and/or MoUs.

With regards to the 7 respondents from **Nordic countries**, 2 (from Denmark and Finland) said that their Member States has NAs, 3 respondents from 2 Member States (FI, SE) said their Member State does not have any. However, another Finnish respondent was able to provide information on a NA. 2 respondent from Finland indicated that they didn't know.

Out of the 9 respondents from **Southern Europe** 5 of mentioned that their Member States has NAs and/or MoUs. 2 respondents (CY, PT) said that their Member State does not have any, though other Portuguese respondents did provide information on NAs and/or MoUs. 2 (MT, EL) indicated that they didn't know.

The subsequent analysis focusses on those responses that did indicate the presence of either NAs or MoUs. The same caveat applies as for the section analysing BAs. Some Member States are underrepresented because for these Member States the responding organisation does not know about these National Agreements. It is unclear if those who answered that there are no such agreements answered in this way because they are not involved in these agreements or because their entire Member State does not have these agreements in place. In either case, the relatively high proportion of responses that indicate absence or are not sure whether these arrangements are in place (less often the case for respondents from Western European Member States), indicate that agreements may either not be present or are not strongly institutionalised with all relevant stakeholders within particular Member States.

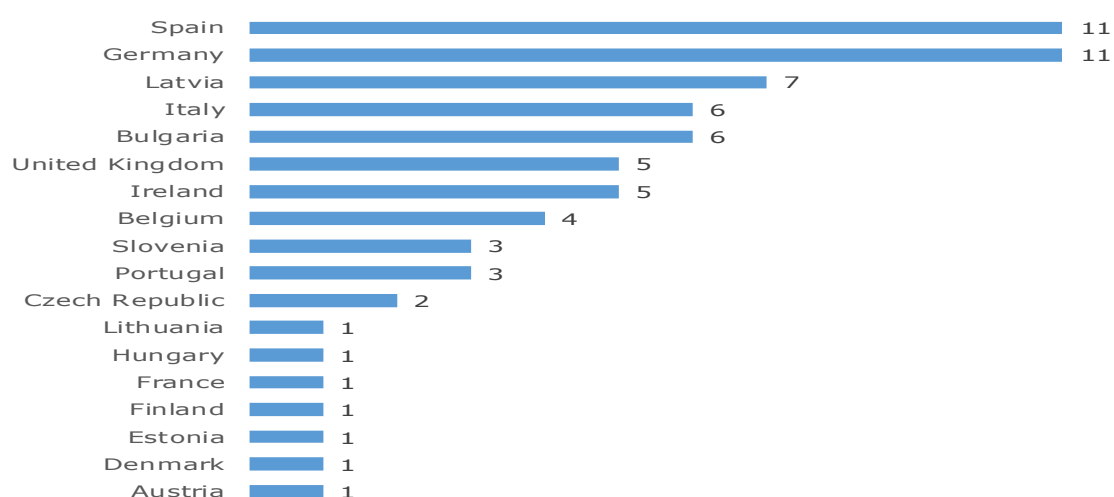
A total of **70 NAs and/or MoUs at national level have been reported by 18 Member States**. Spain and Germany reported the highest number of NAs/MoUs at national level (11)<sup>6</sup> followed by Latvia (7), Italy and Bulgaria (5), the UK and Ireland (5), Belgium (4) and Slovenia and Portugal (3), the Czech Republic (2), while Austria, Denmark, Estonia, Finland, France, Hungary and Lithuania described one NA/MoU each.

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<sup>5</sup> Another explanation could be that these agreements exist on paper but are not operational.

<sup>6</sup> In Germany, where one single body is responsible for tackling undeclared work, and the need for agreements with other enforcement authorities is less relevant, the 11 I agreements, which include cooperation with other national authorities, have been reported by the respondent.

Figure 17. Number of NAs and/or MoUs by Member State



Source: 2018 UDW Platform Survey

Of those NAs/MoUs reported, most of the signatories are labour inspectorates or Ministries of Labour. These types of authorities also make up the largest proportion of all responses. 'Other' authorities are also often a signatory to NAs and/or MoUs: 77% of reported NAs/MoUs involve 'other' authorities. This type of organisation only makes up 18% of all respondents to the survey.

