



Procedure file

| Basic information | | |
|---|--------------------------------|---------------------|
| INI - Own-initiative procedure | 2008/2035(INI) | Procedure completed |
| Stepping up the fight against undeclared work | | |
| Subject | | |
| 4.15 Employment policy, action to combat unemployment | | |
| 7.30.30.06 Action to combat economic fraud and corruption | | |

| Key players | | | |
|---|---|---|------------|
| European Parliament | Committee responsible | Rapporteur | Appointed |
| | EMPL Employment and Social Affairs | | 22/01/2008 |
| | | PSE PANZERI Pier Antonio | |
| | Committee for opinion | Rapporteur for opinion | Appointed |
| | FEMM Women's Rights and Gender Equality | | 24/03/2008 |
| | | PPE-DE LULLING Astrid | |
| | ITRE Industry, Research and Energy | The committee decided not to give an opinion. | |
| | IMCO Internal Market and Consumer Protection | | 25/03/2008 |
| | | PSE HAMON Benoît | |
| | ECON Economic and Monetary Affairs (Associated committee) | | 18/02/2008 |
| | PPE-DE STOLOJAN Theodor Dumitru | | |
| LIBE Civil Liberties, Justice and Home Affairs | | 27/02/2008 | |
| | PSE FAVA Claudio | | |
| JURI Legal Affairs | The committee decided not to give an opinion. | | |
| European Commission | Commission DG Employment, Social Affairs and Inclusion | Commissioner ŠPIDLA Vladimír | |

| Key events | | | |
|------------|---|---|---------|
| 23/10/2007 | Non-legislative basic document published | COM(2007)0628 | Summary |
| 21/02/2008 | Committee referral announced in Parliament | | |
| 21/02/2008 | Referral to associated committees announced in Parliament | | |
| 10/09/2008 | Vote in committee | | Summary |
| 23/09/2008 | Committee report tabled for plenary | A6-0365/2008 | |
| 08/10/2008 | Debate in Parliament |  | |
| 09/10/2008 | Results of vote in Parliament |  | |
| | Decision by Parliament | | Summary |

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|------------|--------------------------------|------------------------------|--|
| 09/10/2008 | | T6-0466/2008 | |
| 09/10/2008 | End of procedure in Parliament | | |

| Technical information | |
|----------------------------|---|
| Procedure reference | 2008/2035(INI) |
| Procedure type | INI - Own-initiative procedure |
| Procedure subtype | Initiative |
| Legal basis | Rules of Procedure EP 54; Rules of Procedure EP 54-p4 |
| Stage reached in procedure | Procedure completed |
| Committee dossier | EMPL/6/59430 |

| Documentation gateway | | | | | |
|---|-------------|-------------------------------|------------|----|---------|
| Non-legislative basic document | | COM(2007)0628 | 24/10/2007 | EC | Summary |
| Committee draft report | | PE406.009 | 07/05/2008 | EP | |
| Amendments tabled in committee | | PE406.141 | 10/06/2008 | EP | |
| Committee opinion | IMCO | PE405.964 | 16/07/2008 | EP | |
| Committee opinion | ECON | PE404.803 | 17/07/2008 | EP | |
| Committee opinion | FEMM | PE405.767 | 18/07/2008 | EP | |
| Committee opinion | LIBE | PE409.592 | 09/09/2008 | EP | |
| Committee report tabled for plenary, single reading | | A6-0365/2008 | 23/09/2008 | EP | |
| Text adopted by Parliament, single reading | | T6-0466/2008 | 09/10/2008 | EP | Summary |
| Commission response to text adopted in plenary | | SP(2008)6975 | 30/01/2009 | EC | |

Stepping up the fight against undeclared work

PURPOSE: to set out steps to be taken to combat the problem of undeclared work.

