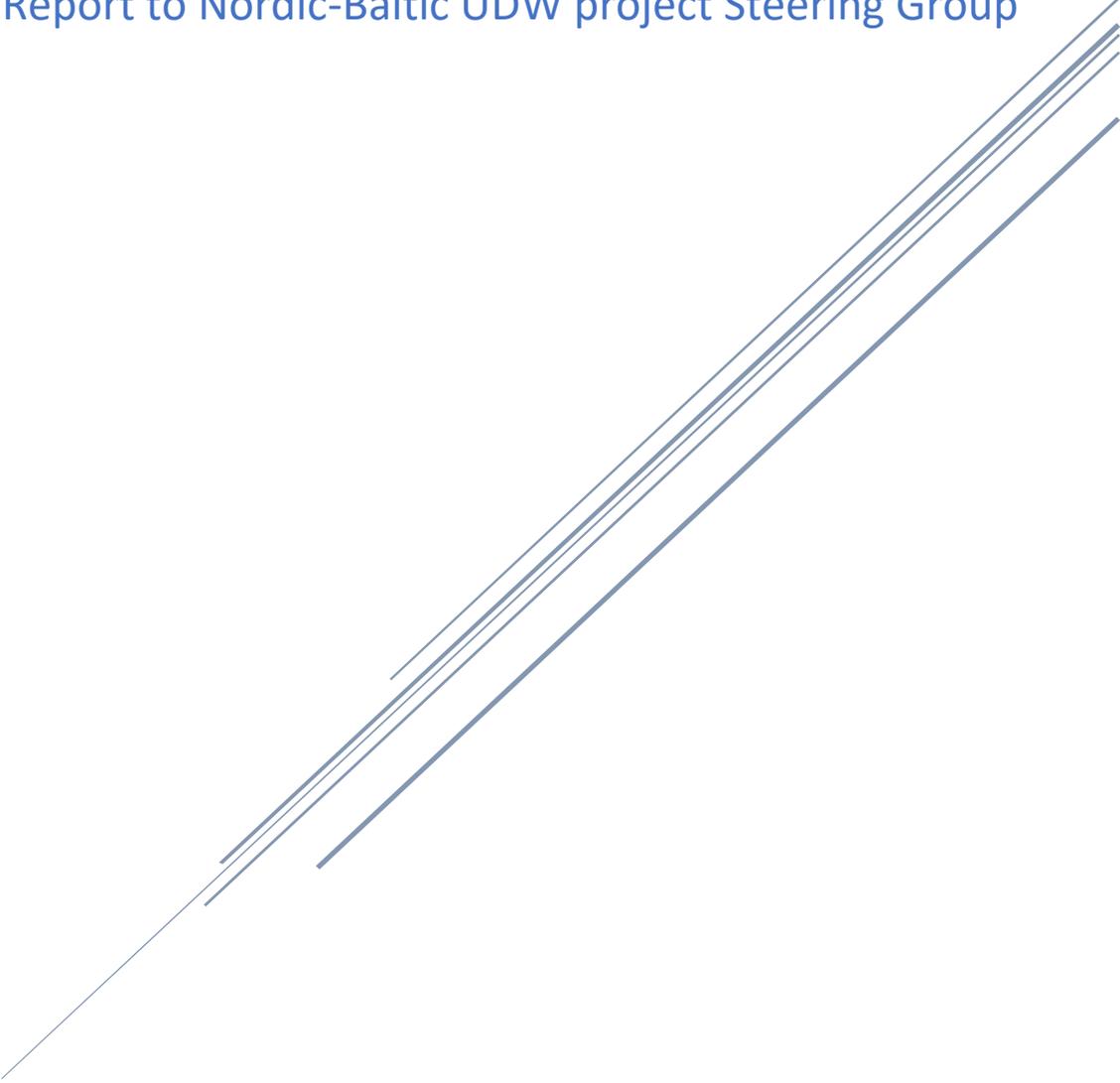


REPORT FROM WORKGROUP COOPERATION: JOINT EFFORTS COMBATTING UNDECLARED WORK

Report to Nordic-Baltic UDW project Steering Group



Working group cooperation

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May 2021

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1. Report from authorities’ seminar in Tallinn, August 2019*
2. Report from social partners’ seminar in Copenhagen, October 2019*
3. Report from social partners’ webinar, February 2020*
4. Countries’ activities report
5. Dissemination presentation from the workgroup

*) includes agenda, minutes, presentations, and list of participants

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This report presents some of the good practices and recommendations shared between the seven countries during the project. Due to the limited format of this report, you will only get glimpses of all that have been presented and discussed. If you want to learn more about specific examples, please feel free to contact the representatives listed on the front-page, they will appreciate your interest.

