



# Webinar Report

## Good practices and policy responses to prevent undeclared work in public procurement contracts

January 2025



The authors would like to thank all webinar participants for their input and active contribution.

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# 1.0 Introduction

On 17 January 2025 the European Platform tackling undeclared work (hereafter the Platform) organised a webinar on 'Good practices and policy responses to prevent undeclared work in public procurement contracts'. The webinar was a follow-up of a study on evaluating policy responses in this field, aiming to create a comprehensive collection of enforcement practices, key challenges, and effective solutions. Additionally, the event aimed to provide an overview of the planned revisions to the Public Procurement Directives.<sup>1</sup>

This webinar provided an opportunity for the Platform members and observers to explore the available tools and strategies to prevent undeclared work in public procurement contracts. It also served as a forum for exchanging good practices among a diverse group of stakeholders. The workshop convened a total of 76 participants, including representatives from labour inspectorates and social security institutions across 22 EEA Member States, EU-level sectoral social partners, officials from European institutions, and independent experts.

As noted by an European Labour Authority (ELA) representative, public procurement constitutes approximately 14 % of the EU's GDP<sup>2,3</sup> and can play a critical role in fostering compliance with social and labour standards. The foundational principles of EU public procurement law include equality, non-discrimination, transparency, and proportionality, as laid out in Directive 2014/24/EU<sup>4</sup> and Directive 2014/25/EU<sup>5</sup>. These directives encourage socially responsible procurement, enabling Member States to integrate labour and environmental considerations into their national frameworks.

# 2.0 Key findings of the study

A co-author presented the key findings of the study<sup>6</sup> based on desktop research and a survey among procurement and consumer protection authorities in Belgium, Sweden, Finland, Slovakia, and Poland. The research concluded that the extent of undeclared work (UDW) in public procurement contracts is not inherent to contracts themselves. Instead, it is linked to the use of qualitative criteria, such as whether a candidate adheres to a collective agreement. The risk of undeclared work increases when the lowest price is the only selection criterion, or is heavily weighted, as this puts pressure on labour costs.

The presentation highlighted practical examples of compliance tools either currently being used or recommended for use in public procurement processes, their effectiveness and potential for broader application. These tools include: (a) horizontal social clauses mandating adherence to environmental, social and labour laws; (b) careful drafting of technical specifications; (c) robust use of exclusion criteria for non-compliant operators; (d) enhanced checks on abnormally low bids; (e) due diligence with regard to subcontractor obligations; (f) use of labels<sup>7</sup>; (g) selection of the best price-quality ratio; and (h) conducting preliminary market consultations.

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<sup>1</sup> European Labour Authority, [Evaluating policy responses to prevent undeclared work in public procurement contracts](#), 2024.

<sup>2</sup> European Court of Auditors (4 December 2023), [Special report 28/2023: Public procurement in the EU – Less competition for contracts awarded for works, goods and services in the 10 years up to 2021](#).

<sup>3</sup> EuroNews (6 May 2024), [Europe's public procurement market, an untapped potential of €2 trillion](#).

<sup>4</sup> Official Journal of the European Union. [Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC](#)

<sup>5</sup> Official Journal of the European Union. [Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC](#).

<sup>6</sup> European Labour Authority, [Evaluating policy responses to prevent undeclared work in public procurement contracts](#), 2024.

<sup>7</sup> Certificate or other proof that the works, services or supplies correspond to the required characteristics.



The study highlights several **good practices** in public procurement across various European countries, emphasising the integration of environmental, social, and labour standards. Key practices include rejecting tenders that do not comply with these standards (Italy, Belgium, Finland, Slovakia), incorporating quality standards in procurement with a price weight threshold (Poland, France, Italy), and maintaining "non-compliance lists" to prevent tenders from repeat offenders (Germany, Slovakia). Additionally, procurement procedures often require proof of necessary licenses, financial stability, and technical expertise, as well as ensuring alignment with collective agreements (Finland, Sweden, Germany). Other measures include evaluating tenders with wage considerations (Slovakia, Poland, Spain), requiring subcontractor pre-approval and utilising joint liability (Italy), limiting the length of the subcontracting chain (Belgium), and conducting market consultations (Belgium, Greece, Finland, Poland, Portugal, Romania, Slovakia). Regular checks on labour conditions post-contract (Finland) and procedures for reporting irregularities (Bulgaria, Finland) further support these efforts, along with specific requirements such as permanent employment for at least 30 % of the workforce in Spain's construction sector.

