



Office of the Prime Minister

Report to The European Commission

# Strengthening European cooperation for combating work-related crime

Challenges and proposed measures



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# 1 Executive summary

## 1.1 Introduction

The European internal market promotes growth and provides opportunities for mobility across national borders. Free movement of goods, capital, services and labour is an asset that Norway benefits from through the EEA Agreement (European Economic Area). However, it is a challenge to ensure the necessary control of compliance with the regulations. This is exploited by players who seek to secure gains for themselves by systematic violation of the regulations that apply to working life. Typically, work-related crime is complex and encompasses many different forms of violations of the law. Work-related crime is activities that violate laws concerning pay and working conditions, social security and taxation. These activities are carried out in an organised manner, and exploit employees, distort competition and undermine social structure. It can only be combated effectively through broad cooperation between various government agencies with different responsibilities. These challenges affect most European countries, and require efforts across national borders.

## 1.2 Context

In recent years, a number of commendable initiatives has been taken to strengthen the social dimension of the European Union, most notable of which is the European Pillar of Social Rights. There are also other important initiatives, like the European Platform to tackle undeclared work, that promote proper working conditions and strengthen compliance with laws and regulations. The work done by the EU in this area has significant consequences for Norway. With these initiatives in mind, we would like to focus on the joint challenges of work-related crime.

## 1.3 Challenges

Work-related crime cases are often complicated to investigate, since they affect areas of responsibility of various authorities and have international ramifications. To prevent criminal players from gaining a foothold in large parts of working life, a broad approach is required. The approach must focus on both preventing and combating work-related crime. In Norway's experience, this must take place based on a common perception of reality between the social partners and the authorities.

Work-related crime often entails cross-border challenges. Enterprises move between countries, which can make it difficult for the national control authorities to ensure compliance, conduct inspections and impose sanctions. There are also several examples of irresponsible employers deliberately recruiting employees from abroad. Since the workers do not have knowledge about the Norwegian labour market and their rights as employees, these employees face a risk of being exploited.

In order to carry out effective supervision and control, authorities must be aware of what enterprises that are present in the country, also foreign enterprises. It is furthermore important to have good quality public registries that can provide information on the real owners of the enterprises. It can be challenging for consumers and enterprises to find

publicly available information about a company and whether it is operating legally, especially in large industries such as the building and construction industry where many suppliers provide cross-border services. It may also be challenging to find information about professional qualifications the enterprises and their employees possess. It is difficult for responsible actors to meet the competition from irresponsible suppliers who do not comply with the rules that apply to the sector.

The use of false ID documents and the misuse of real ID documents are a source of work-related crime, human trafficking and other crimes, both nationally and internationally. The Norwegian authorities experience that fictive identities are created in relation to registration of companies in the Norwegian registers. The lack of traceability in new electronic payment services represents a threat to the work of agencies in combating financial crime.

## **1.4 Proposed measures**

In general, there is a need to strengthen international cooperation to combat work-related crime. Norway supports the initiatives the EU has already taken to strengthen enforcement and cooperation in the area of working life. Measures to ensure better information to enterprises and employees should be a priority. The EEA EFTA States must have adequate opportunities to register enterprises and their owners. Moreover, it is important that national authorities have sound methods for verifying ID documents.

To combat work-related crime, strengthened cross-border cooperation is necessary. Already, Norway has initiated an extended cross-border cooperation between government agencies in our country and some EU Member States. Such arrangements must be further developed. The challenges affect most European countries, and requires efforts at a European level. Norway proposes a closer cooperation with the European Commission and Member States on efforts against crime related to the working life. We also propose that the social partners at the European level should also be actively involved in a dialogue about how these challenges can be solved. A broad approach that focuses on both preventing and combating work-related crime is required. One possible approach could be to develop a coherent European strategy for combating work-related crime identifying ways of enhancing coordination of efforts in this area. This work could be seen in the context of the recent initiative from the European Commission to study the feasibility of establishing a European Labour Authority a new cooperative body in the area of working life.

In this report, the challenges concerning work-related crime and possible measures are discussed in greater detail. We highlight some areas where there is a need to follow-up and/or strengthen the cooperation:

1. One possible measure to consider might be the development of a coherent European strategy for combating work-related crime.
2. A guide for sharing information between agencies at the European level should be prepared.
3. A Nordic cooperation project between the labour inspection authorities shall be carried out and the Baltic countries will be invited to participate in several of the specific measures.
4. Norway will make itself available for a pilot project with another European country in which participants from different public authorities in both countries will participate in operative cooperation.

5. To prevent work-related crime, there is a need for common information measures.
6. At the European level, it is necessary to facilitate stronger cooperation with regard to the exchange of information on enterprises.
7. There is a need to clarify which national voluntary schemes that make the qualifications and responsibility of enterprises visible are allowable within the framework the Service Directive.
8. Measures to improve the issuance and control of ID to ensure the opportunities for effectively combating work-related crime.
9. European control cooperation in road transport should be continued and strengthened.
10. The implementation of measures to enhance the traceability of certain forms of electronic payment services should be considered.

## **2 Introduction**

### **2.1 Background to the initiative**

Europe faces a joint challenge in preventing and combating undeclared work and other violations of the law in working life. The European internal market promotes growth and provides opportunities for mobility across national borders. A single market with free movement of goods, capital, services and labour is an asset that Norway also benefits from through the EEA Agreement. However, ensuring the necessary opportunities for maintaining control of compliance with the regulations at the national and European levels presents certain challenges.

The open market is exploited by players who seek to secure gains for themselves by systematically violating the laws and regulations that apply to working life. Employees fail to receive the pay and working conditions they are entitled to, and responsible enterprises cannot compete on price with enterprises that disregard regulations and fair practices. Work-related crime also entails consequences for the society as a whole, for example through loss of tax revenues by the central government.

In Norway, it is clear that illegal activities in the labour market have become more comprehensive and better organised than before. In several instances, the activities are of a cross-border nature. The challenge of work-related crime not only affects Norway, but most other European countries as well. Closer cooperation between the various control authorities at the national level, and among authorities at the European level, is therefore necessary in order to combat the spread of work-related crime. Broad cooperation between the social partners is required in order to achieve this and to fulfil our shared obligation to assist the victims of work-related crime.

