



## European Platform Undeclared Work

### Thematic Review Workshop ‘National and Bilateral Agreements and Memoranda of Understanding to tackle undeclared work’ Utrecht, the Netherlands, 11-12 April 2017

The aim of this first Thematic Review Workshop was to share working experiences and good practices on how to draft, implement, monitor, and improve national and bilateral agreements and memoranda of understanding to tackle undeclared work. National agreements (NAs) and memoranda of understanding (MoU) to tackle undeclared work establish cooperation structures between various national actors. Bilateral agreements (BAs) and memoranda of understanding organise collaboration between relevant actors to address the cross-border aspect of undeclared work. The workshop brought together Platform members and observers from 18 EU Member States (MS) and Norway (EEA) – including representatives of national ministries, labour inspectorates, social security authorities, and tax and customs authorities and was hosted by the Platform member in the Netherlands, the Inspectorate of Social Affairs and Employment.

#### Key findings:

- **National agreements are a useful tool for cooperation** between two or more national institutions (eventually also involving cooperation with social partners and other relevant stakeholders) to tackle undeclared work. The effectiveness of the cooperation outlined by NAs depends on national strategies and legislation that regulate competences and data exchange to address undeclared work. They are often enhanced by stable or temporary bodies for cooperation, such as working groups or committees.
- However, Platform members have identified several **barriers to set up NAs** successfully, such as the lack of legal provisions to enforce cooperation and/or missing political emphasis to encourage cooperation by a NA. Nevertheless, there are countries with legal provisions that ensure that different cooperation partners can share data and do not infringe on each other's competences. For example, in Belgium the Social Penal Code includes provisions for enforcement and a politically backed up National Action Plan on Social Security Fraud provides guidance on cooperation structures.
- In order to **implement NAs effectively at local level**, resources, removing technical barriers to exchange information, local flexibility and monitoring and continuous improvement procedures are important. Actions on the local level need to be sufficiently staffed and managed to ensure the stability of NAs. The definition of clear targets that are communicated across different levels of cooperation and measurement by indicators help to monitor implementation.
- In terms of **bilateral agreements and MoUs**, the understanding of BAs varies between different countries. BAs are often more formal, aim to clarify EU regulations and specify information needs, while MoUs are more flexible and are often influenced by political priorities. Shared examples between Platform members show that to be effective both documents should follow a clear structure and describe the aim of the cooperation agreement, key partners and their legal competences, the areas covered by the agreement, a time frame, the cooperation activities and operational aspects, such as the way information is shared, contact points and budget provisions.
- However, there are various **implementation difficulties** such as establishing contact with an organisation in another country, different working languages and different ways to

collect data. In order to address these issues, the set-up of governance structures and contact points, regular staff exchange and other tools for exchange are needed. **Enabling factors** are a common working language and similar legal systems, such as in Ireland and the UK, or Belgium and France.

- If the agreement aims at **data exchange**, BAs or/and MoUs should involve provisions for data exchange with a particular focus on safe exchange of personal data and data protection issues. Data exchange also depends on a legal underpinning. For example, the Belgian law allows for inspectors to use automatically any piece of evidence obtained by another country, if it is a signatory of the relevant ILO conventions.

### KEY OUTCOMES

- Choosing and clarifying **terminology** in NAs, BAs, and MoUs is an important step. There is a lack of consistent terminology across existing agreements. The Platform is an opportunity to exchange and agree on a consistent terminology when framing such agreements.
- NAs, BAs, and MoUs should include common goals, objectives, actions and measures to evaluate the effectiveness of the agreements. Practitioners should be involved in the development of the agreement in order to ensure that its provisions are accepted in practice. In order to develop effective approaches and measures to tackle undeclared work **evaluation approaches and monitoring** are important. This evidence can also be used to encourage political will to cooperate, overcome funding constraints and inform the development of BAs and MoUs on European level.
- In order to start or improve the implementation of activities, BAs and MoUs should outline operational activities, such as communication methods, joint inspections, a common language and a clear division of responsibilities. Manuals that explain legal requirements and mandates are useful to understand different responsibilities better, such as the ones provided in the agreement between Spain and Portugal. Contact points help to have clear lines of communication. **Good practice provisions** are also joint inspections and training secondments that provide the opportunity to find out more about responsibilities.
- Especially when working on cross-border aspects of UDW, it is important to know partners, understand their competences and establish common interests and mutual trust through personal contact and good working relationships. Here the Platform has the potential to bring partners together, facilitate exchange in order to implement and further improve BAs and MoUs.

**Further information:** An Analytical Paper and a Practitioner's Toolkit that will assist practitioners with concrete guidance in planning, designing, implementing, monitoring, and improving bilateral agreements and memoranda of understanding will be produced later this year.

The workshop is part of a learning process which will be continued by a Follow-up Visit to one of the participating countries (tbc).

The input documents and presentations of the workshop have been uploaded to the collaborative workspace of the Platform.