

Factsheet on Undeclared Work - SLOVAKIA

1.1 Nature and Estimated Scale of Undeclared Work

1.1.1 Definition of undeclared work

The term "undeclared work" is not defined in Slovak legislation. The most relevant legal reference is provided by the Act on illicit work and illicit employment (Act No. 82/2005 Coll.). The law defines illicit work as *dependent work performed by a natural person for a legal entity or sole proprietor, where (i) there is no labour-law or state-civil-service-law relation established between the two parties pursuant to special regulation¹, or (ii) the natural person is a third country national employed in conflict with respective provisions²*. At the same time, the law determines illicit employment as *employment of a natural person by a legal entity or sole proprietor who makes use of dependent work of (i) a natural person with whom there is no labour-law or state-civil-service-law relation established, (ii) a natural person with whom a labour-law or state-civil-service-law relation is established but the employer has not complied with his/her obligation to notify the Social Insurance Agency³, (iii) a third country national employed in conflict with provisions on employment of third country nationals and asylum seekers and/or staying in the territory of the Slovak Republic in conflict with legal provisions regulating the stay of foreigners.⁴*

A key aspect in defining (and proving) illicit work and illicit employment is the performance of dependent work, which is defined as *work carried out in a relation where the employer is superior and the employee is subordinate, and in which the employee carries out work personally for the employer, according to the employer's instructions, in the employer's name, during working time set by the employer [Article 1(2) of the Labour Code]*. The Labour Code further stipulates that dependent work may be carried out only in an employment relationship or a similar labour-law relation and cannot be carried out in a contractual civil-law or a commercial-law relation. The definition of dependent work has been tightened since 1 January 2013 by way of reducing the number of defining attributes with the aim of preventing the substitution of labour-law relations with other forms of contractual relations (e.g. work carried out based on a trade licence).

Public administration authorities involved in the fight against undeclared work follow the same definition of illicit work/illicit employment. Academic and research institutions, dealing with the phenomena of undeclared work and the shadow economy, also make use of modified definitions and/or refer to definitions used by international organisations (e.g. the EC definition of undeclared work). Examples include the terms "unregistered work" and "hidden economy".⁵

¹ Labour Code (Act No. 311/2001 Coll.) and the Act on state civil service (Act No. 400/2009 Coll.)

² Article 21 of the Act on employment services (Act No. 5/2004 Coll.)

³ The main duty of employers is to register employees for social insurance at the Social Insurance Agency the day before commencing work at latest.

⁴ Illicit work is not considered work performed for a natural person who is an entrepreneur by his/her direct relative, sibling or spouse who has pension insurance, who is a recipient of a pension or is a student under the age of 26 (the same applies to illicit employment).

⁵ Unregistered (or black) work is defined as work performed by an individual for remuneration, from which taxes or contributions for social and health insurance have not been paid (by the employer or the worker). Hidden (or shadow) economy is defined as the sum of activities, producing goods (products and services), which have not been captured by way of official registration (e.g. statistics, tax system, accounting, etc.). Hidden economy includes activities in the formal sector, the non-formal sector, and illegal activities (Infostat (2014): Hidden economy (August 2014) – survey report. Centre of social research at Infostat).

1.1.2 Characteristics of undeclared work

According to labour inspection statistics, evasion of social security contributions in a formal employment relationship is the most prevalent form of undeclared work in Slovakia, followed by false self-employment and/or absence of a labour-law contract. Available national surveys imply that the most significant manifestations of undeclared work include partial cash-in-hand payments received by dependent employees and false (involuntary) self-employment.⁶ Foreign research confirms that only a small share of employees are working fully informally in Slovakia, yet a large share of the workforce tends to have undeclared and/or under-reported income.⁷ Illicit work carried out by immigrant workers is considered a relatively minor problem.

Recent surveys confirm that undeclared work is concentrated mainly in the construction sector, hotels and restaurants, agriculture, and other services. While the traditional areas of undeclared work tend to keep (construction) or somewhat lose (agriculture) their notorious positions, the incidence of undeclared work in various services sectors (e.g. catering, retail trade, sport and leisure time services) appears to have relatively increased over the past decade.⁸ Survey findings generally correspond with labour inspection data. Control authorities are, by law, focusing their activities on 'high-risk' sectors (construction, retail/wholesale, hotels and restaurants).

