



Webinar Report

Approaches to tackle bogus self-employment

April 2025



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

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1.0 Introduction

On 5 December 2024 the European Platform tackling undeclared work (hereafter “the Platform”) organised a webinar on ‘Approaches to tackle bogus self-employment. The webinar was a follow-up of two peer learning dialogues (PLDs) held in 2024 during which national enforcement authorities from ten Member States discussed the definitions, characteristics and causes of bogus self-employment, and explored potential solutions.

The webinar provided an opportunity for Platform members and observers **to share additional experiences and good practices in preventing and tackling bogus self-employment.**

The present report aims at providing an overview of the main issues that were presented and discussed during the webinar as well as its key findings. The report will more in particular

- (a) identify the specific features of bogus self-employment;
- (b) explore emerging challenges for enforcement authorities to tackle bogus self-employment; and
- (c) review good practices, both in prevention and deterrence, of enforcement authorities that were shared during the webinar.

The present report focuses on the key issues that constituted the basis of discussions which took place during the webinar. More detailed contextual information and relevant issues on the practices of enforcement authorities in Member States have been elaborated in the [report from the peer learning dialogues on ‘Approaches to detecting, preventing and tackling undeclared work’](#).

2.0 Specific features of bogus self-employment

At the moment there is **no commonly agreed definition of bogus self-employment** in the national legislation of Member States. Bogus self-employment is considered *primarily an operational challenge for the different national enforcement authorities* who are entrusted with enforcing the correct application of the relevant tax, social security and labour legislation to individuals and undertakings that are engaged in the supply and purchase of economic activities. Bogus self-employment is commonly understood as engaging **individuals who are officially registered as self-employed or as one-person businesses but whose conditions of employment are *de facto* pointing at dependent employment**. Individuals can be engaged, intentionally or not, as self-employed when they should have been contracted under an employment contract. Contracting bogus self-employed is primarily used to cut costs and ‘to circumvent tax and/or social insurance liabilities, or employers’ responsibilities’¹ while it may also occur unintentionally due to low awareness about one’s social, labour and tax rights, especially in cross-border settings. Failure to comply with the substantive provisions of the tax, social security or labour legislation may lead to a *reclassification of bogus self-employment* into the correct worker status. This may trigger the retro-active application of tax and social security charges while administrative and/or criminal sanctions may also be applied.

¹ Definition taken from OECD (2014) *Employment Outlook 2014*. Paris: OECD; See also the [glossary of the European Platform tackling undeclared work](#)



National definitions of **'workers'** are generally aligned with the commonly accepted European concept of workers, e.g. **a person who is providing services of economic value to another person in return for a payment**. The organisational/personal 'subordination' criterion (and not necessarily the economic dependency) is thereby the determining factor to establish the worker status: e.g., the employer decides the place and time of work, the worker uses the equipment made available by the employer, etc. On the other hand, national concepts and **definitions of self-employed vary** to a large extent or do not exist in Member States' legislation. Instead, other concepts may exist such as 'entrepreneurs', '(one-person) businesses' or 'freelancers'.

During the webinar, the Belgian representative indicated the growing significance of posted individuals with self-employed status in intra-EU labour mobility. It has been estimated that 66% of the people posted from Slovakia to Belgium are self-employed, as well as 30% of the people posted from Poland.

In spite of the significant diversity in national definitions of workers and of self-employed, there is large consensus among national enforcement authorities about the existence of a **group of dependent solo self-employed who are to be considered as workers** as they meet all conditions that are established in national legislation to determine worker status. Solo self-employed persons who exclusively provide services to one single or dominant client ('economic dependency') and/or depend on their instructions or work organisation ('organisational or personal dependency') fall into a grey area because their employment status remains often unclear. The question is whether these **solo self-employed persons work are genuine self-employed or whether they perform dependent work and, thus, are bogus self-employed persons**.

