

Factsheet on Undeclared Work - MALTA

1.1 Nature and Estimated Scale of Undeclared Work

1.1.1 Definition of undeclared work

Maltese legislation does not define undeclared work. Government documents (such as the National Reform Programme 2013)¹ which occasionally mention the term, do not provide a definition. On other occasions, wider terms such as black economy, shadow economy, and grey economy are used instead of undeclared work.

Since no legal definition of undeclared work exists, each organisation in Malta with an interest in undeclared work tackles the issue according to its remit.

1.1.2 Characteristics of undeclared work

Little data exists on the characteristics and scale of undeclared work in Malta.

The information that is available suggests that partially undeclared self-employment is among the most prominent types of undeclared work. Nearly a fourth of the Maltese (23%) are estimated to have purchased goods or services that may have included undeclared work from firms or businesses.² Migrants, particularly those from sub-Saharan Africa residing in open centres, are prone to engage in exploitative undeclared employment. Seasonal or part-time employment also attracts a significant number of students in undeclared work, and a proportion of formally inactive women also do undeclared work. A declining number of persons registering as unemployed engage in undeclared work while claiming unemployment benefits.

The main sectors which appear to attract undeclared work are tourism (including hotels and restaurants), services (such as health care and private tuition), sales and construction. Construction appears to attract illegal immigrants and persons registering for employment work. Young people often do undeclared work in the tourism sector. Formally inactive women often engage in household services (e.g. cleaning) and contribute to family businesses.

Undeclared work appears to be more common among small local employers rather than larger international companies. The latter companies have stricter rules of employee engagement and are usually unionised.

While other countries blame the lack of regular jobs as a motivator to take part in undeclared work, only 11% of Maltese persons feel that this is an important factor.³ On the other hand, 37% of Maltese persons consider the lack of control of authorities as a prime motivating factor.⁴ Such a lack in enforcement could promote a trade-off between employer and employee, in which the employee settles for an hourly wage rate below that provided by law, in return for avoiding national insurance contributions and income tax. Customers may also buy undeclared goods and services as they are cheaper.

1.1.3 Estimated scale of undeclared work

Schneider (2012) estimated Malta's black economy to amount to 25.3% of the GDP in 2012.⁵

¹ Ministry for Finance (2013). Malta's national reform programme under the Europe 2020 strategy. Weblink:

https://mfin.gov.mt/en/home/popular_topics/Documents/National%20Reform%20Programme/2013/National%20Reform%20Programme%202013.pdf

² European Commission (2014). Special Eurobarometer 402 – Undeclared work in Europe. Weblink: http://ec.europa.eu/public_opinion/archives/ebs/ebs_402_en.pdf

³ European Commission (2014).

⁴ European Commission (2014).

⁵ Schneider, F. (2012). Size and development of the shadow economy of 31 European and 5 other OECD countries from 2003 to 2012: some new facts. Weblink:

1.2 Institutional Framework

1.2.1 Responsibilities for addressing undeclared work

The national authorities involved consist of the following:

- The Department of Industrial and Employment Relations (DIER) – which mainly deals with the protection of the conditions of employment as stipulated by the Employment and Industrial Relations Act (2002). When persons are found to be involved in undeclared work, they are reported to the relevant authority for further action.
- The Employment and Training Corporation (ETC) through its Law Compliance Unit (LCU), which investigates infringements as laid down in the Employment and Training Services Act (1990) and in the Manpower Records (Commencement or Termination of Employment) Regulations (1993). The LCU aims to curb abuses involving undeclared work.⁶
- The Ministry for the Family and Social Solidarity (MFSS), through its Benefit Fraud and Investigation Department (BFID), investigates reports of alleged abuse in social security benefits and investigates social benefit abuse, including that relating to unemployment.⁷
- The Department of Social Security (DSS), which falls under the remit of the MFSS, takes action in cases referred by the BFID involving potential social security fraud.
- The Tax Compliance Unit (TCU), a semi-autonomous unit within the Ministry for Finance (MFIN), addresses tax evasion and tax fraud through detailed tax audits. Among others, it carries out tax inspections and helps to enforce revenue collection.
- The Inland Revenue Department forms part of the MFIN, and has the remit to carry out audits in relation to the Income Tax Act (1949).
- The Vat Department falls under the remit of the MFIN and is in charge of auditing infringements as laid down in the Value Added Tax Act (1999).
- The Malta Police Force (MFP) carries out various activities related to the identification and tackling of UDW. Its Economic Crimes Unit investigates cases of fraud, misappropriation, custom-related cases and money laundering among others. In 2014 the MFP had an overall staffing complement of 1,916 employees,⁸ with the Economic Crimes Unit consisting of 34 employees.⁹

