

Undeclared Labour in the Construction Industry

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1. Social and economic background

Undeclared labour in Poland makes up a significant element of the labour market, both in terms of engaged number of persons as well as economic effects. Omitting this phenomenon disfigures the picture of both the labour market and the structure of the whole economy. Undeclared labour, unregistered work, illegal work, "black" work, has essential historical and cultural conditioning. The existing continuous wide social acceptance of undeclared labour has probably its sources in 19th century, in the period of lack of independence, when creating an alternative economic structure to invader states was accepted, or made up an outright component of the notion of patriotism. This connotation was strengthened in the period 1939-45 when functioning in the alternative economic system was not only a condition for survival but also a form of resistance against the invaders. The grey economy existed throughout the whole period 1945-89, also finding quite wide social acceptance as an area independent from the state trying to interfere in all areas of social and economic life. However in this period undeclared production, undeclared and illegal work made up only a supplementary component of the declared economic and paid activity, an addition to an official, legal occupation. In this whole period undeclared labour in agriculture was a constant phenomenon provided mainly within the framework of neighbourly help. There is a very clear, quality demarcation line determining a change in the characteristic of undeclared labour. In the years 1971-1980 especially industrial sectors employees started to take additional, undeclared work on orders from private, individual clients. In the private housing and dwelling construction sector this feature mainly concerned finishing and repair works. It was connected with a relative liberalisation of the whole economical structure and political system.

As a result of quick property transformation after 1989, private property, in the previous period existing only in agriculture, in part of services and in small production of artisan character, began to dominate the economy. First sectors privatised in majority were the trade and construction sectors. The rate of unemployment increased suddenly in a short period of time; it stabilised on a high level for many years and in many cases took the character of structural unemployment. Periods of better and worse economic situation in years 1989-2005 have had limited influence on the level of unemployment in Poland.

High rate of unemployed, strong competition of companies and insufficient legal and financial control of the market led to a rapid growth of the volume of undeclared labour. It started to be a basic source of income for a large number of unemployed. For many full time workers undeclared 'components' of labour started to be a constant, not only periodical, part of monthly income.

There is no doubt that the rate of unemployment, remaining for many years on a high level, is a factor generating growth and consolidation of the structures of the grey economy and undeclared labour. To other factors, beside the already mentioned social tolerance, one should count insufficient income from legal/registered sources, high not-salaried costs of work (taxes, insurance, other benefits), close connection of the system of benefits for unemployed with the system of national social and health insurance, for many years lack of a positive policy promoting declared employment and economic activity, and finally a weak coordination of work of supervisory bodies and a shortage of social dialogue in this area. According to analyses of all the material and immaterial factors that have an influence on the level and volume of undeclared labour, it should be said that the evolution of these factors is very slow. Level of social tolerance for undeclared labour still remains very high; although, legal employers and some of trade unions are less tolerant for the grey sphere now – particularly for illegal companies.

2. Definitions and applicable legislation

An analysis of undeclared labour requires a precise qualification of its definition. Government institutions use the definition accepted by the European Commission, however for analyses of the phenomena in various aspects also other, more restricting and precise definitions are used. A few quantitative analyses of undeclared labour carried out by statistical¹ institutions focus, first of all, on the phenomenon of unregistered, illegal employment. In principle the phenomena of sham self-employment and undeclared labour in agriculture rendered within the framework of neighbourly help are omitted in analyses. Also there are no credible studies on the scale of undeclared labour rendered by foreigners. Estimations of the size vary to a large extent. Estimations of the share of the grey economy in GNP are similarly divergent; they oscillate from 14,6 % to 27,4 %.²

In principle, the concept of undeclared labour is not used in Polish studies. At present the subject of studies is, almost exclusively, unregistered work or unregistered employment. This is connected undoubtedly on one hand with large difficulties in measuring the volume of legal undeclared work and with the evaluation of the phenomenon of sham self-employment. We can talk about legal undeclared work, when the payment/equivalent for the work done (usually in the system of the neighbourly help) is a different work, rendered as compensation/equivalent.

In the studies on the subject, one considers as unregistered work hired work rendered without a labour contract: that is without employment contract, civil law based contract, task contract or any other written contract between employer and employee regardless of the property sector (also with physical persons and individual agricultural farms). The work can not be also rendered based on nomination, appointment or elections. By right of the rendered unregistered work the worker is not entitled to national social insurance, and therefore is not entitled to social benefits; social insurance premium for the period of this unregistered work is not counted from the point of view of Social Security, and the employer does not transfer appropriate sums from paid salaries to the account of Social Security and Work Fund. Personal taxes are not paid from the income received from unregistered work.

One also considers as unregistered work self-employment if by right of the economic activity financial duties toward the state (e.g. taxes) are not fulfilled. This definition will be applied in the present study, unless because of specific conditions in the construction sector broader or precise definition will be required.

Labour legislation defines the conditions of employment in several legal acts. The Labour Code³ is the basic legal act defining the conditions of work. The Act for the promotion of employment and the institutions of the labour market⁴ is equally important. Other legal acts are: the Act about employment of temporary workers⁵, the Act on aliens⁶. The problems of activity of one-man economic subjects (self-employment) are regulated by the Act about the

¹ Unregistered Work in Poland in 2004, CSO; reports 1995, 1998, 2004 / Praca Nierejestrowana W Polsce W 2004 GUS September 2005, see also editions 1995 i 1998

² F. Schneider, The Size and Development of Shadow Economies in 22 OECD Countries and 21 Transition Countries, IZA D.P. No. 514

³ (Labour Code Act) Ustawa z 26 czerwca 1974 r. - Kodeks pracy Dz.U. z 1998 r. Nr 21, poz. 94, Nr 106, poz. 668, Nr 113, poz. 717, z późn. zm.

⁴ (Act for the promotion of employment and the institutions of the labor market) Ustawa z dnia 20 kwietnia 2004 r. o promocji zatrudnienia i instytucjach rynku pracy Dziennik Ustaw Nr 99 z 2004 r. poz 1001

⁵ (Temporary workers employment act) Ustawa z dnia 9 lipca 2003 r. o zatrudnianiu pracowników tymczasowych Dziennik Ustaw Nr 166 z 2003 poz 1608

⁶ (Act on Aliens of 13 June 2003 (Journal of Laws of 2003, No 128, it. 1175) Ustawa o cudzoziemcach

freedom of economic activity⁷. The Act about the public orders has indirect but essential influence on creating conditions for legal, registered employment⁸.

The Labour Code is a specific constitution of work relations in Poland. It defines general conditions in which work can be recognized as illegal, the basic principles of control and supervisory institutions, judicature proper for the work relations. The new Act about the promotion of employment and the institutions of the labour market is, among others, an attempt to cope with new phenomena on the labour market (structural unemployment, high unemployment among young people, low level of professional activity, grey economy and illegal employment). One can recognize that this act is an attempt of active employment policy. The Act about employment of temporary workers was intended to add flexibility to the labour market. However some gaps in this and the previous act (among others, in the range of functions of employment agencies) require changes to seal up the system. The Act on foreigners regulates employment of citizens of other states in Poland. The new Act about the freedom of economic activity has essential meaning. One can analyse functioning one-man economic subjects through its prism.

3. General findings

Similarly as in many other European countries, sources of information about the scale and character of undeclared labour are limited. The Polish Main Statistical Office has limited data allowing only estimating the scale of the phenomenon. The most important (and practically only) studies on the subject of undeclared labour were prepared within the framework of studies of economic activity of the population (BAEL) in 1995, 1998, and 2004. In 2004 BAEL was carried out in 18,900 households, in which interviews with 47,200 persons in the age of 15 years and more were carried out. The module study included 23,700 respondents, and 21,100 (that is 88.9% respondents) answered the questions in the questionnaires.