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Background and aim

The “workgroup for cooperation between national authorities and between authorities and social partners”, hereafter named *WG Cooperation*, was established as one of the four working groups of the Nordic Baltic Undeclared Work Project with participants from Estonia, Latvia, Finland, Sweden, Norway, Denmark, and Iceland. The workgroup was chaired by Norway.

The aim of the WG Cooperation has been to share good practices, establish networks and promote cooperation activities. Simply because undeclared work can't be tackled by one stakeholder alone.

From a juridical understanding, the authorities have the powers to intervene to problems and fraud in the labour market, but in practice and on the ground, and often because the social partners have power based on collective agreements, there will always be a need for tripartite cooperation to have a complementary (holistic) approach.

WG Cooperation has brought together relevant authorities and social partners to explore obstacles and possibilities, sharing good practice and finally, establish networks both nationally and between countries.

This report reflects good thoughts from engaged people in the seven countries' authorities and social partners. It's not an exhaustive description of the situation, but hopefully these examples and proposals can inspire for further developing cooperation in the Nordic, Baltic, and other countries. For more in-depth information and understanding, please refer to the appendixes.

The work processes

The WG Cooperation found it useful to split its work between two axes: The cooperation between (relevant) national authorities and between authorities and the social partners (tripartite cooperation). The reason for this distinction is because of the different powers and interests these two axes represent. It was also considered important to bring people with similar interests together to get good discussions and get examples and thoughts “on the table”. Initially two seminars were planned and conducted:

- Seminar with participants from relevant authorities were held in Tallinn, Estonia, in August 2019
- Seminar with participants from the labour inspectorates and social partners were held in Copenhagen, Denmark, October 2019

We found that, while the cooperation between authorities showed relatively similar interests and activities in the seven countries, the tripartite activities and experiences were more heterogeneous, with a wider range of experience and practice. We therefore saw the need for arranging a second seminar with tripartite cooperation on the agenda, and with a brave focus on “trust”:

- Seminar with participants from the labour inspectorates and social partners were held as a “webinar” (on Teams platform), February 2021

The WG Cooperation also mapped the cooperation situation in the seven countries when the project started, plans made during the project period and finally the situation in February 2021:

- Mapping of activities country-wise in 2019, 2020 and 2021

This project has, as many other practical activities, been affected by the Covid-19 situation. One crucial effect has been that many planned national activities has been postponed (see appendix 4), but we are confident that all parties will take up the good spirit as soon as the situation comes back to normal and that we will continue the good work initiated by the project and workgroup.

Cooperation between authorities

Public officers from labour inspectorates, tax administrations, police, border control and social welfare administrations from Estonia, Latvia, Finland, Sweden, Norway, Denmark and Iceland, a total of 20 participants, met in Tallinn in August 2019 to share experiences and good practices regarding cooperation between agencies on a national basis and to some degree also cross border cooperation.

All countries have already some experience with cooperation between authorities on a national level, though some are more experienced than others. It's a common understanding that a holistic and coordinated cooperation is important to fight undeclared work. Political and top-level commitment is crucial for a successful cooperation. Cooperation/activity agreements, dedicated recourses, and good routines to share information are among other topics that needs to be in place to establish and perform a fruitful cooperation between authorities. The seminar focused at three objectives; Organisation of authority's cooperation, priorities for cooperation and what obstacles that hinders cooperation.

