


Detecting false self-employment among highly skilled workers - information exchange between Tax and Labour Inspectorates

Spain


	<p>Summary</p> <p>An anti-fraud tool has been developed which cross-references data exchanged between the Tax Administration and the Labour and Social Security Inspectorate. Tax-related information is cross-checked with data from the Social Security Administration, using algorithms that search for incidences of social security fraud (non-registration with the social security system, unpaid social security contributions, or bogus social security registrations i.e. a worker who registers as self-employed but is actually employed). The configuration of these algorithms enables the authorities to target sectors with highly skilled self-employed workers (HSW), among others.¹</p>
<p>Title of the practice in original language</p>	<p><i>Coordinación entre la Inspección de Trabajo y Seguridad Social y la Inspección Tributaria en la lucha contra el fraude de trabajadores altamente cualificados.</i></p>
<p>Name(s) of authorities/bodies/organisations involved</p>	<ul style="list-style-type: none"> ▶ Tax Administration (<i>Agencia Estatal de Administración Tributaria</i>); ▶ Labour and Social Security Inspectorate (<i>Inspección de Trabajo y Seguridad Social</i>).
<p>Sectors</p>	<p>All</p>
<p>Target groups</p>	<ul style="list-style-type: none"> ▶ All workers (directly targeted). <p>While all workers are targeted by the cross-referencing of tax and social security data, the algorithms used tend to prioritise cases with higher incomes, resulting in the great part of cases selected for investigation consisting of HSW.</p>
<p>Purpose of measure</p>	<p>Deterrence: improve detection Legitimising undeclared work</p>

	<p>Aims and objectives</p> <p>Data from the registration and social security contributions of workers as well as tax data are used in a cross-referencing data tool to help authorities detect fraud. When focusing on self-employment cases, the data tool tends to highlight highly skilled workers as being</p>
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	<p>at higher risk of fraud. The purpose of the measure is to find indications of fraud to plan targeted inspection activities.</p>
<p>Background context</p>	<ul style="list-style-type: none"> ▶ Cooperation between tax and labour authorities dates back to the 2008 economic crisis in Spain. This period saw widespread job losses, company bankruptcies, and significant social conflicts. To address these issues and aid recovery, Spain received EU funds and implemented measures such as Law 13/2012, which mandated data sharing between public bodies like the Social Security and Tax Agency. This led to the development of data cross-checking tools to identify non-compliance; ▶ The Labour and Social Security Inspectorate utilises algorithms to detect fraud, using data from the registration and social security contributions of workers. Action to investigate is taken either on the basis of cross-referencing data, complaints (in this kind of fraud not anonymous mainly), agreements with government agencies, as well as actions targeted at sectors where fraud has occurred in the past;ⁱⁱ ▶ When the tax and social security data cross-checking is focused on the self-employed, the outcomes identify a significant number of HSWs as being at risk of fraud. As a result of both the algorithms used and complaints made, a noteworthy proportion of fraud inspection activities tends to focus on higher earning individuals, i.e. highly skilled workers; ▶ The algorithms were designed in the national headquarters of the Labour and Social Security Inspectorate in 2015. Since then, they have been available for use by all regional inspectorates.
<p>Key objectives of the measure</p>	<p>General objectives:</p> <ul style="list-style-type: none"> ▶ To prevent and tackle undeclared work among self-employed workers by cross checking tax and social security data for indications of fraud, as well as responding to direct complaints of fraud. <p>Specific objectives:</p> <ul style="list-style-type: none"> ▶ To plan and carry out investigations among businesses highlighted as being at high risk of fraud, either via the tax and social security data cross-checks used or by reports made via the direct complaints process.
<p>Main activities</p>	<ul style="list-style-type: none"> ▶ In order to detect false or dependent self-employment (people registered as self-employed but economically dependent on a single company), data is cross-referenced for persons who

	<p>declare income from an economic activity (tax data), but are not registered with social security;ⁱⁱⁱ</p> <ul style="list-style-type: none"> ▶ To be able to detect fraud through cross-referencing large amounts of data, it is necessary to have the following in place: <ul style="list-style-type: none"> - Co-operation between various public bodies providing the relevant data; - Legislation allowing this information to be accessed and processed by anti-fraud units, such as tax inspectorates or labour and social security inspectorates; - Co-operation agreements between the administrations sharing the information, to ensure that data is exchanged securely. The Labour Inspectorate signs cooperation agreements with each of the public bodies with which it exchanges information. These agreements specify the conditions of access and the necessary security measures; - Data that is appropriate, complete, and reliable for the type of fraud being investigated; - Computer units for large-scale data cross-checking; - Anti-fraud expertise (labour inspectors). An internal team at the Labour and Social Security Inspectorate is responsible for cross-checking data, while an external company is contracted for technical expertise; - Where cases of interest are identified through crosschecking tax and social security data, the Labour Inspectorate and the Tax Inspectorate have signed an agreement to cooperate via joint or successive inspection actions.
<p>Funding/organisational resources</p>	<p>The measure is funded through the Labour Inspectorate’s internal budget. An external company is employed to provide technical expertise. Part of the technical costs related to the storage and management of the data used for subsequent cross-checks are borne by other ministries or departments outside the Labour Inspectorate</p>

