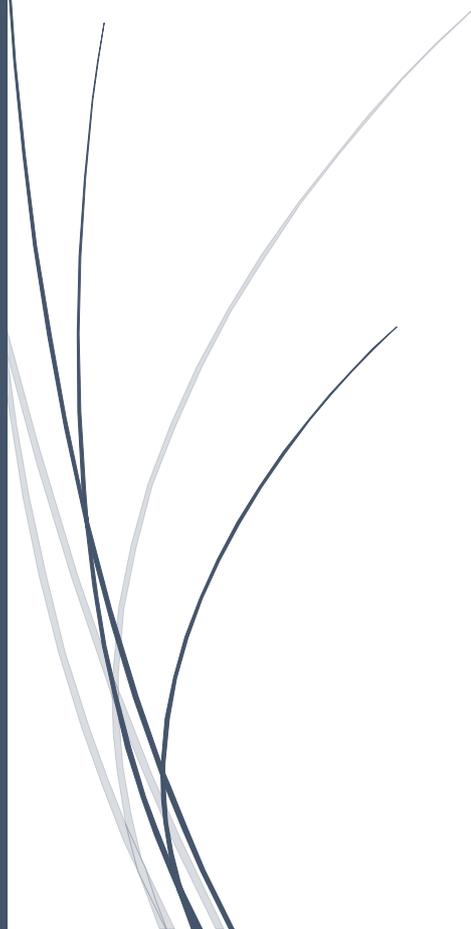




7.09.2020

# NORDIC UDWP

## COUNTRY REPORT FROM ESTONIA





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## Introduction

In Estonia, there is no official (positive) definition of undeclared work. The legislation stipulates rights and obligations regarding work and services and in-directly designates practices whereby workers, employees, service providers, employers avoid employment law, labour market regulations, tax and social security regulations and contributions.

Addressing undeclared work is mainly the focus of two institutions in Estonia: the Estonian Labour Inspectorate and the Estonian Tax and Customs Board.

The first of them focuses on improvement of the quality of working life, performs state supervision over compliance with requirements of legislation regulating health and safety at work. At the same time being a helpful partner to employers and employees by raising awareness and giving guidelines to the labour market parties. At the same time Estonian Labour Inspectorate advises employers and employees about the hazards of undeclared work. During inspection activities inspectors demand to see labour contracts and check if employees are registered in the Employment Register, they have the right to demand that employees are notified about the working conditions in writing, also to evaluate other types of contracts in view that it is a hidden labour relationship. The Tax and Customs Board is responsible for collecting tax revenues. Also, they are responsible for Employment Register which is shared as a tool for Labour Inspectorate (and other authorities) turning their day to day and inspection activities. Additionally, administrators of social and unemployment insurance could have a role in identifying and tackling undeclared work. The eligibility criteria of these benefits are related to factual declared employment and payment of taxes.

## Results from testing the process indicator from previous project

Estonia was not part of the previous project, so we have not tested the process indicator, but we provide you a general overview of the current state of supervision of undeclared work.

Table 1. The process indicator

Category	Item #	Item	Score 0 = 'No' 1 = 'To some degree' 2 = 'Yes'	Score elaboration or further comment
Governmental framework conditions	1	Is combating undeclared work a stated goal for the government?	1	Combating undeclared work is a specific goal for Estonian government for some degree.
	2	Is there an overarching governmental strategy on combating undeclared work?	0	No.
	3	Are there joint action plans for cross-agency inspections?	2	The Labour Inspectorate and the Estonian Tax and



				Customs Board cooperate by sharing case-by-case information; the Labour Inspectorate and the Police and Border Guard cooperate by carrying out joint inspections based on a cooperation agreement and plan for detection of illegal employment and cases of labour exploitation (e.g. trafficking).
4	Are there joint cross-agency assignments from the ministries?	1		The Estonian Tax and Customs Board, The Police and Border Guard and Labour Inspectorate are doing often joint inspections.
5	Is there a regular joint report on activities and effects from cross-agency efforts to combat undeclared work?	0		With regard to foreign labour, including posted workers, the guidelines have been approved by the Ministry of the Interior, but their implementation has been limited due to lack of resources. In addition, the general wording of the strategy paper does not provide a basis for fixed agreements.
6	Are there national indicators for measuring undeclared work?	1		Cross - border enforcement
7	Is the legal framework adapted to combating undeclared work (i.e. sanctions)?	2		Taxation Act – for example, if the employer does not register the start or the end of employment as required, the tax authority may claim penalty payment of maximum EUR 3,300.  Employment Act – for example, for failure to provide the employee with the data of the employment contract



