

**PROJECT:**  
**“EFFICIENT COMBATING THE INFORMAL ECONOMY”**

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**PROJECT:**  
**EFFICIENT COMBATING THE INFORMAL ECONOMY**

**PERMANENT WORKING BODY OF THE SOCIAL AND ECONOMIC COUNCIL OF  
THE REPUBLIC OF SERBIA  
FOR ECONOMIC AFFAIRS**

**Belgrade 2010**

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# I

## PREFACE

Within the scope of activities of the Social and Economic Council of the Republic of Serbia, the Permanent Working Body for Economic Affairs comprised of the representatives from the Ministry of Labour and Social Policy, Association of Independent Trade Unions of Serbia, United Branch Trade Unions “Nezavisnost” as well as Serbian Association of Employers has recognised the fight against the informal economy as priority task of executive government and social counterparts. Many years of working on gathering and processing information from the field through local networks of both representative trade unions and the Serbian Association of Employers recognised the informal economy as critical issue of the society on the whole, without whose combating, i.e. reduction within frames acceptable on the EU level, there can be neither serious development of economic environment in the Republic of Serbia nor sustainable and legal employment.

According to the World Bank data from the late 2008, the informal economy participation rate in the Serbian GDP amounted to 33.6 %, indicating an additional increase in the period of global economic crisis. In the spring of 2010, Permanent Working Body for Economic Issues initiated the project “Efficient Combating the Informal Economy” with great understanding and financial support of the Swiss Labour Assistance (SLA). Incentive activity was to conduct a field research via local social counterparts’ networks and the initial research results were presented in June at a press conference held in Media Center in Belgrade. All project information is available on our Internet presentation ([www.socijalnoekonomskisavet.rs](http://www.socijalnoekonomskisavet.rs)).

In the published booklet, we have also introduced the activities of the Labour Inspectorate of the Ministry of Labour and Social Policy of the Republic of Serbia for the year 2009 and a nine-month-period of 2010. Herewith we would like to express our gratitude to them for allowing us to observe the measures that were enforced with a primary goal – to provide following of the

provisions of the Labour Law. Information obtained from the Inspectorate are crucial not only in regard to the problems this governmental body faces on a day-to-day basis in their work but also in regard to the recommendations for a more efficient fight against the informal economy, which are met as the result of their experience in this particular area.

We also wish to thank our colleagues from Italy, from the Italian General Confederation of Labour – CIGL and from the organization Progetto Sviluppo, who on their hand provided us with an example of a highly developed EU country based on which we were able to recognise the problems they had or are still having in relation to the informal economy and the methods applied in fighting, i.e. reducing these issues to an acceptable level. Some of these methods could represent a useful experience for us in Serbia.<sup>1</sup>

We hope that you will read the results presented and analyzed and be able to grasp respective recommendations that might lead to creating a comprehensive state strategy in the fight against the informal economy and to integration of the informal economy into the formal regulatory environment. Future strategy should be followed by concrete, time-framed action plans on the national and local level, clearly defining duties and responsibilities of executive authorities as well as of social counterparts.

*Čedanka Andrić,*

*Secretary of the Social and Economic Council of the Republic of Serbia*

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<sup>1</sup> Prior to global economic crisis, the informal economy participation in the GDP (average) of EU countries amounted to 15.7%, while the research conducted in the mid 2010 showed an increase in this ratio amounting to 20%.

## II

### BASIC TERMINOLOGY EMPLOYED IN THE ANALYSIS

Informal economy (also: *hidden economy*, *shadow economy*, *grey economy*) is a global phenomenon, more or less present in each country regardless of the type of society or level of social and economic development.

There is a range of diverse definitions for the term “**informal economy**”. Terms like “**hidden economy**”, “**illegal economy**”, “**unofficial economy**”, “**irregular economy**” and many others are frequently employed as synonyms. However, the semantics of these terms varies to some extent and it is, therefore, important to initially point out these differences in meaning.

The Economic dictionary<sup>2</sup> provides following explanation of the term “informal economy”: “A part of economy characterized by irregular and illegal business activities. It can be viewed as grey economy, i.e. business activity that can be legalized by taking certain actions (for example, by payment of taxes) and black economy that cannot be legalized (for example, trading in narcotics). It is a trait of both underdeveloped and developed countries but with growing economy its participation ratio in the country’s GDP is reduced. All countries conduct measures for its combating in order to increase tax revenues.”

According to T. Sparius, in order to perform economic analysis of the phenomenon, a comprehensive systematisation is provided by the typology dividing the hidden economy into: illegal, legal but not declared and home-based economy. According to the same author, the three above-mentioned types of informal economy have following meaning:

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<sup>2</sup> Belgrade University, Faculty of Economy, Belgrade 2006, p. 463

**Illegal economy.** This type of economic activity usually includes a very wide range of activities, such as: smuggling, manufacturing and distribution of narcotics, prostitution, gambling, loansharking, counterfeiting, forced debt collection, blackmail, kidnapping, racketeering, theft.

**Undeclared legal activity.** It refers to a group of activities that are basically legal but for different reasons hidden from administrative and tax authorities. In their actual demonstration, these activities can also for that reason be considered illegal but are basically not forbidden. Economic activity can be hidden for several reasons. Among other things, to circumvent or evade taxes, to circumvent payment of social security benefits or to dodge strict and inflexible employment regulations.

**Home-based economic activity.** It usually comprises activities performed at home, such as: food preparation, cleaning services, repair works, babysitting, etc. It refers to legal production activities that are hidden in the sense that they do not enter the market. These activities are neither subject to taxation nor included in the social accounts. Consequently, the total recorded revenue is reduced by the amount of unreported income.

United Nations Development Program defines **informal economy** as: “Economic activities, resources and transactions that are not registered or otherwise reported to relevant state authorities or tend to evade taxation or some other manner of incorporation in the state economic statistics, are sometimes referred to as “shadow”, “underground” or as “grey economy”.<sup>3</sup>

International Labour Organisation defines **informal employment** as: “employment without protected labour contracts, benefits for the workers or social security. It is comprised of two basic components: self-employment in informal enterprises and paid employment in informal jobs.”<sup>4</sup>

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<sup>3</sup> Glovackas S, Woolfson C, Tuch M, *The Informal Economy in Central and Eastern Europe*, Trade Union Guide, 2008, p. 29.

<sup>4</sup> Ibid, p. 29.

According to Economic dictionary<sup>5</sup>, **grey economy** is a “set of economic activities performed outside of the formal regulatory environment. It includes criminal operations, fictitious economic activity, informal economy and other hidden or unlawful business transactions. From the statistical aspect, it is divided into reported and unreported, from the legal aspect – legal and illegal, from the fiscal aspect – taxed, taxable (but with an entire income or part of income hidden from tax authorities) and other (for which there are no clear tax regulations and which is performed according to legal gaps). Particular attention should be paid to the so-called third economy (black economy), which is strictly forbidden and whose conducting is linked to criminal and gangster activities.”

The informal economy in the Republic of Serbia includes three pillars:

- 1) Black economy (illegally operating commercial enterprises)
- 2) Clandestine employment (illegally working employees)
- 3) Money laundering and financial malversations (unlawful transactions, tax evasions, etc.)

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<sup>5</sup> Op. cit., p. 715.

### III

## **RESULTS ANALYSIS OF THE SURVEYS CONDUCTED AMONG THE EMPLOYED AND UNEMPLOYED AS PART OF THE PROJECT “EFFICIENT COMBATING THE INFORMAL ECONOMY”**

**(Authors: Zoran Ristić, United Branch Trade Unions “NEZAVISNOST” and Rajko Kosanović, Association of Independent Trade Unions of Serbia)**

### **1. Preface**

Association of independent trade unions of Serbia and UBTU “Nezavisnost” have jointly carried out a survey among economically active population (employed and unemployed) as part of the Project “**Efficient Combating the Informal Economy**” on the subject of the extent and comprehension of informal economy in the Republic of Serbia. The above-mentioned surveys were conducted in the course of May 2010 on the entire territory of Serbia.

The aim of the survey was to contribute to creating a realistic foundation for meeting valuable conclusions and recommendations in the scope of the wholesome research conveyed by the Permanent Working Body for Economic Affairs of the Social and Economic Council, aspiring to, based on observing the extent and characteristics of informal economy, suggest measures on how to fight it as efficient as possible, transfer it into formal regulatory environment and reduce it to acceptable frames.

The main aim of the research was to instigate proactive thinking in labour population and provide dignified working and life style for the employed.

## 2. Informal economy status in the Republic of Serbia – research summary

In regard to the presence of informal economy, the Republic of Serbia is in comparison to other countries no exception. However, what separates Serbia from the majority of countries is a high participation ratio of population employed in the informal economy considering the total economically active population.

1. Based on the survey results, it is estimated that approximately 665,000 of economically active citizens are in some manner engaged in informal activity (as source of extra income in addition to regular work or as sole source of income).

2. Unregistered economic activity in the Republic of Serbia is mainly conducted in the building and construction sector, trading, tourism and catering, craftsmanship and services and is substantially growing in small and medium-size enterprises.

3. According to the survey estimates, Serbian informal economy shows an annual turn of more than 4 billion Euros, amounting to around 30% of total annual turn in goods and services.

4. There are numerous **reasons for clandestine employment** in the Republic of Serbia that should primarily be sought in the following:

- high unemployment rate, particularly high unemployment rate in young people;
- low wages and life standard decrease;
- lack of complete tax system and weak tax control;
- mild sanctions, i.e. low risk compared to projected profits;
- underdeveloped market mechanisms and institutions as well as inefficiency of public administration;
- dominance of politics over economy, etc.

Competent state authorities tend to turn a blind eye to clandestine employment for clandestine work represents a specific social outlet for regulating social tensions induced by long-lasting economic and social crisis.

5. Clandestine work has numerous **negative repercussions** not only on employees but also on employers, both the ones who properly register their workers with competent authorities as well on those who choose not to do it, and also on the state and the entire society.

**Employees** performing clandestine work, entirely or partially, fail to enjoy legal rights guaranteed by the effective legislation (Labour Law, Law on Occupational Safety and Health, Pension and Disablement Insurance Law, Law on Medical Insurance, Law on Healthcare, Law on protection in case of unemployment, and other laws), collective agreements (General, Individual and Collective Agreement with the employer) and by the employment contract.

Clandestine, i.e. unreported worker fails to attain rights ensuing from the employment relationship, such as right to limited working hours, vacations and leaves of absence, protection of life and health at work or right to a paid pension and disablement insurance. Numerous statistical studies indicate that in the building and construction sector, clandestine work tends to be one of the main causes for occupational injuries, not seldom resulting in death or disablement.

**Employers** who perform their activities legally, as opposed to employers who employ clandestine workers, are subject to unfair competition for they are obliged to pay high tax and benefits and these expenditures are not easily covered from their business activities. These employers are in this manner actually being punished for complying with the law and meeting their liabilities.

Enterprises that disregard their obligation to register their employees also suffer the repercussions of clandestine employment to a certain extent, considering that undeclared work usually means low productivity rate resulting in long-term disadvantages. It is evident that the conduct of these employers is in collision with the law and subject to criminal liability.

**The state** also experiences many negative effects of clandestine employment for the republic and municipal budgets as well as mandatory social security funds (Pension and Disability Insurance

Fund, Republic Healthcare Institute and National Employment Office) all endure significant loss of resources due to unpaid taxes and benefits.

Due to enlarged social expenditures, the state is significantly burdening the economy by sustaining high tax and benefit rates, hence encumbering the employers who conduct their operations by the book. By not receiving tax and benefit payment, the competent budgets and funds fail to realize income required for financing the rights of employees and all citizens, which usually results in long-term debt for the state and passing the burden on to future generations.

The state's position on clandestine employment can be basically regarded as: ignorant, repressive, supervising and motivational (protective).

6. Clandestine employment is manifested in the following **forms**: undeclared work; non-payment of wages; non-payment of overtime; longer working hours than acceptable; withholding the right to a paid vacation.

The breach of the employees' right will occur if the employer: a) fails to conclude an employment contract with the employee, b) fails to register the employee, c) fails to pay wages to the employee, d) pays a part of the earnings including taxes and contributions but the unreported part in cash, e) fails to pay the employee for overtime, f) fails to provide use of day leave, weekly absence and paid annual vacation, g) expects longer working hours than the official, h) forbids organizing into trade unions, etc.

7. Numerous **measures** can be taken in order to fight the informal economy and these measures can be categorized into three groups: preventive, stimulatory and disciplinary measures.

**Preventive measures** are basically measures aiming at development of social awareness regarding baleful long-term consequences of clandestine employment. This group of measures also includes organizing campaigns about the disadvantage of the informal economy and the repercussions and negative impacts it may have on employees, republic and local community budgets and herewith on the entire society. Evidently, the providers of preventive measures have

to be the Government of the Republic of Serbia, local self-governing authorities, trade unions, employers and employees.

**Stimulatory measures** include: facilitating the work environment, instigating entrepreneurs and employers to a legitimate work (by reducing the encumbrances to the economy on the grounds of taxes and benefits, providing financial incentives for registering the employees with the employment authorities, facilitating credit loans, etc.), creating a stimulatory environment for regular tax and benefit payment (by publishing “white” and “black” lists of entrepreneurs and employers, gradual reduction of taxes and benefits, etc.), adopting simple and transparent tax legislation as well as simplification of regulations regarding bookkeeping, accounting and business records, and other measures.

Apart from preventive and stimulatory measures, the implementation of certain **disciplinary measures** is also required. These include: tightening of legal sanctions for tax and benefit evasion and for neglecting the provisions of the Labour Law and other regulations on legal employment of employees, intensifying the activity of work inspection agencies, and other measures.

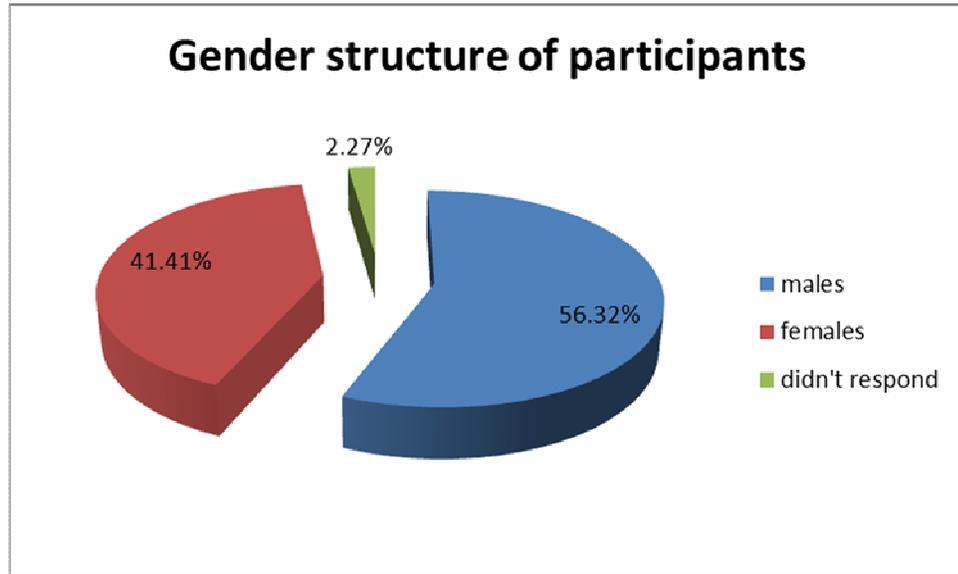
### 3. Survey results

The survey was conducted in 30 municipalities on the territory of the Republic of Serbia, as follows: Ada, Arandelovac, Bačka Topola, Bečej, Belgrade, Bor, Brus, Gornji Milanovac, Knjaževac, Kraljevo, Kruševac, Leskovac, Majdanpek, Niš, Novi Sad, Pančevo, Pirot, Požarevac, Ruma, Smederevska Palanka, Sombor, Stara Pazova, Subotica, Trstenik, Užice, Valjevo, Vranje, Vrbas, Zaječar and Šabac.

The questionnaire was filled out by 838 survey participants.

