



Approaches tackling undeclared work in transport of goods by light commercial vehicles (LCV)

**Report from peer
learning dialogue**

August 2022



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1.0 Introduction

This report documents the outcomes of peer learning and cross-border action dialogues (hereafter PLD) on approaches to tackle undeclared work in the transport of goods by light commercial vehicles (LCVs).¹ Representatives of four countries (Belgium, Netherlands, Portugal, and Sweden) discussed this topic during three meetings:

- ▶ 4 May 2022: The participants focussed on identifying trends in undeclared work in the transport of goods by LCV and barriers to tackle it;
- ▶ 5 May 2022: The participants shared practices addressing undeclared work in the transport of goods by LCV;
- ▶ 22 June 2022: The participants discussed lessons learned to improve approaches to tackling undeclared work in the transport of goods by LCV.

The first two meetings concluded with a set of actions which participants took forward and tested or explored in depth in their home countries. The lessons learned from these actions were then reported and reflected upon at the last meeting. This outcome paper summarises the outcome of the actions and the discussions during the three meetings.

Sections 2 and 3 report on the reflections from the meetings on trends and drivers of undeclared work in the transport of goods by LCVs, interinstitutional cooperation, and social partner involvement. Moreover, it summarises the discussions about the participating countries' practices to address undeclared work in the transport of goods by LCV – concretely, sector-specific instruments and relevant skills and competences of inspectors as well as inspections of undeclared work in subcontracting chains. Both sections include the key takeaways from the actions tested by the PLD participants. Section 4 presents recommendations for the European Labour Authority (ELA), and enforcement authorities.

2.0 Identifying trends in undeclared work in transport of goods by LCV and barriers to tackle it

Parcel delivery is of particular importance in the transport of goods by LCVs. The courier, express, and parcel (CEP) market operated by LCVs has experienced an immense increase in volume, turnover, and employment throughout Europe especially in the business-to-customer segment in the past decade and, in particular, in the course of the COVID-19 pandemic. According to the European Commission's study,² revenues in the CEP market increased by 4.3% in total between 2013-2017, and business-to-customer delivery by 12.5% with the pandemic

¹ One PLD outcome is that overall, there are no specific procedures in place to tackle undeclared work in transport of goods by LCV.

² WIK Consult. (2019). [Development of Cross-border E-commerce through Parcel delivery](#). Luxembourg: European Commission DG Internal Market, Industry, Entrepreneurship and SMEs, 5.



intensifying this trend. Also total European e-commerce grew by 10% between 2019 and 2020.³ The CEP market is an emerging and still growing market with significant past and future employment potential.⁴

Within this sector underdeclared work usually takes the form of bogus self-employment,⁵ underdeclaring of working hours, recruitment of third-country nationals without a work permit or undeclared work through unregistered businesses. Factors contributing to undeclared work include long subcontracting chains, pressure on operators to offer high quality services at low cost, online platform-mediated work, recruitment of workers in vulnerable situations and who may not be aware of their rights, and absence of formal requirements to access the profession.⁶

Major challenges for enforcement authorities to tackle undeclared work include the high number of transport operators who do not comply with labour regulations, insufficient regulation in the sector or lack of effective implementation of the rules to effectively tackle undeclared work, and lack of resources and effective tools to identify work-related infringements (i.e., lack of effective tools to exchange and store data).⁷

During the PLD, participants mentioned that to tackle undeclared work in this sector it is necessary to implement more effective prevention measures in combination with deterrence measures that penalise those who violate the law. To achieve this, it is important to strengthen interinstitutional cooperation to exchange data and share information on legislation and proposed changes (i.e., the [Mobility Package I](#)) and to carry out joint inspections. Another important element is to increase cooperation with social partners. Equally important is the development of training and education activities for labour inspectors, focused on the transport of goods by LCVs. The PLD discussions focused on identifying the challenges and solutions in relation to the following:

- ▶ Strengthening cooperation and facilitating data exchange among different inspection authorities;
- ▶ Learning more about the key players and structure of the sector by strengthening cooperation and knowledge exchange with social partners;
- ▶ Developing sector-specific tools and competences to detect undeclared work;
- ▶ Sub-contracting chains and liability for wages and wage-related contributions.
- ▶ Awareness raising and preventive campaigns, including enhanced cooperation with social partners to tackle undeclared work in the sector.

³ Lone, S., Harboul, N., & Weltevreden, J. W. J. (2021). 2021 [European E-commerce Report](#). Amsterdam/Brüssel: Amsterdam University of Applied Sciences & Ecommerce Europe.

⁴ See also [UNI GLOBAL POSITION](#) on the application of the Regulation (EU) 2018/644 on cross-border parcel delivery. Courier, express and parcel (CEP) services include the delivery of parcels below 31.5 kg, both business-to-customer and business-to-business. Contract logistics is an outsourced business function, provided as a rule by a specialised third-party logistics provider. The delivery of goods in LCVs for contract logistics encompasses only a small part of it. Most transport operations in terms of volume in contract logistics are provided by heavy commercial vehicles. Moreover, another important task of contract logistics is the handling of the whole logistics process. For a detailed definition of CEP and contract logistics, see Zanker, C. (2018). [Branchenanalyse Logistik](#). (Study No. 390). Düsseldorf: Hans Böckler Stiftung (Available in German).

⁵ See [the glossary used in the European Platform tackling undeclared](#) for definitions of these terms.

⁶ European Platform tackling undeclared work. (2022). Approaches tackling undeclared work in transport of goods by light commercial vehicles (LCV). Background paper prepared by Bettina Haidinger for Dialogues for peer learning and cross-border action.

⁷ Ibid.



