

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

11 April 2019, Sarajevo

Report

On April 11, 2019 the *Employment and Social Affairs Platform, Regional Cooperation Council* organised a national workshop on informal employment in Bosnia and Herzegovina, which brought together 30 officials from the Ministry of Civil Affairs, Federal Ministry of Labour and Social Policy, Ministry of Labour, War Veterans and Disabled Persons’ Protection of the Republic of Srpska, Ministry of Human Rights and Refugees, Labour Inspectorates of both entities and Brčko District of BiH, Tax Administration of both entities and Brčko District of BiH, Labour and Employment Agency of BiH, Employment Services of both entities and Brčko District of BiH, 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.

Ms. Vanja Ivošević, RCC Senior Expert on Skills and Mobility and ESAP Project Coordinator gave a short overview of the RCC and the ESAP project, jointly implemented by RCC and the ILO. She emphasized that tackling informality is an important national priority in each Western Balkan economy, which is also recognized by the EU. ESAP has developed comprehensive reports for each WB6 economy on the current state of affairs on informal employment, which also include policy recommendations based on the holistic approach towards formalization, used by EU member states through the EU platform on undeclared work. Informal employment will continue to be a priority topic of the second phase of ESAP project, that will start later this year, through the establishment of a similar platform and closer linkages with the work of the EU. After the round of national workshops in Western Balkan capitals, a regional event will be organized to discuss the operationalisation of WB6 platform on informal employment, as well as the priorities identified by respective institutions on national level. RCC and ILO will support the implementation of the recommendations in the next 3 years by creating a platform to tackle undeclared work in the Western Balkans, drawing on the experience of the European Union.

Mr. Nenad Novaković, Head of Labour and Employment Department of the Ministry of Civil Affairs, recognized informal economy and informal employment as significant obstacles on the path of economic prosperity in BiH and among the biggest challenges that all Western Balkan economies face in the transition process. Informality is present in almost all segments of economic activity due to the non-registration of activities in the labour market as a consequence of non-registration of employees, payment of taxes and contributions based on the minimum wage rather than real, in avoiding the registration of income, in the turnover of excise products, illegal imports, etc. The problem of undeclared work

in BiH has been identified in strategic documents and action plans at various institutional levels through certain direct and indirect measures of entity governments and the Brčko District of BiH and cantons in the Federation of BiH. The Economic Reform Programme in BiH for the period 2018-2020 adopted by the Council of Ministers of BiH, defines the improvement of the business environment and the reduction of the informal economy as one of the priorities. In accordance with the ILO standards and European Union labour directives, it is necessary to strengthen labour inspections at the level of entities, the Brčko District of BiH and the cantons in the Federation of BiH in order to protect the rights of workers. In order to implement these goals, it is necessary to ensure that the transition from informal to formal economy is included in strategies or plans on development, as well as strategies and budgets for poverty reduction, taking into account the competencies of authorities of different levels of government. The coordinated activity of the competent authorities in tackling informality is necessary.

Ms. Ljiljana Pandžić, Programme Manager from the European Union Delegation to Bosnia and Herzegovina, said that the European Union supports the labour and employment sector through various programmes. In order to successfully tackle informality, the engagement of all relevant actors in developing some effective policies based on the findings and recommendations of the experts can lead to progress. Additionally, national stakeholders should work on a joint document that will include all national priorities for tackling the grey economy in BiH, which would be a strong basis for BiH's access to IPA 3 funding.

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. Adnan Efendić, the RCC External Expert, presented key features of informality in BiH, starting with some statistics that measure the level of informal economy in 2016 at

around 30% of GDP. The typical profiles of undeclared employed individual in BiH are young males, less educated, coming from rural areas and economically weak families.

According to research conducted by the expert, a survey of potential drivers of informality related to the institutional environment, revealed that almost 90% of the population does not trust other people, 78% of population does not trust municipalities, between 60 and 70% of population does not trust the state, entity and local governments. This indicates that the state morality is very low. 40% of BiH population justifies the avoidance of tax payment.

Given that undeclared economy and employment is a persistent phenomenon in this society, there is a need to strengthen the cooperation among the key institutions dealing with the undeclared work, and support a holistic approach accompanied by technical assistance in priority areas.