### 1.) Gender structure:

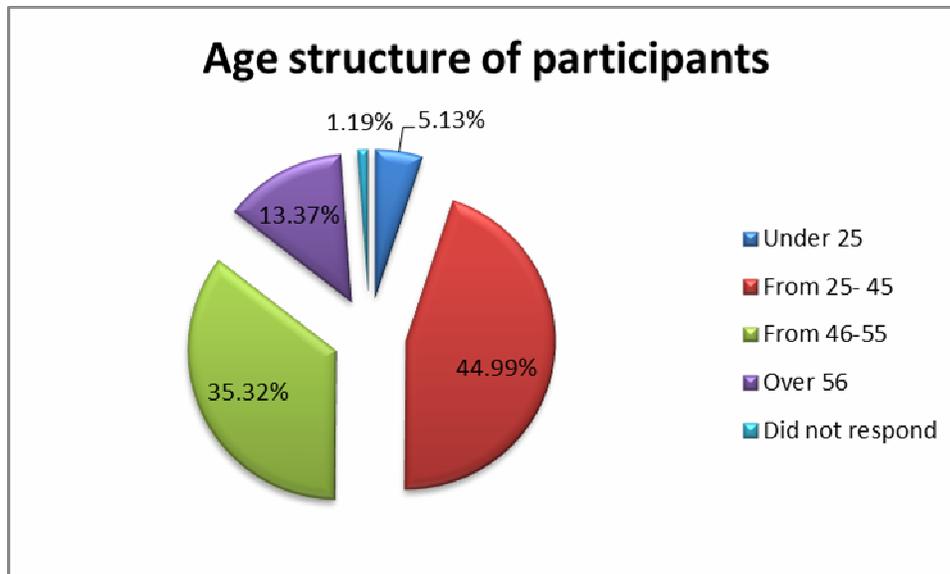
- males: 56.32%
- females: 41.41%
- did not respond: 2.27%.



### 2.) Age structure:

(Average age of participants is 45)

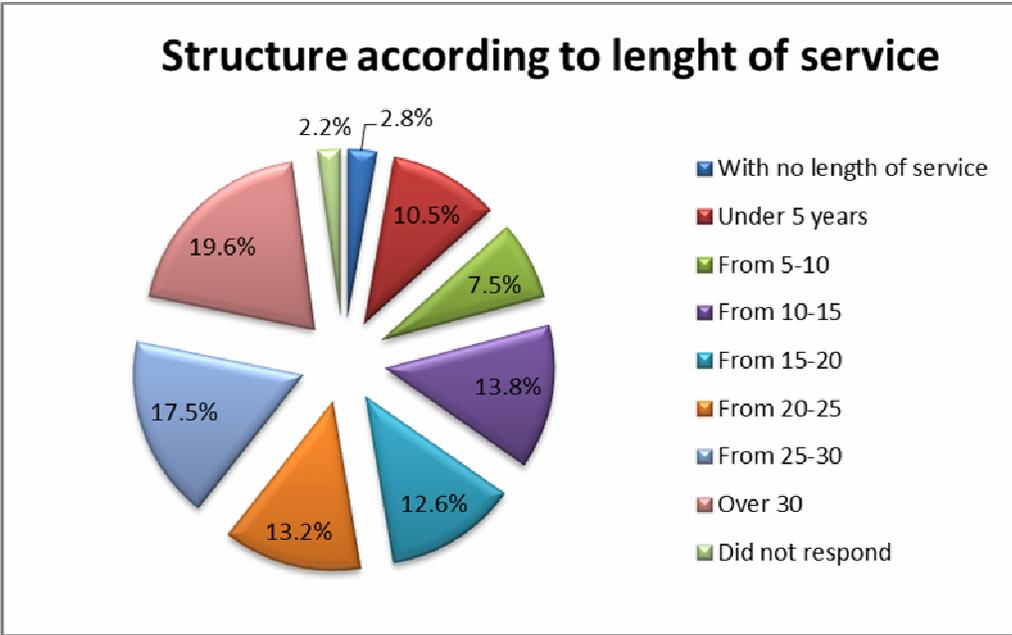
- under 25: 5.13%
- from 25 to 45: 44.99%
- from 46 to 55: 35.32%
- over 56: 13.37%
- did not respond: 1.19%



### 3.) Structure according to length of service:

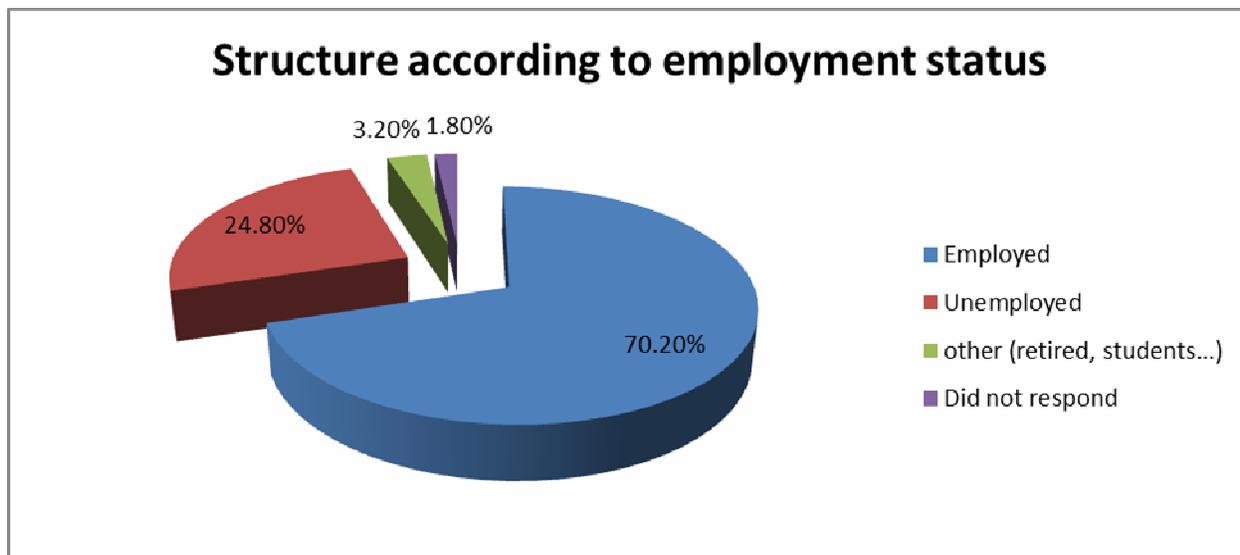
(Average length of service is 20 years and 3 months)

- with no length of service: 2.8%
- under 5 years: 10.5%
- from 5 to 10: 7.5%
- from 10 to 15: 13.8%
- from 15 to 20: 12.6%
- from 20 to 25: 13.2%
- from 25 to 30: 17.5%
- over 30: 19.6%
- did not respond: 2.15%



**4.) Structure according to employment status:**

- employed: 70.2%
- unemployed: 24.8%
- other (retired, students...): 3.2%
- did not respond: 1.8%



#### 5.) Structure of clandestine workers:

From the overall number of survey participants, 20.3% is engaged in the informal economy, notwithstanding whether as permanently employed or unemployed. The obtained ratio, slightly lower than in the research conducted by other institutions (app. 30%), can be explained by the fact that the survey was conducted by trade union activists and that it mainly included commercial entities with active trade unions.

- From the employees working in the formal regulatory environment, 11.1% are also additionally engaged in the informal sector, providing an extra income for their home budget.

-From the overall number of unemployed survey participants, 55.2% seek source of income in the informal economy.

According to the results analysis, the majority of the persons engaged in the informal economy come from households with minority of household members employed (average household counts 3.7 members, 1.4 thereof are employed).

## **6.) Structure according to qualifications:**

From the overall number of survey participants, the employed in the informal economy are mostly with high school qualifications (17.6%) or no qualifications (12.1%), but there is also a considerable percentage of those with university diplomas (9.3%).

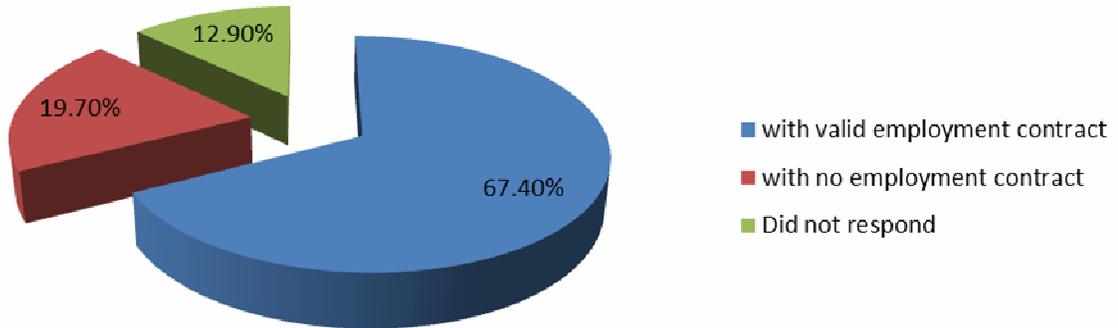
From the overall number of persons employed in the informal economy, the majority have high school qualifications (75.5%), subsequently followed by employees with university diplomas (13.3%), college diploma (6.12%) and no qualifications (3.1%), whereas 2% failed to provide an answer.

In view of the fact that the majority of employees who in the last decade have switched jobs or were let go fall under the category of high school graduates (28%), we can assume that the process of transition mainly affected this particular category of employees and that it contributed to a high participation ratio of these individuals in the informal sector employment structure. Main reasons stated for their leaving of previous jobs are as follows: “The boss told me that I was no longer working there”, “Cessation of employment for a definite period of time”, “I asked for my salary”, “I left because I didn’t get my salary”, etc.

## **7.) Structure according to employment contract and collective agreement**

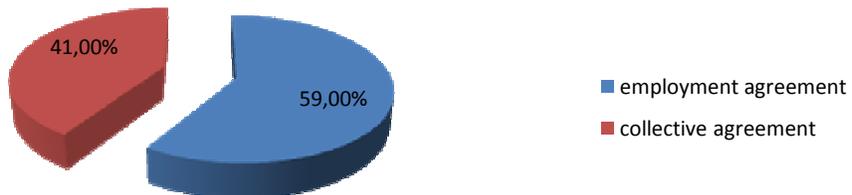
- 67.4% with valid employment contract
- 19.7% with no employment contract
- 12.9% did not respond

### Structure according to employment contract



From the total of formally employed, 96% concluded employment agreements with the employer, but merely 67% (primarily public sector employees) are covered by the collective agreement.

### Coverage with collective and employment agreements of formally employed



### 8.) Payment of wages

Public companies pay wages to their employees on a regular basis.

From the beginning of the year onwards, there has been a mild increase of employees who haven't received their earnings.

The highest earnings are paid out to public sector employees (earnings of the majority are higher than RSD 30,000), whereas the wages of the informal sector employees mainly range between RSD 15,000 and RSD 20,000 or amount to even less than that.

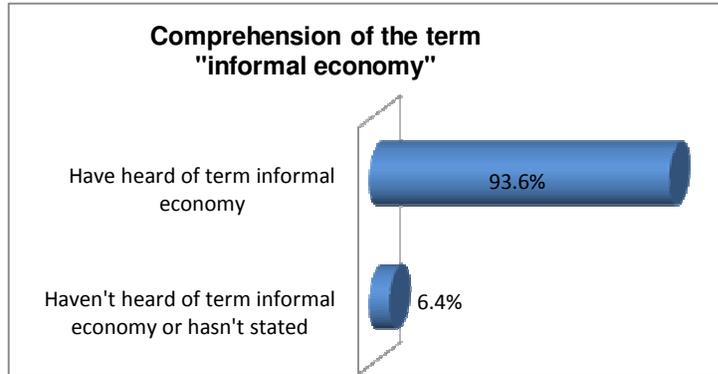
### **9.) Termination of employment**

From the total number of survey participants, 35.7% experienced termination of employment lasting mainly from several months up to 4 years (for some, termination of employment lasted only 7 days, for others even up to 7 years).

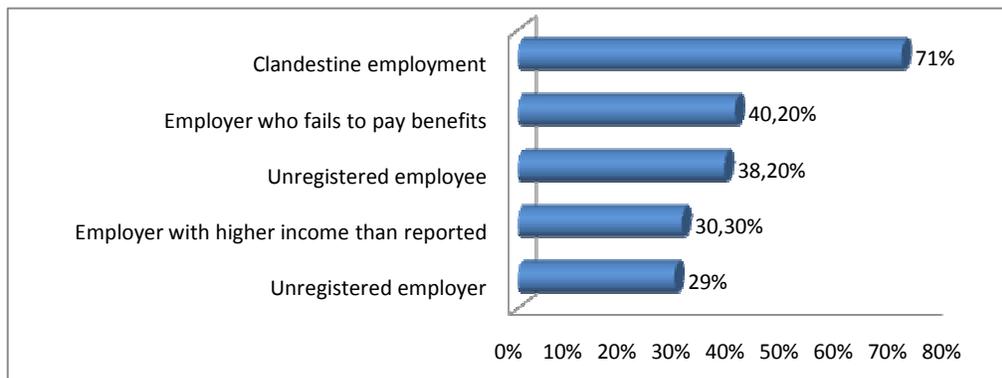
The subjects state that in the period of cessation of employment, they used to provide income by means of: “clandestine work”, “additional work”, “support by family members”, “loans from friends”, “agricultural work”, “getting by”, “work for private entrepreneurs”, “inheritance“, “family pensions”, “Employment Office”, “none”, “seasonal work”, etc.

### **10.) Comprehension of the term “informal economy”**

The term “informal economy” was familiar to 93.6% survey participants and by that term 71% of them recognized clandestine work, employer who evades payment of benefits (40.2%), unreported worker (38.2%), employer who has higher actual income than reported (30.3%) and unregistered employer (29.0%).



**Comprehension of the term “informal economy”**



**11.) What facilitates sustaining of informal economy?**

When asked to explain what, in their opinion, facilitates the sustaining of informal economy, survey participants responded as follows: “state tolerance, the state could prevent it if it only wanted it”, “state, government, ministry, political parties”, “lack of work”, “inadequate implementation of the law”, “lack of stimulatory policies”, “employees’ fear of losing their jobs”, “legal gaps massively exploited by employers”, “state authorities fail to do their job

(inspection services, Ministry of Internal Affairs...), “poor economic system”, “malversations”, “high unemployment rate”, “politicization and corruption”, “privatization that destroyed the majority of work positions and no new openings were made”, “disintegration of trade union movement”, “poor control”, “mentality of the people”, and other.

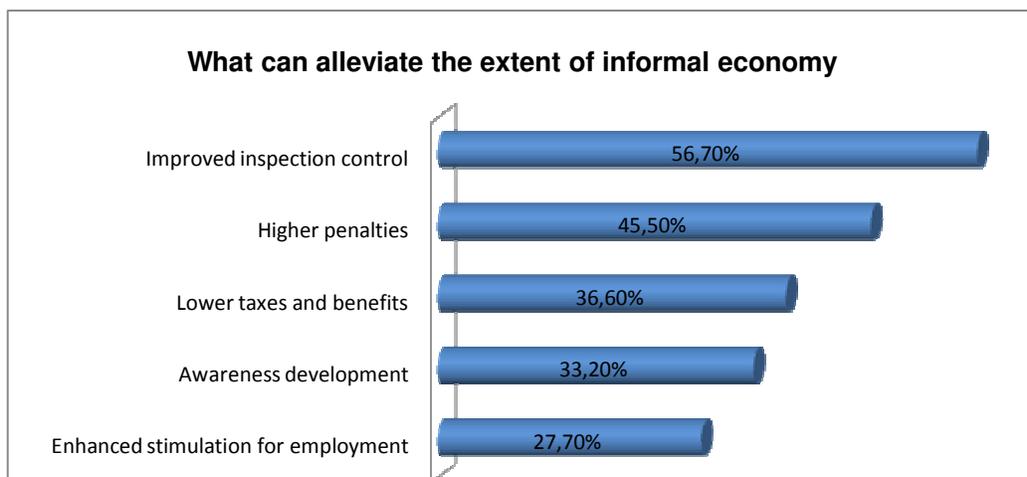
Frequent responses were: the state, corruption, lack of work, ineffective legislation, tardiness of inspection authorities and people’s unawareness of their own rights.

## **12.) Stimulatory policy**

Among mostly stipulated stimulatory measures that could provide transition of the informal economy in the formal regulatory environment, study participants pointed out the following:

- |  |       |
|--|-------|
| - enhanced inspection control:                 | 56.7% |
| - enhanced sanctions:                          | 45.5% |
| - lower taxes and benefits:                    | 36.6% |
| - awareness development:                       | 33.2% |
| - greater stimulatory measures for employment: | 27.7% |

Other measures the survey participants pointed out were: complying with the privatization agreement, adopting legislation that protects the employees, impartial justice and inspection services, operational state apparatus, fighting the corruption, strengthening the trade unions, new job openings...



### **13.) Inspection services activity evaluation**

The activity of inspection services in the area of fighting the informal economy was evaluated as efficient by 3.3% survey participants, whereas 85.5% evaluated their activity as insufficient or non-existing.

