



Industrial relations and social dialogue

The Netherlands: Institutions, policies and practices for enforcing minimum wage compliance

[Minimum wages: Non-compliance and
enforcement across EU Member States](#)
[Comparative report](#)

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1. Legal framework and minimum wage enforcement institutions

Regulation of minimum wage enforcement

LEGAL/REGULATORY FRAMEWORK	<p>Art 1.1 of the Appointment Regulation for Supervising Officials with Specific Tasks Based on SZW-law: the officials of the Dutch Labour Inspectorate of the Ministry of SZW (which is the Ministry of Social Affairs and Employment) are charged with the supervision of compliance with the provisions of or under the Minimum wage and Minimum Holiday Allowance Act. The officials supervise eight other laws related to fair and equal working rights.</p> <p>The Policy Rule on Administrative Enforcement of the Minimum Wage and Minimum Holiday Allowance Act (2018) describes the fines for specific violations.</p> <p>A 2018 amendment to the MW Act provides that employees must receive at least the applicable Minimum Wage for all hours worked. Compensation in (paid) time off for overtime or additional work is thus only possible if arranged in a collective agreement.</p>
SPECIFIC REGULATIONS	<p>There are no specific laws for sectors or territorial areas, but there are specific regulations preventing the unlawful employment of foreign workers.</p> <p>The Labour Inspectorate has specific programmes for sectors exposed to a higher risk of labour law violations (11 sectors). Thematic programmes are also in place.</p> <p>The <i>Wet Aanpak Schijnconstructies</i> law establishes measures to address the effects of <i>sham constructions</i>, i.e., methods used by employers to avoid paying Minimum Wage and collective agreement wages.</p>
DISPUTE RESOLUTION MECHANISMS	<p>In case of underpayment, workers must first try to resolve the dispute at workplace level by discussing the issue with their employers. If an agreement is not reached, employees can report to the Dutch Labour Inspectorate or the sub-district judge. Complaints to the Labour Inspectorates can be filed online and anonymously. If the Labour Inspectorate detects a violation, the employer is imposed a fine and has the obligation to pay the employee the due amount.</p> <p>Employees can demand overdue salary for up to 5 years, and if the employer does not cooperate, they can contact the Dutch Labour Inspectorate.</p>

Enforcement institutions and coordination system in place

ENFORCEMENT INSTITUTIONS	<p>The Dutch Labour Inspectorate is the supervisory body and monitors whether employers and employees comply with labour law.</p> <p>Labour Courts can be involved if employees start civil proceedings.</p> <p>The Public Prosecution Service directs investigation led by the Labour Inspectorate.</p> <p>Social Partners are involved in collective bargaining agreements.</p> <p>Tax Authority and Social Services Agency share information with the Inspectorate.</p>
INTERNAL ORGANISATION	<p>The Dutch Labour Inspectorate is a central national authority divided into eleven sections with specialised programs for different sectors. Specific programmes are also established</p>

	for particularly relevant issues: the programme “Sham structure and compliance with collective agreements” is in charge of enforcing minimum wage regulations.
COORDINATION	There are no multiple responsible bodies.
MONITORING AND DATA COLLECTION SYSTEM	Data on inspections is collected and published on a website containing information for each inspection since 2016.

Resources and capacity of control/enforcement institutions in charge of MW compliance

FINANCIAL RESOURCES	<p>2021: 152.3 million euro - 2012: EUR 97.3 million</p> <p>No information on allocations to activities related to Minimum Wage enforcement.</p> <p>Trend: increased (+56.5% since 2012)</p>
HUMAN RESOURCES	<p>2021: 1,480 FTE - 2012: 1,114 FTE</p> <p>No information on allocations related to Minimum Wage enforcement activities.</p> <p>Trend: increased (+32.8% since 2012)</p>

2. Enforcement measures

BALANCE BETWEEN DETERRENCE AND PREVENTIVE MEASURES	<p>Preventive approaches are now more important than a decade ago.</p> <p>The effectiveness of deterrence measures is high. However, laws are quite complex to apply.</p> <p>The effectiveness of preventive measures could be improved. A strength is that these measures are research-based, a challenge is to verify if they lead to taking action.</p>
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Deterrence measures

TYPE OF MEASURE AND CHANGE IN USE IN THE LAST DECADE	<p>Routine inspections, spot checks and inspections by requests are used but their use decreased over time.</p> <p>Follow-up of previous offenders and peer-to-peer surveillance remained stable while targeted inspections, sharing of information, supply chain responsibility, sanctions and blaming and sharing and back lists use increased over the years.</p>
INSPECTIONS AND VIOLATIONS	<p>Inspections: partially adequate. Their number decreased over time.</p> <p>2020: 2,812 inspections</p> <p>2015: 4,500 inspections</p> <p>2010: 9,987 inspections</p> <p>Trend: -70% over 10 years.</p> <p>There are also sectoral inspections.</p> <p>No specific data regarding Minimum Wage.</p>