Despite these good practices, undeclared work remains prevalent in sectors dependent on manual labour, foreign or seasonal workers, and those with complex subcontracting chains. **Key challenges** include insufficient resources for inspections, limited methods for evaluating abnormally low bids, an overly restrictive interpretation of social criteria ('link with the subject matter of the contract') and gaps in the transposition of EU directives.

## 3.0 Revision of the public procurement Directives

A representative from the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs at the European Commission outlined **plans to revise the EU's public procurement directives**. In recent years, discussions at the EU level have emphasised the need to streamline the rules governing this area. Public procurement has been a central theme in several key reports, including the Draghi<sup>8</sup> and Letta reports<sup>9</sup>, the European Court of Auditors' (ECA) report<sup>10</sup>, and the Council of the EU's conclusions on public procurement.<sup>11</sup>

The aim of the revision is to harmonise fragmented regulations, enhance resilience, and integrate environmental and social sustainability into procurement processes. This will involve evaluating the effectiveness, cost-efficiency, and broader impacts of current rules, as well as assessing their relevance to both existing and emerging needs. The revision will also consider the shifting geopolitical landscape and evolving policy frameworks. According to the Political Guidelines for the Next European Commission (2024–2029), achieving just a 1% increase in efficiency in public procurement could result in annual savings of EUR 20 billion.<sup>12</sup>

To support this process, a **renewed Stakeholder Expert Group on Public Procurement** has been established, and additional consultations with social partners are underway to assess past implementations and explore future directives. An **open public consultation, running until 7 March 2025**, is also gathering input to inform the drafting of updates to the directives, which are expected to be released in the second half of 2025.<sup>13</sup>

<sup>8</sup> European Commission (September 2024), [The future of European competitiveness, Part A: A competitiveness strategy for Europe](#).

<sup>9</sup> Enrico Letta, (April 2024), [Much more than a market – Speed, Security, Solidarity. Empowering the Single Market to deliver a sustainable future and prosperity for all EU Citizens](#).

<sup>10</sup> European Court of Auditors (4 December 2023), [Special report 28/2023: Public procurement in the EU – Less competition for contracts awarded for works, goods and services in the 10 years up to 2021](#).

<sup>11</sup> Council of the EU (24 May 2024), [Council adopts conclusions on the Court of Auditors' report on public procurement](#).

<sup>12</sup> European Commission (18 July 2024), [Political Guidelines for the Next European Commission 2024-2029](#).

<sup>13</sup> European Commission (13 December 2024), [Call for evidence: Public procurement directives](#).



A key aspect under consideration is the (anti-competitive) concept of "**European preference**" in procurement. This would ensure that a significant proportion of public procurement contracts benefit European companies, preventing a large share of demand from flowing overseas. The EU is also exploring conditionalities that would promote labour and social standards within procurement processes.<sup>14</sup>

The speaker further encouraged participants to engage with the **Public Buyers Community Platform**<sup>15</sup>. Over the coming years, this platform will work towards establishing standards for compliance, alongside the introduction of mandatory procurement clauses.

The following discussion focused on the use of collective agreements, market consultations, and subcontracting. Participants raised concerns about the European Commission's stance on collective agreements, noting that Latvia had to remove such criteria from its procurement laws for several years after the Commission deemed them discriminatory. This prompted a discussion on whether other Member States faced similar challenges and how such interventions impact socially responsible procurement. The representative from the European Commission acknowledged the issue, confirming that while some Member States encounter legal uncertainty, the Commission is working on addressing these challenges in the upcoming reform of public procurement rules.

The representative from UNI Europa emphasised the importance of both market and social partner consultations to ensure fair competition in public procurement. He pointed to a recent example involving procurement related to the Schiphol Airport where social partner consultations failed to prevent a lower-priced bid that undermined fair practices. They also criticised the lack of representation of affected sectors in expert groups advising on public procurement policies. In response, the representative from the European Commission assured participants that the Commission is aware of such concerns and is working to improve the consultation process. The Commission is closely examining Member States' experiences, particularly cases where overly strict interpretations have required all procurement criteria to be directly linked to the subject matter of the contract. In response, the Commission is exploring the possibility of allowing a broader approach, enabling contracting authorities to incorporate more general corporate social and environmental responsibility requirements. Another best practice under consideration is Belgium's approach to limiting subcontracting, which could serve as a model for other EU Member States.

