



# **Undeclared work in the construction sector**

## **Learning resource paper from seminar**

**16 May 2023, Bratislava and online**



European Platform  
tackling undeclared work



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# Executive summary

The aim of the Platform seminar on *undeclared work in the construction sector* was to explore existing practices, tools and approaches that deal with undeclared work in the construction sector, in particular in relation to household repair, maintenance and improvement (RMI). The hybrid seminar took place in Bratislava on 16 May 2023 and brought together 63 participants among the Platform members, observers, invited experts and ELA representatives.

## Key findings

- ▶ The construction sector in the European Union (EU) employs 18 million people and contributes 9% to the EU's gross domestic product (GDP). It plays a vital role in infrastructure development, job creation, and innovation, but must also prioritise energy efficiency and sustainability. The sector experienced an average of 768 fatalities per year between 2010 and 2020, highlighting the urgent need to address health and safety issues.
- ▶ While the construction industry encompasses general and specialised construction activities, the RMI sector pertains to services to enhance and maintain residential properties, such as preserving the condition of a home or upgrading its different aspects to improve aesthetic appeal, functionality, and value.
- ▶ Undeclared work in the construction and renovation, maintenance, and improvement (RMI) sectors is influenced by supply and demand factors. According to a 2019 Eurobarometer survey, 3% of EU respondents purchased undeclared RMI services in the past year, with Greece, Bulgaria, and Slovakia having the highest rates of undeclared purchases, and Austria, Lithuania, Portugal, Germany, Romania, and Finland having the lowest rates.
- ▶ Lower prices drive 25% of consumers to seek undeclared RMI services, while unintentional<sup>1</sup> purchases account for 10%. Social or redistributive motives, such as helping those in need of money or favouring friends, relatives or colleagues, contribute to 14% of purchases, while 8% turn to undeclared work due to perceived market failures. Mixed motives drive the demand for undeclared work in 43% of cases.
- ▶ Approximately 3.8 million Europeans (equivalent to 0.75% of the population) perform undeclared home repairs and renovations. Among those providing these services, 63% are self-employed, and 14% rely solely on undeclared work for their income.
- ▶ Undeclared workers engage in such work due to limited formal employment opportunities, financial gain, or disagreement with formal rules. Findings from the Eurobarometer survey suggest that some workers choose undeclared work as a calculated economic decision, while others do so out of necessity or to assist others.
- ▶ Undeclared work in the construction and RMI sectors violates various regulations, necessitating national and European responses. These responses include combating discriminatory practices, ensuring fair pay and working conditions, and regulating social security rights. The presence of mobile workers, subcontracting chains, and temporary/seasonal work increases the risk of undeclared work in the sector.

<sup>1</sup> Unintentional purchase means that the consumer did not know that the RMI services was undeclared, while the intentional purchase of undeclared RMI services is led by a conscious motive, e.g. to lower the price.



- ▶ The European Labour Authority (ELA) supports Member States to effectively address undeclared work in the construction and RMI sectors among others through concerted and joint inspections and sector-specific reports. These strategic analyses cover challenges and good practices in the enforcement of labour and social security laws, and cooperation among Member States.
- ▶ Member States employ several promising tools to address the demand for undeclared work in the construction and RMI sectors. For example, tax rebates and relief on household services and home repairs have had some success in preventing undeclared work in cleaning and construction. Tax agencies monitor invoices, payments, and purchases to identify and halt undeclared work. Customers using these services can receive the same deduction on their income tax returns. Additionally, various incentives encourage the use of regulated and reliable RMI services, which can be achieved through state or professional association established registries and vouchers offering tax relief or cost subsidies.
- ▶ Deterrence policies to discourage undeclared services and purchases involve inspections and penalties. The objective is to make the expected costs of the potential penalty outweigh the benefits of lower prices. Some Member States have found ways to inspect private homes without violating privacy laws. Private household inspections can be conducted to combat undeclared purchases of goods like RMI services, adhering to specific legal regulations. However, in some countries, labour inspectors cannot enter private homes without a court order, in view of owners' privacy or people living in the premises.
- ▶ The seminar highlighted several successful examples of private household inspections, relevant regulations, and preventive policies that target the supply side of undeclared work through strong and complex cooperation between suppliers and buyers. Lessons included the need to establish suitable infrastructure and a dedicated team focused on the construction industry.
- ▶ At the seminar, a comprehensive preventive strategy was also presented, that involved the cooperation of all stakeholders, particularly when dealing with the limited resources of labour inspectorates during large-scale construction projects. Large projects, such as the Olympic Games, benefit specifically from cooperation with social partners and require a special focus on transparency and fair public procurement.
- ▶ Some countries have established institutions in the construction sector that implement various complex policies, such as offering social security incentives to promote declared work in the construction industry. While some Member States use social ID cards within the construction sector, it remains uncertain whether this practice should be applied to RMI services.
- ▶ Finally, improving working conditions and safety, and preventing undeclared work in the construction and RMI sectors require the involvement of social partners, collective agreements, and EU-funded projects to strengthen sectoral social dialogue and to reduce value-added tax (VAT) in the construction sector.



# 1.0 Introduction

This learning resource paper presents a comprehensive compendium of current knowledge on undeclared work in the construction sector, with a specific focus on repair, maintenance, and improvement (RMI) activities. These areas pose unique challenges when it comes to implementing policies to prevent and deter undeclared work.

While the construction sector is already widely understood, it is essential to define the scope of RMI. **The construction industry encompasses general and specialised construction activities.** General construction involves the construction of entire structures and infrastructure, or repairs to buildings, while specialised construction involves specific tasks during the construction process<sup>2</sup>. **The RMI sector pertains to services to enhance and maintain residential properties. Home repair and maintenance services** play a crucial role in preserving the condition of a home, preventing potential issues, and ensuring the safety and comfort of homeowners. **Home improvement services**, on the other hand, focus on upgrading and enhancing different aspects of a home to improve its aesthetic appeal, functionality, and value. The demand for RMI services is expanding due to the need to meet evolving housing standards, improve energy efficiency, accommodate larger household sizes, and address health and safety concerns (Giannelos and Snoeijenbos, 2019).

The European Platform tackling undeclared work (the Platform) has previously taken steps to address undeclared work in the construction industry. In 2017, a seminar on this topic led to the creation of the learning resource, '[Tackling Undeclared Work in the Construction Industry](#)' and a toolkit, '[Tools and Approaches for Tackling Undeclared Work in the Construction Sector](#).' Another insightful learning resource paper, '[Preventive approaches for tackling undeclared work, focusing upon tax rebates and notification letters](#)' was published by the Platform in 2019. These resources aim to assist in combating the issue of undeclared work in the broader construction sector.

Throughout 2022 and 2023, the Platform organised various events with a primary focus on the construction sector. For instance, a seminar in 2022 addressed undeclared work in supply chains, which resulted in the publication of a learning resource paper '[Tackling undeclared work in supply chains](#).' In 2023, a subgroup was established within the Platform to evaluate the effectiveness of social/labour ID cards in tackling undeclared work, particularly in subcontracting chains. The European Labour Authority (ELA) has prioritised the construction sector for 2023 and increased its emphasis on these events. In addition, the Platform's [virtual library](#) offers numerous helpful resources, such as good practice guides, that specifically tackle the issue of undeclared work in the construction sector.

This learning resource paper draws extensively from the seminar 'Undeclared work in the construction sector' that took place on 16 May 2023, as well as previous research undertaken by the Platform. The objective of the seminar was to elicit diverse perspectives and discuss experiences and practices to foster the sharing and cross-fertilisation of ideas across Platform countries.

During the seminar, a short Slido poll indicated that 83% of attendees agreed that the RMI sector requires greater attention in addressing undeclared work. Participants acknowledged that undeclared work is more prevalent and challenging to combat in the RMI sector compared to the broader construction industry. Attendees highlighted various difficulties and requirements for addressing undeclared work in both the construction and RMI sectors:

- ▶ RMI sector labour inspectors lack information;
- ▶ Focused and scheduled inspections are needed;
- ▶ Changing mentalities and raising awareness among the population is important;

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<sup>2</sup> See [NACE rev2. statistical classification](#) for a list of construction activities.



- ▶ Some of the biggest challenges include the mobility of construction workers and letterbox companies;
- ▶ Lack of competences for RMI, such as the right to enter and inspect private premises;
- ▶ Registration forms for companies, workers, and customers are needed;
- ▶ Data on work done and costs are not easily available;
- ▶ Long subcontracting chains are a challenge;
- ▶ Cooperation is needed between state authorities, social partners, employers and employees ;
- ▶ Cash payments contribute to undeclared work;
- ▶ On-site inspections are necessary to identify all subcontractors and construction sites.

This learning resource paper summarises the challenges identified by the participants and offers some solutions to tackle them. It begins by outlining the key features of the construction and RMI sectors that are relevant to understanding the broader context and circumstances – on both the supply and demand sides – in which undeclared work occurs. It also provides the latest available estimates of the size of the problem, the population engaged in undeclared work, and the drivers for these behaviours. The paper gives an overview of the most relevant legislation aspects on which enforcement authorities can rely when addressing undeclared work in these sectors. Its main focus is identifying strategies for addressing the demand and supply of undeclared work, incorporating perspectives from legal frameworks and social partners to provide further insights. The report concludes with key takeaways and conclusions.

## 2.0 Characteristics of undeclared work in the construction and RMI sectors

### 2.1 Economic significance of the sectors

**The construction sector is a driving force behind economic activity, directly employing 18 million individuals and contributing approximately 9% to the gross domestic product (GDP) of the European Union (EU).** It generates substantial employment opportunities across various fields, including architecture, engineering, project management, and skilled trades. Beyond construction companies, the industry's economic impact extends to suppliers, manufacturers, and service providers, fostering overall economic growth and development. Additionally, it serves as a catalyst for job creation, economic progress, and addressing social, climate, and energy-related challenges (European Commission, 2016).

**The construction sector holds significant importance in the EU for infrastructure development and maintenance.** It encompasses the construction of buildings, roads, bridges, railways, airports, ports, energy facilities, and other vital infrastructure assets. Investments in infrastructure are crucial for enhancing connectivity, facilitating trade, improving transportation networks, and supporting economic integration among EU Member States.

The construction sector produces around 277 million tonnes of CO<sub>2</sub> equivalent annually, representing almost 9% of the EU's annual greenhouse gas (GHG) emissions. The EU therefore places a strong emphasis on energy efficiency and sustainability in the sector. The industry is instrumental in furnishing environmentally friendly, energy-efficient buildings that meet the EU's stringent standards and regulations. Achieving the EU 2030 climate



targets, and climate neutrality by 2050, requires renovating 3% of building stock annually (Thung and Murdie, 2023). **Consequently, the construction and RMI sectors play a crucial role in advancing the circular economy in line with the EU's climate change and sustainability goals<sup>3</sup>.**

The construction industry provides a wide range of employment opportunities, training programmes, and avenues for career advancement, contributing to the reduction of unemployment rates and promoting regional development and cohesion within the EU. It drives innovation through research and development, technological advancements, and the implementation of digital solutions, which also benefit other sectors.