2.1 Trends and factors contributing to undeclared work in the transport of goods by LCV

Key conclusions

- ▶ Undeclared work in the transport of goods by LCVs is a pressing issue.
- ▶ Undeclared work in the sector can take place in various forms and varies according to the employer. For example, in Portugal, infringements of undeclared work vary according to the size of the company; in bigger companies the most common form of undeclared work is bogus self-employment while in smaller companies it is illegal employment.
- ▶ Enforcement authorities involved in inspecting drivers, companies, and vehicles involved in the transport of goods by LCVs include labour inspectorates, traffic police, transport authorities, customs. They use different tools to carry out inspections and have different competences and access to data.
- ▶ The control responsibilities in this sector are divided across several different authorities and in some cases also include social partners – no single agency carries the full responsibility to control this sector.
- ▶ In many instances undeclared work is found in long subcontracting chains. At the top of the chain a postal incumbent or logistics service provider contracts out assignments to small and medium size companies.
- ▶ Precarious working conditions in road transport not only impact on the drivers' safety and wellbeing but also on road safety. Therefore, cooperation with other authorities is necessary, for example, via concerted actions with road police to secure road safety.
- ▶ Operators and drivers often have little knowledge about their obligations and rights.
- ▶ Lack of regulations and the absence of tachographs in LCVs contributes to undeclared work in the sector.
- ▶ The COVID-19 pandemic has intensified undeclared work in this sector.

Based on the discussion the participants reached the following conclusions:

- ▶ **More effective enforcement rules** for the transport of goods by LCVs could better prevent undeclared work and unlawful behaviour of transport operators in the following ways:
 - ▷ **Applicable regulations in the transport of goods carried out by Heavy Commercial Vehicles (HCVs)** could be a good starting point to assess which regulations should be applied in the transport of goods carried out by LCVs (e.g., obligatory instalment of digital tachographs; registration of trade as transport operator of LCV; additional requirements to start working as a transport operator (e.g., professional competence, "good repute").
 - ▷ Since 21 May 2022 LCV transport operators engaged in the international carriage of goods need to satisfy certain criteria regarding their qualifications to obtain **the licence** permitting them to engage in international carriage (e.g., an operator's license).⁸

⁸ [Regulation \(EC\) 1071/2009](#) of the European Parliament and of the Council of 21 October 2009 establishes common rules concerning the conditions to be complied with to pursue the occupation of road transport operator, as revised by [Regulation \(EU\) 2020/1055](#). [Regulation \(EC\) 1072/2009](#) of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market, as revised by [Regulation \(EU\) 2020/1055](#); [Directive \(EU\) 2020/1057](#) on rules relating to posting drivers in the road transport sector.



- ▶ Participants identified that to strengthen compliance with rules and regulations it is important to make **the use of tools that record working and resting time obligatory**. From 1 July 2026, LCVs engaged in the international carriage of goods will be required to be fitted with a digital tachograph and will also come under the scope of the driving and resting time rules.⁹
- ▶ The participants stressed the usefulness of **transport identification documents** (such as CMR (*Convention relative au contrat de transport international de marchandises par route* and driver cards) to assist enforcement authorities in tackling undeclared work i.e., by checking the company's registration, lawfulness of transportation, to control vehicle weight.
- ▶ **Clear rules and regulations** are needed on the mandatory documents LCV transport operators and drivers should carry with them and present during inspections. A mechanism must be put in place to make sure that drivers fill out their documents correctly and in accordance with their rest periods and working hours.
- ▶ Language barriers hindering the communication with drivers of LCVs could be overcome by **using translators during inspections**.
- ▶ Rules related to road transport are very complicated and will stay complicated. Inspectorates need to understand and correctly apply new regulations. Additionally, inspectors' central role allows them to identify both the benefits and the pitfalls of implementation, and legislators should take their concerns into account. It is important for the authorities involved to **build trust and share learning** among themselves as cooperation is a prerequisite to effectively tackle undeclared work in the sector.

2.2 Interinstitutional cooperation and social partner involvement

Key conclusions

- ▶ Interinstitutional cooperation at all levels is a cornerstone to effectively tackle undeclared work in the transport of goods by LCVs due to the complex nature of this sector.
- ▶ Data strategy is important and the exchange of information needs to be maintained.
- ▶ Enforcement authorities involved need to have clear roles and duties.
- ▶ Political will and trust are needed to agree on common goals and solutions.
- ▶ Involvement of social partners is important to gather information due to their on-the-ground knowledge as well as to better communicate with employers and employees.
- ▶ More emphasis needs to be placed on joint awareness raising and prevention campaigns to tackle undeclared work.
- ▶ A holistic approach is necessary and stakeholders involved need to work closely together when implementing both deterrence and preventative measures.

⁹ Ibid.



The participants reached the following conclusions:

- ▶ **Interinstitutional cooperation at all levels is a cornerstone** to effectively tackle undeclared work in the transport of goods by LCVs. This is due to the complexity of this sector.
- ▶ **Joint inspections** can play a key role to identify undeclared work in this sector due to the various elements that needs to be checked, such as working time, weight of the vehicle, driving licence, transport permit.
- ▶ A **clear plan and political will** are necessary to address the issue of undeclared work in the sector. For instance, in Sweden the government has set the issue of undeclared work as a priority and a joint inspection committee has been set up. In regular meetings, the authorities involved decide on sectoral focus based on the information in hand. During the meetings it has been decided that focus has to be placed on the road transportation sector.
- ▶ **Interinstitutional cooperation of enforcement authorities is needed to improve detection of undeclared work. Examples of ways to achieve this include the following:**
 - ▷ **Better communication** and meeting with other authorities on a regular basis is important to maintain good cooperation and share feedback on infringements. In the Netherlands enforcement authorities (Human Environment and Transport Inspectorate, labour inspectorate, police and customs) meet every six weeks to discuss the cases and a possible joint approach. Each authority analyses the report/case internally, then discusses the results with other institutions. The cases that score the highest in total are jointly picked up and investigated by the participating authorities. This is to reduce the inspection pressure on the citizen and to increase the effectiveness of joint action.
 - ▷ In Sweden the Work Environment Authority has wide-reaching competences concerning the inspection of working conditions and occupational health and safety and has the competence to fine employers in cases of infringement. Recently, a **joint inspection committee** (police, tax authority, economic crime authority, migration body, prosecution authority) was put in place to carry out work-crime inspections. This multi-authority approach has proved important in detecting undeclared work. Key success factors include continuity of personnel engaged in the joint committee, effective fines imposed on companies in cases of infringement, ongoing recruitment of 60 additional inspectors, collective and informed decisions about the focus and actions taken based on collective intelligence (all authorities' competences are assembled), obligatory cooperation based on political/ministry decision, and consultations with social partners about their on-the-ground experiences in a particular sector.
 - ▷ During the discussion, participants debated whether it is better to involve **various enforcement authorities** ("Swedish approach") in a (joint) labour inspection and optimise interinstitutional cooperation, or whether a **"one-stop-shop"** or **sectoral approach** would be more efficient if competences were assigned to only one enforcement authority or a specialised unit with the tools to conduct labour inspections alone:
 - According to a **sectoral approach**, inspectors would become specialised in inspecting a specific sector – for instance, the road transport sector. Wherever such an approach is adopted, to be effective specific requirements need to be developed and investment put in place for additional personnel and tools.
 - The advantage of such an approach would be that competences and expertise, including sectoral analyses for risk assessment, the access to relevant databases (e.g., European register for road transport undertakings – ERRU) or inspection documents (e.g., tachograph, CMR), are bundled within one authority. Moreover, loss of information and data in information exchange processes between institutions can be minimised.



- On the downside, a **sectoral approach** will be more difficult to implement in practice as it would require a radical reorganisation of competences and skills within a Member State's labour inspectorate.

▶ **Social partner involvement and preventive approaches are important ways to tackle undeclared work in the sector:**

- ▷ **Awareness raising and prevention campaigns** including enhanced cooperation with social partners could improve the effectiveness of tackling undeclared work in the sector due to their on-the-ground knowledge. Social partners can play a key role in collecting information from both employers and employees. This information can then be shared with the enforcement authorities with the aim of tackling undeclared work in the sector and identifying relevant challenges and solutions. For instance, in Portugal, social partners were involved in the 2015 week of action, promoting good practices in road safety and raising awareness about compliance with driving and resting time.
 - ▷ A **tripartite committee** has been set up in Belgium which agreed on a fair competition plan in road transport. To maintain good cooperation, meetings between social partners and social inspectorates take place regularly. Additionally, twice a year enforcement authorities share results of inspections with the tripartite committee with the aim of discussing challenges and finding solutions on how to improve inspection procedures and their outcomes. At an operational level, social partners also accompany inspectors in so-called “preventive controls” where, during joint controls, information is distributed to the drivers.
 - ▷ It would be important to set up **contact points for drivers** to provide them with support about their rights or to raise a complaint in a language that they understand.
 - ▷ **Quality certificates for employers** can be an effective measure to prevent undeclared work. There needs to be clear rules and procedures about auditing such certificates and the commitment of employers. Voluntary certificates exist in Sweden namely “fair transport” and the Netherlands namely “pay checked.” A discussion to introduce such certificates in Belgium took place but on the basis of the belief that the costs of auditing outweigh the benefits of such an initiative the certificates were not introduced.
- ▶ **Implementing data strategies and data exchange are key factors for successful and effective interinstitutional cooperation:**
- ▷ **Data strategy** is important and exchange of information needs to be maintained. For example, in Portugal more focus must be placed on data sharing and building databases where all enforcement authorities could access relevant information.
 - ▷ Availability and accessibility of data for enforcement authorities varies across countries; **overcoming data protection laws** to exchange data still is a common **challenge on a cross-border basis and between national authorities.**

2.3 Key takeaways from tested actions

During the first two meetings the PLD participants agreed on actions to test in their home countries. This section summarises insights gathered by participants on the outcomes and were presented and discussed in the third meeting.



► **Belgium: The plan for fair competition in the transportation sector**

Belgian social partners, labour inspectorate, and competent ministries concluded the “Plan for fair competition in the transportation sector”, a tripartite agreement that sets voluntary measures to tackle social fraud in the transportation sector. The Plan was concluded in February 2016 based on the initiative of the Secretary of State to invite social partners to consultations. The aim of the agreement is to safeguard competition in the transportation sector, to encourage cooperation between public authorities at federal and regional level and with social partners and implement a holistic approach to tackle social fraud. Voluntary measures at national level include:

- ▷ Joint inspections between Federal Public Service (FPS) for Mobility and Transport, other social inspection services (SIOD), and the Customs and Excise Service (FPS Finances);
- ▷ Inspections are conducted at roadsides and at transport operators’ premises with a focus on LCV;
- ▷ Regarding the involvement of social partners, a protocol agreement was concluded. It included the instalment of a “fair competition hotline” with secured access for social partners and priority treatment of their complaints. For example, suspiciously low prices for transport services can be reported. The enforcement authorities can use such information for further data mining and as a potential indicator for social fraud;
- ▷ Social partners made joint recommendations to the government about working conditions and low wages, in particular, for posted workers.

At European level:

- ▷ Setting common fines in Belgium, the Netherlands, Luxembourg, and France for illegal cabotage or breach of weekly rest time rules;
- ▷ Another joint initiative between the countries was to encourage the use of a tachograph for LCVs;
- ▷ Introduction or reinforcement of joint cross-border inspections in the transportation sector.