Table 7. Number of NAs/MoUs by signatory

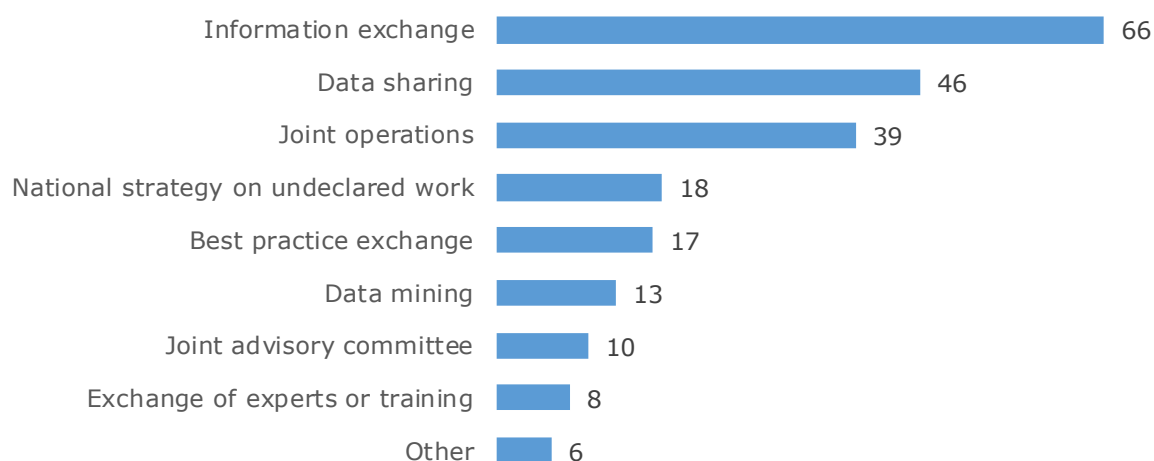
Member State	No of NAs/MoUs	Labour Inspectorate/Ministry of Labour	Tax administration	Social security/insurance departments	Other
AT	1	1	1	1	1
BE	4	8		4	2
BG	6	7	3	4	2
CZ	2				1
DK	1	1	1		
EE	1	1	1		
FI	1	2	1	1	3
FR	1	1			1
DE	11	1	1	4	16
HU	1	1		1	
IE	5	5		1	2
IT	6	8		1	6
LV	7	7	1	1	4
LT	1	1	1	1	2

PT	3		3	3	
SI	3		3		
ES	11	5			9
UK	5	6	1	1	5
Total EU (#)	70	55	17	23	54
Total EU (%)	100%	79%	24%	33%	77%

Source: 2018 UDW Platform Survey

Examining the scope of cooperation, most of the NAs/MoUs (94% or 66) are about **information exchange**. Two thirds (66% or 46) cover **data sharing** and 56% (or 39) cover **joint operations**. A further 26% (or 18) of NAs/MoUs reported in the survey are about **national strategy on undeclared work**, followed by **best practice exchange** (24% or 17) and **data mining** (19% or 13). Fewer NAs/MoUs cover **joint advisory committee** 14% or 10) and **exchange of experts or training** (11% or 8).

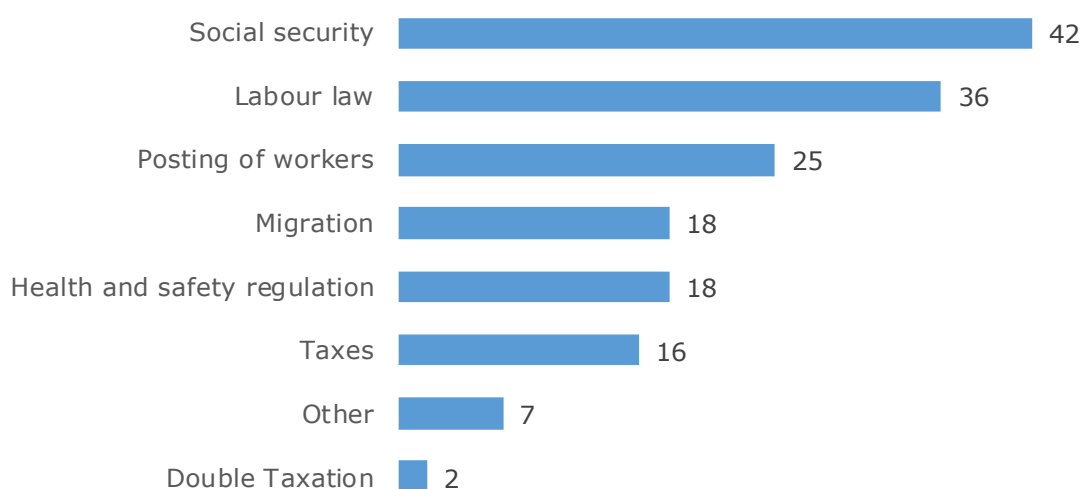
Figure 18. Scope of cooperation of reported BAs/MoUs