Organisation of cooperation

For most of the countries, there have been established high-level cooperation, either initiated by politicians and coordinated by ministries or at least by agreements between general directors of the agencies. There are also examples of informal cooperation between servants from different agencies who reach out to each other for cooperation. There is a common understanding that "personal" contacts and agreements can result in solving single cases, but are not sustainable in a long term, and therefore formal agreements at high level must be established. On the other side, the whole organisations (top-to-bottom) must be involved and agree to this way of working.

How agencies work together differs widely between the countries, from joint (physical) centres of different agencies in some countries to sporadic, case-by-case cooperation in other countries, or something between. No matter how cooperation is arranged and performed in the field, all countries agreed to the need of a formal agreement on what, when and how to cooperate. It's a need for predictability.

Cooperation between labour inspectorates and tax authorities are most common, but social welfare administrations, police, border control, customs and municipal offices are also mentioned as relevant partners. Labour inspectorates are the agency with most practical contact with the labour market and will therefore often be a driving force in this kind of inspections.

Priorities

When it comes to branches chosen for joint inspections, most countries have prioritised to inspect work in the construction sector as well as hotels, restaurants, domestic cleaning and to some extent other services like car wash and beauty salons.

Topics during joint inspections are usually related to undeclared or under-declared working hours, labour contracts, accommodation (when provided by employer), legality of residence and minimum wages. Topics will differ between the countries due to different legislation and competence, for example are wages not under the competence of authorities in some countries.

Challenges

Even if servants and agencies work hard to find good solutions on how to work together with a holistic and coordinated approach, they face some difficulties. Some obstacles can be found practical solutions to, while others require more powerful solutions like revenue funding and adaption of new legislation.

More specific, all countries mention the secrecy acts that prevent sharing and compiling certain information between agencies to be the biggest problem. There is a raising awareness of this problem and lawmakers are looking into it. A “minimum solution“ is to set up a guideline at a national level where servants can learn what kind of information all agencies have, what they can share and how you can obtain their information (procedures). A guide like this has been an “eye-opener“ for many inspectors and lawyers making it at least a bit easier to work together.

Recourses and prioritizing are another challenge. All agencies have their core tasks to solve and it's understandable that they “protect“ their recourses to their basic activities. If working together with other authorities is not considered to give added value to their basic tasks, they will be reluctant to allocate money and people to joint activities. Therefore, again, the involvement of ministries and general directors is needed, if they establish common goals, then resources will most likely follow. The next step will then be to involve all relevant servants to understand and adopt this way of working. One must be aware of “culture clashes“ when bringing different agencies together, therefore a focus on organizational culture must be a part of implementing joint activities.

When working together you will find that not all cases are fully relevant for all involved authorities. The result and outcome of a joint activity can in one case give good results from one of the agencies, but not for the other, which again will influence on the agencies own internal reporting of results. Cooperation means that you sometimes have to let go on your own results if the joint activity as a whole is considered to be good.

Cross border cooperation

After the European platform tackling undeclared work was launched in 2016, the knowledge of holistic approach to undeclared work has evolved, including the need for bilateral cooperation. The European labour market is in practice without borders, companies and workers working and providing services in other than their home-country cause a need for bilateral cooperation between sender- and receiving countries.

The working group also discussed cross border cooperation between authorities. Migrant work (companies and workers) is a reality in all countries, some receiving more than posting, but all see the need for strengthened cooperation cross border. There is a need for both formal and informal channels. Formal, like cooperation agreements and use of IMI (Internal Market Information System), and informal by building networks, who to contact directly when needed. The Nordic Baltic UDW project has by it's existence contributed to establish tight networks between labour inspectorates involved, but also to some extent also for other agencies that has participated.

All agencies and countries participating in the seminars report that they have some kind of cross-border cooperation. There are agreements for cooperation between sister agencies and some agencies can use digital solutions like IMI, Internal Market Information system, used by the European labour inspectorates.

Again, there are differences between the countries. On one hand, the Nordic Baltic labour market is divided between the Baltic countries sending and posting to the Nordic countries, and on the other hand Nordic countries reaching out to their Baltic colleagues for assistance when they meet workers and companies from these countries. Assistance are usually asking for documentation of legality of posting, who are the juridical owners of companies and other register-info needed to give the inspector a complete understanding of the legal issues when inspecting foreign companies.

