



European Platform Undeclared Work

Improving cooperation through coordinated cross-border activities with the Netherlands to prevent labour exploitation in the agriculture and transport sectors

Poland

	Summary Joint inspections in Polish companies contribute to improving cross-border cooperation between Polish and Dutch authorities. The aim is to prevent exploitation, by Polish companies, of Polish workers posted to work in the agricultural and transport sectors in the Netherlands.
Title of the practice in original language	<i>Poprawa współpracy administracyjnej poprzez skoordynowane działania transgraniczne</i>
Name(s) of authorities/bodies/organisations involved	<ul style="list-style-type: none"> • National Labour Inspectorate (<i>Państwowa Inspekcja Pracy</i>); • District Employment Inspectorate in Poznań (<i>Okręgowy Inspektorat Pracy w Poznaniu</i>); • Dutch Labour Inspectorate, Ministry of Social Affairs and Employment (<i>Inspectie SZW</i>).
Sectors	Agriculture and transport
Target groups	<ul style="list-style-type: none"> • Labour inspectors from the Polish and Dutch labour inspectorates (directly targeted); • Companies posting workers (directly targeted); • Employers, contractors - clients of the company posting a worker (indirectly targeted).
Purpose of measure	Deterrence: improve detection

	Aims and objectives The main aim of the joint inspections is to check that the posting of Polish workers is being conducted correctly and workers are being declared. Setting up Letterbox Companies, for example, or circumventing working conditions regulations to avoid paying social contributions for posted employees is analogous to undeclared work. ⁱ
Background context	<p>Posted workers make up around 3.2 % of total national employment in the Netherlands (2016)ⁱⁱ. Agriculture, construction and temporary employment services are the sectors with the highest rates of posted workers.</p> <p>They are entitled in the Netherlands to a set of core rights, including minimum wage, entitlement to leave, and health and safety standards.</p>




	<p>The main reason for the joint inspections arose from suspicions that Polish workers posted by Polish enterprises to the Netherlands to work in the agriculture and transportation sectors were being exploited. It was suspected that there were violations on the part of the posting enterprises regarding employment status of the posted workers, the remuneration paid by the Polish employer, working conditions and, infringement of the collective agreement which the Polish entrepreneur was supposed to adhere to while posting the workers to the Netherlands.ⁱⁱⁱ The need for joint inspections in the agriculture and transport sectors to control and check on cross-border work relations between these countries became apparent.</p>
Key objectives of the measure	<p>General objectives:</p> <ul style="list-style-type: none"> • Cooperation on the implementation of laws and regulations in cross-border collective agreements and enforcement of EU Directives to protect posted workers and avoid their exploitation. <p>Specific objectives:</p> <ul style="list-style-type: none"> • Reinforcing and strengthening relations between inspectorates; • Exchanging information and materials between authorities; • Sharing practical knowledge and experience between inspectors and experts.
Main activities	<p>In preparation for joint inspections the two labour inspectorates shared information. Activities included the following^{iv}:</p> <ul style="list-style-type: none"> • The Dutch provided materials to the liaison office in Warsaw (e.g. case description, information on inspections carried out in the Netherlands, scope of issues to be determined in the territory of the Republic of Poland) necessary to prepare inspection activities; • Inspection teams were appointed in Poland consisting of representatives of Polish and Dutch labour inspectorates; • The Polish District Labour Inspectorate in Poznań organised a meet-and-greet with the Dutch Labour Inspectorate to agree on arrangements for the joint inspections and set out roles and responsibilities; • Joint inspections took place from 17-19 January 2017. Inspectors from both Labour Inspectorates visited the home enterprises in Poznań, Poland as well as the local labour inspectorate's office in Poznań. They also jointly visited the premises of the Polish enterprises in the Netherlands where the posted workers were located; • Subjects covered by the inspection included issues connected with compliance with Polish legal