### **14.) Profitability of informal economy**

According to survey participants, the informal economy is most profitable for the enterprises that fail to register their employees, i.e. for their owners (bosses), for the state – securing the social peace and profiteering (11.1%), clandestine labour force (9.8%), criminal syndicates, individuals and all those directly participating in the informal economy, tycoons and those who in this manner compile wealth.

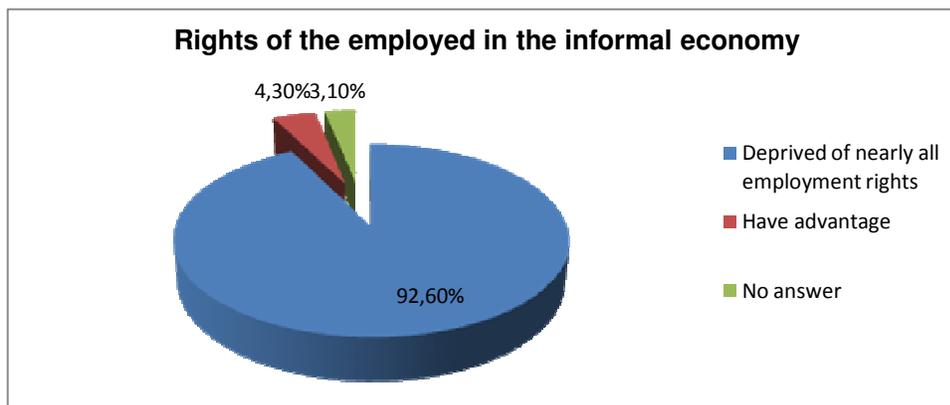
### 15.) Negative effects of informal economy

Interestingly enough, a large number of survey participants also identify the state (53.1%) and clandestine workers (48.7%) as greatest losers, suffering huge losses due to informal economy. In their opinion, the informal economy also has negative effects on all social structures, particularly on legally operating enterprises, not only in depriving them of a large segment of market and funds but also in reducing the quality of goods and services.

### 16.) Legal rights of informal economy employees

According to 92.6% of survey participants, informal economy workers are deprived of nearly all employment rights, social security rights (pension insurance fund, healthcare insurance and insurance in case of unemployment), right to earnings, sick leave, paid annual vacation, hot meal, right to enter a trade union...

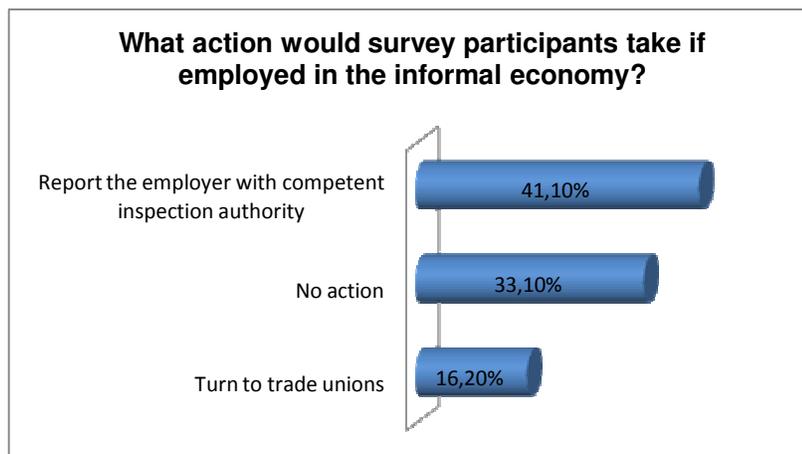
Merely 4.3% recognised the advantage of working in the informal sector in the possibility of greater earnings (unreported but paid in cash), non-existence of dismissal notice, non-existence of material and criminal liability for damage incurred to the employer and non-existence of business operations monitoring.



**17.) What action would survey participants take if employed in the informal economy?**

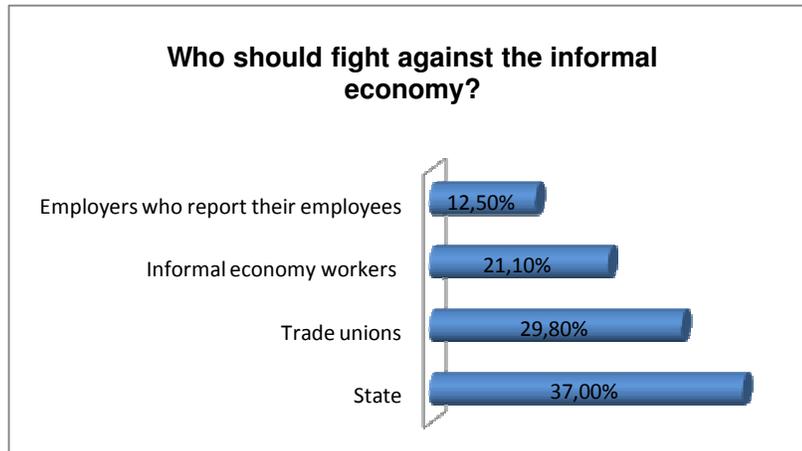
If they were in a position to work in the informal economy, 41.1% of the survey participants stated they would report their employer to competent authorities, 33.1% wouldn't do anything and 16.2% would turn to trade union.

As main reasons for deciding not to pursue the matter, survey participants stipulated fear of being fired if they reported the employer and endangering their own existence.



**18.) Who should fight against the informal economy?**

In the survey participants' opinion, combating the informal economy should be carried out by: the state (37%), trade unions (29.8%), informal economy workers (21.1%), employers who report their employees (12.5%), etc.



According to the results, the majority of the participants (66.8%) considered the state and the trade unions as main agents who should fight against the informal economy.

## IV

### **INFORMAL ECONOMY IN THE REPUBLIC OF SERBIA**

#### **The research of Serbian Association of Employers**

**(Author: Dragoljub Rajić, Serbian Association of Employers)**

In March and April 2010, specialized departments of the Serbian Association of Employers have, in the scope of the project “Efficient Combating the Informal Economy” supported by the Swiss Labour Assistance, carried out a survey among the general managers of small, medium-size and large enterprises as well as among entrepreneurs legally operating in the territory of the Republic of Serbia on the subject of various manifestations of informal economy in their commercial branch and main fields of activity. Previous experience of SAE specialized departments revealed that precisely the managers and owners of these companies and privately-owned enterprises are very well acquainted with all forms of unfair competition in the field. For that reason, they have been chosen to act as sources of information in this survey.

#### **1. General information about the enterprises participating in the survey**

The survey included 227 commercial enterprises – 133 small, 10 medium-size and 7 large enterprises. One third or 77 study participants failed to provide an answer about the number of employees. The participants who provided this information employ 10,587 persons in total.

The geographical layout of the commercial enterprises that agreed to participate in the informal economy survey carried out among the employers:

Table 1.1. Survey participants (according to regions)

<b>Region</b>	<b>Number of surveyed enterprises</b>
Belgrade	69
Vojvodina	52
East Serbia	10
West Serbia	11
Central Serbia	44
South Serbia	39
Kosovo and Metohija	2
<b>Total</b>	<b>227</b>

The following table provides a more detailed geographical classification, stating the list of cities and municipalities in which these enterprises /independent trade stores, independent crafts stores and independent catering services are situated. The table indicates the location of the surveyed enterprises that provided the largest feedback.

Table 1.2. Survey participants (according to cities)

<b>City (Municipality)</b>	<b>Number of surveyed enterprises</b>
Belgrade	69
Niš	25
Novi Sad	21
Kragujevac	15
Subotica, Sremska Mitrovica, Leskovac,	

Vranje	4
Pirot	5
Valjevo, Sombor, Čačak, Pančevo, Kruševac, Kovin	3
Zaječar, Bečej, Gornji Milanovac, Smederevska Palanka, Paraćin, Ruma, Senta, Vršac, Arandelovac, Bujanovac, Kraljevo, Zrenjanin, Užice, Boljevci, Trstenik, Šabac, Čuprija	2
Vrnjačka Banja, Inđija, Sremski Karlovci, Kanjiža, Bački Petrovac, Soko Banja, Konjevići, Arilje, Loznica, Vreoci, Donji Milanovac, Požega, Čelarevo, Rekovac, Jagodina, Vrnjci, Novi Pazar, Kuršumlija, Svilajnac, Kikinda, Vranjska Banja, Zvečan, Kosovska Mitrovica	1
<b>Total</b>	<b>227</b>

Commercial enterprises from Belgrade, south of Serbia and Vojvodina showed most interest while filling out the survey. Company directors and entrepreneurs from the Belgrade region provided most detailed answers, filling out approximately 76.5% of columns intended for responses or responding to the questions with an answer suggested in advance. Least detailed answers were given by the survey participants from central Serbia, who responded to about 52.8% survey questions.

Notwithstanding the fact that Chapter 1 of the survey (General information about the company) clearly stipulates that, for the reasons of anonymity, information about the company director or

the person authorized to fill out the survey on behalf of the company is not required, 89 company directors and owners of independent catering, trade or crafts shops and various agencies stated their full names, and in three cases even department managers and association secretaries authorized to fill out the survey stated their full names. The large percentage of survey participants who stated their personal information (40.53%) granted an outstanding significance to the entire survey and the results obtained.

From the total of 227 companies and entrepreneurs participating in the study, 29 have a web presentation. According to their structure, enterprises with web presentation include:

18 small enterprises;

7 medium-size enterprises;

2 large enterprises and

2 entrepreneurs.

## **2. Manifestations of informal economy**

### *2.1 Types of goods and services mostly incorporated in the clandestine economy*

From 227 survey participants, 224 provided an answer to this question, showing a high level of interest to stipulate the type of goods and services mostly traded with in the black market.

Table 2.1. Types of goods and services traded with in the black market

Type of goods (product, service)	Number of survey participants who are aware that these products or services are traded with in the black market
Wholesale trade in consumer goods	20
Retail trade in consumer goods	24

Trade in paper material	1
Trade in car parts	2
Trade in metal and textile waste	1
Motor vehicle sales	1
Trade in agricultural (food) products	9
Trade in office material	2
Mobile phones and equipment sales and repairs	2
Trade in alcohol beverages	5
Trade in ceramics	5
Small electric appliances sales	3
Textile and footwear trade	16
Computer and computer equipment sales	3
Cosmetics	4
Cash on delivery trade	1
Construction material manufacturing and trade	17
Tobacco products sales	2
Furniture production and trade	8
Jewellery trade	1
Trade in second-hand goods	1
Wood production and processing	1
Playhouse – hosting games of chance	1
Textile and leather clothes/footwear manufacturing	11
Civil engineering	10
Construction work –	
building construction and civil engineering	11
Driving schools	1
Paint and coating production	1
Agricultural production (agriculture, fruit and vineyard growing, beekeeping, etc.)	16
Construction craft works (ceramics, carpentry, painting work)	11

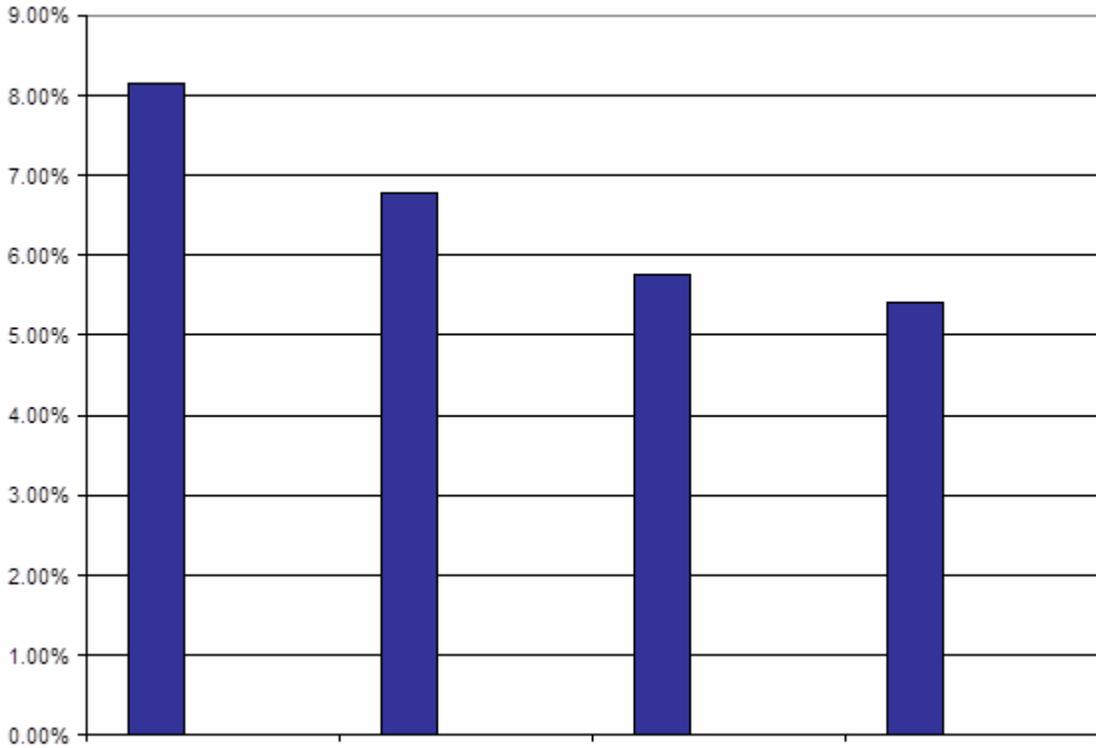
Paper and carton package production	2
Chart-publishing activity (books)	3
Metal construction artefacts manufacturing	5
Medicinal herbs and spices production and trade	4
Production of herb-based medicinal concoctions	1
Dairy production	3
Rugs and floorings	2
Plastics	4
Machine equipment and machinery	4
Meat processing and trade	3
Engines and engine parts manufacturing	1
Metallurgy products	3
Rubber products manufacturing and trade	1
Wood packages manufacturing	1
Illegal lodgings and catering objects	11
Consulting and management services	7
Transportation of goods	7
Transportation of passengers	5
Advertising and marketing services	5
Home repairs	4
Accounting and bookkeeping services	3
Maintenance and repairs of computers and computer equipment	4
Tour operators	3
Machine craft works	2
Packaging and preparation of goods for transportation	2
Technical and measurement proofing services	1
Motor vehicles maintenance and repairs	1
Printing services	1
Printed material distribution	1
Water transport	1

Forwarding services	1
Physical-technical security	1
Event organization services	1
Dry-cleaning services	1
Photocopying machine spare parts sales	1
River boats maintenance	1
Car renting	1
Framing art paintings, artistic carpentry works	1

*Note: many authorized persons from the commercial enterprises involved in the survey stated more than one product or service (activity) that is subject to informal economy.*

Based on the field information obtained from the survey participants, the greatest illegal trade in goods and services is conducted in the following sectors:

Chart 2.1. Illegal trade according to field of activity  
(percentual ratio in the total of survey participants)



Wholesale consumer goods/Retail consumer goods/Construction material/Textile and footwear  
production and trade

Table 2.2. Illegal trade according to activity  
(percentual ratio in the overall number of survey participants)  
– top 20

<b>Field of activity</b>	<b>in %</b>
1. Retail sale consumer goods	8.14%
2. Wholesale consumer goods	6.78%
3. Construction material production and trade	5.76%
4. Textile and footwear trade	5.42%
5. Agricultural production (agriculture, fruit and vineyard growing, beekeeping, etc.)	5.42%
6. Construction works – building and civil engineering	3.73%
7. Construction craft works (ceramics, carpentry, painting, etc)	3.73%
8. Textile, leather clothes and footwear production	3.73%
9. Illegal lodgings and catering objects	3.73%
10. Construction design (engineering)	3.39%
11. Agricultural (food) product trade	3.05%
12. Furniture manufacturing and trade	2.71%
13. Transportation of goods	2.37%
14. Consulting and management services	2.37%
15. Liquor trade	1.69%
16. Ceramics	1.69%
17. Construction metallurgy products	1.69%
18. Machine equipment and machines production	1.69%
19. Transportation of passengers	1.69%
20. Advertising and marketing services	1.69%

When the obtained results are added according to respective economic branches, the score reveals the sectors with largest proportion of illegal trade in goods and services.

Table 2.3. Illegal trade according to economic branches  
(percentage ratio in the total of survey participants)

<b>Branch of industry</b>	<b>in %</b>
Trade (all forms)	32.55%
Construction and construction material industry	14.58%
Services	12.88%
Agriculture, forestry and water management	8.81%
Tourism and catering	4.75%
Craftsmanship and entrepreneurship	4.75%
Traffic and commuting	4.41%
Leather and textile	4.40%
Wood industry	4.07%
Media, publishing and Chart activities	3.05%
Chemistry and non-metals (industrial rubber, plastic, etc)	2.03%
Metal industry	2.03%
Healthcare and pharmacy	1.69%

## **Interpretation of the results obtained**

Trade in goods and services has taken a convincing first position in the structure of overall trade in the informal or grey sector, indicating a poor market control by competent inspection services and the existence of parallel channels for trading in undeclared goods on the entire territory of the Republic of Serbia.