The construction sector is particularly dependent on labour mobility and is characterised as one of the sectors with the highest share of posted workers. In 2021, the sending posting in construction accounted for 25,9 % of postings in all industries (NACE B-F).<sup>4</sup> However, there is a high variety between the sending countries. Especially EU-13 Member States<sup>5</sup> registered a high share of posted workers in the construction sector (48.9 %) as opposed to EU-14 Member States<sup>6</sup> (15.0 %). For example, the share from Estonia amounts to 53.6 %, the share from Portugal to 60.3 %, the share from Romania to 53.9 %, and the share from Slovakia to 52.5 % (De Wispealere, et al, 2022).

Incoming posting in the construction sector, i.e. from the perspective of the receiving countries, accounted for 42,2% of the industry in 2021. More than one out of four workers received by Belgium, Germany, France, Croatia, Luxembourg, Finland, and Sweden are providing activities in the construction sector. In Germany, the share even amounts to 55.1 % (De Wispealere, et al, 2022).

The drivers for posting in the sector are the enlargement of the EU in 2004, 2007 and 2013, which increased the export and import of services in the construction sector, as well as price competition. In a highly cost-sensitive and labour-intensive sector such as the construction sector, reducing costs by using cheaper labour is widely regarded as the main driver of intra-EU posting. However, there are certainly other relevant push and pull factors. While the incoming posting is mostly perceived as being pushed by the goal of reducing labour costs, with the connected risks of violations of labour regulation, outgoing posting is mainly considered to be pushed by specialisation and skill requirements (De Wispealere, et al, 2022a).

Alongside these benefits, however, it is important to acknowledge the challenges associated with the construction industry. One concerning aspect is the association between the construction industry and fatal injuries. Over the 2010-2020 period, the construction sector witnessed nearly 8,500 fatalities across the 27 EU Member States (EU-27), or 768 per year on average (Figure 1). The fatal accident rate in the construction sector, measured as deaths per 100,000 workers, varies across the EU-27, with an average of 6.07 deaths in 2020. Malta and Cyprus exhibit the highest rates, while the lowest rates are observed in the Netherlands, Luxembourg, and Finland (Figure 2)<sup>7</sup>.

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<sup>3</sup> The circular economy [implies radical change](#) to how production and consumption are organised—away from a linear model of growth (extract, make, dispose) to a sustainable alternative (recycle, reuse, remake, share). Waste then becomes a resource. The circular transition is already underway in the EU-built environment, for example, with the ‘[Renovation Wave](#)’ and projects on building renovation within the Horizon Europe research programmes, such as the [4RinEU](#) project or [Home improvements for the planet](#).

<sup>4</sup> Based on the portable documents A1 - PD A1s as issued under article 12. All posted workers must have a PD A1 document which is used to prove that social security contributions are paid in the home country while the worker is posted

<sup>5</sup> EU-13: Bulgaria (BG), the Czechia (CZ), Estonia (EE), Croatia (HR), Cyprus (CY), Latvia (LV), Lithuania (LT), Hungary (HU), Malta (MT), Poland (PL), Romania (RO), Slovenia (SI), and Slovakia (SK).

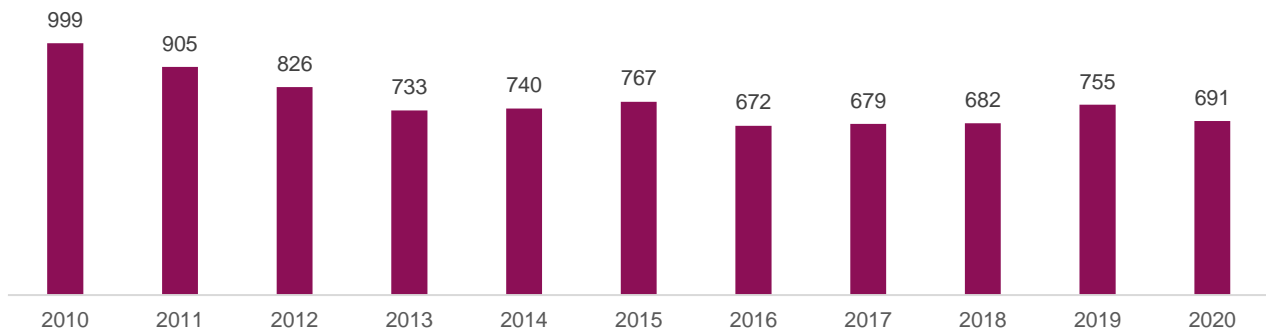
<sup>6</sup> EU-14: Belgium (BE), Denmark (DK), Germany (DE), Ireland (IE), Greece (EL), Spain (ES), France (FR), Italy (IT), Luxembourg (LU), the Netherlands (NL), Austria (AT), Portugal (PT), Finland (FI), and Sweden (SE).

<sup>7</sup> For detail, see: [https://ec.europa.eu/eurostat/statistics-explained/images/4/4c/Accidents\\_at\\_work\\_by\\_economic\\_activity\\_AAW2022\\_II.xlsx](https://ec.europa.eu/eurostat/statistics-explained/images/4/4c/Accidents_at_work_by_economic_activity_AAW2022_II.xlsx) or [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Accidents\\_at\\_work\\_statistics\\_by\\_economic\\_activity#Developments\\_over\\_time](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Accidents_at_work_statistics_by_economic_activity#Developments_over_time)



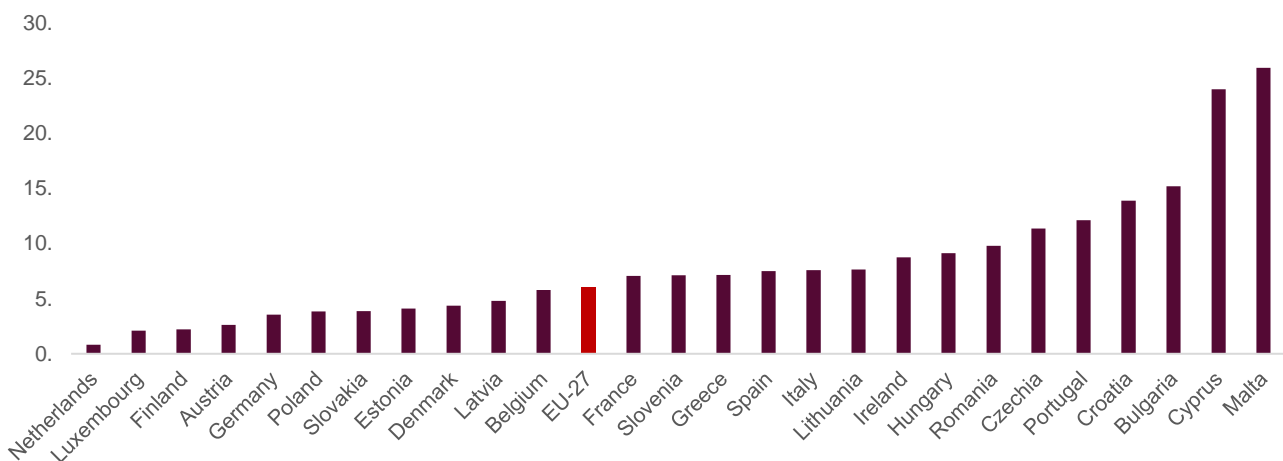


**Figure 1 Fatal injuries in the construction sector, 2010-2020, EU-27**



Source: Eurostat, Fatal accidents at work, by NACE Rev. 2 activity [HSW\_N2\_02\_\_custom\_6532288].

**Figure 2 Fatal accident rate (number of accidents per 100,000 workers) in the construction sector, 2020**



Source: Eurostat, Fatal accidents at work, by NACE Rev. 2 activity [HSW\_N2\_02\_\_custom\_6532288].

The fatal accident rate within the construction industry may be influenced by the prevalence of undeclared work (Campo et al., 2006; De Wispelaere and Gillis, 2021). **Undeclared construction workers are more likely to face heightened hazards and lack adequate protection, resulting in increased accident rates.** Additionally, undeclared work can negatively impact safety culture, as cost-saving measures often take precedence over safety considerations. However, it is important to acknowledge that other factors, including insufficient training and inadequate supervision, also contribute to fatal accidents. Educating buyers and suppliers about the risks associated with injuries can discourage undeclared work and promote compliance with safety standards in declared work environments.

The construction industry in the EU primarily comprises numerous small and medium-sized enterprises (SMEs), leading to a fragmented market structure. This fragmentation poses challenges such as limited economies of scale, reduced competitiveness, and difficulties in implementing standardised practices and technological innovations throughout the industry. **This fragmentation might also pose challenges for fostering declared work in the sector.**



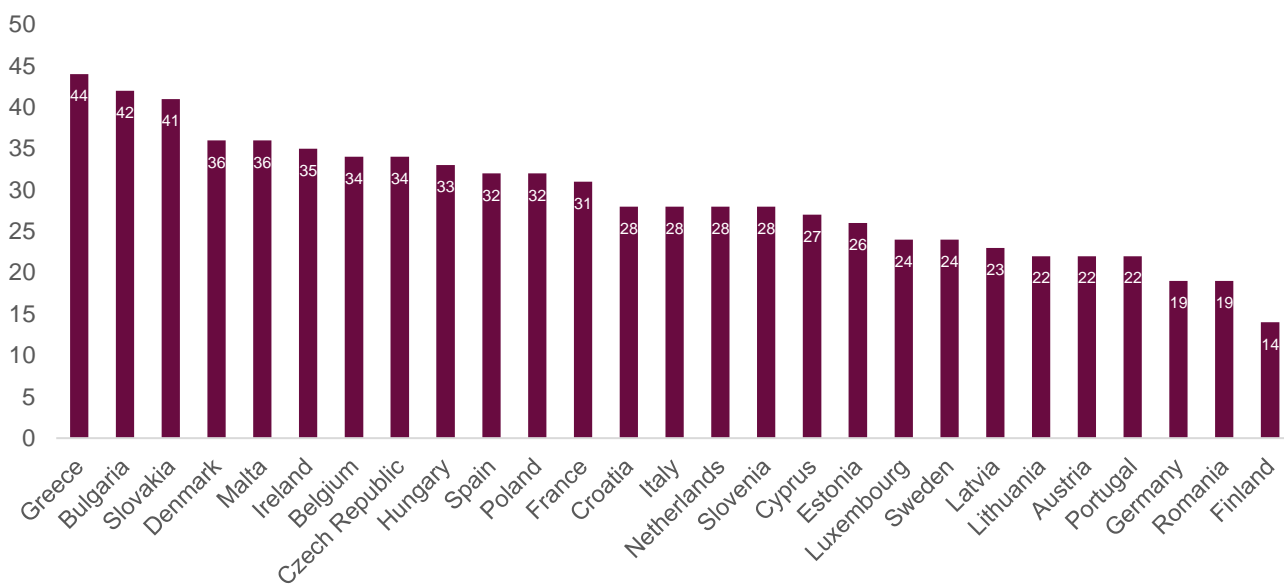
## 2.2 Size and drivers of undeclared work in the construction and RMI sectors

### 2.2.1 Demand side

The size and determinants of undeclared work in the construction and RMI sectors are created by the interplay of demand and supply factors. Looking at the demand side, the special Eurobarometer survey 498 in 2019 provides an opportunity to explain why people in the EU make undeclared home repairs and renovations and how to address the cash-in-hand consumer culture (Williams and Kosta, 2020)<sup>8</sup>. According to this survey, **3% of respondents admitted to purchasing undeclared RMI services within the past 12 months.**

**The extent of undeclared purchases varies across European regions.** East-Central Europe and Southern Europe account for 31% of all undeclared purchases for home repairs and renovations, while Western Europe accounts for 28%, and Nordic nations 25%. Greece, Bulgaria, and Slovakia have the highest proportions of undeclared purchases for repairs and renovations at 44%, 42%, and 41%, respectively. By contrast, Austria, Lithuania, Portugal, Germany, Romania, and Finland have lower proportions, ranging from 22% to 14% (Williams and Kosta, 2020).