1.2.2 Characteristics of the responsible organisations

The characteristics of the national authorities with a role in addressing undeclared work are described below:

- The DIER aims to “to protect the interests of parties in employment contracts while actively promoting a healthy employment relationship in a spirit of social partnership, and to contribute towards stable industrial relations”.¹⁰ The department is composed of six branches as follows: Director’s office; International affairs and industrial relations; Enforcement; Termination and legal office; Research and IT;

http://www.econ.jku.at/members/Schneider/files/publications/2012/ShadEcEurope31_March%202012.pdf

⁶ Employment and Training Corporation (2015). Annual report 2015. Weblink:

<https://secure.etc.gov.mt/homedir/temp/ETCAAnnualReport2015.pdf>

⁷ Ministry for the Family and Social Solidarity (2014). Annual Report 2014. Weblink:

<http://mfss.gov.mt/en/Documents/MFSS%20Annual%20Report%202014.pdf>

⁸ Office of the Prime Minister (2014). Annual report of the Office of the Prime Minister. Weblink:

<https://www.gov.mt/en/Government/Publications/Documents/Annual%20Reports/2014/OPM%20Annual%20Report%202014.pdf>

⁹ Ministry for Home Affairs and National Security (2014). Annual report 2014. Weblink:

<https://www.gov.mt/en/Government/Publications/Documents/Annual Reports/2014/MHAS>

Annual Report 2014.pdf

¹⁰ Department for Industrial and Employment Relations: <https://dier.gov.mt>

Administration. The DIER operates at a national level and has a staff complement of around 30 employees.

- The ETC is Malta's public employment service organisation and aims to enhance employability through policies and initiatives targeting job seekers and employers. The organisation has seven divisions: corporate planning, employment services, inclusive employment services, EU funded schemes, training services, finance and corporate services, and the Gozo services. Its law compliance unit deals with: persons who register for employment while working; employers that do not notify the ETC on the engagement of new employees; employers who employ persons of compulsory school age without an authorisation; and employers engaging third country nationals without employment licences. The ETC has a national coverage and employs around 320 persons.¹¹
- The BFID, which operates at a national level, aims to tackle social benefits fraud by (a) identifying specific cases or trends in social benefit abuse, (b) investigating reported or suspected cases of abuse, (c) making recommendations that can lead to eliminating or restricting benefit fraud, and (d) acting fairly respecting the social aspect.¹² In 2014 it employed 13 persons (including the Director's secretariat).¹³
- The DSS administers Social Security Legislation, providing for the payments of benefits both under the contributory and the non-contributory schemes. One of the regulatory functions of the DSS is that of evaluating and deciding on cases brought forward by the BFID. During 2014, the DSS employed 306 persons.¹⁴
- The TCU collaborates with the investigative and enforcement units of other tax departments (namely the VAT, Inland Revenue and Customs departments) and with the ETC, BFID, DSS and the Police. The TCU also establishes industry benchmarks, and conducts visits at business premises collecting information such as the level of turnover, capital investment, number of employees and business capacity.¹⁵ In 2015 the TCU, which operates at a national level, with 16 staff.¹⁶
- The IRD deals with the administration of the Income Tax and Capital Transfer Duty Acts and the enforcement of social security contributions, at a national level.
- The VAT Department, operating at a national level, employs 72 inspectors.¹⁷ Its enforcement functions include examining business records and accounts in order to certify that registered persons make proper tax declarations. Spot checks are carried out to ensure that clients are being provided with fiscal receipts.