In the second place, building and construction sector along with industry of construction material due to presence of significant number of fictitious (“pump and dump”) companies, employing one or two or even no persons and lacking relevant assets and equity capital. Directors and owners of legally operating enterprises have often in the course of the survey emphasized that these companies rise out of nowhere, operate about two to three years, win several engagements via public bidding procedures (or merely one large engagement) and later vanish from the market into thin air. These companies take up contractors and construction workers either illegally or based on the performance agreement and also rent complete mechanization, which usually just stands at the construction site unemployed, from other larger construction companies. Furthermore, it occurs that these fictitious companies hire various firms as subcontractors, which then operate for years basically acting as intermediaries between employers and contractors, whereas in that period, 10-15% of contracted business value disappears. Such phenomena in building and construction sector could be avoided if the public tender procedure permitted parttaking only to companies with relevant references, specified number of permanent employees and with annual turn that is not lower than the public acquisition value.

Third place includes services, mainly small-size subcontractor services and so-called household services. Service sector has the largest ratio in the informal economy of EU countries, for it is extremely difficult even in such developed countries to fight against illegal rendering of services. However, governments and local self-governing administrations of EU countries are constantly conducting programs for reducing the informal sector and struggling to keep the level of illegal services under control by enforcing active measures. The Republic of Serbia lacks active policy for coordinated stimulation and more severe sanctioning of the informal service sector. For this reason, legally operating employers who render their services to both national economy and

citizens suffer pressure from unfair competition, which encumbers their business operations and jeopardise their market development, whereas the republic budget suffers substantial loss in assets each year by the realization of significant overall revenues in the informal sector.

Fourth place is held by the only branch of industry, in which the Republic of Serbia shows surplus in foreign trade exchange – agriculture with forestry and water management. Different estimates indicate that each second small-size agricultural manufacturer in Serbia carries out its business activities in the informal sector, which represents significant loss for the state on one hand but on the other, hinders these individuals to receive relevant subventions from the state or apply for a loan to purchase seed, compost, agricultural tools and mechanization, leaving them long-term limited to their modest compounds and their undersized production, causing them to lose opportunity for development and improvement of life standard. The consequence of such circumstances is massive migration from the country and to the cities, where former small manufacturers now for the most part work illegally or take up seasonal or part-time jobs which are mainly underpaid, hence enlarging the number of social cases and state expenditures for welfare, public kitchen and shelters.

*2.2. Which liabilities commercial enterprises regularly meet towards the state, whereas their unfair competition meets none?*

The following list includes all monthly, quarterly and annual liabilities of legal commercial enterprises towards the Republic of Serbia, local self-governments, courts of justice and other institutions with public authority to collect relevant reimbursements. A large number of these liabilities is a significant encumbrance and additionally complicates continued market existence of legal enterprises and entrepreneurs in an environment of unfair competition from the informal sector insufficiently combated by the state.

1. VAT (monthly and quarterly)
2. Income tax and benefits
3. Temporary service agreement taxes and contributions

4. Taxes and benefits on copyright royalties
5. Company Profit Tax
6. Communal Tax on Business Signs
7. Communal tax on business signs in and outside of registered business space at facilities and spaces belonging to local self-governing units
8. Communal tax on keeping the gaming equipment
9. Communal tax on keeping music equipment and organizing musical programs
10. Communal tax on public space utilization or utilization of spaces outside of business offices
11. Communal tax on advertising panels utilization
12. Communal tax on utilization of parking space intended for road motor vehicles
13. Communal tax for utilization of free areas for camping, tents or other facilities for temporary use
14. Communal tax on river bank utilization for business or other purposes
15. Communal tax on utilization of showcases for presentation of goods outside business offices
16. Communal tax for keeping and utilization of floating machinery and devices
17. Communal tax on keeping motor, road and trailer vehicles
18. Communal tax on keeping and utilization of boats and floating boats
19. Communal tax on owning restaurants and other catering objects on rivers
20. Communal tax on occupying public property for keeping construction material and carrying out construction work
21. Fee on improvement of living environment (in cities and municipalities)
22. VAT on renting a business facility
23. Removal of garbage (10 to 112% higher for economy than for general population)
24. Water for commercial entities (up to 145% more expensive for enterprises than for general population)
25. City construction land fee
26. Official vehicles parking space fee
27. Gas for commercial entities (up to 86% more expensive for enterprises than for general population)
28. Public music broadcasting fee (SOKOJ)
29. Public phonogram broadcasting fee (OFPS)

30. TV subscription for commercial entities
31. Tax on protection, utilization and improvement of generally useful forest functions
32. Disinsection and deratisation fee
33. Facility noise level measurement
34. GPS fee for fiscal cash register
35. Annual fee for fiscal cash register servicing
36. Refilling and control of fire devices
37. Project and compliance for summer gardens
38. Project and compliance for presentation and sales of goods outside business facilities
39. Project and compliance for winter gardens
40. Bookkeeping services expenditures
41. Bank commissions
42. Various building and property insurance costs
43. Bookkeeping office material costs
44. Local administrative fees (to tax authority, local self-government, etc.)
45. Republic administrative fees
46. Environmental fee
47. Employees transportation costs (in compliance with GCA)
48. Costs of day pays for business trips (according to GCA)
49. Costs of severance pay in compliance with the Labour Law
50. Costs for overtime, night shifts and work on holidays (in compliance with the Labour Law and GCA)
51. Serbian Chamber of Commerce mandatory membership fee
52. Attestation on domestic origins of goods – Serbian Chamber of Commerce
53. 8 different fees for biocide product data evaluation and verification
54. Product package marketing fee
55. Exceptional circumstances fund fee
56. Fee on study of impacts on market structure – trade companies

Illegally operating commercial entities **fail to meet** any of the above-stated 56 liabilities, stipulated by our survey participants. We should point out, however, that the overall number of

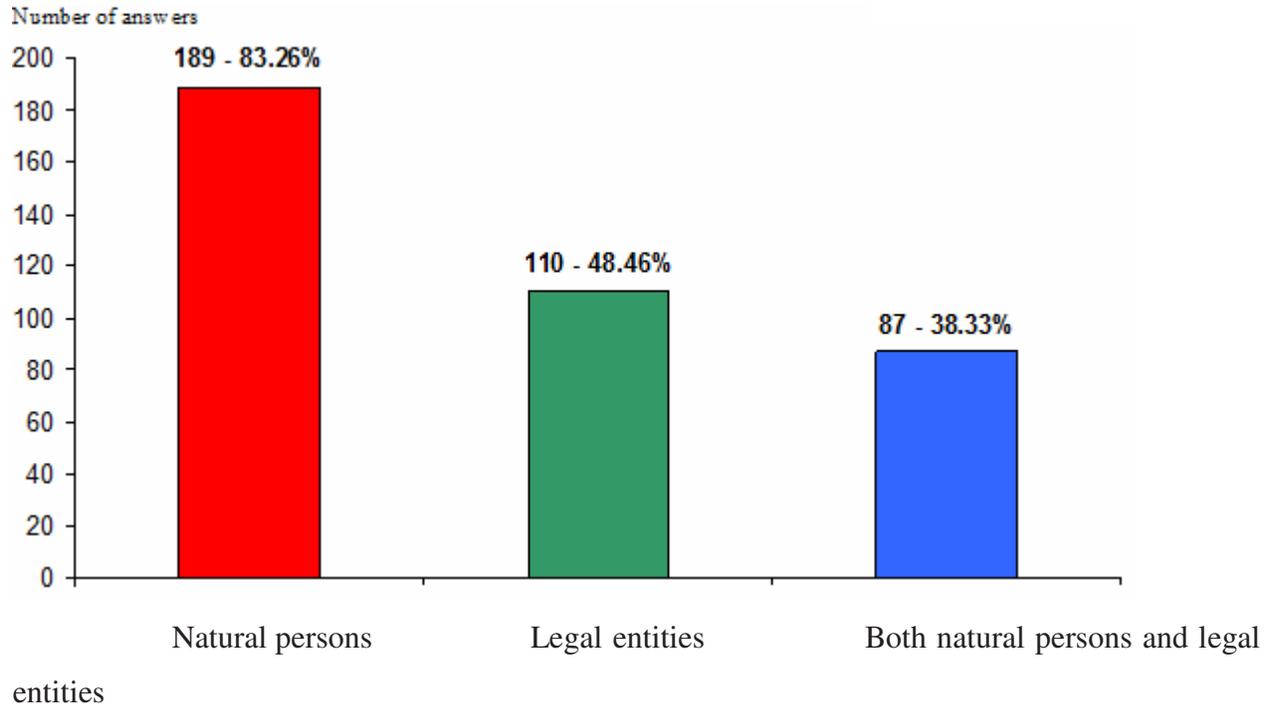
liabilities exceeds this number, depending on the branch of industry and field of activity of the enterprise and entrepreneur. The above-stated list of liabilities illustrates how much advantage the informal sector has in comparison to formally registered companies.

### *2.3. Who represents unfair competition?*

As unfair competition operating in the informal sector, 189 survey participants (83.26% of overall survey participants) named **natural persons**, whereas 110 survey participants (48.46% of overall survey participants) named informally operating **legal entities**. Furthermore, 87 or 38.33% of total survey participants stated that within their field of activity both **natural persons** and **legal entities** operate outside of the formal regulatory environment.

Exceptional circumstances are related to the sector of services rendered by small legal entities, namely services in the field of project development, printing and Chartal design or computer equipment maintenance, subcontracting and bookkeeping services. In this area, acts of unfair competition are mostly committed by **natural persons who independently render their services**, whereas the number of survey participants who named legal entities as illegally operating enterprises was relatively small (11.11%).

**Chart 2.2. Who represents unfair competition?**



#### *2.4. Distribution of illegal goods*

When it comes to selling of illegal goods to consumers by illegal traders and distributors, the objections mostly refer to advertised sales – 118 (51.98%). Sales of illegal goods on the various green and flea markets, according to 107 survey participants (47.14%), is in second place, followed by sales in unregistered independent trading and crafts stores – 100 survey participants (44.05%).

Other objections are as follows:

Improvised roadside stands – 88 survey participants (38.77%)

Illegal distribution centres – 68 survey participants (29.96%)

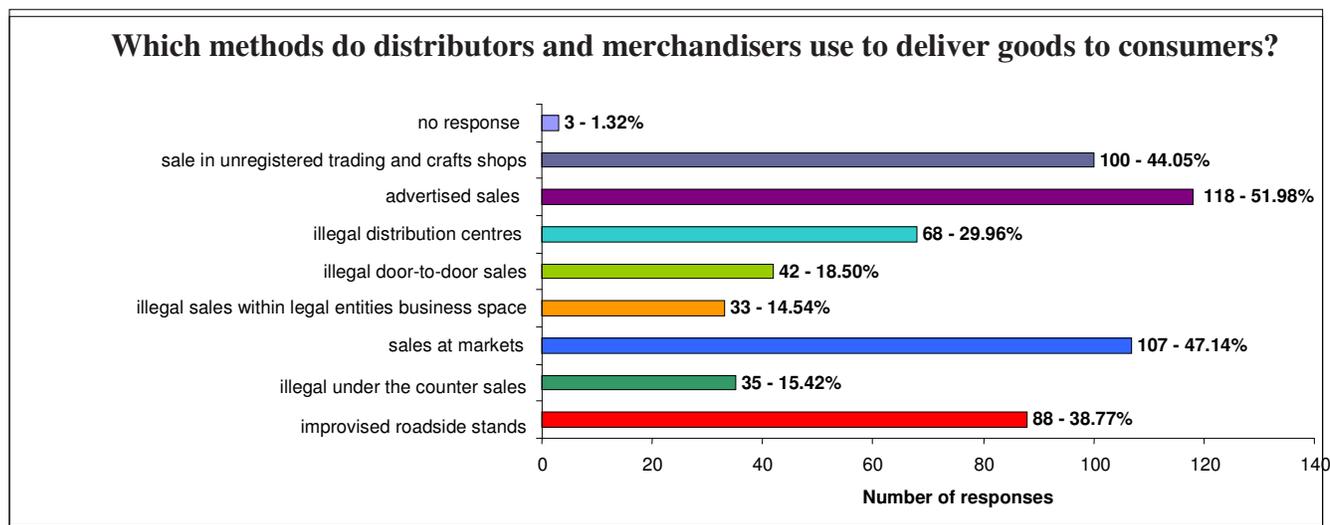
Illegal door-to-door sales – 42 survey participants (18.50%)

Under-the-counter sales in legal trading objects – 35 survey participants (15.42%)

Illegal sale within premises of legal entities – 33 survey participants (14.54%)

Chart 2.3. Methods of distribution of goods

**Which methods the distributors and merchandisers use to deliver the goods to consumers?**



Numerous complaints have been submitted to illegal rendering of services by natural persons (48 survey participants – 21.15%). This trend mostly occurs in bookkeeping, engineering and consultant as well as marketing and advertising services. In addition to that, there is a large number of complaints to the goods arriving in the country via illegal channels (20 – 8.81%). On the regional level, it is observed that the amount of complaints to sales of illegal goods via improvised road stands on the territory of the City of Belgrade is under republic average (28.36% of survey participants in Belgrade), which is basically the result of the respective field of activity of the surveyed enterprises, primarily in the sector of services.

Sale of illegal goods at markets is extremely expanding in the region of Western Serbia – according to 66.67% of survey participants from this region; this is how illegal goods find their way to respective consumers. This method of distribution is less characteristic for larger cities –

according to 32.84% of survey participants from Belgrade, markets are dominant informal sectors.

Door-to door sales is specific for Western Serbia – 28.57% of survey participants described this method of distribution as significant.

Advertised sale is more distinctive in larger cities – according to 59.70% of survey participants from Belgrade and 57.89% from Novi Sad. Interestingly, merely 33.33% of survey participants from central Serbia reported this method of distribution of goods, as opposed to republic average of 51.98%.

Sales in unregistered independent trading and crafts stores is a leading problem in central Serbia – 63.33% of survey participants reported this method of distribution. Different than in other regions, 31.34% of survey participants from Belgrade regard this method of distribution as problematic, which reveals a ratio that is under republic average.

### 2.5. *Frequently counterfeited brands*

Survey participants were asked to stipulate the types of brands that are frequently being counterfeited and illegally distributed. Counterfeit brands are generally products of textile industry, mostly foreign clothing and footwear brands such as *Gucci, Armani, La Costa, Benetton, Zara*. Jewelry brands *Julieri, Cartier, Akoya* and *Rochelle* are also subject to counterfeiting as well as cosmetic brands *Nivea, Avon* and *Garnier*.

Moreover, there is a growing trend of counterfeiting furniture brands such as *Simpo – My Home* or *Forma Ideale*. There are also reported cases where the persons operating in the informal sector copy the range of goods of legally operating domestic manufacturers.

