Stepping up the fight against undeclared work

2008/2035(INI) - 10/09/2008

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.