



# Inspections campaign in the e-commerce and the collaborative economy

Spain

	<p><b>Summary</b></p> <p>The Spanish Labour Inspectorate's (ITSS) Inspections Campaign, with a focus on e-commerce and the collaborative economy<sup>1</sup>, began in 2018 and has had a significant impact in tackling undeclared work, most notably through the introduction of the landmark Rider Act that recognises delivery drivers as employees (and not as self-employed).</p>
<p><b>Title of the practice in original language</b></p>	<p><i>Inspecciones en la economía colaborativa</i></p>
<p><b>Name(s) of authorities/bodies/organisations involved</b></p>	<ul style="list-style-type: none"> <li>▶ Spanish Labour and Social Security Inspectorate (ITSS, <i>Inspección de Trabajo y Seguridad Social</i>)</li> </ul>
<p><b>Sectors</b></p>	<p>All</p>
<p><b>Target groups</b></p>	<ul style="list-style-type: none"> <li>▶ Collaborative economy companies and platforms (directly targeted);</li> <li>▶ Collaborative economy workers (indirectly targeted).</li> </ul>
<p><b>Purpose of measure</b></p>	<p>Deterrence: improve detection</p>

	<p><b>Aims and objectives</b></p> <p>The Inspections Campaign aimed to address undeclared work, social security fraud, and working conditions in the collaborative economy. In some instances, investigations of a company were extended in a coordinated and synergic manner to other regions in which the company was operating. Companies found responsible for infringements are sanctioned and must pay any unpaid social security contributions.</p>
<p><b>Background context</b></p>	<ul style="list-style-type: none"> <li>▶ According to Spanish legislation, employment relationships must reflect the legal definition of employed and self-employed.</li> <li>▶ A specific Inspections Campaign began in 2018 against a backdrop of collaborative economy companies ignoring</li> </ul>



	<p>traditional employment (i.e., treating employees as self-employed) leading to undeclared work and social security fraud.</p> <ul style="list-style-type: none"> <li>▶ As part of the Campaign, labour inspectors were required to investigate the true nature of the relationship between collaborative economy companies and their workers.</li> <li>▶ The Spanish Labour Inspectorate published an internal guide for inspectors on the collaborative economy to facilitate investigations.</li> </ul>
<p><b>Key objectives of the measure</b></p>	<p><b>General Objective:</b></p> <ul style="list-style-type: none"> <li>▶ To investigate undeclared work, social security fraud and, if necessary, working conditions in the collaborative economy.</li> </ul> <p><b>Specific Objectives:</b></p> <ul style="list-style-type: none"> <li>▶ To investigate whether the provider of a service is, in accordance with the law, actually self-employed or whether that person is an employee and should be treated as an employee of the company in the collaborative economy (the company that uses digital platforms/apps to sell services).</li> <li>▶ To investigate other types of fraud in the collaborative economy.</li> </ul>
<p><b>Main activities</b></p>	<ul style="list-style-type: none"> <li>▶ The Labour Inspectorate receives complaints from workers, labour unions, and anonymous communications in the Labour Inspectorate’s mailbox.</li> <li>▶ The Inspectorate can also programme and plan its activities. The Anti-Fraud Tool Unit analyses data from different social security databases to plan its investigations.</li> <li>▶ Approximately 653 investigations were conducted between 2018 and May 2021.</li> <li>▶ Some investigations into collaborative economy companies in a particular region were extended to other regions where the company was also present in a coordinated and synergic manner.</li> <li>▶ When infringements were detected (i.e., workers being falsely declared as self-employed), companies could be sanctioned according to the Social Infringements and Sanctions Act. Additionally, companies had to pay any</li> </ul>

	previously unpaid social security contributions detected and claimed by the Inspectorate.
<b>Funding/organisational resources</b>	▶ The Spanish Labour Inspectorate (ITSS) funded the Inspections Campaign.

	<p><b>Outcomes</b></p> <p>The Inspections Campaign succeeded in claiming unpaid social security contributions and registering previously unregistered workers in the Social Security Treasury database. New national regulations were developed to better identify the nature of employment relationships between employer and employee in the collaborative economy and e-commerce. The campaign required the Labour Inspectorate to adapt to new digital platforms (apps) and use significant human and material resources.</p>
<p><b>Achievement of objectives</b></p>	<ul style="list-style-type: none"> <li>▶ According to the Spanish Labour Inspectorate data between 2018 and 2021, EUR 31 385 530 unpaid social security contributions were detected and claimed by the Inspectorate as part of the Inspections Campaign, while 19 708 previously unregistered workers were registered in the Social Security Treasury database;</li> <li>▶ The Labour Inspectorate provides internal training at the ITSS School as well as providing relevant information to its staff e.g., a guide on the collaborative economy;</li> <li>▶ Royal Decree-Law 9/2021 (Rider Act) entered into force in August 2021 adding conditions in which an employment relationship is presumed to exist, thereby facilitating detection of undeclared work during inspections<sup>ii</sup>;</li> <li>▶ Judgment 805/2020 of the Spanish Supreme Court of September 2020 in relation to the case of a digital app confirmed that there was an employment relationship between delivery drivers and their employer.</li> </ul>
<p><b>Lessons learnt and success factors</b></p>	<ul style="list-style-type: none"> <li>▶ Collaborative economy companies are quickly adapting to the Labour Inspectorate's actions, in some cases to avoid full compliance with the law;</li> <li>▶ The investigations are/have been challenging for inspectors as this is a new environment (digital, algorithms, platforms) that differs significantly from previous investigations, and involves considerable levels of human and material resources;</li> </ul>



	<ul style="list-style-type: none"> <li>▶ The digital platforms (apps) have spread to many economic sectors including care for the elderly or dependent persons, and cleaning;</li> <li>▶ Clear legislation (including EU measures) is necessary to tackle undeclared work in the collaborative economy and e-commerce;</li> <li>▶ Social awareness is fundamental to tackle this type of fraud.</li> </ul>
<b>Transferability</b>	National labour inspectorates can conduct investigation campaigns using similar approaches and provide internal information and training to inspectors. Legislation on the collaborative economy is useful to detect undeclared work.

### Further information

#### Contact

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#### Useful sources and resources

**Royal Decree-Law 9/2021 (so-called Rider Act) 11 May 2021**

[https://www.boe.es/diario\\_boe/txt.php?id=BOE-A-2021-7840](https://www.boe.es/diario_boe/txt.php?id=BOE-A-2021-7840)

**Judgment 805/2020, Spanish Supreme Court, 25 September 2020**

[https://www.boe.es/publicaciones/anuarios\\_derecho/articulo.php?id=ANU-L-2020-00000001084](https://www.boe.es/publicaciones/anuarios_derecho/articulo.php?id=ANU-L-2020-00000001084)

<sup>i</sup> The European Union defines the collaborative economy (also known as 'sharing economy') as business models where activities are facilitated by collaborative platforms that create an open marketplace for the temporary usage of goods or services often provided by private individuals. It involves three types of actors: (i) service providers, (ii) users of the provided services, and (iii) intermediaries and connect and facilitate transactions between providers and users. Available at: <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/collaborative-economy>

<sup>ii</sup> Royal Decree-Law 9/2021 (Rider Act) adds the presumption of the existence of an employment relationship in the Workers' Statute in the following cases: (i) any activity consisting of the delivery or distribution of products or merchandise; (ii) any employer who exercises the business powers of organisation, management and control directly, indirectly or implicitly; (iii) and any algorithmic



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management of the service or working conditions through a digital platform. The exception to these cases is stipulated in Art. 1.3 of the Workers' Statute.