



Factsheet¹ on undeclared work – PORTUGAL

March 2023

¹ This is an update of the [2017 factsheet](#)



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1.0 Nature and estimated scale of undeclared work

1.1 Legal definition

In recent decades, Portuguese labour authorities have investigated employers involved in undeclared work and imposed sanctions on them. This has required labour laws that establish legal definitions determining what type of activities are prohibited. Specific legal definitions apply to different facets of undeclared work, as each facet has a different legal treatment.

Under Portuguese legislation ‘employee’ means any person ‘that undertakes, for remuneration, to provide an activity for another or others, within an organisation and under its authority’.² Therefore, a labour relationship exists if work is carried out according to the instructions and under the control of the employer, even if it is undeclared work.

Furthermore, the article 12 of the Labour Code establishes a legal presumption of an employment contract when the party claiming employment proves that certain elements exist.³ Specifically, the existence of an employment contract is presumed when, in the relationship between the person who provides an activity and the other (or others) that benefit from it, some of the following elements occur: a) the activity occurs in a place that belongs to the beneficiary of the activity or in a place determined by him/her; b) the equipment and working tools belong to the beneficiary of the activity; c) the person who provides the activity complies with a specific time to start and finish the work supplied, as determined by the beneficiary; d) an amount is paid to the provider, with a certain regularity, in return for the activity performed; e) the provider performs management or leadership functions in the company. Therefore, if a dispute arises, the undeclared worker or the Labour Inspectorate needs to demonstrate the existence of some of these elements.

In Portugal, the usual sanction is reclassification of the employment relationship, applied from the original starting date of the employment relationship. Furthermore, all rights (e.g., minimum wage, tax and social security contributions) associated with a real contractual relationship are also applied, and the costs must be paid by the employer, as if the relationship had been correctly classified since the beginning of the employment relationship.⁴

The Labour Code provides that the performance of an activity ‘with the formal appearance of a services agreement but according to conditions typical of an employment contract, in a way that might cause injury to the employee or to the State’, is ‘a very serious offence’ (*contraordenação muito grave*).⁵ In these cases, the employee is entitled to all rights that subsist in an employment relationship and a unilateral termination of the agreement by the employer is equivalent to unfair dismissal. In addition, the employer is liable for non-compliance with tax and social security contributions.⁶ Besides, in article 140.1, in relation with article 129, of the Social Security Code ([Código](#)

² Article 11. Labour Code.

<https://portal.act.gov.pt/AnexosPDF/Legisla%C3%A7%C3%A3o%20nacional/C%C3%B3digo%20do%20trabalho.pdf>
accessed 14 September 2023.

³ Article 12. Labour Code, op.cit.

⁴ Williams, C.C., Llobera, M., Horodnic I.A., *Tackling undeclared work in the collaborative economy and bogus self-employment*. European Platform tackling undeclared work, March 2020, p. 59.

⁵ Article 12. Labour Code, op.cit.

⁶ ILO. Regulating the employment relationship in Europe: a guide to Recommendation No. 198. International Labour Office, Governance and Tripartism Department, Geneva, 2013.



dos Regimes Contributivos do Sistema Previdencial de Segurança Social), economic dependence is assumed if more than 50 % of the income of a self-employed person derives from a single undertaking.⁷

Portuguese legislation typifies 'undeclared or under-declared social security contributions'⁸ and 'undeclared work while receiving unemployment benefits',⁹ as well as 'non-declaration of employer status' related to illegal labour supply operations¹⁰ and 'cross-border undeclared work'¹¹ involving 'letter box companies'.¹²

Portuguese legislation also introduced, as of May of 2023, a new crime regarding undeclared work. According to article 106 A of Law n.º 15/2001¹³, the employer that does not notify social security of the admission of workers under the legal terms, within six months following the end of the legally stipulated period, is punished with a prison sentence of up to three years or a fine of up to 360 days.

Furthermore, to tackle undeclared work or bogus independent work, Portuguese legislation introduced article 12 A in the Labour Code, that establishes a legal presumption of an employment contract (a) between a platform worker and the platform, or (b) between the platform worker and the client, when it is proved that certain employment-related elements exist;

Finally, Portugal has introduced a hybrid legal category ('*situações equiparadas*') which is intended to provide dependent self-employed workers with legal rights that would not exist under the legal status of self-employment. In these cases, the legal rules regarding personality rights, equality and non-discrimination and safety and health at work, as well as collective agreements in force within the sector of activity, professional and geographic, are applicable to the situations in which work is provided by a self-employed worker, that, despite not being legally subordinated, is economically dependent on the activity's beneficiary¹⁴.

This also applies to Social Security contribution ('*código contributivo*') where a hybrid category ('*entidades contratantes*') was introduced for the dependent self-employed who, regardless of the purpose or nature of the work done, receive at least 50% of its income from a single contracting party (independently if that is a legal or natural person) in the same calendar year. When the dependent self-employed receives 50% to 80% of its income from the same contractor, the contractor is required to pay 7% of the total sum in Social Security contributions which increases to 10% when the revenue from the same contractor represents 80% or more of the dependent self-employed's income.

⁷ [Circular de Orientação Técnica n.º 1](#), de 28 de março de 2011.

⁸ Article 29. Code of Contributory Regimes of the Social Security System. Código dos Regimes Contributivos do Sistema Previdencial de Segurança Social. Lei n.º 110/2009. Diário da República n.º 180/2009, Series I of 2009-09-16. Consolidated version can be consulted at: <https://diariodarepublica.pt/dr/legislacao-consolidada/lei/2009-34514575> accessed 14 September 2023.

¹⁰ Article 173. Labour Code, op.cit.

¹¹ Article 4 of Act 29/2017. Lei n.º 29/2017, de 30 de maio. Transpõe a Diretiva 2014/67/UE, do Parlamento Europeu e do Conselho, de 15 de maio de 2014, relativa ao destacamento de trabalhadores no âmbito de uma prestação de serviços. Consolidated version can be consulted at: <https://dre.pt/dre/detalhe/lei/29-2017-107094724>, accessed 16 December 2022.

¹² Letterbox companies are defined as companies which have complied only with the bare essentials (e.g. book-keeping, administration) for organisation and registration in a particular country. However, the actual commercial activities are carried out in another country. European Platform Tackling Undeclared Work, Glossary of Terms, October 2018.

¹³ Article 106. General regime for tax offenses. Chapter IV. Reforça as garantias do contribuinte e a simplificação processual, reformula a organização judiciária tributária e estabelece um novo regime geral para as infracções tributárias - Capítulo IV, aprovado em anexo à Lei n.º 15/2001, de 5 de junho, altered by Law n.º 13/2023, 3 of April. The consolidated version can be consulted at: <https://dre.pt/dre/legislacao-consolidada/lei/2001-34474475-47698175>, accessed 14 September 2023.

¹⁴ Article 10. Labour Code op.cit.



1.2 Estimates of undeclared work

Estimates of undeclared work in this section are based on two available sources providing cross-country comparable data: Eurobarometer surveys and the Labour Input Method (LIM) study. Caution is required because of various limitations of the applied methodologies¹⁵.

Examining the extent of undeclared work based on Labour Input Method (LIM) estimates¹⁶ shows that, in 2019, 7.5 % of total labour input in the private sector in Portugal was undeclared (6.6 % in 2013). Therefore, between 2013 and 2019, there was a decline in undeclared work, demonstrating progress in tackling it. The extent of undeclared work in Portugal was lower both in terms of total labour input and of proportion of GVA than the EU-27 average (see Figure 1 below).

According to the 2019 Eurobarometer, 36 % of Portugal's citizens stated that they personally knew someone who worked without declaring all or part of their income (the EU average is 33 %).¹⁷ Moreover, 32 % of respondents stated that all their paid activity was undeclared; 20 % of respondents that some of their paid activity was undeclared, though part their formal job; and 35 % of respondents that some of their paid activity, carried out on their own initiative, was undeclared.¹⁸

The perceived risk of detection was lower in 2019 than in 2007, while the level of horizontal trust worsened over time, being lower in 2019 than in 2007, with the percentage of people having acquaintances undertaking undeclared work having increased.¹⁹ However, engaging in undeclared work became less acceptable in Portugal between 2007 and 2019.²⁰

¹⁵ Undeclared work can be measured both directly and indirectly. Indirect methods are based on the comparison of macroeconomic aggregates (such as national accounts). Direct methods, on the contrary, are based on statistical surveys and have advantages in terms of comparability and detail, but tend to under-report the extent of undeclared work. There is a consensus among both practitioners and academics that a direct approach should be used more to explore the nature of undeclared work in terms of who engages in such work, why they do so, which forms of undeclared work they undertake, and their reasons for doing so. When estimating the magnitude of undeclared work, the consensus is supportive of the use of indirect methods that search for discrepancies in comparable sets of secondary macroeconomic data (i.e. data constructed and/or collected for other purposes). The LIM study is based on the indirect method, whereas Eurobarometer surveys on the direct method.

¹⁶ Franic, J., Horodnic, I and Williams, C.C. *Extent of Undeclared Work in the European Union*, European Labour Authority, Bratislava, 2022.

¹⁷ Special Eurobarometer 498, op.cit., p. 35.