				by the employer, a member of his or her management board or another representative to whom the performance of the respective obligation has been delegated, is punishable by a fine of up to 100 fine units. For the same act, if committed by a legal person, is punishable by a fine of up to 1300 euros.
Knowledge and intelligence	8	Do the existing legislations enable agencies to share and combine information?	2	Yes. The Labour Inspectorate closely exchanges and shares information with the Police and Border Guard and with the Tax and Customs Board only in the course of our proceedings. We have a lot of information about the company's background, which is public (Teatmik.ee; Inforegister etc).
	9	Do agencies share and analyse strategic information?	2	Yes. From the state point of view, the Police and Border Guard has the right to analyse the information and data of the Tax and Customs Board and the Labour Inspectorate. The Tax and Customs Board analyses from the point of view of tax behaviour. The data owners are primarily the Tax and Customs Board and the Police and Border Guard.
	10	Are there dedicated cross-agency staff for working with knowledge and intelligence?	0	No. Each institution has its own analytical capacity and the people who deal with it. The results of the analysis



				can be shared between agencies.
	11	Are there joint IT systems to facilitate knowledge and intelligence?	0	<p>No, we do not have joint IT systems. We have Employment Register which is given through a certain x-road to other authorities who see only the data they need (not all the data collected). Database for checking the registration of short-term employment in Estonia created by the Police and Border Guard.</p> <p>Register of posted workers created by the Labour Inspectorate.</p> <p>A common database has been planned since 2019, but has been left unfinished due to funding.</p>
Operative procedures and sanctioning	12	Are there co-located cross-agency inspection teams working together daily?	0	<p>No. All allocated staff are working in their own authority. We work with various agencies on the basis of tips and cooperation agreements.</p>
	13	Are there cross-agency inspection teams which are not co-located but working together on a regular basis?	1	<p>Yes, depending on the availability of the resource, joint inspections will be carried out together. These are mostly hint-based and authorities decide which is a priority.</p>
	14	Are there cross-agency procedures on how to coordinate efficient sanctioning ("tactical sanctioning")?	0	<p>Each authority has its own supervisory powers and various infringements that can be penalized.</p>
	15	Are the roles and jurisdiction of each member in the cross-agency teams clearly defined?	1	<p>Yes, each member is working between the competence of the authority.</p>



				In the framework of international cooperation; cross-border cooperation.
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## Currently used risk indicators and data for planning inspections

### Employment Register

Since 1 July 2014, all people who are employed or who are working on a voluntary basis in Estonia must be registered by employers in the employment register.

The register should reduce undeclared work and increase tax revenue by requiring registration of employees before the actual employment starts, and by making the supervision by taxation officials easier. The other purpose of the register is to increase the amount of electronically gathered data for administrative decisions and to ease the data exchange between different state institutions. The employment register is also the basis for determining the employment related social guarantees (health insurance, pension, and unemployment insurance premiums) and for supervision over the fulfilment of the employment related obligations.

The database is used by:

- The Estonian Tax and Customs Board for monitoring the tax liabilities of taxable persons;
- The Labour Inspectorate for making entries into the register on the basis of the decision of the labour dispute committees;
- The Estonian Unemployment Insurance Fund for verification of employment status and registration of persons as unemployed or moving back into work, and for granting unemployment allowances and other unemployment insurance benefits;
- The Estonian Social Insurance Board for verification of employment status and granting different benefits;
- The Estonian Health Insurance Fund for verification of employment status and granting health insurance benefits; and
- The Police and Border Guard Board for exercising supervisory control over the working conditions of foreigners.

In addition to the previous list the database is also shared to other surveillance authorities with certain extend. For example Estonian Labour Inspectorate can enter through x-road to the system and check from employers side the list on employees, the type of contract, the start and end of labour relation and the grounds of determination (also when the entry is done and modified). From employees side, entering personal ID number, we can see the determined and valid labour relations, the type of contract, the start and end of labour relation and the grounds of determination. At the same time information about paid taxes and social contributions may be published to Labour Inspectorate only during on-going investigation.



