

National Workshop “Tackling Informal Employment in Montenegro: Current Situation and the Way Forward”

9 April 2019, Podgorica

Report

On April 9, 2019 the *Employment and Social Affairs Platform, Regional Cooperation Council* organised a national workshop on informal employment in Montenegro, which brought together 25 officials from the Ministry of Labour including Labour Inspectorate, Ministry of Economy, Employment Service, Tax Authority, Customs Administration, Chamber of Commerce, employers and employees’ organisation, economic experts, researchers, international organisations, etc. The purpose of this workshop was to present the findings of the diagnostic report on informal employment and to share and discuss recommendations for effectively tackling informal employment from a holistic perspective.

Introductory remarks

Mr. Kemal Purišić, Minister of Labour and Social Welfare, opened the workshop by thanking the RCC, and the experts, Mr. Katnić and Mr. Williams, who drafted the Diagnostic Report for Montenegro. The Minister reaffirmed that undeclared work represents a special challenge at the global, European and national level taking into consideration its negative impact not only on workers and society, but the entire economy. In Montenegro, there are different estimates regarding the extent of the grey economy and undeclared work. According to the latest research on informality, the total participation of those who are partially or fully informally engaged is 1/3 or 32,7% of the total number of employed. The government of Montenegro recognizes that in order to prevent undeclared work, they need a comprehensive approach, a good and transparent legal framework with a focus on policies that ensure competitiveness, job creation, a reduction in labour market segmentation, foster investment in knowledge and innovation, ensure dignified work through quality employment and adequate social protection. The Government of Montenegro, in its programme of work for 2019, focused, in particular, on the activities on the realisation of 4 priority areas, one of which is the suppression of the grey economy. The government has expanded the composition of the commission to combat the grey economy with the aim of establishing effective monitoring of flows in the grey zone, especially in the areas where the most noticeable informal activities are, such as tourism, construction and the labour market. Besides the representatives of institutions, the commission is composed of the representatives of the business community and social partners. It aims at improving the business environment, eliminating business barriers, both at state and local level. In cooperation with social partners, the government has been considering the possibility of revising the tax burden on labour and the possibility of revising the minimum wage. The Decent Work Programme for the period 2019-2021 was prepared in cooperation with the ILO and social partners. Also in cooperation with the ILO, MONSTAT undertakes activities to establish a methodology for

regular measurement of informal employment through a labour force survey. This workshop should contribute to defining and implementing the appropriate measures in order to facilitate the efficient and timely transition from informal to formal economy.

Mr. Aivo Orav, EU Ambassador, recognized the importance of improving formal employment in Montenegro. In order to ensure smart, sustainable and inclusive growth, reforms of the labour market are of key importance. The EU has already helped Montenegro to make visible progress in how the local labour market functions by introducing more efficient active labour market measures and policies. Also, the EU has been supporting the education system to better match the labour market demands, including through the ERASMUS programme. The EU projects have also helped the recent modernisation of secondary school programmes and strengthening of on-the-job-training and equipping of Vocational Education Schools. When it comes to the business environment, the EU has supported the improvement in the regulatory framework, launched financial tools to increase access to investment funds as well as helped in the fight against corruption. The informal employment and informal economy remain two major barriers to enabling the economic prosperity in Montenegro. According to surveys, a third of GDP occurs within the grey economy, up to 30 000 employees work without contract and over a quarter of current VAT revenues are unexploited. Montenegro must effectively and diligently tackle undeclared work. This workshop is an opportunity for all participants, policy makers and stakeholders, to discuss the nature of informal employment, what has been done and what needs to be done as well as what has worked well in the region and can be applied in Montenegro. The EU will continue to support these initiatives to help Montenegro mitigate the negative impacts of informality for the benefit of all citizens.

Mr. Gazmend Turdiu, RCC Deputy Secretary General and Head of Programme Department, briefly introduced the main results of the ESAP project, which is supporting the Western Balkans in developing and effectively implementing labour market and social policies in the EU enlargement process. Based on national priorities to tackle informal economy and informal employment, ESAP has developed 6 national diagnostic reports with key findings and recommendation on how to build a holistic strategic approach – an approach that coordinates the actions of all relevant institutions. Montenegro has for many years had an inter-ministerial working group and a national action plan to tackle the undeclared economy. This topic is high on the government agenda and the new labour law, which is currently being finalised, will also introduce new measures and sanctions against unregistered work. RCC will support Western Balkan economies in effectively tackling undeclared work through a holistic approach, and strengthening regional cooperation through exchange of good practices and mutual learning among peer institutions.