## 4.0 Good practices and policy responses to prevent undeclared work in public procurement contracts

### 4.1 Italy

A representative from Italy's Ministry of Labour and Social Policies presented the provisions of the **new Code of Public Contracts**<sup>16</sup>, which was introduced in July 2023 and further updated in December 2024. The Code is still evolving and prioritises the enforcement of fair wages and working conditions in public procurement.

Under the new regulations, contracting authorities must ensure that **bidders adhere to collective agreements** pertinent to the primary activity of the tender, and this requirement extends to subcontractors as well. Bidders can propose alternative collective agreements, but these must undergo an equivalence assessment in terms of the

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<sup>14</sup> European Commission (September 2024), [The future of European competitiveness, Part A: A competitiveness strategy for Europe](#).

<sup>15</sup> Public Buyers Community Platform's [website](#).

<sup>16</sup> State Gazette (31 December 2024), Italian Code of Public Contracts, [Legislative decree No. 209](#).



wage amounts. The Code encourages the use of collective agreements established by national social partners and stipulates that contracting authorities must **calculate labour costs based on standardised tables** provided by the Ministry of Labour. These tables, developed in consultation with social partners, outline minimum remuneration levels for services, including additional costs like financial compensations provided to employees to cover commuting or work-related travel expenses. Although not all sectors are currently covered by the tables, efforts are underway to expand their scope. Additionally, a **centralised alert system** has been established to flag non-compliant bidders who risk being blacklisted and losing fiscal conformity documentation.

During the session, questions were raised about the alignment of Italy's ATECO<sup>17</sup> codes with the EU's Common Procurement Vocabulary (CPV) codes, and if the comparison of the actual labour costs with the government-approved tables are performed only during the evaluation phase or also during the implementation phase. Another topic of discussion centred on a potential introduction of a credit system linked to health and safety compliance, where bidders would lose credits in the event of workplace accidents. The speaker acknowledged that most of the checks are performed at the evaluation phase. In addition, while measures such as the credit system are promising, they are still in development and will require further refinement through forthcoming decrees.

## 4.2 Belgium

A representative from the Belgian Social Information and Investigation Service (SIIS) outlined the country's comprehensive approach to tackling undeclared work in public procurement, built on a **strong tradition of social dialogue**. Belgium's social and procurement laws are complex and require specialised knowledge to manage effectively. Detecting social fraud, such as falsified documents, improper subcontracting, or the misuse of temporary work agencies, often involves the expertise of trained social inspectors.

The SIIS centralises oversight, working closely with contracting authorities and social inspectors through established protocols. SIIS also collaborates with the European Labour Authority (ELA), police, judicial authorities, and contracting bodies. Since 2019, SIIS has directly monitored public contracts, requiring authorities to notify its Fair Competition Point of Contact when rejecting abnormally low bids indicating potential social fraud. SIIS also recently started screening candidates or bidders at the request of contracting authorities to ensure fair competition, including verification of any past or present violations related to undeclared work. With access to comprehensive databases, SIIS investigates and prepares factual reports. However, the final decision regarding disqualification remains with the contracting authorities.

SIIS also maintains cooperation with contracting authorities for the efficient receipt of **public construction site lists**. These lists help labour inspectors to set specific control objectives for inspections, thus improving positivity rates of inspections at construction sites. To address complexities of subcontracting chains, subcontracting is limited to three levels in construction, with similar restrictions applied in other high-risk sectors. Additionally, a Royal Decree<sup>18</sup> prohibits subcontractors from "sub-subcontracting" the entire scope of services entrusted to them.

Since May 2024, judges have been authorised to exclude entities found guilty of severe labour law violations from public contracts and concessions. In its 2025-2026 Plan of Action, the SIIS aims to encourage inspectorates to place an even greater emphasis on enforcing subcontracting chain restrictions. This will involve a combination of inspections, training, and advisory support for public contracting authorities, local governments, and private clients.

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<sup>17</sup> Ateco is the official framework for the classification of business establishments in Italy. It is the Italian equivalent of the Statistical Classification of Economic Activities in the European Community (NACE) code.

<sup>18</sup> Europam (14 January 2013), [Royal Decree establishing general rules for the execution of public contracts](#).