Unregistered work is a wide spread phenomenon. From January till September 2004, 1317 thousands persons worked in the grey economy and it was used by 1019 thousand households. Compared to 1998 the number of persons working in the grey economy decreased, but at the same time the rate of employment in the economy increased from 9.3% to 9.6%. The number of persons working illegally in the countryside and in cities divided equally, that means that farms in the countryside employed unregistered workers almost twice as often.

It is estimated that for more than 40% of undeclared workers undeclared labour is the basic or the only source of income. It's worth to underline that the surveys do not concern undeclared labour of immigrants in Poland.

The study carried out in the framework of BAEL is based on a large group of households. The study has been carried out, first of all, from the point of view of one group of customers (households) using undeclared labour, though at the same time it is trying to estimate the respondents' participation in rendering this work. This study however does not provide a strong base for a quantitative evaluation of undeclared labour in different sectors or the building sector. For such an evaluation the statistical data coming from other sources, first of all from inspections carried out by entitled institutions, is still poor. A very limited range of inspections is a basic barrier here. It does not allow for generalisation of their results.

7 (Act about the freedom of economic activity) Ustawa z dnia 2 lipca 2004 r. o swobodzie działalności gospodarczej Dz.U. z 2004 r. Nr 173, poz. 1807, Nr 281, poz. 2777 z późn. zm.

8 (Act on public orders) Ustawa z dnia 29 stycznia 2004 r. Prawo zamówień publicznych 2004 r.: Dz. Nr 19, poz. 177, Nr 96, poz. 959, Nr 116, poz. 1207, Nr 145, poz. 1537, Nr 273, poz. 2703, Nr 163, poz. 1362

4. Undeclared labour in the building sector.

According to MSO (GUS) studies in 2004, the construction sector was on 2-3 place with regard to the presence of undeclared labour (agriculture-horticulture work was predominant). However it is hard to distinguish construction works according to the classification of activity (PKD), because this group has been qualified as renovations, repairs, and construction-installation services, so in various categories of PKD. An evaluation of the phenomenon of undeclared labour in construction requires a precise qualification of the range of the observation of this phenomenon. Subjects active in the sector, social partners as well as public institutions dealing with the matters of the construction industry most often use the notion of the „grey economy”. It encompasses an illegal or hidden production of materials and articles, an illegal or undeclared rendering of services, and undeclared and/or illegal rendering of work. It means that undeclared labour in the sector concerns both undeclared work (undeclared to the tax, statistical, insurance, customs authorities) and illegal work (rendered without proper qualifications). It seems inappropriate however to use the category of „criminal employment” because the infringement of legality of employment is not a subject of the Penal Code, and infringements of the Code in the area of employment in the construction sector are very rare. The common term for undeclared labour in construction is „black” work. It means employment without an employment contract, no payments of tax obligations connected with the employment of the worker, no payments of social security obligations, and no payments of other obligations connected with not-salaried costs of work. It also means, in a majority of cases, direct cash payment of fees (daily pay, payment for tasks completed). Assessment of the scale and dimensions of the separate features connected with undeclared labour in construction, according to opinions of its commercial and professional organisations, leads to the thesis, that a majority of undeclared labour has short term and seasonal character (mainly for the time of order realisation). Part of undeclared labour, which is performed continuously, concerns full time workers receiving payment for undeclared hours of work in cash, parallel to the official payment. Undeclared work is the basic kind of employment (and main source of income) only in the less qualified group of workers (unemployed performing unregistered seasonal work) and in the rural areas. Even in this last case work in construction is only one of many sources of undeclared income for workers involved. This remark does not concern immigrant workers. For them undeclared labour is the main and only source of income.

Undeclared labour in the rural areas is a conditioned historically and economically durable element of economic micro system in the rural areas. Part of the work is done in the neighbourly system, without payment, based on the mutual rendering of services. This kind of the work, however, does not fulfil the conditions of the employment. Simultaneously however a part of services (agricultural works, mainly seasonal, but also construction and renovation works in the rural areas) is paid for. Construction activity in the rural areas is based on unregistered work to a large extent. A considerable part of rural communities function in an autarkic way in many spheres. A closed economic circle is being created, in which someone produces basic construction materials (officially for own use, in fact for sale), someone organizes a building group (often with high qualifications), and someone organizes transport. Construction investments of farms are realized in this closed circulation - without taxes and obligations to the system of social security, with conventional salaries, taking into considerations the prices on the local market. EU membership indirectly made a contribution to the growth of undeclared labour volume in the rural areas. Significant part of the direct supplemental payments for the agricultural activity is devoted to building investments (houses and household buildings) performed by undeclared workforce.

5. Factors influencing the level of undeclared labour

5.1. Economic situation and the level of investment

The level of undeclared employment in the construction sector is connected with many socio-economic factors. Hierarchisation of these factors is essential for defining an effective policy limiting this phenomenon. Self-employed persons and small construction companies constitute approximately 98% of the economic subjects in the construction sector.

Undoubtedly, according to opinions of main organizations and actors of the sector, in this group of subjects the phenomenon of undeclared labour occurs most often. In the opinion of employers, trade and industrial chambers, and trade unions, an economic recession and a decline in investments undoubtedly causes growth of the grey economy, and also unregistered employment. These are experiences of the recession period in 1999-2003. However it is hard to say that a construction boom limits this phenomenon. It is not supported by studies of undeclared labour carried out by CSO (GUS) in years 1995, 1998 and 2004, among a control group of households in the framework of BAEL.

5.2. Costs of work.

There is no doubt that the level of obligations resulting from the non-salaried costs of work (taxes, national social insurance, safety of work costs) has a direct influence on the rate of unregistered employment, in correlation with the effectiveness of penalties for infringement of law in this area, and effectiveness and the scope of control. Relatively low effectiveness of these penalties, weakness and lack of coordination of activities of supervisory institutions, in connection with the crumbled structure of subjects and economic activity in the construction sector favours maintain the phenomenon of unregistered work (and its profitability for customers / investors, employers and workers).

5.3. Regulations of public orders, tender procedures, liability.

Next factor fostering a high level of unregistered employment in construction is the system of control and regulations of public orders favourable to, despite changes in the past years, underestimating the costs of the realization of the order in the tender procedure - particularly in the area of costs connected with work.

The main employers' organisations are of the opinion that it is a result of incorrect activity of governmental structures (Public Procurement Office especially) preferring price criteria first of all, and disregarding all the quality criteria.

The absence of a generally recognized minimum calculation salary rate in the sector is recognized by trade unions and some employers' organizations as a particularly important obstacle in fighting the unfair competition in the construction sector. This means, that it is possible to provide very low calculation costs of work in the tender procedure and the ordering party is not obliged to pay attention to the fact that as a result level of salaries does not allow for legal employment of workers under appropriate conditions.

It does not directly result from the Polish law about public orders (neither from other legal acts) that the general contractor is simultaneously responsible for observing the law of legal employment and for observing the regulations regarding taxes, salaries and social insurance by subcontractors. As a result, in a common opinion of organisations active in the building sector and inspection authorities, it happens that in the "subcontractors chain" the last links function partially outside the system of legal employment.

Beside work rendered according to the labour legislation, there are "contracts for performing certain task or work", and "commission contracts" regulated by civil law. An analysis of

economic practices shows that the principles of a contract for performing certain task or work are quite often abused in the construction sector (the contract does not require certain not-salaried expenditures from the employer connected with the costs of social security).