As with national cooperation, there is a need for formalized agreements and networking to establish and perform a practical cooperation cross borders. Further, the agencies reports a need for getting to know each other to understand what is possible to achieve. Therefore, regular meetings are crucial to maintain a good day-by-day cooperation. Some countries have established good relations and communicate about cases on a weekly basis while others are working together more sporadic.

Obstacles to cross border cooperation are usually lack of agreements, lack of financial resources (for travelling to meet and do joint inspections), secrecy issues preventing sharing of information, lack of knowledge about advantages among servants what bilateral cooperation and a need for establishing networks in relevant countries.

Good examples

- Estonia exchange data between agencies and do joint analyses, meetings and inspections are on ad-hoc basis.
- Sweden is establishing a cooperation between eight authorities, led by the labour inspectorate
- Finland has a central IT-system where all agencies share and get relevant information from each other
- Latvia has agreements between various agencies and perform joint inspections

- Iceland has expanded their joint efforts by establishing a joint authorities forum for undeclared work and work related criminal offences. A new legislation is in the pipeline, that would support this forum even better, ensure information sharing and strengthen dispute resolution and remedies for victims of violations of collective bargaining agreements or legally binding labour standards.
- Norway has established seven joint authorities' centres spread over the country. In these centres' civil servants from four different agencies meet daily to work together to fight work-related crime and undeclared work. The centres have a analysing team and a inspection team. In total ca 150 servants from the labour inspectorate, tax authorities, police, and social welfare administration work together in the same office and use their broad set of means when analysing and inspecting
- Denmark has regular general directors' meetings; they have coordinators from the relevant agencies and plan and perform joint activities/inspections

Alltogether, joint operations are considered to be useful, sometimes of vital importance. Maybe not always and permanently, but we can sum it up as the illustration on the next page indicates:

- *Bronze medal* is for the agencies that work alone with "their" topics in the labour market, also called "working in a silo", they solve their core duties
- *Silver medal* goes to the agencies who join forces on a national basis, working together to fight undeclared work more powerful and with a broad set of means
- *Gold medal* goes to countries who both set up joint national cooperation and reach out to colleges in other countries to work together with a labour market with no borders



The figure above could also include the social partners, the “ultimate gold medal” would be a long step towards a holistic approach to undeclared work involving relevant stakeholders. The acknowledgement of the need to work with social partners lead to the next focus area of the workgroup’s activities.

Cooperation between authorities and social partners (tripartite cooperation)

All countries in this project have already some experience with cooperation between authorities (most common with labour inspectorates) and social partners, though some are more experienced than others. It’s a common understanding that a holistic approach (using different means) and coordinated cooperation is important to fight undeclared work. Examples were given of fruitful cooperation, but also practical difficulties they face. The Nordic countries have a longer tradition in tripartite cooperation than the Baltic countries, but also here we see differences between the countries due to different legislation, priorities and competences.

It’s essential that the authorities (and politicians and ministries) involve the social partners because of their knowledge of the situation ”on ground” and because they also have channels as agents of influence among their members. In some countries the authorities don’t have the competence to control certain parts of the labour market, for instance wages, which is a part of collective agreements and controlled by the unions. Even if there are no legal possibility to invite the social partners to join in in inspections, they can be consulted prior to inspections regarding knowledge, risk evaluations and information towards their members, both members of employers confederations and members of unions.

The workgroup set up the discussions among two axes:

- Cooperation between social partners (employers confederations and unions)
- Cooperation between social partners and authorities (tripartite)

As mentioned above, we arranged two seminars with the social partners as a part of this workgroup ‘s activities. After the first seminar in Copenhagen in October 2019 we found that we needed to dig more into the topic trust between involved stakeholders. Because of the ongoing pandemic during 2020 we had to perform this as a webinar using video, the webinar was held in February 2021. Not the best solution to discuss trust, but with the active involvement of the participants, we were given useful additional knowledge about tripartite cooperation.

