



ICENUW

Implementing Cooperation
in a European Network
against Undeclared Work

The Charter of Bruges

Common endorsement on the need for further European cooperation
in the fight against undeclared work and cross-border social fraud.

The EUROPEAN NETWORK AGAINST UNDECLARED WORK

The leading authorities of the competent Enforcement Bodies of the following countries, signatories of this Charter, have reached the following understanding:

considering the provisions of ILO-Convention nr. 81 on Labour Inspection;

considering that the development of the free movement of persons and services, highly beneficial in itself and of paramount importance to the internal market, may nevertheless bring situations facilitating the possibilities of avoidance and evasion of labour law regulations, payment of social security contributions and the undue receipt of benefits leading to a growing phenomenon of undeclared work and social fraud;

considering that undeclared work relates to "any paid activities that are lawful as regards their nature but not declared to the public authorities, taking into account differences in the regulatory system of Member States and is therefore linked with tax and/or social security fraud and covers diverse activities ranging from informal household services to clandestine work by illegal residents, but excludes criminal activities;"

considering that the provisions concerning the posting of workers are easily tainted by fraudulent behavior which puts pressure on the salary and working conditions of posted workers;

considering that through the phenomenon of undeclared work the welfare States are under an unacceptable pressure as due amounts of contributions cannot be collected or undue benefits are paid to the detriment of the whole community and in particular of those who are most in need;

considering that cross border social fraud leads to social dumping and unfair competition between undertakings and insured people resulting in the erosion of both the economic and social security systems and social rights;

considering the observation in all Member States that organized undeclared work and cross-border social fraud involving more than two Member States is a fast growing phenomenon and that social fraud is not just a national but an international problem;

considering that the exchange of information on different forms of undeclared work and cross border social fraud encountered within the Member States of the European Union and the problems in combating them, should be enhanced;

considering that combating undeclared work and cross-border social fraud is of paramount importance and asks for an integrated, concerted approach and efficient action by the public authorities of the Member States involved;

considering that combating cross-border social fraud requires a multidimensional approach that requires the cross-border involvement and participation of all enforcement bodies and moreover administrative, judicial and police actors of the Member States, which makes for a complex situation in either Member State;

considering however that in their fight against undeclared work and cross-border social fraud national inspection services and all other enforcement bodies have to cope with several territorial limitations including the difficulties in applying national control measures to foreign natural and legal persons in an international and cross-border context;

that in particular national labour and social inspectorates in the exercise of their controlling activities and in their search for both legal and factual information on foreign natural and legal persons are confronted with several uncertainties or difficulties such as: - identifying the competent institutions abroad and who to contact; - the identification of the foreign natural and legal persons; - and issues related to the exchange of data, e.g. privacy issues;

considering that knowledge of the structure of the foreign legal system and of all enforcement bodies involved in combating undeclared work and social fraud is of utmost importance; that in the same respect access to and knowledge on the legal concepts of the other Member States should be enhanced;

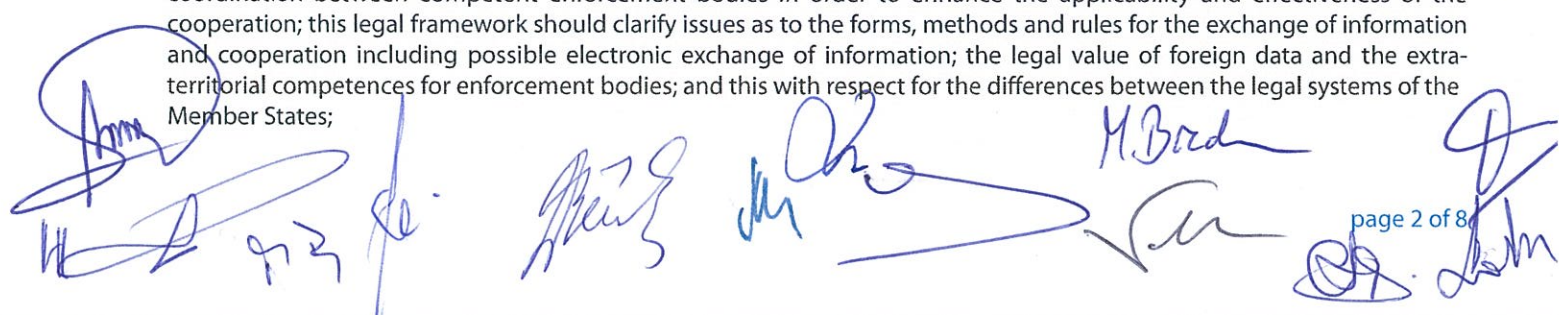
considering that a swift exchange of both legal and factual information is crucial for a adequate and effective implementation and enforcement of legal obligations and for the successful prosecution of undeclared work and social fraud in international and cross border context;

considering that cross border cooperation leads to several legal issues regarding the exchange of information, the legal value of evidence, privacy issues or the legal competence of the public authorities involved and the adequate protection of the rights of all legal and natural persons involved;

that concrete cooperation within a broader European environment accompanied by a legal framework is vital for the fight against cross-border social fraud;