Source: 2018 UDW Platform Survey

Respondents were also asked to specify the aspect of undeclared work that each NA/MoU covered. 60% (or 42) of the NAs/MoUs reported cover **social security** and 51% (or 36) cover **labour law**. A further 36% (or 25) of the NAs/MoUs are to facilitate cooperation at the national level on the **posting of workers** and approximately one quarter on **migration, health and safety regulations and taxes**. The topic of **double taxation** is covered by only 3% (or 2) of reported NAs/MoUs.

Figure 19. Topic areas covered by the NAs/MoUs



Source: 2018 UDW Platform Survey

The next sections investigate these topics more closely.

### NAs and MoUs on social security

Spain, Italy and Germany report the highest number of NAs and MoUs that cover social security (Spain 7, Italy and Germany 6 each). For most Member States that had NAs or MoUs on this topic, only 1 was reported. Aside from the 10 Member States who either did not respond to the survey, or for whom all respondents did not know whether there were NAs/MoUs<sup>7</sup>, NAs and MoUs were reported for 14 Member States. The following Member States did not report any on social security: Denmark, Estonia, France and Slovenia.

Reported NAs and MoUs that cover social security almost universally include information exchange (41 of 42: 98%). The majority also include a data sharing arrangement (35 of 42: 83%) and joint operations (25 of 42: 60%). Data sharing is included somewhat more often than it is across all NAs and MoUs (83% of agreements on social security mention data sharing versus 66% of NAs/MoUs on all topic areas). Joint operations are mentioned by respondents from Belgium, Bulgaria and Italy. Less often in NAs and MoUs that cover social security are: national strategies on undeclared work (15 of 42: 36%); best practice exchanges (11 of 42: 26%); data mining (10 of 42: 24%); joint advisory committees (7 of 42: 17%), and exchange of experts or training (5 of 42: 12%).

61% (25 of the 41) of reported NAs and MoUs that cover social security involve labour inspectorates. This is not dissimilar to the proportion of NAs/MoUs across all topic areas. 54% (22 of 41) of reported NAs and MoUs that cover social security involve social security/insurance departments. This is unsurprisingly given the topic more than this type of organisation is involved across all NAs and MoUs (33%). Respondents from Belgium, Bulgaria and Portugal relatively often report involvement of social security/insurance departments. Ministries of Labour are only involved in 29% of the 41 reported agreements and tax administrations are only involved in 27%.

<sup>7</sup> Croatia, Cyprus, Greece, Luxembourg, Malta, Netherlands, Poland, Romania, Sweden, and Slovakia

## NAs and MoUs on labour law

Respondents from Bulgaria, Italy and Latvia report the highest number of NAs and MoUs that cover labour law (Bulgaria and Italy 6 each and Latvia 5). For most Member States that had any NAs or MoUs on this topic, only 1 was reported. Aside from the 10 Member States who either did not respond to the survey, or for whom all respondents did not know whether there were NAs/MoUs or said that there were no NAs/MoUs<sup>8</sup>, NAs and MoUs were reported for 12 Member States. The following Member States did not report any on labour law: Austria, Czech Republic, Hungary, Denmark, Portugal and Slovenia.