Existing cooperation

Tripartite cooperation can take place at different levels: *High level* (involving politicians, ministries, and central representatives of social partners), *medium level* (involving top management of labour inspectorates and central representatives of social partners, either represented by umbrella/parental-organisation representatives or by branch-specific representatives) and *local level* (involving servants from the labour inspectorates and local representatives from the social partners).

Most countries report to have established a “high-level” cooperation and dialogue between ministries and/or the labour inspectorate’s general directors and the social partners’ central representatives. At this level they typically meet at least once per year to share information and concerns regarding undeclared work and present their ongoing and planned initiatives, like information campaigns, deterrence activities, amendments to legislation and evaluations.

At a medium level we have seen good examples of joint or coordinated efforts towards specific topics and branches. One example is “sector-programmes”, a joint effort between authorities and relevant social partners in specific sectors. An example is a branch program for transport which is led by a labour inspection authority. The participants are branch unions and employer organisations. The task of the program is to lift the working/employer conditions in the actual branch. It is done by measures like information campaigns, brochures, education (workshops), legislative measures, fact-finding, and seminars. In some branches, social dumping and criminality are not uncommon aspects of work life. Another example was from the construction sector with cooperation between municipalities, tax authorities and construction companies to work together to fight undeclared work by setting the rules and legal terms in contracts. A win-win situation for all parts involved (society, contractors, workers, and companies).

At a local level cooperation between employer and workers will help to increase profit for both workers and company. Establishing cooperation on this level can be difficult, at least for small enterprises. At this level we also find the biggest differences between the countries, but also between branches in countries where cooperation between employers and workers is a natural and accepted part of the labour market. Activities on a local level is often depending on central agreements and recommendations from their central organisations.

Priorities

All countries report about cooperation related more or less to the same branches for cooperation: Construction, transport, cleaning and horeca, which correspond both with known problems regarding undeclared work in the labour market and they are also branches with large extent of migrant and posted workers.

When working together in a tripartite setting, it’s important to get a full picture of what are the problems, how can they be solved and how can all stakeholders contribute with their expertise, resources and competences. Next step will then be to establish a common understanding of the situation (in the labour market or in a specific branch) and prioritise by sharing „tasks“ for all partners.

Typical topics are similar to the priorities when authorities work together (see above), but often with more focus on knowledge and preventive activities like information towards both workers and companies, especially applicable regulations when you enter another country.

Challenges

One of the common challenge is either low number of members (both on the employers and workers side), which means that the organisations doesn’t reflect or represent the majority of workers and companies in certain sectors/branches. This situation is common in the Baltic countries, but also present in the Nordic countries where memberships are decreasing in some of the relevant sectors where the risk of undeclared work is present.

Another challenge, mainly in the receiving countries, is that migrant workers often don't see the need for being a member of a union, which on the other hand is a problem because we often see that especially migrant workers face problems related to their working conditions and in some countries the powers to assist them is by law regulated to the unions.

Trust

Trust is important for us and it is something that develops through time. It is an added value in cooperation that every stakeholder gain from. Trust is needed at different levels in society and in different forums. Firstly, we need trust amongst each other, the social partners, the trade unions, and employers' organisations. To gain trust, we need to respect the different roles that we play and to share common goals. Secondly, we need trust towards public institutions/government institutions and agencies. Low corruption or absence of corruption in society is the key to obtain trust in public institutions. They play an important role to make regulation function for all of us. Finally, we need trust towards legal instruments. Legal instruments (for trade unions/employers) exist to solve legal disputes such as conflicts of interest or disputes at strikes. Moreover, they set a framework of the ongoing (conflictual) situation. Different institutions can help in these situations, e.g., national wage board, the Labour Court and even International Labour Organization (ILO).

An essential question here is how do we get a good dialogue? Both the workers organisations as well as the employers organisations need to have the same common goals. When there are common goals, everybody knows what to strive for. In this given situation it means that both parties shall benefit from the cooperation. The companies shall make money and have reliable conditions. In addition, the workers should have decent pay and good working conditions. However, mistrust can also arise, both from leaders and workers. This happens mostly when there are no agreements, but everybody act and do things as they wish. There is no mutual understanding of what to achieve. Trust on the other hand, builds resources to handle disagreements and to get a good dialogue. Differences of opinions and tuff discussions can more easily be approached and solved.

