





European Platform tackling undeclared work

Procedure to collect administrative fines

The Netherlands

	Summary <p>The Dutch Labour Inspectorate has an established procedure to notify infringements and collect administrative fines relating to undeclared work. The status of (national and cross-border) fines is monitored in an online database, allowing evaluation of the extent to which sanctions successfully reduce undeclared work.</p>
Title of the practice in original language	<i>Inning van Bestuurlijke Boetes en Dwangsommen</i>
Name(s) of authorities/bodies/organisations involved	<ul style="list-style-type: none"> • Department of Fines, Periodic Penalty Payments and Collection (<i>Boete, Dwangsom en Inning</i>) in the Labour Inspectorate SZW (<i>Inspectie SZW</i>) which is part of the Ministry of Social Affairs and Employment (<i>Ministerie van Sociale Zaken en Werkgelegenheid</i>); • Dutch Collection Agency (<i>Centraal Justitieel Incassobureau CJIB</i>); • Bailiff – an official that has the legal power to collect fines at national level.
Sectors	All
Target groups	<ul style="list-style-type: none"> • Employers and workers involved in undeclared work.
Purpose of measure	Deterrence: increase penalties

	Aims and objectives <p>The main objective is to discourage undeclared work by imposing administrative fines and monitoring their success. Cases relating to cross-border undeclared work are notified either directly to the foreign company or when relevant transferred via the Internal Market Information system (IMI).</p>
Background context	<p>The Labour Inspectorate SZW checks if workers and employers comply with labour law. In addition, the Inspectorate investigates possible fraud, labour exploitation and organised crime relating to work and income.</p>




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	<p>If labour law violations are detected, the Inspectorate imposes administrative sanctions or fines. Fines increase considerably for repeated violations. The Inspectorate can also suspend work activities.</p>
Key objectives of the measure	<p>General Objective:</p> <ul style="list-style-type: none"> • Reduce cross-border and national cases of undeclared work. <p>Specific Objectives:</p> <ul style="list-style-type: none"> • Monitoring the execution of fines to assess to what extent sanctions help reduce undeclared work. Following-up on sanctions is complex as undeclared work-related infringements often involve several actors with different responsibilities for deciding, notifying and collecting sanctions. Monitoring the enforcement of sanctions between these actors helps to assess the effectiveness of cross-border sanctions.
Main activities	<p>Fines are collected as follows:</p> <ul style="list-style-type: none"> • Labour inspectors establish the detected violation in a 'fine report'; • Lawyers in the Department of Fines, Periodic Penalty Payments and Collection assess this report; • If a fine is imposed, the Department of Fines, Periodic Penalty Payments and Collection sends a notification letter to the company's address or home address of the person concerned (addresses are always checked with the relevant Chamber of Commerce). Fines can be paid in instalments, depending on the financial situation of the company, which often makes it easier for companies to comply; • For national fines to be paid, the Dutch Collection Agency sends out a 'giro collection form', an interbank money transfer. However, the agency cannot collect fines in cross-border cases, so the Inspectorate contracts a bailiff to send the payment request to a foreign company; • If national companies do not pay after eight weeks (they receive a reminder after six weeks) the case is handed over to a bailiff who can also impound goods and initiate bankruptcy procedures; • If cross-border fines are not paid voluntarily after direct notification by the Inspectorate, applicable cases can be transferred to IMI to collect the fine abroad (for which appeal timeframes must have passed and can significantly delay collection);



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	<ul style="list-style-type: none"> If a case is only partly covered by IMI (mostly in relation to fraudulent posting of workers), a bailiff collects the fine not covered by IMI. However, for foreign companies, the bailiff can only send requests to pay and has no other powers. In rare cases, the Inspectorate can also initiate a directors' liability lawsuit.
Funding/organisational resources	40 staff members work in the Department of Fines, Periodic Penalty Payments and Collection.

	<p>Outcomes</p> <p>In the last ten years, around 75% of all fines were collected successfully. Nearly 60% of cross-border fines were collected from foreign companies, who pay voluntarily.</p>
Achievement of objectives	<p>The Department of Fines, Periodic Penalty Payments and Collection categorises imposed, notified and collected fines and tracks monthly and yearly progress. It also provides information on the amounts of irrecoverable fines.</p> <p>In the last ten years, around 75% of all fines were collected successfully. Nearly 60% of cross-border fines were collected from foreign companies, who pay voluntarily. Both collection and rates for national and cross-border fines depend on the type of infringement. For example, in cases related to occupational safety and health violations, about 97 % of the fines are collected, while only about 29 % of fines for minimum wage and holiday allowance violations are collected successfully. This is because fines for occupational safety and health violations are low, while those for minimum wage and holiday allowance violations are higher.</p> <p>Moreover, the IMI sanctions module is rarely usedⁱ, as the Dutch Inspectorate only received three IMI requests (relating to the notification of companies, not collecting fines) from foreign authorities in 2019. In those cases, the necessary documents are provided and handed over to the bailiff. This suggests the need for further capacity building and awareness raising on the use of IMI across the EU/EEA.</p>
Lessons learnt and success factors	<p>Internal procedures to decide and notify fines as well as cooperation (with the Dutch Collection Agency and bailiffs) to collect fines allows the Inspectorate to monitor the success rate of payments.</p> <p>Many of the fined companies pay voluntarily, which is more efficient. Voluntary payment can be enhanced by the wording in notification letters or offering to pay the</p>



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	fine in instalments, staggering the financial impact for companies.
Transferability	Labour inspectorates, typically involved at the beginning of the sanction procedures, face challenges to follow-up with all involved authorities. In this regard, an internal department or team to decide, notify and monitor the collection of administrative fines may be beneficial for other enforcement authorities to help deter undeclared work.

Further information	
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Useful sources and resources	Foreign Nationals Employment Act (<i>Wet arbeid vreemdelingen</i>) Minimum Wage and Minimum Holiday Allowance Act (<i>Wet minimumloon en minimumvakantiebijslag</i>) Placement of Personnel by Intermediaries Act (<i>Wet allocatie arbeidskrachten door intermediairs</i>) Working Hours Act (<i>Arbeidstijdenwet</i>) Working Hours Decree (<i>Arbeidstijdenbesluit</i>) Working Conditions Act (<i>Arbeidsomstandighedenwet</i>) Working Conditions Decree (<i>Arbobesluit</i>) Working Conditions Regulations (<i>Arboregeling</i>)

ⁱ A pre-requirement is the implementation of the Directive 96/71/EC and Enforcement Directive 2014/67, so that authorities across the EU can respond to requests by foreign counterparts.