The actions mentioned in the agreement are evaluated on a yearly basis by SIOD and the competent ministries. Also, the results are communicated among relevant stakeholders. This improves data and information exchange and increases trust between social partners, inspectorates, and ministries.

The Plan needs to be revised to tackle new challenges such as the rise of platform work or to best comply with the updated rules of the Mobility Package – for example, promotion of the use of the “fair competition hotline” by social partners for issues related to transport of goods by LCVs.

PLD participants expressed high interest in piloting this action in their Member States. However, concerns were raised due to various levels of cooperation with social partners, taking into consideration that to achieve this approach a strong and embedded industrial relations system is required.

Key takeaways:

- ▷ Belgian action provides an interesting example of how social partners can be involved with enforcement authorities and authorities at a political level in consultation, information exchange, and awareness raising among their members and clientele.



► **Sweden: Multi-authority approach to tackle undeclared work in road transportation sector**

In 2018 a cooperation for cross-institutional inspections between eight governmental authorities (the Swedish Economic Crime Authority; the Swedish Gender Equality Agency; the Swedish Migration Agency; the Swedish Police Authority; the Swedish Public Employment Service; the Swedish Social Insurance Agency; the Swedish Tax Agency; the Swedish Work Environment Authority) was set up.

Cooperation is mandatory by the Swedish government which obliges inspectorates to cooperate with other enforcement authorities to tackle work-related violations. Moreover, since 2022 cooperation has been institutionalised and expanded with a ninth agency, the Swedish Prosecution Office. The multi-authority approach entails that:

- ▷ A national joint authority (management and coordination) coordinates two working groups, one concerned with communication and the other one with analysis;
- ▷ At regional level, there are seven groups operating, each of them commanding temporary operational groups for joint controls;
- ▷ Among the different inspectorates 60 specialised inspectors will be assigned to work only on work crime violations;
- ▷ Additional funding is guaranteed by the Swedish Government.

The multi-authority approach strengthens the development of common working methods, the establishment of joint procedures and point of contacts, information sharing, participation in joint inspections, and the development of indicators to follow up the results of checks. It is also foreseen to increase prevention by strengthening the general public's knowledge on the matter and to raise awareness on cooperation between enforcement authorities.

Joint inspections are based on various steps:

1. Identifying risky sectors in relation to working conditions violations by aggregating the rate of violations from different inspectorates in relation to the size of an industry;
2. The sectors selected for inspectorates' collaboration are identified following specific selection criteria (number of companies, seriousness of violations, suspect of ongoing non-compliance, added value of the collaboration compared to single inspections). In 2020 prioritised risk sectors were the construction, transport, and cleaning sector;
3. Based on the selection criteria, each inspectorate proposes companies and workplaces to be checked. A decision about which workplaces to be checked and which agencies should participate is taken jointly with all the authorities involved. At a later stage a joint inspection is carried out and each inspectorate carries out an inspection within its area of responsibility. Feedback is provided to the inspectorates that have not been involved in the inspections;
4. Information and data collected through the inspections is analysed and a report is drafted which is also publicly available.¹⁰ In the latest report a section on work-related violations in the transportation sector refers to widespread infringements related to cabotage rules, driving and resting times. It was also noted that some transports are carried out with lighter trucks and other vehicles that are not owned by the company but rented, for example, at petrol stations. According to the Swedish participant, considering

¹⁰ For example see: Lägesbild (2021). För det myndighetsgemensamma arbetet mot fusk, regelöverträdelser och brottslighet i arbetslivet.



that transport services are expected to increase it is necessary to carry out on-the-spot inspections as deterrent measures.

The action led to greater effectiveness of interinstitutional cooperation and an increase in identifying work-related violations in a relatively short period. Still, challenges remain due to data privacy rules that prevent the exchange of necessary information, technical problems related to secure online meetings, and more clear procedures are needed about dealing with information obtained in joint inspections. Another challenge is that inspectorate units to some extent have different cultures, priorities, resources, and ways of working.

Key takeaways:

- ▷ The multi-authority approach in Sweden to detect work-related crime is based on a holistic government strategy for a sustainable and permanently established organisation of cooperation and on a common goal among authorities to combat work-related crime. Another important element is additional funding provided by the government.
- ▷ Collaboration in Sweden is well thought through and elaborated. While each authority acts within its own competence to check compliance, a joint inspections culture would need to be developed for a truly collaborative system of inspections.
- ▷ For inspection at the roadsides, collaboration with the police is necessary to stop the vehicle on the road and with the regional transport and/or financial authorities to get access to financial records and the databases of the mobility/transport authorities. While labour inspectors are dependent on this cooperation for achieving results, resources for cooperation are often lacking. If the access to databases is shared, inspection and follow-up processes could be accelerated. In Sweden, a new law about sharing information between authorities (SFS Nr 2016:775) has entered into force that obliges authorities to provide information to other authorities in cases of certain organised crime, including serious work-related crimes.

► **Netherlands: Joint inspection approach to tackle undeclared work**

Joint inspections between the Police, the Working Environment and Transport Inspectorate, Customs, the Public Prosecution Service, and the Dutch Labour Inspectorate have been taking place on a regular basis in the Netherlands since 2014. Recently, a joint cross-border inspection, supported by ELA, involved inspectorates from the Netherlands and Bulgaria. Joint inspections are carefully and routinely prepared. Inspectorates meet to discuss upcoming trends of infringements and decide on a focus for inspection every 4-6 weeks. In case of a joint inspection, participating inspectorates under the leadership of the initiating inspectorate decide on the procedural details for the inspection. The inspections are carried out together, however, each inspectorate operates in its field of competence: the inspectorate for the working environment and transport inspects transport permits, driving and resting times; the police check driving times and transport permits as well as the technical condition of the vehicle; the Dutch labour inspectorate checks for undeclared work and illegal labour.

