

# Collaborative economy: a common control methodology for the social inspectorates

Belgium

	<p><b>Summary</b></p> <p>The Action Plan for Tackling Social Fraud 2021 contains specific control actions to tackle undeclared work in the collaborative economy.<sup>i</sup> This includes two specific actions: (1) optimising the cooperation between the Social Inspectorates which include the Labour Inspectorate, the National Social Security Office (NSSO) and the National Institute for the Social Insurance of the Self-Employed (NISSE) and (2) undertaking at least 20 joint labour investigations in the collaborative economy sector.</p>
<p><b>Title of the practice in original language</b></p>	<p><i>Onderzoeken deeleconomie (deelplatformen)</i></p>
<p><b>Name(s) of authorities/bodies/organisations involved</b></p>	<ul style="list-style-type: none"> <li>▶ Social Information and Investigation Service (SIIS)<sup>ii</sup> (<i>Sociale Inlichtingen- en Opsporingsdienst (SIOD)</i>);</li> <li>▶ National Social Security Office (NSSO) (<i>Rijksdienst voor Sociale Zekerheid (RSZ)</i>);</li> <li>▶ National Institute for the Social Insurance of the Self-Employed (NISSE) (<i>Rijksinstituut voor de Sociale Verzekeringen der Zelfstandigen (RSVZ)</i>);</li> <li>▶ National Employment Office (NEO) (<i>Rijksdienst voor Arbeidsvoorziening (RVA)</i>);</li> <li>▶ Labour Inspectorate (<i>Toezicht Sociale Wetten (TSW)</i>);</li> <li>▶ National Institute for Health and Disability Insurance (NIHDI) (<i>Rijksdienst voor Ziekte- en Invaliditeitsverzekering (RIZIV)</i>).</li> </ul>
<p><b>Sectors</b></p>	<p>Commerce</p>
<p><b>Target groups</b></p>	<ul style="list-style-type: none"> <li>▶ Social inspectors (directly targeted)</li> </ul>
<p><b>Purpose of measure</b></p>	<p>Deterrence: improve detection</p>



## Aims and objectives

The common control methodology aims at detecting labour law and social security violations in the collaborative economy. The social inspectorates<sup>iii</sup> conduct joint inspections and have set a target of 20 joint labour inspections for 2021.

### Background context

- ▶ The 2021 Social Fraud Action Plan was introduced against a background of a high rate of unpaid tax and social security payments in the sector and the false employment registrations of platform workers as employees or self-employed.
- ▶ The Plan also emanated from a lack of a common control methodology to tackle labour law and social security violations across the country. The SIIS supports the social inspectorates with an up-to-date common control methodology.
- ▶ The Plan includes a specific point of action on cooperation between the social inspectorates to carry out joint inspections.
- ▶ The Plan introduced a common control methodology for social inspectors to tackle undeclared work in the collaborative economy.

### Key objectives of the measure

#### General Objective:

- ▶ Improve efficiency and effectiveness of the labour and social inspections in the collaborative economy through a common control methodology.
- ▶ Tackle undeclared work in the collaborative economy by determining the employment status of the workers in the collaborative economy.

#### Specific Objectives:

- ▶ Effectively assess the conditions and the nature of the collaborative economy, the professional situation of the provider and the recipient.
- ▶ To increase the cooperation between the social inspectorates in the collaborative economy.
- ▶ To perform at least 20 joint inspections in 2021.



	<ul style="list-style-type: none"> <li>▶ To optimise the detection of possible fraud and/or undeclared work by using data collected by the Tax Administration (datamining/data-matching).</li> </ul>
<p><b>Main activities</b></p>	<p>The common control methodology determines the investigation procedure:</p> <ul style="list-style-type: none"> <li>▶ The social inspector needs to assess and verify the type of service provided through the digital platform;</li> <li>▶ The inspector needs to verify that the service provider is acting within the relevant legal framework<sup>iv</sup> and the conditions of the recognised platform (only supply of services is allowed, hiring of movable or immovable property is prohibited);</li> <li>▶ The inspector must check that the recipient (consumer) is acting within the relevant legal framework and the conditions of the recognised platform (the recipient is prohibited from using the services bought to gain an economic profit);</li> <li>▶ In cases where all the above conditions are fulfilled the inspector establishes whether the platform is a so called ‘mixed platform’, meaning that it is open to professional and non-professional service providers<sup>v</sup>;</li> <li>▶ If it is a mixed platform, the inspector examines the nature of the working relationship to determine whether the worker is an employee or self-employed;</li> <li>▶ If the service provider is considered to be an employee, the social inspector shares the information with the NSSO - or with the NISSE, if the service provider is found to be self-employed - which assesses if all social contributions have been paid;</li> <li>▶ If it is not a ‘mixed platform’ the inspector must verify if it relates to and complies with the regulations of the collaborative economy;<sup>vi</sup></li> <li>▶ Where the regulation is not applied in the correct way the social inspector must propose reclassification for the employment status of the worker.</li> </ul>
<p><b>Funding/organisational resources</b></p>	<ul style="list-style-type: none"> <li>▶ The departments of the different competent Ministers for Tackling Social Fraud and Undeclared Work, the College for combating tax and social fraud and the Strategic Committee of the SIIS are responsible for supervising the progress of</li> </ul>

implementing the common control methodology and the execution of the specific actions.