5.4. Self-employment and forced self-employment

The problem of self-employment is of special importance. From more than 200 thousand economic subjects active in the construction sector, a great majority (above 90%) is one-person companies (registered as economic activity). In the years 1999-2003, a period of recession in the construction industry, many workers were forced to register their own economic activity. Independence of many of these subjects was (and still is) bogus. The registration was intended to avoid the non-salaried costs of work by the hitherto employer. In real, the work was still done under supervision (not independently). Therefore these were all cases of “bogus” self employment. However the work of “bogusly” self-employed is very difficult to examine. From the formal point of view the work of registered self-employed is legal until supervisory bodies find that it is made under management.

Another problem connected with self-employment, particularly in case of installation, finishing, and renovation works, is failure to properly declare part of activities to tax and insurance authorities. This undeclared labour of one-person economic subjects, according to the opinion of employers' organization, can encompass a majority of works done in the earlier mentioned segments of the market.

6. Control of the legality of the employment in the construction sector.

6.1. Subjects controlling the legality of employment.

There are many public subjects in Poland, which are entrusted with the inspection of the legality of employment. Services for inspection of the legality of employment (employment police) supervised by *voivodes* (the local level of the government administration) and customs institutions belong to them. These services cooperate mutually and can organize common inspections. They also use help of the State Labour Inspection, the Police, the Social Insurance Institution, the Border Guard, offices of the tax inspection, trade unions and employers' organizations. In practice the inspections are carried out directly by inspectors of the service supervised by the voivode and inspectors of the State Labour Inspection. The remaining structures disclose the infringement of the legality of employment during inspections relating to their main area of activity; customs organs - infringement of customs regulations about the import of goods, Social Insurance Institution - in the area of payments for workers' social security, the Border Guard - the legal status of foreigners, the offices of the tax inspection - payment of taxes. The police most often fulfil auxiliary and protecting tasks. In real, employers' organizations and trade unions do not participate in the process of inspection of the legality of employment, though formally they can ask to undertake such an inspection. According to an opinion of the engaged subjects the coordination of activities and exchange of information are definitely not sufficient. A small number of inspectors is one of the main barriers in activities of the service for legal employment (there were 304 persons in the whole country in 2005).

Subjects controlling the legality of employment base their work on statutory regulations. The problem of activity of these institutions is on the one hand a limited cohesion and coordination of their activities, on the other hand very limited organisational and technical possibilities. Also a problem is that none of these institutions functions as leading or coordinating organisation.

6.2. *Services for inspection of the legality of employment.*

The services for inspection of legality of employment base their work on the Act for promotion of employment and institutions of the labour market (art. 116 of the Act). These services are supervised by voivodes; title 20 of the Act defines the principles of inspections. One can be fined 3000 zlotys for employment of an unemployed without notifying the county labour office. An unemployed who does not inform the labour office about his employment is subject to a fine not lower than 500 zlotys. Employment of a foreigner without work permit, or inconsistency with the work permit, is subject to a fine not lower than 3.000 zlotys. The foreigner who will undertake such work is subject to a fine not lower than 1.000 zlotys. Running of an employment agency without permission is subject to a fine not lower than 3.000 zlotys. Who does not pay premiums for the Work Fund, does not pay them in proper time or amount, does not provide required data or provides false data influencing the amount of premiums, is subject to a fine not lower than 3.000 zlotys. Hindering or making impossible an inspection is subject to similar fines. These fines are not particularly severe, though they could be effective, if the services for inspection of employment had a considerably wider organisational and staff possibilities. The services carry out mainly intervention inspections and have the duty to inform proper institutions. During the past 10 years these services brought about 65 thousand cases of legalisation of employment. In 2004 and 2005 a comparative number of inspections detected respectively 15.5% (24,074 subjects controlled) and 23.9% (20,792 subjects controlled) cases of illegal employment. According to the data of the Ministry of Labour and Social Politics approximately 30% of economic subjects violate the regulations of legal employment. There were 517 construction companies among 4,972 cases in which infringements of the legal employment regulations were detected. There were detected 1,229 cases of employment without employment contract, or without declaration to the social security (*in this quota 708 unemployed*), and additionally 1,424 cases of work by unemployed without informing the local labour office. There were detected 33 cases of illegal employment of foreigners. Considering the realities described by organizations of employers this last number testifies about the inefficiency of inspection in this area. It is difficult to measure the effectiveness of the inspection due to very limited number of inspectors and limited (but relatively high according 304 inspectors employed) number of controls.

6.3. *The State Labour Inspection.*

The State Labour Inspection, having more supervisory personnel than the services for inspection of legality of employment, has in the range of its tasks the control of legality of employment through the control of correctness of the conclusion of the labour contract. To the range of activities of the State Labour Inspection, defined in art.8 of the Act about the State Labour Inspection⁹, belongs, among other: “supervision and control of observing the labour law by employers, in particular the regulations of safety and hygiene of work, regulations relating to the labour contract, payment for work and of other benefits resulting from the labour contract, the time of work, vacations, rights of workers connected with parenthood, employing juvenile and handicapped persons”.

All of these areas have an influence on the evaluation of the character of employment. Infringement of the regulations relating to these areas in many cases is decisive, whether the work of these persons, to whom these infringements relate in a certain degree or in full, is undeclared. According all the experiences and data sources from controls of SLI it is worth to underline, that in 2005 many employers used civil law contracts illegally as a substitute to labour contract. For 569 causes reported by SLI to the court only 130 were sentenced in

⁹ (Labour Inspection Act) Ustawa z dnia 6 marca 1981 r. o Państwowej Inspekcji Pracy. Dz.U.01.124.1362 z póź. zm.

employee' favour. In the opinion of labour inspectors the efficiency of this tool is very limited. Less formal, but much more efficient are 'turns to employers for confirmation of employment relation'. During 2005 SLI led to confirm of 16,718 labour contracts using this tool. There are no available data concerning construction, but SLI inspectors noticed that construction and allied trades still is the main field of labour law evasion. In the construction industry in 2004 there are about 40% of employers (from the quota controlled by SLI) that delayed payments for workers. In fact it makes this work undeclared.

6.4. *The Border Guard.*

The Border Guard acting according to the statutory regulations¹⁰ controls the movement of persons and flow of goods through the border of the state. It grants permission to cross the border, and issues visas. In this capacity it can control the conformity of the character of a foreigner's visit with the character of the visa. A considerable part of tourist visas issued to citizens of Ukraine, Belarus, Armenia, Vietnam, Romania or Bulgaria is used against their purpose (paid work or trade). The statistics gathered by the Border Guard allow indirectly estimating the size of the phenomenon of the labour migration from third countries. Border movement of persons in the year 2005 increased in comparison to 2004 particularly on the border with the Ukraine (about 47%) and reached 17,753 thousand of crossings of the border¹¹. Of course this number includes not only citizens of the Ukraine or illegal workers and persons earning their living from the unregistered trade activity. However the growth of the number of border crossings increases the group of illegal workers looking for employment in Poland and other EU-countries.

6.5. *Other institutions.*

From 2003 the Customs service is authorized to control the legality of work of foreigners. The service acts according to statutory regulations¹². The service institutionally cooperates with the tax inspection organs in the framework of voivodship treasury boards¹³. This institution, similarly as the ones mentioned above, can cooperate with the police.

The institution of National Insurance (ZUS) acts according to the statutory regulations of social insurance¹⁴ and controls the obligations of transferring social insurance premiums both by companies and workers. ZUS employes over 1500 inspectors. It executed over 98,000 of controls (2003) with 78,000 of taxpayers. In 63,730 cases varied kinds of incorrectness were found. Control protocols proved lack of social and health insurance for 14,500 workers. The ZUS Inspectors prepared 2,889 motions to the courts, police, prosecutors, health insurance institutions, labour inspection, treasury control chambers and labour offices. The database of ZUS should be the basic source of information about undeclared labour dimension and volume, but the statistical stock of ZUS is weakly accessible till now.

¹⁰ (Borders Guard Act) Ustawa z dnia 12 października 1990 r. o Straży Granicznej. Dz.U.02.171.1399 z póź. zm.

