

European Platform tackling undeclared work

Platform seminar: Tackling undeclared work in the HORECA sector

Online workshop, 16 September 2021

The Platform seminar explored existing practices, tools and approaches that deal with undeclared work in the HORECA (hotel, restaurant, catering) sector in EU/EEA countries. The event was hosted online and brought together 43 participants from 20 countries, representing labour and social security inspectorates, ministries of labour as well as European level and national social partners, and representatives from the European Agency for Occupational Safety and Health (EU OSHA), the European Commission and the European Labour Authority (ELA).

Participants reflected on (1) developments and trends on undeclared work in the HORECA sector and (2) the policy options and practical tools for tackling undeclared work in the HORECA sector, including both deterrence and preventative approaches at national and cross-border level.

Development and trends on undeclared work in the HORECA sector



- ▶ The 2020 study of the European Platform tackling undeclared work focusing on tackling undeclared work in the tourism sector,¹ finds that undeclared work is more prevalent in the HORECA sector than in many other sectors of the EU economy: 14 % of employees are in unregistered employment (compared to 5 % of the EU workforce) and 6 % in under-declared employment (compared to 5 % of EU workforce). However, bogus self-employment is under-represented in the sector with 2 % (compared to 4.3 % of EU workforce).
- ▶ The main factors that could explain the prevalence of undeclared work in the HORECA sector are: (1) detection of undeclared work in this sector is particularly challenging due to the large number of micro- and small-size enterprises, (2) a high labour demand in accordance with the seasons, (3) a long-standing culture of paying the minimum wage 'plus tips' and no written contracts of employment, and (4) the higher proportion of EU mobile and third-country workers in this sector.
- ▶ Compared to others, the HORECA sector has been more severely affected by the COVID-19 pandemic. Moreover, the pandemic caused a shift in the types of undeclared work: some forms of undeclared work, such as undeclared tips for staff in food and beverage services and 'pop-up' and 'home' restaurants declined, while the presence of 'dark kitchens'² and unregistered accommodation provision (accompanied by the use of undeclared cleaning staff in private apartments) increased.

¹ <https://ec.europa.eu/social/BlobServlet?docId=22868&langId=en>

² Commercial kitchens which sell meals exclusively for delivery through an app or an online ordering system, or in some cases by letting customers collect the food themselves and are often in non-traditional premises, such as shipping containers on the outskirts of urban areas, and avoid regulations that apply to restaurants and takeaways.



- ▶ Collaboration between social partners is based on the common interest for a level playing field and fair competition in the HORECA sector and for the creation of proper employment. At European level, the European Federation of Food, Agriculture and Tourism Trade (EFFAT) and HOTREC, the Umbrella Association of Hotels, Restaurants, Bars and Cafes in Europe, have published a joint statement on the platform economy,³ calling for national measures to regulate economic activities of the platform economy in order to limit the disruptive impact on enterprises and employment in the HORECA sector.
- ▶ Social partners can play a role in detecting and preventing undeclared work in the HORECA sector (due to their sector-specific 'on-the-ground' expertise and direct link to workers and employers) and also improve workers' awareness of their rights, especially in the case of third country nationals.

Deterrence approaches and coordinated cross-agency operations targeted at the HORECA sector



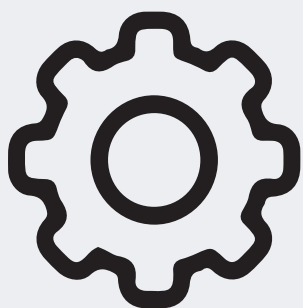
- ▶ Deterrence measures in the HORECA sector could include the use of workplace ID cards (which are used in other sectors), notification letters, announced and targeted inspections (based on tips received by public authorities or social partners). The effectiveness of inspections can be enhanced by using data matching and mining exercises to identify undeclared work in the HORECA sector. For instance, the Anti-Fraud Tool Unit (HLF) of the Labour and Social Security Inspectorate in Spain has designed a statistical tool to predict fraud in employment and social security.
- ▶ Labour inspectorates face significant challenges in the detection and identification of persons who are working through bogus internships and third-country nationals who study in a Member State and are illegally employed as full-time workers.
- ▶ For joint inspections between different authorities, more informal exchange is necessary to form a stronger cooperation. In Denmark, labour authorities implement joint inspections with food hygiene authorities in the HORECA sector, in particular during weekend and night times to have a higher probability of identifying companies engaging in undeclared work.
- ▶ Withdrawal of business licenses is an effective measure to tackle undeclared work. In the Netherlands, the labour inspectorates share their inspection reports with the local authorities that grant business licenses. Based on the reports, the local authority can decide whether to grant a permission to operate.

