





## European Platform Undeclared Work

### Cooperation Agreements to tackle cross-border fraud, letterbox companies and undeclared work

Spain

	<p><b>Summary</b></p> <p>'Cooperation Agreements' have been set up to strengthen cooperation with other Member States in order to tackle letterbox companies (LBCs)<sup>i</sup> and prevent the abuse of posted workers.</p>
<p><b>Title of the practice in original language</b></p>	<p><i>Acuerdos de cooperación internacional contra el fraude, las 'empresas buzón' y el trabajo no declarado.</i></p>
<p><b>Name(s) of authorities/bodies/organisations involved</b></p>	<ul style="list-style-type: none"> <li>• Spanish Labour and Social Security Inspectorate (ITSS) (<i>Inspección de Trabajo y de la Seguridad Social</i>);</li> <li>• Portuguese Labour Inspectorate (<i>Autoridade para as Condições do Trabalho</i>);</li> <li>• Romanian Labour Inspectorate (<i>Inspectia Muncii</i>);</li> <li>• French Labour Inspectorate (<i>Inspection du travail</i>).</li> </ul>
<p><b>Sectors</b></p>	<p>All</p>
<p><b>Target groups</b></p>	<ul style="list-style-type: none"> <li>• Labour inspectors (directly targeted);</li> <li>• Workers involved in undeclared work (indirectly targeted);</li> <li>• Posted workers (indirectly targeted);</li> <li>• Vulnerable workers (indirectly targeted);</li> <li>• Companies (indirectly targeted).</li> </ul>
<p><b>Purpose of measure</b></p>	<p>Deterrence: improve detection</p>

	<p><b>Aims and objectives</b></p> <p>The main objectives of the 'Cooperation Agreements' involve tackling UDW including LBCs, improving the protection of posted workers, and investigating occupational accidents in cross-border situations.</p>
<p><b>Background context</b></p>	<p>Whilst prior cooperation already existed in many areas, increased transnational mobility of workers has potentially led to an increase in cross-border fraud and abuse.</p> <p>Against this background the Spanish National Plan on Decent Work 2018-2020 (hereinafter the 'Spanish National Plan') introduced measures<sup>ii</sup> which include specific actions</p>



	<p>for detecting cross-border UDW and protecting vulnerable employees.</p> <p>The phenomenon of 'letterbox companies' is growing, damaging both fair competition and workers' rights as well as weakening the sustainability of the social security system. Workers are often channelled through LBCs which are not declared to social security offices and/or tax departments.</p> <p>Notably, there is a greater flow of fraudulent LBCs and fraud in posting of workers between Spain and countries like Portugal, France and Romania. For this reason, Spain has sought to strengthen cooperation with these countries through Cooperation Agreements.</p>
<b>Key objectives of the measure</b>	<p>General objectives of the Cooperation Agreements concluded with Portugal, France and Romania:</p> <ul style="list-style-type: none"><li>• To establish joint work teams of labour inspectors to implement Cooperation Agreements and evaluate their operations.</li></ul> <p>Specific objectives:</p> <ul style="list-style-type: none"><li>• To develop transnational inspection actions and joint visits to detect UDW in LBCs;</li><li>• To exchange data between national authorities to combat fraud and abuse involving UDW in LBCs; and to improve the protection of posted workers;</li><li>• To investigate occupational accidents involving posted workers and LBCs and encourage companies to adopt preventive measures;</li><li>• To promote the mobility of companies among the countries involved.</li></ul>
<b>Main activities</b>	<p>Recent activities developed within the framework of the Cooperation Agreements include the following:</p> <p>Portugal:</p> <ul style="list-style-type: none"><li>• For several decades, Spanish and Portuguese labour inspectors have carried out joint visits in neighbouring provinces to detect UDW;</li><li>• An Iberian campaign on work accidents is currently in place to analyse and study cross-border occupational accidents in Spain and Portugal, which often involve undeclared workers; the campaign also includes awareness raising actions to encourage companies to adopt preventative measures (2016–ongoing).</li></ul> <p>France:</p> <ul style="list-style-type: none"><li>• On 26 April 2019, a Common Declaration was signed to develop cooperation activities focused on posted workers and the prevention of UDW, reinforcing a previous Cooperation Agreement;</li></ul>