The national legislation of Member States determines the employment status but national definitions and **concepts leave considerable room for interpretation**. At the same time, determining employment status requires that the facts and circumstances of individual cases are to be considered and assessed, which is a time-consuming process. Since facts and circumstances constitute the basis for the final assessment in individual cases, outcomes of such assessment cannot automatically be applied to other individual situations, even when these occur in the same economic sector and/or the same company. In Member States (different) national enforcement authorities are entrusted with the responsibility **to verify if a person is in bogus self-employment or not**. This responsibility is often entrusted to the tax or social security enforcement authorities while labour inspectorates are often not involved. In all Member States **national courts have always the ultimate decision on the determination of the correct employment status of individual persons**.

There is statistical evidence which demonstrates the considerable size of bogus self-employment in Member States. Statistics show that 19% of the self-employed active in the EU lack the autonomy to decide on their working time whereas 13,9% are economically dependent on one single or dominant client. These figures point at the personal or organisational dependency and economic dependency respectively and may indicate possible magnitude of bogus self-employment.²

The webinar revealed that in some Member States (e.g. in Belgium and the Netherlands) bogus self-employment is primarily affecting **the construction sector** while in some other Member States (e.g. Spain) it has also been prevalent in the **digital platform economy and more in particular in the personal transport and delivery sectors**. However, there is evidence of a growing trend of bogus self-employment throughout an **increasing number of economic sectors** in the EU such as the parcel, food, grocery delivery sector, manufacturing industry, meat processing sector, HORECA, cleaning services, forestry and fishing, health care sector, domestic and home care services or in sectors that depend on services which are provided online and are hence less visible for enforcement authorities.

² Horodnic, I.A., Williams, C.C. and Horodnic A.V., (2023). *Extent of dependent self-employment in the European Union*, European Platform tackling undeclared work, Bratislava



Third country nationals (TCNs) are particularly vulnerable and often contracted as bogus self-employed, while they may be unaware about their labour and social rights in the Member States where they work or may face more limited choice of job offers. This is often connected to specific economic sectors (e.g., construction, domestic services) or types of labour (e.g. low-skilled or manual labour) and reveals the cross-border dimension of the challenges bogus self-employment is triggering. TCNs arrive in the country as cross-border workers after having entered the EU through other Member States or through posting constructions.

Bogus self-employment can take **various shapes** in Member States and is often the consequence of or linked to **soft or flexible national rules on access to the self-employment status** in Member States. The access to the status of self-employed in Member States may also be open to TCNs. For instance, in the Netherlands, it is reportedly rather easy for TCNs to provide services as (unregistered) self-employed while once they are registered, low tax and social security contributions apply to self-employed. Such cases are difficult to detect for the responsible enforcement authorities. On the other hand, webinar participants from Iceland reported that unless they have a non-restricted access to the labour market, TCNs are prohibited from being self-employed in Iceland, which may be a drastic measure but effective in the fight against bogus self-employment among TCNs. Another interesting national policy measure that is existing in Iceland concerns the prohibition for temporary work agencies (TWAs) to engage self-employed in their outsourcing actions.

In a cross-border setting, bogus self-employment of TCNs in receiving countries may also be the consequence of **soft or flexible national rules in sending Member States** on access to the local employment market or to the opening of a business. For instance, the webinar revealed that it is relatively easy to establish a company in Poland, which is sometimes used with a view to post TCNs to other Member States ('fast-posting') without previous employment in the sending country.

Other forms of bogus self-employment also exist in Member States such as the case of TCNs who are forced to become shareholders in companies established in the receiving Member State (e.g. Belgium). This demonstrates the **continuously evolving and inventive ways** that certain companies are applying in cross-border settings with a view to bend and exploit the existing legal mechanisms in order to maximise their cost cutting and engage TCNs in bogus self-employment.