**Outcomes**

Due to COVID-19, joint inspections under the common control methodology have not yet happened (due to take place in 2022). However, the testing phase has shown that correct application of the method can define the status of the platform worker (self-employed or employee) and determine the amount of taxes and social security contributions to be collected.

**Achievement of objectives**

- ▶ While inspections have yet to take place, it is hoped that the implementation of the common control methodology will result in the development of a close working relationship between the enforcement authorities and other units involved such as the tax authority, creating common risk assessment actions and data sharing.
- ▶ It is also hoped that ‘spill-over’ effects will result leading to more synergies: the common control methodology will be extended to the Federal Public Service Finance (FPS Finance), where relevant and specific data will be shared with the social inspectorates for the fight against social fraud (project still in the development phase).

**Lessons learnt and success factors**

**Lessons learnt**

- ▶ Determining the status of platform workers remains problematic as it is not defined in the legislation (therefore the social inspectorates have to determine between employed and self-employed status);
- ▶ Transparency and provision of information are essential;
- ▶ Enforcement of laws and regulations in practice remains a challenge since according to the law no specific sanctions apply if a violation is found.

**Critical success factors**

- ▶ Collaboration between social inspectorates and the tax services;
- ▶ Exchange of relevant information and access to the authentic<sup>vii</sup> databases.



### Transferability

- ▶ Clear guidelines on a common control methodology for inspectorates (control) are crucial;
- ▶ Data mining and sharing across different authorities to increase effectiveness of inspections (detection) is important to the effective functioning of this practice.

## Further information

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### Useful sources and resources

#### Legislation:

- ▶ Programme Law of 01 July 2016 (Programmawet 01 Juli 2016, Belgisch Staatsblad 4/7/2016);
- ▶ Law of 20 December 2020 on containing urgent various tax provisions and fraud prevention (Wet houdende dringende diverse fiscale en fraudebestrijding bepalingen 20 December 2020, Belgisch Staatsblad 30/12/2020).

#### National Action Plan for Tackling Social Fraud 2021 – Action 20 website:

- ▶ <https://www.siod.belgie.be/nl/actieplan-strijd-tegen-de-sociale-fraude-en-sociale-dumping-2021>

<sup>i</sup> There are currently no harmonised definitions of 'the collaborative economy', 'platform work' and 'digital labour platforms' at EU level. For the purposes of this fiche, the concept of 'collaborative economy' is used, which is understood as services that are carried out by a digital platform user for a consumer/client in exchange of a payment, whereby the matching between the demand and the supply of labour is facilitated by an online application or technologies that are owned by an undertaking. The online application is owned and operated by a business, the digital labour platform, and is often using algorithms and (semi-)automated decision-making. Definition taken by the European Platform tackling undeclared work, as found in the executive summary of the Thematic review workshop 'Undeclared work in the collaborative economy', available here <https://ec.europa.eu/social/main.jsp?langId=en&catId=1299&eventsId=1892&furtherEvents=yes>

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- ii The SIIS itself does not carry out inspections in the field but is responsible for supporting and coordinating federal social inspectorates.
- iii In this context the term social inspectorates is used to encompass the social inspectorate (competent for legislation on social security) and the labour inspectorate (competent for legislation concerning labour issues).
- iv Programme Law of 01 July 2016 (*Programmawet 01 Juli 2016, Belgisch Staatsblad 4/7/2016*) and Law of 20 December 2020 containing urgent various tax provisions and fraud prevention (*Wet houdende dringende diverse fiscale en fraudebestrijding bepalingen 20 December 2020, Belgisch Staatsblad 30/12/2020*).
- v A *professional* is an individual offering certain services via the digital platform as part of his/her professional activities as an employee or a self-employed worker e.g., a bricklayer offering "bricklaying services" via the digital platform. A *non-professional* offers certain services via the digital platform which are not part of his/her professional activities as an employee or self-employed worker e.g., a teacher offering "bricklaying services" via the digital platform.
- vi Programme Act (I) 27 December, abbreviated as Employment Relations Act 27 December 2006 in the Belgian Official Gazette 28 December 2006 (*Programmawet (I) 27 December 2006, verkort als "Arbeidsrelatiewet 27 December 2006", Belgisch Staatsblad 28 December 2006*).
- vii A database that serves as a reference for the authentication, control or consolidation of information necessary for the effective use of applications or computing services.