1.2.3 Cooperation and collaboration between authorities and cross-border authorities

The LCU, the DSS, the BFID, the TCU, the Vat Department and the MFP collaborate with each other on cases involving undeclared work. The DIER instantly informs the ETC whenever cases involving undeclared work, foreign nationals working with expired or without employment licenses or any other relevant information falling within the remit of ETC are uncovered during inspections / investigations. On the other hand, ETC informs the DIER of cases where there are doubts as to employment conditions.

¹¹ Employment and Training Corporation (2015).

¹² Ministry for the Family and Social Solidarity: <http://mfss.gov.mt>

¹³ National Audit Office (2014). Performance audit, addressing social benefit fraud. Weblink: <http://nao.gov.mt/loadfile/84e4bdce-6fc4-4cca-870c-bf2a49588959>

¹⁴ Department for Social Security (2015). Annual report 2014. Weblink: <http://www.socialpolicy.gov.mt/en/Publications/Documents/Annual%20Report%202014.pdf>

¹⁵ Ministry for Finance (2013)

¹⁶ House of Representatives (2015). PQ XII 16619. Weblink: <http://pq.gov.mt/PQWeb.nsf/7561f7daddf0609ac1257d1800311f18/c1257d2e0046dfa1c1257e5a0044d720!OpenDocument>

¹⁷ House of Representatives (2011). PQ XI 28234 Weblink: <http://pq.gov.mt/PQWeb.nsf/7561f7daddf0609ac1257d1800311f18/c1257881003b3b78c125792e002aa98d!OpenDocument>

Data exchange between organisations with an interest in UDW seems to be limited, although the ETC has agreed to provide the DIER with access to its databases.

No data on the effectiveness of cooperation on undeclared work between national organisations, and between Malta and other Member States, is currently available.

1.3 Policy Focus and Measures

1.3.1 Policy approach

The policy approach to tackling undeclared work in Malta features the following elements:

- Reducing direct taxation (enabling compliance) – With minimum wage incomes being exempt from income taxes. In recent Budgets, there were measures to reduce the rate of personal income tax, which may encourage persons in undeclared work to regulate their employment status.
- Reducing tax evasion (deterrence) - Since 2015, any type of commercial activity is obliged to register with the VAT Department and file VAT returns, regardless of the amount of sales per year. This amendment obliges commercial activities to declare income, both for VAT and for income tax purposes.¹⁸
- Active Labour Market Policies (enabling compliance) - In recent years, there has been increased emphasis on active labour market policies. The setting up of an Active Labour Market Counselling and Action Committee in 2013, composed of social partners is a case in point.
- Precarious employment (deterrence) - New mandatory criteria for contractors bidding for government tenders were introduced in 2013. Among others, contractors must provide information about the wages of their employees. A tribunal was set up to exclude employers in breach of employment from the adjudication of government tenders.
- Improving the efficiency of inspections (enabling compliance and deterrence) - In 2015, a White Paper was issued proposing to reform business inspections by: improving policy outcomes; enhancing compliance; carrying out more relevant inspections; and reducing inspections and the related burdens for businesses.¹⁹ Following a public consultation exercise, it was decided to set up a Central Inspection Coordination Unit to co-ordinate and set standards for inspections.²⁰

1.3.2 Measures to tackle UDW

As mentioned above, income tax has been decreased considerably in recent years, thus encouraging the uptake on formal employment. The government also increased the controls so that precarious employment is eliminated from subcontracting in the public sector. Maltese legislation obliges registered jobseekers to accept employment or training opportunities offered to them, or they will be removed from the employment register. Inspections are carried out by the ETC to identify persons registering as unemployed while at the same time engaging in undeclared work. A free phone service and an online reporting system exist to encourage the public to report undeclared work.²¹