3.0 Emerging challenges for enforcement authorities

Bogus self-employment in the cross-border setting of an integrated EU market of services is a **fast-growing trend**. This seems to affect mostly the economic sectors requiring *low-skilled or manual work* (e.g. construction, delivery, manufacturing, domestic services), which are characterised by *structural labour shortages*. Cross-border mobility and postings of TCNs within the EU often involve intermediaries and non-standard contracts of engagement (e.g. contracts with self-employed TCN, civil law contracts), constitute a growing challenge for national enforcement authorities entrusted with the responsibility to ensure the correct establishment of the employment status of the individuals in the country where work is performed. National enforcement authorities are bound by their national legislation concerning employment status. However, they are, for their assessment, often depending on information concerned with the status of the TCN in those countries through which the TCN entered the EU. This is regardless of whether they worked or provided services as a self-employed in that country and regardless of their local residency status. The TCN concerned may have obtained a work permit or business permit in the sending Member State or they may have been posted by a company or a temporary work agency (TWA) established in the sending country. This demonstrates the **interdependency between national enforcement authorities from Member States** in terms of effective information exchange and cooperation, in a context where national rules from Member States on employment status still have precedence and are essentially very different



(e.g. rules on access to status of self-employed, on establishing businesses, immigration legislation and access to work and residence permits for TCNs).

The above also points at **possible loopholes** that may exist in the combined national legislative frameworks and rules of Member States concerned with employment, self-employment, businesses and immigration. The legislative gaps are often a consequence of the cross-border interplay of the diverse national rules, especially when it concerns TCNs. TCNs arrive in receiving countries as cross-border workers after having entered the EU through other Member States or through posting constructions organised from other Member States. This may contribute to **possible abuses** by undertakings engaged in cross-border service provision at the detriment of the TCNs who are engaged as bogus self-employed in the receiving Member State.

Interinstitutional cooperation between national enforcement authorities in tackling bogus self-employment **within Member States** is considered as a prerequisite for more effective cross-border cooperation and the exchange of information. Participants to the PLD and webinar reckon that such national inter-agency cooperation needs to be intensified in order to prevent bogus self-employment from occurring on their territories. As tax authorities or social security bodies are often the lead authority in Member States when detecting bogus self-employment and mandates of labour inspectorates are mostly constrained, interinstitutional cooperation and information exchanges between the mentioned authorities is key (see also box 2 below). Participants from Iceland emphasised the importance of the cooperation between trade unions and the enforcement authorities in the detection of bogus self-employment.

An important challenge in the fight against bogus self-employment mentioned by the participants to the webinar is the often **very short duration of the stay** of the mobile or posted workers. Stays of less than a month or even a week are most common (e.g. in the Netherlands, 63% of the incoming posted self-employed stay for less than a month). This may hamper a fast and effective detection of possible cases of bogus self-employment by enforcement authorities, especially in situations where (labour) enforcement authorities are inspecting the workplace but are not entrusted with a mandate to establish the correct employment status. Bogus self-employment may hence remain under-reported.

During the webinar, a representative of the Spanish labour and social security inspectorate also pointed at the **lack of goodwill and cooperation from the employers** and workers which enforcement authorities are sometimes confronted with during inspections, which is hindering effective processes that lead to the correct determination of employment status. Other challenges mentioned during the webinar concern the language barriers and translation challenges during inspections. Participants from Slovakia reported the use of online translation apps that are being used during the inspections as a useful tool to overcome language barriers.

At the webinar, Belgian participants raised the issue of current **administrative practices concerned with the issuance of PDA1 forms** in some Member States as a critical challenge and obstacle for an effective enforcement of the correct employment status of posted workers. The practice is especially challenging when these PDA1 forms are granted to the self-employed. PDA1 certificates can be issued on the basis of false information or be forged. PDA1 forms are binding in the host Member States for the national enforcement authorities and a possible reclassification of bogus self-employed can only be executed by the latter when the PDA1 form is withdrawn by the issuing institutions or in cases of proven fraud, when these issuing institutions are not following up on requests to reconsider the granted PDA1 certificates.³ Enforcement authorities that participated in the PLD and webinar pointed at the IMI system for information exchange between enforcement authorities from different Member States through the posting module, which is at present not always effectively or efficiently used. However, participants