The challenges associated with effective efforts to combat violation of the law are essentially the same in all European countries. To strengthen the control and follow-up of work-related crime, Norway wishes to contribute with the experience it has gained in a closer cooperation with other countries.

## 2.2 Relevant measures and initiatives in the EU

In recent years, the EU has taken a number of commendable initiatives in order to strengthen the social dimension of the European Union, most notable of which is the European Pillar of Social Rights. As part of the EU's efforts in this area, important initiatives have also been taken to promote proper working conditions and strengthen compliance with laws and regulations in working life. In his State of the Union address, the President of the European Commission has emphasised the need for fair working conditions in order to ensure equal pay for equal work. This subject is high on the agenda of the EU, especially because the EU institutions are now discussing revision of the Posting of Workers Directive. The recent initiative presented to study the feasibility of establishing a European Labour Authority as a new cooperative body in the area of working life is also a signal that there is a need for more effective mechanisms for enforcing joint European regulations.

The work done by the EU in this area has significant consequences for Norway. We are pleased that importance is attached to the social dimension and that initiatives are being taken to ensure good working conditions for all. We also appreciate the opportunity for representatives of the Norwegian authorities to participate in European arenas of cooperation. Recent examples are preparatory work for the implementation of the Enforcement Directive of the Posting of Workers Directive and the European Platform to tackle undeclared work. Norway has initiated a strengthened bilateral cooperation on control with several European countries. In our experience, cooperation must be emphasised at all levels to be able to combat the emergence of criminal players in working life. Based on the forthcoming EU initiatives, we would like to focus attention on the joint challenges of work-related crime and the efforts and cooperation required across sectors and national borders.

## 3 Summary of efforts to combat work-related crime in Norway

### 3.1 What is work-related crime?

Work-related crime is complex and encompasses many types of violation. The Norwegian authorities define work-related crime as activities that breach laws concerning pay and working conditions, social security and taxation. These are organised activities that exploit employees, distort competition and undermine social structure.

The term work-related crime as it is used in Norway has in other words a broader definition than that commonly used in the EU. The term "*undeclared work*" is often used and is defined as "any paid activities that are lawful as regards their nature, but not declared to public authorities, taking into account differences in the regulatory systems of the Member States". In the Pillar of Social Rights the term "*fair working conditions*" is used. The term encompasses the employees' right to fair pay conditions, information on duties and rights in employment relationships, participation, work-life balance and good conditions for health, safety and the environment, among other things. The term "*work-related crime*" will be used in this report.

A characteristic feature of work-related crime is the element of multi-criminality. It may involve tax-related crime, gross breaches of accounting and bookkeeping practices, corruption, bankruptcy crime, money laundering, foreign currency smuggling, human

trafficking, social security fraud, serious fraud, use of false identities, registration of incorrect information in public registers, violations of pay and working conditions and use of illegal workers.

The operative cooperation between Norwegian authorities has revealed that criminal players and networks have become more adaptable and creative in their quest to reduce the risk of detection and to avoid controls and sanctions. Control agencies increasingly find that some elements of the activities are registered and reported in public registries, so that the players appear to the outside world to be law-abiding. The use of straw men in connection with bankruptcies and professional administrators appears to be widespread. The companies typically pop up and disappear at great rapidity, for example, a company is declared bankrupt when criminal activities are detected, and the same activities are subsequently established under a new company name. The use of a chain of contracts for procurements is also a method that criminals use to reduce the risk of being detected, thereby enhancing their opportunities for tax evasion. The use of forged ID documents or the misuse of ID documents belonging to others also appears to be a method used by criminals to cheat the system when registering employees, establishing enterprises, taking out loans, buying equipment, etc. Criminals also make use of modern payment solutions, whereby money can be transferred without leaving any trail.

Work-related crime has developed at a rapid pace, and now appears to be complex and highly organised. Norway is not the only country dealing with work-related crime. Many other countries in Europe also face this challenge. Work-related crime in Norway is not necessarily linked to increased labour immigration, but it is found that immigrant workers have a higher risk of being exploited than Norwegian employees, since they are often willing to accept very poor pay and working conditions. The group committing work-related crime consists of both ethnic Norwegians and people with a foreign background. The authorities find that many of the workers who come to Norway have little knowledge of labour market regulations, and that this increases their risk of being exposed to poor working conditions.

### **Box 3.1. Example – Work-related crime in a grocery retail chain**

In collaboration with other control agencies, the police have investigated alleged cases of work-related crime in a Norwegian grocery retail chain. A number of persons who have held various roles in the retail chain have been charged. The indictment includes gross human trafficking and financial crime, and the defendants are considered members of an organised criminal group. Many of the employees were brought to Norway specifically to work in these shops. The prosecuting authorities believe that they were lured by promises of a residence permit, high wages and Norwegian citizenship after three years, but in reality they found themselves in a situation of duress, by having their passports taken from them, receiving very little pay and accumulating debts that left them in a position of dependency.

The indictment encompasses charges of fraud, tax evasion and giving false information to the authorities, as well as social benefits fraud amounting to several million Norwegian kroner. The investigation revealed the ease with which the control mechanisms in the labour market can be circumvented by those who are determined to do so. The case is still pending a final court decision.



## **3.2 Measures to combat work-related crime in Norway**

For several years politicians, the social partners and society in general have focused on the challenges of work-related crime in Norway. In 2015, the Government presented a Strategy for combating work-related crime which was revised and updated in 2017. The main background to this strategy was the fact that the authorities and social partners found work-related crime to be an increasing problem, and thus saw the need for a broad and focused effort.

Unionisation in working life, both for workers and employers, functions as an important line of defence against criminal players' freedom of action in the labour market. In Norway, cooperation between the authorities and social partners is a key element of the strategy for combating work-related crime. There is a common acknowledgement of the challenges. The labour unions saw the challenges for vulnerable workers early on. The employers have also been highly involved. Work-related crime affects the competitive conditions in the markets, as well as the key role of working life as an arena for vocational training and skills development. The authorities and social partners have jointly established measures and arenas of cooperation within vulnerable sectors, such as the construction industry, cleaning services, restaurants, bars and nightclubs and transport. During this period, the Government's strategy has been developed further and followed up through regular dialogue between the Prime Minister and the leaders of the main social partners.

