

Undeclared Labour in the Construction Industry

Country report – **The Netherlands** - June '06
Claire Bosse, Tilburg University - Mijke Houwerzijl, University of Amsterdam

Introduction

This report examines the existence of undeclared labour and the measures against it in the Dutch construction industry. Undeclared labour (also called undeclared work) arises from non-compliance with regulations in the field of fiscal law (both income taxes and VAT), social security law, labour law, collective agreements and other sectoral agreements with a generally binding character. Actors are the employer, the employee and the customer.

Broad attention for undeclared labour is necessary, because of the detrimental impact it has on social security systems, public finances, fair competition and industrial relations. According to EIRO, undeclared labour leads to distortion of competition, causes pressure on social provisions and benefits, undermines industry wide provisions, and has a negative effect on fiscal revenues (income taxes and VAT revenues).¹ Undeclared labour also increases the poverty trap; persons performing undeclared work are not ensured against unemployment and disability and do not build up pension. In some cases, persons involved in undeclared labour also misuse income dependent regulations, such as rent subsidies and student grants.²

In most EU Member States, construction is on top of the list of sectors characterised by informal undeclared labour.³ This is not surprising as construction workers are a vulnerable group in the highly competitive battle between building firms. In this labour-intensive industry there is a strong pressure to drive down prices ever lower. Adverse effects of this fierce competitive pressure are visible in a relative high number of bankruptcies⁴, a high incidence of ‘fraud’ and work accidents, a substantial number of cyclical unemployed and large proportions of undeclared work.⁵

Our report is organised as follows. We start with a definition of undeclared labour in the Dutch construction industry. This is followed by a short survey of the regulatory framework and the authorities or actors involved in compliance, as far as relevant for the topic of our research. This part is mainly based on desk research. The rest of the report deals with the nature and features of undeclared work in the Dutch construction industry. Here, we take as a starting point four basic patterns of undeclared labour, as distinguished by CLR. Based on an analysis of available national facts and figures in existing national reports and on interviews with spokesmen and key persons in the industry, we make clear if and to what extent these four types of undeclared labour do exist in the Netherlands. The next section goes into remedies against undeclared labour and, if possible, highlights good practices. Here again, we start with a theoretical description of possible measures, followed by an account of the findings in practice within the Dutch construction industry. This part is mainly based on observations of spokesmen in the industry and of official authorities in the field of compliance. At the end we come up with some conclusions and recommendations.

¹ EIRO report on undeclared work, 2004.

² SEOR 2004, De markt voor persoonlijke dienstverlening, Den Haag 2004, p. 4.

³ According to the report Undeclared work in an enlarged union, Inregia AB/Regioplan BV, commissioned by the Directorate-General for Employment and Social Affairs, European Commission, 2004.

⁴ See for the Netherlands:

<http://statline.cbs.nl/StatWeb/start.asp?LA=en&DM=SLEN&lp=Search%2FSearch>.

⁵ See EFBWW policy-report ‘Undeclared Work in the construction sector’, p. 1

1. Definition of undeclared labour

‘Undeclared work can be defined as any paid activities that are lawful as regards their nature but not declared to the public authorities’, is the definition used in the EIRO thematic feature on undeclared work (2004). Twenty EU Member States were involved. In the report it was made clear that in the Netherlands no official definition of the concept of undeclared work exists. However, in the documents that we used for this report, the EIRO definition of ‘undeclared work’ is frequently used. See for instance the research report of SEOR that we discuss in section 4.1. Next to the ‘EIRO-definition’, the SEOR-report contains a scheme that combines two categories or divisions for the market of personal provision of services: ‘formal - informal’ and ‘undeclared - declared - unpaid (voluntary)’ forms of labour.⁶ The most dominant context in which the label ‘undeclared work’ is used nowadays in the Netherlands is that of illegal labour. In practice, illegal labour involving migrants without a residence and/or work permit, and undeclared labour are often combined.

According to CLR, undeclared labour is ‘all about underreporting of economic activities, undeclared hours of work or undeclared overtime, official wage pay combined with cash in hand and envelop practices, illegal employment via irregular agencies, bogus self-employment, social security and other benefit fraud, VAT and income tax circumvention.’⁷

The EFBWW also proposes a broad rather than a narrow definition of undeclared work: ‘Any form of work intended to evade all or some legal, regulatory, governmental or collective provisions of a fiscal, social or administrative nature, in accordance with the provisions of the country of employment.’⁸ With these broad characterisations as a starting point, the relevant regulatory framework for undeclared labour in the construction industry is charted below.

2. Regulatory framework

2.1 Statutory terms and conditions for employees in construction

Mandatory provisions in Book 7 (about employment contracts) of the Civil Code (*Burgerlijk Wetboek; BW*) are applicable to all employees and to a certain extent also to cross-border posted workers who are temporarily working in the Netherlands on a foreign employment contract.⁹ In addition, labour laws and regulations with a public/administrative law-character are applicable to every employee working, temporarily or permanently, in the Netherlands. Most important are the Minimum Wages Act (*Wet minimumloon en minimumvakantiebijslag; WMM*), the Working Hours Act, the Occupational Health and Safety Act (*Arbowet*), the Allocation of Employees through intermediaries Act (*WAADI*) and the Equal Treatment Act (*AWGB*). Finally, for all employees who fall back on the Dutch labour market (so, not

⁶ SEOR 2004, *De markt voor persoonlijke dienstverlening*, Den Haag 2004, p. 4.

⁷ CLR, Undeclared labour in construction. Preparatory research, Utrecht, January 2006, p. 5.

⁸ EFBWW, *Preventing, reducing and combating undeclared labour in the construction sector*, policy paper to be published in October 2006, p. 6.

⁹ Namely mandatory civil provisions about minimum paid annual holidays (Artt. 634 - 642, 645, Book 7 BW), equal treatment (artt. 646, 647, 648 Book 7 BW), health and safety at work (art. 7: 658 about employers’ liability in case of work related accidents or diseases) and one of protective measures for pregnant women (art. 670 lid 2 Book 7 BW: prohibition to dismiss someone because of pregnancy. See for this category of workers the report on the Dutch implementation of the Posting Directive, in: J.Cremers, P.Donders (Ed.), *The free movement of workers in the European Union*, CLR Studies 4, Brussels: Reed Business Information, 2004, p. 105 – 114.

for cross-border posted workers) if they would lose their job, protection against unlawful dismissal is regulated in the Extraordinary Decree concerning labour relations (*BBA, 1945*).¹⁰

Another important act to mention here is the Obligation to carry identity papers Act, 1993. Article 2 of this Act rules that workers (and in general every person above 14 years old present at the Dutch territory) should be able to identify themselves at the request of the competent authorities.¹¹ The obligation makes it possible for the authorities to check the identity of workers on building sites in their effort to combat undeclared and illegal labour.

2.2 Terms and conditions laid down in (extended) collective agreements

In the Netherlands, derogation from legal provisions is often only possible by collective agreement. When a collective agreement provision proves to be inconsistent with mandatory legal provisions, this provision is null and void. For workers who are employed by a non-organised employer in the industry, only extended collective agreements are applicable.¹² The method of extension of collective agreements results in an ‘erga omnes’ scope during the period of extension. During that period the agreement is ‘universally applicable’ which means that it must be observed by all undertakings in the geographical area (the Netherlands) and in the profession or industry concerned (the construction sector). Main collective agreement in construction is the Collective Agreement for the Construction Industry 2004-2007, covering some 190.000 workers (including managerial, technical and administrative staff) in house, office and industrial building and civil, road and maritime construction engineering. Other major collective agreements are the Collective Agreement for Painters, covering some 35.000 workers, and the Collective Agreement for Plasters, covering some 17.000 workers.¹³

Although undeclared work has been a prominent issue over the last three years, it is not a prominent issue in the collective agreements mentioned. This is in line with the general trend as observed in the Dutch report of the EIRO survey on undeclared work of 2004. Nationwide, only few examples were found, mostly involving a clause obliging employers to check whether the temporary work agencies they work with are bona fide. Construction was not quoted as an example. However, some recent developments should be mentioned here. In addition to the Collective Agreement for Construction, social partners in construction and the temporary agency sector entered into negotiations on the labour conditions of agency workers in the construction industry. In April 2006 this led to an agreement which concerns some 3 % of the total workforce involved in construction.¹⁴

Main principle is that the agency has to pay the agency worker the same wage as employees of the user enterprise with the same or a comparable type of job. A distinction is made between starters (agency workers without previous working

¹⁰ For more details on these laws and regulations, see ‘Main sources of information related to undeclared labour in construction’, integrated in this report.

¹¹ Act of 9 December 1993, amended by Act of 24 June 2004, Stb. 400, text available in Dutch at http://www.justitie.nl/Images/wettekst%20uitgebeide%20identificatieplicht_tcm74-37362.pdf.

¹² This is regulated in the Act of extension of provisions of collective agreements (Wet op het algemeen verbindend en het onverbindend verklaren van bepalingen van collectieve arbeidsovereenkomsten), Act of 25 May 1937, Government Gazette 801.

¹³ Figures provided by Regioplan 2004, p. 75.

¹⁴ On the national level, there were 615,000 agency workers in 2004, 2.5 % of the national workforce. These figures were collected by EIRO, thematic feature on temporary agency work, 2006, par. 5.2.

experience in construction) and so-called skilled workers (agency workers with more than a year experience and/or a diploma in construction). Next to the provisions on wages in the collective agreement for construction, the last group is also entitled to extra holidays and some other fringe benefits regulated in this collective agreement. Finally, social partners in both sectors agreed upon more cooperation, which should ensure, among other things, strict compliance of temporary work agencies to the new rules.¹⁵ This recent agreement will be formalised in new collective agreement provisions in both the Collective Agreement for the Construction Industry 2004-2007 and in the collective agreements of the temporary work agencies sector.¹⁶ When these will be declared universally binding, a 'level playing field' is created in labour conditions for all employees working in construction, whether they have a contract with the user firm, with a Dutch or with a foreign temporary work agency.