³ Judgement of the European court of Justice (C 359/16) of 6 February 2018: 'the national courts of a host Member state may disregard a PDA1 certificate of a posted workers in case of fraud in case the institutions of the issuing Member State remain inactive.'



pointed at the long response times or absence of any reply from the sending MS in the current IMI operational practices. Webinar participants agreed nevertheless that the IMI posting module is constituting a sound basis for an increased and more efficient use in the future.

Discussion during the webinar revealed that a large majority of participants considered **the determination of the correct employment status as the main challenge** enforcement authorities are confronted with in the fight against bogus self-employment. Three other challenges were also reported to be of considerable importance: (1) limited competences of the enforcement agency, (2) limited HR capacities and resources, and (3) limited access to relevant data from other enforcement authorities.

4.0 Good practices from the enforcement authorities

The PLD revealed that Member States often address bogus self-employment by **installing a legal presumption of employment status in their labour legislation**, generally for all economic sectors or covering some specific economic (risk) sectors. Such a presumption can be rebuttable, e.g. the acclaimed employer is obliged to prove the opposite.

An example of a Member State's approach regarding statutory provisions concerned with presumptions of worker status was presented at the webinar by the Belgian Social Information and Investigation Services (SIIS).⁴ Its key features are provided in Box 1 below.

Box 1. Legal presumption of worker status in Belgium

The Belgian Labour Relations Law regulates the nature of the employment relationship based on two main principles: (1) the principle of the free choice on the employment relationship by the parties and (2) the *explicit* possibility for a requalification of an employment relationship in case the factual situation is not in line with the acclaimed employment status.

The Belgian labour legislation contains 4 main criteria on the basis of which an employment relationship should be assessed: (1) will of the parties as expressed in the agreement, (2) freedom to organise the work, (3) freedom to organise working time, and (4) the possibility of exercising hierarchical control. An additional 5 'neutral' criteria are also included but these do not influence the assessment of the employment relationship: (1) title of the agreement, (2) registration with a social security institution, (3) registration with the [Crossroads Bank for Enterprises](#), (4) registration with the VAT administration, and (5) the way income is declared to the tax authorities.

In addition to the **general approach applicable to all economic sectors, seven risks sectors, determined by the government and the social partners jointly, are subject to specific rules that install a legal rebuttable presumption of worker status**. In the cleaning industry a special law introduced a rebuttable presumption of workers status if three conditions are met cumulatively: (1) mainly or habitually working for one contractor, (2) not exercising activities with own equipment, and (3) not invoicing for own account. As for the other six sectors (e.g., guarding services, construction, agriculture/horticulture, road transport and logistical

⁴ Examples of legal presumptions installed in legislation of other Member States are presented in Hauben, H., (2024) *Report from the peer learning dialogues on 'Approaches to detecting, preventing and tackling undeclared work*, European Platform tackling undeclared work, ELA, Bratislava



services for third parties, buses and coaches, and taxi services) specific legal provisions apply which use thereby a list of criteria determining employment status. When half these criteria are met, there is a legal presumption of worker status, which can be rebutted.

Source: presentation SIIS, Belgium, webinar 5/12/2024

The exchanges that took place during the PLD showed that **bogus self-employment is not in all Member States considered to be a policy priority** nor is it always considered to be a strategic priority for enforcement authorities. Enforcement authorities may have different prime interests (e.g. compliance with tax legislation versus compliance with labour and social security law) while bogus self-employment in cross-border settings has not yet been considered in some Member States as a main challenge for the enforcement of their own national legislation. However, the PLD and webinar revealed the growing trend of bogus self-employment affecting an increasing number of Member States, which is likely to expand further, while participating enforcement practitioners reckoned the importance to address the challenge by incorporating it into the enforcement strategic objectives. An example of such a **strategic approach** was provided at the webinar: the plan of action of the Belgian SIIS for the period 2023-2025 includes the fight against bogus self-employment as one of its operational objectives with action that are aimed at inspecting self-employed through their social security affiliation and at improving data matching and data mining techniques while increasing the number of investigations specifically aimed at detecting bogus self-employment.