The most important measure in the strategy for combating work-related crime has been to strengthen cooperation between the public supervisory and control authorities. Seven co-located joint operation groups for combating work-related crime have been established, in which the Norwegian Labour Inspection Authority, the police, the Norwegian Tax Administration, the Norwegian Labour and Welfare Administration (NAV) and the municipal Tax Collection Offices, together with other relevant authorities, conduct joint controls at the operative level and cooperate on the follow-up of cases. At the national level, the agencies are preparing joint action plans, and they are working to further develop goals and a management structure for their joint efforts to combat work-related crime. To strengthen the knowledge base for the efforts to combat financial crime and work-related crime, a national inter-agency analysis and intelligence centre has been established. Inter-agency cooperation provides a number of advantages. It gives the agencies an opportunity to use more measures at the same time, which provides the greatest effect in specific matters.

Stricter requirements in the area of procurement are also a key part of the Government's strategy. Buyers and suppliers play a key role in preventing work-related crime. The Public Procurement Regulations have been amended, and one important measure in the strategy is to improve information and guidance for contracting authorities. Strengthened cooperation with the supervisory and control authorities in other countries is important in order to achieve results. A strengthened knowledge base, better information provided to employees and enterprises, and strengthened control of identity information are other key areas of the strategy.

### **Box 3.2. Examples of work-related crime – Pay-back**

Norwegian authorities have uncovered various pay-back schemes whereby workers must pay back the wages they earn from working in Norway. Examples include:

- Workers are forced to return their wages to the employer, in cash or in the form of unpaid work in the home country.

- A worker receives a wage in accordance with his/her employment contract. The wage is taken out in cash and distributed directly to several workers. For example, a wage for four people is camouflaged as a wage for one person.

- Bogus work contracts have also been uncovered. The employer transfers wages to a person who has not performed any work, the sum is withdrawn in cash and returned to the employer. The employer reports the wages to the tax authorities. The "employee", who in reality has never worked for the company, thus obtains a false basis for applying for social benefits from the Norwegian Labour and Welfare Administration.

## **4 Challenges and proposed measures**

### **4.1 Strategy for combating work-related crime**

#### **4.1.1 Challenges**

Combating work-related crime is a common challenge that spans sectoral and national borders. The cases are often complicated to investigate, since they may affect the areas of responsibility of various authorities and have international ramifications.

To prevent criminal actors from gaining a foothold in large parts of working life, a broad approach is required that focuses on both preventing and combating work-related crime. The Norwegian experience is that this must take place based on a common perception of reality between the social partners and the authorities. Agreement has been reached on an overall strategy to combat work-related crime with measures in a number of different sectoral areas, cf. discussion in Section 3.2.

#### **4.1.2 Proposed measures**

It can be difficult to establish a joint effort to combat a complex problem such as work-related crime. Norway has found it important to anchor a joint effort to combat work-related crime in a Government-defined strategy that requires the various agencies to act in accordance with the strategy.

One possible measure to consider at the European level might be the development of a coherent strategy for combating work-related crime, identifying ways of enhancing coordination of efforts in this area. This may be a means of examining the effort in various sectoral areas in context, which may create a commitment to closer cooperation across national borders. Norway wishes to explore the possibilities, together with the European Commission, of preparing a strategy for combating work-related crime at the European level. Such a strategy may well be viewed in the context of the recent initiative to study the

feasibility of establishing a new cooperative body in the area of working life (the European Labour Authority) in order to strengthen enforcement and administrative cooperation, especially in connection with cross-border mobility.

## **4.2 Control cooperation between agencies**

### **4.2.1 Challenges**

Undeclared work and other violations of the law in working life often involve breaches of several different regulations. This is combated most effectively through a consorted approach in which various public authorities contribute their expertise and the sanctions available to them. Through such cooperation, the agencies can use the most effective instruments and sanctions at their disposal. This limits the scope of action for criminals. For example, the labour inspection authorities can temporarily stop the activities, the tax authorities can secure tax claims and the police authorities can refuse entry or expel persons. Through controls in which several agencies participate at the same time, significantly more can be detected compared to when the agencies work separately. Several European countries have positive experience from such cooperation, but it is nevertheless most common that the agencies work much too independently.

The opportunities for coordinating public registers and the exchange of information between agencies, both nationally and internationally, is important in order to limit the scope of action of the criminals. The regulatory framework for this exists at both the national and the European levels. There may be differences between countries and between different sectoral areas with regard to the opportunities to share information. With respect to the police, the regulatory framework allows the exchange of information between the police authorities in the EEA EFTA States to a large extent. To combat tax evasion and international tax crime, Norway has also signed a number of agreements with other countries concerning the exchange of information in tax cases.

A critical success factor for the establishment of effective agency cooperation is how much data and confidential information the various agencies may exchange with other agencies. It is important to find effective methods and systems for utilising the information that is already openly available. It is also important to ensure that the regulatory framework authorises sharing information in various phases of control cooperation, also simultaneously protects personal privacy.

#### **Box 4.2 Mutual learning about agency cooperation**

In cooperation with the European Commission, Norwegian authorities arranged a Peer Review in September 2017 on how effective cooperation can be organised between public agencies. Representatives from Ireland, Spain, Sweden, Lithuania, the Czech Republic, Romania, Cyprus and Norway attended the seminar. Many countries could refer to long-term experience with cooperative constellations between various public authorities, but there were great differences with regard to how they have been established and organised. To succeed with such measures, it is important to ensure active involvement by all the key government agencies. Political will and commitment in budgets, strategies and plans are of great importance to achieving mutually binding

cooperation. It is also important that the challenges are acknowledged and understood in public opinion. To achieve this, dialogue between the social partners and the authorities plays an important role.

#### **4.2.2 Proposed measures**

There is a need for broad cooperation among the authorities at the European level. This can be achieved by the labour inspection authorities cooperating closer with the tax authorities and the police, among others, both domestically and internationally.

It will be up to the authorities in each country to assess the need for cooperative solutions at the national level. Norway's experience with these forms of cooperation is favourable. The European platform for tackling undeclared work is an example of a measure in the EU, which facilitates mutual learning and the transfer of experience and good examples of agreements, memorandums of understanding and similar measures.