To process results, each authority deals separately with its findings in a report. Results of the joint inspection are presented to the media, whereas the initiating inspectorate takes the lead in the communication process. Such a deliberate communication strategy was perceived as good practice to inform the media, the public, and important stakeholders such as social partners about inspection results. While a media communication strategy to communicate activities of the labour inspectorate is important, attention needs to be paid on not giving away information that can impede an ongoing investigation.

Key take aways:



▷ For better communication of the results of the joint inspections and activities of the labour inspectorate to the public and relevant stakeholders such as social partners, labour inspectorates should adopt a media and communication strategy as pursued in the Netherlands – “Do well and talk about it.”

► **Portugal: Joint inspection and collaboration for data sharing and information exchange for tackling undeclared work in the transport of goods by LCVs**

Joint inspections at roadsides take place on a regular basis in Portugal. Before the pandemic a working group made up of all enforcement authorities met once a month to exchange information about specific companies to check them. At roadside checks, the authorities aim to detect violations of driving and resting times (only applicable for HCVs) and undeclared work (all vehicles). Tachograph is a key instrument in such inspections. Moreover, four other instruments are used to check on worker, operator, and vehicle data where the labour inspectorate partly has access to the following:

1. The **database on social security** is used for consultation during the roadside check. The labour inspectorate can check if and how (working time, remuneration) the driver is registered with the social security system. In case of suspicion for undeclared work, the company is notified to show other documents for clarification;
2. The [transport license](#) is a publicly available list of all licenced transport operators for national and international transport;
3. The **transport guide** (like the CMR in international transport) is a document that the driver needs to carry when providing transport services in Portugal either in paper form or via an identification code. It is applicable to both transportation by HCVs and LCVs. It does not need to be shown when the vehicle does not carry cargo. The transport guide contains information about the identification and address of the sender and buyer of the goods, a description of the goods with indication of quantities, loading and unloading places, and date and time of when the transportation began. The labour inspectorate can directly check the document in paper form only, as it does not have access to the database where the data is stored and does not have the equipment and permission to scan the code. In joint inspections police can give access to the relevant data via a code. Hence, cooperation with the police is key to online access to the transport guide database in roadside checks. After the roadside check and in case of alleged infringements and follow-up inspections, the labour inspectorate does not have access neither to this database nor to any data that the financial police is storing and analysing. For a more efficient follow-up, the labour inspectorate’s direct access to such databases would be crucial;
4. A detailed **questionnaire** is used to interrogate the driver in case database consultations do not provide sufficiently substantial information. It includes questions about the work situation of the driver, the vehicle, the cargo and the transport operator, tachograph data, and blank fields for observations that the inspectors made during the inspections.

Key takeaways:

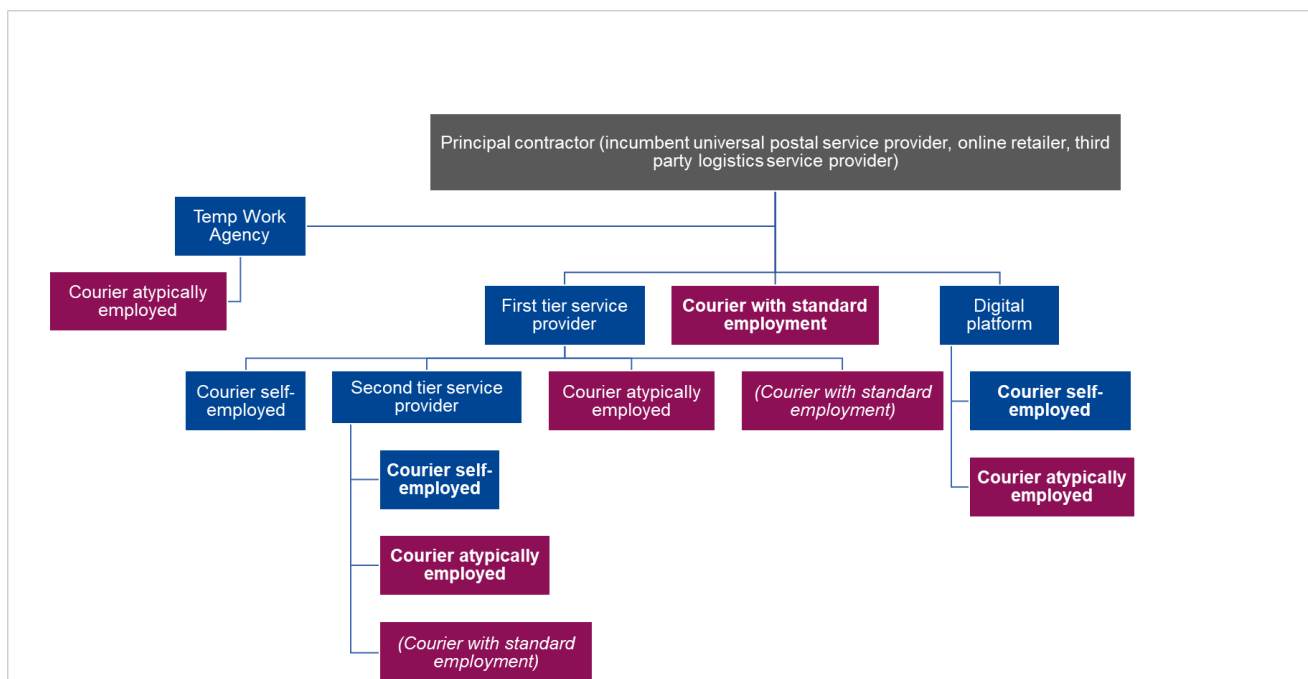
- Importance of establishing clear data sharing requirements to exchange data among authorities and inspect relevant documents at roadside checks which can then be shared with other authorities. A transportation document as in use for international transport (CMR) or for national transport in Portugal (transport guide) can facilitate the detection of undeclared work at roadside checks. Providing direct access to labour inspectorate to such data could increase the efficiency of this approach.

