

Nordic Undeclared Work Project 2019-2020
Nordic countries and Estonia and Latvia
Work group cooperation
Social partners seminar, Copenhagen 10th October 2019



The aim of the seminar was to share good practice, establish network and promote activities combating undeclared work.

Abstract

All countries 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 an holistic (using different means) and coordinated cooperation is important to fight undeclared work. Examples where given of fruitful cooperation and others presented the practical difficulties they face. Not surprisingly, the Nordic countries have a longer tradition in cooperation than the Eastern countries, but also here we see big differenses between the countries due to different legislation and competenses.

Social partners are important stakeholders in the fight against undeclared work. It's essential to involve them because of their knowledge of the situation "on ground" and because they also have channels as agents of influence among their members.

The seminar concluded trough the group-work that they share common ideas for better cooperation and the solutions may lay in better structured cooperation with clear channels for communication, joint risk evaluation and common planning of both preventive and control activities.

It's the organizers understanding that the seminar participants shared useful experiences and ideas they will take home for further refining the national cooperation between labour inspectorates and social partners.

Next step (for the project and the work groups members) is to encourage to more cooperation in 2020. A survey will be made during spring 2020 to determine new or improved activities in the seven participating countries. The findings will be taken into an updated version of this report.

Participants

Officers from labour inspectorates and representatives from social partners from Estonia, Latvia, Finland, Sweden, Norway, Denmark and Iceland, a total of 20 participants. See contact list attached.

Agenda: *Attached*

Pål H. Lund, Norway, welcomes everyone to the meeting. *The aim of the meeting is to share good practice when it comes to cooperation between authorities and social partners, establish network on both national and multinational levels and promote future cooperation activities.*

The structure of the project 2019-20

The project started with a pilot project in 2018 among the Nordic countries. The pilot project showed good results with around 60 cross-border inspections and it was decided to continue and expand the project with the participation of Estonia and Latvia.

The steering group of the Nordic Baltic UDW project coordinates project activities and makes sure that everything is on track. (Chair/project leader: Sweden)

The project consists of four working groups (WG) with different overall responsibilities

1. WG inspections: Organising the exchange of inspectors with the aim of networking and exchange of knowledge and practises. (Chair: Denmark and Estonia)
2. WG prevention and communication: Developing a project on communication Establishing a cross-national campaign on undeclared work. (Chair: Island)

3. WG knowledge, effect and analysis: Evaluating the projects impact on the actions against undeclared work. Effect evaluation. (Chair: Sweden)
4. WG cooperation; authorities and social partners. Focusing on how network is built between the participating countries and challenges how the cooperation happens. This WG is also responsible for the final report on the actual cooperation of the project (Chair: Norway)

The project is a realisation of the common goal of the member states' work inspection authorities to preventing undeclared work. The final report (due around the end of summer 2020) will join the results and experiences from all project activities.

The aim of this meeting is to figure out how to involve the social partners in the work combating undeclared work.

All seven countries were given the floor to present the current situation in their countries regarding how cooperation between national authorities and social partners is organized, what priorities they have and what challenges they meet in their cooperation.

Country presentations

Denmark

Cooperation with the social partners

On the national level

- Tips about possible offenses are a crucial part of the cooperation between the LI and the social partners.
 - The LI is the decision maker on the action taken.
- “Dialog meetings” are hosted every second month, with all three authorities dealing with undeclared work (the LI, the tax authority and the police) and all relevant social partners discussing the status of the cooperation.
 - The meetings are on a manager-level enabling an open discussion on findings and tendencies found in the field.

- " The follow-up meetings on foreign labour and international recruitment" twice a year where an updated report on the results from the authorities joint effort against undeclared work is discussed.
 - The follow-up meetings are on a formal ministerial level.

In 2012 the LI established a social dumping task force carrying out inspections on undeclared work on an everyday basis.

On the regional level the LI and the social partners especially the unions meet regularly.

36 regional inspections are carried out every year. Information sharing is eased on the joined inspections and in the informal meetings between the authorities.

Challenges:

- LI is only looking at working environment and is not allowed to bring in the unions into the inspected workplaces.
- Social partners deal with all salary issues but are not permitted do joined actions with the authorities.
- Issues with information sharing because of the fact that the social partners are not authorities.
- Very sector specific organisation of the social partners resulting in a high number of actors.