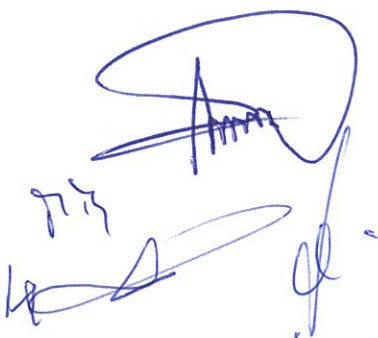
Therefore, the Signatories of this Charter

- fully recognize that combating undeclared work and cross-border social fraud is of national and international importance;
- fully recognize that the actions taken by the public authorities have to be in accordance with the principles of legality, proportionality and subsidiarity;
- fully recognize that a continuous strategy for combating undeclared work and cross-border social fraud based on strong and efficient coordination and administrative cooperation between all competent enforcement bodies and especially between labour and social security inspection services is required in order to facilitate the fulfillment of their monitoring, controlling and supervisory responsibilities;
- fully recognize that a particular attention must be paid to the possibilities of combating cross border fraud through the promotion of alternative measures, favouring approaches such as deterrence and enabling compliance, tailored to fit with inspection services practices;
- fully recognize the fact that an international exchange of adequate information between the labour and social inspectorates and other competent enforcements bodies needs, to be efficient, a comprehensive knowledge of the internal organization and functioning of their foreign counterparts establishing a common understanding of operating procedures in the member states ; an informal and comprehensive analytical repertory of member States' documents and procedures will help building this common understanding;
- support, in this respect, the development and promotion of an electronic tool, to be used by the inspection community of the Member States, allowing each partner to identify, within the network of undeclared work, its point of contact and its field of competence. This tool will link in an user friendly way the competent labour and social security inspectorates and other enforcements public bodies;
- expresses the need for a service provider in the framework of EC information systems to support the above application;
- underline that any exchange of personal data between the labor and social inspectorates and other competent bodies is essential in order to monitor and enforce the application of national and international labour, social and fiscal law provisions, taking into account that this exchange should happen in accordance with data protection and privacy legislation and all concerned hindrances should be met;
- stress the importance of the development of a legal framework accompanying the international cooperation and coordination between competent enforcement bodies in order to enhance the applicability and effectiveness of the cooperation; this legal framework should clarify issues as to the forms, methods and rules for the exchange of information and cooperation including possible electronic exchange of information; the legal value of foreign data and the extra-territorial competences for enforcement bodies; and this with respect for the differences between the legal systems of the Member States;



- agree to explore other forms of action, such as the exploration on possible common inspection practices, their identification, and possible exploitation as best practices, such as the further development of a comparative database that delivers an overview of the main documents needed by inspection services to verify if the obligations that follow from EU- instruments on labour and social law are met; a catalogue of available means at the disposition of inspection services;
- expresses the need for an all out collection of data about procedures and documents required in the Member States in the context of labour and social security regulations in relation to combating undeclared work and cross border social fraud, this work could form the base for a reconciliation of procedures , which could greatly enhance international cooperation;
- agree to investigate the desirability of creating and adopting minimal service delivery rules, non binding or binding, in cross border inspection activities.

Done at Bruges, on the 18th of February 2011



M. Breda

AUSTRIA



Mr Herwig HELLER

Federal Ministry of Finance

Head of Anti Fraud and Enforcement of the Tax and Customs Administration

A handwritten signature in blue ink, appearing to read 'Herwig Heller'.

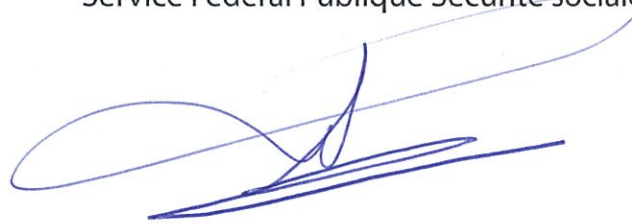
BELGIUM



Mr Jean-Claude HEIRMAN

Directeur Général Inspection Sociale,

Service Fédéral Publique Sécurité sociale

A handwritten signature in blue ink, appearing to read 'Jean-Claude Heirman'.

