

Position

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

On 4th July 2013 the European Commission launched a consultation of European social partners on enhancing EU cooperation in the prevention and deterrence of undeclared work. UEAPME would like to submit the following comments and reply to the various questions raised by the European Commission.

The topic of undeclared work is not a new topic. During at least the last ten years it has been dealt with at EU level by several institutions and services within the European Commission, the European Foundation for the Improvement of Living and Working conditions, as well as high level experts with a number of conferences, seminars, reports and communications leading to the conclusions that undeclared work is a complex and multifaceted issue which require a good policy mix.

Another recurrent challenge of undeclared work is the difficulty of its measurement.

In this framework UEAPME has always actively participated in all the past activities, due to the fact that undeclared work affects small businesses in a disproportionate manner, notably small and micro businesses involved in high labour intensive activities where personal costs represent about 80% of total costs.

In October 2007, as social partner, UEAPME together with the cross-industry EU social partners expressed their concerns about undeclared work within their joint Labour Market Analysis, recognised the shared responsibility between public authorities and social partners and made clear recommendations to Member States to fight against undeclared work by ensuring the respect of law and rights and by improving the cooperation between social administrations throughout the EU².

From the Crafts and SMEs' perspective undeclared work is considered as a major source of unfair competition. This is why UEAPME welcomes this new EU initiative concerning undeclared work.

Responses to the questions:

1 - Do you consider the description of the problem in this paper correct and sufficient?

UEAPME broadly considers that the description of the problem concerning undeclared work is correct and the various dimensions well identified.

However the paper could have been more outspoken about the strong interest and the true relevance for small businesses acting locally for tackling undeclared work which represents a real and immediate source of unfair competition.

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.

² <http://www.ueapme.com/spip.php?rubrique2> "Key challenges facing European labour markets: a joint analysis of European social partners" October 2007, p. 60

The consultation paper could also have given more details about the main causes of undeclared work as rightly highlighted in the paper “highly regulated working conditions, high tax wedge and labour costs, high social security contributions” but also red tape and administrative burdens.

Another important issue not tackled in the consultation is about sanctions and enforcement of financial penalties in case of undeclared work notably with a cross-border dimension.

Despite the existence of a full 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.

In fact actions to prevent and deter undeclared work can only be efficient if they are adequately targeting the real causes of the phenomenon.

2 – Do you agree that action at EU level is justified? If so, what should be the main scope and objectives of that action?

As rightly recalled in the consultation paper, preventing and deterring undeclared work are primarily tasks of the Member States.

However since undeclared work is increasingly taking a cross-border dimension, in particular in the context of the posting of workers, UEAPME considers that action at EU level is necessary and therefore justified.

UEAPME is in favour of setting up a European platform for preventing and deterring undeclared work. However this should not lead to the creation of a structure and heavy administrative requirements.

The main scope of the platform should be an enhanced cooperation between national competent authorities on the ground covering the various facets of undeclared work which is the cornerstone for effectively and efficiently tackling the cross-border dimension of undeclared work.

According to UEAPME the main objectives of the platform should be a "platform of practitioners" in view of :

- Exchanging information between Member States including the requirements relating to the current revision of the posting of workers directive,
- Exchanging good practices among Member States,
- Increasing transparency on national social security systems and amount of contributions,
- Better coordination between the key stakeholders active in the various areas such as labour inspectors, social security inspectors and tax authorities,
- Improving the measurement of the phenomenon of undeclared work through a common methodology,
- Facilitating the execution of the application of mutual recognition of financial penalties (Council decision from 24/02/2005).

3 – Do you consider that a European platform as delineated above could be an appropriate vehicle for enhancing cooperation between Member States? Can you express your preferences as to options listed under the different building blocks (membership, scope, tasks, form)?

This European platform should be compulsory for all Member states covering different competent authorities in line with the scope defined above.

The platform should have a broad approach covering the main issues enumerated above.

The focus should be on cross-border issues covering the different aspects (labour law, tax, social security) and including problems arising from posting of workers. However concerning undeclared work, the strict delimitation between European and national dimension might be difficult.

This will particularly be the case when dealing with the topic of bogus self-employment, which is by definition a national issue but with some obvious European consequences in the case of cross-border activities.

Bogus self employment 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.

In the long run the platform should aim at concrete results with exchange of practices and information operational cooperation.

The platform should have its own existence but should work in close cooperation with existing committees and structures such as EMCO, SLIC, SPC or Eurofound and look for the best synergies with them.

4 – Do you think that the objectives could be achieved with already existing groups and committees, if their coordination is improved and/or scope expanded?

UEAPME generally favours the rationalisation of structures and processes. However in this specific case UEAPME considers that the creation of a new platform specifically dedicated to undeclared work and covering its various aspects is necessary.

Such a new dedicated platform should help to exchange best practices and outline a common understanding of control measures in view of achieving concrete results for preventing and deterring undeclared work.

Using one or the other pre-existing structures would from the start give a certain bias in terms of approach towards one specific dimension which might be detrimental to effective and efficient results.

5 – What role do you see for social partners in this framework?

European social partners should be fully involved in the platform. As key actors on the labour market, they can play a good sounding board function, they can participate in the assessment of actions and results, alert on some new developments and trends.

Furthermore in some Member States national social partners have a specific role for tackling undeclared work defined according to their national industrial relations system.

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.

6 – Would you consider negotiating any initiative in this field?

UEAPME does not consider the scope of this consultation adequate for EU cross-industry social partners' negotiations according to Art 155 of the Treaty as it is clearly an issue for a joint work between social partners and Member States.

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