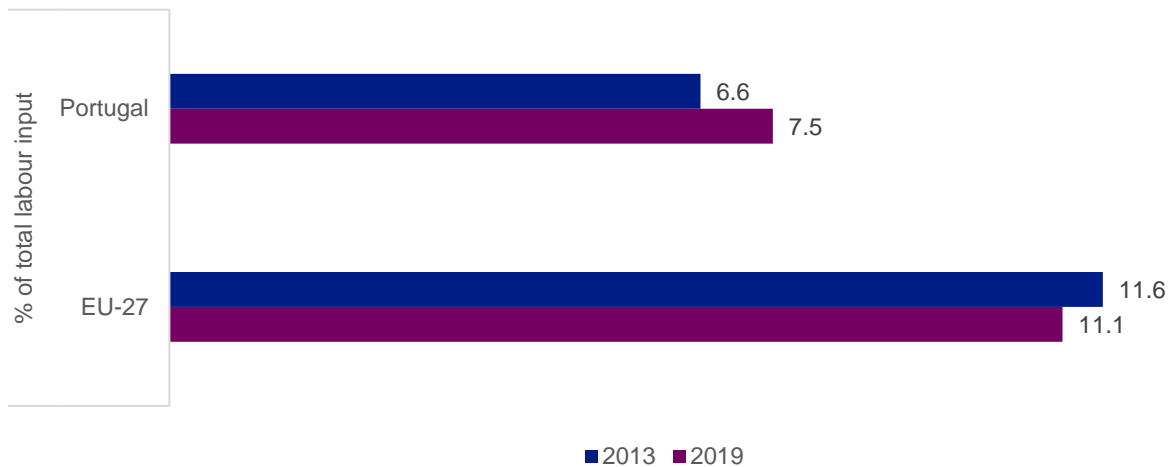
¹⁸ Ibid. QD22., p. T39.

¹⁹ Williams, C. and Horodnic, I. (2020). *Trends in the undeclared economy and policy approaches*. Evidence from the 2007, 2013 and 2019 Eurobarometer surveys, European Platform Tackling Undeclared Work, p. 41.

²⁰ *Trends in the undeclared economy and policy approaches*, op.cit., p. 40.



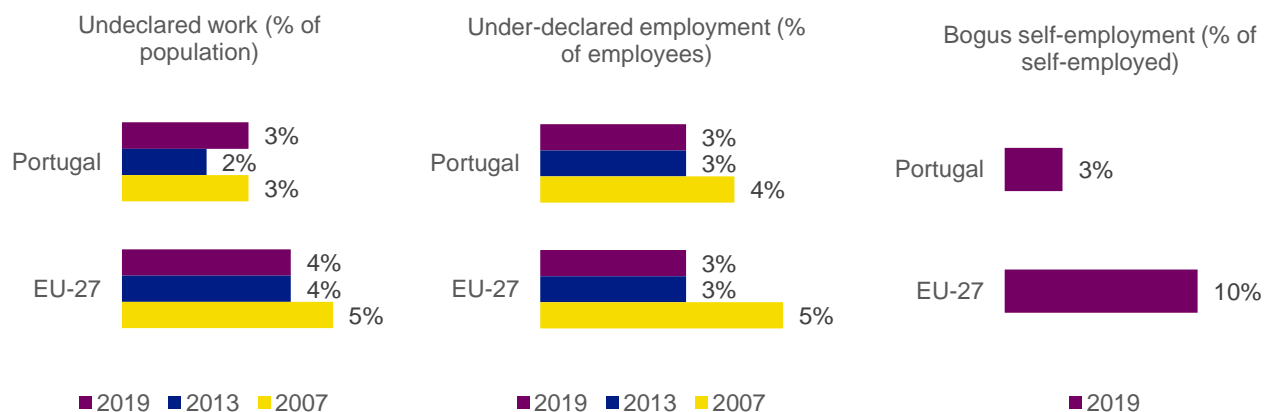
Figure 1. The scale of undeclared work in the private sector in Portugal and EU-27, 2013 and 2019



Source: Franic, J., Horodnic, I.A. and Williams, C.C. (2022), Extent of undeclared work in the European Union, European Platform tackling undeclared work. Figures 3 and 6. Retrieved on 30 November 2022.

The figures below indicate the current state and development of undeclared and under-declared work and bogus self-employment between 2007 and 2019 for Portugal, based on Eurobarometer surveys. It should be noted that this is not a measure of the size of the undeclared economy. It only measures the proportion of the population who have engaged in undeclared work in the past 12 months. In some Member States, undeclared work may be more characterised by small-scale one-off acts of baby-sitting or home repairs and in others such work may be more regular wage employment relationships²¹.

Figure 2. Composition of undeclared work, Portugal and EU-27, 2007, 2013 and 2019



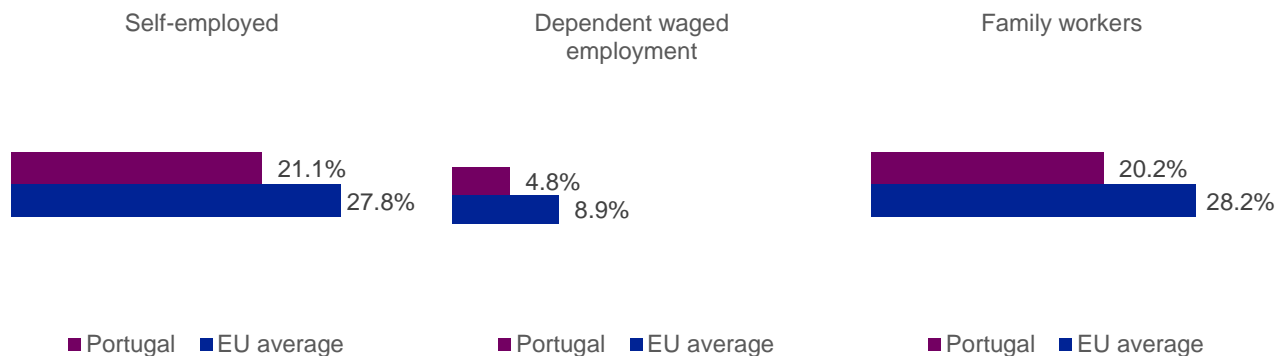
Source: Williams, C.C and Horodnic I.A. (2020). [Trends in the undeclared economy and policy approaches Evidence from the 2007, 2013 and 2019 Eurobarometer surveys](#), European Platform tackling undeclared work. Figure 10. Retrieved on 28 September 2022.

²¹ Williams, C.C and Horodnic I.A. (2020). Trends in the undeclared economy and policy approaches Evidence from the 2007, 2013 and 2019 Eurobarometer surveys, European Platform tackling undeclared work. Figure 10. Retrieved on 28 September 2022.



There are also marked differences in the prevalence of undeclared work in different types of employment relationship. Figure 2 gives a detailed overview of the extent of undeclared work in different types of employment relationship, namely self-employment, dependent waged employment, and family work. Analysing the 2019 Labour Input Method (LIM) estimates²² shows that, in Portugal, 4.8 % of waged employment is undeclared measured as a share of total labour input, undeclared self-employment is 21.1 % (measured as a share of their total labour input), and undeclared family work is 20.2 %²³.

Figure 3. Prevalence of undeclared work in the private sector by type of employment relationship, Portugal, EU-27 average, 2019



Source: Franic, J., Horodnic, I.A. and Williams, C.C. (2022), Extent of undeclared work in the European Union, European Platform tackling undeclared work. Table 2. Retrieved on 30 November 2022.

Analysing the structure of the undeclared labour market in Portugal in 2019 using the LIM estimates²⁴ indicates that waged employment is 53.6 % of undeclared labour input (compared to 62.9 % in the EU-27), self-employment is 45.9 % of undeclared labour input (36.6 % in the EU-27), and family work is 0.6 % of undeclared labour input (0.8 % in the EU-27). Therefore, waged employment is a smaller proportion of undeclared work and self-employment a larger share than in the EU-27.

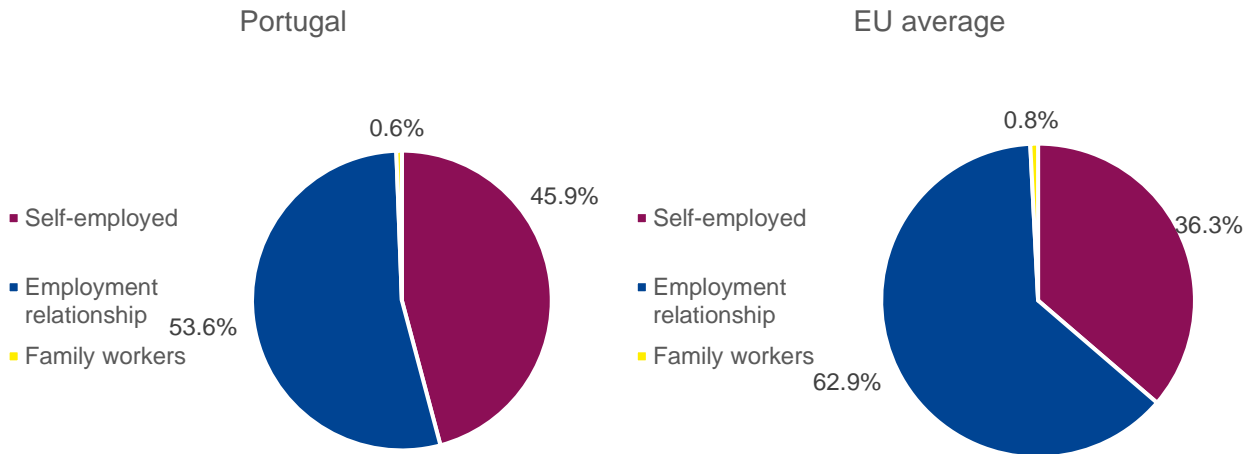
²² Franic, J., Horodnic, I and Williams, C.C. *Extent of Undeclared Work in the European Union*, European Labour Authority, Bratislava, 2022.

²³ This data (taken from the labour force survey), is based on a small sample, which might affect its statistical reliability.

²⁴ Franic, J., Horodnic, I and Williams, C.C (2022).