2.3 Licences and other building regulations

With regard to the position of self-employed workers there are no labour law regulations to monitor this group: although in the field of working time or working circumstances this is possible in extreme situations according to the Working Hours Act and in more regular situations according to the Occupational Health and Safety Act. With regard to vocational requirements or professional licenses the Establishment of Businesses Act is relaxed. Since 2001, registration in the trade register is still compulsory for almost every company, but no diplomas or permits are required. In construction (and allied trades) no special conditions have to be fulfilled to start up companies offering basic activities such as 'handyman' services and other 'basic' services such as painting or pointing activities, making furniture, carpentry (with a non 'constructive' character). If someone wants to operate as a self-employed in these activities, he only needs to register at the Chamber of Commerce (trade register) and can start next day.¹⁷ But to start a firm as a building contractor, in civil and utility construction, masons, demolition, carpentry (for more complex constructive works), civil, soil and hydraulic engineering or in the installation sector (electromechanical installation businesses, gas and water fitters, plumbers, central heating, air-conditioning and cooling companies, greenhouse heating) an establishment permit is required, according to the Establishment of Businesses Act. To run these more complex businesses which place extra demands on the entrepreneur, a business diploma is required. Because knowledge of the professional discipline is seen as indispensable for entrepreneurs, the Establishment of Businesses Act assumes that the entrepreneurs have or will obtain the necessary professional knowledge and expertise anyhow, without the necessity of any legal pressure. The idea is that professional knowledge will be gained in order to guarantee the quality of the products or services (because consumers or principals will ask for quality) or because banks often do set conditions related to professional knowledge when giving loans, or because they wish to be recognized as professionals by their colleagues.

¹⁵ See: Principeakkoord bereikt uitzendkrachten in de bouw, ABU press release of 5-4-2006.

¹⁶ In this sector two collective agreements exist since 1999. The first was agreed between the employers' organisation Algemene Bond Uitzendondernemingen (ABU) and the unions FNV Bondgenoten, CNV Dienstenbond and De Unie. This collective agreement is renewed in 2004 and declared generally binding and covers 90% of the agency sector (with the exception of the firms covered by the second agreement). The second collective agreement is agreed between employers' organisation NBBU and the union Landelijk Verbond van Bedrijfsorganisaties and has not been extended.

¹⁷ Article 5 Commercial Registers Act (*Handelsregisterwet*).

2.4 Liability regulations (fiscal, social contributions, labour conditions)

Since 1982, the Wages and Salaries Tax and Social Security Contributions Act (Liability in a chain of Subcontractors - *Wet Ketenaansprakelijkheid*) provides that the main contractor is liable for social security contributions and income tax. The first goal of this Act is to fight unreliable subcontractors. The main contractor is not only liable for the first subcontractor but for the whole chain of subcontractors who follow in line and who are at work on the same project at the building site. The second goal is to combat unfair competition. However, when foreign subcontractors are at work with posted workers, no social security contributions and income taxes are due for the first 183 days of labour. In these cases the Act is not applicable.

With regard to labour law, Art.7:658 (4) Civil Code provides for a liability of the user undertaking in the event of industrial accidents or work related diseases. The user undertaking is not liable for the compliance of other statutory employment conditions, such as minimum wages and paid holidays.

In addition, the Collective Bargaining Agreement for the Construction Industry provides that: ‘The employer is obliged to monitor the compliance of the provisions of this collective bargaining agreement in all individual employment contracts covered by the agreement. When dealing with independent entrepreneurs, the employer should agree on this in the subcontracting arrangement.’ (Art. 94).

Finally, with regard to public procurement, the Netherlands has signed the Labour Contracts (Public Clauses) Convention, 1949 of the International Labour Organisation.¹⁸ Article 2 of the Convention provides that contracts for construction etc. awarded by a public authority shall include clauses ensuring to the workers concerned wages (including allowances), hours of work and other conditions of labour which are not less favourable than those established for work of the same character in the trade or industry concerned in the district where the work is carried. In practice however, social clauses are not a common feature of public procurement contracts.¹⁹ The Committee of Experts on the Application of Conventions and Recommendations therefore noted in 2001 that “...for many years the Government has been indicating that there are no major developments to be reported and consequently has not provided any information on the practical application of the Convention.”²⁰ The Government is given the time until 2007 to better its performance.

2.5 Other relevant legislation and regulations

Several laws deal - directly or indirectly- with the phenomenon of undeclared work. First to mention is the Act on fines, measures, reclamation and recovery related to social security (*Wet Boeten en maatregelen, terug- en invordering sociale zekerheid*). Aim is to prevent people from performing undeclared work while receiving disability or unemployment benefit.

Next to this, the Alien’s Act (*Vreemdelingenwet*) and the Foreign Nationals (Employment) Act (*Wet arbeid vreemdelingen, WAV*) should be mentioned. These Acts are directed at preventing illegal residence and work. In 1998, the Alien’s Act was changed by linking the various databases of the public authorities with the aim of reducing undeclared work by foreign nationals. In the Foreign Nationals

¹⁸ <http://www.ilo.org/ilolex/english/convdisp1.htm>.

¹⁹ D. Jacobs, J. Kuijpers and B. Roes, *De economische kracht van de bouw. Noodzaak van een culturele trendbreuk*, Den Haag: SMO 1992, p. 138.

²⁰ CEACR 2001/72 nd Session, ‘Comments made by the Committee of Experts on the Application of Conventions and Recommendations, Labour Clauses (Public Contracts) Convention, 1949 (No. 94), Netherlands (ratification 1952), available at www.ilo.org.

(Employment) Act from 1 January 2005 on administrative fines are introduced.²¹ The fine is €4.000 for an illegal employed worker by a private person and €8.000 when the illegal migrant is employed by a company. If an employer employs a foreigner without a work permit (illegal labour) this is considered an economic offence. At the outset, it is recorded as such in an official report by the Labour Inspectorate. The public prosecutor can subsequently offer the employer an out-of-court settlement. If he turns this down, the employer will be summoned and his case put before the economic police court that can impose a fine up to an amount of €1,250 per illegal employee and can pass an unconditional prison sentence up to a maximum of 6 months.²²

According to article 23 of the Foreign Nationals (Employment) Act, employers who cannot prove that they have paid normal wages to illegally employed employees are obliged to pay six months' wages. However, the Trade Union Federation (FNV) has stated that this sanction does not work in practice, and that unions are not informed when the Labour Inspectorate discovers illegal employment and are thus unable to bring cases to court. Illegal employees themselves do not go to court because they prefer to remain anonymous as much as possible. Since the introduction of the Benefit Entitlement (Residence Status) Act (*Koppelingswet*) in 1998, employers of illegal workers are no longer allowed to pay social security contributions, offering these workers access to welfare benefits.

Finally, it should be mentioned that in 1998 the legislation on temporary work agencies was altered, abolishing the system of permits for agencies and the maximum tenure of the agency worker with the user firm. Next to this, the authorization procedure and most sector restrictions for agency work were abolished. This was laid down in the Allocation of Employees by Intermediaries Act, 1998 (WAADI).²³ The WAADI regulates the position of intermediaries, including employment agencies. In practice this means that there are very few requirements for temporary employment agencies.²⁴ Since 1998, the number of dubious temporary employment agencies has risen sharply, which might at least partly be due to the abolishment of the permit system. Other reasons behind the considerable increase in agencies using illegal employees and/or evading the payment of taxes and premiums, are the more stringent legislation to combat illegal residence and the thriving economy of a few years ago. According to an investigation of Dutch association of temporary work agencies (*Algemene Bond Uitzendondernemingen; ABU*), in 2004 the number of organised branches (companies) was 3,000, whereas the number of malafide branches was 6,600. The number of temporary workers through bona fide placement was 650,000, whereas from an estimated number of 210,000 illegal workers in the total Dutch workforce, 100,000 of them were temporary workers through malafide placement.²⁵ Both the government and the sector itself now take measures to fight the illegal activities (briefly discussed in paragraph 5).

²¹ Act of 2 December 2004 amending the Foreign Nationals (Employment) Act concerning the introduction of administrative legal compliance, Stb. 2004, 705. Before January 2005 the average fine was €980,-.

²² Detailed information on the subject is available at the international website of the Ministry of Social Affairs and Employment (see 'Main sources of information related to undeclared labour in construction').

²³ Wet allocatie door intermediairs or WAADI, Act of 14 May 1998, Stb. 306.

²⁴ For more information on temporary agency work regulation, see 'Temporary agency work in an enlarged European Union - The case of the Netherlands', EIRO thematic feature 2006.

²⁵ The ABU investigation, *Illegal practices in the temporary work agency industry*, is available in English at: <http://www.abu.nl/abu/pagina.asp?pagkey=37892&mode=read>

3. Enforcement of the (legal) rules

3.1 Role of the Labour Inspectorate

Enforcement is to a large extent in the hands of the Labour Inspectorate. The Labour Inspectorate has the supervision on the enforcement of for example working conditions and working times. This occurs when a provision in the Acts concerned is sanctioned with a penalty or fine (according to criminal or administrative law). In this respect no difference is made between Dutch and foreign companies. However, not only provisions in the Civil Code but also most provisions with a public law character like the Act on Minimum Wages are sanctioned by private law mechanisms. And the enforcement of (extended) CAO provisions belongs substantially to the competence of the social partners themselves. Some help is provided for in public Acts, where it is stipulated that social partners can ask the Labour Inspectorate for example to check working conditions in specific companies. However, these possibilities do not mean very much in practise because the Labour inspectorate has a huge workload and is not able very often to give priority to these requests.