3.0 Practices addressing undeclared work in transport of goods by LCVs

Sector-specific instruments could improve inspection outcomes through improved data collection and analysis. They could contribute to better coordination of actions between enforcement authorities and improve the communication with drivers. For example, in France, in the Bourgogne-Franche-Comté region the Ministry of Labour and the Ministry of Transportation cooperates with the police and labour inspectorates to tackle undeclared work by inspecting both French and foreign LCVs. The inspectors use specific tools to check registration of the company, lawfulness of transportation, to control vehicle weight, and to check the records of driving and rest times (Haidinger 2018). Additionally, enforcement authorities need to develop training and education activities for labour inspectorates focused on the transport of goods by LCVs. For example, training can focus on identifying the employer of the driver in subcontracting chains, working with third-country national drivers and updates on rules and regulations.

Finally, identified as highly problematic for inspectors to discover is undeclared work in long supply chains involving principal contractors, often postal incumbents or big online retailers or third-party logistics providers, temporary work agencies, transport operators operating as subcontractors and sub-subcontractors as well as those at the bottom of the chain such as self-employed or atypically employed couriers.

Figure 1. Subcontracting chains in the courier, express and parcel delivery (CEP) market



- Legend:
- Service contract
 - Employment contract

Source: The author's own illustration based on Haidinger, 2012: 15.

Complex subcontracting chains are a gateway for violation of the rules in the transport sector, especially when small and medium-sized subcontractors or even subcontracted bogus companies are used as intermediaries to



circumvent employer obligations. Formally, the courier is employed or has a commercial service contract with the first or second tier service provider. Consequently, in case of an employment contract what is relevant is to identify the service provider who is responsible for compliance with labour and social security obligations. However, first and second tier service providers are in economic dependence to the principal contractor and have little commercial margin to negotiate the terms and conditions of the contract that allow for decent employment of couriers. Only in a few countries, such as Belgium, Germany, France, the Netherlands, and Norway, client liability, often restricted to certain sectors or certain constellations, is in place (Cremers & Houwerzijl, 2021).

The PLD discussions focused on identifying the challenges and solutions in relation to:

- ▶ Improvements in the sector-specific instruments and relevant skills and competences of inspectors;
- ▶ Tackling undeclared work in subcontracting chains through better regulation and inspection tools to discover the responsibility of the client.

3.1 Sector-specific instruments and relevant skills and competences of inspectors

Key conclusions

- ▶ A significant challenge for inspections of LCVs is that the place of inspection is on the road, as this is naturally the main workplace of drivers. Enforcement authorities often do not have the competence, tools, and resources (e.g., access to the driver card and tachograph data in cases where such equipment is obligatory for LCVs) to conduct such inspections.
- ▶ Effective follow-up procedures are important once a violation has been identified. Sector-specific instruments accessible to further enforcement authorities could improve inspection results.
- ▶ Better tools are needed to record working and resting time, for example, tools that digitally record working time and the whereabouts of the driver (e.g., smart tachograph).
- ▶ Specific inspections tools and documents (i.e., obligatory consignment notes such as a CMR) would facilitate checking the registration of the company, lawfulness of transport, and the companies involved in the transport chain.
- ▶ Enforcement authorities need to develop the skills to communicate with workers about their rights.
- ▶ Target instruments to interview drivers about their working situations is a key tool when detecting undeclared work.

The participants reached the following conclusions:

- ▶ **Relevant training and education activities** are necessary for labour inspectorates to gain knowledge and develop skills to tackle undeclared work in the sector.
- ▶ **Effective follow-up procedures once a violation has been identified** are key to tackling undeclared work. In Belgium, unannounced inspections are carried out by non-specialised inspectors at district level. In the case of an infringement, specialised investigative unit applies complex data mining models to further assess the violation. Depending on the type of violation found, a specific procedure is in place to shift undeclared to declared work.



- ▶ The **lack of personnel and resources** is a significant issue for enforcement authorities to tackle undeclared work in the sector. More investment and staff are necessary to carry out more inspections and to use more efficient tools (i.e. for data collection and analysis).
- ▶ A significant challenge when carrying out inspections is **language barrier** when communicating with drivers. Language barriers with drivers of LCVs could be overcome by using translators during inspections, like in the Netherlands. The fear of losing their jobs also makes drivers reluctant to cooperate with enforcement authorities (most of the time vulnerable workers such as third-country nationals). Developing training on how to communicate with vulnerable drivers could improve the outcome of labour inspections.
- ▶ **Information to drivers** about their rights needs to be communicated to them in a **language that they understand**. For instance, in Belgium, during an awareness raising campaign the labour inspectorate developed brochures and leaflets for drivers in different languages. Leaflets that include information on employees' rights and important contact points. The leaflet also contains information about employees' wages and social security contributions as well as criteria to help them identifying a situation of human trafficking.
- ▶ Using **target instruments** such as a checklist or a questionnaire when labour inspectors interview drivers could help labour inspectorates to pose accurate questions to drivers (see section 3.3).

3.2 Inspection of undeclared work in subcontracting chains

Key conclusions

- ▶ Undeclared work in the form of bogus self-employment and falsely declaring working hours is particularly widespread in subcontracting chains. To detect undeclared work in subcontracting chains of the parcel delivery sector, better tools and obligatory documents for transport operators would be key.
- ▶ In case of an employment contract it is necessary to identify the service provider who is responsible for compliance with labour and social security obligations.