Reported NAs and MoUs that cover labour law almost universally include an information exchange (34 of 36: 94%). The majority also includes a data sharing arrangement (26 of 36: 72%) and joint operations (31 of 36: 86%). Joint operations are mentioned as being in scope more often than it is across all NAs and MoUs (86% of agreements on labour law mention data sharing versus 56% of NAs/MoUs on all topic areas). Less often in NAs and MoUs on labour law are: data mining (11 of 36: 31% of which 4 from Belgium and 3 from Bulgaria); best practice exchanges (9 of 36: 25%); national strategies on undeclared work and exchanges of experts or training (both 7 of 36: 19%) and joint advisory committees (5 of 36: 14%).

89% (32 of 36) of reported NAs and MoUs that cover labour law involve labour inspectorates. This is a greater share than the proportion of NAs/MoUs across all topic areas (59%). Considering the topic is labour law, this is not surprising. 44% (16 of 36) reported NAs/MoUs involved other authorities. Other authorities are only involved in 10-30% of agreements. Belgium, which has multiple NAs/MoUs on this topic, also includes the Ministry of Labour and social security/insurance department in all these agreements. Germany involved its Customs Authority in all reported agreements.

## NAs and MoUs on posting of workers

Respondents from Bulgaria, Belgium and Slovenia report the highest number of NAs and MoUs to facilitate cooperation between enforcement authorities at the national level on the posting of workers (Bulgaria and Belgium 4 each and Slovenia 3). For most Member States that had any NAs or MoUs on this topic, only 1 was reported. Aside from the 10 Member States who either did not respond to the survey, or for whom all respondents did not know whether there were NAs/MoUs or said that there were no NAs/MoUs<sup>9</sup>, NAs and MoUs were reported for 14 Member States. The following Member States did not report any on the posting of workers: Hungary, Germany, Estonia Portugal.

Reported NAs and MoUs that cover posting of workers almost universally include an **information exchange** component (23 of 25: 92%). The majority also include a **data sharing** arrangement (16 of 25: 64%) and joint operations between national enforcement authorities (15 of 25: 60%). Less often included in these NAs and MoUs on the posting of workers are: data mining (8 of 25: 32% of which half from Belgium); best practice exchanges (7 of 25: 28%); national strategies on undeclared work and joint advisory committees (both 5 of 25: 20%), and exchanges of experts or training (4 of 25: 16%).

75% (18 of 25) of reported NAs and MoUs on the issue of the posting of workers involve labour inspectorates. This is a greater share than the proportion of NAs/MoUs across all topic areas (59%). 46% (11 of 25) reported NAs/MoUs involved social security/insurance department, which compares to 33% across all NAs/MoUs. NAs and MoUs on the posting of workers more frequently included Ministries of Labour (38% or 9 of 24 agreements on the posting of workers versus 20% across agreements on all topics) and tax administrations (38% or 9 of 24 agreements on the posting of workers versus 24% across agreements on all topics).

## NAs and MoUs on migration

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<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

Italy, Belgium and Bulgaria report the highest number of NAs and MoUs on the issue of migration (Italy and Belgium 4 each and Bulgaria 3). For most Member States that had any NAs or MoUs on this topic, only 1 was reported. Aside from the 10 Member States who either did not respond to the survey, or for whom all respondents did not know whether there were NAs/MoUs or said that there were no NAs/MoUs<sup>10</sup>, NAs and MoUs were reported for 9 Member States. The following Member States did not report any NAs or MoUs on migration: Austria, Czech Republic, Denmark, France, Hungary, Ireland, Latvia, Portugal and Slovenia.

All who reported NAs and MoUs on the issue of migration said that this involved information exchange between authorities. The majority also included data sharing arrangements (14 of 18: 78%) and joint operations between authorities (15 of 18: 83%). Joint operations are relatively often in scope of these NAs/MoUs: across all topic areas joint operations are only in scope in 56% of cases. Less often in scope of NAs and MoUs on migration are: data mining (9 of 18: 50% of which 4 from Belgium); national strategies on undeclared work (7 of 18: 39%); best practice exchanges (5 of 18: 28%), and exchanges of experts or training and joint advisory committees (both 4 of 18: 22%).