Finland

Cooperation between LI and the social partners

The cooperation with the social partners is really close in order to know how to interpret the regulations on occupational health and safety. There is a tradition in Finland of a close cooperation between the Finnish trade unions, employers' organizations and the Finnish government on solving problems.

High-level hearings are held 1-2 annually however the LI still receive informal tips from the social partners in-between the formal meetings on informal meetings or via other channels. An external company provides the LI with tips from the sites. Afterwards the case is passed on to the employers' side and the unions (they get the report). The criminal cases are passed on to the police.

Priorities

To save resources

To exchange information exchange within legal frame but keeping the easy informal contact

Fluency of the cooperation in terms of communication

Common interpretation of the agreements

Understanding each other's competencies, activities, focus and approach and thereby making priorities and the work division clear.

Updated information on new phenomena and tendencies within the subject of undeclared work

Handling the challenges of the cooperation

- Secrecy matters restricting the information exchange
- Enabling data driven transformation of the efforts.

Challenges:

- Resources
- A tight legal frame:
 - The LI is able to give companies advice about salary but they cannot fine the companies.
- Lack of knowledge on the collective agreements on the ground.
- Lack of a risk analysis on order to focus the actions and use the resources better.

Estonia

The cooperation between LI and the social partners:

Main partners of the LI and activities:

- Tax and Customs Board and the Ministry of Foreign Affairs are partners on an authority level
- Meetings between the partners are held on *ad hoc* bases
- Discussing the responsibility of contractor/ client and electronic registration of a employee
- Future development of an employee card.
- Drafting and revision of new Aliens Act:

- Receiving inputs from the social partners in the revision process of Aliens Act

Priorities:

- To work with employment contracts to reduce undeclared work
- Would like to have the tool to check the tax information to reduce the “grey area”
- Maintain competitiveness
- Tax liability
- Development of an ID-card system (tax number, picture, identification number to check legality)
- Drafting a new aliens act

Challenges:

- Need for a central database enabling all the authorities to access the information
- Communication with the other authorities.
- Most sectors are subject to minimum wage. Only four labour association/unions – needs input from the companies belonging in these groups.
- No regular formalised contact between the social partners and LI (one meeting a year) – only occasional cooperation in the field
- Time and resources
- Different priorities
- Fragmentation of databases
- Complexity of regulation

Iceland

The cooperation between LI and the social partners:

Organisation

The LI (AOSH) cooperates closely with the social partners, SA - Confederation of Icelandic Enterprise and ASÍ - Icelandic Confederation of Labour on:

- Agreement on Workplace ID Cards and Workplace Inspection.
- Joined information campaigns: Information brochures on undeclared work.
- Both confederations have members in the board of AOSH.

Informal cooperation:

The trade unions notify the relevant authority if there is a suspected violation in a workplace.

Joint inspection between:

- Trade unions inspecting minimum wage
- Directorate of Labour inspecting minimum wage especially 3rd country nationals applying for work permits, posted workers and temporary agency workers.
- AOSH inspecting the work environment

Other authorities are supporting the inspections when necessary.

Formal cooperation:

Working group dealing with about social dumping and work-related crimes published a report in January 2019 resulting in:

- An advisory group
- A formal cooperation forum

According to the working groups' report, actions are needed regarding the following issues:

- Illegal Phoenix Activity.
- Chain of responsibility.
- Enforcement measures and administrative sanctions.
- Internship and volunteers.
- Trafficking and forced labor.

Main priorities at the forum

- Construction sector.
- Foreign workers.
- Repeated and severe violations.

Priorities

- Workplace ID and workplace inspections
- Long history of cooperation with the social partners

- Joined inspections with the unions – follow most of the tips.
- Attempts to establish formal cooperation to combat SD and work related crime (There is a WG established to work on this issue)
- An advisory group advising the relevant ministers (Soon to be established)
- Cooperation with the tax agency and the police
- Construction sector, foreign workers and repeated

Challenges

- Advisory Group has not yet been established.
- The forum is working on cooperation agreement.
- A solid cooperation with social partners has not been established yet.
- Legislation challenges.
- Information sharing challenges.

Sweden

The cooperation between LI and the social partners:

Challenges persists regarding the co-operation with unions due to different priorities and perceived roles the unions because there is a conflict of understanding each other's role.

There is a crucial need to find ways to collaborate on info sharing on these issues. We should cooperate mainly on strategic levels and this should happen mainly from LI to the unions and not the other way around.

Here to ask the social partners: How should we cooperate?