Mr. Đemo Ćar, Assistant Director of the Labour Inspectorate of the Federation of BiH, said that the main reason for the grey economy that employers point out is high taxes on legal work. That is a key issue that the governments and employers should solve. The Federal Labour Inspectorate performs both repressive and preventive activities, such as campaigns that have warned employers about legal requirements. It is necessary to build a common platform with all relevant institutions. A concern is that the federal inspectorate has been denied supervision of the control of work in the cantons, which should be restored. Also, the different penalties for controlling the undeclared work in different laws need to be harmonised.

Ms. Ranka Mišić, President of the Association of Independent Trade Unions of the Republic of Srpska, said that a tailored approach to tackling informality in BiH needs to be implemented. BiH is a transition economy, has relatively young employers and companies, and cultural attitudes should also not be neglected. It is a challenge to convince the worker that it is important to be registered. If an employee reports an employer for failing to register him/her as a worker, the employee will become undesirable for employers. Repressive measures can produce some results in this economy such as for instance the measure introduced in the criminal law that an employer who does not pay 3 or more salaries and contributions to the employee is criminally responsible. Another form of informal employment related to overwork and envelope wages.

Mr. Ernis Imamović, Assistant Minister for Labour and Employment of the Federal Ministry of Labour and Social Policy, said that in their reform agenda, one of the priority areas is the reform of labour legislation. The Federation of BiH has made significant steps in the area of adopting appropriate legislation to develop the labour market, which would reduce the undeclared work. The Labour Law was adopted in 2015, which greatly increased the rights of workers as well as penalties. In the amendments to the Labour Law in 2018, it was especially taken into account that the employer is obliged to deliver to the employee the registration on compulsory insurance on the day of employment. The penal provisions for non-payment of salaries have been changed. The procedure on employment by private employers was established. A by-law regulating the records in the field of labour has been adopted. This regulation provides the possibility of keeping records separately for workers and for persons who are engaged at work. The Ministry will continue to improve the normative acts.

Ms. Mira Vasić, Assistant Minister for Labour and Employment of the Ministry of Labour, War Veterans and Disabled Persons' Protection of the Republic of Srpska, said that since 2016, the Republic of Srpska has a new Labour Law and a law on peaceful settlement of disputes that have harmonised many issues with the laws of the European Union. In 2017, the Government of the Republic of Srpska, within the process of the preparation of a programme of economic reforms, signed a memorandum of co-operation with the Employers' Union and the Association of Trade Unions, inter alia, on the suppression of the grey economy. The government has drafted an Action Plan for the implementation of measures. A set of measures to change tax policy has been introduced, reducing the tax burden that will benefit employers and workers. This year, the Ministry prepared amendments to the Labour Law and to the Law on Mediation in Employment and Entitlement during unemployment period. The most important change is that health insurance will no longer be under the competence of the Employment Service, but within the competence of the Health Insurance Fund. Therefore, the Employment Service will deal exclusively with active jobseekers. The aforementioned legislative changes will contribute to better and more efficient inspections performed in the field.

Mr. Zoran Mikanović, Assistant Director and Chief Republic Inspector of the Labour Inspectorate of the Republic of Srpska, said that the employers are obliged to register the workers no later than 1 day before the commencing of their employment. In practice, the situation is different because the Inspectorate came across workers who work unregistered for several days, months or even years. The Inspectorate has 30 inspectors who perform 6500 inspections annually. Out of this number, 40% is upon the requests for protection of employment rights. There is quite a significant number of employers who have not registered their business so they cannot even register workers. The Law on Tax Procedures stipulates exceptionally high penalties for unregistered workers, which range from BAM 10,000 to 30,000. The Labour Law prescribes the penalty in the amount of BAM 5,000 for the same violation of law. In 2016, the Inspectorate controlled 12,500 workers, out of which 6% were without the employment contract. In 2017, the Inspectorate controlled approx. 14,000 workers, out of which 4% were without the employment contract. These figures do not reflect the actual situation because the controls are conducted upon request. The Inspectorate has conducted the actions on tackling undeclared work, and in these actions a far greater number of workers that work without a signed employment contract have been identified.

Mr. Saša Ačić, the Head of Employers' Union of the Republic of Srpska, insisted that all employers which have been identified as irregular should be the subject of frequent controls because they represent unfair competition. In the RS, the Tax Administration published a list of tax debtors, however the biggest debtors remain public companies. The opposite message can also be sent and so called "white list" can be published. In order to successfully tackle informality, a system for monitoring the cash flows should be developed and a stimulating tax system should be developed. One specific form of informal economy refers to the legal entities that very often have a monopoly in the public health system and do not pay taxes and contributions. The proposal of employers is that the tax burdens on work be reduced from the current 40% to around 32%.