Because of our mainly private law based enforcement system, the State does not use special control mechanisms to prevent fraud and to assure the correct application of labour law. It is left to the workers and the social partners involved, to assure the correct application of the applicable rules and where possible to prevent fraud. Only the Labour Inspectorate may have the possibility to check the pay slip of a worker. Probably this would only happen in practice in an investigation that is targeted at illegal workers. Although enforcement of labour law is mainly regulated with private law sanctions, there are some so-called risk-sectors of which the construction industry is one.

In construction the Labour Inspectorate (department *Arbeidsmarktfraude*) runs a nationwide inspection program against labour market fraud, aimed at compliance of the Foreign Nationals (Employment) Act. In 2004, the number of inspectors was raised from 100 to 180. Controls are focused on temporary agencies, agriculture, construction, hotels and catering, and meat- and fish-processing. Moreover, control of private individuals performing illegal (undeclared) work in areas such as the renovation or painting of private houses was intensified. In 2003, the Labour Inspectorate issued 731 fines to employers with illegal employees, 11% more than in 2002, mainly due to more intensive operations in the agricultural sector.²⁶

Since 2002, the Labour Inspectorate closely cooperates with other authorities in so-called Building Intervention Teams. These teams visit construction sites to check if illegal employment, moonlighting, bogus-self-employment and other forms of fraud are taking place.²⁷ The intervention teams are an example of the policy focus in the most recent years: the new emphasis in tackling illegal (undeclared) work has been not so much on new legislation, but on the enforcement of existing law.

3.2 Other authorities or institutions involved

Relevant tax authorities: From 1 January 2006, the Tax and Customs Administration is responsible for levying and collecting not only income tax but also social security

²⁶ Information provided by EIRO 2004.

²⁷ See for more details on the work of the Building Intervention Teams, paragraph 6 below.

contributions. Combating fiscal fraud is delegated to the Fiscal Intelligence and Investigation Department -Economic Investigation Service (*FIOC-ECD*).²⁸ *Relevant Social benefit institutions:* Several public authorities deal with the problem of social security benefit fraud. The Social Insurance Bank (SVB) is an independent administrative body, responsible for the implementation of social security schemes for various government agencies.²⁹ UWV (a body implementing employee insurance schemes) is responsible for the control of the Unemployment Act and the Occupational Disability Insurance Act.³⁰ The Social Information and Investigation Service (SIOD) operates under the responsibility of the Ministry of Social Affairs and Employment and concentrates its efforts on major frauds, illegal employment etc.³¹ Both Labour Inspectorate and UWV work at the basis of concrete complaints and hints, increasing the effectiveness of controls. Complaints are either made directly or passed through by employers' and workers' organizations. The unions installed a complaints desk to collect complaints on unfair competition by illegal construction workers.

3.3 Future plans with regard to the free movement of workers from new EU member states

Construction plays a key role in the ongoing discussion on the influx of Eastern-European workers and its effects on domestic employment. In August 2005, the Minister of Social Affairs and Employment was asked in Parliament if rumours were true that thousands of construction workers lost their jobs because of the lower labour costs of Polish employees. The Minister responded that there were no signs of substantial loss of employment by Dutch construction workers. Although the number of job-seekers increased slightly between July 2004 and July 2005, the number of construction workers looking for employment decreased by 3.8 %. Nevertheless, he did not rule out increasing competition in construction and a subsequent loss of employment.

By the end of March 2006, government announced that from January 1st 2007 onwards, the Netherlands will allow free movement for workers from Estonia, Hungary, Latvia, Lithuania, Poland, Slovenia, Slovakia and the Czech Republic.³² Workers with the nationality of the new EU-Member States would be given unrestricted access to the labour market and be entitled to the same treatment as Dutch workers. According to the cabinet, freedom of movement for workers is inevitable and further postponement would lead to an increase in the number of self-employed from the new EU-countries and an increase of illegal practices. Government announced to implement a number of measures first to prevent unfair competition:

- The Labour Inspectorate will be authorised to impose direct fines on employers who fail to pay statutory minimum wages. The introduction of an

²⁸ More information is provided in English at <http://www.belastingdienst.nl/organisatie/en/organisatie-17.html>.

²⁹ See for more information: http://www.svb.nl/internet/uk/about_the_svb/index.jsp.

³⁰ Information only available in Dutch at <http://www.uwv.nl/>.

³¹ Information in Dutch at http://home.szw.nl/navigatie/rubriek/dsp_rubriek.cfm?rubriek_id=1&subrubriek_id=960.

³² Government information service, 31 March 2006. The International Site of the Ministry of Social Affairs and Employment at http://internationalezaken.szw.nl/index.cfm?fuseaction=dsp_document&link_id=91120, and Press Release SZW 06/005.

administrative fine makes it necessary to amend the Law on minimum wages before January 1st 2007.

- In the future, the Labour Inspectorate will also notify workers and trade unions of cases of infringement of the Law on minimum wages, which will facilitate taking matters to court to demand back payment. By passing on information trade unions can better enforce observance of Collective Labour Agreements.
- The Tax Department and the Labour Inspectorate will cooperate more closely to counter illegal labour, undeclared employment and migrant workers posing as self employed workers without personnel to evade statutory minimum wages.
- To combat fraud in tax on wages and social security contributions, agreements will be made about proper information exchange with competent bodies in other EU-countries.
- Government will support information campaigns initiated by employers' organizations and trade unions, to raise awareness among workers from the new EU-countries on Collective Labour Agreements and minimum legal conditions of employment.
- Government will support municipalities in combating unsafe, illegal housing situations.

Parliamentary debates on the issue in April 2006, however, revealed broad opposition to the plan. The Christian Democrats party and the Labour party demanded further guarantees that an expected influx – primarily of Poles - would not lead to unfair competition for Dutch workers. This is in line with the opinion of the largest trade union of the country, FNV. The cabinet has postponed a final decision on the opening of the labour market until the end of 2006. First, in November or December another report will be submitted to the parliament on planned measures to prevent abuse of labour market rules. In the meantime, government will report to the European Commission that it will stick to its current restrictions.³³

4. The nature and features of undeclared work in the Dutch construction industry.

4.1. Picture of undeclared work in the Dutch construction sector

The largest segment of the industry is the housing sector (newly-built houses and renovation), with a building volume of 18 milliard euro. Next is the market for civil engineering with a volume of more than 11 milliard, followed by the market for commercial and industrial building (volume 10 milliard) and the market for maintenance of buildings (volume 8 milliard).³⁴

According to EU figures, undeclared work accounted for 13.8% of Dutch Gross National Product in 2002, which was about the EU average. The bulk of undeclared work takes place in agriculture, *construction*, hotels and catering, cleaning, and meat- and fish-processing.

The majority of the workers involved are domestic students, unemployed people, the self-employed and employees 'moonlighting' on top of their normal jobs.³⁵ In these sectors, there is also a high incidence of illegal foreign employment: in 15 to 25% of

³³ See, Mark Beunderman, 'Dutch postpone labour market opening decision', 13.04.2006 at: <http://euobserver.com/9/21383>.

³⁴ O.M. de Vries, 'Prognose: Verbetering bouwklimaat zet door', *Bouw/werk* 2006/1, p. 4.

³⁵ Dutch report for EIRO survey 2004

the inspected companies, the Labour Inspectors found illegally employed foreigners.³⁶ Undeclared labour accounts for 15% of the total construction market, or 2.7 milliard euro a year. This results in a loss of income taxes and social contributions of hundreds of millions a year.³⁷ One newspaper commentator writes: ‘Construction workers involved in undeclared labour are themselves accountable for the increase in the number of unemployed in their industry’.³⁸ Small companies seem to suffer more from illegal employment, moonlighting and undeclared work by benefit receivers than bigger companies.³⁹

A study by the Economic Institute for the Construction Industry (EIB) commissioned by BouwNed shows that 30 % of all household renovation and maintenance jobs for which a building licence is issued, is not performed by registered contractors. The Institute calculated that, as a result, the industry lost more than 1.8 milliard euro and 15,000 man-years of work in 2003. According to former EIB director Adri Buur, this is only the “top of the iceberg”. The real loss is much higher because EIB only investigated part of the market.⁴⁰ The results are in line with the results of an inquiry by SEOR (Socio-Economic Research Rotterdam) published in December 2004 on the size of the market for personal services. The researchers of SEOR found that 44% of all small jobs in private households are performed informally. Moreover, they found that specialist jobs are mostly performed by registered building contractors, while small (simple) jobs are often left to illicit workers. There are two possible reasons for this: (1) the price difference between the formal and the informal labour market, and (2) the fact that small jobs can also be done by the client him or herself. This is not the case with specialist jobs. Besides, even when small jobs in and around the house are performed by registered companies, payment is not always formally declared. It is possible that VAT is evaded or that part of the work is performed after the official hours without paying income tax and/or VAT.

Finally, an internet inquiry by HDC Media confirmed that more than 50% of the Dutch make use of undeclared labour. 85% of the interviewees do so because of lower labour costs, only 10% because legal workers are not available. Renovation is on top of the list of odd jobs for which undeclared labour is engaged. At the same time, 90% of the interviewees want the government to repress undeclared labour more fiercely. These figures demonstrate an ‘apparent inconsistency’.