The exchange of data is a particular challenge. The possibility to have good registration schemes for employees and enterprises contribute to ensuring the existence of solid data (cf. Sections 4.5, 4.7 and 4.8).

To ensure the necessary efforts to combat work-related crime, it is important that the control authorities have sufficient opportunity for a mutual exchange of information. Regulation should prepare for inter-agency information exchange. Norway is working on implementation of the EU's new General Data Protection Regulation. This may to some extent place restrictions on the ability to share information between the various control agencies. There may therefore be a need to clarify the statutory authority for the exchange of information between control authorities.

In Norway, the agencies that cooperate on the efforts for combating work-related crime have prepared national guidelines that describe what type of information may be shared and how the agencies can proceed to assess whether information can be shared. The preparation of national guidelines for information sharing is a measure that can also be carried out in other countries. We propose that corresponding guidelines for control agencies be prepared for cross-border information sharing. Such guidelines should also present the opportunities that are available to acquire knowledge of and access to information from available open registries.

### **4.3 Control cooperation across borders**

#### **4.3.1 Challenges**

Work-related crime often entails cross-border challenges. There may, for example, be enterprises that quickly move between countries, which thereby make it difficult for the national control authorities to supervise compliance, conduct inspections and impose sanctions. This can also involve purely criminal networks with cross-border ramifications.

For example, it can be challenging for the control authorities to clarify the facts of the case and distinguish between information that is constructed to make the enterprise appear to be law-abiding, and information that is factual and genuine. Temporary work agencies can establish themselves in countries with a lower cost level and then lease workers for assignments in other countries. For the national authorities it can be difficult to verify that employees actually receive the pay that the enterprise reports. There have been examples of employees receiving pay in accordance with the current agreements, but then having been forced to return the pay through various “pay-back” schemes. Without specific tips or suspicion, such circumstances are challenging and difficult to detect, unless the employees report it to the authorities. It is particularly challenging for the authorities to gain access to information in order to clarify the facts of the case, and to be able to sanction violations of the law in cases where the enterprise in question is established abroad. Cases that must be investigated across national borders also require considerable time, resources and expertise. For the police, special challenges arise in collecting and securing evidence with a view to its seizure. Overall, the national control authorities have limited opportunities to be able to investigate challenging cases at the international level. Criminal actors exploit this latitude.

It is essential to achieve successful control cooperation across national borders. Together with the control authorities in other European countries, the Norwegian authorities will actively utilise the opportunities increased cooperation can provide for strengthened enforcement of the regulatory framework and the exchange of experience and information.

#### **Box 4.3 Example of a ‘pay-back’ case**

In 2017, it became known that workers from Eastern Europe working for a foreign enterprise that was commissioned by a Norwegian enterprise to assemble high-voltage transmission lines along the coast of Norway, were, according to the workers, pressured to send money (‘pay-back’) to their employer in their home country. According to these workers’ contracts, they had to pay back half of their wages over a period of five years. The Norwegian enterprise was tipped off about these conditions through an email from one of the foreign workers. Norwegian authorities were alerted to the issue when one of the workers made an enquiry to a service centre for foreign workers (see also Chapter 3.4). The Norwegian enterprise demanded that the enterprise that had been commissioned with the works should ensure that the conditions in the subcontracting company were rectified. In the end, the subcontracting company provided the workers with a guarantee for return of their wages and an employment contract in the company.

#### **4.3.2 Proposed measures**

Norway has noted with interest the European Commission's initiative presented to study the feasibility of establishing a European Labour Authority. It is too early to say where this cooperation will lead, but Norway takes a positive approach to the idea that the Commission will take a more active role in dealing with these issues. One possibility is to view the European Labour Authority’s activities in connection with the control and monitoring that takes place in areas such as taxation, social security and the European police cooperation.

(cf. Section 4.1.2). Norway would like to contribute its experience to further discussions on how a possible European Labour Authority can strengthen control cooperation at the European level, for example in connection with the development of an overall European strategy for combating work-related crime.

To combat work-related crime, strengthened *bilateral* and *regional* cooperation is also necessary. One important purpose of the European Platform to tackle undeclared work is to encourage such collaboration. Norway focuses on being able to further develop broad agency cooperation at the national level into expanded control cooperation with the authorities in other countries. The Norwegian Labour Inspection Authority has entered into extensive cooperation agreements with Lithuania, Poland and Bulgaria. We are also planning a cooperation agreement with Romania. Joint supervision is conducted, inspectors are exchanged, and mutual training activities are arranged. To support such cooperative measures, there is an ongoing dialogue with the authorities in the individual countries through Norway and EEA Grants for the period 2014-2021 (cf. separate discussion in the box below). Norway would like to expand cooperation with the EU on measures of this type. In order to implement these, we know from experience that it is necessary for financial resources to be made available.

Norway would like to extend an invitation for a pilot project to another EEA EFTA State where there may be a mutual interest for closer cooperation. In Norway, the police, tax authorities, social security authorities, labour inspection and other public authorities have operative cooperation at co-located centres. Employees from one of these centres could enter into practical cooperation with employees from the corresponding public authorities in another country. Such a pilot project might encompass specific cooperation on controls, sharing best practices and joint information measures.

Regional projects and measures may be a key instrument for promoting closer European cooperation between control agencies. This could be a suitable arena for involving more affected agencies in more countries. Together with the other Nordic countries, Norway would like to contribute to the implementation of similar additional measures. As part of the cooperation in the European platform for combating undeclared work, the labour inspection authorities in the Nordic countries have received financial support for a project in which they are to exchange inspectors between the countries, arrange seminars to learn from each other, exchange best practices, and implement information and guidance measures. The Baltic countries will be invited to participate in several of the concrete measures. The project will be carried out during the period 2017-2018, and will provide experience that we can build on with a view to developing effective regional means of cooperation.

#### **Box 4.3.2 EEA and Norway Grants – The Global Fund for Decent Work and Tripartite Dialogue**

A well-functioning working life presupposes a great deal of cooperation between the authorities and the social partners. This is given priority as part of the EEA and Norway Grants. During the project period 2009-2014, one per cent of the allocations under the Norwegian scheme was set aside for each of the 13 recipient countries, i.e. EUR 8.1 million. Together with the social partners in Norway, a fund was established through the EEA funds to promote cooperation between the authorities and social partners in the recipient countries. Innovation Norway has carried out professional quality assurance in

cooperation with the ILO's regional office in Budapest. This has resulted in 52 projects in a total of 13 recipient countries. In 28 of the projects, a Norwegian partner from the organisations in working life participated.