88% (15 of 17) of reported NAs and MoUs on migration involve labour inspectorates. This is a greater share than the proportion of NAs/MoUs across all topic areas (59%). While there are not many NAs/MoUs that cover migration, those that are generally include more types of authorities: 59% (10 of 17) reported NAs/MoUs involved social security/insurance departments and Ministries of Labour. Across all NAs/MoUs regardless of topic area this is respectively 20% and 33%. 41% (7 of 17) include other authorities, Customs and Immigration offices are involved in 35% of agreements (6 of 17), both of which are rarely involved in agreements on other topics. Tax administrations are least often involved (5 of 17: 29%).

### **NAs and MoUs on health and safety regulation**

Respondents from Italy report the highest number of NAs and MoUs that cover health and safety regulation: 5 in total. For most Member States that had any NAs or MoUs on this topic, only 1 was reported. Aside from the 10 Member States who either did not respond to the survey, or for whom all respondents did not know whether there were NAs/MoUs or said that there were no NAs/MoUs<sup>11</sup>, NAs and MoUs were reported for 9 Member States. The following Member States did not report any NAs or MoUs on Migration: Austria, Czech Republic, Denmark, Estonia, France, Hungary, Portugal, Slovenia and the UK.

All reported NAs and MoUs that cover health and safety regulation include information exchange. The majority also includes data sharing arrangements and joint operations (13 of 18: 72%). Joint operations are relatively often in scope of these NAs/MoUs: across all topic areas joint operations are only in scope in 56% of cases. Other types of scope only apply in 10-30% of cases.

Almost all (94%: 16 of 17) of reported NAs and MoUs that cover health and safety regulation involve labour inspectorates. This is a greater share than the proportion of NAs/MoUs across all topic areas (59%) and is not surprising considering the topic. Ministries of Labour are also relatively often involved: 6 of 17 (35%) of NAs/MoUs on Health and safety regulation report these ministries as being involved, compared to 20% across all NAs and MoUs. social security/insurance departments are also relatively often involved: 8 of 17 NAs/MoUs mentions these authorities being involved (47% compared to 33% across all NAs/MoUs regardless of topic area).

### **NAs and MoUs on taxes**

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<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

Of the 11 Member States that had any NAs or MoUs that cover taxes, only 1 or 2 NAs and/or MoUs were reported. Aside from the 10 Member States who either did not respond to the survey, or for whom all respondents did not know whether there were NAs/MoUs or said that there were no NAs/MoUs<sup>12</sup>, the remaining 7 Member States did not report any NAs or MoUs on taxes: Austria, Czech Republic, Denmark, France, Ireland, Italy and Slovenia.

All reported NAs and MoUs that cover taxes include information exchange. The majority also includes a data sharing arrangement and joint operations (12 of 15: 80%). Tax administrations (9 of 15: 60%) and social security/insurance departments (10 of 15: 67%) were relatively often involved in these NAs and/or MoUs.

### **NAs and MoUs on other topic areas**

Double taxation was mentioned by only one Member State (Belgium), which reported 2 NAs/MoUs on this topic, for which the scope of cooperation includes all types (e.g. from information exchange to a national strategy on undeclared work). These 2 agreements involve the labour inspectorate, Ministry of Labour and social security/insurance department. One of the agreements also involves the Immigration Office.

A further 7 MoUs/NAs were mentioned on other topics:

- Anti-discrimination regulation
- Craft and trade law
- The operations of the Workplace Relations Commission
- Unemployment benefits
- Registry College information
- General Council of Notaries information
- Undeclared work

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<sup>12</sup> Ibid.

## 8 Complaint reporting tools

### Key Findings

- 82% of authorities responding stated that complaint reporting tools are available in their Member State. 38 tools were reported, of which 89% (34) allow **anonymous reporting**.
- Complaints reported via these tools result in a **risk assessment or sifting process** in the case of only 71% of these complaint reporting tools. For 24% of the complaint reporting tools, all complaints reported lead to inspections.
- Sifting processes are more often used by **tax administrations** (all their reported tools) and by complaint reporting tools used in **Western and Southern Europe** (89% and 86% respectively).
- The criteria used to assess the level of risk and sift which complaints should be followed-up with inspection visits, **appear to be often lacking in rigour and not to be grounded in a solid evidence-base**.