Ms. Duška Ninić, the Labour Inspector of the Labour Inspectorate of Brčko District of BiH, said that what is specific for the Brčko District of BiH is that the labour inspectors are

the only ones who deal with the issues related to the labour and labour relations. A new labour law gives more rights to workers and easier control over the exercise of workers' rights, especially as regards the use of annual leave. There will be the stricter penalties in the new law, especially for those repeating the violations. The Inspectors in the Brčko District of BiH work preventively.

Mr. Amir Cerić, Head of Department for Control in Sector of Unified System of the Tax Administration of the Federation of BiH, said that Tax Administration is only one in a number of institutions that attempt to tackle the problem of undeclared work. He emphasised the implementation of a unique registration system in both entities and the Brčko District of BiH as a positive development, merging 23 databases on workers and insurance into one. Previously, the workers were registered either in health insurance, in the pension fund or in the tax administration, so the benefit of the unique registration system is that now all funds use the same data. BiH is the first economy in the region that introduced this system. The Tax Administration is linked electronically with some cantonal inspectorate administrations as well as with the federal inspectorate, which are enabled to access electronically the databases on employees. During the last 2-3 years they are working on risk assessment in cooperation with the Indirect Taxation Authority. The Tax Administration enables workers to access their web portal and check the payment of contributions electronically. They will extend this segment to a certificate of work experience. They opened several channels for workers to report irregularities protecting their anonymity, such as hot line, mail, etc.

Ms. Pandžić said that not only in BiH but also abroad there are persons who are long-term unemployed, who use the benefits from the Employment Service in terms of medical care. At the same time, they are employed in the informal sector both in BiH and in the European Union. They use health benefits at the expense of all workers in BiH, from whose salaries contributions are allocated. A clear distinction needs to be made between people who are really socially vulnerable and those formally registered as unemployed, but who work in the grey economy.

Ms. Smiljana Janjić, Senior Expert Associate of the Tax Administration of the Republic of Srpska, informed participants about a unique system of collection of contributions introduced in 2010, which linked the Tax Administration with the health, pension and other funds. However, the laws are inconsistent between the Tax Administration and other funds. This problem is also reflected in the registration of workers. The Tax Administration focuses on the introduction of electronic services, which will significantly improve the working conditions in the Tax Administration and, accordingly, the submission of tax returns by taxpayers. The Tax Administration has taken several measures to prevent the outflow of labour force. Amendments to the Income Tax Law have been introduced in terms of tax base deduction. The plan is to reduce the rates of contribution that will significantly affect workers and employers.

Ms. Suada Fazlović, Head of Department for Assessment and Collection of Taxes of the Tax Administration of Brčko District of BiH, said that Brčko District of BiH has no analysis that shows the extent of unregistered work, except for the reports of the Labour Inspectorate. The Government of Brčko District of BiH emphasises the approach to creating a favourable business environment, which is one of the factors that would contribute to the

reduction of unregistered work. Measures taken for this purpose are in the form of various incentives. Significant funding is being allocated through self-employment grants. In 2018 laws were passed on the fiscal system, on Accounting and Auditing, on Foreign Exchange Payments, on Payment Transactions, etc. Changes in some tax laws are in progress, and the dilemma arises whether a tax burden is a factor contributing to undeclared work. Generally taxes are low (income tax is 10%, VAT rate is relatively low). Brčko District of BiH has only 3 contributions, which are health insurance contribution, contribution for pension and disability insurance, and contributions for the unemployed. The Law on Profit Tax introduced a tax benefit for the employer, who is exempt from payment of the tax on new employees' gross salary during the tax year. Also, the Law on Personal Income Tax has increased personal deduction and thus reduces the basis for taxation. As a conclusion, it cannot be said that the tax burden affects the occurrence of undeclared work as much as the complexity of the laws that are applied in BiH. The employer must use about 20 laws on tax and non-tax levies, and there are a considerable number of forms that employers must submit. Therefore, legal provisions need to be simplified.