Prof. Colin Williams, RCC ESAP expert, started his presentation with the general definition of undeclared work in the EU, which is work not declared to the public authorities for tax evasion, social security evasion, or labour law violation purposes.

He dwelled on the EU platform tackling undeclared work, which serves to exchange information and good practices, learn from each other and together, develop knowledge and evidence, engage in closer cross-border cooperation and joint activities. The legislation was passed in 2016, according to which the platform adopted a holistic approach, i.e. joining-up all enforcement agencies on the level of both strategy and operations in the policy fields of labour, tax and social security law, and involving social partners. It uses the full range of direct and indirect policy measures available to enhance the power of, and trust in, authorities respectively.

Direct measures are based on the premise that people engage in undeclared work only if the costs of doing so exceed the benefits. Therefore, they focus on deterring engagement in undeclared work by increasing the penalties and risks of detection and implementing stimulative measures for purchasers and suppliers of undeclared work to formalize. Indirect measures relate to action that try to reform both formal and informal institutions in order to align norms, values & beliefs of citizens with the rules and norms of formal institutions.

EU countries still use more heavily measures related to detecting and punishing of non-compliance. Improving the benefits of declared work in order to transform informal to formal work is used in some countries, while the Nordic countries use more frequently various campaigns to change their formal institutions and the perceptions of citizens. Overall, the best approach is to apply a full range of direct control (e.g., workplace inspections) to enhance the power of authorities and at the same time the indirect measures (e.g., awareness raising) to enhance trust in authorities.

Mr. Milorad Katnić, RCC Expert presented the data for Montenegro as follows:

- The high participation of the informal economy is a phenomenon that characterises the Montenegrin economy for decades;
 - In the period from 1990 to 2000, the share of the informal economy ranged from 35-60% of GDP;
 - The high participation of undeclared work is a feature of the labour market in Montenegro and a significant part of the informal economy;
 - In the period from 1990 to 2000, undeclared work accounted for around 30% of the total number of employees;
 - After 2000, undeclared work is at the level of about 25% of the total number of employees.
- According to the latest research done in 2016, 67.30% are formally employed, 10.40% are formally employed with partially paid taxes and contributions, and 22.30% are informally employed.

Manifestations of undeclared work in Montenegro include non-registered employees in registered companies, non-registered employees in unregistered companies, unregistered self-employed and special manifestation - employees whose earnings are partially registered.

Out of the total number of unregistered employees, the majority of them are self-employed, in agriculture and service sectors, then the unregistered employees employed in registered companies, and the least are those who are unregistered in unregistered companies. Unregistered work is more spread among males, 35% compared to the unregistered work among women which is 30%. The unregistered work is much more prevalent among the young and elderly population. Mostly young people accept to receive the envelope wage. When it comes to the education, the highest percentage of unregistered work is among those with the lowest educations, who do not have primary education or have only completed the elementary school.

According to research from 2014 the causes of unregistered work (perception of citizens):

- Bad standards of living
- Economic crisis
- High unemployment
- Government policy and the work of state bodies
- High taxes and contributions to work

Causes of unregistered work (Employers Perception):

- Numerous and high para-fiscal charges (82% of employers)
- Poor business results (81% of employers)
- High taxes and contributions to work (75% of employers)
- High severance pay in case of cancellation of contract (66% of employers)
- Long repayment period (64% of employers)
- Ability to abuse social protection systems - use of benefits with unregistered work (64% of employers)
- Short term contract for a fixed term - 2 years (58% of employers)

The institutions tackling undeclared work in Montenegro are as follows: Ministry of Finance, Ministry of Labour and Social Welfare, Inspection Directorate, Tax Administration, Customs Administration and Police Administration. The capacities of institutions tackling the undeclared work have been significantly increased in the last 4 years both in terms of the number of inspectors employed and in terms of the budget. The Inspection Directorate spends approximately 75% of the budget on combating the undeclared economy while the Tax Administration spends about 30% and the Customs Administration approximately 10%.

