

Position

UEAPME¹ reply to the 2nd stage consultation of Social Partners on enhancing EU cooperation in the prevention and deterrence of undeclared work

On 27th January 2014 the European Commission launched the second stage consultation of European social partners on enhancing EU cooperation in the prevention and deterrence of undeclared work.

In line with the UEAPME reply to the first stage consultation, UEAPME would like to submit the following comments and recommendations concerning the objectives and content of the EU Commission envisaged initiative.

Undeclared work is a real challenge for UEAPME and its members. It is a complex and multifaceted phenomenon. Preventing undeclared work requires first and foremost a friendly business and stable environment as well as a good policy mix and initiatives primarily from Member States but also to a certain extent at EU level.

Undeclared work affects small businesses in a disproportionate manner, notably those companies involved in high labour intensive activities where personal costs represent about 80% of total costs.

From the Crafts and SMEs' perspective undeclared work is considered as a major source of unfair competition.

This is the reason why UEAPME has always actively participated in all the past activities at European level and why UEAPME expresses its full support to the establishment of a European Platform to enhance EU cooperation in the prevention and deterrence of undeclared work.

Comments on the future European Platform

Preventing and deterring undeclared work is primarily the task of Member States. However since undeclared work is increasingly taking a cross-border dimension, UEAPME considers that action at EU level is necessary and justified.

On the scope and aim of the platform:

According to UEAPME, the main scope of the platform should be an enhanced cooperation between national competent authorities covering the various facets of undeclared work which is the cornerstone for effectively and efficiently tackling its cross-border dimension. From the beginning, UEAPME considered the need to focus on cross-border issues covering the different aspects (labour law, tax, social security).

UEAPME agrees with the announced triple aim of the platform:

1. Improve cooperation between Member States' different enforcement authorities at EU level to prevent and deter undeclared work more efficiently and effectively,
2. Improve Member States' different enforcement authorities' technical capacity to tackle cross-border aspects of undeclared work,
3. Increase Member States' awareness on the urgency of the action and encourage the efforts in the fight against undeclared work.

¹ UEAPME subscribes to the European Commission's Register of Interest Representatives and to the related code of conduct as requested by the European Transparency Initiative. Our ID nu <http://www.ueapme.com/spip.php?rubrique77mber> is 55820581197-35.

On the participation to the platform:

UEAPME is satisfied with principle that the European platform would provide for the participation of all Member States' relevant authorities.

In fact preventing undeclared work can only be fully operational if all Member States authorities are active in the platform. Even if it is well known that the phenomenon is more acute in certain Member States than in others, all Member States should consider themselves potentially affected by undeclared work.

On the main tasks of the platform:

According to the EU Commission, the platform could carry out the following initiatives:

- Organise exchange of practices and information,
- Improve the knowledge and measurement of undeclared work, including through establishing a common understanding of the phenomenon as well as through exploring links between undeclared work and bogus self-employment,
- Create a knowledge bank and carry out evaluations of different measures used in the Member States,
- Develop guidelines for inspectors and guides of good practices,
- Adopt common principles and/or standard for inspections,
- Identify solutions for data sharing, which would enable the authorities involved to exchange information in a secure and data protection friendly way,
- Adopt a common framework for carry out joint trainings,
- Adopt regional or EU-wide strategies,
- Organise EU wide awareness raising campaigns,
- Carry out peer reviews to follow Member States' progress in preventing and fighting undeclared work
- Adopt a common framework for joint operations for inspections and exchange of staff.

UEAPME required a broad approach and listed a number of issues such as exchange of information between Members States, exchange of good practices, increased transparency on national social security systems and amount of contributions, better coordination between key stakeholders, improving measurement of undeclared work through a common methodology, but also facilitating the execution of the application of mutual recognition of financial penalties.

Among the 11 tasks proposed by the EC, **UEAPME notably supports the current proposals on exchange of information, of best practices, common understanding which are in line with UEAPME proposals.**

In the long run UEAPME shares the aim of achieving concrete results with exchange of practices and information operational cooperation and coordination of actions. However it is important not to have an overloaded agenda and start with a more realistic approach for the tasks to be performed.

According to UEAPME the platform priorities should focus first and foremost on:

- exchange of information,
- exchange of best practices,
- measurement,
- effective cooperation between member States authorities.

On bogus-self employment:

There is a need to clearly distinguish between undeclared work and bogus-self employment. Bogus self-employment is not undeclared work as such but more wrongly declared work.

At the same time, UEAPME recognises that in the context of cross-border activities, a strict delimitation between the two phenomena and between the European and national dimension might be difficult. Bogus self-employment is a national issue with some obvious European consequences notably in the case of cross-border activities.

It is by definition illegal but it cannot be dealt with at EU level without referring to the diversity of national definitions and status of self employed.

Therefore UEAPME can agree with the idea of exploring links between undeclared work and bogus self-employment in relation to cross-border dimension but without mixing-up the two issues.

On developing guidelines for inspectors and guides of good practices and adopting common principles and /or standards for inspections

Based on our previous support to exchange of practices, UEAPME can agree on developing guidelines for inspectors and setting-up guides of good practices as a useful source of inspiration.

However UEAPME disagrees with the adoption of common principles and standards since national systems and structures are quite different and their diversity should be respected.

On the structure and working methods

UEAPME requested that the platform should have its own existence and at the same time work in close cooperation with existing committees and structures such as EMCO, SLIC, SPC or Eurofound and look for the best synergies with them.

UEAPME also indicated that EU social partners should be fully involved in the platform. In addition to cross-industry EU social partners, sectoral social partners representing sectors more particularly affected by undeclared work could make useful contributions to the EU platform on a case by case basis.

UEAPME very much welcomes the current EU Commission's proposal which is fully in line with the UEAPME views on the role of social partners. In addition the possibility given to Member States for the participation of national social partners is welcome. For the countries where social partners would not be part of the platform, Member States should be encouraged to involve national social partners through consultations with the national representative in the platform.

Las but not least UEAPME would like to recall the important issue still not tackled in the second consultation paper which is about sanctions and enforcement of financial penalties in case of undeclared work notably with a cross-border dimension.

Despite the existence of a EU legislative framework with the Council decision of 2005 on mutual recognition of execution of financial penalties, it is still unclear if it has been transposed in each of the Member States and how this is implemented in practice.

To conclude, undeclared work will also be a topic of the ongoing EU cross-industry social partners negotiations of a "in depth employment analysis" in the context of EU social dialogue work programme.

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For further information on this position, please contact:

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