Mr. Efendić presented policy recommendations for BiH:

I. Strategic management incentives

The governments' goal should be to enable the transfer from undeclared to declared economy. It is recommended to use a holistic, strategic approach in tackling the undeclared work. The goal is not to completely eradicate the undeclared work, because it's impossible but to reduce the undeclared work as much as possible. It is an integrated approach in which stakeholders communicate. Therefore, it would be good if there is a co-ordinating body in BiH that would bring together all stakeholders, improve communication, unify strategies, operational activities, exchange of data, experiences and analysis. Relevant legislations and procedures related to undeclared work should be harmonised and simplified. This would minimise ambiguous situations in which companies, individuals and inspectors can find themselves. Administrative staff and inspectors should be educated with the aim of transforming undeclared to declared work and tailoring their strategic objectives.

II. Measures to deter undeclared work

Legislation and fines for undeclared work should be harmonised. The electronic systems for data gathering, data sharing and analysis should be improved. There should be a proactive engagement through normative notification letters. Instead of fragmented and more frequent inspections there should be targeted and planned inspections, which should implement an integrated control. The white list of companies (not having undeclared workers over the last 3 years) should be linked to the selection process for public procurement.

III. Supply side incentives

The 'White list' of legitimate employers should be promoted ('black list' for internal use only). Provide support in advertising activities of successful companies through the 'Business Walking Routes' leaflets for tourists and/or 'service providers leaflet' in sectors where undeclared work is prevalent. Easy procedures should be introduced (i.e. micro-enterprise tax) for paying taxes and contributions for self-employed and craftsmanship.

IV. Demand side incentives

Discounts should be given on electronic payments, instead of the widely-used practice of cash discounts.

V. Changing citizens' values, norms and beliefs

Public awareness campaigns on the benefits of declared work should be launched. Citizens should be educated about the tax system and tax morality. Tax compliance crash courses should be incorporated in undergraduate schools and university curriculums. There should be thematic competitions (e.g. "best essay on") on why is important to be a tax compliant and declare the employees.

VI. Reforming formal institutions

There should be a continuous training of inspectors. Services offered by formal institutions should be improved. Bodies responsible for tackling undeclared work should be modernised.

VII. Improving the involvement of social partners

A tripartite agreement between government, tax and social security bodies and social partners should be signed to join forces in preventing undeclared work. There should be awareness raising campaigns for the business community about the benefits of declared work.

Mr. Ačić praised the recommendations and said they could be embedded in some strategic documents. He proposed signing of an agreement on the suppression of the informal economy between the parties involved, which would include the activities to be carried out. A regional approach is welcome because most economies in the region are facing the same problems.

Ms. Mišić said the recommendations are not new to them. They have been working already on some recommendations in the past. The recommendations are theoretically feasible but the situation is different in practice. In BiH is impossible to reward an entrepreneur who duly fulfils tax obligations by winning a tender because it is known how tenders are granted in BiH.

Mr. Ismet Kumalić from CISAR Research Centre, said that there is a difference between the so called "black economy" and the small, survival economy. When it comes to tax morality, paying taxes and the interests of entrepreneurs are quite the opposite. Their research has shown that the tax procedures should be simplified and tax burden decreased. The research and practice have shown that reducing tax rates does not necessarily mean that revenues will be lower. On the other hand, there is no analysis of the effects of certain measures and therefore caution should be exercised while implementing them.

Mr. Verneš Šikalo, Tax Inspector of the Tax Administration of the Federation of BiH, said that it is necessary to reduce the contribution rate due to the outflow of labour force from BiH. In order to encourage people to stay in BiH, they need to be given higher salaries. BiH has the highest contribution rate and the lowest VAT rate in the region. It is necessary to have a combination of repressive and stimulating measures in order to have results.

Mr. Nand Shani said that although the Public Employment Services mainly deal with the formal employment there are also ways, particularly in BiH, where PESs can contribute in

transforming undeclared into declared work. PESs can offer their services and provide information to informal workers and employers focusing on basic human rights. PESs have the local offices and they can offer their support especially in the regions where there are the vulnerable communities. Most of those working informally belong to these vulnerable groups. Developing appropriate services that include job search assistance and access to skills development is something where PES can contribute to transforming informal into formal employment.

After the completion of the 6 national reports the resulting workshops, a regional event will be organized, where participants of national workshops from all 6 WB economies shall be invited to share their practices and activities in tackling undeclared work but also hear the others in the region on how they tackle this issue and to build the consensus on tackling undeclared work by implementing the holistic approach at the national level, where stakeholders cooperate, and establish the joint actions balancing repressive and incentive measures.