An **effective inter-agency cooperation** between tax, social security and labour enforcement authorities is considered by the participants to the webinar as critical in the fight to address bogus self-employment in Member States. At the webinar the national practices of interinstitutional cooperation from Ireland were presented. The Workplace Relations Commission (WRC), Revenue Commissioners and Department of Social Protection (DSP) cooperate intensively in tackling bogus self-employment as is presented in Box 2 and have stepped up their joint inspections during the last few years.

Box 2. Inter-agency cooperation in the fight against bogus self-employment in Ireland

The Irish National labour inspectorate (Workplace Relations Commission) determine employment status for the purposes of employment rights only while the Irish tax authority (Revenue Commissioners) and the agency responsible for social protection (Department of Social Protection) each have a responsibility, based on their own legal framework, to determine employment status for tax purposes or social insurance purposes, respectively. Intensive cooperation mechanisms have been established in which the Workplace Relations Commission (WRC), the Revenue Commissioners (Revenue) and the Department of Social Protection (DSP) take part.

The cooperation between the WRC, DSP and Revenue is multi-layered and based on five main pillars:

1. Sharing of information (under the framework of Data Exchange Agreements and MoU) between Revenue and WRC;
2. Conducting joint inspections between WRC, Revenue, DSP and Police;
3. Joint participation in inspection campaigns;
4. Development of a code of Practice for determining employment status (as a joint initiative between WRC, Revenue and DSP);



5. Regular liaison and planning meetings between WRC and Revenue to discuss common areas of interest and inspection activity.

Source: presentation WRC, Ireland, webinar 5/12/2024

Tackling bogus self-employment in a cross-border setting presupposes **access to data on incoming flows of migrant and posted workers** for national enforcement authorities which are entrusted to apply their national legislation concerned with the correct determination of employment status. For the enforcement agencies of host Member States incoming flows may either be migrant workers or migrant self-employed who enter their territory to provide services or they may be posted as workers or self-employed from sending Member States. In the first case this may be through their employers who are established in the sending Member State or through a TWA, whereas intermediaries are often also involved when genuine self-employed are travelling or moving to other countries to provide their services. These different types of mobility flows may trigger the application of very complex national rules of Member States which are not always adequately interconnected, while the information on the legislation in sending Member States is often unknown to the enforcement authorities of the host Member States. The situation is even more complex when TCNs are involved, especially when they have entered the EU through another Member State than the one where they engage in the work that is subject to an inspection on possible bogus self-employment.

Member States run **prior notification systems for workers** who are posted from abroad by their employers for short period the work on their territory. Such notification systems allow national enforcement authorities to monitor incoming flows of posted workers in terms of their identity, location of work and length of stay. Less common are national **prior notification systems** that Member States have installed to monitor service providers and individual **self-employed** who intend to provide services on their territory.

At the webinar, the Netherlands Labour Authority shared its experiences with the prior (online) notification system ([postedworkers.nl](https://www.postedworkers.nl)) for service providers who are established in the EU/EFTA and for self-employed.



Box 3. Key features of the Dutch prior notification system for self-employed posted from abroad

[Postedworkers.nl](https://www.postedworkers.nl) is a web-based tool, introduced in 2020 and its use is mandatory for the mobile self-employed coming from abroad. Client companies established in the Netherlands are obliged to verify the correctness of the information that is provided by the self-employed concerned.