**Figure 3 Purchase of goods and services in the undeclared economy: % repairs and renovations**



Source: Special Eurobarometer 498.

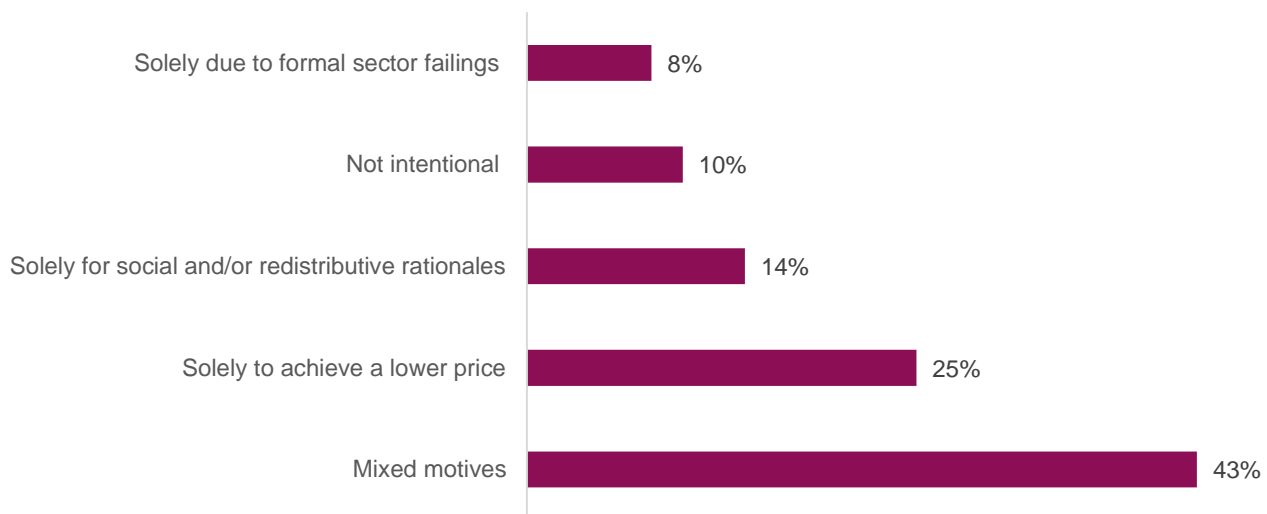
**Men, older people and self-employed individuals are more likely to purchase undeclared RMI services.** Additionally, both single individuals and those living with partners exhibit a higher propensity to purchase illegal services. Individuals facing financial difficulties and struggling to pay their bills are also more likely to buy undeclared activities.

<sup>8</sup> Special Eurobarometer 498 involved 27,565 face-to-face interviews, conducted in September 2019 across 28 European countries. The focus here is on the respondents who had purchased undeclared home repair and renovation services. 30% of all consumers purchasing undeclared products and services stated that they had acquired undeclared home repairs and renovations.



**The motivations behind consumers' demand for undeclared RMI services vary (Figure 4).** The desire for lower prices motivates 25% of purchases, and this is more important for individuals between the ages of 25 and 54. Unintentional purchases, where individuals realise afterwards that the service was undeclared, account for 10% of all purchases, suggesting a lack of information among consumers. Social or redistributive motives, such as helping those in need of money or favouring friends/relatives/colleagues, play a role in 14% of purchases and are more common among married individuals or those living with partners. Some individuals (8%) turn to undeclared work due to perceived failures in the formal market, such as a lack of availability, slower service, or inferior quality. Lastly, most consumers (43%) have mixed motives behind their demand for undeclared RMI services (Williams and Kosta, 2020).

**Figure 4 Motives behind the demand for undeclared RMI services (%), 2019)**



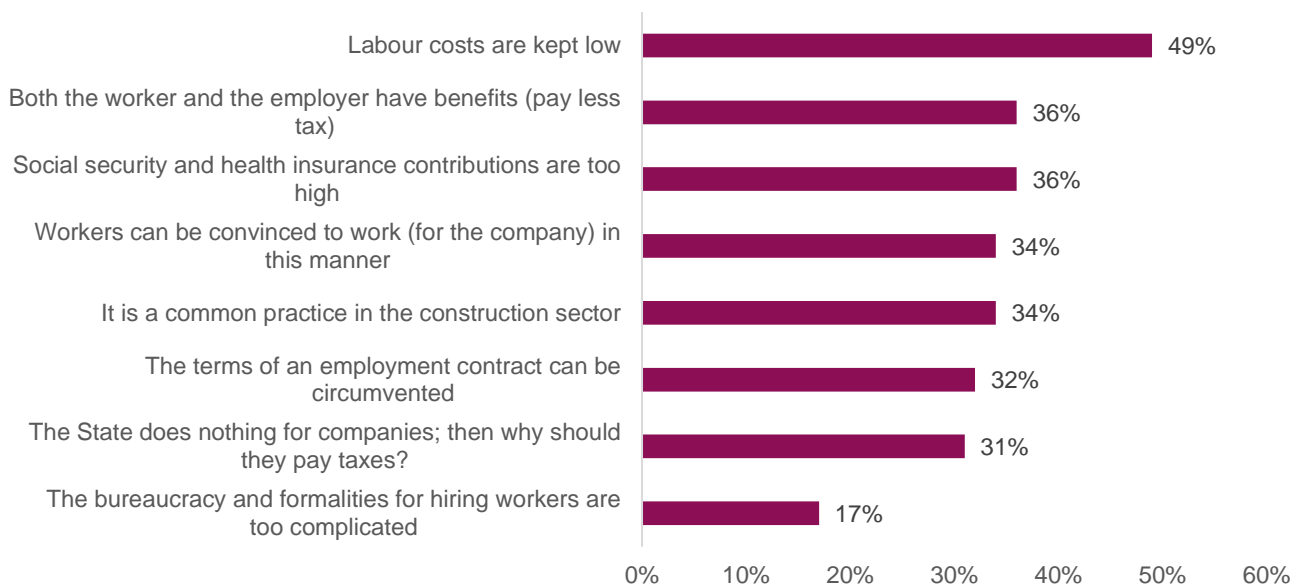
Source: Williams and Kosta (2020), based on Special Eurobarometer 498.

Another study focusing on the RMI sector in Romania revealed that 56% of employers reported being affected by competitors using undeclared work<sup>9</sup> (Horodnic and Horodnic, 2021). Employers cited the decrease in labour cost (49%), the perceived benefits for both workers and employers in terms of lower taxes (36%), and the belief that social security and health contributions are excessively high (36%) as the main reasons for engaging in undeclared work (see Figure 5).

<sup>9</sup> Data drawn from 'ID CARDS for Decent Work in the Construction Industry'/ PA05/2020/510946 (supported by the Norwegian government through the Norwegian Grants 2014-2021) (Project promoter: FGS FAMILIA; Partners: FPSC and Fellesforbundet).



**Figure 5 Main reasons for using undeclared work, according to employers**



Source: Horodnic and Horodnic, 2021.

**These findings have practical implications for addressing undeclared work.** In order to discourage cash-in-hand transactions, it is crucial to provide incentives for consumers to purchase from declared sources and raise awareness about the advantages of doing so. Efforts should also be directed towards improving the accessibility, speed, reliability, and quality of formal services, while also addressing the motivations behind undeclared purchases for social and redistributive reasons (Williams and Kosta, 2020).

### 2.2.2 Supply side

Approximately 21% of individuals involved in undeclared work provide undisclosed repairs and renovations. An estimated **0.75% (1 in 134) of all European citizens (approx. 3.8 million people) performed undeclared home repairs and renovations in 2020** (Williams and Kayaoglu, 2021).

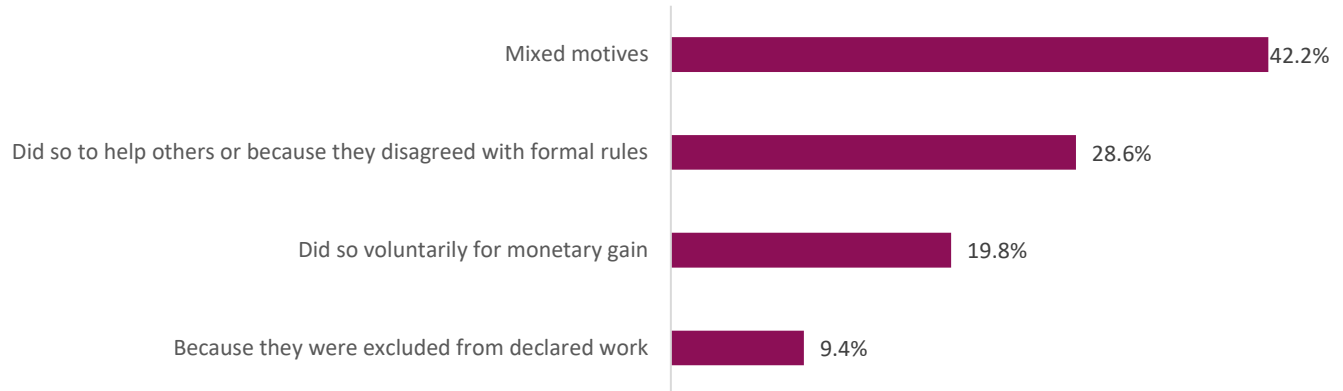
Further analysis reveals that among EU citizens who offered undeclared repair and renovation services in the 12 months preceding the 2019 survey, 63% were self-employed and 9% were employed by an employer. Another 14% worked in a combination of both settings and 7% were employed by a partner or family business. The remaining 7% either did not know or declined to answer (Williams and Kayaoglu, 2021). Overall work portfolios suggested that 14% of those providing undeclared repairs and renovations (0.12%, or 1 in 803 of all EU citizens) relied on undeclared work as their sole source of income.

**Workers engage in undeclared work for various reasons, such as limited access to formal employment, compensation for risks, income supplementation or support, and ensuring a livelihood when declared work is unavailable.** Undeclared workers can be viewed as individuals who voluntarily opt out of the formal economy, acting as rational economic agents seeking personal benefits, or as social actors who disagree with formal rules and regulations. Others may engage in undeclared work out of necessity. According to Eurobarometer 498, only 9.4% of workers involved in home repairs and renovations did so because they were excluded from formal employment. 19.8% engaged in such work voluntarily for financial gain, while 28.6% did so to assist others



or because they disagreed with formal rules. Additionally, 42.2% had a mixture of motives for engaging in undeclared work (Williams and Kayaoglu, 2021)<sup>10</sup>.