In this report we distinguish between undeclared labour (also called undeclared employment) and illegal foreign employment by workers without work permit and often also without residence permit.⁴¹ For generations, there has been a high degree of tolerance towards undeclared labour.⁴² It is widespread and, by many people, not really considered an offence.⁴³ Most of our interviewees, among which all of the

³⁶ National Budget 2005, Ministry of Social Affairs and Employment.

³⁷ Miloe van Beek, ‘Zwart werken: De zwarte economie’, article published at www.Planet.nl, 8 March 2005.

³⁸ H. Nijen-Twilhaar 2004.

³⁹ According to Van Oldenbarnevelt Denktank, ‘Beunhazen in de bouwsector (12-10-04), available in Dutch at www.nieuwrechts.nl/vod/27.htm

⁴⁰ H. Nijen-Twilhaar, ‘Ontslagen bouw door zwartwerk’, *De Telegraaf*, 5 oktober 2004.

⁴¹ This distinction is also made by www.burojansen.nl/traa/b9_5_22.htm (chapter 5.1.4)

⁴² The Financial Daily (*Het Financieel Dagblad*), 23 December 2005 (H. Prast, ‘Nederland kiest voor zwart’)

⁴³ A. Buur, ‘Klussen als vriendendienst’, *Cobouw* 27 October 2005.

representatives from the social partners, stated that the repression of undeclared labour is ‘just not a priority’.⁴⁴

When dealing with illegal foreign employment, the contrary is true. Headlines of newspaper articles and press releases speak for themselves: “Construction industry combats illegal employment”, ‘Government controls illegal workers and fraud in office-building’, ‘First estimates: 65.000 to 90.000 illegal workers’.⁴⁵

In recent years, illegal foreign employment has become a hot topic in the media. Illegal foreign workers not only compete unfairly with registered companies; they also constitute a threat for Dutch workers engaged in some form of undeclared work. They commit, so to speak, a double offence: not only do illegal foreign workers evade taxes and social security contributions; they also work below the price of national undeclared workers, preventing them from gaining an extra income next to their formal job or social security benefit. Again Adri Buur, former director of EIB, hits the nail on the head: ‘In the black labour market, the Polish are often blamed for working below the price. Apparently there are also minimum prices in the market for undeclared work.’⁴⁶

This picture is confirmed by Bob Strang (UWV): The UWV discovered that Polish and other foreign odd-jobber push their Dutch “colleagues” out of the market. Social security fraud by Dutch citizens is nowadays difficult to detect, because of the fact that the traditional areas of undeclared work are taken over by the Polish, while the Dutch concentrated their efforts in and around private houses where they are difficult to control. In our interview Strang explains that UWV is in a ‘process of reorientation’, because they lost their target group out of sight. Recent figures from the Ministry of Social Affairs and Employment (the so-called POROSZ inquiry) revealed that the number of benefit receivers committing fraud stays more or less the same compared to the first inquiry in 2001. These figures are based on information given by the benefit receivers themselves, which means that in practice, the extent of fraud is probably (much) higher. Asked for the number of benefit receivers and the number of people committing fraud, Strang gives some rough estimates based on the latest POROSZ inquiry issued in 2004: some 400.000 people receive unemployment benefits while another 800.000 to 900.000 people are on disablement benefit. Between 80.000 and 150.000 beneficiaries are involved in undeclared work.

More data are available in a report commissioned by the Ministry of Social Affairs and Employment: In 2002, some 8% of the employees receiving a benefit under the Occupational Disability Insurance Act (WAO) were involved in undeclared labour at the same time. The equivalent figures were 11% for people claiming unemployment benefit (WW) and 13% for those claiming social assistance. These figures had risen since a first survey undertaken in 2000. Undeclared paid odd jobs were performed by 16% of WAO recipients, 15% of WW recipients and 23% of social assistance recipients. Around 1% of unemployment benefit recipients and 3% of social assistance recipients did not report finding a (new) job.⁴⁷

Following ongoing rumours, the Labour Inspection visited construction sites and private households to check the employment of foreigners without necessary work

⁴⁴ This opinion is shared by Netherlands Court of Audit (Algemene Rekenkamer): the repression of social security fraud is not treated as a priority by SZW and UWV. The risk of being caught is only 1% (figure 2004).

⁴⁵ Resp. www.planet.nl, 27 April 2005; SZW Press Release, 8 October 2004 and 20 January 2006.

⁴⁶ Adri Buur, ‘Klussen als vriendendienst’, 27 October 2005 (bron: Cobouw).

⁴⁷ Information gathered from the Dutch contribution to the EIRO survey 2004.

permit. The inspections were held between 1 March and 15 December 2004 and lead up to the following figures: in almost half of the building activities by private households, illegal employment was involved. Approximately 20 % of the inspected building companies were not in rule with the Foreign Nationals (Employment) Act.⁴⁸ The Labour Inspectorate received 136 hints of suspected illegal employment: 123 from outside, 12 from the UWV and 1 from the Tax Authorities. In 2002, the Labour Inspectorate visited 99 building sites and found illegal employees on 45 of them. About half of the 129 workers concerned came from Poland. Offences of the Foreign Nationals (Employment) Act often go together with other offences: working hours, working conditions, illegal housing.⁴⁹ During their projects, (illegal) migrant workers sometimes live in the houses they are to paint and/or to renovate. Especially when the work is organized by shady intermediaries, migrants live often in unsafe, crowded and illegal lodgings. An example from a union spokesman was that 12 to 14 Polish workers were lodged in a row house (meant for an average household of four or five persons). Each worker had to pay €5 per day. This means the lessor earns €1800 till €2100 per month, whereas normal rents are around €1000 (all inclusive) per month.⁵⁰

In a study on compliance with the Foreign Nationals (Employment) Act, published in February 2005, Regioplan points out that 28% of the employers in construction engaged illegal workers, compared to 19% of the employers in general. Employers entered into 267,000 employment relations with foreigners, without possessing a valid work permit. These relations involved 66,750 to 98,000 foreigners, who worked 44,500 to 66,750 work years. This is between 0.8 percent and 1.2 percent of the legal work volume. This volume excludes the illegal employment with private persons as employers (they were excluded from this study). An estimated 40 percent of the illegal employees come from the 8 middle and eastern European countries (Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovakia, Hungary and Slovenia). Most of them are Polish employees.

The researchers observed a trend concerning the nature and duration of the undeclared activities: ‘The illegal employment relations are generally of a short duration and they become increasingly shorter. This includes a development from ‘directly employed by the employer’ to ‘indirectly employed through a temporary work agency’. As a result, an increasing share of the illegally employed has several temporary jobs per year. These jobs have various appearances: illegally employed seasonal workers that travel to the Netherlands in order to earn a lot of money in a short period of time, illegally employed temporary employees who reside for a substantial period of time and who work for several employers through the agency of malicious intermediaries, and illegal direct employees who work for their employer directly and over a longer period of time.’

According to Regioplan, 52% of the building contractors admit that they do not always check the identity papers of workers engaged through private employment agencies, service supply agencies or subcontractors.

BMT Consultants conclude in a study, called ‘Foreign workers and self-employed persons on building sites’ commissioned by the union FNV Bouw, that labour

⁴⁸ AMF (Arbeidsmarktfraude), Projectverslag Bouw, Labour Inspectorate 2004.

⁴⁹ Regioplan 2005.

⁵⁰ For more examples of deplorable housing conditions and fines that have to be paid when the window is left open, see FNV, ‘Copy book of grievance’ 2006.

relations at construction sites have changed over the last couple of years. There appears to be an increase in the number of self-employed, posted workers and temporary workers from abroad.⁵¹ This could explain the fact that both in 2004 and in 2005, an increase in production was accompanied by a slowdown in employment. In general, the development of employment follows the development of production (albeit at a slower speed). In 2004, production in the sector increased by 1.2%, while employment decreased by 5.2%. In 2005, production increased by 2.5%, while employment for workers decreased by 3% and employment for self-employed persons increased by 1%. The year 2005 was especially bad for employment in installation, finishing⁵² and in maintenance: a decrease by more than 4%. The figures for civil and non-residential building engineering (*B&U*) and civil engineering (*GWW*) were a little better. Labour analysts from the Economic Institute for the Construction Industry came up with three possible explanations: (1) an increase in labour productivity; (2) unreliable statistics; (3) an increase in the amount of undeclared labour, resulting in 5 to 10 undeclared workers for every 100 workers in the industry. According to the EIB, this is very unlikely because of the high degree of control. The first explanation is more likely. Companies have been careful in hiring personnel and try to cover up shortages by employing temporary workers.⁵³

Figures from ABU (Dutch association of temporary work agencies) and the Chamber of Commerce show that, in 2004 and 2005, the construction market experienced a 'flexibility-boom'. The number of temporary workers, self-employed persons, foreign workers and foreign subcontractors rose considerably. Part of this development can be explained by the ageing of the population combined with the fact that young people are not interested in working in construction. The number of starters decreases constantly. In 2000 some 16,000 construction workers started to work in the industry, while in 2004 this was only 8,500, a decrease of 40%. At the same time, the number of unemployment beneficiaries decreases, which is a positive trend to mention.⁵⁴ Big companies concentrate more and more on management and organisation of building projects, which means that they employ more staff members and less construction workers (executive personnel). For every project, workers are hired from specialised subcontractors on the basis of temporary contracts. The subcontractors work with other subcontractors, but also with Dutch or Polish self-employed persons.