Figure 4. Structure of the undeclared labour market in the private sector, Portugal and EU-27, 2019



Source: Franic, J., Horodnic, I.A. and Williams, C.C. (2022), Extent of undeclared work in the European Union, European Platform tackling undeclared work. Figure 8. Retrieved on 30 November 2022.

In Portugal, there are some variations in the prevalence of unregistered employment by sector. According to Special Eurobarometer no. 498 (2019), undeclared employment amounts to 25 % in personal and household services (PHS), which mainly impacts women, as they represent almost 90 % of the Portuguese PHS workforce²⁵. In this sector, the relative average of the undeclared wage is close to 80 % of declared average gross hourly rate²⁶.

In order sectors, undeclared employment amounts to: 3 % in agriculture, 15 % in construction, 20 % in hospitality (hotels/ restaurants/ tourism), 7 % in industry and manufacturing, 10 % in retail or repair services (e.g. electronics, car), 3 % in administration, 7 % in education, health and social work, and 21 % in other sectors.²⁷

Respondents also admit to having carried out specific undeclared activities, including: babysitting (3 %), assistance for a dependant or elderly person (7 %), cleaning or ironing (36 %), repairs or renovations (30 %), working as a waiter or waitress (17 %), tutoring (3 %), passenger transport (3 %), helping with a house move (4 %), administrative and clerical tasks or IT assistance (3 %), selling food (e.g. farm produce) (2 %), or selling other goods or services (5 %).²⁸ Moreover, 14 % of respondents stated that some of these undeclared activities were carried out in the collaborative economy.²⁹

²⁵ [Labour Market Policy Thematic Review 2018. Portugal. An analysis of Personal and Household Services to support work life balance for working parents and carers.](#) European Centre of Expertise (ECE) in the field of labour law, employment and labour market policy, p. 11.

²⁶ *An analysis of Personal and Household Services to support work life balance for working parents and carers.* Synthesis Report. ECE Thematic Review. April 2018, p. 45. [https://ec.europa.eu/social/main.jsp?catId=1427&langId=en%20\[accessed%2025/02/2023](https://ec.europa.eu/social/main.jsp?catId=1427&langId=en%20[accessed%2025/02/2023)

²⁷ Special Eurobarometer 498 – September 2019. *Undeclared Work in the European Union.* Report. QD17, p. T32.

²⁸ Ibid. QD18, p. T33-T34.

²⁹ Ibid. QD19, p. T35.



Undeclared work has been found in companies of all sizes. However, considering that 96 % of companies in Portugal are micro-companies, 3.3 % are small companies, 0.5 % are medium-sized companies and 0.1 % are large companies,³⁰ undeclared work in Portugal is more likely to be present in micro-companies.

As for the main drivers of undeclared work, according to Eurobarometer (2019),³¹ respondents point to the social perception that undeclared work is a common practice – whether in a given region or sector of activity (14 %), or among friends, neighbours or relatives (28 %) – as well as the impossibility of finding a regular job (19 %), the difficulty of living on social welfare benefits alone (10 %) or not having other means of income (14 %) as being of key significance. Other respondents stated that they would lose social welfare benefits if they declared their work (10 %), cited benefit to both parties (12 %), viewed taxes and social security contributions as unaffordable (24 %) or considered bureaucracy or red tape for minor or occasional activities too complicated (38 %).³²

The 2017 Collaborative Economy and Employment (COLLEEM) survey³³ also reveals that 10.6 % of the adult population in Portugal has been a service provider on an online platform.³⁴ In this regard, high proportions of respondents in Portugal stated that it is complicated to provide such services legally (33 %), and they were also uncertain about the impact of doing so on their employment status (26 %). A complicated tax system is stated by a high proportion of non-participants in Portugal to be a barrier to participation (25 %).³⁵

The COVID-19 pandemic also highlighted particularly striking cases of cross-border undeclared work, especially work involving third-country nationals. In April and May 2021, a large network for irregular immigration and labour was exposed in the municipality of Odemira. It was revealed that undeclared third-country nationals were living and working in shocking conditions, ranging from sharing a single room with 15 to 20 other workers to having no place to live. According to the mayor of Odemira, out of 13 000 agricultural workers in the municipality, some 6 000 lacked an adequate standard of living conditions. Other irregularities included small supermarkets (under 200m²) with 30 to 40 employees, and places selling beverages with 10 times the usual number of workers, as such businesses were a front for illegal activities. The workers came predominantly from Asia (especially Nepal, India, Bangladesh and the Philippines) and did not speak either Portuguese or English.³⁶

The government introduced numerous support mechanisms for companies seriously affected by the COVID-19 pandemic, including job retention schemes (ISS, 2021). In June 2020, ACT and ISS conducted nationwide inspections of companies benefiting from the mechanism. Over 400 inspectors covered around 2 100 companies, employing over 16 000 workers, and found some 350 infractions, including cases of undeclared workers and active workers supposed to be in layoff (Noticias, 2020).

The emergence of temporary work agencies (TWA) is also a significant problematic trend, with many known for abusing legal grey areas in order to avoid taxes and underpay employees. They often target people willing to work for lower wages, which makes third-country nationals particularly vulnerable. Seasonal work and short-term contracts are challenging for the Authority for Working Conditions (*Autoridade para as Condições do Trabalho*, ACT) to investigate due to the short timeframe for monitoring and ensuring compliance.³⁷

³⁰ Relatórios Atividade de Inspeção do Trabalho. Relatório 2021, p. 147-148. <https://portal.act.gov.pt/Planeamentoegestao/2021%20-%20Atividade%20da%20Inspe%C3%A7%C3%A3o%20do%20Trabalho.pdf%20accessed%2014%20September%202023>

³¹ Special Eurobarometer 498, op.cit., QD21, p. T37.

³² Ibid., Q21, p. T38.

³³ European Commission. EU Science Hub. *Digital labour platforms: The COLLEEM research project*, https://joint-research-centre.ec.europa.eu/digital-labour-platforms-colleem-research-project_en, accessed 16 December 2022.

³⁴ Williams, C.C., Llobera, M., Horodnic I.A., op.cit., p. 10

³⁵ Ibid. p.16

³⁶ European Labour Authority, *Different forms of cross-border undeclared work, including through third-country nationals*, September 2021, p.31 and 51.

³⁷ European Labour Authority (2021), p.51.



Cross-border EU workers engaged in under-declared work are most often found in construction, manufacturing and personal services, while those engaged in fully undeclared work are most often found in construction, agriculture, and the hospitality sector, especially restaurants. Bogus self-employed EU workers typically work in construction and agriculture, and third-country nationals involved in undeclared work (whether partially undeclared, fully undeclared or bogus self-employed) are most often found in construction and agriculture, too.³⁸

Another worrying trend relates to online ride-sharing and food delivery services, such as Uber and Glovo, which are known for circumventing government regulations in order to lower their prices.³⁹

2.0 Institutional framework

2.1 Responsibilities and characteristics of organisations involved in tackling undeclared work

Table 1. Overview of key institutional features in Portugal for addressing undeclared work

Key institutional feature	Existence
A high-level coordinating body in the country	Yes
A national strategy for tackling undeclared work	Yes
Common cross-government strategic objectives and KPIs/targets for tackling undeclared work	Yes

Sources: Williams, C.C. and Horodnic, I.A. (2022). [Progress of national authorities towards a holistic approach, Study using a common assessment framework May 2022](#). European Platform tackling undeclared work.⁴⁰

In Portugal, several authorities are responsible for issues related to undeclared work, in particular the following:

- **The Authority for Working Conditions** (*Autoridade para as Condições do Trabalho, ACT*).⁴¹

The ACT is the high-level body, within the Ministry of Solidarity, Employment and Social Security (Ministério da Solidariedade, Emprego e Segurança Social), responsible for coordinating the Portuguese strategy for tackling undeclared work. In 2021, the ACT included 417 inspectors, representing an increase of 20.5 %

³⁸ Ibid, p. 51.

³⁹ Ibid, p. 51.

⁴⁰ A questionnaire survey that was sent to the 32 labour, tax and social security authorities participating in the European Platform tackling undeclared work (hereafter 'the Platform') in the 27 European Union Member States plus Norway and Iceland (i.e., 28 labour authorities, 3 tax authorities and 1 social security authority), Replies received between December 2021 and February 2022.

⁴¹ Autoridade para as Condições do Trabalho. Address: Praça Alvalade 1, 1749-073 Lisboa. Email: geral@act.gov.pt. <https://portal.act.gov.pt/Pages/Contactos.aspx> accessed 14 September 2023.



compared to 2020.⁴² The ACT's National Campaign against undeclared work was put in place in 2014⁴³. It contained shared cross-cutting strategic government objectives⁴⁴ and continues to inform the Portuguese national strategy for tackling undeclared work.

► **Foreigners and Border Service** (*Serviço de Estrangeiros e Fronteiras, SEF*).⁴⁵

The Portuguese Foreigners and Borders Service (SEF) is a security service within the Ministry of Internal Affairs (MAI) that, in the context of internal security policy, is responsible for carrying out checks on persons at the borders, monitoring aliens inside national territory, and preventing and fighting organised crime involving illegal immigration.

The Tax and Customs Authority (*Autoridade Tributária, AT*).⁴⁶

The AT concentrates its efforts on combating tax evasion and on the recovery of tax revenue. It closely cooperates with the ACT. Both institutions make a systematic effort to improve the exchange of data and information. According to the 'Report on fighting fraud and tax evasion 2021', the AT has put in place the automatised detection of discrepancies between the amounts of money and numbers of workers given by employers to the Social Security and to the AT.⁴⁷

► **The Institute of Social Security** (*Instituto de Segurança Social, ISS*)⁴⁸ is responsible for tackling undeclared and under-declared social security contributions and for recovering contributions due, and in particular for:

- ▷ managing the benefits from the Social Security system and its subsystems;
- ▷ ensuring the recognition of Social Security rights and the fulfilment of duties by the Social Security system's beneficiaries;
- ▷ collecting the revenues of the Social Security system, ensuring compliance with contributory obligations;
- ▷ recovering undeclared Social Security contributions, including the corresponding interest for late payment.