	No specific data on the number of violations detected.
SANCTIONS	<p>Employers liable of underpayment can be imposed an administrative fine of €500 to €10,000 per employee. Fines can be increased in case of repeated offences. In the event of serious violations, a preventive shutdown of a company may be ordered if similar violations are repeated.</p> <p>The main change was the introduction of art. 18B in the regulation which aims at speeding up investigations.</p>

Persuasion/preventive measures

TYPE OF MEASURE, INSTITUTION IN CHARGE, CHANGE IN THE LAST DECADE	<p>Measures adopted: provision of advice, counselling and training to workers, employers and social partners; awareness raising and information; reduction of administrative burden or simplification of procedures. A website to disseminate the Inspectorate activities was also created.</p> <p>2015-2018: priority to tackle serious abuses and notorious offenders.</p> <p>Emphasis on cooperation with other inspectorates and organisations.</p> <p>2019–2022: the focus shifted towards preventive and persuasion measures.</p>
ROLE OF DIGITAL TOOLS	Digital tools are used: inspections by telephone, video or video contact were used in certain situations.

3. Role of social partners

Social partners

ROLE + FOCUS ON SPECIFIC SECTORS/TERRITORIES/WORKERS	<p>The role of social partners is to enforce compliance with collective agreements, not with MW regulations. However, when social partners detect non-compliance with MW, they notify the Inspectorate.</p> <p>No special focus on specific sectors for minimum wage enforcement.</p>
CHANGE IN LAST DECADE	The engagement and role of social partners in MW enforcement seemed to have slightly increased due to the increase of information exchange.
COORDINATION	The WAS-related cooperation (sham construction) is a specific coordination/cooperation mechanism between the Inspectorate and the social partners. It is regulated by a formal agreement.
STRENGTH/WEAKNESSES	<p>Strengths: shared values and goals allow an effective cooperation between social partners and the Labour Inspectorate. Moreover, trade unions are closer to employees and so sometimes more informed than the Inspectorate.</p> <p>Weaknesses: information sharing is not optimal and cooperation between public institutions is not always good.</p>

Role of other institutions/stakeholders

OTHER INSTITUTIONS/ STAKEHOLDERS	<p>All Dutch Inspectorates work together in the “Inspectorate Council”, mainly for sharing information.</p> <p>The UWV (Employee Insurance Agency) determines the level and has a role in the enforcement of the Minimum Wage paid to foreign workers.</p> <p>The Tax Agency has a role in Minimum Wage enforcement when it comes to social security contributions.</p> <p>The Ministry of Social Affairs and Employment has a role in policy making.</p> <p>The Public Prosecutor leads criminal investigations.</p>
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EU cooperation

EXAMPLES OF EU COOPERATION	The Inspectorate will continue to cooperate actively with other EU services, such as SLIC, Empact, Europol, Administrative Cooperation in Market Surveillance (ADCOs) and the new European platform against undeclared work.
CHANGE IN LAST DECADE	Activities increased: creation of the ELA (2018) and the national law “WagwEU” (for better supervision of workers posted in the Netherlands).
STRENGTH/ WEAKNESSES	Cooperation in itself is considered a strength as the labour market has become more European. However, different interests of different countries can weaken EU cooperation.

4. Enforcement challenges, strengths and weaknesses of the enforcement system

MAIN ENFORCEMENT CHALLENGES	<p>Complex regulations lead to complex investigations, which take time. Moreover, many employers are not able to correctly interpret and follow the rules.</p> <p>An upcoming challenge is the introduction of a minimum hourly wage (December 2021), further complicating minimum wage enforcement.</p>
STRENGTHS AND WEAKNESSES	<p>The system of Minimum Wage enforcement functions well, the legal system is clear. Policy regulations make sure that inspections are carried out correctly. The enforcement institution conducts data-informed, risk-based checks, using a large database, paired with sampled checks.</p> <p>However, laws are quite complex, and simpler regulations would increase the speed of investigations. Although not understaffed, more personnel would increase the capacity to conduct investigations. The Inspectorate should become more effective in addressing serious and repeated violations of labour laws.</p> <p>The increased use of persuasion and preventive measures is an attempt to address these weaknesses.</p>

Source: National Eurofound Correspondent for The Netherlands

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