The participants reached the following conclusions:

The participants agreed that a long-standing issue that enforcement authorities face is trying to identify the employer through sub-contracting chains in an effort to tackle undeclared work. The following actions are necessary:

- ▶ One of the reasons for the **existence of subcontracting chains** in the transport of goods by LCVs is to lower costs. Different types of price control and price regulations could prevent a race-to-the-bottom in price development:
 - ▷ The Netherlands tries to **regulate the sector and to control prices** through the introduction of collective agreements by setting specific calculations for parcel delivery and by setting a list of transport item prices. Still, a challenge is that prices vary in accordance with the collective agreement in place.
 - ▷ In Belgium, subcontractors who compete and set unusual and unsuitable low prices can be **excluded from participating in a public procurement**. The government defines what is an unsuitable low price and this varies in accordance with specific service and tasks.



- ▶ **Social partners** are considered important contributors to setting fair prices and fair competition in the transport of goods by LCVs. For example, in Sweden social partners negotiate and enforce collective agreements to regulate various aspects of this sector.
- ▶ A key to detect undeclared work in subcontracting chains of the parcel delivery sector is to **introduce better tools and mandatory documents for transport operators**. The **CMR** (or an equivalent for national transport) could help to find out who or which companies are involved in the transport service chain and who or which companies benefit from undeclared work. The CMR provides useful information such as consignor and recipient of the transport service, the freight carrier, and all subsequent freight carriers, the place of loading and unloading the cargo. This means that the whole chain of transport is traceable. In the Netherlands, labour inspectors use the couriers' handheld devices to check on working time, delivery routes, consignors, and consignees.
- ▶ In all countries (Belgium, the Netherlands, Portugal) some kind of **contractor liability or due diligence** legislation exists. However, this is mostly limited to the construction sector or to public procurement. Establishing specific procedures of contractor liability or due diligence in the transport sector could possibly help enforcement authorities tackle undeclared work in the sector, but this needs further investigation and assessment.
 - ▷ In its public procurement legislation Belgium has introduced a limitation on the number of subcontractors that can be party to a given contract – the maximum number of subcontractors is five.

3.3 Key takeaways from tested actions

During the second PLD meeting, participants agreed on the actions to test in their home countries. This section summarises insights gathered, which were presented and discussed in the third meeting.

▶ **Belgium: Questionnaire to interrogate drivers at roadside checks**

The questionnaire used in Belgium is a multi-functional check list for social inspectors to carry out inspections, both at the roadside and at the company's premises in the transport sector with the aim of detecting undeclared work. The questionnaire was developed by collaboration between the competent administrations and the social partners, as part of the "Plan for fair competition in the transport sector" (see section 2.3).¹¹ The questionnaire includes specific questions and guidelines related to the enforcement powers of social inspectors during roadside checks and when carrying out inspections at the transport operators' premises. It also contains information about the documents and information that an inspectorate can request.

Participants discussed the need for an updated version of the questionnaire which should consider more sector-specific questions (e.g., related to LCV transport operations) and should be available in different languages. Moreover, a digital version, as in use in the Netherlands, would make it easier to process the interrogation results. In Portugal, during roadside checks, inspectors use a questionnaire with questions about the work situation of the driver, the vehicle, the cargo and the transport operator, and tachograph data in order to check if the drivers' work is undeclared. Based on the drivers' answers further investigations are pursued, e.g., at the transport operator's premises. Up until now, inspectors use such questionnaires to interrogate drivers and transport operators. The participant from Belgium mentioned that the availability of

¹¹ Questionnaire is available on SIOD website: <https://www.siod.belgie.be/nl>



the questionnaire in the language of the driver could improve communication with the driver and provide first-hand information from the driver.

Key takeaways:

- ▷ Questionnaires used by labour inspectorates to interrogate drivers about their working conditions and employment relationship are a useful instrument to detect undeclared work. Improvements can be made in terms of digital and multilingual availability. Involving social partners in the preparation of the questionnaire has proven to be a good practice in Belgium.

► **Netherlands: Special instruments to tackle undeclared work in goods transport by LCVs**

Overall, participants agreed that access to tachograph and possessing the knowhow to read and analyse tachograph data is an important skill for enforcement authorities to detect undeclared work in the transport of goods by LCVs.

In the Netherlands the labour inspectorate pursues an additional strategy to get hold of relevant data flows that contribute to the detection of undeclared work, especially in parcel delivery. They harness clients' (third party logistics provider, postal incumbent) ability to digitally monitor the movement of parcels, the exact whereabouts of parcels, and exact time of arrival of couriers at the customer. Every courier uses a "handheld" provided by the client containing all relevant data to optimise the delivery process. If during inspections, after checking with other databases, a suspicion of undeclared work arises, the labour inspectorate has the right to access data stored in the digital scanner (handheld). Moreover, the labour inspectorates legally have access to this data; companies (clients) are penalised in cases of non-cooperation. The data gives information about timeframes of all deliveries, couriers' trajectories, customers, transport operators (subcontractors) involved in the delivery of the parcels, and couriers' employment. Based on this information, the inspector can conduct further investigations at the premises of the subcontractor distributing parcels on behalf of the client. In case of undeclared work of undocumented migrants, even the client can be held liable for this infringement and for underpayment (below the minimum wage).

Key takeaways:

- ▷ Participants emphasised the need to exploit data stored on the instruments necessary for the delivery process. In the Netherlands, the handheld (digital scanner) is a useful source of information to investigate undeclared work. Moreover, the handheld is a good tool to trace the chain and find out about the courier's direct employer, the employer's contractor, or the client sub-subcontracting to the courier's employer.
- ▷ Participants emphasised that inspectors need training to develop necessary skills to be able to comprehend and analyse information collected through digital instruments used in transport.