Almost all Polish construction workers are engaged through temporary employment agencies or intermediaries based in Poland, Germany or the Netherlands.⁵⁵ Most Polish self-employed persons offer their services to private households (small jobs in and around private houses) without intermediary, building up their own network of clientele. However, a growing number of intermediaries and temp agencies try to penetrate the market for private renovation and maintenance jobs, some of them in bad faith. Often constructions are semi-legal: a migrant worker is on the pay roll for the statutory minimum wage per month, which is based on a 40-hour working week. In practice the migrant worker makes more than 60 hours per week, which decreases his wage per hour substantially. Another popular practice is to pay on a regular wage

⁵¹ See also FNV Bouw, Meldpunt Illegale arbeid in de bouw, 22 juli 2005.

⁵² The fixed joinery in a building; also the plaster, paint, or other details to the walls, doors, etc.

⁵³ H.J.A. Beereboom, 'Ook op de arbeidsmarkt lijkt het tij te keren', *CoBouw/werk* 2006/1, p. 32-34. See also O.M. de Vries, 'Prognose: Verbetering bouwklimaat zet door', *CoBouw/werk* 2006/1, p. 7-8.

⁵⁴ H.J.A. Beereboom, 'Ook op de arbeidsmarkt lijkt het tij te keren', *CoBouw/werk* 2006/1, p. 32-34. See also O.M. de Vries, 'Prognose: Verbetering bouwklimaat zet door', *CoBouw/werk* 2006/1, p. 7-8.

⁵⁵ Research voor Beleid 2004, p. 39-40.

level, but to deduct costs for tools, working clothes etc. from the wage, because everything that is needed to get the work done has to be hired via the intermediary.⁵⁶

The number of self-employed persons has risen sharply since the nineties. At the same time, there was a strong demand for more flexibility. An important measure in this respect is the lifting of the ban on temporary work in construction. Self-employment became even more popular when labour brokers left the scene and entrepreneurship was promoted by the government. On the first of January 2004, 1,262 Polish companies were registered in the Netherlands.⁵⁷ Apart from this, there are also Polish registered companies and self-employed persons active on a temporary base. These self-employed persons or companies are not subject to Dutch taxation, if they stay less than 183 days. So, there is an unknown number of entrepreneurs not registered and thus not included in national statistics.

In an inquiry called ‘Ethnic minorities and foreigners in construction’, EIB concludes in 2004 that approximately 1,450 Germans are employed by Dutch building companies, posted, working on temporary contracts or as self-employed persons. Among these Germans, there are a number of Polish citizens with German passports. There are also 834 other foreign workers and 300 Polish painters working on temporary employment contracts.

In the CLR-study on posting (2004) representatives of the social partners in construction already gave their impression of the situation on site. A glance on the existence of ‘pyramids of subcontracting’ was confirmed by the union spokesmen in 2006: “Everyday experience on building sites gives union representatives reason to suspect that the provisions on labour conditions applicable to posted workers are actually not very adequately applied, if applied at all. (..) As soon as a (sub) contractor is involved lower in line for more unskilled labour, the competition on costs gets stronger and the extent of compliance drops proportionally.”⁵⁸ (Semi-) illegal migrant workers, posted workers or bogus self-employed are especially used for rough and unskilled labour such as steel fixers and frame workers. The most poignant case that one union interviewee recalled took place on a site for a huge shopping mall. Only two of the employees were directly employed by the main contractor, the bulk of the work was done by subcontractors who hired among others workers from Ukraine, paid only €1.20 an hour. The Polish workers got around €5 to €6 an hour. The risk of illegal employment is particularly high at the beginning and finishing of building projects.⁵⁹ Therefore, UWV concentrates its efforts in those two phases. In order to deliver in time, chains of subcontractors (sometimes up to four or five) are employed simultaneously. ‘At the end of the chain, prices are so low that it is simply impossible to work in a legal way’, says our UWV spokesman.

Everyday experience learns that it is very attractive for posted workers and their employers to make longer working hours than allowed by legal and collective provisions. Workers want to go home as soon as possible and have a huge interest in

⁵⁶ Information from union spokesmen, see also ‘Grievance copybook’ Jij, Jerzy, FNV Bondgenoten, 2006.

⁵⁷ Figures of the Chamber of Commerce, published by Regioplan, ‘Poolshoogte 2004’.

⁵⁸ See Jan Cremers. Peter Donders, o.c. 2004.

⁵⁹ See also Projectverslag 2003 Naleving Wet arbeid vreemdelingen in de Bouw (Labour Inspectorate, the Hague, September 2004), p. 5. This stems from an investigation by Research voor Beleid, ‘Illegale tewerkstelling verkend’, published in March 2001.

working as fast and as long per day as possible. That especially lower in line subcontractors tend not to apply to the rules, is not denied by main contractors but hard evidence is quite another matter.

An interesting observation in the CLR-report from 2004, confirmed in 2006, was about the influence of the dismantling of cartels. Although EU-rules and case-law of the ECJ from 1992 already prohibited cartels in construction, they existed till far in the 1990s, providing a very obedient attitude of employers where compliance with the collective agreement was concerned. Now that these cartels are dismantled after the big Construction Fraud affair from 2001-2004, competition on labour costs becomes ever fiercer (and therefore the enforcement and the level of entitlements of the agreement come under more pressure). In the eastern part of the country the dismantling of cartels has especially led to more market penetration of German building contractors in small housing projects.

During a strike in 2002, unions came for the first time in closer contact with migrant workers who told about their sometimes deplorable working conditions. In April 2006 FNV Bouw has decided to more actively pursue the aim to organize migrant workers. But, this is especially difficult because migrant workers are very mobile: (illegal) migrant workers frequently disappear from one day to another. In fact information from the employer's side confirms this with the example of the practical impossibility for the main contractor to be sure that subcontractors will, during the whole period of the project, send the same (posted) workers to a site. On the first day the identity of workers is checked. But if next morning some other people are arriving with the bus, the supervisor does not (always) notice. An everyday check is much too expensive and time consuming.⁶⁰ Too much paper does not fit in the contractors' mentality: 'They like to start working in the morning, instead of doing paperwork'.

4.2 Four patterns of undeclared labour

When looking at the four patterns of undeclared work distinguished by CLR, in the last five years type A (*Informal individual, own account*) and C (*Informal undertakings*) are clearly on the rise in private households when performed by illegal migrant workers. More and more Polish workers ('bogus' or really self-employed, purely undeclared or declared) are hired for renovation and painting of private houses. They work either as groups of undeclared workers or as (bogus) self-employed workers via an agency, a 'gang master' or an informal employer in the underground. To a certain extent they seem to push aside the usual domestic undeclared worker of type A. The Polish workers leave notes in the supermarket or drop them in mailboxes, or advertise in local newspapers. New customers also come in by word of mouth.⁶¹

B. Moonlighting (irregular next to regular)

As was mentioned above, figures from the Ministry of Social Affairs and Employment (the POROSZ inquiry) indicate that the number of benefit receivers committing fraud was more or less stable. But the spokesmen from UWV, referred to above as well, saw a downward trend because of competition from migrant workers. One of our union spokesmen confirmed the downward trend when it comes to undeclared side jobs, next to a regular job. According to him, moonlighting (type B) is decreasing not only because of competition from migrant workers, but also for quite another, purely domestic reason: insurance against accidents, disability and invalidity is becoming stricter (and more expensive for employers). As a result, a lot of

⁶⁰ See Jan Cremers. Peter Donders, o.c. 2004.

⁶¹ All contact persons confirmed this observation.

employees are not insured anymore for 24 hours per day by their employers as they used to be. The trend is to insure employees only during regular working hours and during home-work travelling time against accidents and disability. This means that accident risks during moonlighting are often not insured anymore, which makes it less attractive to go on with these undeclared activities. Sick leave prevention is also becoming stricter these days, which makes moonlighting during working days, while officially on sick leave, less easy.

D. Pyramids of subcontracting

According to the compliance authorities involved, the amount of undeclared labour in the lower stratum of the pyramid of subcontracting is significant, although difficult to quantify. Especially when the chain is longer than three to five subcontractors, there is high risk that the chain ends up in a grey zone with the result that part of the official site work becomes undeclared. In the beginning and at the end of the project (illegal) migrant workers are used most frequently. These are peak moments for unskilled and/or more basic tasks. The more complex jobs in the midst of the project are done by regular workers.

4.3. Reasons behind undeclared work in the Dutch construction industry

The main reason for undeclared work in the industry is of a *financial nature*: the evasion of income taxes and social security contributions results in considerably lower labour costs, offering a competitive advantage compared to law-abiding employers and workers. The evasion of taxes and social contributions often goes together with the non-respect of minimum wages⁶², collective labour agreements, safety regulations, etc. making undeclared work even more profitable (Van Heijningen, Labour Inspectorate and Strang, UWV). One of the interviewees explains that undeclared labour is a common practice among subcontractors at the end of the building process. Due to time pressure, chains of two, three or more subcontractors are engaged to deliver the project just in time. The longer the chain of subcontractors, the higher the risks of undeclared work as margins are getting smaller. At the end of the chain, undeclared work is almost inevitable (Strang, UWV). This impression is fuelled by a Regioplan survey, in which one third of the employers interviewed suspect that, for certain companies in construction, illegal employment is the only way to survive.⁶³

A second reason (partly connected with the first one) is *overregulation*. Construction activities are regulated by a set of complex and ever changing rules. This makes it difficult to obey them, especially for small undertakings where the employer does not have the necessary knowledge or personnel to provide for administration, bookkeeping and keeping up with new regulations and developments in the sector. This explains the higher incidence of undeclared labour in small and medium sized enterprises. Small entrepreneurs tend to do all by themselves in an effort to minimize overhead costs and remain competitive. The length of procedures is seen as an obstacle to the legal employment of foreign workers.