	<p>Outcomes</p> <p>The anti-fraud tool is successful in allowing the Labour Inspectorate to target sectors at high risk of fraud, and plan and carry out inspection activities to combat it. Cooperation between the Labour Inspectorate and Tax authorities to control false self-employment is ongoing. The measure is transferrable to other Member States, requiring political will and pertinent legislation to address the problem.</p>
<p>Achievement of objectives</p>	<ul style="list-style-type: none"> ▶ The Labour Inspectorate’s assessment of the data cross-referencing measure is positive, as it allows for targeting sectors at high risk of fraud and carrying out inspections of companies



	<p>and workers when there are indications of non-compliance with the law. Inspection activities are effective in the search for and detection of undeclared work, social security fraud, and other labour and health and safety violations;</p> <ul style="list-style-type: none"> ▶ It is also estimated that cooperation with the tax authorities for monitoring self-employment contributions will be ongoing.
Lessons learnt and success factors	<p>Reliable data from different sources provide information that allows for the detection of administrative and criminal fraud and helps authorities plan inspection activities to tackle it. For this reason, there should be no barriers to sharing such information, although establishing safeguards is essential to ensure that it can be done securely. This requires competency enabling legislation (with particular reference to the fight against fraud or crime), as well as access to the data and its use.</p>
Transferability	<p>The whole system is transferable to other Member States. Political will on behalf of government and a clear commitment to tackle the problem is crucial.</p>

Further information

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Useful sources and resources

Organic Law 15/1999, of 13 December, on the Protection of Personal Data, Article 8 processing of personal data in the public interest^v

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806af30e>

Authorising the Labour and Social Security Inspection System, Law 23/2015, of 21 July, Article 24 information from the labour and social security inspection system^v

<https://www.boe.es/buscar/act.php?id=BOE-A-2015-8168&p=20220302&tn=1#a24>

Authorising the Labour and Social Security Inspection System, Law 23/2015, of 21 July, Article 16 cooperation with Labour and Social Security Inspectorate^{vi}

<https://www.boe.es/buscar/act.php?id=BOE-A-2015-8168&p=20220302&tn=1#a16>



ⁱ The anti-fraud tool looks for non-compliance in the areas of labour, occupational risk prevention, and social security by cross-checking data.

ⁱⁱ Any citizen who is aware of non-compliance with labour, health and safety, or social security regulations can contact the Spanish Labour and Social Security Inspectorate in the following ways:

- An anonymous communication in the Inspectorate's mailbox: <https://oeitss.mites.gob.es/buzonitss/>

- A complaint submitted to the Inspectorate's offices in person, by post, or via the Ministry of Labour's electronic office, in which the complainants must identify themselves and provide the minimum information required by relevant regulations.

The communications are used to plan the inspection action (these actions may or may not take place), and all complaints must be dealt with.

ⁱⁱⁱ Self-employed workers must register with the social security system regardless of the number of contracts they have. The regulation defining the requirements for social security registration of a self-employed person is the Self-employment statute, Law 20/2007, of 11 July, Article 1.

^{iv} The processing of personal data can only be based on the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller, as provided for in Article 6(1)(e) of Regulation (EU) 2016/679, if it derives from a competence conferred by a rule having the force of law.

^v The staff of the Labour and Social Security Inspectorate have access to the information necessary for the performance of their inspection duties. The consent of the data subjects is not required for the inclusion of their data in the database of the system, nor for their access or communication to third parties by the competent public administrations. The information system shall be subject to the high level of security measures laid down in the regulations on the protection of personal data.

^{vi} Public bodies are obliged to provide the Labour and Social Security Inspectorate with all data, reports, and background information relevant to the scope of its competence and to provide it with all cooperation requested for the exercise of its inspection function. Access to information from the Tax Administration, Social Security Administration, Transport Administration, and other public agencies is cited throughout the article. The collection of personal data not provided by the data subject, by officials of the Inspectorate in the exercise of their powers, shall not require the express and unequivocal information provided for in article 5.4 of Organic Law 15/1999, of 13 December, on the Protection of Personal

Data
(<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806af30e>).