## 5.0 Perspectives from social partners

### 5.1 Effective tools available to prevent undeclared work in public procurement contracts

The panel emphasised the importance of engaging social partners throughout procurement processes. There are ongoing efforts to **integrate collective agreements into public procurement**. UNI Europa, European Cleaning and Facility Services Industry (EFCI)<sup>19</sup>, Confederation of European Security Services (CoESS), and European Federation of Food, Agriculture and Tourism Trade Unions (EFFAT) have issued joint statements advocating for awarding contracts only to companies adhering to collective agreements. EFFAT, in their 2019 Guidelines<sup>20</sup> and 2023 recommendations<sup>21</sup> promoted the use of social criteria and collective agreements in food-related procurement. They also advocated for **market consultations and monitoring implementation** in the supplier and subcontracting chain.

UNI Europa emphasised the need for a **better understanding of the day-time and night-time cleaning market**, including feasibility studies that consider both price and quality in procurement. UNI Europa highlighted the ease of establishing cleaning companies, advocating for **improved licensing mechanisms**. Both organisations stressed the significance of capacity building and legal clarity in drafting social requirements, particularly for private security services. These insights underscore the need for targeted training and clear criteria to ensure a balance between cost-efficiency and social responsibility. The participants also recommended the use of **Internal Market Information System (IMI)** for cross-border information exchange to verify workers' pay and conditions, and social security contributions by companies.

### 5.2 Main challenges for socially responsible public procurement

CoESS noted that the private security services sector is highly regulated, and hiring third-country nationals is usually difficult. However, it is also important to make use of **social partner observatories and preliminary market consultations** to address grey areas and undeclared work risks. CoESS also pointed out that contracting **authorities often struggle to draft legally sound social requirements** (covering the horizontal social clause and selection criteria). They also tend to interpret the legal basis too narrowly, seeking to establish a direct link between social criteria and the subject matter of the contract. This restrictive approach limits the ability to impose broader requirements. CoESS advocated for at least **40/60 price-quality ratio** and the need for training and legal certainty for public buyers.

UNI Europa discussed the **cultural, political, and economic factors that contribute to the marginalisation of certain workers**, such as cleaners and catering staff. Although these workers were recognised as “essential workers” during COVID-19, many issues from the 2008 economic crisis persist. The procurement approaches remain overly technical, and the current legal setup prevents the adoption of innovative practices needed to address job quality. The panellists also noted that a significant percentage of **contracting authorities face high litigation costs**, which results in a substantial amount of time spent on handling legal complaints.

<sup>19</sup> UNI Europa and EFCI (2023), [UNI Europa – EFCI Joint Declaration on Public Procurement and Collective Bargaining](#).

<sup>20</sup> EFFAT (2019), [Choosing best value in contracting food services – A guide for private and public client organisations](#).

<sup>21</sup> EFFAT (2023), [EFFAT and FoodServiceEurope joint declaration on public procurement and collective bargaining](#).





## 5.3 Monitoring of working conditions during the performance of public procurement contracts

EFFAT strongly advocated for enhanced **collaboration** with labour inspectors and social partners to ensure the protection of workers' rights in the execution of public procurement contracts. They highlighted the necessity of establishing **clear communication channels** and designating a specific point of contact for each procurement contract, enabling bidders and stakeholders to report any irregularities. EFFAT emphasised the importance of applying the correct collective agreements and ensuring that workers receive proper training. Additionally, they called for a **reduction in the length of subcontracting chains** and underscored the importance of a thorough due diligence, particularly in high-risk sectors.

A representative from CoESS suggested that **execution criteria should be clearly defined** in tenders and contracts, with **consequences for non-compliance**. They recommended **limiting subcontracting to one level in the security sector and advocated for capacity-building within companies** that may be unknowingly non-compliant. They also proposed informing companies about the **documents they need for inspections**. The participants also suggested that contracting authorities utilise the services of **external specialised companies to conduct follow-up checks**, including both desktop reviews and on-site inspections.

## 6.0 Closing remarks

The webinar underscored the potential of public procurement to drive socially responsible practices. Italy and Belgium provided compelling examples of enhancing enforcement mechanisms. However, challenges persist in harmonising rules across Member States, finding the right balance between administrative demands and the need for conditions against undeclared work, and ensuring effective monitoring. The European Commission's ongoing consultations and planned revisions to procurement Directives aim to address these issues, with a focus on resilience, sustainability, and compliance.

Key takeaways include the need for thorough market consultations, capacity building for contracting authorities, and targeted enforcement strategies. Moving forward, fostering collaboration among Member States, social partners, and stakeholders will be essential to creating a fair and compliant procurement ecosystem in the EU.



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