In addition to these government institutions, social partner organisations are also involved in tackling undeclared work. Their key approaches are shown below.

⁴² Relatórios Atividade de Inspeção do Trabalho. Relatório 2021, op.cit., p. 20.

⁴³ *Autoridade para as Condições do Trabalho. Campanha Nacional Contra o Trabalho Não Declarado. Programa Enquadrador. coord. Direção de Serviços de Apoio à Atividade Inspetiva. Lisboa, julho 2014* <https://portal.act.gov.pt/Pages/campanha-trabalho-nao-declarado.aspx> accessed 14 September 2023

⁴⁴ *Ibid.*, p. 11.

⁴⁵ Immigration and Borders Service (SEF). Address: Casal do Cabanas Avenue - Urbanizacao Cabanas Golf 1 - 2734-506 Barcarena Oeiras. Email: gripcr.cc@sef.pt. Website: <https://www.sef.pt/pt/Pages/homepage.aspx>, accessed 19 December 2022.

⁴⁶ *Autoridade Tributária*, <https://www.portaldasfinancas.gov.pt/at/html/index.html>, accessed 19 December 2022.

⁴⁷ *Relatório sobre o combate à fraude e evasão fiscais e aduaneiras 2021. Junho de 2022.* <https://www.portugal.gov.pt/download-ficheiros/ficheiro.aspx?v=%3D%3DBQAAAB%2BLCAAAAAAABAAzNDYwNgcAyxRA0AUAAAA%3D>, accessed 17 December 2022.

⁴⁸ *Instituto de Segurança Social*. Address: 5 de Outubro Avenue, 175B - 1050-063 Lisbon. Email: iss-iinternacionais@seg-social.pt, website: <https://www.seg-social.pt/iss-ip-instituto-da-seguranca-social-ip>, accessed 19 December 2022.



Table 2. Overview of tools to tackle undeclared work used by social partners in Portugal

Social partner tools to tackle undeclared work	Existence
Raising awareness and changing behaviours through campaigns, awards, dedicated websites, etc at sectoral and company level	Yes
Referring cases of undeclared work to enforcement and judicial authorities	Yes
Negotiating collective agreements which contain instruments to tackle undeclared work, including in supply or subcontracting chains	Yes
Supporting workers by protecting them when in undeclared work situations, and aiding transition into a declared work situation	Yes
Raising awareness of situations of undeclared work and making calls for action	Yes
Cooperating across borders in the fight against undeclared work	Yes
Performing research to identify the key reasons, manifestations, specifics and impact of undeclared work	Yes
Providing policy and legal advice on procedural and legal changes needed	Yes
Providing policy advice on where enforcement authorities should focus their efforts (e.g., bogus self-employment, particular sectors)	Yes
Taking part in consultations and working groups	Yes
Providing technical support to enforcement authorities in developing information tools, data mining and risk assessment, building websites and social media platforms	No
Establishing relevant contacts through their networks of members	Yes
Serving as access points to corporate databases	No
Conduct workplace inspections	No

Source: Williams, C.C. and Horodnic, I.A. (2022). [Progress of national authorities towards a holistic approach, Study using a common assessment framework May 2022](#). European Platform tackling undeclared work.



2.2 Cooperation and collaboration between authorities and cross-border authorities

2.2.1 The legal basis

The main legal basis for the work of authorities involved in tackling undeclared work are as follows.

Table 3. Key authorities and their legal basis to tackle undeclared work

Authority	Legal framework
Labour Inspectorate	Decree-Law n. 102/2000 ⁴⁹
Authority for Working Conditions (ACT)	Regulatory Decree No. 47/2012 ⁵⁰
Ministry of Solidarity, Employment and Social Security	Decree-Law No. 167-C/2013 ⁵¹

Source: ELA (2022) Overview on responsibilities, inspection competences and legal frameworks in Member States, Cooperation Support Unit, (March 2022), unpublished.

2.2.2 Cooperation between authorities in Portugal

On the basis of ‘reciprocity’, the head of the ACT can request the support of other agencies, namely (a) experts in advisory roles, (b) police forces to protect the inspectors and support the preservation of evidence, (c) public bodies with inspecting responsibilities (namely the ISS, AT, SEF and others), (d) public services which have essential information, (e) the Insurance and Pension Funds Supervisory Authority⁵² and the Institute of Forensic Medicine.⁵³

The ACT also notifies other bodies systematically about infringements revealed by its inspecting activities. In 2021, the ACT made 592 notifications to other entities. The main recipient of those notifications was the Social Security Institute (60.5 %), followed by the Construction and Real Estate Institute (9.6 %), and the Tax Inspection (8.8 %).

⁴⁹ Decreto-Lei n.º 102/2000, de 2 de junho. Aprova o Estatuto da Inspeção-Geral do Trabalho. Diário da República n.º 128/2000, Série I-A de 2000-06-02, páginas 2554 - 2561. Consolidated version can be consulted at: <https://dre.pt/dre/legislacao-consolidada/decreto-lei/2000-107689199> accessed 3 April 2023.

⁵⁰ Decreto Regulamentar n.º 47/2012, de 31 de julho. Aprova a orgânica da Autoridade para as Condições do Trabalho. Diário da República n.º 147/2012, Série I de 2012-07-31, páginas 3959 - 3962. Consolidated version can be consulted at: <https://dre.pt/dre/detalhe/decreto-regulamentar/47-2012-179298>, accessed 19 December 2022.

⁵¹ Decreto-Lei n.º 167-C/2013, de 31 de dezembro. Aprova a Lei Orgânica do Ministério da Solidariedade, Emprego e Segurança Social. Diário da República n.º 253/2013, 3º Suplemento, Série I de 2013-12-31, páginas 356- 364. Consolidated version can be consulted at: <https://dre.pt/dre/detalhe/decreto-lei/167-c-2013-164425>, accessed 19 December 2022.

⁵² Autoridade de Supervisão de Seguros e Fundos de Pensiones (ASF), <https://www.asf.com.pt/NR/exeres/97C24D91-5FD7-4874-9D7D-FFE049D206D9.html>, accessed 19 December 2022.

⁵³ ACT. Referencial da atividade inspetiva. Autoridade para as Condições do Trabalho, Lisboa, 2015. https://portal.act.gov.pt/AnexosPDF/Documenta%C3%A7%C3%A3o/Publica%C3%A7%C3%B5es/Inspe%C3%A7%C3%A3o%20do%20trabalho/Publica%C3%A7%C3%B5es%20eIetr%C3%B3nicas/Referencial%20da%20atividade%20inspetiva_2%C2%AA%20edi%C3%A7%C3%A3o_dez%202019_site.pdf, accessed 14 September 2023.



Compared to 2020, these represented an increase of 22.1 %.⁵⁴ These notifications are regulated by law. Notifications with regard to unpaid contributions to social security (information passed from ACT to ISS) are mandatory.⁵⁵ The ISS, in turn, informs the ACT about issues that are relevant to its activity (e.g. in relation to the posting of workers in other Member States⁵⁶). Furthermore, the AT's 'Report on fighting fraud and tax evasion 2021' states that its inspecting activity will continue to be based on a strategy of cooperation with preventive and prospective action in common with other agencies, namely the police and other bodies, including the ACT, ISS and SEF.⁵⁷

Finally, cooperation between the ACT and other government bodies is an essential element of tackling cross-border undeclared work. Cooperation with the ISS is especially important in monitoring private employment agencies, which often fail to disclose either employment contracts or social security due. The ACT also relies on cooperation with the SEF to check the legal status of foreign workers, and with police authorities for information on documentation irregularities and underpayments.⁵⁸

2.2.3 Cooperation with other Member States

Portugal cooperates with other Member States, mainly through exchange of information and joint inspections. It has concluded bilateral agreements (BAs) and memoranda of understanding (MoUs) with several Member States, including provisions to tackle cross-border undeclared work and fraudulent posting. In particular, Portugal has signed Cooperation Agreements with France, Ireland, Spain, Bulgaria⁵⁹ and Belgium.⁶⁰ Among other issues, those agreements provide the legal framework for cross-border joint inspections. However, during joint inspections conducted in Portugal, a visiting inspector only has the competences of an observer. Conversely, during an inspection conducted in another Member State, information must be gathered in accordance with Portuguese law, in order to be used in administrative proceedings or in court.⁶¹

Recent activities carried out within the framework of these cooperation agreements include an 'Iberian campaign' (Portugal and Spain) on work accidents (2016–ongoing) to analyse and study cross-border occupational accidents, which often involve undeclared workers. The campaign also includes measures to raise awareness to encourage companies to adopt preventative measures. In fact, for several decades, Spanish and Portuguese labour inspectors have been carrying out joint visits in neighbouring provinces to detect undeclared work. Another objective of the Cooperation Agreement with Spain is to facilitate cooperation when implementing EU rules on posting of workers. The Agreement establishes a permanent collaborative framework, which is annually reviewed. In particular, it has created (a) direct communication links between the bordering regional authorities, (b) direct communication links between central authorities, and (c) a Joint Monitoring Commission.⁶²

⁵⁴ Relatórios Atividade de Inspeção do Trabalho. Relatório 2021, op.cit., p. 92.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Gabinete do Secretário de Estado dos Assuntos Fiscais. Relatório sobre o combate à fraude e evasão fiscais e Aduaneiras 2021. Junho de 2022, <https://www.portugal.gov.pt/pt/gc23/comunicacao/documento?i=relatorio-sobre-o-combate-a-fraude-e-evasao-fiscais-e-aduaneiras-2021->, accessed 12 December 2022.

