Stepping up the fight against undeclared work

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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.