**Figure 6 Motives behind the supply of undeclared RMI services (%), 2019**



Source: Williams and Kayaoglu (2021), based on Eurobarometer 498.

Individuals who engage in undeclared repair and renovation services out of economic necessity are more likely to have experienced divorce or separation and to face difficulties in paying household bills. Women residing in large urban areas are more inclined to offer these services for economic benefits, while those who do so for social reasons (such as dissatisfaction with the government) are more likely to be married and to reside in Southern Europe or large urban areas (Williams and Kayaoglu, 2021).

These findings hold significant implications for addressing undeclared work in the RMI sector. **If individuals engage in undeclared work for financial gain, authorities can increase penalties and the likelihood of detection, thereby making it more costly.** By tipping the cost/benefit ratio towards greater costs, together with other measures, such as press releases of the results of inspections and the total amount of the penalties imposed on a specific number of companies, as well as notification letters, undeclared work may eventually decline.

**However, many individuals involved in undeclared work in the RMI sector do not choose to do so for economic reasons.** From this perspective, **two key areas need to be tackled:** firstly, the practice of subcontracting to undeclared suppliers; and secondly, the problem of workers being compelled to engage in undeclared employment due to a lack of alternative means of livelihood (Williams and Kayaoglu, 2021).

To address the first issue, various due diligence initiatives can be implemented in the construction sector, such as reverse supply chain responsibility, limiting the number of subcontractors, and the use of ID cards. To tackle the second issue, social protection systems must be strengthened and made more universal so that citizens do not have to resort to undeclared work for survival.

**It is important for individuals to ensure that their personal values, norms, and beliefs about undeclared work align with the laws and regulations in place.** To achieve this, education and awareness campaigns should be implemented to demonstrate the advantages of declared work and the disadvantages of undeclared work, such as the absence of sick leave, state pension contributions, and holiday pay. This may prompt individuals to adjust their norms, values, and beliefs (Williams and Kayaoglu, 2021).

<sup>10</sup> Detailed clusters of motives are discussed more in Williams and Kayaoglu (2021).



A 2021 study in Romania of over 600 companies and more than 1,020 employees nationwide<sup>11</sup> provides similar insights into the supply side of undeclared work in the construction sector (Horodnic and Horodnic, 2021):

- ▶ At least 1 in 4 employers or workers/employees in the construction industry (who estimated the share of undeclared work) believe the share of either unregistered or under-declared work to exceed 50%;
- ▶ 22% of all workers/employees in the construction industry know other individuals engaged in undeclared work;
- ▶ 17% of participating workers/employees were involved in some form of undeclared work;
- ▶ Under-declared work is estimated by the respondents at 40% of the total wage;
- ▶ Employees engaged in undeclared work perceive a smaller risk of detection (65%) compared to those not involved in undeclared work (81%).

The most prevalent form of undeclared work, according to the employees, was receiving additional money alongside the salary stated in the employment contract. The amount received does not depend on the number of hours worked, but is linked to the declared salary (Horodnic and Horodnic, 2023).

Under-reporting wages (in its various forms) in the construction industry is the dominant type of undeclared work in the sector. The analysis shows that this practice is not limited to vulnerable groups, but is, rather, a widespread phenomenon. The findings indicate that there is no significant relationship between how employees perceive the level of sanctions and the risk of detection, and their likelihood of participating in wage under-reporting. However, the results highlight the significance of social norms, as individuals who have acquaintances receiving under-reported wages are more likely to engage in this wage arrangement (Horodnic et al., 2023).

## 3.0 Legal framework for tackling undeclared work in the construction and RMI sectors

To effectively address the issue of undeclared work in the construction and RMI sectors, it is important to first understand the legislative basis at European level. The following section offers an overview of the basic legal aspects applicable to the targeted sectors, or certain specificities developed for the construction sector. While Member States must adhere to European directives, they also have the option to develop their own national legislation within this framework.

**Undeclared work in the construction and RMI sectors occurs in many ways:** un(der)-registered work, non-compliance with minimum wages, illegal cash payments, tax and social security avoidance, and bogus self-employment are some such practices across the EU. The types of undeclared work may violate various regulations. The legislative framework useful to address the particular types of undeclared work might be within the competence of the Member States or European-level regulations might be applied at national level.

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<sup>11</sup> Data collected in 'ID CARDS for Decent Work in the Construction Industry'/ PA05/2020/510946 (supported by the Norwegian government through the Norwegian Grants 2014-2021) (Project promoter: FGS FAMILIA; Partners: FPSC and Fellesforbundet).



**Working conditions, wages and social security rights of (construction) workers remain primarily the competence of the Member States.** Consequently, there are large differences in scope and protection levels across the Member States. EU legislation in the employment field remains limited to some legislation on employment conditions of workers, such as removing discriminatory approaches between different employment forms (standard versus part-time, temporary agency work), gender equality, health and safety, and transparent and predictable working conditions.

**The EU has adopted far-reaching legislation to guarantee the free provision of services, freedom of establishment and free movement of workers,** three cornerstones of the internal market as enshrined in the EU Treaties. The main objective of the relevant EU legislation is to balance the need for fair competition between businesses established in the EU and the need to protect the labour and social rights of individual workers in a cross-border context. This EU legislation applies to all economic sectors, but the **provisions are particularly relevant for the construction sector**, which is characterised by high numbers of mobile construction workers, subcontracting chains, specific health and safety considerations, informal networks, and temporary and seasonal work. These specific features of the construction and RMI sectors make them particularly prone to various forms of undeclared work and even fraudulent practices.

The relevant **EU legislation is triggered in specific cross-border situations**, e.g. when construction businesses provide their services in Member States other than that in which they are incorporated, or when construction workers work at building sites in countries other than those where they live or usually work.

The **national employment law** (including provisions on working conditions and wages) that applies to the employment contract of a construction worker **can be determined by the employing construction company and the worker**, but EU legislation determines that the chosen law may not deprive the worker of the protection they would have had, had such a choice not been made. The Rome I Regulation determines that this is usually the law of the Member State in which the worker 'habitually' works, even if they are working temporarily in another Member State. Other connecting factors used to determine the applicable employment law are the place of residence of the worker and the place of the business' establishment. The **factual circumstances in individual cases are taken into consideration when determining which national employment law** governs the employment relationship between the construction company and the worker concerned.<sup>12</sup>

While the EU promotes labour mobility, **individual Member States maintain the authority to regulate their labour markets, set licensing requirements and take specific measures in relation to building sites and execution of works.** Member States have developed their own legislation to tackle undeclared work, particularly in the construction sector. These laws may impose **registration requirements for construction companies** and aim to enhance enforcement and impose stricter penalties on non-compliant employers. Other measures include **obligatory notification systems** and **working time registration** of the construction workers deployed at the building sites.

Labour inspectorates and specialised units are established to investigate cases of undeclared work. These authorities conduct inspections and impose sanctions and penalties to deter undeclared work. Penalties may include fines, temporary or permanent bans, suspension or revocation of licences, exclusion from public procurement processes, and criminal charges. Construction-related professions, such as architects, engineers and construction workers, may be subject to national regulations and licensing schemes. These requirements ensure that professionals possess the necessary qualifications, skills, and competencies to carry out their work safely and effectively.

In many countries, **social identity cards** (social ID cards) are used in the European construction industry. These cards are individualised worker certification tools which contain electronically stored visible and secure data that

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<sup>12</sup> More information on the EU-level legal framework on posting workers is available in the Annex.





aim to attest that specific social requirements, professional experience, qualifications, occupational safety and health (OSH) training, and social protection/security issues have been met by the worker and/or their employer.<sup>13</sup> Using social ID cards raises questions about potential barriers, the double burden on workers and employers, mutual recognition, the scope of included information, proportionality, and privacy issues.

## 4.0 Recent ELA activities in tackling undeclared work in construction and RMI

The ELA supports Member States' efforts to address undeclared work in the construction and RMI sectors, including concerted and joint inspections. These inspections primarily focus on workers' rights and conditions, particularly posted workers. A week of action was organised to prepare for the 2023 inspection scheme; health and safety in the workplace was among areas of focus. In total, 73 construction sites and 106 companies were inspected, leading to the identification of 204 potential infringements, affecting workers from multiple countries.<sup>14</sup>

The concerted and joint inspections (CJIs) had several key insights and takeaways:

- ▶ Proper preparation, planning, and coordination are crucial for successful inspections;
- ▶ The Internal Market Information (IMI) system is useful to identify inspection targets, such as relevant sites or companies in the Member States;
- ▶ Working in teams and conducting simultaneous inspections can be advantageous, particularly for companies with multiple sites across different Member States;
- ▶ Having observers on-site can provide valuable insights into the situation, including the presence of various types of contracts, direct employment, posted workers, self-employed workers, workers from different countries, and diverse nationalities;
- ▶ Cross-checking databases during inspections is important for comprehensive assessments;
- ▶ Involving other competent authorities and stakeholders is essential for a holistic and multidimensional approach;
- ▶ OSH issues should be considered during inspections;
- ▶ Enforcers continue building knowledge about posting and start to discuss the Checklist on genuine Posting of Workers (POW);
- ▶ Inspections can be an opportunity to foster lasting cooperation, especially in border regions or areas with significant worker flows;
- ▶ Increasing awareness on rights and obligations, as well as informing stakeholders about ELA's mission, enforcement objectives, and operational procedures, is crucial.

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<sup>13</sup> Briganti, F., Machalska, M., Steinmeyer, H-D and Buelen, W. (2015) [Social identity cards in the European Construction industry](#), EFBWW/FIEC, Brussels.

<sup>14</sup> Please note that the numbers provided are provisional and subject to change due to the ongoing investigations and the complexity of the inspections. As a result, some investigation processes are still underway, and the data may be updated or refined in the future.





**ELA's upcoming report aims to provide insights for future action to combat undeclared work in the construction sector.** The report will cover key mobility patterns within the EU, the information needs of workers and employers, and measures to address fraud and labour shortages. It will focus on 19 Member States and include examples of good practices for enforcing EU labour mobility rules and cross-border matching initiatives. Notably, there is an increasing use of third-country nationals as posted workers in the construction industry, with Poland serving as the primary sender and Germany as the top receiver.

