



European Platform
tackling undeclared work

COVID 19: combating fraud in short-term financial support schemes

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Report from the Platform webinar on COVID 19: combating
fraud in short-term financial support schemes.

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1 INTRODUCTION

On 29th April 2021, the European Platform tackling undeclared work (hereafter the 'Platform') held a webinar on 'COVID 19: combating fraud in short-term financial support schemes'. This report documents the discussion at the webinar which brought together 31 participants from 20 countries, representing labour inspectorates and other enforcement authorities, as well as European level social partners, and representatives from Eurofound, the European Commission and the European Labour Authority (ELA).

In early January 2020, a new strain of coronavirus (SARS-CoV-2) producing a respiratory disease (COVID-19) began spreading across the globe. By April 2020, the closure of businesses to restrict movement and the spread of the virus had affected 81% of the global workforce.¹ This affected not only those participating in the declared economy but also the undeclared economy. For those previously operating in the undeclared economy, support has not been generally forthcoming. However, for those operating in the declared economy, governments have responded swiftly to protect workers, support jobs and income, and stimulate the economy and employment, using short-term financial support schemes.²

In two 2020 Platform webinars on the impacts of the COVID 19 pandemic, there was already recognition that there have been various illegitimate practices and abuses related to the short-term financial support rescue packages. Since then, this has become more apparent. Therefore, this webinar was organised to enable Member States to share learning on these illegitimate practices and how to tackle them.

Given that both the Platform members and webinar participants are largely based in labour inspectorates and responsible for tackling labour law violations, the webinar has not focused on all fraud across all short-term financial support schemes. Instead, and given the legal competencies of labour inspectorates, and focus of the Platform on tackling undeclared work, the aim of the webinar was to focus upon:

- the undeclared work resulting from abuse of these short-term financial support rescue packages, especially employment retention schemes, and
- how the undeclared work resulting from the abuse of these schemes can be tackled, again with a focus on employment retention schemes.

The employment retention schemes developed in response to the pandemic, and largely funded by a €100 billion 'Support to mitigate Unemployment Risks in an Emergency' (SURE) programme,³ have involved Member States effectively preserving jobs by giving businesses financial support to temporarily reduce the hours of employees or suspend their employment, with government funding covering the hours not worked. However, these employment retention schemes differ across Member States, such as in terms of the criteria used to determine whether an employer can access such support. For further information on the employment retention schemes, as well as other short-term rescue packages, adopted by Member States, 'knowledge banks' have been created by Eurofound⁴, ILO⁵ and IMF⁶.

¹ ILO (2020b). *COVID-19 and the world of work: updated estimates and analysis*. Geneva: ILO.

² IMF (2020). Policy responses for COVID-19. <https://www.imf.org/en/Topics/imf-and-covid19/Policy-Responses-to-COVID-19>

³ European Commission 2020. *COVID 19- Economic package – multiannual financial framework 2014-2020*. Brussels: European Commission.

⁴ <https://www.eurofound.europa.eu/data/covid-19-eu-policywatch>. See also: Eurofound (2020), *COVID-19: Policy responses across Europe*, Publications Office of the European Union, Luxembourg.

⁵ <https://www.ilo.org/global/topics/coronavirus/regional-country/country-responses/lang--en/index.htm>

⁶ IMF (2020). *Policy responses for COVID-19*. Available at: <https://www.imf.org/en/Topics/imf-and-covid19/Policy-Responses-to-COVID-19>

2 UNDECLARED WORK RESULTING FROM ABUSE OF SHORT-TERM FINANCIAL SUPPORT SCHEMES

To discuss the types of undeclared work resulting from abuse of these short-term financial support schemes, especially employment retention schemes, the webinar commenced with a panel session involving the Platform members from **Belgium, Greece** as well as **Eurofound**, with further contributions from participants being provided via the 'chat function'. Box 1 summarises the types of undeclared work identified at the webinar as arising from abuse of the employment retention schemes, and short-term financial support schemes supporting business more generally.

Box 1. Types of undeclared work resulting from abuse of employment retention schemes

- Employers claim support for temporary suspension of employment contracts and either:
 - Employee continues to work as normal, not knowing the employer is claiming for them;
 - Employs the worker (for whom they are claiming support) on either (i) an undeclared basis or (ii) 'bogus part-time' basis⁷;
 - Asks them to 'volunteer' (and threaten with fear of redundancy)⁸;
 - Employ them in a linked company;
 - Employ new workers, or
 - Submit claims for higher hourly wages than were earned by the employee.
- Claim for a 'ghost' employee (e.g., someone made redundant, or non-existent).
- Employers and/or employees claim for two types of support when they are entitled to only one.