In the foods industry, foreign confectionery products *Nestle* and *Milka* are also copied. Domestic products, which are usually subject to counterfeiting, are mainly spices. Manufacturing of *British*

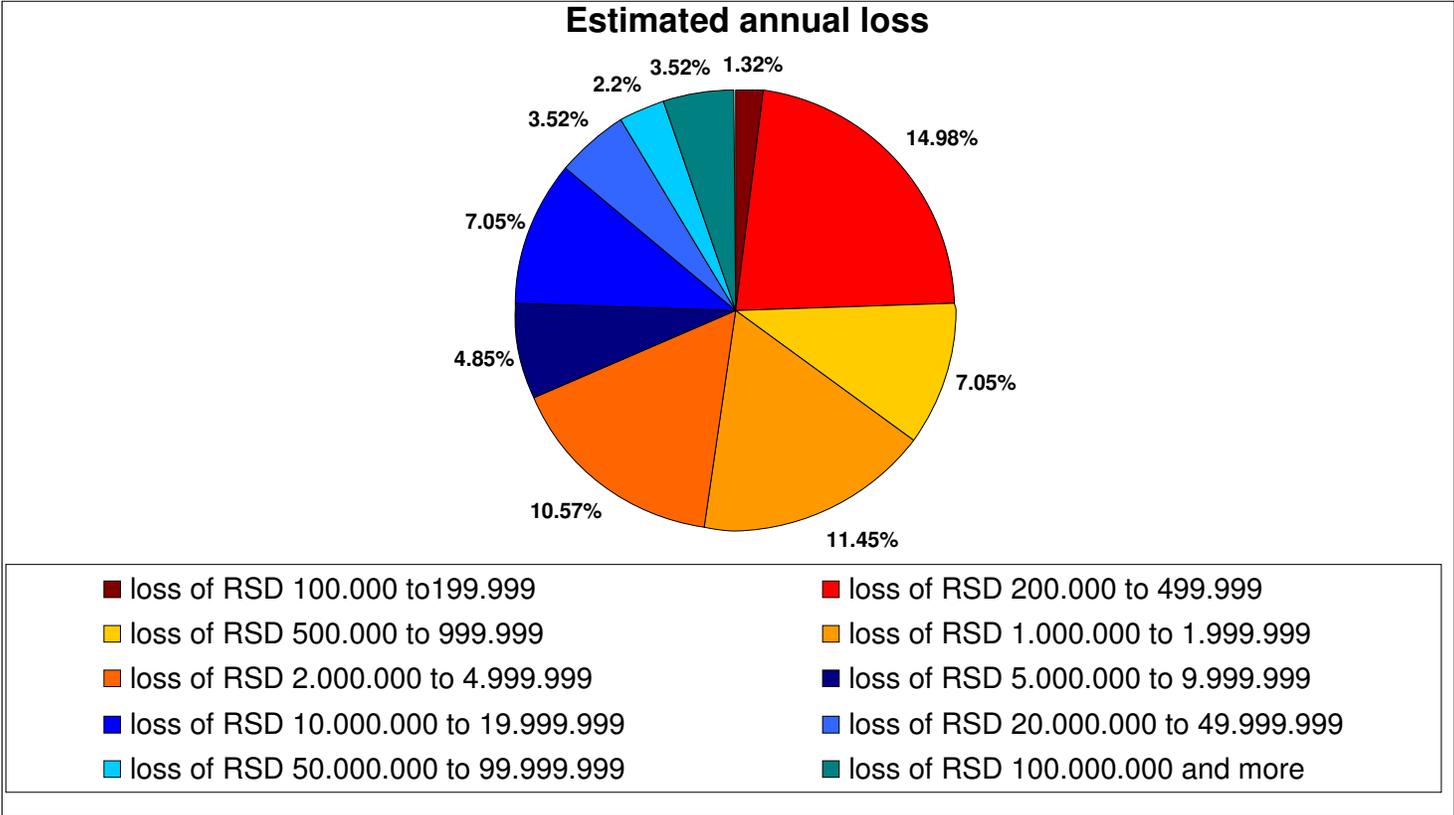
American Tobacco and Phillip Morris counterfeit cigarettes and their sale without a genuine excise stamp is reported as well.

The trend of forging high tech product brands manufactured by Philips, Bosch, Canon, Epson, Panasonic and Hewlett Packard is also striking. According to survey participants, fake labels and inscriptions of these globally famous brands are frequently pasted or engraved on cheap Chinese, Turkish, Korean or Vietnamese goods and offered as originals to the consumers.

2.6. Financial loss due to informal economy

Overall annual financial loss among survey participants is estimated to RSD 4,420,240,000. Sixty-five participants (36.11%) failed to determine their annual loss. Loss structure data among commercial enterprises is stated in the following Chart:

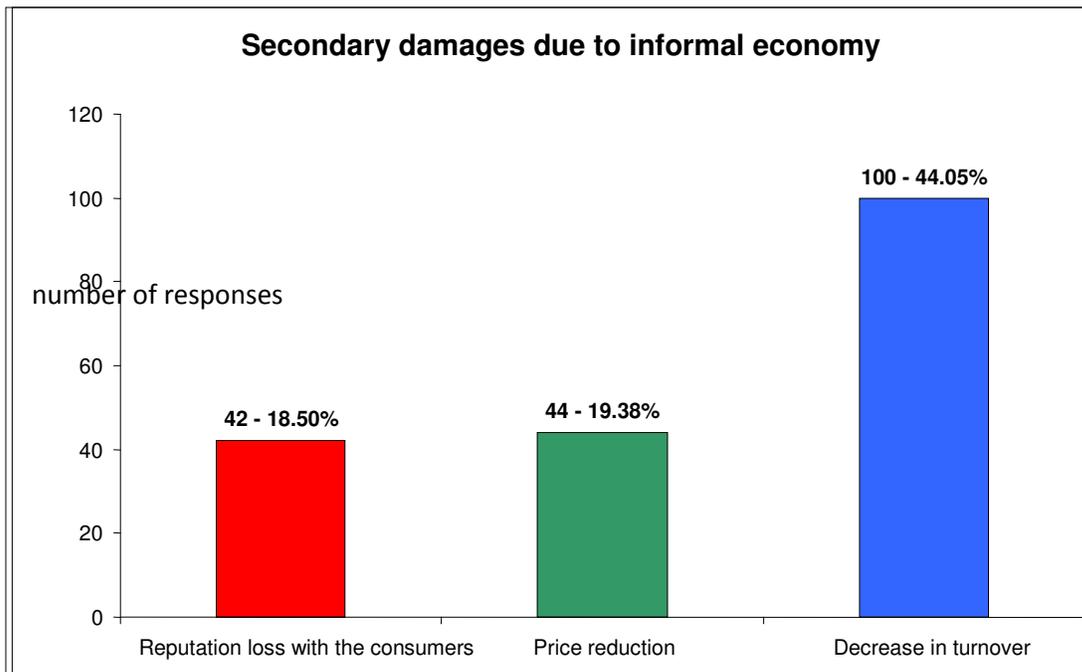
Chart 2.4. Estimate of loss incurred by the informal economy in formal commercial enterprises



## 2.7. Other forms of damage

Apart from financial loss, survey participants were asked to stipulate other forms of damage they are experiencing due to blooming of informal economy. The majority of participants (100 or 44.05%) complained to a decrease in turnover and difficulties in positioning of goods and services on the market. Furthermore, 44 survey participants (19.38%) objected to constant price dropping due to unfair competition operating in the informal sector. Third largest objection (42 participants or 18.50%) refers to losing their reputation with consumers.

Chart 2.5. Other forms of damage (financial excluded) in legal commercial enterprises



There are also other examples of damage incurred by extensive informal practices. Individuals have reported the occurrence of a more difficult legal employment and more difficult method of finding workers who would want to be legally employed but agree to fewer earnings than they would receive in illegally operating enterprises that tend to evade payment of income tax and benefits for the workers as well as other liabilities towards the state. Large enterprises complain about the impossibility of technological development due to reduced revenues caused by informal practices. Moreover, availability of goods offered to consumers via informal channels avoids quality control systems; lowering the rating of Belgrade as tourist destination due to poor quality of private lodgings illegally rented to foreign tourists. Due to informal sector practices, 14 survey participants (6.17%) were forced to partially or entirely terminate their business operations.

## **2.8. Informal economy localities**

As regards to the scale of informal practices in the region, all survey participants (100%) have cited their immediate environment as the region of vast informal sector activity, which indicates a large scope of this phenomenon in Serbia. Noticeably, administrative border with Kosovo was frequently mentioned as a source of illegal import. Many complaints referred to illegal exchange of goods on the borders with Bosnia, Former Yugoslav Republic of Macedonia, Bulgaria and Romania and fewer complaints to illegal import from Hungary and Croatia. Survey participants often mentioned Novi Pazar as a town with a very active informal sector. Occurrence of illegal exchange of consultant services is mostly associated with big cities, primarily Belgrade and Novi Sad.

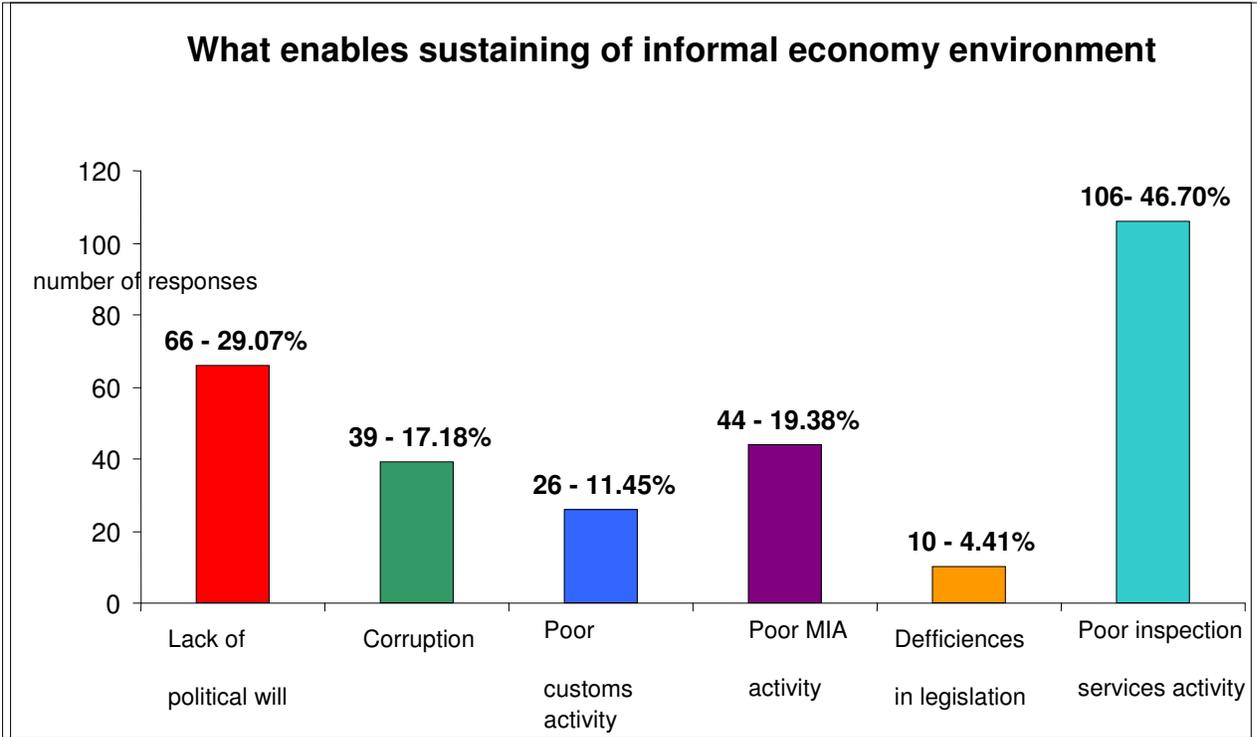
## **3. Perception of state's relationship to informal economy**

### *3.1. What are the reasons for sustaining of informal economy?*

To the question relating to pertinence of informal economy in Serbia, the majority of participants (46.70%) stipulated poor activity of market and financial inspections, 66 participants (29.07%) cited lack of political will to resolve this issue as reason for such extent of informal economy, 44

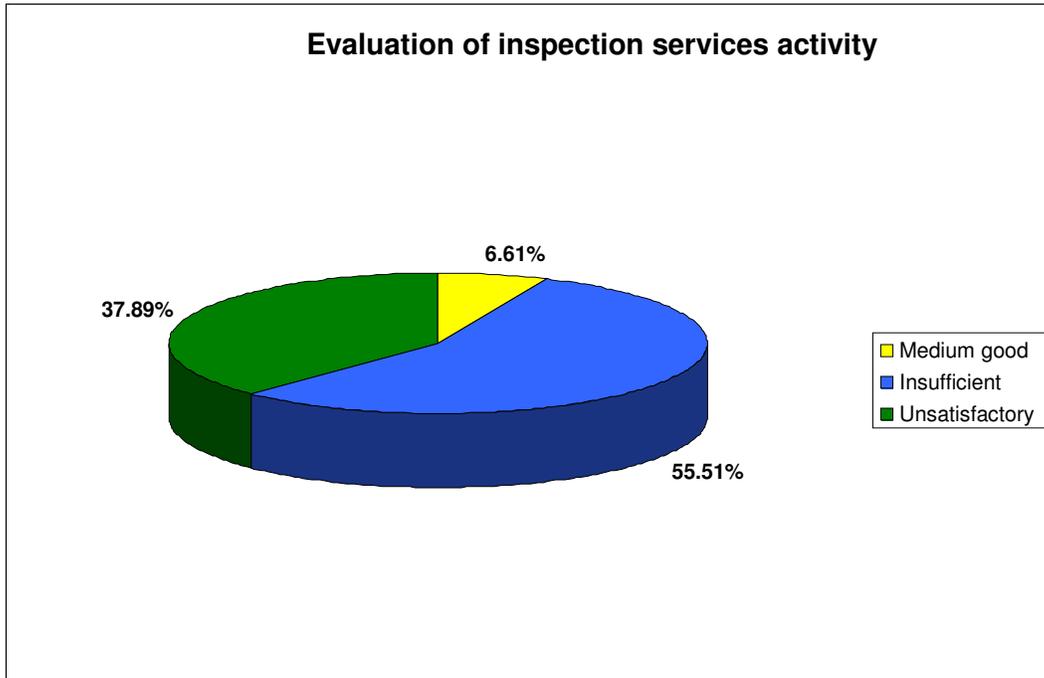
participants (19.38%) suggested that Ministry of Internal Affairs is insufficiently engaged in combating the informal economy, 39 (17.18%) blamed it on the corruption, 26 (11.45%) brought up poor activity of customs departments, whereas according to 10 participants (4.41%), the problem is lack of effective legislation.

Chart 3.1. What enables sustaining of informal economy in the Republic of Serbia?

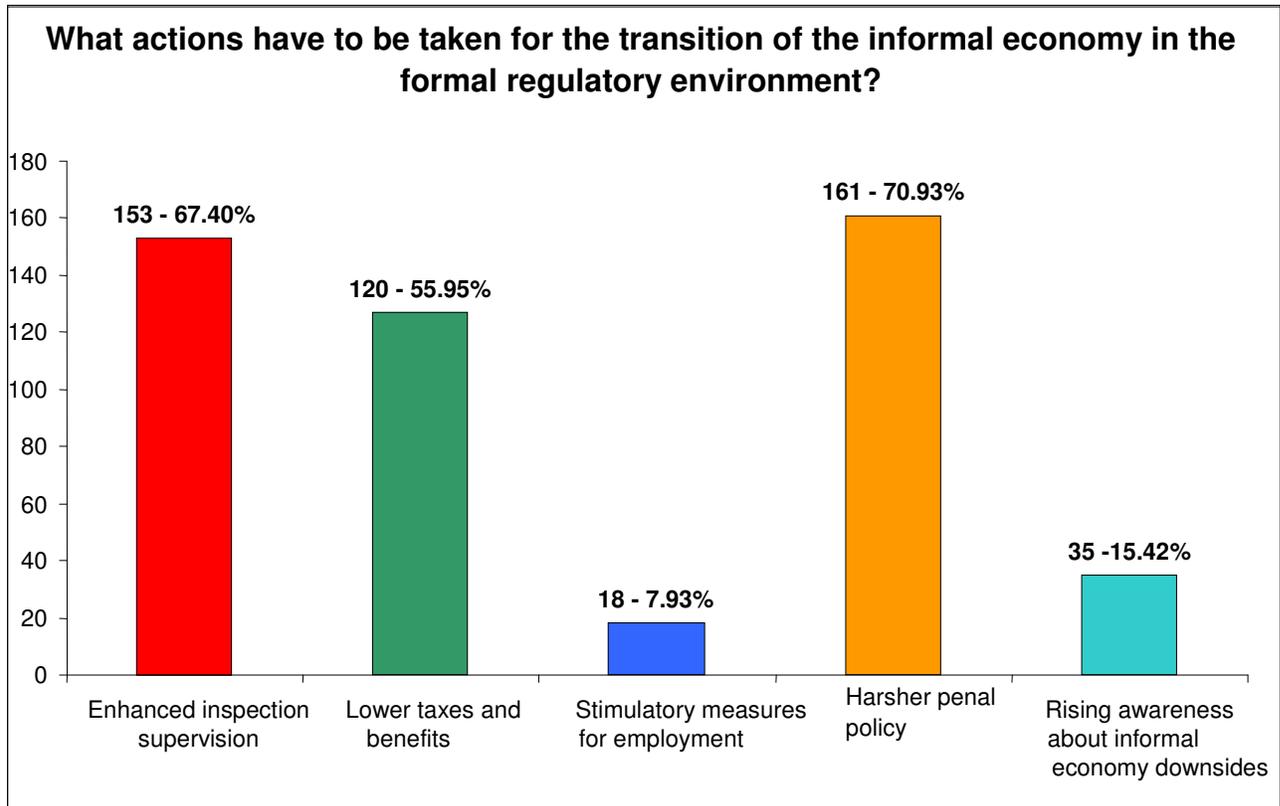


Activity of inspection authorities was evaluated by 227 survey participants. Eighty-six participants (37.89%) evaluated the performance of inspection authorities as “unsatisfactory”, 126 (55.51%) as “insufficient”, 15 (6.61%) as “medium good”. None of the survey participants evaluated the performance of inspection authorities as efficient.