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	<ul style="list-style-type: none"> <li>A “National committee for Dialogue” has been put in place to strengthen bilateral relations and prepare an annual programme of activities which will include joint labour inspectorate investigations to tackle cross-border UDW.</li> </ul> <p>Romania:</p> <ul style="list-style-type: none"> <li>Recent activities are focused on information exchange. In early 2019, information leaflets for workers were developed (yet to be published) in Romanian; and a specific complaints’ form is to be made available to the public. These documents will also be available soon in Spanish, English and French;</li> <li>Since 2016 joint investigations have taken place on the initiative of police forces from Spain (Guardia civil) and Romania, in cooperation with the Spanish Labour Inspectorate, focusing specifically on labour exploitation of Romanian workers in the Spanish agriculture sector.</li> </ul>
<b>Funding/organisational resources</b>	<ul style="list-style-type: none"> <li>Funding comes from the Spanish Labour and Social Security Inspectorate (ITSS).</li> </ul>

	<p><b>Outcomes</b></p> <p>Existing evaluation proves that shared information is greatly facilitating targeted inspection activities. Moreover, deterrence initiatives need to be coupled with a preventative approach. This requires coordination with other Member States.</p>
<b>Achievement of objectives</b>	<p>The success of the measures introduced in the Spanish National Plan to reinforce cooperative actions cannot yet be fully evaluated as the Plan has only been in place since mid-2018. As from 2019, annual evaluations will be carried out on the effectiveness of the Cooperation Agreements in tackling UDW and LBCs. Nevertheless, activities currently in operation are proving that shared information is enabling more effective targeting of inspection activities.<sup>iii</sup></p>
<b>Lessons learnt and success factors</b>	<p>Deterrence initiatives need to be coupled with a preventative approach, in close coordination with other Member States. This requires training in the detection of UDW in LBCs. Also, shared information between countries has improved the targeting of inspection activities; the exchange of information between Spain and France — through the Internal Market Information System (IMI) — is working particularly well.<sup>iv</sup></p>
<b>Transferability</b>	<p>Developing administrative capacity is crucial to effectively tackle UDW in LBCs, as investigations into effective</p>



	establishments in another country are resource-intensive. In addition, it is useful to introduce rules to hold employers involved in the setting up of LBCs liable (for wages and other obligations) as regards undeclared employees.
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Further information	
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<b>Useful sources and resources</b>	National Plan for Decent Work 2018-2020. Executive Summary and First Outcomes (English and Spanish versions). <a href="http://www.mitramiss.gob.es/es/plan_director/National_Plan_for_decent_work_Executive_Summary_and_first_outcomes.pdf">http://www.mitramiss.gob.es/es/plan_director/National_Plan_for_decent_work_Executive_Summary_and_first_outcomes.pdf</a> <a href="http://prensa.empleo.gob.es/WebPrensa/salamultimedia/documento_enlaces/PLAN-DIRECTOR-POR-UN-TRABAJO-DIGNO-27_07_2018.pdf">http://prensa.empleo.gob.es/WebPrensa/salamultimedia/documento_enlaces/PLAN-DIRECTOR-POR-UN-TRABAJO-DIGNO-27_07_2018.pdf</a> Cooperation Agreements with Portugal, Romania and France <a href="http://www.mitramiss.gob.es/itss/web/Atencion_al_Ciudadano/Normativa/CONVENIO_INTERNACIONAL/index.html">http://www.mitramiss.gob.es/itss/web/Atencion_al_Ciudadano/Normativa/CONVENIO_INTERNACIONAL/index.html</a>

<sup>i</sup> Letterbox companies are defined as companies which have complied only with the bare essentials (e.g., book-keeping, administration) for organisation and registration in a particular country. The actual commercial activities are often carried out in another country. This is sometimes used to enable businesses to deviate from applicable legislation, resulting in violations of labour law or collective agreements, tax and/or social security compliance, leading to undeclared or under-declared work. European Commission (2018), *Glossary of Terms. European Platform tackling undeclared work*, available at <https://ec.europa.eu/social/BlobServlet?docId=20304&langId=en>

<sup>ii</sup> In particular, the measures include those numbered 70 and 71 in the Plan.

<sup>iii</sup> Inspección de Trabajo y de la Seguridad Social (ITSS) (Spanish Labour and Social Security Inspectorate).

<sup>iv</sup> Oficina Nacional de lucha contra el Fraude (The National Anti-Fraud Office).