Undeclared work is most prevalent in micro and small enterprises employing nine or less people, as suggested by both inspections and surveys. Large enterprises appear to be much less involved in undeclared activities. Surveys further indicate that undeclared work concerns mainly occasional and seasonal jobs, and is carried out more often by unemployed persons than those with an existing paid job or the self-employed.⁹

High levels of social security contributions and taxes (contributing to high labour costs in relation to productivity) and administrative burdens are considered the traditional drivers of undeclared work for employers. The abundant supply of undeclared labour seems to be another important incentive. Three main motives lead workers to participate in undeclared work – survival concerns, efforts to increase income, and the need to pay off debts.¹⁰

1.1.3 Estimated scale of undeclared work

According to a representative survey carried out by Infostat in 2014, 18.1 % of respondents stated to have carried out some form of 'black work' in 2013 (21.4% of men and 15.2 % of women), of which 7.4 % worked illicitly in their main job and 10.7 % in their second job. The share of positive answers has not changed much compared to 2007 when a similar survey was undertaken by Infostat (18.5 %), however, the relative share of women participating in undeclared work has increased since then (25.2 % of men and 12.4 % of women in 2007), which is in line with the supposed rise of undeclared work in the services sector. When applied to the economically active population, 492 400 persons have engaged in undeclared work in 2013, spending a total

⁶ Bednarik, Rastislav (2014): Undeclared work in Slovakia. Survey of opinions and attitudes of public administration representatives, Institute for Labour and Family Research, Bratislava. Internet: http://www.ceit.sk/IVPR/images/IVPR/vyskum/2014/Bednarik/2170_bednarik.pdf

⁷ IFP (2014): Unemployment in Slovakia. Economic analysis - Policy paper 30, Institute for Financial Policy, Bratislava. Internet: https://www.finance.gov.sk/en/Components/CategoryDocuments/s_LoadDocument.aspx?categoryId=698&documentId=605

⁸ Bednarik, 2014; and Infostat (2014): Hidden economy (August 2014) – survey report. Centre of social research at Infostat

⁹ Infostat, 2014; Bednarik, 2014.

¹⁰ Infostat, 2014; Bednarik, 2014.

of 139 453 000 hours on illicit work (3.6 % of total hours worked in the economy; 3.4 % in 2006).¹¹

In 2016, control authorities (labour inspectorates and labour offices) carried out 25,931 inspections of illicit work in 23,416 enterprises and inspected 60,349 workers. Inspectors detected 1,311 employers (5.6% of all controlled employers; 7.1% in 2015) who illicitly employed 2,924 persons (4.8% of all controlled persons; 4.8% in 2015). Controls have been conducted mainly in small businesses with up to nine employees, where the highest number of violations have been detected. Among the illicitly employed, 81 persons were EU nationals and 220 were third-country nationals (7.5% of all cases; 1.7% in 2015), all of whom had a valid residence permit. A total of 1,139 fines were issued in 2016, amounting to EUR 4,144,800.¹²

There are no recent national estimates of the size of the shadow economy. A non-representative survey carried out by the Institute for Labour and Family Research among representatives of relevant public authorities estimated the size of the hidden economy at 21.4 % of GDP in 2014, an increase compared to 18.3 % of GDP estimated in a similar survey in 2007.¹³ According to international studies (Schneider, 2013), the size of the shadow economy in Slovakia has been moderately decreasing in recent years and reached 15.0 % of GDP in 2013¹⁴.

1.2 Institutional Framework

1.2.1 Responsibilities for addressing Undeclared Work

The Ministry of Labour, Social Affairs and Family is the central state administration body responsible for the design and implementation of policies addressing undeclared work. Other ministries with important competences in developing policies that help to prevent and deter undeclared work include the Ministry of Finance (area of taxes, fees and customs), Ministry of Economy (business environment regulation), and the Ministry of Interior (small entrepreneurship, entry and stay of foreigners).

The Ministry of Labour manages and controls the National Labour Inspectorate (NLI) and the Central Office of Labour, Social Affairs and Family. The regional labour inspectorates and the territorial labour offices, including the Central Office, are the main authorities in charge of supervising observance of legal provisions governing the ban on illicit work and illicit employment. They closely cooperate with the Social Insurance Agency which oversees employer and self-employed registration and contribution obligations. Although not primarily focused on detecting undeclared work, Tax Offices pay attention to possible incidence of illicit work when performing tax controls. Control activities focused on illicit employment are to a limited extent performed also by Trade Licensing Offices. Inspection authorities collaborate furthermore with the Police Force, health insurance agencies, and self-governing authorities (towns and municipalities).