The ESAP project will continue for the next three years and one of the components shall be dedicated to informal employment. The ambition is to replicate as much as possible the European practices, the European Platform on tackling the undeclared work and its activities in this region. Therefore, the aim will be to set up a regional network of officials from key institutions and other partners from WB economies to work together in tackling undeclared work. The focus of the work of network will be to support economies in developing innovative policies, laws, procedural changes, based on this holistic approach; improving the knowledge, evidence for better policies, exchange of experience and mutual learning.

Annex 1 –List of participants

No.	Full Name	Position	Institution
1.	Mr. Nenad Novaković	Head of Labour and Employment Department	Ministry of Civil Affairs
2.	Ms. Zorica Krsmanović	Senior Expert Associate for International Cooperation in the Field of Labour and Employment	Ministry of Civil Affairs
3.	Mr. Ernis Imamović	Assistant Minister for Labour and Employment o	Federal Ministry of Labour and Social Policy
4.	Ms. Jasmina Khechan Babić	Expert Adviser in Labour and Employment Sector	Federal Ministry of Labour and Social Policy
5.	Ms. Mira Vasić	Assistant Minister for Labour and Employment	Ministry of Labour, War Veteran and Disabled Persons' Protection of the Republic of Srpska
6.	Ms. Irena Penc Puzić	Senior Expert Associate for Cooperation with Citizens' Associations, NGOs and Religious Communities	Ministry of Human Rights and Refugees
7.	Mr. Zoran Mikanović	Assistant Director-Head of Labour Inspectorate	Labour Inspectorate of the Republic of Srpska
8.	Mr. Đemo Ćar	Assistant Director	Labour Inspectorate of the Federation of BiH

9.	Ms. Duška Ninić	Labour Inspector	Labour Inspectorate of Brčko District of Bosnia and Herzegovina
10.	Mr. Brano Nikić	Labour Inspector	Labour Inspectorate of Brčko District of Bosnia and Herzegovina
11.	Ms. Smiljana Janjić	Senior Expert Associate	Tax Administration of the Republic of Srpska
12.	Mr. Amir Cerić	Head of Department for Control in Sector of Unified System	Tax Administration of the Federation of BiH
13.	Mr. Vernes Šikalo	Federal Tax Inspector in Sector of Unified System	Tax Administration of the Federation of BiH
14.	Ms. Suada Fazlović	Head of Department for Assessment and Collection of Taxes	Tax Administration of Brčko District of BiH
15.	Mr. Željko Tepavčević	Deputy Director	Labour and Employment Agency of Bosnia and Herzegovina
16.	Mr. Siniša Veselinović	Head of Local Labour Market Department	Labour and Employment Agency of Bosnia and Herzegovina
17.	Ms. Gordana Latinović	Deputy Director	Employment Service of the Republic of Srpska
18.	Mr. Haris Huskić	Head of Active Employment Policy Sector	Employment Service of Federation of Bosnia and Herzegovina
19.	Ms. Amela Mulać	Head of Employment Office Novo Sarajevo	Employment Service of Federation of Bosnia and Herzegovina
20.	Mr. Vlado Jevtić	Director	Employment Service of Brčko District of Bosnia and Herzegovina
21.	Mr. Saša Ačić	Director	Employers' Union of the Republic of Srpska
22.	Mr. Fahrudin Šahović	Chairman of Cantonal Committee of the Tuzla Canton	Association of Independent Trade Unions of BiH
23.	Ms. Ranka Mišić	President	Association of Trade Unions of the Republic of Srpska
24.	Mr. Danko Ružičić	President of Trade Union of Textiles, Leather and Footwear Industry	Association of Trade Unions of the Republic of Srpska
25.	Ms. Ljiljana Pandžić	Programme Manager	European Union Delegation to Bosnia and Herzegovina
26.	Ms. Lejla Tanović	National Coordinator	International Labour Organisation
27.	Mr. Edin Pasović		CISAR Research Centre
28.	Mr. Ismet Kumalić		CISAR Research Centre
29.	Ms. Vanja Ivošević	Senior Expert on Smart Growth	Regional Cooperation Council
30.	Mr. Nand Shani	Team Leader of Employment and Social Affairs Platform Project	Regional Cooperation Council
31.	Ms. Sanda Topić	Administrative Assistant, Employment and Social Affairs Platform Project	Regional Cooperation Council

32.	Mr. Colin Williams	Expert	RCC External Expert
33.	Mr. Adnan Efendić	Expert	RCC External Expert