An external evaluation of the fund has been conducted, and the main findings show that good results have been achieved in the individual projects. Elements from the Norwegian cooperation model in working life were used in over 90 per cent of the projects. More than 28,000 persons have participated in various ways or were encompassed by the 52 projects that were carried out. The projects have resulted in new collective wage agreements and improved health, safety and environmental standards, among other things.

The Global Fund for Decent Work and Tripartite Dialogue will continue throughout the period 2014-2021, and at the same time the amount will be increased from EUR 8.1 million to EUR 12.5 million. The programme is in the start-up phase. Great emphasis is still placed on getting the social partners involved. In addition, importance is attached to cooperative measures between the Norwegian Labour Inspection Authority and the inspection authorities in the recipient countries in the EEA negotiations with the individual recipient countries.

## **4.4 Information to employees and employers**

### **4.4.1 Challenges**

The Norwegian authorities experience that many foreign employees have little or no knowledge of their rights and obligations as employees in Norway. They often work for employers who consciously violate the rules, or who are not familiar with the Norwegian regulations either. There are several examples of irresponsible employers deliberately recruiting employees from abroad who do not have knowledge of the Norwegian labour market, because these employees are easier to exploit. In grave cases, this may involve forced labour and human trafficking. There are different pay levels in Norway compared to many of the countries from which the workers originate. The workers can thus be satisfied with the pay they receive, even if this is not consistent with the Norwegian pay level. There may also be challenges related to the fact that workers who will only be in the country for a short period are not motivated to familiarise themselves with this information. Foreign workers cannot be reached through the traditional Norwegian media channels, and therefore it is a challenge to find alternative channels to reach this group. In addition, some workers have little confidence in the information they receive from the authorities.

The information must be readily available and comprehensible to both employees and employers. The Enforcement Directive contains a requirement that the Member States must ensure that information about pay and working conditions shall be publicly available in a clear, complete and easily accessible manner, and without any claim for payment. One measure in the Government's strategy for combating work-related crime is to ensure that foreign workers receive the necessary information on their rights as employees. The public agencies cooperate on the website [www.workinnorway.no](http://www.workinnorway.no), which refers the users to the

respective agencies. The aim of workinnorway.no is that it shall be the preferred information channel for foreign employees and employers.

Five service centres for foreign workers have been established at various locations in Norway. At these centres, the Norwegian Labour Inspection Authority, the police, the Norwegian Tax Administration and the Norwegian Directorate of Immigration (UDI) cooperate on providing good guidance and quick application processing for foreign workers. The workers who come to the centres receive information on their rights and obligations in Norwegian working life. The authorities also receive important information on possibly irresponsible enterprises and employers who violate the law through these meetings.

#### **Box 4.4 Circumvention of the employer's responsibility**

Norwegian authorities occasionally observe that labour migrants coming to Norway are told that in order to work in Norway they will need to register as self-employed. This practice is especially widespread in the construction and cleaning industries. The authorities notice, however, that in many cases the commissioning enterprise for all practical purposes acts as their employer. The objective of the commissioning enterprises is to avoid the statutory obligations of employers, including payment of minimum wages. In such cases, the Labour Inspection Authority may make a decision based on the facts of the case and place the employer responsibility on the commissioning enterprise through a so-called anti-avoidance order.

#### **4.4.2 Proposed measures**

The Norwegian authorities find it difficult to reach out with information to foreign workers and enterprises that come to Norway, despite the existence of various information schemes, such as websites and service centres, aimed at foreign workers. Even with the information measures that have been implemented as a result of cooperation within the EEA EFTA States, we see the need for additional measures to ensure that both employees and employers receive necessary information on pay and working conditions in Norway. This is of decisive importance in the work to ensure fair working conditions and preventing work-related crime, and a challenge that Norway has in common with other European countries.

The most effective time to reach out to foreign workers is when they are recruited to work in Norway. The recruitment often happens in the worker's home country. This means that there is a need for closer cooperation between the country of departure and the host country on information schemes. There may be a need to develop common solutions and platforms that provide useful information in various languages on rights and obligations, good visibility and credibility, which give a correct picture of the social conditions in the labour market where one is seeking work. This can take place by using the already existing channels, such as the European job mobility portal EURES, and by close cooperation between authorities.

One helpful measure would be that all foreign workers receive the necessary information immediately after registering as workers in the host country.



## **4.5 Registration of employees and enterprises**

### **4.5.1 Challenges**

In order to carry out effective supervision and control, it is a prerequisite that the authorities are aware that a foreign enterprise is present in the country. This is a challenge, especially with regard to the temporary provision of services across national borders. Perhaps the most commonly used method to secure information are various national registries for foreign service providers on temporary assignments. In such a registry, the foreign enterprise is obligated to report its presence to the host country, as well as any posted works that may accompany the enterprise. A significant number of EU member states have these national registry schemes, including Germany, France, Austria, Belgium, Denmark and Sweden.

In Norway there is a national registration scheme for foreign service providers and their posted workers in the area of taxation. Business enterprises and public bodies that give anyone a contract for a job in the realm or on the continental self are obligated to report any foreign contractors or workers who are used to perform the job. This registry is important for combating tax crime. Based on two complaints cases in the spring of 2015, the EFTA Surveillance Authority (ESA) has stated that the scheme is in violation of the Services Directive and Article 36 of the EEA Agreement. The Norwegian Government has proposed amendments that will balance consideration of those who are required to disclose information, so that as much of the reporting scheme as possible may endure. This type of registry is a very important instrument for combating tax crime, and the ESA's and possibly the EFTA Court's further review of the case will be of great importance to the opportunities for good reporting of foreign service providers and workers.

It is furthermore important to have good quality public registries that can provide information on the real owners of the enterprises. To combat crime, including crime committed in working life, it is necessary to be able to identify the owners of an enterprise, including cases where these persons attempt to conceal their roles through chain ownership or formal and informal control of companies. The EU's Fourth Money Laundering Directive will be implemented in Norway and may contribute to solving challenges related to deficient quality of registries as to who the real owners of the enterprises are. The obligation to keep a registry of the real owners of the enterprises is one of a number of measures to combat money laundering and terror financing, in order to identify which persons ultimately own and control the companies.

