



European Platform Undeclared Work

Tackling UDW in the media sector, Portugal *Practice fiche*

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| Title of the policy or measure (in English) | Specialised team of labour inspectors to combat undeclared work in the media sector in Portugal |
| <ul style="list-style-type: none">• Case study/good practice name | Improving deterrence of undeclared work in the media sector in Portugal |
| <ul style="list-style-type: none">• Country | Portugal |
| <ul style="list-style-type: none">• Sectors | Media (public and private television, radio and press) and television producers |
| <ul style="list-style-type: none">• Target groups | Workers in the national and regional media sector |
| <ul style="list-style-type: none">• Type of measure | Deterrence: improve detection |
| <ul style="list-style-type: none">• Short sentence summarising the measure | A new specialised team of labour inspectors was established to better identify bogus self-employment in the media sector. This dedicated team of labour inspectors works together with labour inspectors of the local branches with whom they jointly conduct visits to workplaces. |
| Background | |
| <ul style="list-style-type: none">• Background context driving the implementation of the measure | <p>There was a need to improve enforcement of Law 63/2013 regarding regularisation of bogus self-employment situations in order to guarantee the right to a contract of employment being illegally denied to the worker who was seeking to maintain this employment relationship. This is a difficult objective, given the extremely fragile context in which people are working, largely concerning the fear of dismissal.</p> <p>This law provides for a combination of two types of mechanisms:</p> <ul style="list-style-type: none">- Greater effectiveness in the action of the Authority for Working Conditions (ACT), which can now notify the offender in cases where it detects these situations to convert the existing situation into a contract of employment;- In case of an employer's refusal to rectify the situation, the process is automatically sent to the Labour Court and the Public Prosecutor's Office initiates an urgent process aimed at recognising the employment relationship. |
| <ul style="list-style-type: none">• When was the measure implemented? (including start date and end date/ongoing) | January 2017 – ongoing |
| <ul style="list-style-type: none">• Names(s) of authorities/bodies/organisations involved | The Authority for Working Conditions (ACT) |
| <ul style="list-style-type: none">• Scope of the measure (a pilot project, nationwide, regional wide) | The practice was implemented at both national and regional level. |

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| <ul style="list-style-type: none"> • Type of (policy) measure • Key objectives of the measure | <p>A strategy</p> <p><u>General objectives</u></p> <ul style="list-style-type: none"> • Maximise the effectiveness of the ACT in specific subjects and change behaviours in the workplace through the development, mobilisation and dissemination of skills by all the professionals of the organisation. • Prepare and develop strategic actions on specific issues and assure the collaboration with other authorities with inspection powers. <p><u>Specific objectives</u></p> <ul style="list-style-type: none"> • Proactively collect evidence of irregular situations and analyse them; • Design methodologies, instruments and other supporting documents; • Plan and carry out strategic inspection actions in order to transform illegal situations into regular employment contracts. |
| <p>Specific measure</p> <ul style="list-style-type: none"> • Description of how the measure operates in practice | <p>The initiative targeted the national and regional media, in particular public broadcasters who have a big influence over Portuguese citizens. The actions were planned at central level and aimed to create a new specialised team of labour inspectors to combat UDW in the media. This elite team of inspectors would now work with local branches of the labour inspectorate with whom they would jointly conduct visits to workplaces.</p> <p>The measure operates as follows:</p> <ul style="list-style-type: none"> • An inspection of a company is planned; • On the day of the planned inspection both the elite team of inspectors and those who work in the local branch of the labour inspector jointly attend the premises/site together; • The different teams of labour inspectors interview the workers in the premises; • Where an illegal situation is identified, the employer is interviewed with regard to obtaining information about the situation of that particular worker and it is usual to request all relevant documents; • The labour inspectors then take time to consider the situation before the employer is notified in writing; • The employer is given a deadline of 10 days to rectify the situation; s/he can also present his defence during that time; • If the employer refuses to acknowledge the existence of an employment relationship the labour inspector sends the process to the Labour Court and the Public Prosecutor's Office initiates an urgent process aimed at recognising the employment relationship. • Fines are issued by labour inspectors whenever they identify a situation of bogus self-employment where there should be a regular employment contract instead. |
| <ul style="list-style-type: none"> • Which groups are targeted by the measure? | <p>Employers and workers in the Media (public and private television, radio and press) and television sector</p> |
| <ul style="list-style-type: none"> • What resources and other relevant organisational aspects are involved? | <p>Resources include:</p> <ul style="list-style-type: none"> - Human resources include the special team of media inspectors which consists of nine labour inspectors and one coordinator. - Technical resources include laptops, mobile phones, cameras, cars. |

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| | The team evaluates the need for changes and reports on the results achieved to the central department of coordination of inspection activities. |
| <ul style="list-style-type: none"> What are the source(s) of funding? | ACT funding |
| Evaluation and outcome | |
| <ul style="list-style-type: none"> Has the measure achieved its objectives? | Regarding the specific objectives outlined above, the measure is considered to be successful in achieving the stated objectives despite the context in which people are working - notably because of the fear of dismissal - and the difficulties experienced in collecting evidence so that it is considered 'sufficient' by the courts. |
| <ul style="list-style-type: none"> Assessment method (including indicators used to measure its impact), and the outputs and outcomes achieved | <p>Outputs include the following:</p> <ul style="list-style-type: none"> In the period between 15 February and end of June 2017, out of the 1 731 workers who were identified by the Labour Inspectorate, 486 were considered as bogusly self-employed by the ACT; 486 notices of infringement with deadlines to regularise employment contracts were issued; 147 of these employees were regularised and a total amount of EUR 30 598 was recovered in unpaid social security payments; ACT also imposed financial sanctions as a result of 339 notices of infringement; <p>Outcomes included the following:</p> <ul style="list-style-type: none"> Around 20 % of the workers identified by the Labour Inspectorate who had been hired as self-employed saw their contract requalified as an employment contract. |
| <ul style="list-style-type: none"> What are lessons learnt and the key conditions for success? | <ul style="list-style-type: none"> There is a need to improve the legal framework and strengthen the role of the Labour Inspectorate. Joint inspections involving other authorities with inspection powers can also be very useful, namely Social Security and Tax Authorities (also Immigration and Borders Service if foreign workers are involved). |
| <ul style="list-style-type: none"> Level of transferability (e.g. other countries/groups/sectors) | <p>To operate this type of measure it's necessary to have the following:</p> <ul style="list-style-type: none"> An adequate legal framework, Financial, human and technical resources. |
| Additional information | |
| <ul style="list-style-type: none"> Contacts | <p>Maria José Tiago, Labour Inspector Email address: mariajose.tiago@act.gov.pt Telephone: +351 213 308 853</p> |
| <ul style="list-style-type: none"> Sources | <p>Sources (in Portuguese):</p> <p><u>Legal basis</u></p> <p>The Law 63/2013: https://dre.pt/application/conteudo/499519</p> <p>The amendment of Law 63/2013: https://dre.pt/application/conteudo/107693725</p> |
| <ul style="list-style-type: none"> Metadata and key words for online search | Portugal; specialised team of labour inspectors; joint inspections; bogus self-employment; contract of employment; media sector; inspection powers; employment relationship |