

European Platform to enhance cooperation in tackling undeclared work

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The Council took note of a **progress report** on a decision establishing a Platform to improve cooperation at EU level in order to prevent and deter undeclared work more effectively.

Many ministers expressed appreciation for the rapid progress made on this dossier during the Hellenic presidency and regretted that the Council was not in a position to agree a general approach.

They called for the **completion of the discussions as soon as possible under the Italian Presidency**.

The Platform will aim to facilitate the exchange of best practices and information, provide a framework at EU level to develop expertise and analysis, and promote joint actions between the different national enforcement authorities of Member States.

The proposal envisages the participation of all Member States in the Platform, as this is crucial to address cross-border situations. Each Member State would be invited to nominate a single contact point.

In its progress report, the Council noted the following main elements:

- **legal base:** while favourably welcoming the text, a number of delegations raised legal questions, including the legal basis as such. At the request of the Working Party, the Council Legal Service (CLS) provided its opinion in writing. In particular, the Working Party has examined the appropriateness of the proposed legal basis (Article 153(2)(a) TFEU) and the different limitations on the legislator in using that Article, **including the possibility of Member States' mandatory participation in the proposed Platform**.

A consensus could be found that so as to offer a solid legal framework for the Platform (based on Article 153 TFEU) with **a certain flexibility** within this framework. A large number of delegations supported this text, considering it as a good negotiation position of the Council with the European Parliament.

- **other questions debated:** the two main issues discussed during the Hellenic Presidency related to the nature of the Member States' participation in the Platform and to the initiatives the Platform could take.

- **definition of undeclared work:** certain delegations note that there is no Union level definition on undeclared work and that a definition should be included to cover (or not) the question of “falsely declared work”;

- **participation in the Platform:** a large number of delegations either accept the Commission's proposal of making the participation mandatory or otherwise stress that in any case all Member States should participate. However, one delegation considers that the legal basis, Article 153(2)(a), cannot be used to oblige the Member States to participate in the Platform, and some delegations are still scrutinising this issue;

- **initiatives envisaged:** the proposal provides the possibility to expand the list of initiatives that the Platform may take. The Presidency's compromise text, however, makes it clear that there is **only limited flexibility in adding initiatives** to the list included in the Decision and that any new initiative the Platform might undertake would have to be for the execution of its mission as set out in Article 3 and in

accordance with the priorities set in the Platform's two-year work programme. To this effect, several delegations consider that the list included in the Decision should be exhaustive. One of these delegations has stressed that the extension of the list should require supervision of the co-legislators. Therefore, Recital 10 states that Member States' participation in certain activities would be **on a voluntary basis**. The Member States will be able to decide on their participation in any joint cross-border operations and in working parties set up by the Platform.

In general, the Greek Presidency considers that its latest compromise text strikes the correct balance between, on the one hand, setting out clearly the Platform's mission and its initiatives and, on the other, giving the Platform the necessary flexibility in the implementation of that mission. The Presidency recommends finally that the forthcoming discussions on the file under the Italian Presidency should be based on this latest compromise text in order to reach **a general approach in due time to serve as the Council's mandate during the first reading negotiations with the European Parliament**.