¹¹ Hajnovicova, Viera (2014): Processing of results of a survey on the informal sector in 2014. Infostat, Bratislava

¹² Source: NLI (2014, 2015). Information on the amount of so-called additional payments, i.e. outstanding wage that has to be paid to the illicitly employed person and the amount of outstanding and/or recovered payments to tax, social security and health insurance authorities by the penalised employers is not readily available. NLI (2014): Informative report on detection of illicit work and illicit employment. National Labour Inspectorate, Kosice. Internet: <http://www.nip.sk/?t=46&s=128&ins=nip>; and NLI (2015): Informative report on detection of illicit work and illicit employment. National Labour Inspectorate, Kosice. Internet: <http://www.nip.sk/?t=46&s=128&ins=nip>

¹³ Bednarik, 2014.

¹⁴ Schneider, Friedrich (2013): The shadow economy in Europe, 2013. A.T. Kearney, Johannes Kepler University in Linz, Visa Europe. Internet: https://www.atkearney.com/financial-institutions/featured-article/-/asset_publisher/j8IucAqMqEhB/content/the-shadow-economy-in-europe-2013/10192

1.2.2 Characteristics of the responsible organisations

The **National Labour Inspectorate (NLI)** is a budgetary organisation of the Ministry of Labour with nationwide competence that oversees tasks concerning labour inspection and manages and supervises regional labour inspectorates. The NLI is the main partner for relevant inspection authorities in other EU and EEA Member States.

Labour inspectorates are charged with the performance of labour inspections, including supervision over the adherence to legal provisions regulating the ban on illicit work and illicit employment.¹⁵ Inspectorates are located in eight regional centres and currently employ almost 500 workers, of which approximately 330 are labour inspectors (including NLI). Since 1 October 2013, specialised departments have been set up at each labour inspectorate to improve control of illicit work and employment. These units (called KOBRA) have special working time organisation and conduct controls also during the night, weekends and holidays. There are altogether 36 inspectors in the KOBRA units who have carried out 12,493 controls in 2016 and detected 883 employers (7.1% of all controlled employers) who illicitly employed 2,042 persons (7.4% of controlled natural persons).

The **Central Office of Labour, Social Affairs and Family (COLSAF)** is a budgetary organisation subordinate to the Ministry of Labour with main competence in the area of social affairs and employment services. COLSAF manages, coordinates and controls the operation of 46 territorial offices of labour, social affairs and family (labour offices). The Central Office and the labour offices are authorised to control adherence to legal regulations governing the prohibition of illicit work/employment. Execution of controls comprises, however, a minor part of activities performed by labour office staff. In 2016, approximately 130 inspectors conducted 2,559 controls and disclosed 83 employers (3.2% of controlled employers) who illicitly employed 168 persons (3% of controlled natural persons).

The **Social Insurance Agency (SIA)** is a public law institution responsible for the administration of social insurance. SIA controls adherence to legal provisions laid down in the Act on social insurance (Act No.461/2003 Coll.), including the registration and reporting obligations of employers and the self-employed. Pursuant to the Act on illicit work and illicit employment, the failure to register an employee for social insurance before he/she commences work is considered illicit employment. SIA shall not penalise detected violations if they had been penalised already by the labour inspectorate or labour office. In 2015, approximately 240 supervisors carried out 17,427 controls on compliance with social insurance regulation (14,604 in 2014). SIA has 36 local branches and three detached units.

Tax offices are financial administration bodies managed by the Financial Directorate within the competence of the Ministry of Finance. As part of local enquiries and tax audits, tax administrators consider also indications of illicit employment and illicit work, and inform respective control authorities (labour inspectorates and labour offices) accordingly.

Trade Licensing (District) Offices execute state administration in the area of entrepreneurship operated on the basis of a trade. Offices located in eight regional centres are authorised to control the observance of tax, fee and contribution duties and illicit employment by the self-employed. In actual effect, however, trade offices have provided assistance to inspection bodies in only 15 and 18 controls in 2014 and 2015, respectively.

¹⁵ In 2014, controls focused on illicit work/employment made up 38.2% of all inspections carried out by labour inspectorates. Violations of the ban on illicit work and employment are detected also within the scope of inspections primarily focused on observance of labour-law regulations, occupational health and safety regulations, or social legislation in transportation.