¹¹ Personal transborder movement in 2005 – number of border crossings. Border Guards statistics / Osobowy ruch graniczny w 2005 roku – liczba przekroczeń granicy. Statystyki SG. www.sg.gov.pl

¹² (Customs Service Act) Ustawa z dnia 24 lipca 1999 r. o Służbie Celnej (Dz. U. Nr 156, poz. 1641, z późn.zm.) http://www.mf.gov.pl/_files/_sluzba_celna/akty_prawne/ust_o_sc.pdf

¹³ (Voivodship Treasury Councils Act) Ustawa z dnia 27 czerwca 2003 r. o utworzeniu Wojewódzkich Kolegiów Skarbowych oraz o zmianie niektórych ustaw regulujących zadania i kompetencje organów oraz organizację jednostek organizacyjnych podległych ministrowi właściwemu do spraw finansów publicznych (Dz.U. Nr 137, poz. 1302)

¹⁴ (Social insurance system act) Ustawa z dnia 13 października 1998 r. o systemie ubezpieczeń społecznych (Dz.U. nr 137, poz. 887 i nr 162, poz. 1118 i 1126 z póź. zm.)

The offices of the treasury control¹⁵ can execute a wide control of fulfilment of the tax obligations. The so-called treasury police have very wide control powers. However they concern undeclared employment in a small degree.

7. Effects of undeclared labour in the construction sector

7.1. Material and qualitative effects

In the period 1999-2003 the contribution of undeclared workers to generating the volume of the construction-assembly production increased significantly. According to the social partners it is around 30% and the quota of undeclared workers in the construction job market can reach up to 40% of the market. Assuming that according to official statistical data¹⁶ an average number of employees in the construction sector reached 588,000; this is a huge group of workers, more than 230,000 persons. According to some reports, the number of undeclared workers in the construction industry is even higher - over 500,000 workers.¹⁷ One has to bear in mind that repairs that often include construction work are classified in a different PKD group (Polish Classification of Activity), the Trade and Repairs group. One should also reflect the fact that estimations provide only an average number of workers, and there is a big rotation on the undeclared job market (both in groups of local and foreign workers).

Social and economic partners, referring to the dynamics of the undeclared job market in construction, do not see an essential influence of Poland's EU-membership on an increase or decrease of the share of undeclared labour. This situation can change in the face of a deficit of qualified labour force. Seasonal, or for a longer period of time, departures of qualified construction workers, mainly to Great Britain, Ireland, Germany, Italy and Belgium, create a gap which can not be filled up immediately by the national educational market and neither, as it turns out, by import of qualified workers from neighbouring countries. In this context one can predict that from one side small employers will exert a pressure on an easier legalisation procedure of qualified foreigners, and meanwhile from the other side the owners of larger firms - what happens right now - will pressure for admittance on the market of foreign subcontractor enterprises from third countries (mainly Ukraine). At the same time interest of employers in the support of professional training and education process significantly rises.

7.2. Undeclared labour and the distortion of fair competition and the structure of the sector.

The representatives of Polish employers particularly draw attention to this aspect of the functioning of the phenomenon of undeclared labour. Unregistered employment is an element providing competitive advantage to businessmen acting in the grey economy, or on its border. It is favoured by the weakness of the system of public orders in Poland, an absence of preferences for legal forms of employment / contracting works of installation and renovation character, the weakness of supervisory systems and the difficulty of control connected with peculiarities of the construction activity. Enterprises employing unregistered workers have lower costs of work and are able to complete a task for a dumping price.

¹⁵ (Act on Treasury offices and chambers) Dz. U. z 2004 r. Nr 121, poz. 1267 Ustawa z dnia 21 czerwca 1996 r. Urzędy i izby skarbowe. Tekst pierwotny: Dz. U. z 1996 r. Nr 106, poz. 489

(Act on treasury control) Dz. U. z 2004 r. Nr 8, poz. 65 Ustawa z dnia 28 września 1991 r. Kontrola skarbowa. Tekst pierwotny: Dz. U. z 1991 r. Nr 100, poz. 442 Tekst jednolity: Dz. U. z 1999 r. Nr 54, poz. 572

¹⁶ CSO data. Workforce in the national economy/Dane GUS www.stat.gov.pl Pracujący w gospodarce narodowej 2004.

¹⁷ Migranci na rynku pracy w Polsce. Wyniki badań przeprowadzonych wśród migrantów ekonomicznych i pracowników polskich. Hanna Bojar, Anna Gąsior-Niemiec, Mirosław Bieniecki, Mikołaj Pawlak; (Migrants on the Polish labour market) The Institute of Public Affairs, Warsaw 2005 page 66 and next.

7.3. Undeclared labour and reduction of tax revenue.

For several years the government administration perceives threats connected with the occurrence of undeclared labour in the construction sector, first of all, through reduction of tax revenue. The government activities are directed, first of all, on efforts to broaden the legal sphere of the economic activity, through lowering a part of tax burdens (reduction of VAT to 19%). These activities brought some limited results, however, to the subjects who fall under this tax. Evaluation of budget tax losses caused by undeclared activity and employment of unregistered workers is difficult because of considerable differences in opinions about the share of this sphere in GDP, and also about the structure of the grey economy itself. It is similar in the case of the construction sector. The durability and stability of the majority of construction companies, all rather small and very small undertakings, is weak.

7.4. Undeclared labour and the erosion of the system of social security.

The high share of non-salaried components in the costs of work (about 50%), and a considerable share of insurance components in these costs, causes that the significant number of unregistered workers not contributing to the financing of the system of social security, seriously threatens the functioning of this system. There is no separate system of social security in the construction sector. So one cannot talk about its erosion. But a large number of unemployed still receiving unemployment benefits and illegally taking up jobs in the construction sector contributes to the weakening of the system.

7.5. The social perception of undeclared labour in the construction sector.

Until recently unregistered work in the construction sector did not meet with a negative social perception. With a very high level of unemployment, taking up unregistered work was considered as an economic necessity. The employer sometimes met with a negative social perception, the worker rarely. This still is the predominant attitude to undeclared labour. However a change is slowly noticeable. Employers acting in the legal sphere of the economy have a definitely negative attitude to illegal work. And here however one can perceive certain differentiation. A part of the employers, however, uses unregistered workers to some extent, or avoids paying a part of costs of work in a different way. They claim that they are forced to infringe the law by unfair competition of companies from the grey economy. Acting within the law and employing registered workers the employers from large companies / general contractors step out with determination against unregistered employment. Quite often they do not pay attention to activities of their subcontractors, though the costs of services presented by them could produce suspicion that they use either unregistered work or materials purchased below the market price. It seems that the social perception of persons remaining in the grey economy out of choice and by necessity changes slowly. In social perception this is a significant group of workers and their avoidance of payments for the social security and tax system begins to be perceived negatively. Only recently the trade unions began to pay attention to the fact that unregistered employment limits their chances to act for higher salaries in the sector. The presence in the construction sector of a large group of illegal foreign workers from Ukraine and Belarus is not perceived negatively yet.

8. Structure of the undeclared job market in construction.

8.1. The share of undeclared labour in the sub sectors of the construction sector.

According to the opinion of employers and industrial-trade chambers the phenomenon of unregistered work occurs in all sub sectors of the construction sector, though not in the same degree and scale. Most often the phenomenon of undeclared labour occurs in the sector of maintenance and repairs, and in individual housing projects. Undeclared services (and

personally the work) in these sub sectors are rendered by small and one-person companies. There is a different character of undeclared labour in the sub sectors of multi-family housing projects, and industrial, infrastructure and road construction. Here a larger group of workers can find work and their recruitment is done in a more organised way.