Chart 3.2. Inspection services activity evaluation

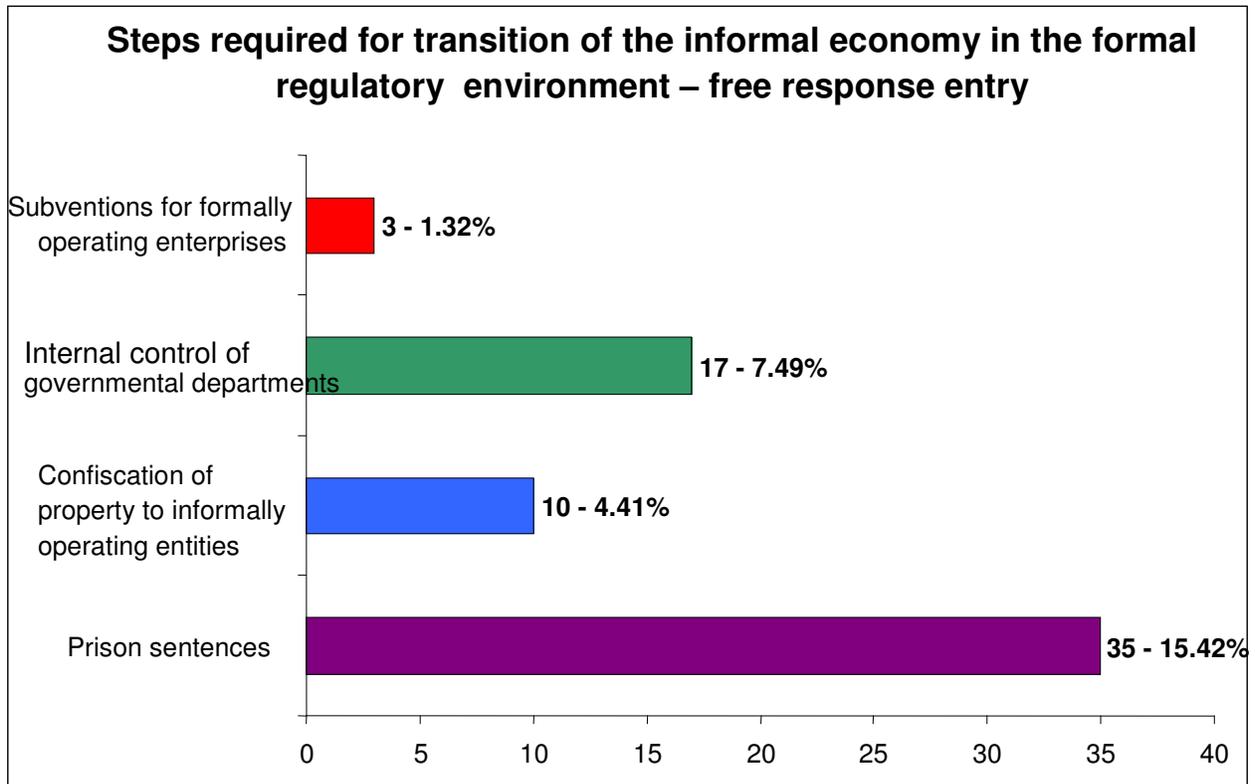


To the question of what state policy is required for transition of the informal economy into the formal regulatory environment, a vast majority of 161 participants (70.93%) suggested more stringent disciplinary policies. According to 153 participants (67.40%), a larger inspection control is needed. According to 120 participants (55.95%), it is necessary to cut back taxes and benefits, which complies with the assumption that due to encumbrances of the economy many commercial entities are forced to operate outside of the formal regulatory environment. A campaign of rising awareness about negative effects of informal economy was suggested by 35 participants (15.42%), whereas according to 18 participants (7.93%), measures for stimulating the employment are required for the purpose of reducing the informal economy.



When asked to suggest individual field activities, substantial number of participants, 35 of them (15.42%), found the implementation of prison sentences necessary. Furthermore, according to 17 participants (7.49%), internal affairs is needed to control state offices for they directly witness that the informal economy in some cities occurs as immediate consequence of local inspection “turning a blind eye” to illegally operating enterprises. Ten participants (4.41%) were in favour of confiscating the property belonging to illegally operating persons as form of penalty, for such sanctions would force a lot of those operating outside of the law to undergo transition to the formal regulatory environment. Several participants even showed a very high level of awareness regarding this issue and also a high level of knowledge as to how other countries of the former Eastern European block substantially reduced clandestine employment and informal economy. Practices from the Czech Republic and Russia, but also from Italy, Germany and Turkey were cited as examples.

Chart 3.3. Steps required for transition of the informal economy in the formal regulatory environment



When asked to suggest concrete actions that should be implemented by the state for the purpose of combating the informal economy, large number of participants advocated that competent inspections should launch field control and identify illegally operating commercial entities, in cooperation with the Ministry of Internal Affairs and with consultations with formally operating commercial entities. In the sector of services and consulting, it was suggested that state agencies should control project documentation and financial reports and perform service providers monitoring. It was also stipulated that relevant documentation must be prepared by an authorized legal entity, registered for the respective field of activity.

In addition to that, suggestions were made upon how to create a unique data base on all entities identified as illegally operating, which is to be used by all inspection services, the Ministry of Internal Affairs and customs service. It was also recommended to develop a system for

monitoring the entire itinerary of the goods, from their entry in the country up to the point of sale and to establish a central registry for exchange of goods and services.

### **Results interpretation**

Pursuant to the above-stated data, main reason for maintaining a high level of informal economy in Serbia is related to poor attempts of state authorities to fight this form of economic activity. Reduction of taxes and benefits is often cited as measure that could combat the informal economy. However, besides taxes and benefits, there is also a problem of great encumbrance of legally operating commercial entities, whereas the state insufficiently monitors the enterprises operating in the informal sector, sending them a clear signal to continue with their illegal activities. High level of state taxes and other encumbrances is the reason for shifting to informal economy. Surprisingly, commercial enterprises have also firm positions regarding the necessity of implementing strict disciplinary measures, termination of business activities due to illegal operations, confiscating of property and implementation of “firm-hand policy”. General impression is that the entrepreneurs have had enough of such expensive and inefficient state that constantly fails to organize its economy.

## V

### ATTACHMENTS

#### ATTACHMENT A

### INFORMAL ECONOMY FROM THE POINT OF VIEW OF THE LABOUR INSPECTORATE<sup>6</sup>

**(Edited by: Danijela Rajković, Ministry of Labour and Social Policy  
of the Republic of Serbia)**

The Labour Inspectorate, as administrative authority operating within the Ministry of Labour and Social Policy, is taking actions and conducting activities in the field of labour relations with a primary goal to provide compliance with provisions of the Labour Law, i.e. to reduce infringements of the law and other regulations pertinent to labour relations.

In the course of 2009 and the first nine months of 2010, there has been a total of 66,950 supervisions, which included 745,787 employees; 16,543 supervisions thereof were conducted to parties' requests and 50,407 as an official duty activity; 9,835 persons were found illegally working; 7,164 persons concluded employment contracts with the employer after the inspection; 2,968 motions were filed for instigation of infringement procedure.

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<sup>6</sup> Taken from *Labour Inspectorate Activity Report for 2009 and Labour Inspectorate Activity Report for the first nine months of 2009*

Table 1- Inspection monitoring in the period from January 2009 to September 2010

Inspection supervision	2009	January- September 2010	TOTAL
Total supervisions – according to official duty and to the party's request	40,222	26,728	66,950
Total supervisions according to official duty	30,580	1,595	30,582
Total supervisions to the party's request	9,642	6,901	16,543
Total supervisions to the party's request "Mobbing"	71	232	303
Total number of employees included in the supervision	357,498	388,289	745,787
Persons found illegally working	5,734	4,101	9,835
Number of persons who concluded the employment contract after the supervision	4,178	2,986	7,164
Decisions passed pursuant to Article 269 of the Labour Law – eliminating the established infringements of the Law	5,429	3,676	9,105
Decisions passed pursuant to Article 271 of the Labour Law – provisional measure of returning to work	902	593	1,495

In the course of Labour Inspectorate supervisions during 2009 and a nine-month period of 2010, all legal employment institutes were included in full supervision, starting from the standard organization of labour relations all the way to implementation of the Labour Law provisions.

The parties addressed labour inspectors with two types of requests:

- to postpone execution of the employers' decision regarding termination of employment contract
- to take actions in order to exercise rights with the employer.

Most frequent infringements of the Labour Law were observed in regard to following institutes:

- earnings: there is a growing number of employers who are late with payment of wages and even incapable of paying wages to employees for a longer period of time, due to business losses and unfavourable financial standings; supervisions are specially aimed at maternity protection because of non-payment of wages to pregnant women and women on maternity leave;
- overtime: very common occurrence, extraordinary hard for identification by the inspectors, due to unwillingness of employees to give statements about working overtime (for fear of losing their jobs) and also due to lack of effective legislation, especially relating to employment registries;
- employment for a definite period of time practically becomes a rule and not an exception
- clandestine employment: there are no legal grounds for concluding an employment contract or they ceased to exist, but an employee actually meets his duties and responsibilities in prescribed and regular manner.

Impartial consequences of factual work can be observed in impossibility of such individual to exercise any right ensuing from employment, involvement of constant risk from injury without repercussions for the employer, impossibility of exercising right to healthcare, lack of social security in late age, regarding the fact that these employees are not registered during work to an obligatory social insurance.

Strategy for combating informal employment represents priority task of Labour Inspectorate and one of indirect goals to implement National employment strategy.

Factual employment or clandestine employment is the main issue in the sphere of labour relations. Labour Inspectorate of the Ministry of Labour and Social Policy makes great endeavours in the field to incorporate this phenomenon in the formal regulatory environment of interpersonal rights, liabilities and responsibilities arising from employment. Specific issue the labour inspectors are facing in the sphere of labour relations is difficult establishing the existence of factual employment. Namely, pursuant to provisions of the Labour Law, employers are under no obligation to register employment contracts or other agreements regarding work engagement with persons working for the employer or to keep the copies of such agreements at the place of work of employees.

For this reason, when a labour inspector comes across a person which in the time of supervision is found unreported to obligatory social insurance, such person, fearing of losing his job, usually tells the labour inspector that he just started working with the employer a few days before, that he has a concluded employment contract or other labour agreement with the employer but that it is currently not to be found on the business premises, that it, however, would be delivered to labour inspector for inspection in the next couple of hours, which provides enough time to draft an agreement in whatever form, making sure that the employer avoids penalty. We believe these are deficiencies of the Labour Law that should be remedied by implementing amendments to the named Law and by defining relevant provisions in order to eliminate the possibility of such circumstances occurring.

Employment relationship is established by concluding a contract of employment in the written form, and rights and obligations are exercised from the moment an employee starts working. As opposed to that, there is a factual employment or clandestine work, which can be defined as relation between work and employment where legal grounds of employment are non-existent or ceased to exist but where the employee actually meets his work liabilities in a prescribed and regular manner.

Objective consequences of factual employment are reflected in impossibility of such person to exercise any of rights ensuing from the employment, constant risk of injury without any repercussions for the employer, impossibility to exercise right to medical security, non-existence of social security in the late age due to the fact that the person wasn't registered to obligatory social insurance during the time of service.

Pursuant to the inclination of the Labour Inspectorate that the occurrence of clandestine employment be reduced to lowest level possible, actions of labour inspectors are strongly aimed at monitoring the implementation of the provisions of the Law regulating the institute of "employment contract" and subsequently, at identifying the persons performing factual work with the employer.

Although the problem of clandestine employment still exists, it is more frequent in the private sector and more related to trading, catering and crafts activity, but also found in other manifestations and other ownership sectors. Informally employed persons mainly come from the categories of unemployed, refugees, displaced, retired, pupils and students, and also from the category of the employed whose employers are out of work, i.e. the employed who haven't received their salaries for a longer period of time.

As justifications for clandestine employment, employers usually stipulate "probation work", i.e. the need to check out work abilities of the worker before they conclude a written employment contract with him and prior to filing a social insurance application. Clandestine employment is also justified by the fact that the worker refuses to conclude a written employment contract with the employer and by his wish that his salary be increased for the amount of taxes and benefits the employer avoids to pay by using this form of employment.

Inspection supervision also establishes extreme circumstances occurring when a person found performing clandestine work refuses to conclude employment contract after inspector's intervention and stops working (leaves the employer), only to maintain some other rights realized outside of the employment relationship, such as reimbursement, refugee status, etc.

By inspecting if the employment contract even exists, i.e. by establishing if the persons found working have concluded employment contracts with the employer, labour inspectors are frequently forced to, based on the statement of the person found working, formally put on record that this person is illegally employed (has neither a written employment contract concluded nor was reported to obligatory social security by the employer). However, employers tend to devaluate such findings by subsequently presenting the employment contracts to the acting inspector, allegedly concluded a day or two prior to supervision with the accompanying statement stipulating that the registration with the social insurance fund is in progress and that it will be completed within legal timeframe (8 days from the day of effective employment), which usually is the case. The reasons why the employees agree to sign the employment contract retroactively and devastate their former statement are not a bit surprising – they are forced to act in this manner by their existential wish to preserve their jobs. The fact that the inspection findings are only formally immaculate as well as the fact that there are a lot less persons found working illegally recorded in the employment results and that the inception of penalty proceedings falls out is far less aggravating than the fact that clandestine employment is terminated and that crucial effect – conclusion of employment relationship, is achieved.

This legal employment institute is also under attack through abuse of so-called flexible work forms and in situations when their application is unlawful. As work outside of employment contract, conclusion of temporary and occasional service agreements is most frequently used in cases when there are no main characteristics of temporary and occasional work.

In the course of inspection supervision, labour inspectors have come across so-called “phantom companies”, i.e. companies that are not registered with the competent authorities but are illegally employing workers. This problem tends to become more serious for, in such cases, inspectors are unable to perform inspection supervision and take legal action due to their incompetence (it falls under the competence of market and tourism inspection). As a result, such manner of employment is not terminated.

However, apart from these problems that labour inspections encounter, the increase in number of employment contracts concluded and registrations of workers with the social insurance funds

after the inspection supervision is evident. Apart from the more severe penalty policies, a greater respect for this institute is resulting from the methods of supervision, i.e. the fact that such supervision is also carried out outside of regular working hours – in the afternoon, by night, at weekends, namely at the time when clandestine employment is more exploited.

Employment relationship is established by concluding a written employment contract and rights and liabilities are ensured from the moment the employee starts working. In this manner, the employment has both contractual and status significance.

Clandestine employment is a phenomenon that has been combated by the labour inspection authorities for years now. Considering constant monitoring of this phenomenon, some of its features are evident, such fields of activity, regions and periods in which it most frequently occurs.

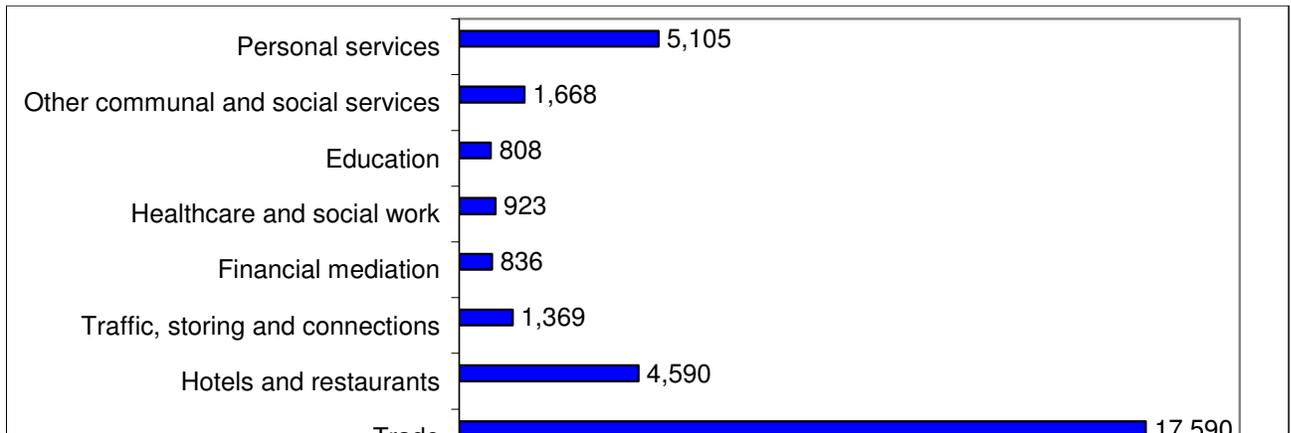
Clandestine employee can at any time experience termination of employment by being informed that his services are no longer required. Clandestine employment refers to propriety of rights ensuing from the employment contract but not to a legal employment relationship.