Also, every worker can check the system to make sure that the employer has registered them correctly, payments are declared and all taxes are paid. The register data is available for all public bodies requiring employment related information. The objective of the implementation of this system was to avoid multiple submission, collection and processing of the data and to reduce the administrative burden of the employers as well as of the public agencies.

Main tool for inspectors in planning is Labour Inspectorate's own database (ITI) which consists of detailed information about previous controls and outcomes, work accident reports and investigations, tips, counselling of employers and/or employees, posting notifications, notifications about minors, labour dispute committee documents and decisions etc.

In case of posting we request information about A1 forms from Estonian Social Security Board. That is done on a case by case basis.

In addition we use public data from:

- [www.teatmik.ee](http://www.teatmik.ee) which is a public database with company background information (count of employees, turnover, national taxes, workforce taxes and general information)
- Police and Border Guard e-service to check the registration of short-term employment and visa in Estonia
- Information Register (*Inforegister*) same as [teatmik.ee](http://teatmik.ee)
- E-Business Register (*Äriregister*) which has public access and detailed access for inspectors.

### **Currently used indicators and data for evaluating inspections**

Unfortunately, we do not have indicators to evaluate inspections done in the field of undeclared work. Undeclared work itself is not the aim of inspection in Estonia. It is usually a part of the outcome of the inspection (we check a company based on a hint or a regular inspection and discover among other also undeclared work). If it is an employee with no contract and registration in Employment Register, we ask with precept the employer to notify the employee in writing about the working conditions applicable to him/her.

If a hint consists only about information concerning unregistered working we forward that information first of all to the Estonian Tax and Customs Board (especially cases when according to the Register there should be no employees at all, because in general we conduct inspections in companies with 1+ employee).

During joint inspection we exchange the information relevant to the other party as soon as possible on the other hand we do not report back about it quarterly or half-yearly based. We reflect the outcomes in our yearly overviews and analyse methods while looking for possible better measures. We approach these cases on *ad hoc* bases trying to achieve more stable corporation through experience.



## Identified methods and success stories of good practices for combatting undeclared work

The Labour Inspectorate and the Estonian Tax and Customs Board cooperate by sharing case-by-case information on establishments and employers that are suspected of infringing employment and tax law. Also, the Labour Inspectorate and the Police and Border Guard cooperate by carrying out joint inspections based on a cooperation agreement and plan for detection of illegal employment and cases of labour exploitation (e.g. trafficking).

Different policy measures tackle undeclared work, including increasing commitment via awareness-raising and information campaigns to inform workers about the risks, and deterrence approaches that detect and punish non-compliance. Since 2017 a greater effort is being directed to encouraging people and businesses to work legitimately or to help those already participating in undeclared work to legitimise their activities.

Estonia's Tax and Customs Board adopted strategy for 2017 – 2020 foresees measures for taxpayers awareness raising including deeper cooperation with all social and cross-industry partners on all tax matters.

The Estonian Tax and Customs Board have launched a campaign [website](#) to inform workers and employers about 'envelope wages' and undeclared work. The key message is that these practices are illegal, introduce unhealthy competition and paralyse Estonia's development and the good functioning of society as a whole. In regard to information sharing, the website includes a calculator that estimates loss of income in cases of social risks like unemployment, parental leave, and sickness absence. Also, there are complementary channels of communication, including radio, to raise the awareness.

Since 1 July 2014, employers are obliged to register their employees in the employment register, which gathers information about employments. All businesses who provide work are required to register the persons employed by them in the register irrespective of the form or the length of the contract. In addition, data on people working on a voluntary basis must also be recorded in the employment register. Hence, all people doing some kind of work must be registered. The employment must be registered at the moment the employee starts working in order to avoid the 'first day of employment' excuses. The termination of employment must be registered within 10 calendar days. Registration is possible via The Board's website, via personnel management programmes of a company or agency or by visiting the bureau of the Estonian Tax and Customs Board in person. It is also possible to use a simplified procedure for first registration by telephone or text message, although it must be supplemented within seven calendar days to be complete.