8.2. The share of undeclared labour in individual companies and segments of the market.

The largest share of undeclared labour occurs in the category of medium and small private companies. The public sector (state and municipal), which makes up a small fraction of construction companies, in principle does not use undeclared labour. As a rule foreign companies also do not use unregistered workers. Under Polish conditions they use however services of a long chain of subcontractors, among which there are often companies on the border of the grey economy. An analysis of the market shows that undeclared labour in construction is most often used by households for installation works but also for basic construction works (it is possible that in the rural areas a majority of construction services is done in the grey economy). According to employers undeclared labour is also rendered very often in these cases where its value is very high - particularly for servicing of specialized equipment. In this case companies and operators rendering services for other contractors accomplish it during undeclared working time

8.3. The size of orders and undeclared labour

It seems that there is no direct relationship between the size of the order and the occurrence of undeclared employment. In case of individual customers a certain border can be established by the size of the investment over which the customer can hold a direct supervision and monitor the progress of works up to date. With more complicated works the customer is willing to look for legal companies providing formal guarantees of the quality of works done. In case of investments of greater value and with general contractors' full legal service of the investment, unregistered employment occurs in subcontracting companies and it tends to be tolerated by the general contractor which does not bear the full responsibility for the legality of the employment in companies in the subcontractors' chain.

8.4. Trades and occupations in which undeclared labour occurs most often.

One can distinguish two groups of construction occupations in which undeclared labour is rendered most often. First group, these are occupations requiring high qualifications: installators and workers doing finishing works - plumbers, electricians. Bogus self-employment also occurs quite often in this group. Here declared work is done besides undeclared labour, part of taxes and social premiums is paid and part of salary is paid officially. Operators of special construction equipment can be counted into this group. Second group, these are workers with low qualifications including unemployed registered in the employment offices and receiving benefits, employed through illegal or half-legal agencies, through subcontractors which are in reality only a structure intermediating in recruitment of unregistered workers. Here unregistered work is done in pure form, fully in the grey economy.

8.5. Unemployed and their undeclared labour in construction.

Registered unemployed make up a large group of undeclared workers in the construction sector. Not notifying about their employment they violate the law. However in this way they maintain their right to health insurance and other benefits (for example: allowances) from the institution of the job market. Most often they perform tasks not requiring high qualifications and work in the sector only in the high season. They are not a stable workforce; because of low salaries they often change their places of work. There is a group of highly qualified

unemployed construction workers that are not looking for employment on the job market and take up better-paid work in the countries of EU, most often without declaring this fact to the Polish employment offices, even if the work done in another country is legal.

8.6. The share of foreign workers in the undeclared job market in construction.

The share of undeclared foreign workers in the Polish construction job market is considerable. This market is characterized by significant fluctuations depending on the season.

A prevailing majority of undeclared foreign workers comes from neighbouring countries that are not members of EU, first of all from Ukraine and in a smaller degree from Belarus. These workers render illegal work in Polish registered construction companies, but they are also employed in enterprises acting fully in the grey economy (unregistered). Majority of these workers crossed the Polish border with tourist visas, not allowing to work. These persons try to renew their visa every 3 months (this is comparatively easy because of facilitations in the movement of persons between Poland and Ukraine).

A number of illegal foreign workers are students. As a rule they perform work that does not require specialist qualifications. In case of persons with tourist visas a considerable, but difficult to estimate, group consists of quality experts or persons with higher education above the required qualifications (engineers performing work of qualified workers). Illegal labour immigration from other countries is of comparatively small significance, though workers from Armenia, Kazakhstan or Romania also work in the sector. Certain importance has also an inflow of illegal workers from the countries of EU. These are mainly managers and middle-level technical supervisory personnel ignoring the Polish regulations relating to the employment of foreigners.

The data relating to work immigration are collected through interviews with representatives of employers' organizations, industrial chambers and trade unions. According to these opinions, 150,000 foreigners perform illegal work during the high construction season in Poland.

Taking into consideration the fact that in the past years approximately 35,000 foreigners received permission to work in Poland every year, this number is very high, particularly as it relates only to one sector. From the review studies of MSO (GUS) in 2004 it comes out that construction is the main sector in which undeclared labour is performed. It is similar the case with foreign workers, especially men.

Unregistered foreign workers perform work in small and medium size contractor companies, in the subsector of individual and multi-family housing, infrastructure and industrial construction. Usually they work under management of Polish middle-level supervisors and most often in III and II shift during particular intensity of construction works. It is the factor of time, urgent deadlines for completing investments, beside the costs of work, which is basic for inducing Polish employers to employ foreigners. Currently qualified foreign workers are particularly sought. This concerns occupations as bricklayer, steel fixer and concrete layer, construction carpenter, and occupations of fitters, electricians, plumbers and fitters of installations. In the area of undeclared labour an absence of officially recognized certificates of professional qualifications is not an obstacle. The skills of workers are checked in a special tentative period of some sort, than follows a permit to fulfil the proper task, finally resignation from the worker, or charging him with a different task. This procedure relates also to Polish workers and is as well applied to persons employed legally, irrespective of the possessed certificate of professional qualifications. Foreign workers from third countries, as a rule, do not perform works of operators of specialized construction equipment (where the largest risks of control exist). Exemptions here are the operators of equipment from the countries of EU performing undeclared labour during „fairs” or „exhibitions”. Foreign students often do construction works not requiring high qualifications.

9. The rules of recruitment of undeclared workers.

9.1. Organisation of the market of recruitment.

The rules of recruitment of undeclared workers depend on various factors; the character of demand on construction services in a given area, the size of order and the size of the subject that is going to use undeclared labour. Regional differences are also perceptible.

In the case of works ordered by individual clients/households the recruitment takes place when the order for fulfilment of service is being received. Employees of the company providing the service, or the self-employed himself, or the customer himself propose fulfilment of the service without registration and transferring appropriate taxes.

Clients of individual orders are mainly physical persons commissioning works in private dwellings. Individual orders also concern the maintenance sector.

In case of construction works performed in the rural areas the mechanism of the order and the recruitment is based on internal bonds of the local community. Residents of a given commune, and sometimes even a larger area, know very well who provides what services and what skills this provider possesses. This network shows the features of large stability and does not require any intermediaries.

Clients of undeclared labour in the rural areas are private owners of bigger farms and plantations. The problem concerns orders for specialist works and employment of unskilled unemployed persons for auxiliary works as well.

Except the information directly passed in local environments (through neighbourly contacts and information on local markets), customers, workers and intermediaries most often use advertisements placed at the public media - first of all in the local press. There is no systematic control of offers placed in this press. The all-Polish press has, as a rule, certain mechanisms of quality control of recruitment advertisements. This does not relate however to the offers of foreign work which are not verified. Up till now the Internet has not been an essential source of the exchange information about offers on the market of undeclared labour. Currently the situation changes quickly and this medium can become predominant.

Meetings points of unemployed, usually in the neighbourhoods of the employment offices, often function as sources of recruitment of low qualified workers for incidental works. Such a system of recruitment has a long history from the previous system and survived particularly in smaller municipal centres. These points of recruitment activate themselves particularly during periods of seasonal works and provide a direct contact between an employer and workers recruited for a very short period.

Employers from the border of the grey economy or agencies sometimes also use official recruitment institutions of workers and use the recruitment channels of the district employment offices. After a potential worker-unemployed is reached they withdraw the offer and the contact is used for undeclared employment of the unemployed. The workers of the employment offices claim that in the turn unemployed registered at the offices and receiving an allowance (or benefits in from social and medical insurance) undertake training in a desired occupation sponsored by the government. After it is completed they do not accept legal employment and use the new skills in the grey economy. A part of these unemployed, currently a considerable one, counts on taking up work in construction specialties abroad. The contact offered by an employment office usually serves them as an intermediary stage of taking up work in a different EU country; declared or undeclared.