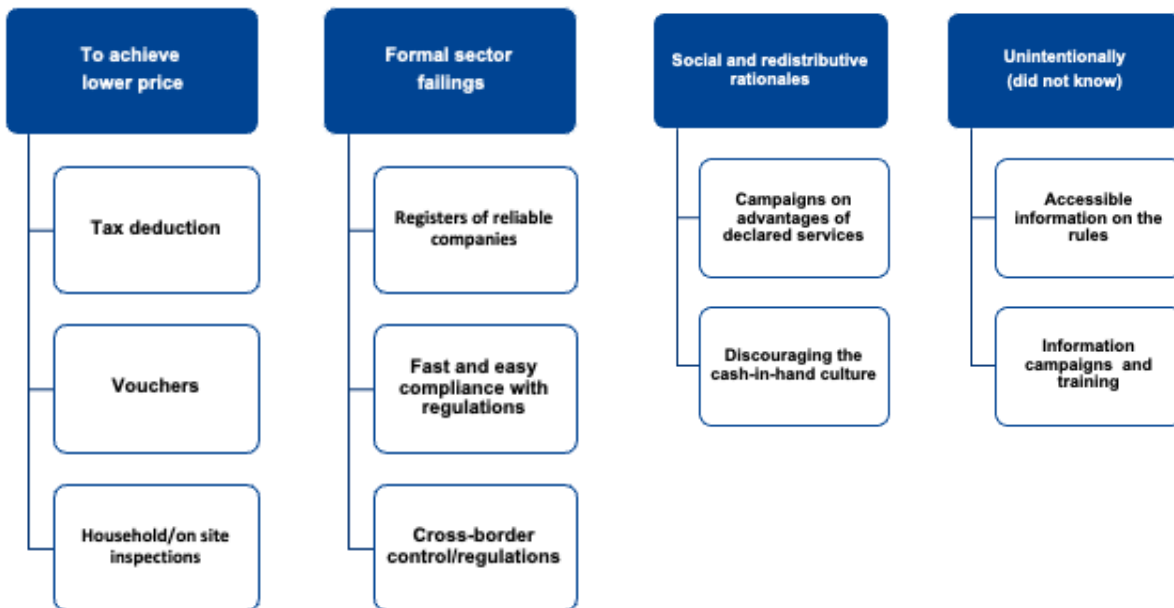
The construction industry in the EU is facing challenges arising from COVID-19 and Russia's invasion of Ukraine, resulting in a shortage of workers. Subcontracting and employing third-country nationals can lead to problematic practices that violate working conditions and laws. Language barriers can impede the acquisition of information on rights and obligations, but national websites and measures implemented by Member States and social partners can provide assistance. While the EU strives to enforce labour mobility and social security, there is a lack of resources for inspecting violations. Efforts are being made in the construction sector to improve skills and qualifications, recruit third-country nationals, and advertise vacancies through the European Employment Services (EURES). However, challenges persist, including language and cultural differences, limited recognition of qualifications, and skills shortages.

## 5.0 Tackling the demand for undeclared work in the construction and RMI sectors

This section focuses on good practice policy measures to combat the purchase of undeclared work in the construction sector, including RMI, through coordinated operations at both national and cross-border level.

Studies that explore the motives and drivers behind the purchase of undeclared construction and RMI services provide an opportunity to design an appropriate mix of measures, increasing the likelihood of effecting change. Figure 7 aligns specific motives with possible tools and measures to tackle them. The linkage between reasons and policy tools is indicative only, and specific measures may serve multiple purposes.

**Figure 7 Matching motives and measures to tackle the purchase of undeclared work in the construction and RMI sectors**



Tax rebates, home renovation incentives, controlled intermediating between the consumer and providers, and awareness-raising are examples of **preventive measures** to address the demand side of the undeclared work. These measures can work, but attention needs to be paid to their parameters. For instance, to ensure a positive cost-return ratio, tax rebates should be easily accessible and precisely calibrated for effectiveness (Williams, 2019). A number of case studies presented at the seminar illustrate some of these measures:

The **Swedish case** on decreasing the labour costs by tax rebates allows tracking of the demand for undeclared work in the RMI sector. In Sweden, the domestic services sector, including home repairs, cleaning, and home maintenance, has traditionally been a sector where work is largely undeclared. The Swedish government introduced a **tax rebate on household services (RUT)** and **tax relief on home repair and maintenance (ROT)**:

- ▶ RUT is a solution for combating undeclared work, particularly in the cleaning sector for individuals (business to consumer (B2C)). Its aim is to make certain services, such as cleaning, maintenance, and moving services, more affordable on a declared basis. This initiative has been in place since 2007 and offers a 50% deduction on labour costs up to €7,500 per year.
- ▶ The ROT package for the construction industry in the areas of repairs, conversions, and extensions has been available since 2008 and is, like the RUT, designed to encourage declared domestic work and combat undeclared work in these areas. The package is accessible to the owners of houses or apartments over the age of 18, who can enjoy a 30% deduction on labour costs of such services up to €5,000 per year.

Every year, the Swedish Tax Agency processes around six million applications for RUT and ROT, resulting in a total pay-out of approximately €2 billion. Customers who use these services can receive the same deduction on their income tax return. However, in order to be eligible for this deduction, customers must first pay taxes.

**The Swedish Tax Agency has various opportunities to identify and stop undeclared work activities in their early stages.** This includes monitoring invoices from customers, subcontractors, and purchase of materials, as well as payments made at all stages. They can monitor employees and bookkeeping to ensure



declared work, as well as verifying that the people doing the actual work are business employees. They can compare the business's declared turnover with amounts received from the Swedish Tax Agency each month or year.

The Swedish Tax Authority's efforts have had several positive outcomes:

- ▶ Decrease in undeclared work: between 2005 and 2011, there was a 10% (approx.) reduction in the prevalence of undeclared work within the eligible job categories subject to deductions, including in the RMI sector. In particular, 6% of individuals who purchased repair and maintenance services admitted that they would not have proceeded with the work if they did not have the opportunity to claim a deduction. This translates to 44,000 jobs or approximately 2.6 million working hours (Swedish Tax Agency, 2011).
- ▶ Change of behaviour: there has been a decline in the social acceptability of purchasing undeclared domestic services. A survey conducted by the Swedish Tax Authority confirmed that 9 out of 10 participants expressed disapproval of buying repair, maintenance, and cleaning services without proper declaration. This highlights a diminishing legitimacy for such practices (Swedish Tax Agency, 2011).
- ▶ The effective price gap between declared and undeclared work has narrowed, making it less profitable to use the latter.

Like the Swedish tax rebate for domestic work, **Finland introduced the Domestic Help Credit**, with slightly different settings. The evaluation of the measure brought valuable lessons to improve the policy (see Box 1).

#### Box 1. Finnish tax credit for household expenses

**The Finnish tax credit for household expenses, known as the Domestic Help Credit, aims to address the demand for undeclared work in the RMI sector.** The tax credit system in Finland was established in 2001 to foster formal employment and combat undeclared work in domestic services. It applies to various personal household services, as well as RMI activities such as renovation and home repairs, and installation and maintenance of specified technology in homes.

Individual taxpayers may be eligible for a tax credit for home repairs, improvements, and renovations (excluding new buildings) of up to €2,250 per person from 2022 to 2023. The credit is only granted for a portion of the total expense paid for the work and can be claimed for 40% of the payment made to a company, or 15% of wages paid to a directly hired employee, plus any employer contributions. For household work, nursing and care, and work on replacing oil heating, the credit is €3,500, 60%, and 30%, respectively. The credit is deducted from taxes, not taxable income, and is not available to construction companies.

In 2021, 472,000 credit applications were granted, out of almost half a million applications to 23,000 companies. The credit's purpose is to combat the grey economy by verifying the legitimacy of companies against tax administration data. Customers must verify pre-payment registration before ordering, in order to ensure company validity. Despite potentially higher prices, customers choose to work with a receipt for added warranty and benefits.

Findings from the evaluation study by the Grey Economy Information Unit may contribute to improve the tax credit system:

- ▶ Companies with a significant portion of revenue from credit-related work have a lower risk, but this is not the case for occasional or minor credit-related work;
- ▶ Companies not involved in credit have the same risk as those that are;



- ▶ The credit system is prone to misuse, leading to losses of 5-7% of the total credit amount per year;
- ▶ The system may be improved through mandatory reporting on workers, a separate registry for companies, or adopting a service voucher model;
- ▶ Political will is necessary for the development of the credit system.

Among further policies are various incentives to use only regulated, reliable, quality RMI services. This might be achieved by state or professional association established registers, and vouchers that offer tax relief or cost subsidies.

**The Home Renovation Incentive (HRI) scheme in Ireland** is a specific government initiative that encourages homeowners and landlords to engage registered contractors by offering tax incentives for qualifying home renovation and improvement works. Under the HRI scheme, homeowners and landlords can claim tax relief on qualifying expenditure incurred for home renovations and improvements. The relief is granted at a rate of 13.5% of the eligible expenditure and is provided as a tax credit. Examples of qualifying works include: painting, decorating and tiling; plastering, plumbing and rewiring; bathroom upgrades; fitted kitchens; window replacement; extensions and attic conversions; garages, driveways and landscaping; septic tank repair, or replacement insulation. The HRI was implemented in 2014 and closed in 2018. Information on the impact is not available. Nevertheless, the initiative might be an inspiration for other stakeholders (Revenue, 2023).

To prevent the purchase of undeclared RMI services, voucher systems are implemented as an additional measure. This system requires companies to pre-register and meet all necessary criteria before becoming part of the voucher system. In future, the registration process may also include workers employed by these companies and customers who use RMI services. A comparable system is already in place for personal and household services, which includes some repair services.

**The Universal Service Employment Voucher (CESU) in France is a preventive incentive in personal and household services, that is also applicable for RMI services.** The voucher system facilitates the employment of domestic workers and provides a simplified framework for paying their salaries and social security contributions. The CESU promotes legal and formal employment in the domestic service sector, including household RMI services. CESU provides incentives to individuals/households using RMI services to declare workers.

This system is in operation since 2006, following earlier systems introduced in the 1990s. The benefit for the service user (employer) is simplified administration, without the need to calculate contributions and deductions and without issuing pay slips. Declarations can be made with a few clicks and within a guaranteed simplified procedure. The employer obtains 50% tax credit, while the worker benefits from guaranteed social security and protection in case of illness or accident. The worker is paid a salary directly to their bank account. The benefit of this system is also visible in statistics – in the 10 years following its introduction, the CESU system yielded a significant drop in undeclared work in the personal and household services sector.

The voucher system has effectively boosted formal employment in France's domestic services industry, including RMI services, by generating new job opportunities and bringing previously informal arrangements into the formal realm. According to a 2010 report, the prevalence of undeclared work in the sector decreased from 40% in 2005 to 30% in 2010, resulting in a 10-percentage point (pp) reduction in the overall volume of informal labour. One-third of the newly registered service consumers were households using these services for the first time, with two-thirds of these newly registered consumers previously employing individuals through unofficial channels (Impact, 2015).



Another example of a preventive measure targeting demand for undeclared services in the construction industry is **Ireland's Voluntary Construction Register (VCR)**<sup>15</sup>. Supported by the government, VCR is an online register of competent builders, contractors, specialist subcontractors and tradespeople who undertake to carry out construction works. Its objective is to be recognised as the primary online resource for consumers in the public and private procurement of construction services. When engaging a VCR-registered construction entity, consumers can be confident that they are dealing with experienced people. VCR standards are high, and only construction companies, sole traders and builders meeting strict eligibility criteria are registered on VCR.

The Construction Industry Federation was appointed the Registration Body for a new Construction Industry Register Ireland in January 2023. It is envisaged that it will become mandatory for builders to join the Statutory Register from 2025 (VCR, 2023)<sup>16</sup>.

The demand for undeclared work needs to be addressed with both preventive and deterrence measures. **Deterrence policies** such as inspections and penalties aim to increase the risks of being detected such that they outweigh the gains of lower price from undeclared services.