The presentation by **Greece** highlighted how employers receive compensation of €534 for each full month a worker is suspended. To claim this support, at first, employers could submit a declaration registering the temporary suspensions to the employment register ERGANI IT system collectively for all workers *after the actual suspension* of their work contracts. However, workplace inspections and cross-checks with the ERGANI system revealed cases of employers abusing this scheme. In consequence, in March 2021, the original legislation was revised so that declarations of suspension of employees' employment contracts had to be registered *prior* to the actual suspension taking place and a penalty introduced of €1 200 for the 'bogus declaration of the suspension of work'. This largely prevented the previous situation where employers falsely declared contract suspensions to access financial support and asked the employees to continue working. A further more recent legislative change is that compensation is now given only to businesses employing workers for at least four hours daily who were recruited prior to 31 January 2021, and a time limit set for the declaration of a decline in turnover.⁹ This has been largely a response to cases such as

⁷ Goupil, M. (2020) 'We were asked to lie': how companies put pressure on their employees to break rules of short-time working. Available at: https://www.francetvinfo.fr/sante/maladie/coronavirus/enquete-franceinfo-nous-a-demande-de-mentir-comment-des-entreprises-ont-fait-pression-sur-leurs-salaries-pour-enfreindre-les-regles-du-chomage-partiel_3994695.html

⁸ <https://news.sky.com/story/coronavirus-hundreds-of-firms-suspected-of-pressuring-furloughed-staff-to-work-11987358> ; <https://www.bbc.co.uk/news/business-52745983>; Goupil (2020).

⁹ <https://translate.google.co.uk/translate?hl=en&sl=el&u=https://ypergasias.gov.gr/ta-ypourgeia-oikonomikon-kai-ergasias-kai-koinonikon-ypotheseon-apostelloun-sti-dikaiosyni-ypotheseis-pithanis->

a cafeteria of 25m² which had registered 150 employees, of which 129 had been hired on a part-time basis for an average of 4 hours per month from November 2020 (after the second lockdown) and €534 compensation claimed for each.¹⁰

In **Belgium**, evidence has been similarly uncovered of all these types of undeclared work resulting from abuse of the short-term financial support. On the one hand, businesses had completed a declaration that they had closed (and benefited from financial help) but remained open. On the other hand, employers were claiming for 'ghost' ('fictitious') employees (e.g., someone made redundant, or a non-existent employee) and 'ghost' ('fake') companies were claiming financial support. Over 9000 complaints had been made to an abuse hotline, of which 2 000 were related to COVID-19 issues and a close correlation was starting to be identified between businesses engaging in violations related to undeclared work and those engaged in OSH violations.

The presentation by **Eurofound**, meanwhile, drew attention to the COVID-19 EU Policy Watch dataset¹¹ that maps the short-term financial support schemes available across the EU27, much of which was designed at speed without perhaps the normal due diligence associated with new legislative initiatives. So far, data had not been collected on the extent and nature of abuse of these schemes. Nevertheless, all forms of undeclared work in Box 1 were thought to be occurring and largely in the same sectors and occupations previously associated with a higher prevalence of undeclared work. Importantly, it was noted that abuse of this short-term financial support was only available to enterprises and workers operating in the declared economy prior to the lockdown. It was not abuse by those operating in the undeclared economy prior to the pandemic, who have been largely excluded from accessing this short-term financial support.

Overall, the sense of the workshop was that few surveys had been conducted on the level of abuse of these schemes. France is perhaps an exception where surveys have been conducted of whether employers claiming support for the temporary suspension of employment contracts are employing workers (for whom they are claiming support) on a 'bogus part-time' basis.¹² More than a million companies in France have submitted a partial activity request for over 13 million employees.¹³ A 2020 survey of 34 000 people reveals that 31% had continued normal working despite being in total partial unemployment or sick.¹⁴ A further survey of 2 600 employees reveals that 24% in total partial unemployment have been required to continue their activity at the request of their employer.¹⁵ In a non EU-EEA OECD member, meanwhile, fraud and error for their employment retention scheme alone has been estimated at €4 billion and a taskforce involving 1 265 full-time staff costing €110m has been established to tackle the abuse of the short-term financial support schemes.¹⁶

katastratigisis-metron-stirixis/&prev=search&pto=aue . No responsibility is taken for the quality of the translation.

¹⁰<https://translate.google.co.uk/translate?hl=en&sl=el&u=https://www.capital.gr/oikonomia/3541144/apates-me-epistreptes-prokataboles-kai-anastoles-sumbaseon-austiropoiountai-oi-proupotheseis&prev=search&pto=aue>. No responsibility is here taken for the quality of the translation.

¹¹ <https://www.eurofound.europa.eu/data/covid-19-eu-policywatch>.