An adequate response to the challenge of undeclared work implies a comprehensive plan for structural reforms that would tackle the causes of informal work, which should include:

- Social protection system
- Education system
- Quality of work of public administration
- Business environment in terms of regulatory improvement, reduction of administrative costs and tax burden

A comprehensive list of recommendations from the Montenegro diagnostic report includes:

- A comprehensive agenda for structural reforms, which should include the incentives for informal work
- A holistic integrated approach to undeclared work
- Improve measurement of undeclared work
- Increase the level of trust in institutions, especially the inspection services through the establishment of strategic goals and key indicators of success in terms of undeclared work
- Redesign the penalty system
- Create a register of employers sanctioned for undeclared work
- Establish a working team for improving the efficiency of the electronic system for data retrieval system, data sharing and data analysis
- Apply the liability of the supply chain in public investment contracts
- Incentives for the gradual formalisation of self-employed
- Simplification of procedures and taxation for employees such as nannies, domestic help and similar jobs

- Reduce incentives to use cash and increase incentives for electronic payments to reduce undeclared work
- Introduce tax incentives for employment: a) workers in the household, b) a registered construction company or similar company / individual who provides home repairs and renovation services
- Campaigns to raise awareness about the benefits of the declared work
- Education of citizens about the tax system
- Education of children in primary and secondary schools and students about the benefits of declared work
- Revise and modernise work regulations to eliminate obstacles to formalisation
- Reduce the tax burden on labour
- Transfer the responsibility for payment of taxes and contributions from an employer to an employee
- Remove the obstacles to formal employment of young people who are beneficiaries of scholarship/tuition
- Training of labour inspectors
- Employers' associations can provide formalisation advices
- Campaigns for raising awareness among the undeclared employees and within the business community on the benefits of declared work

Mr. Sreten Grebović, Assistant Director for Inspection Supervision, Tax Authority, said that in accordance with the Programme of the Government of Montenegro, they have formed a national commission for the suppression of the grey economy. This inter-sectoral body consists of the Deputy Prime Minister and Assistant Directors of the Inspection Directorate, Tax Administration, Customs Administration, and the Ministry of Interior. They detected, by analysing the risks, the economic branches in which the informal economy mainly occurs, such as in the construction industry and tourism.

The Tax Administration has taken and improved a number of measures and actions that would reduce the costs of doing business by submitting electronic applications for VAT, income tax and self-employment tax. Since the end of 2016, the management team headed by the Director General changed the ways of carrying out and performing regular tasks in the sense that through the visit to municipalities, through the making of tax caravans, meeting with businessmen and employees in them, business owners, they have changed the awareness of people. As a result, the submission of applications and reports required by national legislation has improved. The Chamber of Commerce, Union of Employers and Trade Associations improved the efficiency and effectiveness of revenue collection within the deadline and detected all returnees who violated tax regulations, disclosed them at conferences, listed the offenses and repetitive criminal offenses, and took appropriate measures. Repressive measures were applied in some cases and the closing of companies.

Mr. Zlatko Popović, Labour Inspector in the Field of Health and Safety at Work, informed participants about the organisational structure, role and responsibilities of the Labour Inspectorate, which has 13 labour inspection offices, 27 labour inspectors for labour relations and employment and 10 labour inspectors for health and safety at work.

In July 2016, the Government of Montenegro adopted the Strategy for Improving Occupational Health and Safety for the period 2016-2020, which is in line with the European Union Strategy. Since 2015, only in the field of health and safety at work, 18 new regulations have been adopted that are in line with EU acquis.

The Labour Inspection carries out intense supervision independently and together with other inspections of the Inspection Directorate, in order to suppress the undeclared work, which is most pronounced during the high tourist season, when the number of employers with seasonal work permits increases (in various activities that were related to tourism - catering, trade, tourist and other services), as well as the number of persons engaged (especially from the region) for performing seasonal jobs. Also, there was increased supervision in the construction sector, due to the engagement of a large number of persons (locals and foreigners), often without regulated employment status and because the most common workplace injuries occur at construction sites.