Police Force, in particular the **Bureau of Border and Alien Police and the regional directorates of the Police Force**, assist labour inspectorates and labour offices in controls of illicit work and illicit employment (315 and 82 joint controls in 2016, respectively).

1.2.3 Cooperation and collaboration between authorities within Slovakia and cross-border authorities

In general, authorities involved in fighting undeclared work are obliged to cooperate and provide necessary information within the scope of their competence. At ministerial level, cooperation takes place mainly through inter-resort consultations on legislation and policies. Cooperation between state authorities directly involved in combating undeclared work is running basically at two levels – cooperative execution of controls and sharing of information.

Labour inspectorates and labour offices conduct joint inspections in the form of planned activities or ad hoc inspections and special campaigns. On specific occasions, inspectors and representatives from other relevant authorities join the control bodies (Social Insurance Agency, trade licensing offices, health insurance companies, tax offices, police). Police Forces are obliged to provide necessary cooperation and protection for inspections on request of the control bodies if threats to life or health of inspectors or obstruction of controls are anticipated.

Labour inspectorates and labour offices (including the Central Labour Office) have access to the electronic database of the Social Insurance Agency and may investigate data needed for controls. The control bodies are obliged to notify the Social Insurance Agency, the Central Labour Office and the respective labour office and/or labour inspectorate, tax office, and in cases relating to third country nationals also the Police Force, of all detected cases of illicit work and illicit employment. Control bodies shall also inform the respective trade licensing office about cases of repeated violation of the ban on illicit employment; this shall lead to the cancellation of the trade license. The National Labour Inspectorate maintains a central publicly available list of natural persons and legal entities that have violated the ban on illicit employment over the past five years. Control authorities are obliged to notify law enforcement bodies of any facts that indicate the commission of a crime.¹⁶

There are no available assessments of the effectiveness of cooperation between authorities.

As from 18 June 2016, a new law on cross-border cooperation in the posting of employees to perform work (Act No.351/2015) entered into force, which stipulates new competences for the National Labour Inspectorate and labour inspectorates in cross-border cooperation with respective authorities in the EU/EEA Member States. The law also amends the Act on illicit work and illicit employment, in that it shall penalise equally employers for accepting services supplied by another employer through an illicitly employed person(s) as if that employer had illicitly employed own workers.

1.3 Policy Focus and Measures

1.3.1 Policy approach

Undeclared work is addressed by a mix of preventative and repressive policies in Slovakia. Preventative policies are pursued to improve the legal and administrative framework to make it more favourable for the declaration of economic activity and employment. The deterrence policy approach builds on strengthening detection and sanctions for violations. Even though there are no distinct trends in recent policy developments that would indicate favouring one or the other policy approach, the acting

¹⁶ Article 251a of the Criminal Code (Act No.300/2005 Coll.) specifies "unlawful employment" of third country nationals whose stay in the territory of Slovakia is in conflict with the law (illegal immigrants) as a criminal act that may be punished with a prison sentence of up to 3 years.

political representation but also the society in general tend to consider punitive policies as more effective in fighting illicit work than preventative measures. Nevertheless, in combination with reinforced controls and sanctions, a number of promising reforms have been implemented in recent years which strengthen incentives to declare work on both the demand and supply sides.

1.3.2 Measures to tackle UDW

The following table provides an overview of the main measures in place to tackle undeclared work. It also contains information on preventative measures which pursue more general objectives rather than just reducing motivations to engage in undeclared work.