The final survey module was designed to collect information about tools for reporting complaints (otherwise known as whistleblower tools, or Good Citizen reports) available in each Member State.

Respondents were asked to include all the tools/websites currently available in their Member State (across all authorities) that either allow potential instances of undeclared work to be reported or enable the user to understand/calculate whether they are the subject of an abuse/malpractice (e.g., paid below the minimum wage).

Most respondents (37 of the 45, i.e. 82%) said that complaint reporting tools exist in their Member State. 6 respondents indicated that these tools are not available and 2 said that they didn't know.

*Figure 20. Availability of reporting tools/websites to receive complaints about employers/citizens*



*Source: 2018 UDW Platform Survey*

Of the 12 respondents from **Western European** Member States, 8 mentioned that reporting tools are available in their Member State, 3 said that there were not any tools available and 1 respondent said they did not know.

Of the 17 respondents from **East-Central Europe**, 16 mentioned that their Member State had reporting tools available and 1 respondent said they did not know.

Of the 7 respondents from **Nordic countries**, all indicated that reporting tools are available in their Member State.



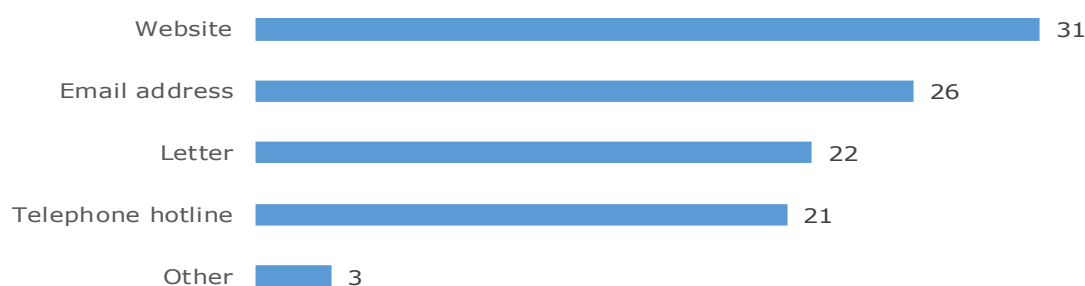
6 out of the 9 respondents from **Southern Europe** also mentioned that reporting tools were available in their Member State and 3 said that they are not available.

A total of 38 complaint reporting tools have been identified. Most (20: 53%) of these were reported by labour inspectorates or Ministries of Labour, followed by tax administrations (9: 24%) and other authorities (8: 21%). Only one social security/insurance department reported a complaint reporting tool. Aside from social security/insurance departments being underrepresented, these results roughly reflect the distribution of respondents.

These tools were most often reported by respondents from Eastern and Central European Member States (15: 39%), followed by Western European Member States (10: 26%), South European Member States (7: 18%) and Nordic countries (6: 16%). This is reflective of the respondents that took part in the survey.

Respondents were asked to indicate the medium used for complaint reporting. The majority (81% or 31) have a website available as well as an email address (68% or 26). Over half of the reported tools also have a postal address for sending letters (58% or 22) and telephone hotline (55% or 21).

*Figure 21. Medium for reporting*



*Source: 2018 UDW Platform Survey*

Respondents indicated whether the users can report anonymously or not. Some 89% (34) allow anonymous reporting while 11% (4) do not.

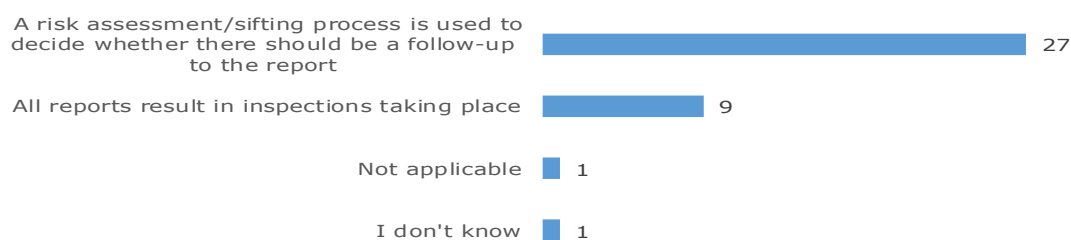
*Figure 22. Anonymity of responses*



*Source: 2018 UDW Platform Survey*

Most respondents indicated that the reports submitted are subjected to a risk assessment/sifting process to decide whether there should be a follow-up to the complaint reported (27 of 38 tools: 71%). In the case of 9 tools (24%), all complaints reported result in inspections taking place.