National work: A pilot project where the LI is meeting with the local and regional social partners sharing info on indicators on cheating.

Priorities:

- Expanding it to a regional/national problem (how should it be dealt with).
Making the decision on the tips
- Solving the central issue: who does what?

Priorities

- The LI aims at four meetings a year with Head of department for joint authority control to put down clear priorities for the cooperation.

- The relation has been demand driven but we would like to have a more continues cooperation.
 - The social partners should make it clear to themselves: What's in it for me?
- Report on why information sharing is challenging:
- Separate collaborations: Meetings with different unions where the director general visits in a more informal setting.
- Frank discussion and workshops digging into the challenges with the social partners: How do we really challenge these issues?
- Training general inspectors able to handle all kinds of work related issues along with undeclared work.

Challenges

- Resources: manpower and finances.
- Information sharing.
- Level of expertise: Continues lack of knowledge on the field.
- Different priorities of the LI and the social partners.

Comment from the Swedish union side:

Cooperation obstacles:

- The EU authorities are aimed at cooperation with the authorities and *not* the unions, which is a challenge for the unions.
- The unions never get anything back – tipping without knowing the outcome.

Wish for the future: Platform for undeclared work (tax, communication, virtual library ect.) with easy access.

Latvia

The cooperation between LI and the social partners:

There is an established cooperation between SLI and social partners, including, for example:

- *Free Trade Union Confederation of Latvia (LBAS)*. The cooperation agreement with LBAS was renewed in spring, and also annual meeting between the parties took place.

- Discussions with the *Latvian Construction Industry Trade Union* on a new/renewed agreement in order to reach mutual agreement on effective cooperation;
- Also, info exchange/seminars with the *Partnership of Latvian Constructors* are taking place;
- Discussion on cooperation agreement is also initiated with *Employers' Confederation of Latvia (LDDK)* - largest organization representing employers in Latvia (Members employ 44% of Latvia's employees)

Organization

Similar as with State institutions – Informal/Formal-Agreements.

Normally established cooperation is evaluated, and where necessary revisited on annual base after meeting *in persona*.

Priorities

Partners' view on cooperation (*Latvian Construction Industry Trade Union*): Positive – informality of the cooperation – important to effectiveness and smoothness.

Key partners: strategical benefits for reaching goals of the institution to benefit society (No need to conclude agreements with everybody)

Structure: Informal cooperation is central to the actions

Challenges

The institution (SLI) undergoes a transformation from a "punishing" institution to a "communication-dialogue institution".

- Shift of mindset/thinking of all persons involved, and society as such (willingness to communicate, communication & working methods). Legal consciousness.
- Gaining trust of society and changing the perception of the Labour Inspectorate.

Effectiveness: Agreements may look good on paper but what happens in reality?

- How to be effective not only "On Paper" and making the parties willing to achieve a goal;

The universality of the issues: Cannot be isolated to the institutional level only.

Norway

The cooperation between LI and the social partners:

National/political level

- Contact Committee (1966) – The Government, led by the Prime Minister and central federations
- Prime minister meets with the social partners in separate meetings
- Specific Work crime (UDW):

Top level meetings every second year: Prime Minister, Ministers, Social partners and the Authorities

- Secretary of State cross-Ministry meetings, meet with the social partners
- Cross-ministry coordination of activities and development of regulations
- General applicable agreements
- Government Strategy Fighting Work Related Crime (2017/2019)

Authority level - Labour Inspection Authority

- Directors advisory council (led by the General director) meets three times per year
- Discussions and advises about the labour inspectorates' activities, tools and priorities
 - Sector specific arenas (e.g. projects within building/construction, cleaning, road transport, hotel/restaurants)
 - Tripartite meetings concerning the EU platform against undeclared work
 - Meetings on local/inspector level

National/political level: Discuss everything regarding work life

- The door has been opened to social partners at every time (esp. minister)
- 8 out of 19 ministers in the Norwegian government are involved with UDW which makes cross-ministerial coordinating essential.

Labour inspectorates approach to and handling of tips has been changed: The sections have an analysis centre which will be used as part of the analysis (have dropped the idea about running after every tip they get).