BACKGROUND: undeclared work, which is a complex phenomenon with multiple drivers, has already been analysed on several occasions at EU level, in particular in the Commission's 1998 Communication (see [COS/1998/2082](#)), which presented a review of its causes and impacts, and highlighted a few policy experiences. The Communication prepared the ground for an EU-wide policy debate on undeclared work, which culminated in the adoption of the common policy approach set out in the Employment Guidelines 2003-2005. These Guidelines advocated a balanced mix of prevention (notably through well adapted tax-benefit and administrative regulations) and awareness raising, sanctions and law enforcement. Such a policy mix was further articulated in the Council resolution of 29 October 2003 on transforming undeclared work into regular employment, which also called for action by the social partners. Furthermore, the Communication was one of the elements inspiring the experiment launched in 2000 allowing for the reduction of VAT on specified labour intensive services.

The recent Green Paper on Labour Law (see [INI/2007/2023](#)) identified undeclared work as the main contributing factor to social dumping and thus as one of the key issues for the modernisation of labour law in the EU. Moreover, undeclared work tends to be associated with poor working conditions for individuals and subsequent risks to workers' health, low prospects for career progress and insufficient social protection coverage. In this context, EU social partners have envisaged a joint analysis of undeclared work in the framework of their 2006-2008 work programme.

Further, the possibility of finding undeclared work is a key pull factor encouraging illegal immigration. In 2007, the Commission proposed a directive providing for sanctions against employers of illegally staying third-country nationals (see [COD/2007/0094](#)).

CONTENT: according to the report, undeclared work is still a problem in Europe and is undermining the EU's ability to meet its targets for more and better jobs and stronger growth. It calls for a balanced approach of prevention, law enforcement and sanctions. High levels of taxation and social security contributions and a heavy administrative burden are traditionally seen as the drivers of undeclared work, but there are also increasing trends towards sub-contracting and false self employment. In certain Member States, the application of transitional arrangements towards workers of the new Member States has exacerbated the recourse to undeclared work.

This report concludes that piecemeal policy actions have been taken across Member States, but there is an apparent lack of evaluation of results and pooling of expertise. The report highlights that it is time for Member States to step up their efforts in the fight against undeclared work.

As a follow-up of the present communication, the Commission proposes the following:

- more needs to be done in order to further reduce labour taxation, by improving the quality of public finances, notably the efficiency of public expenditure and taxation systems, by reducing non-wage labour costs, and by shifting the tax burden to alternative sources of revenue. There is also scope for reducing the administrative complexities in tax and benefit systems, which may constitute incentives for undeclared work, notably for the self-employed and small companies;
- Member States should review the transitional arrangements as soon as possible and in any case before the next phase due early in 2009. In context of labour market tightening in many Member States, these arrangements limiting the mobility of workers from the new Member States are a key example of red tape;
- Member States are invited to give due attention to undeclared work when deciding on the pathways they intend to follow in implementing the common principles of flexicurity;
- the Commission calls on the social partners to agree on concrete initiatives in the field of undeclared work in the context of their joint work programmes, at the European cross-industry, sectoral and national levels;
- effective surveillance and enforcement are important components of a comprehensive policy approach. In this context the Commission recalls its legislative proposal on sanctions for employers of illegally staying third-country nationals;
- the Commission will investigate the feasibility of establishing a European platform for cooperation between labour inspectorates, and other relevant monitoring and enforcement bodies;
- to enable the monitoring of progress in transforming undeclared work into regular work, Member States should explore with the Commission the most suitable methodology for quantifying the existence of undeclared work. A study will be undertaken to this end under the PROGRESS programme in 2008;
- the Commission will treat undeclared work as a priority in its Mutual Learning programme. Stakeholders will have the opportunity, under the PROGRESS programme, to submit proposals for information campaigns, survey and evaluation activities, and initiatives to exchange information on good practices.

Stepping up the fight against undeclared work

The Committee on Employment and Social Affairs adopted an own-initiative report by Pier Antonio PANZERI (PES, IT) on stepping up the fight against undeclared work. It welcomes the approach taken by the Commission and calls for a renewed fight against undeclared work and the underground economy which damage the economy, leave workers unprotected, are detrimental to consumers, reduce tax revenue and lead to unfair competition between undertakings.

Extent of undeclared work: Members express their deep concern over the extent of undeclared work which accounts for as much as 20% or more of GDP in some Member States. It is for this reason that they call for a combination of financial, fiscal and labour inspection procedures to be introduced to combat undeclared work.