Not only employers and workers, but also the controlling authorities themselves, seem to suffer from the complex regulation in the construction industry. An employer from the North-Eastern part of the country criticizes the fact that undertakings have to deal

⁶² According to Regioplan 2005, p. 41 some illegal workers from MOE-countries work for 3.50 € an hour instead of the regulatory minimum wage of 11 € Illegal temporary workers are available at 12 € an hour instead of 17 €

⁶³ Regioplan 2005, p. 48.

with seven different instances instead of a single one, when they want to engage East-European citizens to work on Dutch construction sites. From his experience, officials from different instances or even within one and the same instance use different interpretations of the same rules. In his opinion there is a lack of coordination between the controlling bodies and – when working together in Building Intervention Teams (BIT) - every instance wants to “score”.

As a reason for misuse of posting rules, representatives of the employers' association in construction mentioned national legal rules and the often complicated character of the applicable rules in the case of posting. For instance, it is difficult to be sure of allowed legal constructions.⁶⁴ Also the different outcomes of labour, social security and fiscal rules make it more difficult to know what is applicable when and how.⁶⁵

Ignorance among employers and workers is a third reason for the existence of undeclared construction work (Van Heijningen, Labour Inspectorate). Private household are often not aware of the impact and risks of employing informal workers (both nationals and foreigners) for small jobs in and around the house. This kind of ignorance goes together with a *high degree of tolerance or acceptance* of informal practices. Everyone is and has always been engaged in some kind of undeclared labour, as one of the interviewees puts it. In 2005 the Ministry of Social Affairs and Employment conducted a media campaign to inform people about the negative consequences of illegal employment (see also section 5.3.b of our report), but there is no actual remedy against black work. Familiarity with the regulations influences compliance. Since employers can only conclude whether they are dealing with a foreigner after they have verified the identification papers, they should check the identity of all their employees, either direct employees or take in from other employers. The Regioplan 2005 WAV-study concluded that in general 42 percent of all employers say that they do not always verify the identification papers of their employees, which means they run an increased risk of violating both article 2 and article 15 of the Foreign Nationals (Employment) Act.⁶⁶

The *small risk to get caught* is the fourth reason for undeclared work. The (perceived) risk of inspection and the (perceived) risk of detection both influence the behaviour of employers.⁶⁷ The risk of being caught is estimated at only 1% for unemployed and disabled persons entitled to a benefit. In case of illegal employment of foreigners the risk of being caught is estimated at 5 to 10%. These figures, published in 2004 by the General Audit Office, are not specific for the construction sector.⁶⁸ Research commissioned by the Dutch Association of temporary work agencies (ABU) suggests that the degree of control in construction is so low that the risk of being caught is next to nil.⁶⁹ However, both the UWV and the Labour Inspectorate inform us that their controls are effective as they operate on the basis of specific complaints and hints, and concentrate their efforts in stages of the production process in which undeclared

⁶⁴ The example was given of a consultancy firm that advertised faithfully but nevertheless wrongfully with possibilities to make use of posting. Employers, who do not have their own expertised legal advisers, have followed these wrong advices. See Cremers/Donders, o.c. 2004, Dutch country report.

⁶⁵ See Cremers/Donders, o.c. 2004, Dutch country report.

⁶⁶ Regioplan WAV-study 2005, English summary.

⁶⁷ Regioplan, WAV-study 2005.

⁶⁸ See www.rekenkamer.nl. Press release 30th September 2004 'Risico groot dat fraudeurs niet gepakt worden'.

⁶⁹ Research voor Beleid 'Over de grens', p. 39. The researchers report that in 2003 the Building Intervention Team has not operated one single control.

labour is most likely to happen (notably the starting up and completion phase of a building project). According to our UWV spokesman unemployed and disabled persons drawing benefits tend to increase the extent of their informal activities as soon as they notice that they are not sanctioned (Strang; UWV). In order to prevent greater damage for the UWV and for the persons involved, it is necessary to intervene as soon as possible.

A last reason to involve in undeclared labour is the *non-availability of regular employees* at a certain place and for a certain time. In this case, the employer might consider to employ (or otherwise engage) foreign workers for a specific project. However, when procedures are time consuming and regulations are complex some employers might look for faster and easier ways to have the work done. The *simultaneous availability of illegal temporary workers* makes it difficult to resist.⁷⁰ Although many illegally employed workers are engaged in unskilled jobs, there are also highly specialised and experienced workers who cannot find a job in their own country. Advantages of undeclared labour also contain the absence of paper work and the fact that vacancies are filled more rapidly. Disadvantages are language problems in case of illegal employment of foreigners and the obligation to keep a double administration.⁷¹

4.4 Assumptions on preconditions for the emergence of undeclared work

Next to the reasons behind undeclared work stated above, some assumptions about preconditions for the emergence of undeclared work were confirmed in our interviews.

According to (some of) our interviewees, a *high share of low-paid and unskilled jobs* is a precondition for undeclared work. The Labour Inspectorate considers heavy work, unskilled labour, labour at peak moments and seasonal labour as risk factors for illegal employment of foreigners. Except for seasonal work, all these factors are prevalent in construction where they are most common at the beginning and the completion of building projects (Van Heijningen, Labour Inspectorate). Because of the time pressure at the end of a building project, contractors engage subcontractors who in turn engage other subcontractors. The longer the chain of subcontractors, the higher the risk of illegal employment (Strang UWV).

The *presence of a significant proportion of small and medium sized companies* as a precondition for undeclared work, is confirmed by Van Heijningen (Labour Inspectorate) and Strang (UWV). Inspections of the Building Intervention Team in the province of Noord-Holland brought to light that large companies involved in office-building are relatively clean (meaning no illegal employment of foreign citizens). In small companies there is no personnel to keep up with laws and regulations and the cost advantage of employing illegal foreign workers is relatively high.

Most interviewees also confirmed that there is indeed a relationship with the economic cycle; *recession* leads to more undeclared work. Over the last two years the Labour Inspectorate received more complaints and hints than ever before. Van Heijningen mentions that, due to the economic recession, there are fewer jobs available at private households and people are more inclined to choose cheap solutions, such as the engagement of Polish plasterers and painters instead of registered contractors.

⁷⁰ This results from the study of Regioplan 2005.

⁷¹ Regioplan 2005.

4.5 Other assumptions related to factors determining the existence and character of undeclared work

In general it may be that *certain types of unreported undeclared labour are simply not in the picture because these types are more or less accepted in our society*⁷², but this is certainly not the opinion of the UWV who is assigned the task of combating fraud by benefit-receivers. Every year, UWV visits around 17,000 households to check if they are still in need of an unemployment and/or disablement benefit. According to our interviewees, the detection of undeclared labour had become more difficult in recent years as undeclared work shifted from public building sites to private households. UWV and the tax authorities have only limited powers to control undeclared labour within private houses; only the Labour Inspectorate is allowed to enter private houses. One could argue that, as long as the authorities are not able (or willing) to control the phenomenon of undeclared labour in private households, people do not see it as an offence to employ informal workers. They would even promote good and cheap solutions to their family and friends. Undeclared labour is widespread but not fully accepted. The fact that both Labour Inspectorate and UWV largely operate on the basis of tips shows that there is not one single attitude towards this phenomenon.

The assumption that undeclared work is mainly done by *the most vulnerable category of workers*, unemployed, people in social benefit schemes, seasonal workers, students, and migrants, was not confirmed by our interviewees or by our desk research. Especially when it comes to illegal foreign employment often the migrants from Eastern-Europe are over-qualified for the jobs they do.

The assumption *that the majority of undeclared labour consists of a second job after the regular working hours or underreporting by employers and employees with formal labour contracts* is not confirmed by the available data. But, as we have seen in § 3.3, some 32% of the Dutch receive an extra income from undeclared labour. The EIB estimated that 30% of all renovation activities is done informally, which is supposedly only the ‘top of the iceberg’.⁷³

⁷² See also § 4.1.

⁷³ Figures by Vacaturesite Jobtrack and EIB 2005 (see § 4.1).

5. Measures and proposals to combat undeclared labour in the Dutch construction industry; three approaches

5.1 Integrative approach

The first approach is to legalise, to integrate or to regulate undeclared work into formal work. The following policy proposals or measures, that could lead to transfer types of undeclared labour into the official labour market, have been identified:

a) *Proposal for the removal of (administrative) disincentives and simplification of procedures.*

According to one of our interviewees, there is a strong need for the removal of administrative disincentives and the simplification of rules and procedures, especially for the employment of foreign construction workers. But, until now, the rules and procedures are complex; the institutions are not cooperating on a structural basis, and rules are interpreted in different ways. Instead of a single point of contact for the employment of foreign workers, employers have to deal with seven different institutions, which make it attractive to ignore the rules. The complexity of the issue is illustrated by a brochure of BouwendNederland, explaining the different steps to be taken in case of the employment of foreign construction workers.⁷⁴

b) *Proposal for the reduction of VAT and/or positive incentives for employees in the tax and benefit system and/or reduction of non wage costs and/or social security costs.*

In 2003, the employers' organisations and the trade union federations stressed the importance of low VAT rate for labour intensive services such as bicycle repair, shoemaking and hairdressing in increasing employment and combating undeclared work.⁷⁵ A reduction of VAT rates could – in theory – also contribute to the elimination of undeclared work in construction, especially where small, labour intensive jobs in private households are concerned. In reality, small jobs are often unattractive for registered companies, which is another reason for the persistence of undeclared labour in household renovation and maintenance.