4.0 Reflections and suggestions from the PLD

The following commonalities emerge among the participating countries in the PLD:

- In all countries undeclared work in the transport of goods is a **pressing issue**; enforcement is weak;
- **Long subcontracting chains** disguise the companies – logistics service providers, e-retailers, postal incumbents – benefitting from undeclared work practices. Liability or due diligence regulations that fit the



transport of goods by LCV sector should be developed. Another regulatory suggestion is to introduce minimum price floors. Sector-specific tools and documents providing information about companies involved in the transport chain can help to identify companies involved in the transport chain and to clarify liability claims, when in place;

- ▶ **Data strategy** is important and **exchange of information** needs to be maintained;
- ▶ **Information deficits** exist for drivers and transport operators about their rights and obligations. Informing and approaching drivers and transport operators using adequate tools and language would be a key preventive approach;
- ▶ **Low entrance barriers** to work as a transport operator make non-compliant employer behaviour more likely to happen. Introducing tougher access requirements could also diminish non-compliance;
- ▶ **Joint inspections are a key tool**, as is interinstitutional cooperation; implementation could be improved, though;
- ▶ **Social partner involvement** can help improve preventive approaches and increase knowledge about sector-specific developments.

The countries participating in the PLD agreed on the following recommendations and suggested actions (1) which the Platform members can implement in their national practices and (2) which could be the subject of ELA future activities, including mutual learning at Platform working group level to prevent all authorities having to "reinvent the wheel".

4.1 Suggestions for national authorities

- ▶ Improving information and awareness of drivers of their working conditions is essential to tackle undeclared work. Developing brochures and leaflets in different languages can help to reach out to all workers;
- ▶ Thinking of innovative ways to check on working and resting time, delivery routes, consignors and consignees, and to detect infringements related to working time and pay, and wage-related contributions. For example, enforcement authorities could use the couriers' handheld devices to check working conditions;
- ▶ Assessing the option to establish collective agreements not only for regulating working conditions but also to include clauses for price regulation in parcel delivery;
- ▶ Assessing the introduction of a specialised unit to inspect transport operators and focus on developing specific training to enhance the skills and knowledge of the enforcement authorities in the sector;
- ▶ Assessing the benefits of multilateral cooperation among national authorities and the effectiveness of joint inspections to tackle undeclared work in the sector;
- ▶ Identifying ways to increase the exchange of data and information between enforcement authorities and to overcome data protection and data privacy rules;
- ▶ Focusing on a clear communication and media strategy to communicate results of inspections to the public and relevant stakeholders;
- ▶ In terms of countries that could offer good practice examples of data sharing, participants mentioned the following:



- ▷ Belgium provides an example of successful tripartite cooperation and of maintaining good cooperation between social partners and social inspectorates on a regular basis, both at a strategic and operational level;
- ▷ Sweden's multi-authority approach has proved to be a very successful approach in detecting undeclared work in the transport of goods by LCVs;
- ▷ Portugal comes across as one of the few Member States which uses an obligatory document for LCVs (and HCVs) at national level to facilitate the inspection of undeclared work;
- ▷ The Netherlands has implemented a strategy to exploit information collected by digital tools in the delivery processes by LCVs.

4.2 Suggestions for ELA

- ▶ The participating countries suggested that ELA could provide practical support for increasing knowledge and skills of enforcement authorities in the sector, focusing on successful evidence-based practices to detect and tackle undeclared work in the transport of goods by LCVs, and disseminating good practices across Member States:
 - ▷ Overall, enforcement authorities in all Member States use questionnaires to interrogate drivers at roadside checks. The PLD participants proposed to develop a more sectoral fine-tuned questionnaire in a multilingual and digital format. Existing national questionnaires could be analysed in more detail, in order to design a voluntary common template for inspectorates in all Member States;
 - ▷ Inspectors need the skills to analyse ICT-systems and instruments that are in use in transportation (e.g., digital handhelds in parcel delivery or the (digital) tachograph). A key issue is for inspectors to know how data can serve to improve inspection outcomes. ELA could further examine the possibility to develop necessary training for Member States.
- ▶ ELA can continue to provide practical support for tackling undeclared work in the transport of goods by LCVs, focusing on cross-border labour mobility, supporting Member States to engage in staff exchanges or carry out concerted and joint inspections in the sector, and by launching a specific EU-wide awareness raising campaign.
- ▶ ELA could facilitate a workshop to identify and share good practices across Member States on the following:
 - ▷ Successful legislation of client liability or due diligence legislation (i.e., the client is obliged to control its supply chain and introduce preventive measures to ensure subcontractors are compliant with social legislation) and practices in other sectors (construction, public tendering) and assess if this could apply in the transport of goods by LCVs. Share measures that give rise to incentives to clients in Member States to contract a compliant subcontractor;
 - ▷ Sharing learning between national authorities on their national legislation systems, on payment of wages and the payment of tax and social security contributions as well as which enforcement authorities are involved or should be involved in the labour inspection process. To increase mutual learning on successful cooperation between various enforcement authorities and the information and enforcement tools needed to effectively implement a successful practice;
 - ▷ The role of social partners and the importance of sectoral collective agreements and the role of labour inspectorates;



- ▷ Limiting the subcontracting chains and the number of subcontractors, introducing the possibility of a maximum percentage of what can be subcontracted and what has to be done by the logistics company itself;
 - ▷ Regulation of prices and calculations of the parcel/transport costs in legislation.
- ▶ ELA can provide guidelines to Member States on the promotion of decent work and safety in the transport sector. A good starting point could be the module on '[Guidelines on the promotion of decent work and road safety in the transport sector](#)' developed by the International Labour Organisation (ILO) in 2019.

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