According to Labour Inspectorate data, clandestine employment is mainly occurring in trading, catering, crafts, industrial and manufacturing units and construction. Considering that we constantly monitor the scale of this phenomenon, the above-stated fields of activity are mainly supervised.

In some fields of activity, the number of clandestine workers is observed increasing each year in the same periods of the year. This is particularly characteristic for the catering and construction sector. In the catering sector, due to enhanced scope of business, there is a growing number of total working population in the summer period, including clandestine workers. In the construction sector, the number of clandestine workers is abruptly growing towards the end of the building season, for the employers strive to meet the deadlines and to conclude as many projects as possible during the season in progress.

Table 2 - Number of supervisions in the employment relationship sector –  
according to fields of activity in 2009

Energy production and supply	Construction sector	Trade	Hotels and restaurants	Traffic, storing and connections	Financial mediation	Healthcare and social work	Education
298	2,049	17,590	4,590	1,369	836	923	808



Young unqualified workers (the most qualified have only a high school diploma), the employed without regular income, the unemployed over 40, beneficiaries of financial compensations and social benefits, are all usually recruited for the purpose of factual employment. Although these persons mostly perform high risk activities, it is difficult to “locate” them, for in significant number of cases it involves collaboration between the clandestine employee and the employer. In view of the fact that such phenomenon is characteristic for the construction sector, regular and

intensified inspection supervision has been performed in this sector in the course of the entire year.

Clandestine employment in the construction sector finds advantages in fluctuation of work force, frequent relocations from one construction site to another and short periods of time the employees spend at one work place, staying there only until they have finished the job.

In addition to that, employers abuse the probation work institute using it as opportunity to employ a person without concluding an employment contract, emphasizing that it is necessary for them to determine whether the relevant person meets all requirements.

As clandestine work force at construction sites mostly work employees whose companies are currently out of operation, the unemployed, pensioners and refugees. Evidently, there is a mutual interest for both parties here, the employer on one hand and the clandestine employee on the other. The employer evades payment of taxes and benefits on employees' earnings and clandestine employees herewith obtain extra income without losing the status of registered unemployed persons entitled to receive financial reimbursements.

Insecurity of job positions and existential imperilment, including fear of being let go, count as reasons enough for the employees, even the ones who may wish it, not to dare to overcome legal impediments and to establish employment status with the employer. Due to low earnings, it is often the case that the employee has no desire to conclude employment contract or to be entitled to social security benefits but chooses to work and receive gross earnings in cash, in order to have more money to spend. This is for the most part typical for younger working population.

The state in which clandestine employment is prevailing experiences double loss:

Firstly, the employers fail to pay taxes and benefits on wages, which is a substantial amount. In addition to that, if such conduct of employers were not appropriately sanctioned, it would have counterproductive effect to employers who comply with the regulations.

As regards to the companies with more than one person found working illegally, direct motions were submitted for instigation of infringement procedure and decisions were passed, ordering the conclusion of employment contracts.

In the course of inspection supervision, in significant number of cases was determined that the employers organize their business operations in cellars, garages, privately-owned houses. Such business activity is difficult to reveal. On such buildings there are no business signs or other related signs, and the entrance to the premises where such activity is taking place is hindered by guard dogs, micro-cams, interphones and locks. The usual activities taking place on such premises are sawing, footwear manufacturing, carpentry works, or other type of small-size production where illegal workers are employed.

Similar phenomena are observed in service shops, hair and beauty salons, where the employers, based on worker universities' references, take on students allegedly for the purpose of practical training, except for these students are actually involved in clandestine employment.

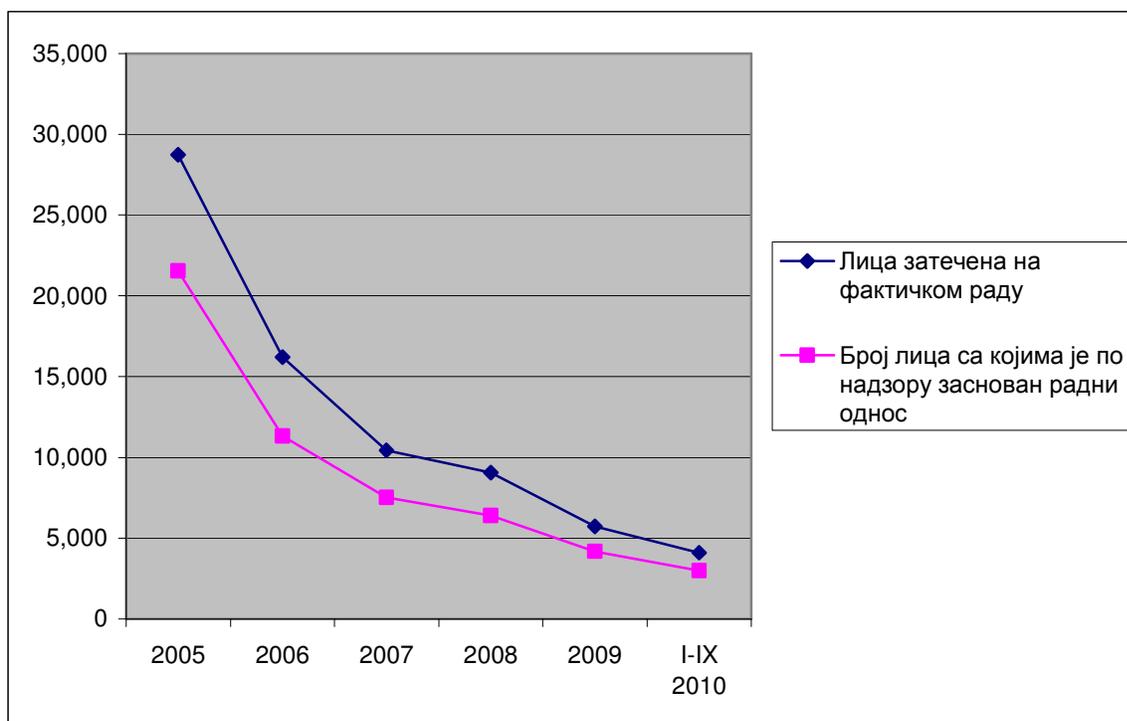
In the observed period, a protective role of Labour Inspectorate was revealed in connection with the bookkeepers hired by the employers – entrepreneurs (it was suggested to them to draft provisions of employment contracts). The employers, however, whose business operations had been monitored, were instructed to settle in writing relevant elements not included in the contract with respective employees. Clandestine employment is present in particular fields of activity but not in such massive extent as in the previous years. When it comes to employment of foreign citizens in the territory of the Republic of Serbia, the number is insignificant in comparison to previous years, i.e. it is practically non-existent.

Comparative data analysis on persons found illegally employed and persons who after supervision concluded the employment contracts for the years 2005, 2006, 2007, 2008 and 2009 showed that in the year 2005, 28,735 persons were found illegally employed and 21,563 concluded an employment contract with the employer. In the course of 2006, 16,205 persons were found illegally working and 11,324 concluded an employment contract. Clandestine employment in 2007 was established in 10,448 persons and 7,517 were then legally employed,

whereas in 2008, 9,054 illegal workers were found and 6,394 thereof were legally employed after the supervision. In 2009, 5,734 clandestine workers were found and employment contracts were concluded with 4,178 of them.

In the period from January to September 2010, 4,101 persons were found illegally working in the territory of the Republic of Serbia within employment relationship supervisions. After the supervisions, employment contract to an indefinite period of time has so far been concluded with 2,986 persons in total.

Table 3 - Number of persons found working illegally and number of persons who after supervision concluded employment contracts for the period 2005-2010



Persons found informally employed

Persons who after supervision concluded employment contracts with employers

Based on former practice, inspection supervisions should be carried out continually, in the morning, in the afternoon as well as in the evening, for clandestine employment may at these hours be most likely determined.

For the purpose of advanced control of the employers, particularly the employers from the trading and catering sector, where clandestine employment is mainly occurring, the Ministry of Labour and Social Policy organized work shifts for labour inspectors to check if the employers hire persons with no valid employment contract in the afternoon shift as well.

For the relevant report period, it is also significant that the orders issued by labour inspectors in charge for employment contracts were largely met in a very short time, even before the prescribed deadline and mostly out of fear from high financial penalties.

\* \*

\*

Actions taken by the Labour Inspectorate in order to overcome and reduce clandestine employment:

- providing that concluded employment contracts are registered with competent municipal or other state authority (National Employment Office organizational units, Pension and Disablement Insurance Fund), in order to hinder abuse practices concerning the circumvention of concluding employment contracts, i.e. their antedating,
- within field activities of inspection authorities, providing a larger, improved and more efficient coordination at the republic level through establishing of joint body with the Government of the Republic of Serbia, in order to plan and more efficiently conduct joint

affairs for the purpose of uplifting the efficiency of inspection authorities. The same body would prepare and coordinate implementation of an action plan for combating the informal economy, i.e. clandestine employment.

- accelerating infringement procedure and solving other related problems such as frequent obsolescence, passing sentences far under legal minimum, etc.
  
- organizing a unique informational system and creating conditions for electronic communication between all state authorities participating in the fight against the informal employment.
  
- applying the provision of the Misdemeanour Act stipulating that if the inflicted penalty for infringement is merely a financial fine, the infringement procedure for certain first-degree misdemeanours could be handled by a state authority, which would then mean that a disciplinary body with the Ministry of Labour and Social Policy, i.e. Labour Inspectorate would handle the relevant procedure, for the purpose of acceleration and efficiency of infringement procedure.

## **IV – ADDENDUM B**

### **INFORMAL ECONOMY IN ITALY**

(Author: Lorenzo Fassina, Legal Department of the General Italian Labour Confederation-CGIL)

#### **1 ) THE PROBLEM OF INFORMAL /GREY/ ECONOMY IN ITALY**

The phenomenon of non-reported work /illegal work/ represents a huge problem in Italy. The percentage of GDP (gross domestic product, i.e. the total wealth of a country) achieved via the area of informal economy in Italy is from 16,3%-17,5%. During the past decades many attempts have been made to suppress this phenomenon, with, unfortunately, little positive outcome.

Financial and economic crises in the country along with the strong influence of globalization over the past years have lead to making the informal economy phenomenon worsen and now it is necessary to lead even more active battle in the fight against illegal work.

All the afore-said is necessary to do not only for economic reasons, (financial income and contribution guarantee in line with the financial needs of the country), but also and above all, for the sake of the social link to this matter – protect the workers who in the informal economy area do not have their basic rights of a worker. The first among the rights is the right on safety, i.e. saving the most important wealth of Italy for its economy and it is the human resources.

In these circumstances, the latest official data of the Italian National Institute for Statistics (published in 2008, which encompass the period from 2000-2006), the period preceding the severe economic crisis which had impact on the western countries' economies in the end of 2008, which means that the currently available data on illegal work in Italy can only be more worrying.

In the official definition of illegal work made by the Italian National Institute for Statistics (hereafter referred to as ISTAT) in its research made in 2008, we again come across continuous providing services without respecting the existing laws. Among those we see precarious work (providing services occasionally by those claiming that they are not active, as well as the jobs being done by

foreigners with no place of residence reported and thus stay in the country unreported and, in the end, additional activities as opposed to the basic activity (a so-called ‘double job phenomenon’. There are, also, the cases of the workers who, although formally being engaged on an independent assignments (or work for ‘the other party’ on a project as sort of contractors), they basically do their job in the subordinated position and so avoid the obligation of paying contributions and taxes which is mandatory and is applied in case of the ‘standard’ job.

Informal economy is a recognizable mark of the Italian social context, and it is based on the traditional dualism which is characteristic for our society:

- women – men
- citizens – illegal
- North – South
- Protected workers – unprotected workers
- Production sectors –tercer sector, the sector of services

## **2 ) THE SECTORS ON WHICH THE AREA OF GREY ECONOMY HAS THE GREATEST IMPACT AND THE POPULATION ENCOMPASSED BY INFORMAL ECONOMY**

Economic sectors in which the illegal work is the most frequent are, generally speaking, the sector of services, agriculture and construction, although the phenomenon is being spread in a capillary way, but to a lower extent, on other sectors as well (textile industry, IT industry).

Generally speaking, illegal work, from the demographic point of view and from the aspect of jobs, can be registered more in the layers of the population which is traditionally ‘weak’, i.e. among the youth, those having more than fifty years of age and are not registered in the Employment Bureau, i.e. women and foreigners from the countries outside the European Union, especially if they do not possess a regular residence permit (illegal migration is precisely what represents a strong factor of establishing and strengthening of the informality/irregularity of work).

As far as the structure of informal economy is concerned, what should be especially pointed out is the way in which the data from the ISTAT from the 2008 report show a new situation as opposed to the traditional manufacture picture of informal economy in Italy, having in mind that at the moment the only domineering sector in this phenomenon is the sector of services, and that the manufacture sector represents only 6.5% out of the total number of irregular workers, to which we add a quota from the construction sector (7.3%) and agriculture (9.8%), as opposed to the sector of services which covers the remaining 76%.

In the sector of services, this phenomenon is particularly noticeable in the areas of 'trade hotel services, public procurement and transport', where 19.8% of working units has not even been registered; particularly in hotels and public services where the percentage is 32.2% and in the transport of goods and people on the roads – 30.7%.

It is worth to look at the separate data in the absolute worth by the separate activities;

Out of almost 3 million irregular workers, 50% comes from: the sectors of tourism, where we have the concentration of more than 500,000 irregular workers, which is the percentage of 36% out of the total number of employees in that sector; out of the sector of transport, where the irregularity rate reaches 30% and corresponds the number of 470,000 persons; and in the end, from the sector of providing household services, where we have the number of 455,000 persons, which is the percentage of 50% of the total number of employees in this branch.

If we, however, make a geographic breakdown of the illegal work phenomenon in Italy, the data from ISTAT would clearly show that there are huge discrepancies among the regions.

Quantitative analysis according to these sources shows that the South 'has the biggest responsibility' for the existence of illegal work in Italy. The numbers by macro zones show that there are actually 45% of irregular workers in the South, in the central part, the percentage is 18%, whereas in the North, it is 37%.

As we already pointed out, immigration represents a strong factor of the illegal work existence.

The sector having the highest percentage of illegal migrant workers is, without a doubt, the sector of agriculture, construction and services, above all those referring to people working as home service or babysitters in the houses.

Court decisions in 2002-2003 and in 2009 have shown significant presence of irregular 'migrant' workers, which still represents only a part of the general problem of abusing workers coming from the countries outside the European Union. In order to understand the importance of the migrant work, it is enough to say that in the court decisions from 2009 it was stated that there were 300,000 associates and babysitters coming from the countries outside the European Union.

### **3 ) THE STRATEGY FOR COMBATTING INFORMAL ECONOMY IN ITALY AND THE RESULTS ACHIEVED**

We can generally say that four big guidelines – interventions for suppressing informal economy can be identified. In the past twenty years, in Italy, these guideline interventions have been accepted and introduced altogether, but only some of them have been used. In any case, we can present them as follows:

#### **A) CULTURE OF LEGALITY AND THE CULTURE OF ENTREPRENEURSHIP :**

It is necessary to suppress the culture of illegality which is widely spread in Italy. In that sense, what has a major role is politics, information and above all, education. It is necessary to invest into the future by public and private resources.

Enterprises, on their side, must understand that respecting the rules has an advantage in a transparent economy and represents a stimulus for the healthy competition. Economic competition based only on lowering the prices and abolishing the rights of the workers leads to a very expensive social damage (economic and social dumping).

**B) THE STRENGTHENING OF THE CONTROL APPARATUS:** It is very important to invest into the resources of the public apparatus of the Labour Inspection. In Italy, in the sector of construction,

between August 2006 and December 2007, 37,000 inspections have been carried out, which encompassed 58,000 enterprises. There were 33,400 irregular workers in them!

More than 3,000 measures of suspending of the activity were introduced and carried out and 5,700 illegal workers were found. In this short period 1,250 workers were reported and suspensions of the production activities were annulled.

These excellent results, above all in the construction sector, represent the fruit of a significant novelty introduced by the Government 2006, i.e, the suspension of activities on construction sites if the labour inspectors see that 20% or more illegal workers have been engaged (Article 36 of the Law no.248/2006).

One more significant novelty introduced by the left wing Government is the obligation of an enterprise to report new workers one day before the start of their working engagement, and in that way prevent the fraud from the side of the employer.