According to the Council for Work and Income (*RWI*), changes in the fiscal system would remove the illegal character of the market of personal services. In its advice "Household on the market" (2006), *RWI* proposes that incomes below 500 € would no longer be subject to the payment of taxes. This proposal is an alternative for the so-called white-workers regulation; an old measure to eliminate undeclared labour among cleaning women in private households.⁷⁶

To eliminate undeclared work, the government should simply diminish price differences between formal and informal labour, according to an employer from the North-Eastern part of the country. This can be done in different ways: by the reduction of VAT; incentives for employees in the tax and benefit system; or the reduction of non wages costs and/or social security costs. So far, we do not have enough evidence with regard to these proposals.

c) *Differing views and proposals on free movement of labour.*

If from a certain moment, 1 May 2011 at the latest, nationals from Middle and Eastern-European Member States will be free to work in the Netherlands without a

⁷⁴ BouwendNederland 2005.

⁷⁵ EIRO 2004.

⁷⁶ SEOR 2004, p. 6.

work permit, one of the sources of undeclared labour will disappear (see paragraph 3.3. for the ongoing debate). However, our interviewees from the Labour Inspectorate, UWV and the unions, warn that other Eastern-European workers (from non-Member States) might take their place. In their search for more profit and financial gain, contractors will employ the cheapest labour force available. Therefore, new borders will probably create new sources of illegal employment. At the same time, shielding the labour market from such free movement would only result in an increase in undeclared work, according to the Confederation of Netherlands Industry and Employers (*VNO-NCW*) which declared itself in favour of the free movement of labour from the 10 new Member States joining the EU, already in 2003. More generally, the employers' organisations stress the importance of measures to make the weaker strata of the domestic labour force more attractive for employers to employ. In their view, this will diminish the attractiveness for employers of using undeclared (migrant) work.⁷⁷

d) *Measure: Declaration of Independent Contractor Status*

To tackle the issue of bogus self-employment, the Dutch Parliament passed the Declaration of Independent Contractor Status Act.⁷⁸ The Act came into force in January 2002 and was amended in January 2005. It aims at clarifying the difference between employees and self-employed workers with regard to their social security and fiscal position. It also provides legal certainty to future customers (service recipients), making it more attractive to engage self-account workers. A declaration of independent contractor status is delivered by the tax authorities for the duration of one year (yearly renewable). When applying for a declaration, the self-employed person has to prove that he or she is not financially dependent on one single employer; is registered as such with the Chamber of Commerce, etc. Once the declaration is issued, the person can work in the profession named in the certificate (for the period of one year) without being classified as an employee for social security or tax purposes.⁷⁹

5.2 *Enforcement approach*

In recent years, the focus seems to be shifting from regulation to suppression through increased controls and fines. This is accompanied by stricter policies (and policy proposals) towards people staying illegally and towards asylum-seekers.⁸⁰ In March 2005 for example, the Christian Democratic Party (CDA) insisted on higher sanctions to combat illegal employment of foreign workers. They asked the fine for illegal employment to be raised from 8,000 to 10,000 € a head. Since, the issue has been prominently on the political agenda. One of the parliamentarians stressed that illegal employment is a widespread phenomenon and that sanctions are apparently not severe enough to have a real impact.⁸¹

The approach of improvement of enforcement and control has a main focus on:

- better enforcement of existing laws and conventions and improvement of control,

⁷⁷ EIRO 2003: (NL0312103F).

⁷⁸ The Act of 23 December 2004, Government Gazette 720 (*Wet uitbreiding rechtsgevolgen verklaring arbeidsrelatie*) came into force on 1 January 2005.

⁷⁹ See EIRO comparative study on 'Economically dependent workers' 2002, Dutch report NL0202102S. More specific information (mainly in Dutch) on different kinds of VAR-declarations (VAR-Loon, VAR-ROW, VAR-WUO of VAR-Inkomsten) is available on the websites of the Belastingdienst and of the Chamber of Commerce.

⁸⁰ Robbert van het Kaar, HSI, EIRO 2004.

⁸¹ Parlementarian Newsletter 16 March 2005.

- more staff and resources for the labour inspectorate and authorities/institutions,
- higher efficiency in penal or administrative procedures; sanctioning of all actors,
- blacklisting of contractors and/or customers,
- internal discipline (including ban) in the social partner organisations,
- job cards or other employee registration methods,
- deduction of tax and social security contributions,
- other methods linked to the liability in the chain (main contractor and/or client oriented), recently proposed by FNV Bouw,
- improvement of the cooperation between actors concerned.

Nearly all these measures have been taken and/or proposed over the last two years. During our research the following measures were highlighted:

a) *Measure: cooperation of authorities in Building Intervention Teams.*

In March 2006, the Ministry of Social Affairs and Employment announced that it would soon start controlling the construction industry in Groningen, Friesland and Drenthe.⁸² In these North-Eastern provinces the number of East-European construction workers is relatively high, as is the risk of bogus self-employment and undeclared labour. In an earlier stage, the team concentrated its efforts on office building sites in the province of Noord-Holland.⁸³

The activities of a *Building Intervention Team* or BIT are announced in public some weeks or months before the operation starts, but individual employers are not informed beforehand when and where inspections will take place. The Press releases by the Ministry of Social Affairs and Employment have a presumed precautionary effect. According to a spokeswoman from the Labour Inspectorate, media campaigns and newspaper interviews are also part of the strategy to prevent undeclared work. The BIT controls all possible forms of undeclared labour: illegal foreign employment (a task of the Labour Inspectorate), evasion of taxes and social security contributions (a task of the tax authorities), bogus self-employment, and benefit-fraud (a task of the UWV). The BIT inspectors also envisage illegal housing, which is one of the side-effects of the illegal employment of foreign workers, and the observance of safety regulations. Dangerous situations are reported by the Labour Inspectorate and will be sanctioned later. Other institutions involved are the Aliens Registration Office, de SVB, the SIOD and the local government. Sometimes more than 70 inspectors operate together.

During the operations, workers who are not able to identify themselves will be booked. Their employer will receive an administrative fine of 8,000 € a head per day. Foreign workers who are not allowed to stay will be expelled by the Aliens Registration Office. Sanctions of the tax authorities are severe: a refund of income taxes and contributions together with a fine. According to an employer, this has more impact than administrative fines for illegal employment.

The fact that more than 70 inspectors from different institutions operate simultaneously has certain advantages. From the inspectors' point of view this will prevent the concealment of offences: if the labour inspectorate operates without the tax authorities (or vice versa) certain offences will be hidden as soon as the inspector leaves the building side. Another advantage is that a combination of different

⁸² Press release SZW, 17 March 2006 Nr. 06/043..

⁸³ Press release SZW, 8 October 2004, Nr. 04/200.

sanctions and back payments “really hurts” (Van Heijningen, Labour Inspectorate and Strang, UWV). From the employers’ point of view, coordinated action will be less interruptive than a series of consecutive controls by different institutions.

b) *Measure for more labour inspectors.*

The number of inspections will gradually increase from 3,900 in 2003 to 10,500 in the year 2006. New inspectors are trained to control the observance of the Foreign Nationals (Employment) Act. These inspections should not be confused with the activities of the Labour Inspectorate in Building Inspection Teams. The Secretary of State expects that harder actions against illegal employment will diminish the number of offences.⁸⁴

c) *Measures to report new employees from the first day of work.*

In an effort to tackle suspect temporary work agencies (but also undeclared work in general) employers are obliged to report a new employee on the first day of work to the relevant tax and social security organisations since 1 July 2006. According to our spokeswoman from BouwendNederland, these new administrative obligations are not popular as they somehow clash with the mentality in construction that working is more important than paper work.

d) *Recommendations by the trade union federation:*

To prevent exploitation of and unfair competition by foreign construction workers, the union FNV Bouw published a number of recommendations at their website:

- (Local) press should be informed about illegal practices in the construction industry
- Within the trade union, more manpower should be made available to ensure the observance of the collective labour agreement.
- Labour Inspectors should react faster and more adequate when receiving complaints on illegal employment
- Higher sanctions are needed to combat illegal employment
- Legal action should be taken against illegal posting of workers and measures should be taken against illegal housing
- Subcontractors should be liable for the observance of labour conditions
- Foreign workers should be informed about the relevant labour conditions
- Trade unions should work together with foreign trade unions
- Cooperation between Labour Inspectorate, tax authorities, SVB, UWV, SIOD and social partners (with regard to their compliance tasks) should be improved.

e) *Complaints desk:*

The Trade Unions installed a complaints desk Illegal Employment for their members to prevent unfair competition by foreign workers not respecting the collective agreement. Complaints are passed on to the relevant institutions.⁸⁵ Bouwend Nederland did not join this initiative as they already receive complaints on unfair competition by their members.

⁸⁴ Press release SZW, 20 January 2005, Nr. 06/008.