¹² Goupil, M. (2020) 'We were asked to lie': how companies put pressure on their employees to break rules of short-time working. Available at: https://www.francetvinfo.fr/sante/maladie/coronavirus/enquete-franceinfo-nous-a-demande-de-mentir-comment-des-entreprises-ont-fait-pression-sur-leurs-salaries-pour-enfreindre-les-regles-du-chomage-partiel_3994695.html

¹³ <https://dares.travail-emploi.gouv.fr/publications/situation-sur-le-marche-du-travail-au-9-juin-2020>

¹⁴ <https://luttevirale.fr/wp-content/uploads/2020/05/RAPPORT-ENQUETE-UGICT-CGT-ss-embargo-V2.pdf>

¹⁵ <https://www.technologie.fr/wp-content/uploads/bsk-pdf-manager/2020/05/14052020Rapport-Etude-vers-une-nouvelle-donne-sociale.pdf>

¹⁶ Agyemang, E (2021) UK tax evasion crackdown expected to net £2.2bn, Financial Times 3 March <https://www.ft.com/content/cc113bc6-9609-4157-85dd-ccc0162426e2>

Whether different sectors, occupations, employers and groups of employees from those usually associated with undeclared work¹⁷ are involved is not yet known. A presentation by **Finland** reported that this is starting to be investigated by a working group. The first report is due in the coming weeks after which evaluation will continue, and a strategic analysis made of the violations that have arisen. The first signals are that the type of undeclared work resulting from abuse of these schemes appear to be those summarised in Box 1 above and the same types as those identified in other countries.

3 TACKLING UNDECLARED WORK RESULTING FROM ABUSE OF THE SHORT-TERM FINANCIAL SUPPORT SCHEMES

Many of the policy tools identified in previous Platform reports can be also used to tackle undeclared work resulting from abuse of the short-term financial support schemes.¹⁸

3.1 Data mining and matching, and risk assessment

To improve the risk of detection, previous Platform reports have highlighted the importance of data mining and matching and risk assessment.¹⁹ The type of data mining and matching used will depend on the type of undeclared work being investigated. If the intention is to analyse whether employees claim for two types of support when they are entitled to only one, as identified by Spain in their presentation, and Belgium and Luxembourg at the 2020 webinar²⁰, then data matching can examine if a citizen is matched across databases for different types of support (e.g., wage compensation under an employment retention scheme and unemployment benefit).

A presentation by **Spain** revealed how **data matching** is being used within the Anti-Fraud Unit of the inspectorate ITSS to identify for example, whether employers claiming support for temporary suspension of employment contracts (ERTE) are at the same time employing new workers or other SS information of companies. So far, regarding the 'ERTE' campaign, the quantity of the sanctions proposed by the ITSS is over €9 million and almost €3 million of non-paid SS contributions were detected and claimed from the companies. Resulting from data matching, ITSS had sent out 75 000 **notification letters** targeting companies who had received support for the temporary suspension of employment contracts (ERTE) informing them about their obligations regarding the temporary suspension of employment contracts and the consequences of any infringement of the regulations.

The webinar participants similarly heard how in **Norway**, data mining had occurred to identify fraudulent claims for 'ghost' ('fictitious') employees (e.g., non-existent employees) from the wage compensation scheme administered by NAV (Social and Welfare Administration), an agency in the Ministry of Labour and Social Affairs. In Norway, the maximum amount per person/employment can receive is NOK 41 427 (c. €4 000) and in total, NAV has paid NOK 8 billion (circa €800 million). Abuse of this scheme has been very much in the public eye, with newspapers reporting, firstly, how an Oslo craft company with a turnover of €2 000 in 2019, and zero employees in March 2020, had received wage compensation for 20 employees amounting to €80 000, and secondly, how a survey showed that 1 400 companies that received wage compensation for a total of 4 300 employees had no employees. To identify abuse of this trust-based scheme where the NAV pays compensation based on information from the employment

¹⁷ Williams, C.C. and Horodnic, I. (2021) *Trends in the undeclared economy and policy approaches*, European Commission, Brussels

¹⁸ European Platform Tackling Undeclared Work (2020) *Holistic approach to tackling undeclared work and developing national strategies*, <https://ec.europa.eu/social/BlobServlet?docId=23099&langId=en>

¹⁹ De Wispelaere, F. and Pacolet, J. (2017). *Data Mining for More Efficient Enforcement: a toolkit*. <https://ec.europa.eu/social/BlobServlet?docId=18826&langId=en>; Stefanov, R. et al (2018) *Toolkit on Risk Assessments for more efficient inspections as a means to tackle undeclared work*, <https://ec.europa.eu/social/BlobServlet?docId=20862&langId=en>

²⁰ European Platform tackling undeclared work (2020) *Tackling undeclared work: impact and responses to the coronavirus pandemic*, European Platform tackling undeclared work, Brussels.

register and information from the employer on wages, data has been collated from public company information, the NAVs own databases, bank statements and the Norwegian tax administration. The finding is systematic fraud involving companies newly registered after lockdown commenced which were not VAT registered and had no revenue, and submitted fictitious employment and income, often registered on the same day as the application for wage compensation was submitted (and deleted shortly afterwards). This fraud has been estimated to total NOK 28 million (circa €2.8 million), which is 0.35% of the total NAV money paid.