All-out offensive against undeclared work: to combat undeclared work, Members envisage a comprehensive approach which covers matters relating to monitoring and control, the economic and institutional framework and involves concerted action at several levels and the participation of all stakeholders (public authorities, social partners, undertakings and workers).

The envisaged measures would include the following :

- improving incentives for regular work, which may include increasing the tax-free income band and, for employers, reducing the non-wage costs associated with legal employment;
- tax and social security system reforms to reduce the burden of taxation on the workforce (in particular, attractive tax rates for employers, including the deduction of charges concerning, inter alia, local work, and tax exemptions for all work carried out for pay lower than an amount to be determined by the Member State);
- strengthening Community action to ensure that modernisation of labour law is translated into improved job quality;
- promoting stronger and more efficient coordination and administrative cooperation between government enforcement agencies, labour inspectorates and the social partners, social security administrations and tax authorities to ensure that legislation is respected;
- providing strong incentives for those who undertake to put undeclared work on a formal economic footing (e.g. atypical contracts could help to get people out of illegal work).

At Community level, Members call on the Commission to draw up policies to provide for both general measures and sectoral measures to prevent undeclared work, doing so with the full involvement of the social partners. In this regard, special measures should be envisaged for the most affected sectors, such as the hotel and catering industry, farming, domestic services and the construction industry.

Further measures are suggested such as: i) the introduction of national and Community programming instruments which allow economic and social support and development policies to be pursued, ii) the taking of supervisory and punitive action, iii) the assessment of the possibility of accompanying the fight against undeclared work with financial policies that support regional and local plans, iv) creation of specific tools based on Member States' best practices aimed at curbing non-declared work by making it less appealing (as is the case already in Luxembourg), v) the financing of research projects into health and safety at work and of promotional activities geared to prevention and the dissemination of a culture of health and safety in the workplace, with particular reference to those sectors in which there is the highest risk of accident (and in which undeclared labour is more prevalent).

Reinforcing sanctions: Members invite the Member States to introduce severe penalties for employers who, notwithstanding any incentives offered, continue to make use of undeclared labour. They encourage them to combine preventive action and sanctions aimed at transforming undeclared work into regular employment. However, they point out that, unless it is followed up by better coordination between Member States, a policy that is exclusively punitive could concentrate undeclared work in the less structured States and in the less regulated economies.

They therefore advocate the conclusion of agreements at regional, national and local levels that provide a progressive and sectoral response to illegal labour and encourage the Member States and the social and economic stakeholders to conclude a 'pact to declare the undeclared',

geared to allowing undeclared activities to gradually come to light. Such a pact should provide for a limited transitional period, during which there are no sanctions, at the end of which, however, stronger sanction mechanisms would come into effect;

Among the Community measures that could help to better police undeclared work is Council Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties which could improve the situation. In particular, they demand that contractors to be held co-responsible for any contributory irregularities on the part of subcontractors to which they are linked with a direct subcontracting agreement

Better understanding and assessing the extent of undeclared work: to better assess the extent of undeclared work, Members call on the Commission to submit proposals with a view to developing a set of generally accepted methods of measuring undeclared work based on a grid of data broken down by gender and sector. They stress the essential need to set up a Community-level platform for the collection of the information required for the establishment of a reliable database recording undeclared work within the Union. They also stress that women account for a larger proportion of jobs in a number of 'traditionally female' areas of the labour market, such as domestic service, the hotel and restaurant trade and health care.

Greater involvement of the social partners: Members call on the trades unions to become more active in the fight against undeclared work insofar as workers who do undeclared work often find they are not protected by important health and safety legislation and legislation on minimum wages. They call in particular for better enforcement of existing minimum wage legislation and urge those Member States which do not currently have a decent minimum wage to consider adopting one. They also recommend the introduction of measures that would enable undeclared workers to become 'legal' and cite the service voucher schemes in Belgium, Germany and France, whereby households can buy household services at a lower price but still ensure that social security contributions and taxes are paid through the voucher.

Encourage the free movement of workers: Members call on those Member States which have applied transitional arrangements to the free movement of workers within the Union to open up their employment markets to workers from all the new Member States, given that any restrictions – even partial ones – on access to the labour market, not only run counter to the founding principles of the Union and the European spirit but also give rise to increasing recourse to undeclared work. They believe it vital to implement the principle of equal workers' rights and to counteract unfair competition and social dumping.

