





European Platform  
tackling undeclared work

**Dutch Act on Combating Spurious Labour Contracts (WAS)**

Netherlands

	<p><b>Summary</b></p> <p>The Act on Combating Spurious Labour Contracts (WAS), introduced in the Netherlands in 2015 to combat fraudulent labour contracts that aim to evade legal minimum standards on wage levels and/or standards in terms and conditions on payments in collective agreements.</p>
<p><b>Title of the practice in original language</b></p>	<p><i>Wet Aanpak Schijnconstructies, WAS</i></p>
<p><b>Name(s) of authorities/bodies/organisations involved</b></p>	<p>Dutch Ministry of Social Affairs and Employment</p>
<p><b>Sectors</b></p>	<p>All</p>
<p><b>Target groups</b></p>	<ul style="list-style-type: none"> <li>• Employers seeking to evade legal minimum wage requirements and/or standards in terms and conditions on payment of workers in collective agreements (directly targeted);</li> <li>• Employers in subcontracting chains held liable for fraudulent payment of workers (directly targeted);</li> <li>• Workers being underpaid as a result of spurious labour contracts (indirectly targeted);</li> <li>• Tax authorities (indirectly targeted).</li> </ul>
<p><b>Purpose of measure</b></p>	<p>Prevention</p>

	<p><b>Aims and objectives</b></p> <p>WAS aims to better protect employees against underpayment, as well as employers against unfair competition. The Act addresses fraudulent labour contracts which evade legal minimum wage rules and collective bargaining agreements.</p>
<p><b>Background context</b></p>	<ul style="list-style-type: none"> <li>• The Act was introduced in phases between July 2015 and January 2017, amid ongoing national discussions about bogus labour contracts and the complex chains of (sub)contracting, often used in the agriculture, construction and transport sectors to mask fraudulent activity. These measures were developed to ensure both employer and employee</li> </ul>



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	<p>awareness of their rights and responsibilities, reducing ambiguity surrounding labour contract requirements.</p> <ul style="list-style-type: none"> <li>The main issues associated with spurious labour contracts were undeclared or under-declared work, typically facilitated through 'envelope wages', leading to underpayment of corporate tax, income tax and social security.</li> </ul>
<p><b>Key objectives of the measure</b></p>	<p><b>General Objective:</b></p> <ul style="list-style-type: none"> <li>To mitigate vulnerability of workers being paid below legal minimum wage through spurious clauses in employment contracts;</li> <li>To prevent unfair competition;</li> <li>To deter employers from intentionally undeclared or under-declaring work independently, or through collusion with employees/other partners.</li> </ul> <p><b>Specific Objectives:</b></p> <ul style="list-style-type: none"> <li>To make legal requirements and exemptions clear;</li> <li>To create responsibility of stakeholder parties (including agencies, partners and users of temporary staff) for paying staff, to increase internal monitoring of employee treatment within subcontractor chains;</li> <li>To create transparency in recording transactions for the monitoring of labour law compliance;</li> <li>To raise awareness among workers, associated enterprises and the public about workers' rights;</li> <li>To deter non-compliance through leveraging employers' commitments to upholding public reputations.</li> </ul>
<p><b>Main activities</b></p>	<p>A range of labour contracts were addressed by the Act on Combating Spurious Labour Contracts (WAS) with the aim of having a comprehensive approach. The range of labour standards, wages, and collective bargaining agreements were covered, including those aspects related to undeclared work.</p> <p>The main changes resulting from the Act include:</p> <ul style="list-style-type: none"> <li><b>Chain liability for wages</b> - was introduced on 1 July 2015. The employees can hold the employers' clients liable for payment of wages to which they are entitled. Prior to the introduction of the WAS, only the employer was liable for this. The new measure gives the employees more options to claim back wages.</li> </ul>