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	<p>provisions as well as matters of interest to the Dutch party relevant to their own investigations;</p> <ul style="list-style-type: none"> Two meetings were held after the inspections: (1) a workshop moderated by the Polish District Employment Inspectorate in Poznań, which included a presentation of the results of the joint inspections as well as a discussion about temporary work performed by students from the district; (2) a workshop moderated by representatives of the Dutch Labour Inspectorate which provided comments on the implementation of the Directive concerning the posting of workers; The findings, documents and materials obtained during the control activities were transferred to the offices in the Netherlands by the Internal Market Information system.
Funding/organisational resources	Joint inspections of Polish companies are funded by both the Polish and Dutch Labour Inspectorates. The joint inspections were conducted by staff from both authorities.

	<p>Outcomes</p> <p>Close cooperation between Polish and Dutch authorities has led to strengthened relations between inspectorates as well as enabling the exchange of information and materials between authorities. In order to tackle the problem of controlling cross-border companies in the European Union, it is important to acknowledge the importance of direct cooperation between countries as this is key to the success of detecting and deterring undeclared work.</p>
Achievement of objectives	<p>Objectives were achieved through the sharing of information, and meetings, at which all necessary arrangements to complete the inspections were agreed. In particular, the meetings facilitated the sharing of practical knowledge and information about the functioning of the inspectorates in the two countries. The joint inspections have also proved to be a way of dealing with cross-border undeclared work.</p> <p>Information was exchanged through the IMI system (Internal Market Information System), to formally provide the Dutch Inspectorate with the findings and documents needed for the inspection proceedings.</p> <p>Two reports were prepared to evaluate the joint inspections. One by the Polish Labour Inspectorate and a second by the Dutch Labour Inspectorate (not publicly available).</p>
Lessons learnt and success factors	<p>Lessons learnt and success factors include the following:</p> <ul style="list-style-type: none"> Face-to-face meetings of representatives/personnel from each labour authority improves knowledge and



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	<p>understanding of the others' protocols and procedures;</p> <ul style="list-style-type: none"> Labour inspectorates in other Member States can use a similar cooperation agreement to assess the level of adherence to labour laws and regulations in respect to posted workers and the avoidance of undeclared work.
Transferability	Transferability is possible using a similar framework of joint inspection achieved by Polish and Dutch inspectorates and an action plan.

Further information	
Contact	<p>Polish National Labour Inspectorate (<i>Państwowa Inspekcja Pracy</i>)</p> <p>Phone: +48 22 391 82 15</p> <p>Email: kancelaria@gip.pip.gov</p>
Useful sources and resources	<ul style="list-style-type: none"> Website: www.pip.gov.pl Abbreviation of cooperation agreement contained in The Hague on 18th of December 2013 between the National Labour Inspection and Inspectorate of Social Affairs and Employment (SZW Inspectorate). Available at: https://www.pip.gov.pl/pl/f/v/147608/SKROT%20porozumienia%20z%20Holandia%2018.12.2013.pdf

ⁱ Eurofound (2017), Fraudulent Contracting of Work: Abusing the posting of Workers (Belgium, Finland and Italy), Eurofound, Dublin, Available at: https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef_1717en3_0.pdf Eurofound (2017) describes cases of evading working condition regulations as being "close to undeclared work". For example, an employer in Italy may try to circumvent paying employer social contributions for construction workers by setting up a Letterbox Company abroad say in Spain, registering his/her workers with the LBC company in Spain and then "posting" them back to the home country, Italy. This avoids the obligation of having to make contributions for those construction workers in the home country.

ⁱⁱ Posting of workers Report on A1 Portable Documents issued in 2016, European Commission, December 2017.

ⁱⁱⁱ Legality of Employment Department Commentary, National Labour Inspectorate in Poland

^{iv} Information contained in this box includes information from *Legality of Employment Department Commentary, National Labour Inspectorate in Poland*, op cit.