Vulnerability of immigrant and illegal workers: Members are also concerned about illegal immigrants who are particularly vulnerable in situations of undeclared work. They consider the issue of employment of immigrants in an illegal situation is a complex one that cannot be resolved simply by punishing employers but requires cross-sector, far-reaching measures. They therefore favour a comprehensive approach which must take into account the need to safeguard and promote the rights of migrant workers, whether legal or illegal, who are exploited by their employers. Members believe that the fight against undeclared work performed by illegal immigrants cannot be effective without opening up channels for legal migration in order to guarantee the third-country labour which the Union needs. They consider that the fight against the exploitation of migrant workers needs to be based not only on a policy of repatriation, but also on prevention mechanisms based on the recognition of and respect for fundamental human rights. It is in this context that Members call on the Member States to define or strengthen the appropriate legislative measures to encourage migrants who are victims of exploitation to report their situation. Although they welcome the Commission's efforts to provide for sanctions against employers of illegally staying third-country nationals, they express concern that repressive measures are being put in place before any common framework of rules and policies on lawful access to the employment market has been laid down

Facilitation of administrative procedures: Members consider that simplifying or reducing administrative burdens and procedures, especially for small and medium-sized enterprises, would diminish the use of undeclared labour. The use of e-government and on-line registration should be encouraged, as well as the exchange of good practices with the aim of reducing the costs and complexity of registration and administrative procedures for businesses and, in particular, for small and medium-sized enterprises Members also call for public information campaigns to raise awareness of the damage caused by undeclared work among employers, workers and those who exploit them.

Stepping up the fight against undeclared work

The European Parliament adopted by 479 votes to 50, with 47 abstentions a resolution on stepping up the fight against undeclared work.

The own-initiative report had been tabled for consideration by Pier Antonio PANZERI (PES, IT) on behalf of the Committee on Employment and Social Affairs.

Parliament welcomes the approach taken by the Commission and calls for a renewed fight against undeclared work and the underground economy which damage the economy, leave workers unprotected, are detrimental to consumers, reduce tax revenue and lead to unfair competition between undertakings.

Extent of undeclared work: Parliament expresses its deep concern over the extent of undeclared work which accounts for as much as 20% or more of GDP in some Member States. It is for this reason that it calls for a combination of financial, fiscal and labour inspection procedures to be introduced to combat undeclared work.

All-out offensive against undeclared work: to combat undeclared work, MEPs envisage a comprehensive approach which covers matters relating to monitoring and control, the economic and institutional framework and involves concerted action at several levels and the participation of all stakeholders (public authorities, social partners, undertakings and workers).

The envisaged measures would include the following :

- improving incentives for regular work, which may include increasing the tax-free income band and, for employers, reducing the non-wage costs associated with legal employment;
- tax and social security system reforms to reduce the burden of taxation on the workforce (in particular, attractive tax rates for employers, including the deduction of charges concerning, inter alia, local work, and tax exemptions for all work carried out for pay lower than an amount to be determined by the Member State);
- strengthening Community action to ensure that modernisation of labour law is translated into improved job quality;
- promoting stronger and more efficient coordination and administrative cooperation between government enforcement agencies, labour inspectorates and the social partners, social security administrations and tax authorities to ensure that legislation is respected;
- providing strong incentives for those who undertake to put undeclared work on a formal economic footing (e.g. atypical contracts could

help to get people out of illegal work).

At Community level, Parliament calls on the Commission to draw up policies to provide for both general measures and sectoral measures to prevent undeclared work, doing so with the full involvement of the social partners. In this regard, special measures should be envisaged for the most affected sectors, such as the hotel and catering industry, farming, domestic services and the construction industry. Parliament stresses that undeclared work has various definitions in the national legal systems and that a definition common to all Member States would ultimately eliminate uncertainties in relation to statistical surveys of this phenomenon.