Mr Ludo BECK

Advisor-general, on behalf of Michel Aseglio,

Directeur général Contrôle des Lois sociales

Service Public Fédéral Emploi, travail & concertation sociale

A handwritten signature in blue ink, appearing to read 'Ludo Beck'.

BULGARIA



Ms Veselina ATANASOVA,
Director of International Labour Migration Department,
on behalf of the General Labour Inspectorate Executive Agency

A handwritten signature in blue ink, appearing to be 'V. Atanasova'.

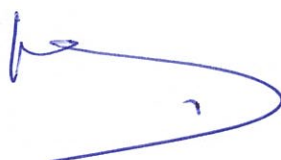
FRANCE



Mr Jean-Louis REY
Adjoint au directeur de la sécurité sociale au ministère du travail,
de l'emploi et de la santé

A handwritten signature in blue ink, appearing to be 'Jean-Louis Rey'.

Mr Jean BESSIÈRE
Adjoint au directeur général du travail au ministère du travail, de
l'emploi et de la santé

A handwritten signature in blue ink, appearing to be 'Jean Bessière'.

ITALIA



Mr Vincenzo MAZZEO

Ministry of Labour and Social Policies - Directorate General for
Inspection Activities

Head of the Division in charge of the Coordination of General
Inspections

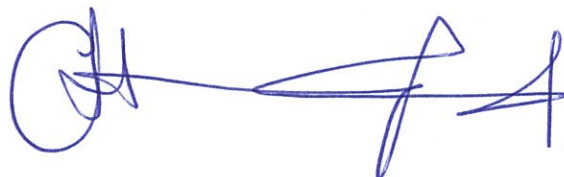
A handwritten signature in blue ink, appearing to read 'V. Mazzeo'.

NETHERLANDS



Ms Carin HOOGHWINKEL

plv directeur Belastingdienst regio Zuidwest

A handwritten signature in blue ink, appearing to read 'C. Hooghwinkel'.

NORWAY



Ms Monica BREDESEN

Norwegian Tax Directorate
Head of section

A handwritten signature in blue ink, appearing to read 'Monica Bredeesen'.

POLAND



Ms Mirosława BORYCZKA,
Board Member for Economic and Financial Matters of the Social
Insurance Institution.

A handwritten signature in blue ink, appearing to read 'Mirosława Boryczka'.

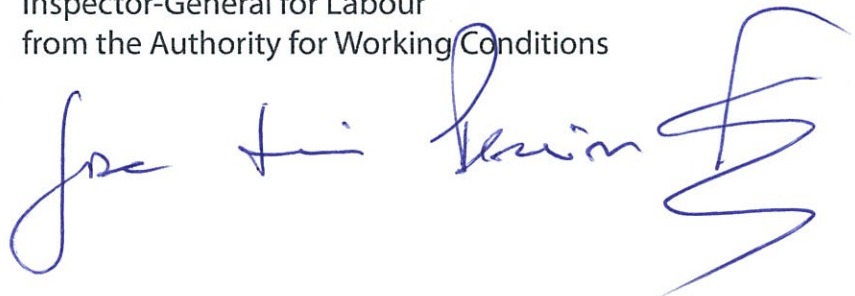
Ms Marian LIWO
Deputy Chief Labour Inspector
National Labour Inspectorate

A handwritten signature in blue ink, appearing to read 'Marian Liwo'.

PORTUGAL



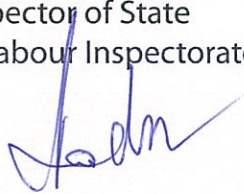
Mr José Luis FORTE
Inspector-General for Labour
from the Authority for Working Conditions

A handwritten signature in blue ink, appearing to read 'José Luis Forte'.

ROMANIA



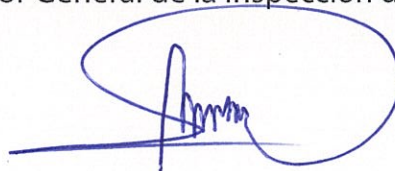
Ms Gabriela RADU
General Inspector of State
Romanian Labour Inspectorate

A handwritten signature in blue ink, appearing to be 'Gabriela Radu'.

SPAIN



Mr Demetrio VICENTE
Director General de la Inspección de Trabajo y Seguridad Social

A handwritten signature in blue ink, appearing to be 'Demetrio Vicente'.

Mr Javier AIBAR
Director General de la Tesorería General de la Seguridad Social

A handwritten signature in blue ink, appearing to be 'Javier Aibar'.