Clients hiring undeclared labour of unemployed persons are both employers from medium and small size companies from the border of the grey sphere and, in principle, legally acting medium size companies searching larger groups of workers for less qualified tasks and short term, urgent auxiliary jobs. In this case mainly illegal agents recruit workers. It concerns all kinds of construction (except repairs and finishing jobs in dwellings). Unemployed skilled workers are recruited individually, unskilled workers in groups.

Both employment offices and employment agencies carry out the recruitment of larger groups of (cheap) labour. In many cases they are carried out directly by HR departments. Generally, recruitment of large groups of workers (for realization of larger building orders) is intended as declared employment. The practice shows however, that, in a situation in which in Poland formally there is no minimum hourly rate in the construction sector, the declared pay of recruited workers is definitely lower than the one paid in reality. This usually takes place with an acceptance of both sides. Opinions of employment inspection services show that workers paid in this way rarely and only in the case of individual conflicts demand legalisation of all work done by them. In this case not only concealment of a portion of payment but also a violation of the regulation about time of work (about extra hours of work) create build an erosion of declared employment.

Registered medium size and larger building subcontracting companies very rarely use big groups of undeclared workers. If it happens it concerns housing, industrial and road construction as well. It appears only in very special circumstances, when the company is under the pressure of time and main contractor. The key moment is the first contact with the workers recruited when the agreement on undeclared payment is settled.

Because of a complicated, long-lasting procedure of legalisation of employment of foreigners, a majority of them and of their potential customers or employers (also agencies) do not even try to begin this procedure. Recruitment of foreigners to small and medium companies (definitely a majority of this market) goes through informal, social networks in the environment of immigrants, active in the places of their residence. However one should pay attention to quickly growing activity of illegal, cross-border employment agencies organised but not registered either in Poland or e.g. in Ukraine.

Peculiarities of recruitment of undeclared workers in the construction sector in border regions depend on good knowledge of the needs of the local market and on many years' contacts. As a result a common job market for border localities is being created. In the case of the eastern border (Ukraine, Belarus) services in the border region are rendered in principle only on the Polish side of the border. On the western border with Germans also a majority of undeclared services, either in Germany or in Poland, is rendered on the German side of the border. It turns out however that with a high level of unemployment German workers begin to seek employment on the Polish side, at the same time illegally using the German system of social benefits. Generally, recruitment in border regions, with relatively good knowledge of the local markets, takes place with limited participation of intermediaries.

9.2. Employment agencies and informal networks

There are 2,112 registered employment agencies in Poland now (as of April 1, 2006). In this figure, 1,343 agencies are acting on the internal market. Approximately 1100 agencies have temporary work agencies status. Majority of agencies are Ltd companies (448) and private person ownership (492). A big part of them concentrates on highly qualified personnel recruitment. The employers from construction companies rarely use agency services due to rather high prices of services. Small and medium size companies use unregistered workforce recruited by informal local agents, press advertisements and Internet. There is a very negative

opinion of the trade unions about the activities of the temporary work agencies. In this opinion the agencies damage the labour market structures and undermine the existing collective agreements system.

The role of informal networks and illegal intermediary agencies is difficult to examine. The activities of employment agencies, temporary employment agencies¹⁸, and temporary workers¹⁹ are regulated by law. Recruitment of qualified workers in the construction sector takes place mainly in the temporary employment agencies. The problem is, however, the growing number of intermediaries active in the grey economy, creating informal also supranational connections. These networks and agencies, set on maximising their profit and not observing any regulations of the labour law, simultaneously exploit the weakness of inspection services and use for recruitment of workers to the grey economy official data bases created for other purposes by different public and private structures. This activity is entirely outside the law. One should underline that functioning of the networks is possible with an acceptance of a part of employers using an undeclared workforce. They provide intermediaries with offers of illegal employment with full consciousness of violating the labour law. The structure of intermediary agency activity for immigrant workers' employment is in practice completely illegal. Majority of them are networks based on activity of citizens of Ukraine, Armenia, Belarus residing in Poland and co-operating with Polish citizens. Activity of these illegal networks/agencies is aimed not only at workers recruitment but at transport and visa arrangements as well. There are individual intermediaries acting in the well-known contact points (railway and bus stations).

10. The policy of limiting the phenomena of undeclared labour and good practices.

10.1. The policy of limiting the sphere of undeclared labour as an element of the state policy.

The realisation of an employment policy in Poland is based on the National strategy of the growth of employment and the development of human resources in years 2000-2006²⁰. In the fall of 2005 the National Strategy of employment for the years 2007-2013 was worked out and correlated with the EU Lisbon Strategy. Currently this plan is being revised. In the project of the National Plan of Activities for Employment in 2006 prepared by the Ministry of Work and Social Policy²¹ there are no direct references to the problems of the grey economy, undeclared, unregistered or illegal employment. Broadening the sphere of legal employment is not expressis verbis among the priorities of the employment policy of the state. Some of the programs and planned activities of the state probably will favour declared employment (such as; First Work, First Business).²² The legal basis for activities limiting undeclared employment and grey economy is the Act about promotion of employment and the institutions of the job market indicating clearly a different role for the institutions of the job market than the management of unemployment and payment of benefits. One can recognize however, that, similarly to previous years the state policy of employment is oriented not as much on counteractions against undeclared employment as on facilitating legalisation of employment. It should be done through reduction of employers' tax obligations connected with work,

¹⁸ (Act for the promotion of employment and the institutions of the labor market) Ustawa z dnia 20 kwietnia 2004 r. o promocji zatrudnienia i instytucjach rynku pracy¹⁾ (Dz. U. z dnia 1 maja 2004 r.)

¹⁹ (Act on temporary workers employment) Ustawa z 9 lipca 2003 r. o zatrudnianiu pracowników tymczasowych (Dz. U. Nr 166, poz. 1608 z 22 września 2003 r., z późn. zm.). English version; (pobierz plik w formacie .doc)

²⁰ National Strategy of Employment/Narodowa Strategia Wzrostu Zatrudnienia 2006-13.

<http://www.mpips.gov.pl/index.php?gid=506>

²¹ Ministry of Labour and Social Policy. National Plan of Activity for Employment for 2006 project/ Ministerstwo Pracy i Polityki Społecznej Krajowy Plan Działan Na Rzecz Zatrudnienia Na 2006 ROK Warszawa, marzec 2006 r. Projekt

²² Programs/ Programy <http://www.mpips.gov.pl/index.php?gid=498>

reduction of obligations for the system of social security, introduction and disseminating of flexible forms of employment. There is an assumption however, that with small activity of social partners and small force of employers' organizations, and with marginal significance of collective regulations this policy of liberalisation may be connected with a relative decrease in the existing standards of work (longer time of work, lower social and security benefits, limited growth of salaries).

10.2. Good practices of limiting the phenomenon of undeclared labour.

One can illustrate good practices on the examples of activities of the public institutions as well as of activities of the main job market actors and partners.

The State Labour Inspection can send requests to labour courts to establish the labour relationship in cases where there is an evident violation of the regulations of legal employment. The effectiveness of these requests is small (similarly as their number)²³ so now the SLI applies a different, less formal, tool: as it is called, a request to confirm the employment contract. It is not directly threatened by penalties; however its effectiveness is definitely higher. In 2005, the labour relation was thus established for 16,718 persons (53% of persons included in the proceedings). It means that a disclosure of unregistered employment prompts many employers to confirm the labour relationship. However referring the problem to court sets a defending reaction.