Figure 23. Processing of reports



Source: 2018 UDW Platform Survey

However, a risk assessment or sifting process is proportionally more often used by **tax administrations**. All tax administration complaint reporting tools (9 out of 9) use a sifting process to produce a risk assessment of whether there should be a follow-up (i.e. in the case of only 1 tool do all complaints reported lead to inspections). For **labour inspectorates/Ministries of Labour**, meanwhile, only 65% of complaint reporting tools use a sifting process to decide whether there should be a follow-up, and for 'other' authorities just 63% of the complaint reporting tools use such a risk assessment/sifting process.

These sifting processes are also slightly more often used by complaint reporting tools in Western European and to a lesser extent South European Member States. Excluding answers where the respondents did not know the answer or indicated 'not applicable', 89% of tools reported by respondents from Western European Member States and 86% of tools reported by South European Member States use a sifting/risk assessment process. For East-Central Member States and Nordic countries, this is respectively 67% and 60% (i.e. for 40% of complaint reporting tools, all complaints reported result in inspections taking place; there is no sifting/risk assessment).

20 respondents who indicated that their reporting tool uses a sifting/risk assessment process provided more information on this process. This information predominantly concerned generic comments on the process which, from the responses, can be summarised as receiving reports which triggering an assessment that then inform a decision on whether to make an inspection or not. With regards to the process, some more detailed responses mentioned that (new) reports are checked against system histories, such as whether the business has been previously compliant or whether there have been previous complaints and/or inspections (5 responses). One individual response mentions that as part of the sifting process, information from additional sources is used. Another response mentions that assessment occurs centrally and yet another mentions sifting is first done centrally, after which decentral assessment takes place at regional offices.

With regards to the **criteria** used during the sifting, several responses (3) mention that one of the criteria for a report to lead to an inspection is for there to be sufficient evidence submitted. Other criteria are their previous history in relation to being compliant (5 responses), the scale of the complaint (i.e. does it concern a single individual or a large business with many employees: 2 responses); the sector to which the complaint relates (2 responses); the content of the complaint (e.g. health and safety issues, undeclared work: 2 responses) and somewhat similarly the seriousness of the complaint (1 response) and complainant characteristics, with anonymous reports less likely to be followed-up than if the complainant named themselves (2 responses). As such, the criteria used variously relate to the person making the complaint, the nature of the complaint and the characteristics of the entity against which the complaint is being made. The criteria, nevertheless, appear to be often lacking in rigour and to be not grounded in a solid evidence-base. A more rigorous evidence-based approach towards selecting risk-assessment criteria seems to be required.

These complaint reporting tools are in most Member States whistleblower 'hotlines' for reporting instances of either tax evasion or the violation of labour laws (e.g., not paying the national minimum wage). To see the full list of complaint reporting tools, and the topics that they cover, please visit the 'Report Undeclared Work' section at [www.ec.europa.eu/social/udw](http://www.ec.europa.eu/social/udw).

## 9 References

- De Wispelaere, F., Pacolet, J., Rotaru, V., Naylor, S., Gillis, D. and Alogogianni, E. (2017) *Data mining for more efficient enforcement: a practitioner's toolkit from the thematic workshop of the European Platform Undeclared Work*, European Commission, Brussels.
- Stefanov, R. and Minerva, D. (2017) *Practitioner's Toolkit: drafting, implementing and improving Bilateral Agreements and Memorandum of Understanding to tackle undeclared work*, European Commission, Brussels.
- Williams, C.C. (2017) *Developing a Holistic Approach for Tackling Undeclared Work: a learning resource*, European Commission, Brussels.
- Williams, C.C. and Puts, E. (2017) *European Platform Undeclared Work 2017 Platform Survey Report: organisational characteristics of enforcement bodies, measures adopted to tackle undeclared work, and the use of databases and digital tools*, European Commission, Brussels.

