

## *(Inter-)national institutional cooperation for the investigation of letterbox companies, Belgium*

<b>Title of the policy or measure (in English)</b>	(Inter-)national institutional cooperation for the investigation of letterbox companies
• Country	Belgium
• Sectors	All
• What groups are targeted by the measure	<ul style="list-style-type: none"> <li>- Labour inspectors (direct)</li> <li>- Other (federal) inspection services (indirect)</li> <li>- Federal and local police (indirect)</li> <li>- Foreign labour inspection services (indirect)</li> <li>- Employees and self-employed involved in undeclared work (indirect)</li> <li>- Belgian companies (indirect)</li> <li>- Social partners (indirect)</li> </ul>
• Purpose of measure	Deterrence: improve detection
• Short sentence summarising the measure	The Belgian Labour Inspectorate is increasing its cooperation with various national institutions (i.e. tax department, police, prosecution office) and foreign institutions in order to find proof of the existence of letterbox companies. This cooperation is also essential to be able to bring criminal and civil proceedings where proof has been found. This allows letterbox companies to be sanctioned, and also allows workers to be party to proceedings in order to get compensation from the company.
<b>Background</b>	[blank]
• Background context driving the implementation of the measure	A key driver for the (inter-) national cooperation for the investigation of letterbox companies concerns finding proof of their existence and getting compensation for workers; the main problems faced by the labour inspectorate in Belgium managing to present proof of the existence of letterbox companies especially in criminal proceedings and having workers' rights recognised in court.
• When was the measure implemented? (including start date and end date/ongoing)	Since 2015 - ongoing
• Names(s) of authorities/bodies/organisations involved	<ul style="list-style-type: none"> <li>- Labour Inspectorate</li> <li>- Other (federal) inspection services (tax department, regional inspections, National Office for Social Security, ...)</li> <li>- Federal and local police engage in investigations on the request of the prosecution office</li> <li>- Foreign labour inspection services (via the Internal Market Information System (IMI), mail, personal contacts)</li> <li>- Social partners</li> </ul>
• Scope of the measure (a pilot project, nationwide, regional wide)	Nationwide with international dimension

• Type of (policy) measure	Strategy
• Key objectives of the measure	<p><b>General objective:</b></p> <ul style="list-style-type: none"> <li>- To sanction and stop letterbox companies</li> </ul> <p><b>Specific objectives:</b></p> <ul style="list-style-type: none"> <li>- Finding proof of the existence of letterbox companies in order to bring about criminal proceedings</li> <li>- Involving workers as a party to proceedings</li> <li>- Getting compensation for workers</li> </ul>
<b>Specific measure</b>	[blank]
• Description of how the measure operates in practice	<p>Belgium has enhanced its cooperation with national and foreign authorities to better identify letterbox companies and obtain proof of their existence. This has also been complemented by using a criminal approach towards letterbox companies.</p> <p>The investigation techniques to obtain such proof consist of the following:</p> <ul style="list-style-type: none"> <li>- Extended interviews via sector specific questionnaires with employees and self-employed (e.g. transport, construction, meat processing industry...)</li> <li>- Extended interviews with Belgian clients/customers to check contracts, relevant paperwork as well as interviews with managers and foremen of Belgian companies</li> <li>- Liaising with social partners to get information in risk-related sectors and/or companies</li> <li>- Sending cases to the labour prosecution office which uses special investigation techniques to find more proof on the existence of letterbox companies. This includes house searches in Belgium and abroad via the execution of letters rogatory<sup>1</sup>, phone tapping and demand for extra information from the sending country etc.</li> <li>- Belgian clients are brought before the court and sentenced.</li> <li>- Workers are encouraged to be party to the civil proceedings so that they get compensated by the company.</li> </ul>
• What resources and other relevant organisational aspects are involved?	<ul style="list-style-type: none"> <li>- The main human resources are composed of the Labour inspectorate together with other federal inspection services (social security inspectorate, tax department, regional inspections).</li> <li>- The federal and local police are also involved in the investigation at the request of the prosecution office.</li> </ul>
• What are the source(s) of funding?	National funding
<b>Evaluation and outcome</b>	[blank]

<sup>1</sup> Described in the legal dictionary as a *device used in International Law by which the courts of one country ask the courts of another to utilize their procedure to assist the country making the request in the administration of justice within its borders.* Internet: <https://legal-dictionary.thefreedictionary.com/letters+rogatory>

<ul style="list-style-type: none"> <li>Has the measure achieved its objectives?</li> </ul>	<p>The main objective of this measure is to stop the activity of letterbox companies in Belgium but also to eventually have the interests of the workers represented in civil proceedings so that they can be compensated.</p>
<ul style="list-style-type: none"> <li>Assessment method (including indicators used to measure its impact), and the outputs and outcomes achieved</li> </ul>	<p>No evaluation has been undertaken yet. However, the (inter-) national institutional cooperation for investigating letterbox companies is generally viewed as successful at deterring letterbox companies from setting up, especially by Belgian enterprises, that act as clients of the letterbox companies. A key challenge facing the assessment of the practice is due to the plethora of foreign letterbox companies in existence of which only a small fraction can be inspected (due to limits on resources). The financial return – the amount recovered by the Justice or Tax Departments - is difficult to calculate.</p>
<ul style="list-style-type: none"> <li>What are lessons learnt and the key conditions for success?</li> </ul>	<p>Lessons learnt and success factors include the following;</p> <ul style="list-style-type: none"> <li>- These investigations can only be handled on a case-by-case basis.</li> <li>- It takes a lot of resources (staff and financial) to arrive at a successful outcome.</li> <li>- Good national institutional and international cooperation is needed and a key factor for the success of this kind of measure.</li> <li>- The political will and interest in such a measure by the Justice Department (prosecution officers) is essential. Their cooperation is a key condition to the success of this type of cooperation.</li> </ul>
<ul style="list-style-type: none"> <li>Level of transferability (e.g. other countries/groups/sectors)</li> </ul>	<p>The involvement of other national and foreign authorities in the detection of letterbox companies is a good practice that could be transferred to other countries. The use of special investigation techniques by the labour prosecution office to find proof of the operation of letterbox companies is also a practice that could be transferred to other countries. A willingness at the Justice Department to participate in these investigations is critical.</p>
<p><b>Additional information</b></p>	<p>[blank]</p>
<ul style="list-style-type: none"> <li>Contacts</li> </ul>	<p>Hilaire Willems, General advisor, Federal Labour Inspectorate Belgium  Email address: Hilaire.Willems@werk.belgie.be  Telephone: 00 32 496 570 127</p>
<ul style="list-style-type: none"> <li>Sources</li> </ul>	<p>Belgian inspection services use Articles 230 - 236 of the Social Criminal Code to tackle social fraud and letterbox companies and their clients. Internet: <a href="https://lib.ugent.be/nl/catalog/pug01:4284789#reference-details">https://lib.ugent.be/nl/catalog/pug01:4284789#reference-details</a></p>
<ul style="list-style-type: none"> <li>Metadata and key words for online search</li> </ul>	<p>Belgium; letterbox companies; international cooperation; criminalisation; special investigation techniques; criminal proceedings; compensation for workers</p>