The Act of 27 June 2003 about the creation of Provincial Treasury Committees makes up an example of coordination of activities directed against illegal employment. In the recommendations of the Ministry of Finance for the year 2006²⁴ the control of the legality of employment occupies a high position among the priorities of the activities of the treasury control services. It is essential that the postulate to work up a migration policy in the area of employment has been incorporated into government documents (The National Plan of Activities for Employment). Unfortunately, it is hard to find a direct example of good practices of public institutions relating to promotions of registered work in construction. There are some governmental initiatives towards limitation of non-salary costs of employment, especially the part of disabled fond payments reduction. This regulation, supported by employers, is still not implemented.

In a situation of a limited interest of public institutions toward problems of undeclared labour in the construction sector (except the control institutions) initiatives of social partners gain a special meaning. The main organisations of partners such as the Confederation of Construction Industry and Real Estates, the Polish Union of Construction Employers, The Union of Polish Handicraft, The Trade Union „Budowlani”, and the Building and Wood Industry Secretariat of „Solidarity” clearly underline in their activities the priority of counteractions against the grey economy in the construction sector and the industry of construction materials, and priority of limiting the sphere of undeclared labour. An example of such an activity is the agreement, signed by two employers' organisations and two trade unions, about the minimal hourly payment calculation rate in construction for the next 3 years, and activities toward incorporation some checks into the law about public orders, eliminating the chances of applying dumping calculations of costs of work. In March 2006 the Tripartite Team of the Construction Sector began its activities (employers' organisations,

²³ In 2005 there were 270 claims, from which 94 finally were sentenced by Labour Court to confirm labour contract by employer.

²⁴ Main Areas of Tax Control for 2006 / Podstawowe Zakresy Obszarów Kontroli Podatkowej na 2006r. Departament Administracji Podatkowej Wydział Obsługi Kontroli Podatkowej Warszawa 2006 rok

employees and representatives of key government departments for the construction job market). The subject of work of this team will be a perspective of limiting the grey economy. Social partners consider currently entering into negotiations of a sector collective arrangement in which regulations limiting unregistered work would be included.

11. Recommendations.

There is no doubt that both the analysis of the phenomenon of undeclared labour and activities toward its limitation are in an initial phase.

The recommendations concerning studies of sources, causes, the range and the social and economic effects of the phenomena, and also activities limiting its scale in construction, must concern both the policy implemented in the whole economy and in the sector.

11.1. Recommendations relating to solutions essential for the whole job market.

In a common opinion of social partners, other actors and control institutions dealing with unregistered employment, it is necessary to do in-depth studies of the range, structure, and character of unregistered work. These studies must be based on reliable statistical data.

Research institutions do not have such material till now.

The institutions engaged in control of the job market claim however, that a large portion of the required data could be collected through a better coordination and comparison of the data gathered by various institutions and market segments. In order to begin activities to limit unregistered employment, it is necessary to define this notion precisely and incorporate it into program documents of public authorities. Meanwhile the attitude of public authorities to unregistered employment we can define only indirectly through adoption of EU input in this area. It is necessary to incorporate this policy into official documents of Polish authorities. It is hard to say if these authorities recognize limiting the range of unregistered work as important to the job market, or if they recognize that the problem of unregistered work is insignificant for the Polish job market at this moment.

There is a relationship between the volume of undeclared labour and the level of unemployment, although this is not a simple relationship. The growth of unemployment and its structural character generate undeclared labour. However, it is hard to define a direct link between an economic boom and a reduction of the range of undeclared labour. High unemployment in the Poland was generated by system changes. Economic boom or recession had a limited influence on the level of unemployment. Available, fragmentary studies do not show a relationship between the periods of economic boom and the growth of volume of declared employment.

It is necessary to define an immigration policy of the state. A definition of the attitude to immigration and emigration as well as the place of immigrant workers on the labour market must be an element of this policy. This is also important for other EU countries because of the size of the Polish market and the border position of our country - on the line of very essential migration flows from third countries.

After 1989 a big surplus of workforce emerged (of “unnecessary workers” in the economy) with limited (because of low wages) rush on consumption services, as a result of economic and political changes and implementation of market economy principles. This surplus of less qualified unemployed workers is the stable basis for recruitment of undeclared/unregistered workforce. In the new economic system, with strong competition on the limited market of services, the price is still the main selection criteria. Other criteria, that can be important in the assessment of an offer in countries with a long market economy tradition and established institutions, are not very important in Poland. It is the main reason of streaming to extreme reduction of costs, favouring undeclared employment recruitment. Recession makes

undeclared labour volume and dimension bigger and deeper as it forces qualified, full time employed workers to bogus self-employment. The booming period favours qualified workers' legal employment, but, at the same time, increases the number of registered unemployed working illegally, because there is a higher demand on less qualified jobs with limited additional costs of work. At present the labour market is practically open for undeclared labour.

The workers mentality changes as well. In the new Member States workers started 'economic thinking' only a few years ago. In the past, in real-socialism economy, the 'non payable' elements of the wage; taxes, insurance and pension obligations were not recognised as an internal part of the wage. Now, several years after structural changes of the economic system all the elements mentioned above started to be recognised as an integral part of earnings, part of workers 'property'. But still, in the common opinion of workers, all the taxes, insurance etc. are 'lost money', obligatory tribute 'stolen' by the government, compulsory loan which has no influence on the situation of the worker neither now, nor in future. Probably the lack of 'mental connection' with this part of workers earnings is one of the reasons making reduction of undeclared labour very difficult. In line with these thoughts, stability of the pensions and social insurance system is one of the main conditions for declared work promotion. As a matter of social trust, it will rather be a long-drawn process.

11.2. Recommendations essential for the construction sector.

The construction sector in Poland is a special experimental firing ground of unregistered work, it should also become an area for activities intended to limit this phenomenon. Unregistered work in the construction sector, similarly to unregistered work in other sectors, should meet with unambiguously negative opinion of its long-term effects for the economic system. Arguments that unregistered employment help to solve the problem of high unemployment are shortsighted. High level of unregistered and undeclared labour is favoured by deregulation of the construction sector. In the opinion of organisations from the construction sector a certain basic level of regulation is needed. It is defined by employers' organizations as the border of fair competition in the area of costs of work, and by trade unions as the marginal conditions of decent salary, worker' social security and safety of work. Taking into consideration the findings one should undertake activities in the proper areas of the regulations about public orders - and at the same time, activities toward collective regulation of labour relationships on the sector level.

Cooperation of partners on the bilateral and tripartite level is a road to this. Public authorities should support this process. The problem of unregistered work in the construction sector cannot be solved without solving the problem of bogus self-employment and civil law (services) contracts, which are signed instead of employment contracts.

The scale of undeclared labour of foreigners in the Polish building sector requires urgent activities. The undeclared labour of persons from third countries in the sector in the present form is the main form of dumping on the market. In the opinion of the main social partners, the policy to limit undeclared labour in the construction sector should unite elements of regulation (public procurement, migration policy) and rationalisation (as reductions of non wages costs of work negotiated by social partners) with a better-organised control of the market. One should better coordinate and strengthen the activities of control structures.

BIBLIOGRAPHY

EC, “Communication of the Commission on Undeclared Work”, COM (1998)219 (http://europa.eu.int/comm/employment_social/empl_esf/docs/com98-219_en.pdf).

EU, “Council Resolution on Transforming Undeclared Work into Regular Employment”, *Official Journal*, 29 October 2003, C 260 (<http://europa.eu.int/eurlex/en/archive/index.html>).

Eurostat and OECD for average hours worked, Key employment indicators, DG ECFIN's AMECO database. Commission's 2005 Spring Forecasts. Indicator 10, 13-15 PL, EU-25 2003: break in series, 2004: Provisional data.