The role of the LI

- Directors advisory council – three times per year (example is the risk assessment)
- Focus on sector specific areas
- No minimum wage but minimum agreements for sectors which means that the LI can check salaries.
- Meetings between local inspectors/local unions
- Tripartite sectoral program: Successful, communication, explaining legislation, setting up campaigns within their sectors giving advice to their local partners, involving the

Challenges

- The social partners' lack of resources.
- The social partners are not organised in the same way making it hard to cooperate on an appropriate level.
- The decrease in the number of organised workers especially foreign workers – some sectors, esp. the vulnerable.
- The instability in the wishes/interests of politicians/partners.
- The lack of an approach to handling tips about undeclared work
- Authorities' secrecy regulations.
- Practical arrangement of contact on a local level.

Working groups and follow-up discussion

Questions for group discussions: Attached.

The seminar was divided into three groups: Employers, workers and labour inspectors.

1. Labour Inspectorates

1. What kind of information, and activity, would be useful from the side of social partners?

Is there a general misunderstanding about what the LI can and cannot do.

Confidentiality agreements are a constraint in the cooperation. Arranging a meeting with the social partners before the project starts to discuss what we might see/predict to happen.

Possible questions and preventive measures involving the social partners:

- What kind of problems is relevant in the eyes of the social partners?
- What should we be aware of? Sharing information on activities they see happening.
- Mapping and forwarding the information regarding what the social partners see
- Joint risk evaluations
- Coordinated information -eg brochures, flyers -made and distributed together
- Implementation at an early stage
- Include entrepreneurs?

2. How can information be given/channeled to you?

Tip lines:

- E-formula
- E-mail
- Telephone
- Face to face meetings with the involved partners (at a lower level)

Note: Informality is good risks breaking the confidentiality band and a breakdown in the information exchange if the staff in the institutions or organisation changes.

3. How can you give feedback to the social partners? (General feedback and/or specific feedback)

Unfortunately very little information that can be returned often only written annual reports. Specific information cannot be shared from the cases – it is confidential. The dilemma of the confidentiality in the informal meetings.

Formal vs informal feedback:

- Overall feedback
- Legal framework gets in the way of giving feedback

- Confidentiality
- Copy of the report is sent from the LI to the trade/employer organisations in Island
 - General feedback in structured forms
 - Specific feedback in face to face meetings

4. How do you, today, include the social partners in your work, and maintain continuous reciprocal/mutual communication to fight undeclared work?

- The inclusion varies from country to country. Often via informal meetings but rarely included in the day to day work.
- Sweden -pilot with continued dialog: What can we do to change this? Guidance, meeting the workers in the working spots together – if we can show that we are there together to achieve our common goal we might change the culture around undeclared work.
- Relevant questions: What is the aim of the meeting? What are the different roles of the people at the meeting? Do we have the same understanding of our roles?

5. What kind of cooperation between authorities and social partners would be more effective to fight undeclared work? Think BIG and CREATIVE.

- More work in regards of information and communication together
- Inform the workers at an early stage of their rights and who to go to
- At the docks, airports, where they enter the country
- Help each other understand the complexity
- Relevant questions: Both at the labour inspection authority side, the trade and employer unions, the workers and the management side
 - How can we work together, in regards of health and safety, to change the culture of not using safety equipment?
 - How can we assure that all the employers at the construction site is a member of the trade unions? Unless, the social partners cannot do anything
 - How can we get the politicians to put this on the political agenda?

A project collecting information and qualifies the information: Cooperation in Norway – parties agreed that their fighting this common goal – *fair play bygg (fair play build)* - financed from both side. Lock down bankruptcy – on the other side to help the workers to know their rights. Both sides are paying. Spreading the word among the workers in different industries – collecting as much information

2. Social partners: Unions

1. What info can you give to the authorities?

A lot of information can be shared with the LI because:

The Unions' efforts already begin before the project is started to prevent and note risks at an early stage: Information about undeclared work, no id, foreign workers, human trafficking is collected.

Check that anonymity is upheld, for the ones complaining.

Inform that the price is too low e.g. when a contractor for a public buyer, refuse to give the contract.

2. What would be the best way/channels for you to give such info?

Calls, e-mail, tip-services. Put a representative from the union on site. Personal contacts are the most efficient. Personal network is very important. Sometimes the unions both have contact with the main contractor and the authorities – personal contact and network here is the most important. If you know each other it's a lot easier to exchange. But there are problems with the secrecy act and sharing the information.

3. How important is feedback?

Feedback is key: Very important for the motivation to give tips to the authorities. Easier if the contact is personal.