Ms. Nina Drakić, Director of Analysis and Research Division of the Chamber of Commerce, presented the results of an analysis of the Montenegrin economy for 2018, which included 1170 entrepreneurs. Every second respondent said that the biggest limitation in business is the grey economy and unfair competition. For example, in 2017 in the tourism and catering sector, there were about 43% of companies that have registered only 1 employee and in the construction sector 58% of companies have registered only 1 employee. In order to tackle the problem of the grey economy, they must first start from the legislative framework, from the labour law itself, and the need to enable employers to terminate a work contract with a worker who does not meet the requirements because the insufficiently flexible Labour Law represents a great problem. The problem is also the law on the employment of foreigners and slow procedures when employing foreigners and the procedure itself that prevented employers from signing an employment contract with the foreigner during the registration of foreigner. They are of the opinion that the increase of minimum wage would lead to a reduction in informal employment. Employers emphasised as a high barrier the high taxes and contributions to earnings. The focus of the Competition Council of the Government of Montenegro is the grey economy as one of the segments. However, without the involvement of all relevant stakeholders, it is difficult to deal with this problem.

Mr. Dragan Dašić, Head of Department for Foreigners, Migration and Readmission of the Ministry of Interior, said that the Law on Foreigners which came into effect in March 2018, got a positive opinion of the European Commission, and to the greatest extent possible, it complies with the directives of the European Union. Regarding the work of foreigners, the most important provisions in this law are those that stipulate that a foreigner in Montenegro can work only on the basis of a temporary residence permit and a work permit, that the employer can recruit the foreigner only on those jobs for which he has been issued a permit. It is also important that an employer in business premises must have a copy of a work permit for the foreigner, and it is essential that the employer must not employ a foreigner who resides illegally in Montenegro. A novelty in this law from 2018 is that it stipulates that the foreigner cannot obtain a work permit from the employer who is more than twice punished for the illegal employment of foreigners. The employer is obliged to register the foreigner with compulsory social security, more exactly with the tax administration within 24 hours. Criminal provisions are foreseen for violation of all these regulations. There is a lack of coordination between the authorities. Ministry of Interior, Tax Authority and Labour Inspectorate need to be technically, more exactly electronically linked. Recommendations presented can be used for drafting the Action Plan for 2020.

Mr. Aleksa Marojević from the Association of Independent Unions said that the informal economy is the problem of both underdeveloped and developed economies. The data of participation of informal economy in developed and legally regulated countries in the European Union are disturbing. What then should be expected of the economies in transition in which the participation of the informal economy is extremely high. There are a number of employers who are above the state and laws, which are not being controlled. Even if they are controlled or inspected, it is done only formally. The Montenegrin Government has not found an answer to countering the informal economy and turning that informal economy into formal flows. Unions are dissatisfied with the work of the Labour Inspectorate. Their work is not efficient and this is something which needs to be changed. The law on economic unions, the law on bankruptcy, the law on labour, the law on tax policies should be amended. The tax burden on employers should also be considered, and a combination of penal and stimulative policies should be introduced.

Prof. Williams said that the EU also has a problem with undeclared work, but it is a smaller problem than in Montenegro. It is because of the causes of undeclared work. The summary is that 2/3 of undeclared work is caused by structural condition, 1/3 is caused by the efficiency and effectiveness of the enforcement authorities. What Montenegro needs to change in terms of structural conditions is that the higher GDP per capita the lower is the level of undeclared work, the higher is the level of social expenditure the lower is the level of undeclared work, the higher expenditure on active labour market policies the lower is the level of undeclared work, the lower the level of corruption the lower the level of undeclared work, the higher the quality of governance the lower the level of undeclared work and finally the greater the level of trust of the population in the state and in each other the lower is the level of undeclared work. When it comes to the efficiency and effectiveness of the enforcement authorities, the penalties can be used to formalise the informal economy. However, to deal with the causes more advice, support and preventative approaches should be adopted. Rethinking of strategic objectives can massively improve the efficiency and effectiveness of state agencies.