Both the Labour Inspectorate and the Tax and Customs Board have carried out targeted control of enterprises for tax avoidance and undeclared work. The activities include inspection visits to company and work sites as well as notification letters. The objective is to prevent the infringement of tax laws and raise law-abiding behaviour among tax payers, thus instead of burdening employers and administrators with offence procedures in the first instance they are given the opportunity to revise their business activities and change them in accordance to the law. In these letters, the companies are asked to revise their accounting and tax related information and give feedback to the tax authority on the results of their business activities. The notification letters give companies a certain time to improve their tax behaviour. In those companies who do not improve their tax behaviour or cannot give satisfactory reasons to the results of their business activities, a control of tax payments and accounting are initiated.

In the competence of the Labour Inspectorate is to find out whether employees have been notified of working conditions in writing (i.e amount of salary, taxes, description of duties, working time etc.) if not, the inspector has a right to make an injunction or start a misdemeanour proceedings. If the inspector suspects that the employer has not paid taxes on behalf of the employee or have not registered his/her employees, the inspector provides that information to Tax and Customs Board.

If the employer does not register the start or the end of employment as required, the tax authority may claim penalty payment of maximum EUR 3,300.

On our opinion the best practise in combatting undeclared work is quick flow of information between authorities (shared tips) and shared outcomes of investigations or proceedings (for example labour dispute cases involving third-country nationals rights are forwarded to Estonian Police and Border Guard, first hand to give background of the companies illegal activities to start Police and Border Guard procedures, but also as background information that would build the overall pictures of a company who will in the future apply again for short-term registration for third-country nationals.

From the international side we cooperate in the framework of international cooperation and cross-border cooperation. Estonian Labour Inspectorate has signed cooperation agreements with different countries, out of which some have proved to be more active than the others. As positive examples agreement with Labour Inspection Authority of the Kingdom of Norway concerning cooperation and mutual exchange of information and agreement with the Division of Occupational Health and Safety of the Regional State Administrative Agency for Southern Finland which is aimed to ensuring rights and equal treatment in the labour market of Estonian workers posted to work in Finland.

The contract with the Norwegian Labour authority on first hand has given both countries a great learning experience about both authorities control methods but for Estonian inspectors a practical chance to learn from the receiving country the methods



to inspect foreign labour. On the other hand we have mapped the grounds to start joint simultaneous inspections in near future. Also learned the extent of information that may and could be used and exchanged.

With Southern Finland the experience is already longer, since 2014. We have learned the practical side from each other and reached to the stage where we base our cooperation in quick and efficient exchange of information, but also using IMI as a safe tool. Our common ground is the big amount of Estonians, working day to day in Finnish labour market ( since it is 2 hours/ 80 km apart it could be called a common labour market). Due to the geographical reasons we also need to be informed about regulatory information. Estonian companies are effected by different law changes and procedural changes. Since two labour markets are so well connected, companies tend to manipulate also with labour law and tax law to gain bigger profit. That makes the need for quick and efficient information exchange more important. As a good example, Southern Finland partners put together in the end of the year a list of Estonian companies controlled during the year and also the list of their area posting declarations, that is used as a material in Estonian risk analyse to target check posting companies in Estonia. At the same time Estonia assists Finnish authority to provide companies background information for their inspection activities. Cooperation is based on contacts but also on IMI for sensitive information, tips, surveillance proposals and cross-border delivering of procedural documents.

### **Identified bottlenecks for cross agency and/or cross-border cooperation and/or inspections**

The two main bottlenecks for more efficient cross-agency cooperation are low involvement of social partners, low membership of social partners and lack of domestic resources. Unfortunately, due to a lack of sufficient resources, it has not been possible to combat undeclared work as effectively as we would like, but we have combatted against it with the resources available to the best of our ability.

The Estonian state has not made the combatting against undeclared work a top priority of the state. If it was more regulated and sanctioned then that would give us more larger playground where to combat.

As mentioned before, in Estonia, there is no official (positive) definition of undeclared work. The legislation stipulates only rights and obligations regarding work and services etc, but not what this concept actually means. So different authorities define the concept based on the vision, mission and supervisory competence of their authority.

### **Conclusions**



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To sum all this up, for combatting undeclared work, Estonia needs a more efficient definition of concept and better legislation and sanctions.

Also, we would wish to have a work-crime unit and more resources to combat even more efficiently the work related crimes, including undeclared work problems in Estonia.