By this, a triple positive effect has been made: Respecting the rules and discovering and the legalization of the illegal work. \

1). Reimbursement of taxes and contributions

2) Higher respect of safety of the workers in their working post

Unfortunately, the new Government has significantly reduced the scope of its inspectorate's activities since 2008, by, in the first place, reducing the expenses of the Ministry of Labour, and secondly, through the regulations of the Ministry by which balancing between the protection of workers and the interest of the enterprise was imposed to the labour inspectors (the "mediator" tone in the circular letter having been published by the Ministry of Labour in September 2008).

#### C) THE ROLE OF THE COLLECTIVE AGREEMENT AND THE TRADE UNION:

In the period between 1994-1998. They experimented with the novelty named „The Contracts of the re-equalization“, only in the South of the country, with previously concluded territorial agreements. What was envisaged was the gradual harmonization (re-equalization) of salaries with the envisaged

levels in the national collective agreements for those irregular enterprises which would sign the agreements.

This represented a guarantee for those enterprises and the end of the administrative control.

The success of this initiative was only partial (for instance, in the textile industry in the region of Puglia), but afterwards everything was blocked and many enterprises having left the grey/informal economy zone, just came back to it.

In July 2006, the biggest trade union organizations formulated one unique platform presented to the Government, which at the time was putting its efforts into curing the Italian economy which would be in line with the labour rights protection. The contents of these platforms were basically directed towards two aims:

- 1) Aimed repression
- 2) Support of the legal competition (i.e. the support to the good, ‘regular’ enterprises)

United trade union platform as opposed to the irregular work has been accepted by the left wing Government in the Law no. 296/2006.

The employer in the ‘grey economy’ can swim to the surface by signing a collective agreement in the enterprise or by approaching/joining the national collective agreement. In this way, the employer can have the benefits when paying the contributions from the past (compensation of decisions), but with no guarantee that in future it will not be the subject of the control by the Inspectorate. As with the re-equalization agreements, in this law, also, a possibility of ‘prevention’ collective agreements on the territorial level was envisaged, the agreements which can be joined by employers separately, later on.

Generally speaking, yet, a workers’ trade union has to act on the territory and to keep trying to ‘catch’ the illegal work cases. In other words, it is to that extent harder and more complicated where there is detected the presence of a strong organized criminal, and where there has been detected historical low presence of trade unions.

What seems to be unquestionable is that the whole situation is being made even more difficult by the fact that the milieu of the Italian economy has strongly been influenced (with app. 90%) presence of small and micro enterprises, where it is certain that the trade union does not have the fortitude to spread its influence.

#### D) SUPPORT TO “GOOD” ENTERPRISES

Apart from the repressive activities towards the firms working in an illegal way, it is necessary to accept measures which regulate and assist the firms working in a legal manner so that they could survive in the informal/grey economy surroundings and so that they would not be suffocated by the constants disloyal competition represented by those other firms.

In that context, in the Region of Puglia, the Law no.28 of October 26, 2006 (the fruit of a joint trade union platform which has been rewarded by the European Union is moving towards one direction:

- 1) strengthening and improving the inspection activities;
- 2) punishing the firms which illegally cut the expenses, not only in the field of paying contributions, but also in the Occupational Health and Safety at work;
- 3) introducing a ‘social clause’ into the public tenders /Calls for Proposals/ and procurement for obtaining public funds (from the community, state or regional), which makes it mandatory for the employers to apply collective agreements within the sector;
- 4) adopting the the ‘indices of appropriateness’: the flow of the public monetary funds is being directed only to firms which respect certain paratemers /guidelines/ in advance

The index of appropriateness defines, for every production sector, the relation which exists between the scope of work shown by the employer and the working hours. All employers who began their activity at least two years before, have to show appropriateness. The check of the appropriateness has to be carried out when the employer is asking for the benefits, financing or the participation in the regional tender.

**4) WERE THE TRADE UNIONS AND LABOUR ORGANIZATIONS INCLUDED INTO THE IMPLEMENTATION OF THE STRATEGY, AND IF YES, TO WHICH EXTENT AND IN WHICH DIRECTION?**

The strategy of fighting against grey economy in Italy had rare periods when the trade unions were included in it. The period of the biggest participation was the period from 2006-2008, which corresponded to the relationship with the left wing Government. Precisely at that period, as we already pointed out, the Law no. 296/2006 was enacted, which, on the one hand, overtakes the influence of a unique platform presented by the Government and made by the biggest trade union labour organizations (CGIL, CISL, UIL), and on the other hand, it was an intensive activity of cooperation between the Government and trade unions with the aim of defying a severe crisis in the public finances field.

Unfortunately, the right center governments which have been changing posts for the past several decades, have always aimed at excluding trade unions from the inclusion into the strategy of fighting grey/informal economy. Unfortunately, the situation worsened already all in 2008 due to the deep internal discrepancies within the three (already mentioned) biggest Italian trade unions. That is how the primary reason for including trade unions into the fight against grey economy vanished.

**AN EXAMPLE OF A REGIONAL LAW IN THE AREA OF COMBATING ILLEGAL  
WORK – THE REGION OF PUGLIA IN ITALY<sup>7</sup>**

**The Book of Rules in the area of preventing illegal work**

**/October, 26, 2006. no. 28/**

The President of the Regional Board hereby enacts the following law:

1. The region of Puglia is governing the directions, ways and measures for enhancing the legalization of illegal work along with the harmonization with with the Social and Economic Council and the responsible institutions, respecting their jurisdiction. In this framework it aims to enhance, in the ways which should be defined by an appropriate Book of Rules, specific measures in the area of legalitz within high schools, and which are intended to students, families and broader public.
2. In the provisions for awarding the benefits agreed upon in the Region of Puglia, which are various by type, ina direct or indirect manner, in the sense of the existing regional laws all to the benefit of the employers, enterpreneurs and also those who are not enterpreneurs, in the tender documentation of the Puglia Region firms from the health sector and bodies for executing tasks or providing services one of the founders of which is the Region itself, in the Call for Proposals for awarding the funds to the benefit of employers, enterpreneurs and those who are not enterpreneurs from the European, national and regional funds, there has to be an explicit clause making it mandatory for the beneficiary, Contracting Authority or Contractor or sub-contractor to apply or make it possible that towards the employees or in case of a cooperative, partners, having no matter what legal qualification of the established working post, condition not worse than those enlisted in the national and territorial collective agreements in the sectors to which they belong, and which /the

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<sup>7</sup> The Document is being published with the agreement of the Italian organization Progetto Sviluppo CGIL, which has translated thie document from Italian into Serbian for the purpose of meeting the needs having arisen within the project 'Building partnership for reducing informal economy in Serbia',

agreements/ have been concluded by the representative trade union organizations of workers and the employers' associations on the national level.

3. The Obligation referred to in the par. 2 has to be respected throughout the whole period in which the entrepreneur in a direct or indirect manner enjoys the benefits awarded by the Region of Puglia, all the way to getting an approval of the accounting report / statement in line with the existing law provisions
4. In any case, in the provisions from the par. 2, it has to be required from the beneficiaries to possess a unique document as the proof of the paid taxes and contributions, in line with the existing laws.
5. Any breach referring to the above-mentioned obligation and which has been identified by the authorized inspection institutions, can mean, in the sense of sanctions or in relation to the level of severity of the breach of the Book of Rules, the reduction of the salaries or their partial or complete halt, and in the most difficult cases, also the abolishment of the responsible person's possibility to, within the five years' period can apply for the award of any other kind of benefits or taking part in tenders. The Secretariat for general affairs of the Region Puglia is informed on starting proceedings or their ending within the period of ten days.
6. In the period of ninety days from the date this law enters into force, general directors of the local enterprises from the area of health (ASL) and legal barristers of the bodies one of which as a founder has the Region of Puglia itself, are summoned to check the agreements as regards the provisions of this law. In case of identifying more severe irregularities, the contract are proclaimed null and void. Disrespect of the rule stated in the par. 6 represents the element of the negative mark in checking the regularity of work performed by general directors and barristers of the bodies/institutions one of which as a founder has the Region of Puglia.

7. The presentation of respecting the index of harmonization from the Article 2, par. 3, represents the precondition for accessing any economic and legal benefit, for the participation in any Call for Proposals and/or tenders, for the use of the funds being awarded by the Region of Puglia, of any kind and in indirect shape from the European, national and regional funds. All set out in this paragraph refers to and is applied on employers starting from the third year of activity, provided that there is no real overlapping of the owners' lists or legal barristers, with an already existing firm. In any case, what has been excluded, in line with this law, is the application of the Article 49, the Government order with the strength of the law of April 12, 2006 no. 163 (under the code of public agreements referring to the works, services and purchases in the realization of the Directives 2004/17/CE and 2004/18/CE).
  
8. The Region of Puglia encourages the concluding of the Memorandum of Understanding among public directorates on the territory of the region and the representative trade union organizations and Employers' Associations on the regional level in which the public clientele would as a criterion on tenders for the works, services and procurement Contractors adopt the previous quantification of the staff obligations in relation to the territorial and national collective agreements of the corresponding sector, having been concluded between the representative trade unions organizations of workers and the employers' associations on the national level.

## **Article 2**

*(Regulations for transparency and legality )*

1. An employer who has benefits and access to the funds referred to in the Article 1, is under obligation to submit to the responsible Territorial employment center the notification set out in the Article 9 a), par. 2 of the Government Order with the strength of the law as regards social insurance), modified as to the law amendments dated November 28, 1996 no. 608, as the substitute for the Article 6, par. 2. The Government orders with the strength of the law dated December 19, 2002, no. 297,(provisions which modify and

correct the Government order dated April 21st, 2000, no. 181, which contains the norms aimed at making the labour offer and demand meet easier, in the application of the Article 45, par.1 a) of the Law of May 17, 1999, no. 144), a day before the effective start of the working relationship, having submitted the documentation with genuine date. In case of urgency, and connected to the needs of production, the above-mentioned notification can be issued within 5 days upon the day the working relationship has started, with the obligation that, even from long distance (not personally), the responsible body be notified on the date of starting providing services and on the basic data about the employees and employers one day prior to the start of the activity by submitting the regularly dated documentation.

3. In case the employer fails to fulfill the obligation set out in the par. 1, the sanctions
4. envisaged in the Article 1, Par. 5 of this law shall enter on force, and in any case the Region of Puglia is trying to reduce or eventually, abolish the provision of benefits and awarded funds in the amount of 10,000 EUR for each employee for whom he/she failed to report/register/submit the notification described in the par. 1 or the notification was not submitted on time.
5. In the period of one hundred and eight days upon this law enters into force, the Region of Puglia, in particular, with the representative employers' associations and trade union organizations and trade union organizations on the regional level in the sectors from the Articles 2, pars. 2 and 4, under a), b), c) and d) of the Law of December 30, 1986, no. 936 (The Norms on the National Council for Economy and Work), begins the defining of an index of harmonization, articulated according to the sectors and categories of enterprises from the Article 2 of the Order issued by the Ministry of production activities dated April 18, 2005, dealing with adjusting the European rules for making differences between small and medium enterprises. The indices of harmonization define the relation between the quantity and quality of goods and services that the employers, entrepreneurs and those who are not entrepreneurs are offering, and the quantity of the working hours, i.e. the discrepancies between the defined value of the index which was taken as normal and the

obtained one. The Universities of the Region of Puglia and the inspectorate institutions which act on the territory of the region, will be invited to take part, with the aim of providing scientific-technical support to defining of the indices of harmonization themselves.

6. With the aim of applying the provisions from the par. 3, the employers, entrepreneurs and those who are not entrepreneurs, are under the obligation to, at the moment of submitting the request for gaining the right to use benefits or taking part in tenders or requests for the award of funds, and all the way to concluding the relations or drafting the report on awarded funds, submit the annual statements on GDP and payrolls which contain the directions from the Article 20, par 1 of the Order issued by the President of Republic dated June 30, 1965, no. 1124 (the Unique text of the provision for mandatory insurance against the accidents at work and professional diseases).
7. The Region of Puglia notifies the employer, the entrepreneur and those who are not entrepreneurs on the inadequacy of the harmonization index referred to in the par. 3, within the period which shall not exceed six months from the receipt of the data stated in the par. 4.
8. The employer to whom the notification referred to in the previous paragraph 5 was addressed, can without any delay and within the period of thirty days from the receipt of the notification, submit the appropriate documentation, stating basic and legally founded facts because of which the discrepancy /non-harmonization of the harmonization index can be treated as non-existent or justified. The regional directorate – Labour Secretariat, brings forth the decision in the non-delayable timeframe of sixty days, upon the expiry of which it is considered that the collection of employer's excuses/justifications is over. In case of the failure to collect the excuses/justifications, the Directorate takes, according to the proportionality principle, the measures of reducing or withdrawal or eventual compensation, partial or complete, of the benefits and awarded funds. By taking these

measures, no side-effects are created, nor are working relationships or Social Security Bureaus are influenced.

9. Indices of harmonization from the par. 3 are the subject of the audit in case of common and agreed upon request submitted to the Region of Puglia by the parties mentioned in this par. or by the regular means, every three years.

### **Article 3**

*(Inspection checks)*

1. The Region of Puglia directs the funds referred to in the next Article 6, in the maximum amount of 10%, for the strengthening of inspection checks on the territory of the region, in line with the programmes of the Regional Commission for the legalization of irregular activities. To that end, appropriate Memoranda of Understanding shall be signed with the Ministry of Labour, with the aim of guaranteeing periodical controls of the property owned by the employers which are the beneficiaries of the measure described in Article 1.

### **Article 4**

*(Regional point/service of identifying of irregular activities and the database)*

1. In the period of one hundred and eighty days from the date that this law has entered into force, the Region of Puglia establishes the Regional point/service of identifying irregular activities, with the function of making studies and analyses on the basic problems in the informal economy area, irregular work and their impact on the labour market, also the creation of an integrated database with the aim of planning joint activity with the responsible public institutions, the application of the provisions of this law, i.e. identifying useful indicators for the study of irregular activity phenomenon in defining the index of harmonization from the Article 2. The third parties, partially or completely, can

be entrusted with the function of the Point/Service for identifying irregular activities according to the existing legislation.

## **Article 5**

*(Support to the legalization of work)*

1. The Region of Puglia, within the limits of the means referred to in the next Article 6, is enhancing further measures for the support to the legalization of irregular activities. Particularly, and in line with the programmes of the Regional Committee for the legalization of illegal activities, the incentives can be issued, with respect to the European regulations in the area of assistance regime and *de minimis*, the incentives directed towards the regulation of the labour relations of the contractors. For the separation of the measure from this paragraph, the Region of Puglia, in coordination with the Regional Committee for the legalization of illegal work, enhances the sectoral definition of measures aiming at supporting the exit from the illegal situation, in concrete wording, with the representative workers' trade union organizations and employers' associations on the territory of the Region in the given economic sectors. As well, it supports, in coordination with the Regional Committees for the legalization of illegal activities, in particular with the representative trade union organizations of workers and the employers' associations on the regional plan and communities covered by local bodies, in relation to the particularly critical territorial situation which would be defined by the common agreement.
2. Incentives can be acknowledged to the firms which, independently from enjoying the benefits and funds paid /referred to in the Article 1 of this law/ show that the relation between the quantity and quality of the offered goods or services and the number of working hours is harmonized in the sense of the index described in the Article 2, par. 3 of this law, and that they have improved the registered relationship from the previous year by at least 25%.

3. Incentives referred to in the paragraphs 1 and 2 can be approved with the existence of regulated contractor labour relationships with definite period of engagement, i.e. in regard to the firms which do their activity in certain periods of the year which are exclusively identified in advance, as well as the contractor working relationship being started in line with the temporary needs of expert, production, organizational or substitute character.

## **Article 6**

### *(Financial regulations)*

1. Obligations stemming from the Articles 3,4 and 5 of this Law, have financial coverage for 2006 in the amount of 4,548,133.46 EUR, through currently available funds referred to in the Chapter 956057 of the Regional Budget (U.P.B. basic units for planning the budget 060202), for the financial coverage of the programme of activities for the legalization of illegal work, from D.G.R. (the Decree issued by the Government of the Region) no. 962 from 4/7/2006, and for the year 2007 in the amount of 4,949,367.82 EUR, the amount having been set by the Decision of the Inter-ministerial Board for the economic programming no. 138 dated December 21, 2000 for the three years' period of 2001-2003, which has not been approved by the Region of Puglia yet.

This law has been proclaimed as urgent and it shall be announced and published in the Official Gazette of the Region, in the sense and as the acting of the Article 53, par. 1 J.I.P. 12/05/2001, no.7 of the 'Statute of the Region of Puglia' and shall enter into force on the same day on which it shall be published. It is mandatory for every person whose interest is to read it, to do so, and to consider it as the Law of the Region of Puglia.

In Bari, 2006

## VI

### THE SECRETARIATE OF THE COUNCIL – CONTACT DATA

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