### **4.5.2 Proposed measures**

A good overview of the foreign enterprises that are present in the country, and the employees that accompany these, is important to combat work-related crime. It is permitted to have or to establish such registries in the posting area, for example, while at the same time it is somewhat unclear what scope of action the EEA EFTA States have with regard to this. There is a need to ensure that the EEA EFTA States have adequate opportunities to implement schemes for the registration of foreign service providers on temporary assignments in the future. There is also a need to create good digital solutions for the reporting schemes, so that the burden on those who are required to report is as little as possible.

## **4.6 Public procurement**

### **4.6.1 Challenges**

The public procurement of goods, services, building and construction and other performances to be rendered to central and local governments is extensive and can exemplify the possibility to combine competition with responsibility and combating work-related crime. Economic operators that the Norwegian contracting authorities buy works, supplies and services from shall comply with the applicable laws and regulations. It is the economic operators themselves that are responsible for complying with the laws and regulations, but at the same time the public sector can lead the way in efforts to promote a responsible working life through their procurements. This can be accomplished by the public sector stipulating stricter requirements for contracting authorities and economic operators supplying to the public sector.

The main purpose of the Norwegian Procurement Regulations is to promote efficient use of society's resources. In addition, the Norwegian Procurement Regulations shall contribute to the general public's confidence in the fact that public procurement takes place in a socially responsible manner. Procurements being made in a socially responsible manner means, for example, that considerations of work-related crime, the environment, climate and social conditions are taken into account.

In 2014, the EU adopted new public procurement directives that clarify that Member States have the opportunity to take social considerations into account in their procurements, including with regard to workers' rights. Contracting authorities can stipulate social contract conditions that apply to the entire supply chain, for both the main supplier and for subcontractors. This means that the contracting authorities have an opportunity to include special conditions for the performance of the contract through various contractual conditions, such as requirements for pay and working conditions, apprentices, etc.

Norway has accordingly introduced a requirement that the number of levels in a contract chain shall be limited to one main supplier and two levels of subcontractors in public works contracts and contracts regarding cleaning services. Norway has also introduced a requirement that the supplier be linked to an apprenticeship scheme, and that apprentices shall participate in the performance of contractual work in service contracts and contracts for building and construction work above a certain value. The new provisions are useful instruments for counteracting work-related crime.

In Norway, we also have regulations relating to pay and working conditions in public sector agreements that require contracting authorities to stipulate requirements that employees of suppliers and any subcontractors shall have specific pay and working conditions.

### **4.6.2 Proposed measures**

The Norwegian authorities experience that contracting authorities in their procurements do not adequately comply with the regulations that can contribute to preventing work-related crime. We have reason to believe that this is not only a challenge in Norway, but also in other EEA EFTA States. In Norway, documentation that present the "best practices" for how contracting authorities shall follow up the regulations in a better way have been prepared, and work on this continues. Other initiatives have been introduced, for example from municipalities, stipulating requirements regarding the responsibility of their suppliers in

connection with their procurements. In some cases, these requirements are stricter than the applicable laws and regulations. It is positive that contracting authorities are taking responsibility and contributing to development in the right direction. It is therefore important that the regulations provide the necessary scope of action, so that contracting authorities can stipulate such requirements for suppliers in order to exclude criminals. At the same time, it is important that such requirements do not contravene to the principles of equal treatment and proportionality by the contracting authorities stipulating requirements or criteria that entail differential treatment of suppliers. Therefore, the Norwegian Government has now chosen to publish specific guidelines for all contracting authorities contracting on behalf of the public sector with regard to fulfilling their responsibilities in connection with procurements, in order to curb the award of public contracts to unscrupulous enterprises. This may help public enterprises to take greater responsibility for combating work-related crime.

The Norwegian authorities would like to underline how important it is that the public sector takes the lead in efforts to promote a responsible working life. Norway supports strengthened cooperation in this area. Norway will contribute to following up the EU's goals that the procurement directives can better facilitate stipulating various responsibility requirements, such as a limited number of contractual levels and requirements for apprentices in connection with public procurements.

## **4.7 Make it easier to choose legitimate suppliers**

### **4.7.1 Challenges**

Enterprises and consumers buying goods and services may find it difficult to navigate the market and find responsible suppliers. It can be challenging to find information on the enterprises, which is publically available, for example whether they are registered in public registries, whether they pay taxes, etc. In Norway, there is a general requirement for public registration of enterprises. In some areas, special schemes have also been introduced that are intended to make it easier to find suppliers that comply with the regulations. All enterprises in the cleaning industry, for instance, must be approved based on requirements related to health, safety and the environment. The buyers of cleaning services can easily find out whether the enterprise has been authorised on the website of the Norwegian Labour Inspection Authority. This also applies to the approval of car repair shops, which is administered by the public road authorities. A summary of approved garages is published on the website of the Norwegian Public Roads Administration (lenke).

The building and construction industry is a major sector, with a large number of enterprises supplying services, and with many suppliers providing cross-border services. This is a sector in which it may be difficult for buyers to familiarise themselves with whether the enterprises are operating legally. To help amend this Norway has a voluntary scheme for the pre-qualification of enterprises that are to have formal responsibility for building projects, which also shows whether the enterprises operate within the law. These enterprises are assessed based on their qualifications, in other words the education and experience (relevant reference projects) of the professional management of the enterprises. To show that they operate legally, it is also required that outstanding taxes are paid and that enterprises submit an HSE declaration (Health, safety and environment) for their employees. However, it can be a challenge to assess foreign enterprises who desire such pre-qualification, especially with regard to whether the stated reference projects are real or not. Other countries have also

introduced schemes to ensure the quality of service providers. These schemes vary from country to country, regarding the requirements that apply to approval and the industries they encompass. The Services Directive which is to ensure a common market for services within the EU, for example, stipulates requirements to ensure that the member states do not implement illegal restrictions on service providers from other member states being able to provide services.