⁵⁸ European Labour Authority, *Different forms of cross-border undeclared work, including through third-country nationals*, September 2021, p. 50-52.

⁵⁹ European Labour Authority, *Guidelines for concerted and joint inspections*, December 2020, ELA/MB/2020/057.

⁶⁰ Bilateral agreements and arrangements concerning administrative cooperation. <https://employment.belgium.be/en/themes/international/posting/liaison-offices-and-labour-inspectorate/bilateral-agreements-and>, accessed 19 December 2022.

⁶¹ *Guidelines for concerted and joint inspections*, op.cit.

⁶² Good practice fiche – Spain: Cooperation Agreements to tackle cross-border fraud, letterbox companies and undeclared work (2019) <https://www.ela.europa.eu/en/undeclared-work/virtual-library>, accessed 19 December 2022.



Portugal is a primary country sending workers to Spain. A high percentage of posted workers are concentrated in the construction sector and many posted workers originate from the Braga region in Portugal. In 2018, the ACT (headquarters), Braga's Local ACT Unit and the Spanish Labour Inspectorate recognised that joint inspections were needed in the naval and civil construction sectors between North Portugal and the Galicia region in Spain⁶³. The Braga unit and the Spanish inspectorates tried different methods to communicate and they started to use the Internal Market Information system (IMI) in 2019. The focus of inspections organised by the Braga unit has centred mainly on tackling undeclared work and fraudulent posting of workers (several inspectors have undergone specialised training on the posting of workers), the construction trade, and the psychological risks associated with dangerous work.⁶⁴

The joint inspections implemented by Spain and Portugal's Labour Inspectorates⁶⁵ to tackle undeclared work in the fishing sector also proved successful and were relatively low cost because of their proximity. The cooperation overcame legal constraints and monitored fishing vessels of national registry operating in other European ports.⁶⁶ These activities included other types of national authorities, apart from labour authorities, as was the case in two joint inspections between Spain and Portugal on the Port of Peniche (in 2016) and the Port of Vigo (2017). Due to suspected cases of illegal employment of third-country nationals, the labour inspectorates cooperated with the Maritime and Port Authorities of Portugal and Spain, including the Civil Guard, which has the capacity to monitor the vessels.⁶⁷

France also collaborates closely with the Labour Inspectorate of Portugal, which is the main sending Member State towards France (374 000 Portuguese workers were located in France in 2017).⁶⁸ The Administrative Cooperation Agreement between the Ministry of Labour of the French Republic and the Ministry of Labour, Solidarity and Social Security of the Portuguese Republic on the posting of workers and prevention of undeclared work was signed in 2017. On the Portuguese side, it involves the Authority for Working Conditions (ACT) and the national Social Security Institute. The main results achieved so far are: (a) the establishment of a steering committee (SC) that met for the first time in 2018 and meets annually to evaluate and monitor the Agreement; (b) the creation of a group of field agents responsible for executing the agreements in both countries; (c) the publication of the e-document '*Temporary posting in France: What are your rights and obligations regarding labour legislation?*', in order to disseminate the information among the Portuguese companies posting workers in France; and (d) an exchange programme for labour inspectors.⁶⁹

Portugal, as a country of origin of a large number of postings in the EU, is also a good example of strong cross-border cooperation with Member States beyond direct neighbours. For example, Portugal cooperates with Greece, Malta and the Netherlands⁷⁰. This diversity of cooperation patterns suggests a strategic choice aimed at organising and conducting inspections with other EU Member States and thus making fuller use of the potential for European

⁶³ Good practice fiche – Portugal - [Galicia cross-border partnership](#).

⁶⁴ Stefanov, R., Mineva, D., Terziev, P. Vitosha Research EOOD (Center for the Study of Democracy Group) in collaboration with ICF. *Cross-border actions tackling undeclared work*. European Platform tackling undeclared work, 2019. p. 28.

⁶⁵ Please see more information on to ELA good practice fiche – Portugal - [Agreement for the exchange of information and cooperation between the Portuguese Labour Inspectorate \(ACT\) and the Spanish Labour and Social Security Inspectorate \(ITSS\)](#).

⁶⁶ Different forms of cross-border undeclared work, including through third-country nationals op.cit., p. 22.

⁶⁷ Cross-border actions tackling undeclared work, op.cit., p. 36.

⁶⁸ Cross-border actions tackling undeclared work, op.cit., p. 26.

⁶⁹ Veloso, L., Marques, J., Oliveira, C.S. (ISCTE-IUL). Guidelines. Bilateral Agreement: Portugal-France. Administrative Cooperation Agreement between the Ministry of Labour from the French Republic and the Ministry of Labour, Solidarity and Social Security from the Portuguese Republic on the posting of workers and prevention of undeclared work. February 2021. <https://www.isaproject.eu/results/>, accessed 17 December 2022.

⁷⁰ Please see good practice fiche - [Netherlands, Czech Republic, Portugal, Romania and Slovakia: Bilateral memoranda of understanding](#) (2021).



cooperation.⁷¹ In this framework, tackling fraudulent temporary work agencies is one of Portugal's key priorities for cooperation.⁷²

Finally, in 2020-2021, the ACT was involved in numerous communication campaigns on cross-border undeclared work, including the EU4FairWork campaign, the ELA-led 'Rights for all Seasons' campaign, and the 'Growing up in Safety – Education for Prevention' campaign. The ACT's 33 regional offices collaborate with the Employment and Vocational Training Institute (*Instituto de Emprego e Formação Profissional*, IEFP) to engage and educate workers on the negative consequences of undeclared work.⁷³

3.0 Policy focus and measures

3.1 Policy approach

Portugal tackles undeclared work through a deterrence approach – implemented through inspections and the application of sanctions⁷⁴ – as well as by an enabling approach, which encourages economic agents to transform undeclared work into declared work, due to a change in the costs and benefits associated with using undeclared workers. This is promoted by:⁷⁵

- ▶ carrying out awareness campaigns on the risks, disadvantages and costs of undeclared work;
- ▶ ensuring that the costs and risks derived from undeclared work are greater than their benefits;
- ▶ implementing deterrence measures.

Education and training are also essential. In the case of social partners, this means raising awareness and disseminating information about the phenomenon of undeclared work and about ways to transform undeclared work into declared work; and in the case of institutional partners, which have the ability to reach large numbers of workers, they can tackle undeclared work through networking.⁷⁶

This approach involves: (a) focusing on communicating information, and social partners play a key role in this; (b) making inspections more effective; (c) enhancing cooperation between the various institutional agencies at strategic and operational level to foster a multiplier effect that generates synergies to combat undeclared work. As undeclared work is more frequent among workers who do not know their rights, the ACT also provides information to workers through call centres, an email service and the ACT website.⁷⁷

As undeclared work is a complex phenomenon, rooted in a series of economic, regulatory, social and cultural factors, the Portuguese strategy includes relevant institutional partners, such as the Immigration and Border

⁷¹ Cross-border actions tackling undeclared work, op.cit., p. 28.

⁷² Ibid., p. 22.

⁷³ Different forms of cross-border undeclared work, including through third-country nationals, op.cit., p. 50-52.

⁷⁴ Reporting undeclared work can be done at: geral@act.gov.pt; information on your rights and obligations can be done at: www.act.gov.pt, accessed 19 December 2022; and information to support Ukrainians: <https://portugalforukraine.gov.pt/>; accessed 19 December 2022. Update information at: <https://www.ela.europa.eu/en/undeclared-work/information-and-tools-working-declared>, accessed 19 December 2022.

⁷⁵ Autoridade para as Condições do Trabalho. Campanha Nacional Contra o Trabalho Não Declarado. Programa Enquadrador. coord. Direção de Serviços de Apoio à Atividade Inspeciva. Lisboa, julho 2014.

⁷⁶ Ibid.

⁷⁷ Ibid.



Service (*Serviço de Estrangeiros e Fronteiras*, SEF); the High Commission for Immigration (*Alto Comissariado para as Imigrações*, ACM); the Employment and Vocational Training Institute (*Instituto de Emprego e Formação Profissional*, IEFP); and the National Association of Portuguese Municipalities (*Associação Nacional de Municípios Portugueses*, ANMP)⁷⁸, and the social partners' organisations with representation on the national body for tripartite negotiation (four employers' confederations and two trade union confederations).

3.2 Main policy measures

Portugal has put in place a broad range of policy measures to transform undeclared work into declared work, including direct controls that deter engagement in undeclared work, as well as incentives to make declared work easier and more beneficial.

In 2021, the fight against undeclared work was one of the strategic objectives of the Portuguese Authority for Working Conditions (ACT), with inspection activities playing a major role in these efforts. In 2021, 24 020 employers were inspected in relation to undeclared work, which represented an increase of 7.9 % compared to 2020. However, the number of infringements related to bogus employment and undeclared work decreased by 58.2 % and 20.3 %, respectively.⁷⁹ The main types of undeclared work investigated were work that was entirely or partially not declared to the Employment and Social Security authorities, bogus self-employment contracts, bogus internships and bogus volunteer work.