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	<ul style="list-style-type: none"> <li>• <b>Minimum wage payment mandatory via bank</b> - Employers are not allowed to pay the legal minimum wage in cash, but must do so through the bank. Earnings on top of the minimum wage may be paid in cash.</li> <li>• <b>Full payment of minimum wage</b> - employers must pay the full minimum wage to employees. Only the legally required or permitted amounts may be withheld from the minimum wage, such as taxes and premiums. Under certain conditions, costs for housing and health insurance may also be withheld. This measure prevents employers to deduct unjustified costs from workers' wages.</li> <li>• <b>Clear pay slip</b> - employers must ensure that the pay slip is understandable to the staff. It must be clear how the salary is structured and explain all amounts. The Inspectorate SZW can fine employers if the pay slip is incorrect.</li> <li>• <b>Disclosure of Inspections data</b> - the SZW Inspectorate checks and publishes the names of all companies that have been inspected (including those that comply with the rules). The Inspectorate checks whether employers adhere to the minimum wage rules. In case of violation, the Inspectorate can impose a fine or a periodic penalty payment.<sup>i</sup></li> </ul> <p>The Act was accompanied by an awareness-raising campaign, initiated by the Ministry of Social Affairs and Employment, in collaboration with sectoral organisations. The campaign targeted the public and entrepreneurs, informing them of the requirements, restrictions and risks (introduction of chain liability) associated with the new law.</p> <p>The government website (<i>rijksoverheid.nl</i>) set out the changes resulting from the new Act. A document compiling the most common questions and answers about the new rules under the Act was also developed and made available <a href="#">online</a>.</p> <p>Employers' organisations in the construction, transportation and TAW sectors organised information meetings, attended by officials from the Ministry of Social Affairs and Employment.<sup>ii</sup></p>
<b>Funding/organisational resources</b>	<ul style="list-style-type: none"> <li>• National funding</li> </ul>



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	<p><b>Outcomes</b></p> <p>The WAS led to a marked increase in public awareness about the law surrounding employment declaration, as well as detection and prosecution of organisations and individuals involved in unlawful payment of minimum wage.</p>
<p><b>Achievement of objectives</b></p>	<ul style="list-style-type: none"> <li>• Outreach strategies used to disseminate regulations introduced under the Act have been commended as particularly useful for raising general awareness about employers' responsibilities and workers' rights. Accessible guidance and meetings to engage a broader set of stakeholders, including workers who could be at risk themselves, are considered to have been effective for encouraging whistleblowing and for decreasing willingness to engage with spurious contracts;</li> <li>• Other positive outcomes to which the Act may have contributed (through monitoring and legal verification) includes the successful prosecution of 30 non-compliance cases by the Foundation for Compliance with the Collective Labour Agreement for Agency Workers (SNCU) in 2017. Enforcement work following the Act was associated with back-payment of EUR 2.5 million to temporary agency workers who had been fraudulently underpaid in 2017 alone<sup>iii</sup>.</li> </ul>
<p><b>Lessons learnt and success factors</b></p>	<ul style="list-style-type: none"> <li>• Implementing regulatory measures which extend liability across contractual chains can be an efficient strategy to incentivise internal monitoring, reducing the burden on enforcement agencies;</li> <li>• Investing in awareness-raising campaigns and creating accessibility to all can build both willingness to comply and empower individuals to report fraudulent arrangements;</li> <li>• Benefits of widespread general engagement can be twofold, as public refusal to participate in undisclosed work can limit undeclared labour demand, whilst objection by employers and consumers can reduce the supply for staff willing to work for less than the legal minimum.</li> </ul>
<p><b>Transferability</b></p>	<ul style="list-style-type: none"> <li>• Achieving widespread social engagement through production of accessible materials and information sessions could be replicated in other Member States;</li> <li>• Targeting frequently exploited 'loopholes' for refinement of existing national legislation to reduce</li> </ul>



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	<p>opportunity for non-compliance is another transferable approach;</p> <ul style="list-style-type: none"><li>• Extending liability to create chain-wide willingness to internally monitor workers' payment could be replicated elsewhere.</li></ul>
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<b>Further information</b>	
<b>Contact</b>	Inspectorate SZW Digital contact form: <a href="https://www.inspectorateszw.nl/contact/contact-form">https://www.inspectorateszw.nl/contact/contact-form</a>
<b>Useful sources and resources</b>	Obligations under the Act on Combating Spurious Labour Contracts (NL): <a href="https://www.awvn.nl/download/12009/?page=12000">https://www.awvn.nl/download/12009/?page=12000</a> FAQs regarding the changes introduced by the Act: <a href="https://www.awvn.nl/wet-aanpak-schijnconstructies-was/">https://www.awvn.nl/wet-aanpak-schijnconstructies-was/</a>

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<sup>i</sup> Government of the Netherlands: <https://www.rijksoverheid.nl/onderwerpen/aanpak-schijnconstructies/maatregelen-tegen-schijnconstructies>

<sup>ii</sup> European Platform Tackling undeclared work, Study on 'Tools and approaches to tackle fraudulent temporary agency work, prompting undeclared work '

<sup>iii</sup> European Commission (n.d.). Foundation for Compliance to the Collective Labour Agreement for Agency Workers (SNCU) - Enforcing compliance to collective labour agreements, Netherlands. Accessed: <https://ec.europa.eu/social/ajax/BlobServlet?docId=19449&langId=en>