Mr. Nand Shani, ESAP Team Leader encouraged participants to use the recommendations from the report in national actions, the implementation of which can also be supported through the ESAP Project technical assistance facility during the next phase of the project, which should start before the end of this year. The project will support the economies to develop and implement a holistic approach through the close coordination of stakeholders, improving knowledge and evidence on informality and building capacities of national institutions through mutual assistance programmes. It will support the improvement of data on informality, make sure that the labour force surveys are harmonised across the region and test interventions on what works in a particular economy to address the informality. All relevant institutions, such as Ministry of Labour, Ministry of Economy, Labour Inspectorate, Tax Authority etc. will be invited to start the mutual learning and sharing of best practices on how they tackle informal employment. The long-term goal is to align the Western Balkans closely to the EU Platform on Undeclared Work.

Ms. Edina Dešić, Director General for Labour Market and Employment of the Ministry of Labour and Social Welfare, closed the workshop by saying that the conclusion of the workshop is that cooperation among institutions, social partners and various labour market actors should be improved and the range of policy measures expanded to adopt a holistic approach. Activities on the suppression of informal work are one of the priorities in the programme of work

of the government for this year. The positive fact is that the Commission for Suppression of Grey Economy expanded its composition at the last session of the government by involving the main actors in the labour market, such as employers' associations and trade union representatives. Certainly, the exchange of experience and best practices in the region will show the direction of further action, as economies in the region have more or less similar characteristics when it comes to informal work. In the end, she thanked the RCC for the initiative to hold such a workshop and to experts for drafting the report. The recommendations from the report represent an additional input for national authorities in tackling the informal work.

N.B. This report also serves for the purpose of a duty trip report for Nand Shani and Sanda Topić.

Annex 1 –List of participants

No.	Full Name	Position	Institution
1.	Mr. Kemal Purišić	Minister	Ministry of Labour and Social Welfare
2.	Ms. Edina Dešić	Director General for Labour Market and Employment	Ministry of Labour and Social Welfare
3.	Mr. Sead Šahman	Independent Advisor in the Cabinet of the Minister of Labour and Social Welfare	Ministry of Labour and Social Welfare
4.	Ms. Ranka Pavičević	Head of Division for Labour Market and Employment	Ministry of Labour and Social Welfare
	Ms. Denisa Mahmutović		Ministry of Labour and Social Welfare
5.	Ms. Ana Nikčević		Ministry of Labour and Social Welfare
6.	Mr. Zlatko Popović	Labour Inspector in the Field of Health and Safety at Work	Ministry of Labour and Social Welfare
7.	Ms. Aleksandra Laković	Independent Advisor- Directorate for Development of Small and Medium Enterprises	Ministry of Economy
8.	Mr. Dragan Dašić	Head for Department for Foreigners, Migration and Readmission	Ministry of Interior
9.	Mr. Goran Bujanja	Assistant Director for Planning, Analysis and Statistics Sector	Public Employment Service
10.	Mr. Sreten Grebović	Assistant Director for Inspection Supervision	Tax Authority
11.	Ms. Ana Raičević	Assistant Director for Human Resources, Planning and Management Sector	Customs Administration
12.	Mr. Zdravko Čogurić		Customs Administration
13.	Ms. Tatjana Džudović	Head of Cabinet	Association of Trade Unions

14.	Mr. Aleksa Marojević	Coordinator for Territorial Action	Association of Independent Unions
15.	Ms. Suzana Radulović	Secretary General	Employers' Association
16.	Ms. Nina Drakić	Director of Analysis and Research Division	Chamber of Commerce
17.	Ms. Nada Janković	Independent Advisor	Chamber of Commerce
18.	Mr. Ivan Radulović	Executive Director	Foreign Investors Council
19.	Mr. Aivo Orav	EU Ambassador	Delegation of the European Union to Montenegro
20.	Mr. Romain Boitard	Cooperation Section	Delegation of the European Union to Montenegro
21.	Ms. Marina Milić	Economic and Commercial Assistant	United States Embassy Montenegro
22.	Ms. Nina Krgović	Project Coordinator	International Labour Organisation
23.	Mr. Gazmend Turdiu	Deputy Secretary General	Regional Cooperation Council
24.	Mr. Nand Shani	Team Leader of Employment and Social Affairs Platform Project	Regional Cooperation Council
25.	Ms. Sanda Topić	Administrative Assistant, Employment and Social Affairs Platform Project	Regional Cooperation Council
26.	Mr. Colin Williams	Expert	RCC External Expert
27.	Mr. Milorad Katnić	Expert	RCC External Expert