Deterrence		Prevention	
Control activities	Inspection capacities of labour inspectorates were reinforced in 2013 -2014 which resulted in a substantial increase of performed controls and detected violations	Tax-favoured work agreements for students	Income up to EUR 200 monthly from work agreements for students is freed from social contributions
KOBRA units	Special units set up at labour inspectorates operate also beyond regular working hours inspection results point to a higher rate of detected violations	Start-up support	Start-up support is available to self-employed through the ALMP scheme Support to SMEs through different support schemes
Joint controls	Cooperation and coordination of controls is a standard practice and is considered important due to the different manifestations of undeclared work and scope of activity of participating authorities	Hiring incentives	Various wage subsidies are available for employers through the ALMP scheme and special ESF funded projects
Information and data sharing	Control authorities have access to social insurance data of the Social Insurance Agency Control authorities notify other relevant authorities (e.g. tax offices, Social Insurance Agency) about detected cases of undeclared work	Administrative burden reduction	Points of single contact set up at every Trade Licensing Office Electronic registration and reporting to commercial registers, tax and social security authorities Simplified accounting rules for micro enterprises
List of employers violating the prohibition of illicit employment	National Labour Inspectorate maintains a publicly accessible list of employers who have infringed the ban on illicit employment in the past 5 years Social Insurance Agency publishes a list of debtors	Child tax bonus and child care allowance	A tax bonus is granted to employed parents of dependent children (EUR 21.41 monthly) Working parents may apply for a child care benefit (EUR 280 monthly) to co-finance childcare for children up to 3 years of age
Penalties and other sanctions	Employers who illicitly employed persons are fined with EUR 2 000 – 200 000 (the minimum fine is EUR 5 000 if two and more persons were illicitly employed) Administrative sanctions include, for example, cancellation of trade license, license of temporary work agency, no access to EU funds and public tenders for a period of 5 years, etc. Illicit workers may be fined with EUR 331, removed from the register of job seekers and obliged to return received unemployment benefits (if relevant)	Measures to support formal employment of long-term unemployed	Temporary in-work benefits may be provided to welfare recipients who take up a low-wage job A temporary social contribution relief is available for employers who hire long-term unemployed A health contribution allowance for low-wage workers and their employers to offset increase of labour costs associated with minimum wage increase A workfare scheme requires welfare recipients to carry out at least 32 hours of activation work per month to be eligible for the basic subsistence benefit
Public hotline	Telephone link and e-mail for (anonymous) reporting on suspected cases of undeclared work and social system misuse (labour	Awareness raising and counselling services (NLI, labour offices)	National Labour Inspectorate and labour offices organise awareness raising campaigns about the negative implications of undeclared work

	inspectories, labour offices, Social Insurance Agency)		
Registration duties	Employers are obliged to register employees at the Social Insurance Agency before they start work		

1.3.3 Good practice

There is not sufficient supporting evidence to highlight individual measures as good practice. Available data suggest that on the 'deterrence' side, the operation of the KOBRA units within labour inspectorates has improved the success rate in detecting undeclared work. On the 'prevention' side, in-work benefits appear to have effectively increased incentives for inactive and long-term unemployed persons (who are over-represented among illicit workers) to take up low-paid work in the formal sector.

1.3.4 Challenges and barriers

There are several challenges which need to be tackled with regard to undeclared work in Slovakia:

- *High prevalence of under-declared income.* Available evidence suggests that although having a formal contract, employers and workers fail to declare the actual income in order to evade tax and social security obligations.¹⁷ Inspectors find it difficult to detect under-reporting (cash-in-hand) when employers and workers cooperate in order to circumvent regulations.
- *Preferential tax treatment of the self-employed.* Recent tax reforms (2012-2013) have partly reduced distortions in the tax regimes for different categories of labour, but the tax regime for the self-employed remains preferential in relation to dependent employees. Hereby we refer mainly to the opportunities to adjust the tax base (e.g. by including part of personal consumption into business costs) or to defer registration and payments for social security, through which the self-employed can effectively decrease their tax and contribution obligations. One of the effects is a supposedly high occurrence of bogus self-employment, which is, despite recently tightened definition of dependent work, difficult to prove.
- *Lack of job opportunities in the formal sector for the low-skilled.* There is a relatively small group of low-skilled and unqualified labour in Slovakia, but they perform very poorly in the labour market. Given the very few opportunities in the formal sector, work in the informal or semi-formal sector is often the only opportunity for these groups (especially the Roma) to raise income. Although not a panacea, further reduction of non-wage labour costs on low-paid work could help to increase the motivation of employers to hire such labour.
- *Unclear policy/strategy regarding prevention.* There seems to be some ambiguity in the government's approach to creating an environment encouraging individuals and businesses to declare activities. On one hand, measures to reduce the tax wedge on low-paid work are being pursued while at the same time the minimum wage has substantially increased. Similarly, reduction of administrative burdens is promoted, while at the same time new duties are imposed or extended (e.g. occupational health service) which are particularly burdensome for small businesses. Selective state aid and tax concessions are provided to large companies, while SMEs have hardly any access to such support.

Additional challenges stem from the widespread acceptance of illicit and unlawful behaviour in the society, weak law enforcement, limited capacity of inspection/control authorities, some remaining work disincentives in the tax-benefit system, and an unnecessary regulatory burden on businesses.

¹⁷ IFP, 2014.

Additional References

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