³ Joint EFFAT and HOTREC Statement on the Platform Economy, (November, 2019). Available at: <https://www.hotrec.eu/wp-content/customer-area/storage/fjb9d4b8422320035d4a4de7af84c174/Joint-HOTREC-EFFAT-Statement-on-Platform-Economy-2019-11-29-SIGNED.pdf>



- ▶ Inspections of the short-term accommodation rentals, in particular in the case of accommodation providers via online platforms, might face the challenges related to prohibition of entering private homes. This reveals the importance of Member States developing a clear definition of what is commercial and non-commercial activity, especially in relation to accommodation providers.
- ▶ Another deterrent measure to improve detection of undeclared work is the introduction of mandatory certified cash registers⁴. For example, Belgium implemented a mandatory ‘black box’ cash register in the tourism sector to record every transaction.

Tackling undeclared work in the HORECA sector using preventative approaches

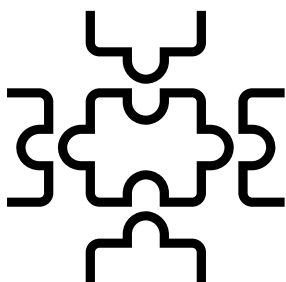


- ▶ Preventative measures to tackle undeclared work in the HORECA sector targeted at the supply-side include information to businesses on how to comply and simpler ways to comply with regulations, for instance introducing uncomplicated regulations for smaller and temporary jobs, and introducing threshold amounts for workers to tax-exempt own-account activities.
- ▶ The Estonian Tax and Customs Board (ETCB) has developed a ‘tax behaviour ratings’ online tool to provide companies with feedback and information about their tax behaviour. The service is based on the analysis of data that business operators voluntarily submit online. This helps companies to keep their tax matters in order as well as to immediately correct any tax deficiencies, thus preventing them from becoming subject to tax control.
- ▶ In some countries public authorities, labour inspectorates and social partners set up a cooperation based on Occupational Safety and Health (OSH) to tackle undeclared work in the HORECA sector. For example, in Denmark, public authorities recognised that it is easier for employers to comply with OSH regulations when rules are directly communicated to them by the labour inspectorates and/or by social partners. This cooperation is then extended to other areas such as communicating to employers the importance of having written contracts of employment and/or compliance with their social security contributions.
- ▶ Demand-side tools include holiday vouchers to promote use of registered accommodation providers; incentives to use electronic transactions and initiatives to encourage HORECA consumers to ask for receipts.
- ▶ Education and awareness raising campaigns targeting employers, workers and/or consumers can play an important role in tackling undeclared work in the HORECA sector. In some countries labour inspectorates and social partners set up joint training on declared work. For example, in Cyprus the labour inspectorate organises information seminars for trade union and employer organisations, focusing on the impact of undeclared work, the law regarding compliance and possible measures to be taken.

⁴ A cash register is made up of two parts the cash register with a manufacturer declaration and a special control unit, a black box, connected to the cash register



Recommendations to address undeclared work in the HORECA sector at national and EU level



- ▶ A holistic approach is needed to tackle undeclared work in the HORECA sector. Governmental policy initiatives could enhance cooperation with social partners, labour inspectorates and other stakeholders to implement both deterrence and prevention measures with the aim to transform undeclared work into declared work.
- ▶ More information needs to be gathered on the new forms of undeclared work in the HORECA sector that registered an increase during the COVID-19 pandemic, such as 'dark kitchens', to enhance the response of the labour inspectorates to these new phenomena.
- ▶ The Platform has the potential to support and enhance mutual learning at European level on inspection procedures and national cooperation between labour inspectorates, labour and social security authorities and social partners, with the aim of tackling undeclared work in the HORECA sector.
- ▶ ELA can provide practical support for tackling undeclared work in the HORECA sector, focusing on the development of standardised risk assessment tools on issues of cross-border labour mobility, supporting Member States to carry out concerted and joint inspections in the sector, supporting Member States through an increase in information provision to employers and employees and by creating an awareness-raising campaign on the topic.

Further information: The seminar was an integral part of a larger mutual learning process among Platform members and observers and provided opportunities for exchange and collaboration. The information from the seminar will be fed into a Learning Resource Paper, a follow-up meeting and a toolkit. The input documents and presentations from the seminar will be uploaded to the Platform's collaborative workspace.