In 2021, 6 077 investigative procedures were initiated in relation to undeclared work. As a result, 807 undeclared workers were detected, and 502 previously undeclared workers were registered in the Social Security system. These inspection activities led to 2 608 infringement procedures and EUR 4 092 206.21 in fines.⁸⁰ As regards bogus self-employment, in 2021, 909 investigative procedures were initiated, involving bogus provision of services and bogus internships. As a result of these inspections, 62 previously undeclared workers were registered in the Social Security system. These inspections led to 395 infringement procedures, involving EUR 725 888.88 in fines.⁸¹

In 2021, the Labour Inspectorate also recovered EUR 9 218 620.94 in Social Security under-declared or undeclared contributions, pertaining to 6 212 workers. This represented an average of EUR 1 494.14 per employee, mainly in manufacturing industries (17 %), health and social services (16.7 %) and construction (15.8 %). There was an increase of 361 % in terms of Social Security contributions compared to 2020, though the number of workers involved decreased by 26 %.⁸²

The Portuguese government has recently adopted an important legislative initiative to tackle undeclared work, in order to implement the 2023 Portuguese 'Decent Work Agenda'.⁸³ In particular, the Law n.º 13/2023⁸⁴ was published with the following main measures:

- ▶ criminalising undeclared work, with imprisonment of up to 3 years or a fine of up to 360 days;
- ▶ ensuring that an administrative offense is always applied, even in the case of voluntary regularisation of undeclared work, to discourage the use of this route;

⁷⁸ Ibid.

⁷⁹ Relatórios Atividade de Inspeção do Trabalho. Relatório 2021, op.cit., p. 181.

⁸⁰ Ibid., p. 147-148.

⁸¹ Ibid., p. 147-148.

⁸² Ibid., p. 103-104.

⁸³ Law n.º 13/2023 of 03/04, accessible through <https://dre.pt/dre/detalhe/lei/13-2023-211340863>



- ▶ establishing a legal presumption of an employment contract when non-declaration to the Social Security system extends to the previous 12 months;
- ▶ registering subcontracted workers on farms and construction sites daily;
- ▶ establishing a legal presumption of an employment contract (a) between a platform worker and the platform, or (b) between the platform worker and the client, when it is proved that certain employment-related elements exist;
- ▶ establishing a platform's obligation to provide information and transparency with respect to algorithm criteria and artificial intelligence mechanisms it uses to the ACT, workers and their representatives.
- ▶ directing preventive action to young workers, students and interns through (a) an increase in the IEFP (*Instituto do emprego e formacao profissional*) internship grant for graduates to EUR 878, (b) eliminating the possibility of paying interns less than 80 % of the minimum wage (*retribuição mínima mensal garantida*), so that even paid internships outside the IEFP system will grant access to social protection as if it was salaried work, while student and young workers working on vacation or school breaks retain the right to family allowance and social protection;
- ▶ reinforcing the ACT with additional powers and simplifying its administrative procedures with the establishment of (a) electronic notifications, (b) questioning of witnesses by video-call application and (c) a more agile procedure in cases where verification depends solely on cross-referencing information through a database;
- ▶ with the Institute of Social Security (*Instituto de Segurança Social, ISS*) now communicating employers' registration of foreign workers automatically to the ACT, thus eliminating the previous system of employers communicating registration to the ACT;
- ▶ with the ISS also communicating employers' registration of national workers automatically to the Funds Work Compensation (*Fundos de Compensação de Trabalho, FCT*), thus eliminating the previous system of employers being required to communicate registration to the FCT.

Other recent initiatives include measures in the following areas:

- ▶ Policy measures during the COVID-19 pandemic

During the COVID-19 pandemic, nationwide inspections were conducted into companies benefiting from the Government's support mechanisms. In June 2020, over 400 inspectors covered around 2 100 companies, employing over 16 000 workers, and found 350 infractions.⁸⁵ Several cases were detected of undeclared work being done by active workers supposed to be on furlough, illegally benefiting from support mechanisms established by the government. Such mechanisms included job retention schemes and were established for companies seriously affected by the COVID-19 pandemic.

Portugal was also one of the first countries to implement a limited regularisation scheme in response to the COVID-19 pandemic, deciding to grant temporary residence rights that allowed access to services to people with a pending application for regularisation until 31 March 2021. An employment contract is a common way to request residency.

⁸⁵ Different forms of cross-border undeclared work, including through third-country nationals, op.cit. p. 51.



► Cross-border undeclared work involving third-country nationals

In Portugal, migrant victims of trafficking are eligible for visas and employment authorisations, provided that they cooperate with enforcement agencies in the investigation and prosecution of criminal activities.⁸⁶ Moreover, third-country nationals can also request residence if the work relation is proven by a union, a migrant community representative, or the ACT, as long as entry to the country happened through regular means and the person is authorised to work. However, there have been concerns about the time it takes the public administration to process these claims.⁸⁷

The media spotlight on the Odemira case put cross-border undeclared work on the political agenda, resulting in additional financial and human resources being provided to authorities. A new 'exceptional and temporary' law⁸⁸ was in place from April 2021 to September 2022,⁸⁹ requiring companies employing more than ten workers on agricultural farms and construction sites to register their workers daily.

Similar to this temporary measure, Law no. 13/2023 also introduces the obligation to keep a weekly register of workers on agricultural farms and in construction sites (article 26.^o)⁹⁰.

More broadly, Portugal put in place a Strategic Plan for Migration for 2015–20 (PEM), as well as the Third National Action Plan on Preventing and Combating Trafficking in Persons (2014–2017). In the framework of the PEM, 22 407 actions were carried out to combat trafficking in persons, labour exploitation and undeclared work, as well as activities to disseminate information and raise awareness.⁹¹ The Fourth National Action Plan on Preventing and Combating Trafficking in Persons for 2018–2021 (PACTSH IV) was adopted by Resolution of the Council of Ministers No. 80/2018.

In addition, a National Plan for the Implementation of the Global Compact for Migration (PNIPGM) was adopted by Resolution of the Council of Ministers No. 141/2019, on 1 August 2019, with a view to implementing the United Nations (UN) Global Compact for Safe, Orderly and Regular Migration (UN resolution, A/73/L.66, 12 December 2018). The PNIPGM sets 23 objectives organised around five main priorities: (1) promoting safe, orderly and regular migration; (2) improving the processes to organise and manage migratory flows; (3) promoting and qualifying migrant reception and integration mechanisms; (4) supporting connections between migrants and their home countries and projects for return; and (5) enhancing development partnerships with countries of origin and transit.⁹²

► Collaborative economy

In recognition of the issues posed by online ride-sharing and food delivery services, the government, in collaboration with academics, civil society and social partners, developed a Green Paper on the Future of Work

⁸⁶ ILO (2021). Making decent work a reality for domestic workers: Progress and prospects ten years after the adoption of the Domestic Workers Convention, 2011 (No. 189). International Labour Office. Geneva, p. 183.

⁸⁷ Williams, C., Bejakovic, P., Mikulic, D., Franic, J., Abbi Kadir, A., Horodnic, I.A., An evaluation of the scale of undeclared work in the European Union and its structural determinants: estimates using the Labour Input Method. Directorate-General for Employment, Social Affairs and Inclusion November, 2017, p. 66.

⁸⁸ Decreto-Lei n.º 29-A/2021, de 29 de abril. Diário da República n.º 83/2021. A consolidate version can be consulted at: <https://dre.pt/dre/detalhe/decreto-lei/29-a-2021-162450400> <https://dre.pt/dre/detalhe/decreto-lei/29-a-2021-162450400>, accessed 12 December 2022.

⁸⁹ Decreto-Lei n.º 66-A/2022, de 30 de setembro. Diário da República n.º 190/2022, 1º Suplemento, Série I de 2022-09-30, pp. 2-9, which determines the cessation of validity of decree-laws published in the context of the pandemic of the disease COVID-19 <https://dre.pt/dre/detalhe/decreto-lei/29-a-2021-201773286> accessed 15 December 2022.

⁹⁰ Law n.º 13/2013, Article 26, op. cit.

⁹¹ ILO Committee of Experts (CEACR). Direct Request of the CEACR, adopted 2021, published 110th ILC session (2022) on the Migration for Employment Convention (Revised), 1949 (No. 97) - Portugal (Ratification: 1978), https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11110:0::NO::P11110_COUNTRY_ID,P11110_CONTEXT:102815.S.C, accessed 16 December 2022.

⁹² Ibid.



(*Livro Verde sobre o Futuro do Trabalho*), the first version of which was submitted for public consultation in 2021. Many contributions were received and the final version of the Green Book was published in March 2022.⁹³ The Green Book contains guidelines for addressing the multitude of challenges posed by the digital revolution and automation of the labour market, including in the areas of social security, remuneration, and employment relations. One of its aims is to provide innovative solutions to labour-related issues in a digital economy (including undeclared work) in a holistic framework that takes account of the wide variety of socioeconomic and technological influences.

Other legislation came into force in November 2018 addressing employment conditions around platforms operating in the passenger transport sector.⁹⁴ The law states that drivers must have an employment relationship with the platform, since these platforms were judged transportation operators, not just intermediary services. This legislation provides a legal framework for the companies to operate in, but also imposes restrictions, including an obligation for drivers to acquire a special road-training certificate valid for five years and a 5 % tax on platforms' net profit to cover administrative and regulatory costs.⁹⁵ The law also sets maximum daily and weekly working hours, regardless of the driver's employment status, while also requiring that instruments are applied in order to ensure compliance with working time regulation.⁹⁶

► Preventative measures

As regards preventative measures, Portugal has provided targeted indirect tax incentives⁹⁷ and free advice and training on record-keeping.⁹⁸ Portugal has also developed initiatives for customers to request receipts (e.g. a lottery for invoices) to tackle undeclared work⁹⁹ and uses campaigns informing suppliers of undeclared work of the benefits and of the risks and costs of working undeclared.¹⁰⁰

Portugal has also put in place a policy measure to facilitate compliance, in particular to simplify business start-up procedures. The 'On the Spot' firm (*Empresa na Hora*),¹⁰¹ introduced in 2005 under the Simplex programme of administrative and legislative simplification,¹⁰² reduces the procedures required to set up a new business venture. This enables a company to be created in a single office in a single day. Upon completion, a definitive legal personal identification card is provided, a social security number, and the company immediately receives its memorandum and articles of association, along with an extract of the entry in the commercial register. Compliance is ensured by having all the details sent to the tax authorities.¹⁰³

Another example of an awareness campaign focused upon informing suppliers of the risks of undeclared work is an ongoing national alert and awareness campaign entitled 'Work undeclared — bad for you, harmful for all!'¹⁰⁴

⁹³ Livro Verde do Futuro do Trabalho consulta. Gabinete de Estratégia e Planeamento do Ministério do Trabalho, Solidariedade e Segurança Social.

http://www.gep.mtsss.gov.pt/documents/10182/55245/livro_verde_do_trabalho_2021.pdf/daa7a646-868a-4cdb-9651-08aa8b065e45, accessed 15 December 2022.