Other potential types of data mining discussed during the webinar to identify undeclared work resulting from abuse of these employment retention and other schemes include:

- Comparing turnover reported from fiscal cash register records with claimed reduction in turnover when short-term financial support is based on specific levels of reduced turnover;
- If legislation allows access to 'third party' data from telecommunications providers, phone records can be examined of an employer to determine whether they have been making phone calls to an employee whilst suspended or if employees are engaged in work-related activity (i.e., requesting data held by telecoms operators including the time, duration and location of a phone call as well as the number dialled), and
- If legislation allows access to 'third party' data from internet service providers (ISPs), authorities can request a list of websites visited by an individual to assess whether they are engaged in work-related activity.

3.2 Other policy tools

Besides data mining and matching, other tools available to tackle undeclared work resulting from abuse of these schemes include:

- Establishing a **telephone hotline or web-based complaint reporting tool** to receive information on abuses of the short-term financial support schemes – for example, this has been used, by ITSS in Spain at the ITSS mailbox website.
- Publishing a **list of businesses claiming short-term financial support and proportion of staff temporarily suspended** – Norway, for example, has published an open register on businesses receiving wage compensation support and anybody can see the companies receiving help and for how many workers.
- Amnesties to allow **voluntary disclosure** by employers and employees of fraud and error.
- **'Nudge' letters** to stimulate voluntary disclosure by businesses of fraud and error – exemplified above in Spain as a follow-up to data matching, and below in Belgium as a follow-up to physical workplace inspections.
- Imposing **penalties** to deter abuse of these short-term financial support schemes – exemplified by the €1 200 penalty introduced in Greece for employers for each undeclared worker, and in France where working while one is declared in partial activity is similar to illegal work, a practice punishable by **two years of imprisonment and a €30 000 fine** for the employer, plus exclusion from the benefit of public aid for five years.
- Conducting **physical workplace inspections** – a presentation from **Belgium** highlighted the value of such workplace inspections. To claim a deferral of payment of social contributions, companies had to be closed and/or their turnover or wage payments reduced by 65% or more. Some 12 384 employers submitted a certificate that this was the case to the National Social Security Office, of which 61.5% declared they were closed and 38.5% that turnover or wage payments had decreased by 65% or more. Some 2 116 inspection visits had been conducted and where not closed, they received a letter explaining that

a deferral of payment was still possible if a significant decline in turnover or wage bill had occurred of 65% or more.

4 CONCLUSIONS AND WAYS FORWARD

- There was widespread agreement on the **new types of undeclared work** that have resulted from abuse of these short-term financial support schemes, especially employment retention schemes (see Box 1 above).
- There was also agreement that a close correlation appears to be emerging between businesses engaging in violations related to undeclared work and those engaged in OSH violations, and that the public is widely demanding action is taken to deal with this new fraud.
- This is severely stretching the resources of labour inspectorates who have had to deal with a lot of new tasks due to COVID-19, which has also limited their capacity to anticipate and detect these new types of undeclared work resulting from abuse of the short-term financial support schemes. As a result, whether different sectors, occupations, employers and groups of employees are involved to those usually associated with undeclared work is not yet fully understood.
- There is a need for authorities to now further **identify the types of undeclared work resulting from the abuse of these short-term financial support schemes**, especially employment retention schemes. Given that the schemes differ across Member States, the precise types of undeclared work resulting from abuse will differ cross-nationally.
- There is then a need for authorities to consider **expanding their toolbox of policy measures** for tackling each of these types of undeclared work resulting from the abuse of these schemes, including:
 - Data mining and matching, and new forms of risk assessment capable of identifying these new forms of fraud occurring in a potentially wide range of sectors and occupations;
 - Physical workplace inspections to identify instances of abuse;
 - Penalties to dissuade engagement in abuse;
 - Establishing a telephone hotline or web-based reporting mechanisms to report abuses;
 - Publishing a list of businesses claiming short-term financial support and proportion of staff temporarily suspended;
 - Amnesties to allow employers and employees to voluntarily disclose fraud and error, and
 - 'Nudge' letters to encourage voluntary disclosure by businesses of fraud and error.