¹⁸ Ministry for Finance (2014). Budget document 2015. Weblink: http://mfin.gov.mt/en/The-Budget/Documents/The_Budget_2015/Budget_Doc_2015.pdf

¹⁹ Office of the Prime Minister (2015a). Improving business inspections. Weblink: <https://opm.gov.mt/en/PublicService/Documents/Inspections%20Reform%20Digital.pdf>

²⁰ Office of the Prime Minister (2015b). Government response to public feedback on improving business inspections. Weblink: https://socialdialogue.gov.mt/en/Public_Consultations/OPM/Documents/L-17-2015%20Improving%20Business%20Inspection/Consultation%20Outcome%20Report%20-%20Improving%20Business%20Inspections.pdf

²¹ Ministry for Finance (2015). Malta national reform programme. Weblink: http://ec.europa.eu/europe2020/pdf/csr2015/nrp2015_malta_annex2_en.pdf

As stated earlier, apart from the ETC, other different government entities (such as the DIER and BFID) carry out inspections meant to reduce UDW.

Available data on the effectiveness of measures to address undeclared work are provided below:

- ETC Enforcement – During 2014, 6,528 targeted inspections were undertaken, uncovering 2,488 infringements.²² In 2014, 552 individuals were removed from the unemployment register, which were mostly Maltese workers found working at establishments without their employer notifying ETC.²³
- BFID Enforcement - During 2014, the BFID conducted 1,391 on-site inspections. Following investigations 1,022 cases were concluded and resulted in the suspension of a total of 887 social benefits.²⁴ The estimated annual savings for 2014 totalled € 3,831,983.²⁵

1.3.3 Good practice

The Community Work Scheme for registered unemployed persons administered by ETC is among others serving as a deterrent against undeclared work. Between 2009 and 2013, 52 persons who refused to participate were removed from the unemployment register, 19 persons lapsed from registration and 47 persons declared to have found employment when contacted to participate in the scheme.²⁶

1.3.4 Challenges and barriers

A main barrier to tackling undeclared work is the lack of effective enforcement, mostly due to disjointed inspectorate/ enforcement regime and a lack of resources. For instance the National Audit Office remarked about the “strained relationship between BFID and DSS due to divergent views on the administration of social policy”.²⁷ Fragmentation is also present in revenue earning departments, subjecting tax payers to burdens of multiple investigations by different departments. Another challenge that needs to be tackled is the engagement of irregular migrants in undeclared work.

These challenges are being addressed in several ways. New inspectors were recently engaged with BFID, VAT and DIER, and there is an ongoing process to amalgamate the revenue earning departments into one authority. The creation of a Central Inspection Coordination Unit (CICU) should enhance coordination and cooperation among the different regulators and inspection regimes. The government announced that it will carry out legal and organisational changes so that the unit will be able to set standards for inspections and carry out its operations. Advisory and consultative bodies are to be set up as to facilitate the development and implementation of the Common Policy Framework.²⁸ The Budget 2016 includes a proposal for the setting up of an Immigration Work Office for the regularisation of irregular migrants’ work.

According to the Minister for Education and Employment, more preventive and curative policies are required. These could include awareness raising campaigns on the consequences of undeclared work targeted at enterprises, workers and the general public.²⁹

²² Employment and Training Corporation (2014). Annual report 2014. Weblink: https://secure.etc.gov.mt/homedir/temp/ETC_Annual_Report_2014.pdf Data is collected regularly on an annual basis.

²³ Ministry for Finance (2015).

²⁴ Ministry for the Family and Social Solidarity (2014).

²⁵ Ministry for Finance (2015).

²⁶ Ministry for Finance (2013).

²⁷ National Audit Office (2014).

²⁸ Office of the Prime Minister (2015b).

²⁹ The Malta Independent (29 April, 2015). Minister Helena Dalli addresses EU conference on combating undeclared work. Weblink: <http://www.independent.com.mt/articles/2015-04->



29/local-news/Minister-Helena-Dalli-addresses-EU-conference-on-combating-undeclared-work-6736134628