Building trust between groups and people takes time, it is not a quick fix. Sometimes it is established fast and sometimes it takes longer time. It is common to fail and having to try again. The Norwegian example shows us a long and winding road and it has taken more than 80 years to get them where they are today.

Good examples

- Denmark has regular dialogue meetings on central and regional levels with an open discussion regarding the situation in the labour market
- In Estonia, The Labour Inspectorate meets regularly with the Estonian Confederation of Employers' Organisations and the Estonian Trade Union Confederation to set common aims
- Sweden has established a project to meet with social partners on a regional and local level to share info

- Latvia is establishing and renewing agreements with several social partners
- Norway has established four branch-programmes as a tripartite cooperation. The labour inspectorate works together with the social partners from automobile sector, cleaning, hotels/restaurants and transport in separate programmes. The purpose of collaborating is to mobilize employers, employees and the authorities to jointly document and address commonly recognized challenges regarding working conditions and working environment in vulnerable industries. The aim is to develop new approaches, working methods and methods that contribute to better results than what the authorities and the parties achieve separately
- Finland has formal meetings and receives many tips from the social partners
- Iceland has had successful tripartite cooperation in information campaigns, where authorities and representatives of both employers and employees have participated in creating the content and distributing the material. Iceland has also for some years had an informal but regular cooperation with the trade unions in inspections and informing authorities about possible violations of collective bargaining agreements or legally binding labour standards. The cooperation has now been formally established with the Icelandic Confederation of Labour, where communication and channels will be formalised, and joint inspection organised. There are still some legal challenges to information sharing from authorities to social partners, so the cooperation has its limitations

Conclusions and recommendations

It's not a new idea, and it's not specific for undeclared work, but the working group cooperation has shown that we can achieve more when we are working together than working in silos. Coordination, joining forces and establishing common goals will give added value in the work against undeclared work. Added value for the workers rights, fair competition for companies and support for the welfare states.

Good practices will not always be able to adopt directly from one country to another, but elements and ideas will hopefully be of great help and inspiration when similar topics are up for discussions in a country. This working group hopes that the participation in our seminars have boosted the interest in cooperation and that the following list of recommendations can be of help for us all in the future efforts for cooperation.

Recommendations regarding cooperation between *national* authorities

- Establish top-to-bottom understanding and commitment (political/ministry/ General Directors/middle-leaders/servants)
- Relevant agencies agree (or are instructed) to work together and use a wide set of means/powers
- Establish formal agreements (from «private» to «formal» cooperation)

- Establish common understanding and common goals to tackle the problems in the labour market
- Allocate needed resources (financial funding and human resources)
- Establish common KPI's that reflects added value of joint operations, rather than all agencies work for themselves
- Clarify secrecy issues and how to share information between the agencies
- Holistic approach; Both deterrence and prevention
- Internal focus: Different organizational cultures, must establish «a common culture» when working together

Recommendations regarding *bilateral* cooperation between authorities

Establish networks, get to know each other's competences, set up agreements (MoUs and projects agreements), use formal tools like IMI and "dare" to take the first step by trying to cooperate in specific "hot" cases involving mutual interests between countries. Learning-by-doing is better than being reluctant and wait for others to try out new ways of working.

Recommendations regarding tripartite cooperation

Practical cooperation

- There is a need for different forums and arenas where contacts and meetings can be held. These forums for contacts should both exist at a formal level and at a more informal level (personal contacts)
- Establish common understanding and knowledge of problems that we are facing in the labour market and sharing of information, in the country as a whole and in specific sectors
- Holistic approach based on the stakeholder's competences (risk evaluation, information, negotiations, interventions etc). Different stakeholders have different competencies – use them all

Trust

- Time: Establishing trust takes time with continuous engagement
- Goals, respect different positions and goals, but try to establish common understanding and goals
- Trust in institutions and in agreements
- The personal touch, respect for each other, and knowledge
- Early intervention when facing issues, do not let obstacles and problem grow
- If there is no trust, put it on the agenda for discussion. Why is the trust missing, how can we establish trust?