⁹⁴ Lei n.º 45/2018, de 10 de agosto, que estabelece o regime jurídico da atividade de transporte individual e remunerado de passageiros em veículos descaracterizados a partir de plataforma eletrónica (TVDE). Consolidated version can be consulted at: <https://dre.pt/dre/detalhe/lei/45-2018-115991688>, accessed 16 December 2022.

⁹⁵ Williams, C.C., Llobera, M., Horodnic I.A., op.cit., p.47.

⁹⁶ Hauben, H. and Bvba (in cooperation with ICF), op.cit., p.10

⁹⁷ European Platform Tackling Undeclared Work, *Elements of a preventative approach towards undeclared work: an evaluation of service vouchers and awareness raising campaigns*, May, 2018, p. 29.

⁹⁸ Ibid., p. 26.

⁹⁹ Ibid., p.30.

¹⁰⁰ Ibid., p. 56, p. 64.

¹⁰¹ Governo de Portugal. Empresa na Hora. <https://justica.gov.pt/Servicos/Empresa-na-Hora>, accessed 16 December 2022.

¹⁰² Governo de Portugal. Simplex 2022. Programa simplex de simplificação administrativa e legislativa. <https://www.simplex.gov.pt/>, accessed 16 December 2022.

¹⁰³ Elements of a preventative approach towards undeclared work, op.cit., p. 26.

¹⁰⁴ Ministério da Solidariedade, Emprego e Segurança Social e Autoridade para as Condições do Trabalho (ACT). Campanha nacional de alerta e sensibilização 'Trabalho não declarado – mau para si, prejudicial para todos!'. https://portal.act.gov.pt/Pages/Trabalho_nao_declarado.aspx accessed 14 September 2023.



launched by the Ministry of Solidarity, Employment and Social Security in cooperation with the ACT. This campaign's main objectives are: to promote knowledge and compliance with labour rights and obligations; to inform workers and employers of the advantages of declared work and the disadvantages and consequences of undeclared work; and to promote the transformation of wholly or partially undeclared work into regular employment.

In addition, newly appointed inspectors are trained in detection techniques to investigate fraud, with particular attention to atypical forms of work in violation of labour law, such as bogus self-employment and informal employment. An average of two weeks of specialised training on undeclared work is also part of ongoing training for all inspectors.¹⁰⁵

A strategy used by the Portuguese tax authority to engage citizens in cracking down on potential tax evaders in a context of financial bailout was a lottery scheme ('*Fatura da sorte*', literally 'lucky invoice') to 'value and reward taxpayers fiscal citizenship'¹⁰⁶ and to engage them in cracking down on tax evaders by requesting invoices for goods and services they have paid for. These invoices had to include the purchaser's personal tax identification number and were converted into lottery tickets according to the value of each transaction. However, two years later they were replaced by ordinary treasury bills of EUR 35 000 every week and EUR 50 000 twice a year.¹⁰⁷ A change in the premium for savings products, in addition to simplifying procedures, stimulated household savings and promote State savings products, maintaining the aim of promoting taxpayers' tax citizenship in combating the informal economy and preventing tax evasion.¹⁰⁸

► Evaluation

Every year the ACT publishes an exhaustive report evaluating the achievement of key performance indicators (KPI).¹⁰⁹ These are, in particular, the following: (a) the number of undeclared workers detected; (b) the number of inspection visits carried out; (c) the number of workers covered; (d) the number of infringements related to bogus employment and undeclared work; (e) the number of sanctions; (f) the total amount of social security contributions recovered; and (g) the number of companies inspected.

► Training

ACT's Division of Training and Human Resources (*Divisão de Formação e Recursos Humanos*, DFRH) is a major player in the fight against undeclared work in Portugal. To enable ACT's staff to perform their task effectively, it has been created a two-phased initial internship for labour inspectors which aims at facilitating labour inspectorate staff to combat undeclared work and carry out other tasks, namely enforcement of labour legislation in general, and promotion of health and safety at work. The DFRH also provides, within its Annual Training Plan, additional continuous training activities for inspectors and other relevant staff involved in tackling undeclared work.¹¹⁰

Annex 1 provides more detail on the specific policy measures used to tackle undeclared work.

¹⁰⁵ Scharle, A., Vanden Broeck, P., in collaboration with Anna Manoudi, A., ICF. Toolkit on competence profiles of labour inspectorates and inspectors in tackling undeclared work. European Platform tackling undeclared. Luxembourg: Publications Office of the European Union, 2020, p. 23.

¹⁰⁶ Decreto-Lei n.º 26-A/2014, de 17 de fevereiro. Diário da República n.º 33/2014, 1º Suplemento, Série I de 2014-02-17, páginas 2-5. <https://dre.pt/dre/detalhe/decreto-lei/26-a-2014-282680>, accessed 16 December 2022.

¹⁰⁷ Decreto-Lei n.º 8/2016, de 4 de março. Diário da República n.º 45/2016, Series I of 2016-03-04, pages 688 - 688. <https://dre.pt/dre/detalhe/decreto-lei/8-2016-73783905>, accessed 16 December 2022.

¹⁰⁸ Wilks, D., Cruz, J., Sousa, P., 'Please give me an invoice': VAT evasion and the Portuguese tax lottery. International Journal of Sociology and Social Policy Vol. 39 No. 5/6, 2019, pp. 412-426.

¹⁰⁹ Relatórios Atividade de Inspeção do Trabalho Relatório 2021.op.cit., pp. 147-154.

¹¹⁰ [The Portuguese Labour Inspectorate's Initial Training Internship](#) (2019). Good Practice fiche. European Platform tackling undeclared work.



3.3 Good practices¹¹¹

Good practices in tackling undeclared work have been explored by the European Platform tackling undeclared work. The following good practices addressing undeclared work are identified in Portugal:

- ▶ [Digital platforms in the ride-hailing industry: control and inspection methodology](#) (2022). Portugal established a legal framework (Law 45/2018) for digital platform services in the ride-hailing industry. The Law introduced a control and inspection methodology to combat undeclared work in the sector. It involves joint inspections between the Labour Inspectorate and police or National Republican Guard, in addition to data exchange with the Institute of Social Security and the Institute for Mobility and Transport.
- ▶ [Undeclared work – it’s bad for you, harmful for all, national awareness-raising campaign](#) (2021). This was an Action Plan/Programme to raise public awareness in general and amongst workers and employers in particular, about the risks of undeclared work, with the aim of creating social conscience. It was also aimed at promoting synergies between the public authorities and the social partners to raise awareness about the risks of undeclared work and to help reduce it.
- ▶ [Joining up operations: cooperation between enforcement authorities to tackle undeclared and precarious work](#) (2020). Building on joint operations between authorities with responsibilities in the area of undeclared work, in 2018 and 2019 the Authority for Working Conditions (ACT) and the Social Security Institute (ISS) developed nationwide joint operations using jointly agreed risk indicators in a proactive approach. The initiative was motivated by the Government’s Programme (2014–2019), which focused on promoting employment and combating job insecurity. Cooperation between different government authorities with responsibilities for tackling undeclared and precarious work at the national level (Labour Inspectorate, Social Security and Tax Authority) already existed, but previously there was no national strategic plan nor structure of coordination to oversee it.

Other practices are available on the European Labour Authority [website](#).

3.4 Challenges and barriers

Between 2013 and 2019, there has been a decline in undeclared work in Portugal. This demonstrates the progress made in tackling undeclared work. However, the introduction of more supply-side measures (i.e. to stimulate suppliers to operate with goods or services declared) and demand-side measures (i.e. to encourage purchasers to buy declared goods and services) could play a key role in furthering Portugal’s achievements.

Besides, important sectoral challenges remain in PHS and in agriculture. Each of these two sectors accounts for a significant proportion of undeclared work by irregular migrants, which is difficult to combat due to their fear to report it. In such cases, labour inspectors are torn between their mission to protect workers and their obligation to report their irregular situation to the immigration authorities.¹¹²

Portugal has found the adequate balance between the deterrence and the enabling approach, however include measures to improve detection and deterrents, but there is a significant lack of action to raise awareness. Very

¹¹¹ [Virtual library | European Labour Authority \(europa.eu\)](#).

¹¹² In this regard, the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has stressed that the functions of labour inspectorates are intended to secure workers’ rights under relevant laws rather than concerning themselves with the lawful nature of their employment, and that workers should not be excluded from protection on account of their irregular employment status. [Labour inspection and other compliance mechanisms in the domestic work sector: Introductory guide](#). International Labour Office. Geneva. 2015, p. 46, note 70.



often citizens engage in undeclared work when there is a lack of trust in government and a lack of understanding of the benefits of compliance. Thus, educational initiatives and awareness-raising campaigns could play a key role in tackling undeclared work.