#### **4.7.2 Proposed measures**

In general, it should be easier to find responsible and law-abiding suppliers and more difficult for irresponsible enterprises to offer their services. At the national level, there is a lot that can be done to distribute information to the buyers. It is important for consumers to have access to neutral information on enterprises, for example, through web-based portals that include options for information searches on enterprises that consumers may potentially wish to commission for work. In addition to the existing schemes, the Norwegian authorities are now working on a new portal aimed at consumers interested in purchasing craftsmen services. A goal is to allow consumers to easily determine whether the enterprise pays taxes in accordance with the regulations. In the building and construction industry, there is a special need to improve the possibility to check information on reference projects and education / professional qualifications with the authorities in the enterprise's home country. We are also considering introducing a voluntary register of enterprises that operate legally, along the same lines as the voluntary approval scheme described above. In addition, we are working on solutions to make it easier for public sector buyers to obtain comprehensive information from various public registers in connection with the control of suppliers for awarding public tenders.

It is important to have schemes that make it simpler for all players to act responsibly, and that good examples of such measures are also promoted at the European level. To ensure a solid basis for documentation, it is necessary to facilitate stronger cooperation at the European level with regard to the exchange of information on enterprises. There is a need to strengthen the opportunities for verifying information on service providers from other countries, preferably in connection with further development of the Internal Market Information System (IMI). Norway would like to point out that the efforts to combat work-related crime are hindered by the lack of certainty concerning the possible restrictions for national voluntary schemes that might lay in the framework of the Services Directive. Norway would like to have a dialogue with the European Commission regarding these limits.

### **4.8 Better overview of professional qualifications**

#### **4.8.1 Challenges**

It may be difficult to find information on the professional qualifications that the enterprises and their employees possess. It is challenging for employers to assess education and professional qualifications, especially at the craft certificate / skilled worker level. In Norway, the authorities have established a scheme for the approval of foreign vocational training at the upper secondary level. The purpose is to be able to approve the training as equivalent to a Norwegian craft- or journeyman's certificate. Initially, such approval from Germany and Poland for the following trades is possible: Plumbing, carpentry, concrete work, meat cutting and hairdressing. The scheme is under continuous development, and it has expanded to ten

more trades since the launch. In the future, the scheme will encompass vocational training from Estonia, Latvia and Lithuania. We are also working on the establishment of an approval scheme for Tertiary Vocational Education (Vocational College Education) in other European countries. Training programmes at this level vary greatly from country to country, which makes the assessments more challenging than for vocational training.

In regulated professions, approval is required in order to practise the profession. The system for such approval is perceived to be complex and difficult to grasp for many applicants. To simplify the application process, the Norwegian authorities, in accordance with the Professional Qualifications Directive, have established a common application portal for such approval. The goal is to facilitate the process so that individuals shall be able to use their qualifications, while professional considerations are safeguarded at the same time. Many refugees have an education from their home countries, but there are nonetheless certain elements that are lacking in order to obtain approval to work in Norway. Therefore, schemes have been established for supplementary education for nurses, teachers and technological education programmes. Simplification and coordination of the approval schemes at the Nordic level are also being considered through the Nordic Council of Ministers.

#### **4.8.2 Proposed measures**

Better schemes for the registration and approval of qualifications are important in order to contribute to a well-functioning internal market and well-integrated immigrants from third countries. It is therefore of great importance that such measures are given priority by the individual countries, for example, by simplifying and enhancing the efficiency of the systems for approval of professional qualifications. In addition, there is a need to further develop cooperation at the European level with regard to the opportunities for an efficient exchange of information on education programmes, also at the craft/journeyman's certificate level.

### **4.9 More secure identification and identity management**

#### **4.9.1 Challenges**

Both nationally and internationally, there are problems related to false identity documents and the misuse of identity documents belonging to others, which represent both a security risk and a source of crime – in working life as well. Inadequate control and identification of the persons behind an enterprise can result in misuse and exploitation in a common European labour market. The Norwegian authorities experience, for example, that bogus identities are created in connection with the registration of companies in the Norwegian registries.

The use of false ID documents and the misuse of real ID documents are sources of work-related crime, human trafficking and other crimes, both nationally and internationally. The methods that are used to register and assign an ID number to foreign citizens differ from country to country in Europe. The inadequacy of some registration methods is a challenge, since this increases the risk that persons are erroneously assigned several ID numbers. This is exploited by criminals.

In Norway, the practice is such that individual European citizens must register themselves by both the police and the Norwegian Tax Administration in order to obtain work permits, ID

numbers and register their employment. On the other hand, Norway does not issue any form of proof of ID, as most other European countries do. This may be challenging both for those who arrive here, and for the authorities and others who can verify the identification information.

Inconclusive national schemes mean that actors with false, stolen or purchased European passports can exploit the system to obtain residency and services illegally from one or more countries in Europe.

#### **4.9.2 Proposed measures**

More secure ID documents will make it easier to combat the misuse of identities. Norway and other countries in Europe are in the process of implementing national ID cards with eID. EU citizens will gradually in time be able to use eID to gain access to public services across national borders. In this context, it is important that the authorities have satisfactory methods for verifying that the ID documents are genuine.

In addition, Norway would like to stress that the citizens' use of eID to gain access to various services, in accordance with the eIDAS Regulation, must take place in a manner that ensures that one person cannot operate with multiple identities. Therefore, it is appropriate to consider how we can ensure that persons can only operate with a single identity within Europe.

An important measure for a common European fight against work-related crime is the possible introduction by every European country of mandatory ID control for the establishment of enterprises, so that the persons behind the enterprises can be identified.

## **4.10 Need for stronger control in the transport sector**

### **4.10.1 Challenges**

The transport sector is internationalised and constantly changing. In the road transport sector, there are challenges such as poor working conditions and work-related crime. Many of the challenges are not sector-specific however, but more issues of a general nature that also apply to sectors other than transport.

The control authorities have detected that transport enterprises not only violate rules within the transport area itself, but that there are often complex cases with violations of the law in various areas, including violation of pay and working conditions, cheating in connection with tenders, tax-related crime, etc. The comprehensive cross-border activities in the road transport sector entail an extra challenge to the ability of the control agencies to maintain effective control, including control of complex corporate structures and foreign enterprises.

The challenges related to work-related crime in the road transport sector may, as in other sectors, make it difficult for responsible actors to meet the competition from irresponsible suppliers who do not comply with the rules that apply to the sector.