Seminar participants agreed that detecting undeclared work in the RMI sector poses particular challenges. Onsite checks are difficult to conduct because the work occurs within private homes and national laws prohibit inspectors from entering. Although data mining tools are not effective in identifying undeclared work, the Irish case of households' inspections and data mining to identify RMI services worked and may inspire other countries.

**Ireland developed a successful household inspection model** to tackle undeclared work in the care and personal and household services sector, which might also be applied to RMI services provided in households<sup>17</sup>. Entering homes by inspectors in Ireland is conditional on specific rules:

- ▶ Inspectors may enter any premises at a reasonable time, demand sight of, inspect and take copies of records, remove and retain records, require persons to produce records and interview and require information from any relevant person;
- ▶ Inspections can be announced or unannounced. Evening and weekend inspections tend to be unannounced;
- ▶ An inspector alone or accompanied by other officers can only enter the premises with the consent of the occupier or pursuant to a warrant issued by a district judge;
- ▶ Before deciding to undertake an inspection on a private household, a risk assessment is applied, based on several steps and sources of information. The Labour Inspectorate cooperates with other specific departments to identify the subject of the inspection;
- ▶ Challenges in accessing homes are addressed through giving inspectors the flexibility to carry out investigations offsite, and employees are encouraged to meet offsite for interviews;
- ▶ Inspections in private households are accompanied by preventive activities supplementing and supporting the deterrence measure.

Since its implementation in 2011, a total of 250 private household inspections have been conducted, leading to the identification of 229 contraventions. Approximately 70% of the violations related to working time, primarily the failure to maintain accurate records of the hours worked. Approximately 10% of the violations were linked to

<sup>15</sup> The VCR is the previous Construction Industry Register Ireland (CIRI), which was renamed in January 2023, <https://www.voluntaryconstructionregister.ie/news/>.

<sup>16</sup> VCR, Voluntary Construction Register, 2023, <https://www.voluntaryconstructionregister.ie/about-ciri/>

<sup>17</sup> [https://www.ela.europa.eu/sites/default/files/2022-06/UDW%20in%20PHS\\_%20Learning%20resource%20paper\\_0.pdf](https://www.ela.europa.eu/sites/default/files/2022-06/UDW%20in%20PHS_%20Learning%20resource%20paper_0.pdf)



payslips, 9% to wage payments, mainly involving amounts below the minimum wage, and 7% pertained to employment terms. These statistics describe the reduction of undeclared work based on inspections<sup>18</sup>.

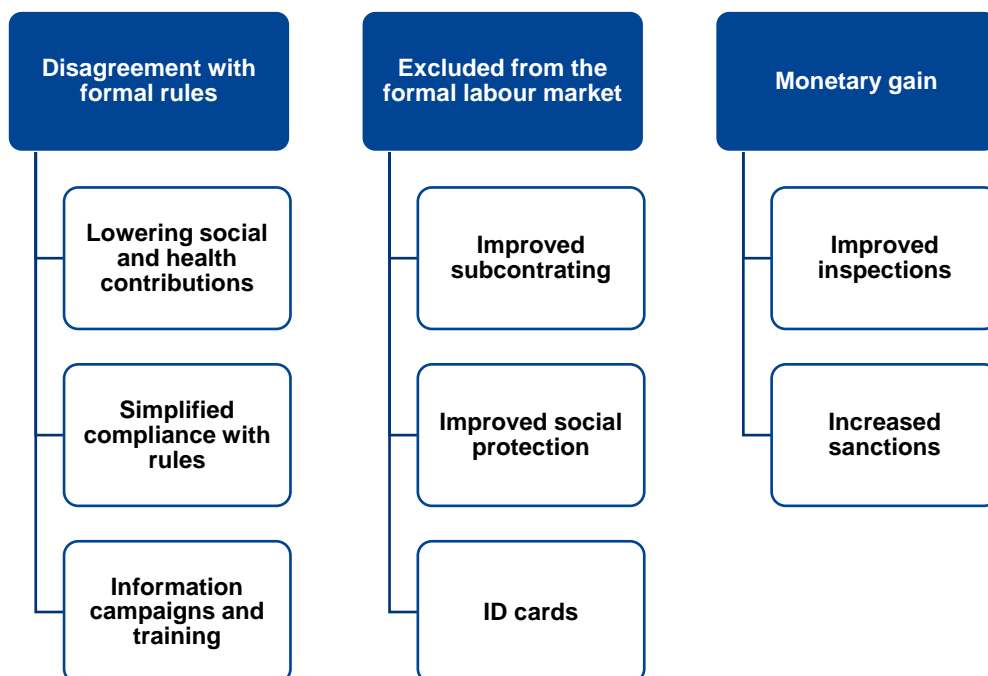
Many buyers have mixed motives for engaging in undeclared work, and seminar participants emphasised the need for a holistic approach and a combination of measures, based on specific individual motivations.

## 6.0 Tackling the supply of undeclared work in the construction and RMI sectors

This section focuses on effective policy measures to address the supply of undeclared work in the construction sector, specifically in relation to RMI services. These measures include deterrence strategies, innovative initiatives to promote declared work, education and awareness campaigns, certification schemes for service quality, utilisation of sharing economy platforms to enhance the reliability of declared services, support and guidance for start-up businesses, notification letters, and coordinated operations at both national and cross-border level.

Figure 8 illustrates the connection between the factors that drive individuals to engage in undeclared work in the construction and RMI sectors, and the corresponding measures taken to discourage such behaviour. It does not encompass all possible approaches, as Member States may employ a wider range of practices in addressing this issue.

**Figure 8 Matching undeclared work drivers and policy approaches**



<sup>18</sup> See: [https://www.ela.europa.eu/sites/default/files/2022-06/UDW%20in%20PHS\\_%20Learning%20resource%20paper\\_0.pdf](https://www.ela.europa.eu/sites/default/files/2022-06/UDW%20in%20PHS_%20Learning%20resource%20paper_0.pdf)





Several good examples of private household inspections, dependent regulations and preventive policies targeting the supply side of undeclared work based on strong and complex cooperation of suppliers and buyers were presented at the seminar.

**The Dutch case suggests that paying attention specifically to the construction sector, supported with sufficient infrastructure, pays off when addressing supply of undeclared work in RMI services.** The Dutch Labour Inspection has broad competence and oversees several interrelated construction regulations. The Fraud Section of the Dutch Labour Inspection ensures compliance with the Minimum Wage Act, the Working and Rest Hours Act, the Foreign Nationals Employment Act (chain liability), the Posted Workers in the European Union Act, the Act on the allocation of labour by intermediaries (employment agencies), and the identification of labour exploitation.

**To combat undeclared work in the RMI sector, it was necessary to establish suitable infrastructure and a dedicated team that focuses solely on the construction industry.** The Dutch Labour Authority has 10 regional teams and five national teams, one of which is dedicated to construction. The national teams evaluate social issues and potential risks, while the construction team has eight inspectors who collaborate with senior management to determine the best approach for each project.

The construction team's work is affected by the EU-wide energy transition incentives, which have led to a higher demand for RMI services, along with a shortage of declared employees to fulfil the demand.

The teams use the following procedure to verify compliance with the law:

- ▶ Based on previous analysis, initiatives and observations of any RMI work in a house, the team undertakes an inspection. If there is work on a roof of a house, the safety department of the labour inspection is notified;
- ▶ According to the Constitution, entering a house is only allowed with the owner's permission. If permission is granted, the team will conduct an inspection;
- ▶ If permission is not given, the team freezes the situation and contacts the Assistant District Attorney to request a written entry order. Only after receiving the order can the team proceed with the inspection;
- ▶ To get an entry order, the team must have indications that work is being performed. No proof is needed.

The team ensures that all Dutch Labour Inspection regulations are being followed. For example, the teams check the hours employees work per week and any related risks to their health and safety.

Business owners must comply with the Foreign Nationals Employment Act to avoid penalties for hiring contractors who employ undeclared workers. All parties involved should verify employment authorisation before beginning work. Failure to do so can result in fines of up to €4,000 per employee. The Labour Inspectorate enforces fair treatment of employees and punishes illegal labour practices.

**The Danish Working Environment Authority (WEA) inspects private households where RMI work is being carried out, in accordance with specific legal provisions.** The Danish Working Environment Act applies to work done for an employer, with the exception of work done in the employer's private household or exclusively by the employer's family members who live in the same household. However, certain provisions of the Act (known as the extended area) also apply to these exceptions and to work done by self-employed individuals. These provisions cover regulations on work performance, use of technical equipment, and handling substances and materials.

Employees of the WEA are authorised to visit both public and private workplaces without requiring a court order, as long as they can prove their identity and the visit is necessary to fulfil their duties. If needed, the police can



provide assistance. However, this rule does not apply to non-commercial activities carried out by individuals in their private homes, holiday homes, surrounding land, vehicles, recreational vessels, or other movable properties.

The inspection process follows the same procedure as inspections in a company. For inspections in private homes, residents must have a letter of notification from WEA detailing the reasons for the inspection. When residents are present during the inspection, they will be informed of the purpose of the inspection and provided with the notification letter. However, if the resident is absent, the notification letter will be left in the mailbox or a similar location. According to Williams (2019), targeted and tailored notification letters should be designed to facilitate compliance while ensuring ease of understanding. The latest data show 7,664 inspections undertaken in the fight against social dumping in 2022, resulting in 4,322 decisions. It is also important to publicise the outcomes of these inspections.

**The French case presented an example of how the state and enforcement authorities can cooperate to build a complex preventive strategy to avoid undeclared work.** This is an effective method for dealing with the limited resources of labour inspectorates during large-scale construction projects.

### Box 2. France's preventive strategy before the Olympic Games 2024

A preventive strategy was implemented on construction sites across Paris in France before the upcoming 2024 Olympic and Paralympic Games. The project involved 29 different construction owners and took place at 39 construction sites. The preventive strategy was based on the experiences from the London 2012 Olympic Games, which were presented in 2019 by the European social partners (EFBWW FIEC, TUWIC project<sup>19</sup>).

The preventive strategy was designed jointly by the project consortium, consisting of the project owner SOLIDEO, the association of private and public construction owners, social partners and state enforcement authorities. The two trade unions, the labour inspection of the Directorate-General for Labour (DGT) and the inspection for the territorial units of Paris were also involved, ensuring the best results for the project.

The strategy had three clear objectives and related activities:

- ▶ To provide project owners with tools and to raise awareness on subcontracting, health and safety, and posting rules to ensure effective duty of care. These meetings were repeated throughout 2020-2023 for everyone to know the rules;
- ▶ To ensure that the duty of care was respected in the market. This goal was unmet for various reasons interconnected with COVID-19 restrictions and other barriers;
- ▶ To design easy-to-use information tools for posted workers and companies before the recruitment and during the working phase, which the DGT piloted in conjunction with the social partners.

Cards were produced for posted employees and for companies planning to employ posted workers. The cards were translated into five languages, with QR codes that linked to the Ministry of Labour website, where the rules on posting were specified and updated. The distribution of the cards followed a thoughtful strategy: 15,000 cards were given to trade union organisations to hand out at roadshows and meetings, and 3,500 cards for the Labour Inspectorate to hand out during on-site inspections. At the same time, the Olympic Games Organising Committee and SOLIDEO signed a social charter with the social partners.