On the whole, Portugal has attained an adequate balance between the deterrence and the enabling approach. However, to achieve a more holistic approach, certain aspects need continual reinforcement, including a policy which focuses on improving tax morality, which should prove even more effective in the long term. A study carried out in Portugal, showed that educating the general public is clearly a factor to maximise citizens' cooperation in tackling the informal economy. The study also showed the need to design incentives in Portugal that nurture public spirit and promote good governance and justice, as perceived injustice has been found to encourage non-compliance.¹¹³

Table 4. Level of tax morale, horizontal and vertical trust, Portugal and the EU

	Tax morale*	Horizontal trust**	Vertical trust: Tend to trust tax authority***	Vertical trust: Tend to trust labour inspectorate***
Portugal	8.78	36 %	44 %	44 %
EU-27 average	8.55	36 %	49 %	49 %

Source: Williams, C.C and Horodnic I.A. (2020). [Trends in the undeclared economy and policy approaches Evidence from the 2007, 2013 and 2019 Eurobarometer surveys](#), European Platform tackling undeclared work. Figures 35, 36 and 37. Retrieved on 28 October 2022.

*Tax morale is an index where respondents were asked to rank five different types of undeclared work on a scale of 1 to 10 (recoded here as 1 representing 'totally acceptable' behaviour and 10 representing 'totally unacceptable' behaviour).

**Horizontal trust was measured as the percentage of respondents who personally know people engaged in undeclared work.

***Vertical trust was measured as the percentage of respondents who tend to trust the main state institutions tackling undeclared work.

Additional macro-economic and structural conditions of institutions affecting the prevalence of undeclared work in Portugal are provided in Annex 2.

¹¹³ Wilks, D., Cruz, J., Sousa, P. (2019), op.cit., pp. 412-426.



Annex 1: Approaches used to tackle undeclared work

Table A.1. Approaches used to tackle undeclared work

Approaches used	Existence
PENALTIES	
Use of penalties and fines to prevent participation in undeclared work	Yes
Use of penalties to transform undeclared work into declared work	Yes
Penalties for people or businesses who buy undeclared work	Yes
Reclassifying false employment relationships (e.g., bogus self-employment)	Yes
Use of non-compliance lists ('blacklists')	Yes
Previous non-compliance excludes firms from bidding for public procurement contracts	Yes
'Naming and shaming' lists	Yes
RISK OF DETECTION	
Workplace inspections	Yes
Online/desk-based inspections	Yes
Joint inspections with other national inspectorates	Yes
Announced inspections	Yes
Cross-border inspections	Yes
Registration of workers prior to first day at work	Yes
Data matching and sharing to identify risky businesses	No
Use data mining to determine risky businesses for inspection	No
Coordination of data mining and sharing across government departments	No



Coordination of strategy on undeclared work across government departments	No
Use of complaint reporting tools (e.g. telephone hotlines) ¹¹⁴	No
Certification of business, certifying payments of social contributions and taxes	No
Notification letters	Yes
Mandatory ID in the workplace	Yes
Supply chain responsibility (e.g., joint and several liability, due diligence)	Yes
INCENTIVES	
Supply-side measures (i.e., to stimulate suppliers to operate declared)	
Simplify procedures for complying to existing regulations (e.g., easier registration procedures; simplify forms; reduce duplication)	Yes
Compliance lists	No
Society-wide amnesties	No
Individual-level amnesties for voluntarily disclosing undeclared activity	No
'Formalisation' advice to start-ups	No
'Formalisation' support services to existing businesses	Yes
Targeted VAT reductions	No
Provide free record-keeping software to businesses	No
Provide fact sheets on record-keeping requirements	Yes
Provide free advice/training on record-keeping	Yes
Gradual formalisation schemes	No
Initiatives to ease transition from unemployment into self-employment	Yes
Initiatives to ease transition from employment into self-employment	No
Access to free marketing	No

¹¹⁴ [Information and tools for working declared | European Labour Authority \(europa.eu\)](#), accessed 21 November 2022.



Demand-side measures (i.e., to encourage purchasers to buy declared goods and services)	
Service vouchers	No
Targeted direct tax incentives (e.g., income tax reduction/subsidy)	No
Targeted indirect taxes (e.g., VAT reductions)	No
Initiatives for customers to request receipts (e.g., Lottery for receipts)	No
FOSTERING COMMITMENT TO OPERATE DECLARED	
Campaigns to inform suppliers of undeclared work of the risks and costs of working undeclared	Yes
Campaigns to inform suppliers of undeclared work of the benefits of formalising their work (e.g., informing them where their taxes are spent)	Yes
Campaigns to inform users of undeclared work of the problems of purchasing goods and services from the undeclared economy	Yes
Campaigns to inform users of undeclared work of the benefits of declared work (e.g., informing citizens of the public goods and services they receive with the taxes collected)	Yes
Normative appeals to businesses to operate on a declared basis	Yes
Measures to improve the degree to which customers of the enforcement agencies believe they have been treated in a respectful, impartial and responsible manner	Yes
Measures to improve labour, tax and/or social security law knowledge	Yes
Public information on the work and achievements of the enforcement authorities	Yes

Sources: Williams, C.C. and Horodnic, I.A. (2022). [Progress of national authorities towards a holistic approach, Study using a common assessment framework May 2022](#). European Platform tackling undeclared work.



Annex 2: Dashboard: overview of key indicators relevant to undeclared work

The dashboard below provides an overview of the key structural conditions that are associated with undeclared work. The trends in each driver display whether it improved ('green') or worsened ('red') in Portugal. For comparative purposes, the trends in each driver of undeclared work are also presented for the EU-27.

Table A.2. Trends in key structural drivers of undeclared work

PORTUGAL					
INDICATOR	YEAR:		TREND 2009 2019	vs.	EU-27, 2019 ****
	2009	2019			
A. FORMAL INSTITUTIONS					
I. FORMAL INSTITUTIONAL RESOURCE MISALLOCATIONS AND INEFFICIENCIES					
1. Level of modernisation of government					
Government effectiveness (-2.5 to 2.5 (strong performance))	0.94	1.00	■	-	
2. Formal institutions acting in a corrupt manner					
Corruption Perceptions Index (CPI) (0-100 (very clean)) *	65	62	■	-	
Control of corruption (-2.5 to 2.5 (strong performance))	1.05	0.69	■	-	
II. FORMAL INSTITUTIONAL VOIDS AND WEAKNESSES					
1. Modernisation Explanation - Level of 'development'					
GDP (current prices, euro per capita)	23 060	26 440	■		31 300
Human Development Index (HDI) (0-1 (highest development))	0.861	0.908	■	-	
Social Progress Index (SPI) (0-100 (high)) **	85.64	85.49	■	-	
Self-employment (% of total employment)	15.7	14.9	■		13.4
2. State intervention					
Burden of government regulation (1-7 (best))	2.7	2.9	■	-	
Business flexibility index (0-10 (high))	6.71	7.84	■	-	
Expense of government (% of GDP)	31.7 ¹⁾	32.2	■		36.6
Research & Development expenditure (% of GDP)	1.36	1.25	■	2.23	
Tax revenue (% of GDP)	13.7 ¹⁾	13.8	■	19.7	
Social contributions (% of revenue)	43.3 ¹⁾	43.8	■	33.0	
Impact of social transfers on poverty reduction (%)	24.16	23.05	■	32.38	
Labour market policy (LMP) expenditure (% of GDP)	3.71	2.22	■	1.65	
Unemployment rate (% of active population)	17.9	14.1	■	6.8	
People at risk of poverty/social exclusion (% of total population)	24.7	25.3	■	20.9	
Severe material deprivation rate (% of total population)	4.5	4.7	■	5.5	
Inequality of income distribution (income quintile share ratio)	5.87	5.94	■	4.99	
Gini coefficient (0-100 (perfect inequality))	32.9	33.0	■	30.2	
Labour productivity (% change on previous period)	2.8	-0.6	■	0.7	
III. FORMAL INSTITUTIONAL POWERLESSNESS					
Reliability of police services (1-7 (best))	5.7	6.3	■	-	
Judicial independence (1-7 (best))	4.1	4.2	■	-	
Rule of law (-2.5 to 2.5 (strong performance))	1.16	1.02	■	-	
Regulatory quality (-2.5 to 2.5 (strong performance))	1.19	1.05	■	-	
Voice and accountability (-2.5 to 2.5 (strong performance))	1.18	1.04	■	-	
Trust in Government (% tend to trust)	29	21	■	35	
Trust in Parliament (% tend to trust)	29	19	■	34	
IV. FORMAL INSTITUTIONAL INSTABILITY AND UNCERTAINTY					
Democracy Index (0-10 (full democracy)) ***	8.16	8.18	■	-	
Political stability (-2.5 to 2.5 (strong performance))	-0.47	0.31	■	-	
B. INFORMAL INSTITUTIONS					
Social capital (0-100 (high))	61.3	58.7	■	-	
Tax compliance (0-10 (high))	7.79	8.40	■	-	
	Year:	2013	2019		

Acceptability of undeclared work (% total 'unacceptable')



Firm hires worker on undeclared basis	88	90	■	82
Undeclared work by firm for firm	92	91	■	85
Undeclared work by individual for private household	72	78	■	67
Undeclared work by firm for private household	87	90	■	82
Someone partially or completely conceals their income	91	86	■	78
<i>Personally know people engaged in undeclared work (% 'yes')</i>	33	41	■	36

TREND (2009-2019): ■ = positive ■ = unchanged ■ = negative

Notes: * 2009 data not available; 2012 data used instead; ** 2009 data not available; 2014 data used instead; *** 2009 data not available; 2010 data used instead; **** EU-28 average for Expense of government (% of GDP); Tax revenue (% of GDP) and Social contributions (% of revenue)

Source of methodology: 2022 update by Horodnic, I.A. of the study by Williams, C.C. and Horodnic, I.A. (2020). [Horizon scanning: early warning signals of future trends in undeclared work](#), European Platform tackling undeclared work. Extraction date: 30 October 2022.