#### **4.10.2 Proposed measures**

Some of the challenges in the road transport sector may be solved through strengthened cooperation between the various control authorities at the national level. However, we also see a need to strengthen international cooperation in this area. Good interdisciplinary and focused cooperation nationally must be followed up by an international network and cooperation between the authorities, which will in turn contribute to information sharing and further follow-up of cases in the individual countries – against specific actors.

The EU regulations in the road transport area with regard to market access, the drivers' driving time and rest periods, working hours, etc., are extensive. We refer to the European Commission's package of initiatives aimed at road transport, where combating illegal working conditions and "letterbox companies" has been given priority. This is an important initiative in view of the proposal that provisions be made to include cross-border cooperation and improved enforcement systems. To combat work-related crime in the transport sector it is desirable to have stronger control efforts in the Member States and precise obligations with regard to the handling and follow-up of the information received.

Norway participates in several important initiatives for cooperation in the area of road transport, both within the EU and with our neighbouring countries. We note that the EU is increasingly facilitating and requiring systems for the exchange of information, for example in connection with the development of RESPER (driving licence information) and Eucaris (a message carrier for the exchange of motor vehicle information). In addition, requirements have been stipulated for a harmonised risk classification system. Norway will contribute to strengthening further European cooperation on road transport across national borders.

### **4.11 Lack of traceability in modern payment services**

#### **4.11.1 Challenges**

New electronic payment systems are constantly being introduced, which are then made use of by consumers and others. Most of these payment services are regulated, but certain types are not. Another growing trend in Norway is the increase in the scope of foreign providers of payment services in the market. The National Inter-agency Center for Analysis and Intelligence (NTAES) has assessed how the lack of traceability in new electronic payment services represents a threat to the work of agencies in combating financial crime. Even if the payment services leave an electronic trail, the tax authorities, among others, encounter challenges related to some of the new payment services due to limited transparency and traceability, one consequence of a lack of access to information from foreign service providers.

Another challenge is related to increased use of impersonal, prepaid payment cards (e-money). The physical transfer of such cards creates challenges, since any change in ownership is not traceable. Within certain amount limits, an exception has also been made in the Norwegian money laundering regulations for such cards with regard to the requirement to identify customers etc. prior to the issuance of a card or entering into an account agreement.

Certain new payment services are not covered by the existing regulations. This applies to virtual currencies, such as Bitcoins etc., for example. Such services can make it more difficult to identify the remitter and the recipient in financial transactions and may therefore be a threat to the authorities' fight against financial crime and work-related crime. In addition, there

is no central operator of the service that can be regulated, ordered to disclose information, etc. Such payment services may therefore become the lawbreakers' preferred means of transferring money.

#### **4.11.2 Proposed measures**

The challenges related to traceability in connection with various forms of payment services have been acknowledged at the European level, and the European Commission proposed amendments to the Fourth Money Laundering Directive in 2016. The amendments apply to subjecting the exchange platforms and "wallet services" for virtual currencies to the money laundering regulations, and to lowering the threshold values for when issuers of e-money are exempt from the money laundering regulations. In addition, it has been proposed to ban the use of foreign prepaid e-money if it does not fulfil the requirements stipulated at the European level for an exemption from the money laundering regulations.

Norwegian authorities are working on the implementation of the Fourth Money Laundering Directive in Norwegian law, and will assess the follow-up of the proposed amendments to the Fourth Money Laundering Directive when the content of future EEA obligations has been clarified. The proposed amendments to the Fourth Money Laundering Directive are still subject to negotiations between the EU institutions.

## **5 Conclusions**

Work-related crime entails violation of a number of laws and regulations, and can only be combated through broad cooperation across the areas of responsibility of various agencies. The challenges affect most European countries, and requires efforts across national borders. The proposed measures in this report can be implemented at the European level and/or through cooperation between countries.

There is a need to strengthen international cooperation to combat work-related crime. One way of dealing with these challenges may be to prepare an overall strategy for combating work-related crime at the European level. Norway is prepared to initiate a cooperation with the European Commission on a closer assessment of how the efforts in various sectoral areas, such as the police, taxation, social security and working life, can be viewed in context. This supports the initiatives the EU has already taken to strengthen enforcement and cooperation in the area of working life. Measures to ensure better information for enterprises and employees should also be a priority.

At the European level, there is a well-developed tripartite cooperation with the social partners. This is a necessary foundation for continued efforts to combat work-related crime. We recommend that the social partners at the European level be actively involved in a dialogue on how these challenges can be solved by measures to strengthen coordination across sectoral areas and national borders.

In this report, a number of areas have been mentioned that require follow-up and strengthened cooperation. These are areas of possible further collaboration between Norway and the EU:

- 1. To ensure that the work on challenges related to work-related crime is followed up through broad cooperation, the preparation of a joint European strategy for**



**combating work-related crime should be considered. This work could be seen in the context of the new initiative from the European Commission to study the feasibility of establishing a European Labour Authority.**

In this report, we have also addressed other specific measures that are being planned or which should be assessed more closely:

2. *A guide for sharing information* between the agencies at European level should be prepared. Such a guide should also illustrate the opportunities that exist for obtaining information from available open registries.
3. *A Nordic cooperation project between the labour inspection authorities* shall be carried out during the period 2017-2018. The project is based on exchange of inspectors, seminars to learn from each other and exchange of best practices, as well as information and guidance measures. The Baltic countries will be invited to participate in several of the concrete measures.
4. Norway will make itself available for a pilot project with another European country in which participants from different public authorities in both countries will participate in operative cooperation.
5. To prevent work-related crime, there is a need to reach employees and enterprises with *common information measures* at the European level, and through cooperation between countries of departure and the host countries.
6. At the European level, it is necessary to facilitate stronger cooperation with regard to the *exchange of information on enterprises*. There is a need to strengthen the opportunities for verifying information on service providers from other countries, preferably in connection with further development of the Internal Market Information System (IMI).
7. There is a need to clarify which national voluntary schemes that make the qualifications and responsibility of enterprises visible are allowable within the framework the Service Directive.
8. Measures to *improve the issuance and control of ID* to ensure opportunities for effectively combating work-related crime.
9. *European cooperation for better compliance in road transport should be continued and strengthened.*
10. The implementation of measures to enhance the traceability of certain forms of *electronic payment services* should be considered.

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