- ▶ The prior notification system for self-employed is mandatory for **seven economic risks sectors**: agriculture, industry, construction, transport, HORECA, cleaning and health & care;
- ▶ The data contained in the database are available for the Revenue Agency, Social Security and the Labour Inspectorate;
- ▶ The tool allows enforcement authorities to monitor the volume of incoming self-employed, their nationality, country from where they are posted and the length of the posting period: About 15 000 self-employed are posted to the Netherlands on an annual basis (compared to the 100 000 workers out of whom 25 000 are TCNs) in the seven identified risk sectors. 63% of these self-employed stay for a period of less than one month and the majority is posted from five Member States (PL, SK, BE, CZ and DE). Most postings concern the construction and industry sectors.

One of the tool's main merits is that it is mapping incoming flows of self-employed who previously were almost untraceable for national enforcement agencies especially in cases of short-term postings. The gathered data also constitute a **sound basis for risk analysis** and targeted operation (inspection and action) plans for the enforcement agencies.

Source: presentation Ministry Social Affairs and Employment, The Netherlands, webinar 5/12/2024

During the webinar participants also discussed some **other effective policy measures aimed at tackling bogus self-employment**.

Effective sanctions in cases of misclassification were mentioned. In Belgium sanctions are imposed on the employer only and generally not on the affected employees, unless the employee was complicit in the setting up of the false BSE construction. In situations of a reclassification of a bogus self-employed person, employers may be obliged to pay minimum wages retroactively on which contributions will be calculated. In addition, penalties may be imposed, either an administrative fine (€1,800.00 to €18,000.00 p.p. involved), or a criminal fine (€3,600.00 to €36,000.00 p.p. involved) and/or imprisonment of six months to three years for the employer. Furthermore, an employer who fails to insure his employees (on time) against workplace accidents is automatically connected by the Belgian Institute Fedris and risks a penalty (a fine of 400 to 8,000 euros per uninsured employee). In Ireland, companies that have been found in breach of the legislation on the correct employment status can be excluded from participating in public contracts.

Some attention was also paid to **effective information campaigns** which target bogus self-employment in specific economic sectors. For example, in Spain, labour and social security inspectors carry out awareness raising campaigns among TCNs explaining the difference between the employee and the self-employed status, and the consequences of being classified as a self-employed. Labour unions in Iceland similarly engage in information activities, with the goal of spreading knowledge on the consequences of undertaking bogus self-employment while in Ireland enforcement authorities run a public telephone information service.

During the webinar, participants from Ireland pointed at the importance of **information sharing** between the different enforcement authorities which have concluded data exchange agreements and memoranda of understanding and are planning regular liaison meetings with the authorities involved.



Finally, participants mentioned also the importance of **specific risk assessment strategies** that are applied in the enforcement practices. A Slovak participant from the Ministry of Finance mentioned in this respect that in order to identify bogus self-employment they look at the structure of companies expenses. If a company has low expenditure on salaries, and high expenditure on services, this is considered to be as a potential indicator of bogus self-employment.

5.0 Closing remarks

The webinar discussed the main characteristics of bogus self-employment in the EU/EEA Member States, the challenges faced and the good and inspiring practices adopted by public authorities to address the misclassification of employment status. The Belgian participant reported on the national strategy against bogus self-employment, outlining the legislative criteria to facilitate the determination of a correct employment status, as well as the persistent challenges in tackling bogus self-employment, especially at the cross-border level.

The representative from the Netherlands provided an example of an interesting resource for risk-analysis aimed at addressing cross-border fraud, the prior-notification system, enabling enforcement authorities to trace and to be correctly informed of the posting of self-employed individuals.

The significance of inter-institutional cooperation was emphasised by the Irish participant, whose presentation detailed the joint efforts of the WRC, the Revenue and DSP in curtailing misclassification of employment.

In addition, the webinar's key takeaways include the increasing need of collaboration between Member States, especially in view of tackling cross-border bogus self-employment and addressing the existing challenges concerning third-country nationals. Awareness-raising activities and information sharing are considered important activities to combat fraud and ensuring fair working conditions at the national level and within the EU.



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