Further measures are suggested such as: i) the introduction of national and Community programming instruments which allow economic and social support and development policies to be pursued, ii) the taking of supervisory and punitive action, iii) the assessment of the possibility of accompanying the fight against undeclared work with financial policies that support regional and local plans, iv) creation of specific tools based on Member States' best practices aimed at curbing non-declared work by making it less appealing (as is the case already in Luxembourg), v) the financing of research projects into health and safety at work and of promotional activities geared to prevention and the dissemination of a culture of health and safety in the workplace, with particular reference to those sectors in which there is the highest risk of accident (and in which undeclared labour is more prevalent).

Reinforcing sanctions: Parliament invites the Member States to introduce severe penalties for employers who, notwithstanding any incentives offered, continue to make use of undeclared labour. It encourages them to combine preventive action and sanctions aimed at transforming undeclared work into regular employment. However, it points out that, unless it is followed up by better coordination between Member States, a policy that is exclusively punitive could concentrate undeclared work in the less structured States and in the less regulated economies. Parliament therefore advocates the conclusion of agreements at regional, national and local levels that provide a progressive and sectoral response to illegal labour and encourage the Member States and the social and economic stakeholders to conclude a 'pact to declare the undeclared', geared to allowing undeclared activities to gradually come to light. Such a pact should provide for a limited transitional period, during which there are no sanctions, at the end of which, however, stronger sanction mechanisms would come into effect. Parliament recommends that agreement be reached at national, regional and local levels involving social institutions and employers' organisations seeking a commitment to monitoring and progressively eliminating undeclared employment.

Among the Community measures that could help to better police undeclared work is Council Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties which could improve the situation. Overall, Parliament calls for greater and more effective respect of the right to work and of existing employment rules.

Greater involvement of the social partners: Parliament calls on the trades unions to become more active in the fight against undeclared work insofar as workers who do undeclared work often find they are not protected by important health and safety legislation and legislation on minimum wages. It calls in particular for better enforcement of existing minimum wage legislation and urges those Member States which do not currently have a decent minimum wage to consider adopting one. It also recommends the introduction of measures that would enable undeclared workers to become 'legal' and cite the service voucher schemes in Belgium, Germany and France, whereby households can buy household services at a lower price but still ensure that social security contributions and taxes are paid through the voucher.

Encourage the free movement of workers: Parliament calls on those Member States which have applied transitional arrangements to the free movement of workers within the Union to open up their employment markets to workers from all the new Member States, given that any restrictions – even partial ones – on access to the labour market, not only run counter to the founding principles of the Union and the European spirit but also give rise to increasing recourse to undeclared work. It believes it vital to implement the principle of equal workers' rights and to counteract unfair competition and social dumping.

Vulnerability of immigrant and illegal workers: Parliament is concerned about illegal immigrants who are particularly vulnerable in situations of undeclared work. It considers the issue of employment of immigrants in an illegal situation is a complex one that cannot be resolved simply by punishing employers but requires cross-sector, far-reaching measures. They therefore favour a comprehensive approach which must take into account the need to safeguard and promote the rights of migrant workers, whether legal or illegal, who are exploited by their employers. Parliament believes that the fight against undeclared work performed by illegal immigrants cannot be effective without opening up channels for legal migration in order to guarantee the third-country labour which the Union needs. It considers that the fight against the exploitation of migrant workers needs to be based not only on a policy of repatriation, but also on prevention mechanisms based on the recognition of and respect for fundamental human rights. It is in this context that the Parliament calls on the Member States to define or strengthen the appropriate legislative measures to encourage migrants who are victims of exploitation to report their situation. Although it welcomes the Commission's efforts to provide for sanctions against employers of illegally staying third-country nationals, they express concern that repressive measures are being put in place before any common framework of rules and policies on lawful access to the employment market has been laid down.

Facilitation of administrative procedures: Parliament considers that simplifying or reducing administrative burdens and procedures, especially for small and medium-sized enterprises, would diminish the use of undeclared labour. The use of e-government and on-line registration should be encouraged, as well as the exchange of good practices with the aim of reducing the costs and complexity of registration and administrative procedures for businesses and, in particular, for SMEs. Parliament also calls for public information campaigns to raise awareness of the damage caused by undeclared work among employers, workers and those who exploit them. Parliament considers that such permanent campaigns should accompany the various measures adopted with a view to instilling a culture of legality and promoting quality work and a legal business culture.