⁸⁵ See <http://www.fnvbouw/for/meldpunt/illegalebouw.html>.

f) *Billboards:*

A new initiative of Bouwend Nederland to inform the public about contractors and subcontractors engaged at building sites.

g) *Ongoing debate on combating illegal practises in the temporary agency sector:*

As mentioned in paragraph 2, some 3% of the total workforce in construction is (bona fide) employed as an agency worker. However, undeclared labour in the temporary agency sector has increased rapidly, partly due to the abolition of the permit system since mid 1998. In 2004, the Dutch government intended to re-introduce a licensing system to combat illegal practises in the temporary agency sector. The proposal of the Dutch Government contained an exploitation license connected to a deposit of 75,000 Euro. This proposal was successfully opposed by the employer organisations in the temporary agency sector. The Lower House of Parliament dismissed it in May 2005. According to the employer organisations the license approach would not be effective, as it would give malafide temporary agencies a great chance to buy a bonafide status by paying the deposit. Moreover, they were afraid that the proposal would lead to more administrative expenses. The employer organisations consider enlargement of enforcement capacities (by strengthening the Labour Inspectorate and by giving their own joint enforcement institute more power) as more effective. In addition, the sector is working on getting a quality label that is applied not only to members of the biggest employer organisation ABU but to the entire industry. The ABU Federation has developed already an alternative to the blocked account system that all agencies can use. In this system a Foundation of Financial Checking monitors the payment record of the temporary agencies every year. Furthermore, the Association of Registration Enterprises monitors the ABU members whether the agencies comply with the law and regulations.⁸⁶ Next to this, according to the extended collective agreement of ABU for 2004-2009, an independent Compliance Office has been given the task to monitor compliance to the collective agreement provisions.

h) *Upcoming: Joint initiative for a 'Compliance Office Construction Industry':*

With regard to the enforcement of collective agreement provisions social partners have not yet a very active tradition. In general there was no urgency for a very active approach until some five years ago. Since then undeclared work, especially by illegal migrants, is on the rise and the sense of urgency to tackle this phenomenon is growing. Following the example of active engagement of the social partners in the temporary agency sector to combat illegal practices, the social partners in construction have very recently agreed on a joint initiative in this field. From 1 July on a so-called Compliance Office (*Bureau Naleving Bouwnijverheid*) will combat illegal employment and unfair competition by migrant workers. The aim is to actively monitor compliance of the rules by foreign companies and (their) workers. The Compliance Office should become a central point of contact and registration for firms and employees. Moreover, the Office will actively search cooperation with the Labour Inspectorate and other enforcement authorities and with the social partners in the temporary agency sector to join forces against concrete illegal practices.⁸⁷

⁸⁶ See Temporary agency work in an enlarged European Union - The case of the Netherlands EIRO thematic feature 2006, par. 8.

⁸⁷ See 'Bureau Naleving tegen illegale arbeid in de bouw.' Press release Bouwend Nederland 16 mei 2006.

5.3 Promotional approach

A third approach can be called the promotional approach for instance by initiating awareness-raising campaigns that focus on the positive effects of regular, declared work. A way forward is than to demonstrate the benefit of declared labour for the industry and the employee. Some examples:

a) *Information events in the regions:*

Bouwend Nederland organises information and awareness raising events in different places around the country. At these occasions, members are informed about the possibilities of employing foreign workers in a legal way. In March 2006, a presentation by a Polish expert attracted more than 60 people. The organization wants to show their knowledge and expertise regarding the issue. In May and June 2006, BN plans a dozen of regional meetings to inform members on the applicable legislation for working with foreign construction workers.

b) *Media campaign:*

The Labour Inspectorate informed the public on the risk and impact of undeclared labour by radio emissions and newspaper articles. Press releases of planned actions are meant to inform the public about the topic and the task of the Labour Inspectorate. The construction unions started an information campaign in the autumn of 2004 combined with an inventory research on building sites, supported by the Ministry of Social Affairs.

c) *Unionisation of illegal workers:*

The FNV is opposed to illegal employment, but not to (illegal) migrant workers. Informal workers are free and will be actively stimulated, as from April 2006 on, to join FNV member organizations. FNV's position is that unionising illegal workers may have a positive effect, causing a decrease in illegal employment. Improving working conditions and enforcing minimum wage levels should make it on the one hand less attractive for employers to take on illegal workers, on the other hand it is meant to prevent exploitation from illegal workers and to help image-building of the industry, which is necessary to stimulate the domestic youth to choose for construction as occupation. FNV unions initiated a promotion campaign and demonstration (April 2006) for 'equal work, equal wages' in the first quarter of 2006.

d) *Information on most important labour conditions in the construction industry:*

The social partners in collective bargaining in construction published a small booklet with the most important provisions of the collective agreement. The entire official version of the collective agreement is considered to be 'hard to read because of its juridical character'.

6. Good practices: Dutch ideas and/or initiatives against undeclared work

All interviewees agree that illegal employment is damaging to the domestic labour market. However, only the trade union federations stress the bad living and working conditions of illegal workers. In supporting these workers in bettering their position, FNV believes that it will indirectly contribute towards cutting the large number of illegal workers currently active in the labour market. They focus on the promotional approach together with the enforcement approach. They also point out that the construction sector must be careful not to get such a bad image as the agro- and

horticulture sector has for domestic workers. If illegal and exploitative labour is not combated, the image of the construction industry will suffer from it. The idea that construction jobs are not only dirty and physically burdening work, but also low-paid and involving illegal practices, could have detrimental effects on the influx of young workers. Employers place more emphasis on the demand side of the labour market and call for existing immigration laws to be relaxed because of staff shortages (integrative approach). However, if legal means of finding staff fail, employers will turn to illegal practices.⁸⁸

The following initiatives are put forward as good practices to combat and/or prevent undeclared labour in the construction industry, although their impact is difficult to measure:

- 1) The coordinated approach of enforcement institutions within Building Intervention Teams is appreciated by most interviewees as a good (or even best) practice (see paragraph 5.2.a).
- 2) Media campaigns and press releases of the Ministry of Social Affairs and Employment are important initiatives to inform the general public on the negative effects of undeclared labour (and therefore on the positive effects of declared labour).
- 3) Information on legal employment of foreign construction workers is offered by Bouwend Nederland.
- 4) To tackle the issue of bogus self-employment, the Declaration of Independent Contractor Status seems to be a valid initiative (see paragraph 5.1.d).
- 5) A promising initiative is the ‘Compliance Office Construction Industry’ established by the social partners with regard to the enforcement of collective agreement provisions (paragraph 5.2.h).

7. Concluding remarks

Undeclared labour is a broad issue, covering subjects such as domestic black labour, social security fraud, illegal migrant work and bogus self-employment. The issue has been studied from different angles, giving an overview of the nature and extent of undeclared labour, the reasons behind it, and measures taken to tackle the problem. In this report we have touched upon the whole spectrum in a Dutch context. When it comes to possible enhancement of the approach to combat undeclared work, we want to add some recommendations to the ideas of our interviewees and the information from our desk research.

1. More information in foreign languages, notably English, is of utmost importance. During our research we noticed that information on legislation and regulation of decent work in the construction industry is often available only in the Dutch language. As a result, foreign workers and self-employed persons might find it difficult (and expensive) to know their rights and obligations under Dutch law and practice. Given the increasing involvement of foreign nationals in the industry, we recommend that information is made available in English (and other languages of the European Union) as soon as possible. This might help to prevent undeclared labour in all its different aspects. A good example is given by the association of temporary work agencies, who provides information in Dutch, English and ... Polish!

⁸⁸ EIRO 2004, Section 4 .

2. The State as a role model for the other parties involved.

Refrained from its role to enforce the law, the State is also the main provider of employment in the construction industry. In this role it could be exemplary in the compliance of labour standards. When tendering it should be self-evident to contract only on the condition that Dutch statutory and extended CAO provisions of employment, of social security and of fiscal character are respected by (sub) contractors. In fact, government is obliged to play this model role by the ratified Labour Contracts (Public Clauses) Convention, 1949 of the International Labour Organisation. In practise, the government does not live up to the requirements in this Convention: A labour clause is not a standard condition to obtain a contract for public works. As a reply to the last regular Dutch report about the Convention in 2001 the “Committee notes that for many years the Government has been indicating that there are no major developments to be reported and consequently has not provided any information on the practical application of the Convention. (..) The Committee would therefore be grateful if the Government would provide in its next report detailed and up-to-date information on the practical application of the Convention, including copies of public contracts, the model text of the labour clause currently in use, information from inspection services on the supervision and enforcement of national legislation and any other particulars bearing on the application of the Convention.”

3. The role of the social partners

European free movement rules make border control more and more an illusion. This means that traditional control mechanisms in migrant law to tackle illegal / undeclared migrant labour (such as the requirement of a work permit) have to be changed for or supplemented by labour law control mechanisms. Because of the private law enforcement tradition in The Netherlands this will take some time and would mean at least that the Labour Inspection should be given more legal tasks (and more manpower) in this field. Meanwhile, there are instruments for social partners available to intensify their grip on the enforcement of legal and collective agreement provisions. Above, we have seen that social partners in the temporary agency sector and in construction have indeed begun to take up their own responsibility to combat undeclared labour, for example by the initiation of promotion campaigns and the installation of compliance offices and the like. However, they should not forget to combine this with a conditional measure to achieve better compliance to collective agreement provisions: As soon as a new collective agreement is agreed upon, social partners in the Dutch construction sector should ask the Minister of Social Affairs and Employment to declare the collective agreement provisions generally binding! The Collective Bargaining Agreement for the Construction Industry 2004-2007 is still waiting to be extended.

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BBA	Buitengewoon Besluit Arbeidsverhoudingen, 5 October 1945, Stb. F214 Extraordinary Decree concerning labour relations
BMTI	Wet Boeten en maatregelen, terug- en invordering sociale zekerheid Act on fines, measures, reclamation and recovery related to social security
BW	Burgerlijk Wetboek Civil Code
Flexwet	Wet Flexibiliteit en zekerheid Flexibility and Security Act
HRW	Handelsregisterwet, 8 February 1996, Stb. 181 Commercial Registers Act
Kw	Koppelingswet, 9 July 1998, Stb. 400. Benefit Entitlement (Residence Status) Act
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VWB	Vestigingswet bedrijven Establishment of Businesses Act
VW	Vreemdelingenwet, 23 November 2000, Stb. 495 Alien's Act
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BIT

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BouwendNederland

<http://www.bouwendnederland.nl/> (information only available in Dutch)

CBS

<http://www.cbs.nl/nl-NL/default.htm>

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CLR, European Institute for Construction Labour Research

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CNV, Hout- en Bouwbond, Christian National Federation of Trade Unions in the
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