4. What kind of activities, cooperation activities do your organization perform today to fight undeclared work?

- The social partners suggest an emphasis on prevention to see positive change in the way work is planned and performed. E.g. as a result the companies themselves are trying to keep the constructions sites clean.
- Development of ID cards at the work sites.
- A more widespread use of digitalization.
- Fair play. Employer employee financed.
- A challenge that some systems are developed for authorities and not accessible for the trade unions and the Unions would like to challenge that e.g. registers of working time.

5. What kind of cooperation between authorities and social partners would be more effective to fight undeclared work? Think BIG and Creative

- Limit the sub-contracting chains.
- Get the companies to take responsibility. Value in having fair working conditions.
- Getting the main contractor to be responsible for
- Let the unions into the construction site together with the authorities, the main contractor should allow it. Where the unions not have their own right to go there.
- Trade unions possibility to stop work that is dangerous.
- Get the ones who order the work to put up rules to ensure fair working conditions.
- We also talked about the challenges to organise foreign labour.

3. Social partners: Employers

1. What kind of information can you give to the authorities?

Basically, there are no obstacles to give information but sometimes it is quite difficult, because the employers risk harming their members at the same time. It is therefore a question of balancing and varies from one country to another, some quite openly, others not. Trying to advise their members and this information is often considered internal information. However, information about clear tax frauds, black economy cases, criminal acts are handed in.

2. What would be the best way/channels for you to give such information to the authorities?

In an informal way: some central platform or tool to give information making it possible to see the outcome of the tip. More cooperation with the Trade Unions is desirable.

3. How important is feedback from authorities for you?

Feedback is utmost important. It is a central motivation factor for giving tips in the future that the information has been taken into the consideration. At least a receipt like, "We have used the information that you have given us".

4. What kind of activities do your organizations perform today to fight undeclared work?

Information provided to the members about risks and rules, general guidance, and co-work with the authorities - sometimes with the trade unions too. In some places it is challenging to get access to the working spots, which prevents the employers to combat the problems.

5. What kind of cooperation between authorities and social partners would be more effective to fight undeclared work?

- Creating new tools, more information days, seminars and transparency.
- Would be a good thing to be consulted before project start – maybe a public bidding process where we can see that the prices are unrealistic. If the bid is public we can go into the case and question.
- Prefer informal contact: A time issue. It would be good to have a formal tool. Data central
 - Danish example of both an informal line and a formal formula.
- NB: The danger of the personal contact is that the structure can be lost – formality is needed to keep up the contact.
- A stronger cooperation between the trade unions and employers side – raises the economy as a whole. Employers generally have good tools because health and safety plans are good for the economy.

Challenges for the social partners:

- The trade unions and the employers cannot access the tools that the authorities have.
- It's hard to recruit the foreign people to the unions.
 - Good practise case: The Danish union association 3F has recruited many new foreign members into the union by shifting its focus from punishment to dialogue and engaging activities on many different platforms (Facebook, meetings at the Embassies of the foreign workers ect) and in many languages.
- Collective agreements make it different from country to country: Employers have in common that they are serving the competitiveness of the members but still do it differently.

Good practise example from Sweden

How do we get a healthy construction industry? By Hans Åkerlund, the Swedish Construction Federation (see appendix)

Åkerlund presented a good example of cooperation between municipalities, tax and construction companies to fight undeclared work. This is an example on how the actors in the business can cooperate by setting the rules in contracts.

Concluding remarks

- Varying legislation, traditions, different activities and tools for solving things.
- The need of common risk evaluation
- Social partners need feedback but the feedback is constraint by the secrecy act and GDPR.
- Development of the legislation to ease the cooperation and exchange
- Include the labour authorities in introductory meetings
- Need for creativity – transparency, tax authorities' involvement etc. (Swedish example)
- Carrot and stick – We should have had more examples of what is actually being done.
- Preventive actions and transparency: If you don't follow the game you lose.
- General wish list: ID cards, early contact with the employers and employees, more frequent contact between the unions, employers, and the authorities. It is an important aim to influence the politicians together with the challenge of changing governments in mind as an unknown factor.

Objective for the future cooperation:

- To share ideas, good practise examples, tendencies in the field informally but also use each other's competencies and experiences in combating undeclared work.
- A report is being written: Ideas for new of projects, developments related to this cooperation are appreciated (!)

Ditte Wiberg/Pål H Lund
28.10.19/04.11.19



The seminar is one of the activities under the Nordic Undeclared Work Project 2019-2020 funded by the European Commission.