<sup>19</sup> The outcomes of the TUWIC project, including the video, is available at: <https://www.fiec.eu/our-projects/completed-projets/tuwic>.





A specialised inspection unit for large construction sites was established, with regional and local-level specialised inspectors at their disposal. Since the project began, 2,800 labour inspection interventions have been carried out on the Olympic working sites.

Impact and initial lessons:

The French authorities knew that they did not have enough inspectors and that they needed strong and effective prevention and enforcement actions to manage the mass event;

- ▶ The number of posted workers was 2,950, which was not as high, as expected as the local labour force was trained and the pool of unemployed people requalified;
- ▶ State authorities took substantial action, in conjunction with professional associations, offering training sessions for workers. Low-qualified young workers from north Paris were trained, with the prospect of staying in the construction sector after the Olympics;
- ▶ As part of the social charter, trade union organisations were given the opportunity to hold information sessions for employees at the most important sites, such as the media village and athletes' village;
- ▶ No fatal accidents occurred;
- ▶ Since work began, 52 worksites received stoppages temporarily, and 118 employees were removed from an imminent risk of falling from a height.

Limitations and challenges<sup>20</sup>:

Illegal work was identified on Olympics construction sites, despite efforts to prevent it. Some of the workers lacked the necessary documents and residence permits, as reported by the trade union federation CGT. In 2021, the public prosecutor's office began investigating allegations of unreported work.

In June 2022, a lawsuit was filed by 10 workers against construction companies and subcontractors. The public prosecutor's office is investigating allegations of undeclared work and hiring undocumented foreigners by an organised gang. The workers, who have then been officially hired, are reporting mistreatment, demanding payment for unpaid wages, recognition of unjustified dismissals, and accountability for irregular labour.

Since 2022, the Anti-Corruption Agency is investigating alleged favouritism in contracts with Solideo.

**The Italian experience with inspections on building sites is closely linked to the authority of labour inspectors to access workplaces.** The legislation and its application play a crucial role in this regard.

In Italy, labour inspectors have specific powers when it comes to accessing workplaces, and it is important to understand the limitations of these powers as outlined in both legislation and case-law. One relevant case is decision 502/2022 from the Court of Appeal of Lecce, which pertains to building sites and other work environments. Exploring the relationship between a 'workplace' and a 'private residence' is also essential to fully understand the scope of these powers.

**The legislation establishes key principles on the rights of labour inspectors to visit workplaces.** Inspectors are allowed to visit all areas of the workplace, including laboratories, factories, building sites, and any dormitories or refectories connected to the workplace. This right of access extends at any time of day or night. Inspectors may also access places other than private residences. However, they must refrain from entering premises attached to workplaces that are not associated with business activities.

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<sup>20</sup> Breaking Latest News (2023a, 2023b).



Decision 1267/2020 states that 'inspection powers' cannot be applied to private residences. A recent court ruling clarified that ***a building site is not considered a private residence, even if it is privately owned, but, rather, is considered a public area due to potential oversight by municipal and law enforcement bodies.***

The Court of Appeal of Lecce upheld the validity of administrative sanctions for undeclared work, even if a building site is regularly monitored. There are conflicting court decisions on the admissibility of video evidence obtained by police officers on construction sites. This raises concerns about the use of video cameras in other workplaces.

In another case, an employer operated their business from a private home, but a qualified employee was able to refuse access to labour inspectors. The inspectors imposed a fine for 'impeding the exercise of supervisory powers', but the employer argued that they needed authorisation from the public prosecutor to enter the premises.

A recent court ruling (1111) states that a company's operations may be hindered if its headquarters are located near a private home, and access is denied by the homeowner. Compliance with the law is not easily achievable in such cases. In 1971, the Italian court ruled that private residences are protected, but regulations can allow labour monitoring and inspection with probable cause.

To summarise, in Italy, labour inspectors cannot access private residences unless there are court decisions interpreting the law to prevent employer circumvention. **The nature of the workplace and guarantees for employees must be considered when privacy is at stake.**

Policies aimed at changing the norms and values that contribute to or sustain acceptance of undeclared work include initiatives such as the European Commission's 2020 #EU4FairWork awareness-raising campaign. All 27 Member States, as well as the EU-level social partners, are fully participating in this campaign. As part of the #EU4FairWork campaign, the EU-level social partners in the construction industry, namely the European Federation of Building and Woodworkers (EFBWW) trade union and the European Construction Industry Federation (FIEC) employer association, are running an awareness-raising campaign. Their message 'say no to undeclared work' focuses on the benefits of operating on a declared basis.

## 7.0 Holistic policy approach to tackle undeclared work in the construction and RMI sectors

Several Member States take a combined approach to combat undeclared work in the construction and RMI sectors by implementing measures that address the demand and supply for undeclared work. Romania is one example, where the Builder's Social House implements **several extraordinarily complex policies** using security incentives to encourage declared work in the construction sector.

**The Builder's Social House is an organisation representing employers and employees in the construction sector.** It promotes employee safety, offers vocational training funds, and lobbies for legislation that benefits the construction industry workers during emergencies.

Several previous projects targeted various aspects of the construction sector in Romania. Project CALE (2008-2011) analysed Romanian legislation, European directives, construction sector development, and workforce qualifications. It was affiliated with international bodies for best practice exchange, with co-financing from the European Social Fund. The European market environment in the construction sector project studies the impact of



COVID-19 on the movement of construction workers. Its goal is to recommend policies that protect posted workers during pandemics and similar risks.

Undeclared work remains an issue, with 'envelope wages' used to avoid social insurance contributions. SMEs engage in work without contracts to save on wages, and additional work is often performed without payment or formal procedures. That means that work is registered as part-time but, in fact, is full-time.

To address undeclared work practices, a range of strategies are in place. Education and awareness campaigns are being conducted for workers and employers, involving all social partners. Workers are encouraged to join the Builders' Social Fund (CSC) by educating them about the benefits of membership and social protection. The proposal of a mandatory social identity card for construction workers is also being considered.

**Targeted campaigns and projects are implemented to highlight the benefits of social dialogue and social protection.** National companies work with social partners to train workers on issues related to the fight against undeclared work. Flyers in multiple languages are used in awareness-raising campaigns.

Additional policies support the fight against undeclared work. Fiscal facilities are offered to construction companies that achieve a turnover from construction sector activities within the limit of at least 80% of total turnover, with employees earning wages under RON 10,000 (approximately EUR 2,000). New legislation stipulates a minimum gross salary of RON 4,000 per month (approximately EUR 800) at national level for employees in the construction sector, compared to RON 3,000 (approximately EUR 600) in general.

**Social protection is key in addressing undeclared work.** For employees, it means having a stable and secure workplace, maintaining their employee status with associated rights and tax benefits, and receiving professional training. For employers, social protection means retaining and maintaining a skilled workforce, ensuring business continuity, and saving on wages. It also provides benefits to investors, ensuring work and investment continuity, as well as safety and quality guarantees.

Efforts to combat undeclared work in the Romanian labour market aim to reduce it by about 2.2 pp annually, starting from 14.5% in 2022 until it reaches 5.8% in 2026. There is also a plan to reduce the underground economy by 0.03 and 0.026 pp annually in the short and long term, respectively. The goal is to decrease work accidents in the construction sector by 15%, from 48 to 39 accidents per year per 100,000 employees, and to reduce the incidence of work accidents from 7.65% to 5.61% by 2026. These efforts will impact investments in the construction sector, contributing EUR 23.6 million to the state budget.

Cyprus faces challenges such as irregular immigrants, undeclared workers, unregistered salaries, and unfair competition. The island's location and the buffer zone complicate the Labour Inspectorate's work. Many people from different countries, especially Asia and Africa, enter the country illegally, providing cheap and undeclared work while claiming benefits from the government and Europe.

The country has specific regulations for the construction industry, including essential employment terms outlined in the Construction Industry (Basic Terms of Service) Law of 2020. Implemented in 2020, this law covers working hours, overtime, holidays, provident funds, and gratuities. Construction sites are required to maintain a daily log of individuals entering and leaving, which inspectors may review upon request and report any issues to the Minister.

**Cyprus has implemented complex techniques and strategies to combat the demand and supply of unreported employment in the construction sector.** The Ministry of Labour and Social Insurance has been fighting undeclared work for 10 years, establishing the Labour Inspectorate and conducting 6,000 inspections annually, enforcing 30 labour laws. The Social Insurance (Amendment) (No.2) Law of 2017 defines undeclared work as 'insurable employment not reported to the social insurance services'. The Labour Inspectorate collaborates with government departments like tax, welfare, and customs for joint inspections.



Hiring undocumented workers can result in fines of €500 per employee per month of violation. Employers must provide proof of legality within five days of hiring or face a €3,500 fine. Employers with 10 or fewer insured employees can be fined up to €10,000. Early payment can result in a 30% reduction in fines, while late payment incurs a €50 daily fee. Two fines within two years may lead to a 48-hour suspension of operations.

Regular efforts are made to combat undeclared work, with details on monitored areas shared on social media. A hotline is in place to report violations. During inspections, employees must wear a bracelet and be checked through the social insurance system. Based on the findings, a risk assessment process, and reported cases, **inspection results are published at the end of each month**. Undeclared work has decreased from 25% in 2009 to 10% in 2022, and the goal is to continue minimising it.

## 8.0 Social partners' perspectives

Social partners, social bargaining, and collective agreements play pivotal roles in preventing and tackling undeclared work in the construction and RMI sectors. FIEC is one of the main social actors in the sector, comprising 32 national member federations from 27 countries, including construction enterprises of various sizes. FIEC collaborates with EFBWW to improve working conditions, promote safety, and exchange best practices. Some recent projects and initiatives undertaken by FIEC include:

- ▶ The EU-funded TUVIC project (2018-2020), which focused on social dialogue and involved employers, trade unions, and authorities across seven Member States. It resulted in the production of a toolkit with best practices for addressing undeclared work in construction.
- ▶ In 2015, a study funded by the EU explored the implementation of sector-specific social identification cards (EFBWW and FIEC, 2015).<sup>21</sup> These cards contain electronic data certifying workers' specific qualifications and training. Thirteen countries were assessed, with nine already having an existing scheme and four intending to establish one. Key challenges identified included mutual recognition mechanisms and General Data Protection Regulation (GDPR) compliance.

The Sectoral Social Dialogue project, funded by the EU and spanning 2023 to 2025, starts with mapping and assessing existing schemes. Employers then aim to reduce administrative burdens, while trade unions seek cross-border enforcement of rights, protection of mobile workers, and reinforcement of labour inspection.

FIEC also examines the potential benefits of reducing VAT for the construction industry. Current EU laws permit Member States to apply a lower VAT rate for services related to housing construction, renovation, and alteration as part of their social policies. This rate can also be applied to repairing and renovating private homes, excluding materials. However, only a few Member States have implemented this provision.

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<sup>21</sup> Briganti, F., Machalska, M., Steinmeyer, H-D and Buelen, W. (2015). [Social identity cards in the European Construction industry](#), EFBWW/FIEC, Brussels.



## 9.0 Conclusions and learning outcomes

### State of play and challenges

- ▶ The construction industry in the EU plays a vital role in economic growth, infrastructure development, urbanisation, job creation, sustainability, and regional cohesion. It catalyses progress, supporting the EU's objectives and contributing to the well-being of its citizens.
- ▶ However, the sector faces challenges, such as fatal accidents related to undeclared work and market fragmentation. Addressing these challenges requires focusing on safety standards and education, and fostering collaboration and standardisation within the industry.
- ▶ The construction industry is significant in terms of employment and GDP but is experiencing a shortage of workers across the EU. The COVID-19 pandemic and conflict in Ukraine have worsened the labour shortage, causing workers to shift to other sectors and losing the usual labour supply not only from Ukraine (most men are not allowed to leave), but also from Belarus and Russia.
- ▶ The industry commonly uses subcontracting and temporary work agencies and employs many third-country nationals and cross-border workers.
- ▶ The organisation of construction work can facilitate letterbox companies, non-compliance with working conditions, bogus self-employment, fraudulent PD A1 forms, and illegal employment of third-country nationals.
- ▶ Policies tackling undeclared work face a low level of workers' awareness of their rights in relation to posting and mobility; in the case of longer supply chains, this situation is even more unfavourable.
- ▶ Member States can rely on various types of regulations for addressing most types of undeclared work in the construction and RMI sectors, at EU or national level.

### Size and drivers of undeclared work

- ▶ 3% of consumers admitted to purchasing undeclared RMI services in the last 12 months, with regional and cross-national variations. Men, older individuals, self-employed individuals, those who are single or living with partners, and individuals facing financial difficulties were more likely to engage in such transactions.
- ▶ Based on recent studies, approximately 21% of people engaged in undeclared work in the RMI sector. The estimate suggests that around 0.75% of all European citizens, equivalent to roughly 3.8 million people, have undertaken undeclared home repairs and renovations in the past year.
- ▶ Effectively discouraging the demand for undeclared work requires understanding why people purchase services or work illegally and, based on that, developing or choosing appropriate countermeasures.
- ▶ National and EU policies stimulate improved energy efficiency and environmental aspects, which creates demand for house reconstruction. The RMI sector, however, struggles with labour force shortages, resulting in undeclared demand and supply in the industry.
- ▶ People have various reasons for purchasing undeclared RMI services, not just to save or earn more money. Other motivations include lack of information, social or redistributive motives, and perceived formal market failures. To discourage undeclared transactions, it is essential to incentivise consumers to buy from declared sources and raise awareness about the advantages of doing so. Improving the accessibility and quality of formal services can also help.



- ▶ Workers engage in undeclared work for various reasons. These might be disagreement with the formal rules, exclusion from declared work, or monetary gain. All of the drivers can be addressed with specific deterrence and preventive measures.

### **Lessons learned in general**

- ▶ For enforcement authorities, it is challenging to identify universal 'best' ways to tackle the demand or supply of undeclared work in the RMI sector. A holistic approach is advised, i.e. to use prevention and deterrence measures, engage a variety of actors, give priority to preventive measures. Social partners can play a critical role.
- ▶ Joint inspections in the construction sector have effectively addressed undeclared work and ensured workers' rights and conditions, particularly for posted workers. Inspectorates have inspected construction sites and companies, detected possible infringements, and identified affected workers from multiple countries. The key insights and takeaways from the inspection process highlight the importance of proper preparation, planning, and coordination.
- ▶ To lower the motivation to work or purchase undeclared RMI services for monetary reasons, a cost/benefit ratio change was suggested by providing tax rebates or service voucher schemes that subsidise the cost of using legitimate suppliers.
- ▶ Transparency creates trust and enables positive experiences and impacts of deterrence and preventive measures promoting declared and combating undeclared work.
- ▶ Creating an effective system takes time and requires patience, long-term commitment, and continued political support.

### **Lessons learned from the Member States' practices**

- ▶ The Swedish case on decreasing labour costs through tax rebates allows the tracking of demand for undeclared work in the RMI sector. The Finnish tax credit for household expenses effectively addresses the demand for undeclared work in RMI services.
- ▶ Various voucher systems were represented by the CESU in France, which is a well-known preventive incentive in personal and household service that also applies to RMI services.
- ▶ It is recommended to facilitate the process of finding formal sector suppliers and where suppliers can advertise services. Ireland's HRI scheme encourages homeowners and landlords to engage registered contractors by offering tax incentives for qualifying home renovation and improvement works. Additionally, renovations in private homes may be reported to the municipality.
- ▶ The problem of inspecting private homes undergoing RMI work has been overcome in several Member States. For example, the Danish WEA uses private household inspections to tackle undeclared purchases of RMI, in accordance with specific legal regulations.
- ▶ The Dutch example confirms that paying attention specifically to the construction sector, supported by sufficient infrastructure, yields results in addressing the undeclared supply of RMI work.
- ▶ France presented an example of how the state and enforcement authorities can build on a complex preventive strategy to avoid undeclared work through cooperation. This is an effective method for dealing with the limited resources of labour inspectorates during large-scale construction projects.





- ▶ The Italian experience with inspections on building sites is strongly interrelated to the power of labour inspectors to access the workplace. The legislation and its application play a critical role here.
- ▶ Romania's Builder's Social House implements several complex policies, including using social security incentives to encourage declared work in the construction sector.
- ▶ Social ID cards are in use in several Member States in the construction sector, but questions remain as to the extent to which this can also be transferred to RMI services.
- ▶ Despite the aggravated circumstances of the buffer zone for irregular immigrants, Cyprus has developed techniques and strategies to combat both aspects of unreported employment in the construction sector.

#### Lessons learned from social partners' initiatives

- ▶ Priority should be given to preventive measures over deterrents. Undeclared RMI work (on both supply and demand sides) must be tackled holistically. Social partners could lead on developing tailored awareness-raising campaigns.
- ▶ Social partners, social bargaining and collective agreements might have significant role in preventing and tackling undeclared work in the construction and RMI sectors. FIEC is one of the leading social actors in the sector, advocating for sector-specific social identification cards and reducing VAT.
- ▶ Collective agreement and a higher sectoral minimum wage can lower workers' disagreement with the formal labour market rules and increase their social security in declared work, helping to combat undeclared work.
- ▶ Other forms of cooperation with social partners can be beneficial, for example joint campaigns (including at EU level), as shared by the EU-level social partners FIEC and EFBWW.
- ▶ To increase workers' awareness of their rights, unions developed a single-point website on posting workers in the construction sector.



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# Annex

Relevant EU-level legal framework related to the construction sector.

As part of the free movement of services, **construction companies have the right to temporarily send (post) their workers abroad** in the framework of service contracts obtained in other Member States. This is regulated by **Directive 96/71/EC** (Posting of Workers Directive), amended by **Directive 2018/957/EU**, and the **Directive 2014/67/EU (Enforcement Directive)** (together, the Posting Directives). Temporary agency postings and intra-group postings are also governed by these pieces of legislation.

The Posting Directives were adopted to ensure that construction workers **posted abroad for a limited period of time** (usually up to 12 months) are protected in terms of their working conditions, including remuneration, to address possible social dumping and to guarantee fair competition between construction businesses in the host Member States. The Posting Directives determine that **the national labour legislation** (adopted by law of universally applicable collective agreements) **of the host Member State applies to posted workers** in a wide range of matters (e.g. remuneration, including overtime rates, maximum work periods and minimum rest periods, minimum paid annual leave, conditions of labour outsourcing, including through temporary work agencies, health and safety at work, conditions of the workers' accommodation where provided by the employer to workers away from their regular place of work, and allowances or reimbursement of expenditures to cover travel, board and lodging expenses for workers away from home for professional reasons).

The posting period can be extended to 18 months upon a motivated request from the construction company. When a posting exceeds 12 months, **all terms and conditions of employment of the host Member State become applicable, except for** the provisions on the termination of the employment contract, non-competition clauses and supplementary pension schemes. **Temporary agencies that are posting workers abroad must apply the terms and conditions of employment of the host Member State as if the posted worker were directly recruited by the user undertaking** in the host Member State. **Member States are obliged to publish the information on the terms and conditions of employment on one single website in an accessible way.**

The **EU posting rules apply equally to third-country nationals** posted from one Member State to another in the construction sector and no work permits may be required by the host Member State. However, in certain situations, especially for periods of posting exceeding three months, the host Member State may require a visa or a Blue Card from the third-country national as a proffer of their lawful stay on their territory.

The EU posting rules determine that **only companies that are legally established in a Member State** and pursuing construction activities for an indefinite period of time through a stable establishment in that Member State can make use of the posting mechanism. Companies must perform substantial activities in the Member State of establishment other than purely administrative or management services. These rules were adopted to tackle **letterbox companies** and fraudulent practices.

Finally, the EU posting legislation allows host **Member States to require companies** established in other Member States to notify them by means of **posting declarations** prior to the commencement of the construction services. These posting declarations contain information on the identity of the service providers, number and identity of posted workers, duration of the posting, contact person and location of the workplace. Member States can impose certain obligations on the construction companies that have posted workers to their territory, such as the obligation to maintain employment contracts, pay slips and time sheets, and to translate them into an official language of the host Member State. Member States are also required **to provide mutual assistance and to exchange information on reasonable request** from other Member States.



Member States may take appropriate measures to set up **systems of joint and several liability applicable to subcontracting chains**, in accordance with the provisions of the Enforcement Directive. This mechanism allows posted workers to hold the contractor of which their employer is a direct subcontractor liable for payment of outstanding net remuneration or social security contributions. Member States can adopt more stringent rules extending the scope to other sectors, the entire chain of subcontracting, or other conditions of the Posting Directive.

The **social security affiliation** of construction workers who work consecutively or alternately in different Member States and/or in Member States other than their place of residence is governed by the provisions of **Regulation (EC) 883/2004** and its **Implementing Regulation (EC) 987/2009** on the coordination of social security systems for mobile workers. The EU legislation determines that **only one national social security legislation** applies in cross-border situations, which, in principle, is the law of the Member State where work is performed (*lex loci laboris* principle). One of the main exceptions is situations of posting: **posted workers remain subject to the social security legislation of the sending Member State** during their posting periods. This also implies the submission of the employer to this social security legislation, including for the payment of contributions.

There are important conditions, however: the posting may not exceed 24 months, the posted worker may not replace another posted worker, the posted worker must have been submitted to the legislation of the sending Member State prior to the posting, the employer must pursue substantial activities in the sending Member State (no letterbox companies) and there must be an organic link between the posted worker and the sending company during the posting period. By virtue of **Regulation (EU) 1231/2010**, the **EU social security coordination rules apply equally to third-country nationals** who are legally residing in the EU and who move to another Member State for work purposes.

In order to **prove the social security affiliation of posted workers**, PD A1 forms are issued by the competent social security institutions of the sending Member State. PDA1 documents are binding on both the institutions and the courts of the host Member State(s). In case of disagreement between Member States on the determination of the applicable legislation, the competent institutions should start a dialogue on this issue, but the PD A1 document remains valid until it has been withdrawn by the issuing institution. Only in cases of proven fraud may the courts of the receiving country disregard the PD A1. However, PD A1 certificates do not have a binding effect on obligations imposed by national law outside the social security area.