Grabowski M. “Informal labor market and informal economy during transition - the Polish perspective” Paper prepared for the Round Table entitled "The Informal Economy in the EU Accession Countries: Size, Scope, Trends and Challenges to the Process of EU Enlargement", Sofia, April 18-20, 2002

GUS/ Central Statistical Office, *Praca nierejestrowana w Polsce w 1995 r.*; Warszawa 1996

GUS/ Central Statistical Office, *Praca nierejestrowana w Polsce w 1998 r.*, praca zespołowa pod kierunkiem S. Kostrubiec, Warszawa 1999

GUS/ Central Statistical Office, *Praca nierejestrowana w Polsce w 2004 r.*, Warszawa 2005. Various direct methods (e.g. survey on expenditure, household surveys) http://www.stat.gov.pl/dane_spolgosp/praca_ludnosc/praca_nierejestrowana/praca.pdf

GUS ‘Pracujący w gospodarce narodowej 2004’. www.stat.gov.pl

Informal Employment: Survey Methods of Measurement and National Policy Reviews. Annexes 1 and 2 to "Informal Employment and Promoting the Transition to a Salaried Economy", Chapter 5, OECD *Employment Outlook 2004*.

Jönsson, H., “Undeclared Work in Sweden – Results and Recommendations” 2002 (www.academyavignon.net/undwork.htm).

Krajowa Strategia Zatrudnienia na Lata 2007 – 2013

Dokument zaakceptowany przez Radę Ministrów w dniu 6 września 2005 r.

Dokument towarzyszący realizacji Narodowego Planu Rozwoju na lata 2007-2013, Ministerstwo Gospodarki i Pracy

Kuchta-Helbling, C. (2002), “Barriers to Participation: the Informal Sector in Developing and Transition Countries”, paper for the conference on Unofficial Activities in Transition Countries: Ten Years of Experience, Zagreb (www.ijf.hr/UE_2002/program.html).

Mateman S., Renooy P.H.: UNDECLARED LABOUR IN EUROPE Towards an integrated approach of combating undeclared labour - Final Report - Amsterdam, October 2001 Regioplan Publication nr. 424

Measurement of informal activities: The Polish Case.

Organisation for Economic Cooperation and Development, Statistics Directorate, Joint OECD/UNECE meeting of national account experts, to be held at the Château de la Muette, Paris 9 May -12 May 1995. Document prepared by the Central Statistical Office and the Polish Academy of Science, Paris, drafted: 20-Mar-1995 OLIS, 9-Apr-1995 dist.: 12-Apr-1995 STD/NA(95)5

Meldolesi, L. Policy for the Regulation of the Underground Economy and Employment”, *Review of Economic Conditions in Italy*, No I, January-April 2003 (www.emersionelavorononregolare.it/catania/index.php).

Methodologies for the Statistical Analysis of Undeclared Work National Committee for the Surfacing of Undeclared Work Prime Minister’s Office Italy ;Document prepared for the: *European Conference on Policies for Employment and Against Undeclared Work: From Segmentation to Integration of Labour Markets* ;Catania, 11-12 December, 2003

Migranci na rynku pracy w Polsce. Wyniki badań przeprowadzonych wśród migrantów ekonomicznych i pracowników polskich. Hanna Bojar, Anna Gąsior-Niemiec, Mirosław Bieniecki, Mikołaj Pawlak; (Migrants on the Polish labour market) The Institute of Public Affairs, Warsaw 2005

Opinia Europejskiego Komitetu Ekonomiczno-Społecznego w sprawie “Rola zorganizowanego społeczeństwa obywatelskiego w walce z pracą nielegalną”
Dziennik Urzędowy C 255,14/10/2005 P. 0061-0066 Eur-Lex – 52005IE0385

Podstawowe Zakresy Obszarów Kontroli Podatkowej na 2006r. Departament Administracji Podatkowej Wydział Obsługi Kontroli Podatkowej. Ministerstwo Finansów. Warszawa 2006 rok www.mf.gov.pl

PRZESTRZEGANIE PRAW PRACOWNICZYCH I „SZARA STREFA” W ZATRUDNIENIU. ZWIĄZKI ZAWODOWE W PRZEDSIĘBIORSTWACH
KOMUNIKAT Z BADAŃ; *CENTRUM BADANIA OPINII SPOŁECZNEJ*; WARSZAWA, STYCZEŃ 2005

Raport społeczny Polska 2005. Fundacja im. Friedricha Eberta, Przedstawicielstwo w Polsce. Warszawa 2005
Redakcja naukowa: prof. dr hab. Stanisława Golinowska

Renooy P., Ivarsson S., van der Wusten-Gritsai O., Meijer E.
Undeclared Work in an Enlarged Union, an analysis of undeclared work: an in-depth study of specific items, Employment Analysis, European Commission, Directorate-General for Employment and Social Affairs, Unit EMPL/A/1 Manuscript completed in May 2004

Report of the Conference, Seventeenth International Conference of Labour Statisticians
International Labour Organisation, Geneva, 24 November-3 December 2003

Rutkowski J. J., Scarpetta S. with Banerji A., O’Keefe P.,
Pierre G., Vodopivec M. “ENHANCING JOB OPPORTUNITIES *Eastern Europe and the Former Soviet Union. Europe and Central Asia Region*”
2005 The International Bank for Reconstruction and Development / The World Bank

F. Schneider, The Size and Development of Shadow Economies in 22 OECD Countries and 21 Transition Countries, IZA D.P. No. 514, 2002

„Social Insurance Institution, Social Insurance in POLAND, information, facts”. Zakład Ubezpieczeń Społecznych, Warszawa 2005

Sprawozdanie Głównego Inspektora Pracy z działalności Państwowej Inspekcji Pracy w 2004 r. Warszawa, 2005. Sprawozdanie o kontroli legalności zatrudnienia za rok 2005. www.psz.praca.gov.pl

Thematic feature - industrial relations and undeclared work. Case Poland in:
EIRO report; Industrial relations and undeclared work, 2005. Czarzasty J.

TWORZENIE NOWYCH MIEJSC PRACY; RAPORT NR 47. RADA STRATEGII SPOŁECZNO-GOSPODARCZEJ PRZY RADZIE MINISTRÓW WARSZAWA 2004

Undeclared Work in the Construction Sector
EUROPEAN FEDERATION OF BUILDING AND WOODWORKERS, 2003

UNDECLARED WORK: Empirical Evidences and New Policy Issue
at European Level ; “*The shadow economy: empirical evidences and new policy issue at European level*”
Avignon Academy report presentation; Brussels 2002

Ustawy (Laws with Journal of Laws numbers and items):

USTAWA z dnia 13 czerwca 2003 r. o cudzoziemcach (Act on Aliens of 13 June 2003 (Journal of Laws of 2003, No 128, it. 1175)

USTAWA z 26 czerwca 1974 r. - Kodeks pracy (Labour Code) Dz.U. z 1998 r. Nr 21, poz. 94, Nr 106, poz. 668, Nr 113, poz. 717, z późn. zm.

USTAWA z dnia 20 kwietnia 2004 r. o promocji zatrudnienia i instytucjach rynku pracy Dziennik Ustaw Nr 99 z 2004 r. poz 1001

USTAWA z dnia 9 lipca 2003 r. o zatrudnianiu pracowników tymczasowych Dziennik Ustaw Nr 166 z 2003 poz 1608

USTAWA z dnia 2 lipca 2004 r. o swobodzie działalności gospodarczej Dz.U. z 2004 r. Nr 173, poz. 1807, Nr 281, poz. 2777 z późn. zm.

USTAWA z dnia 29 stycznia 2004 r. Prawo zamówień publicznych 2004 r.: Dz.U. Nr 19, poz. 177, Nr 96, poz. 959, Nr 116, poz. 1207, Nr 145, poz. 1537, Nr 273, poz. 2703, Nr 163, poz. 1362

USTAWA z dnia 6 marca 1981 r. o Państwowej Inspekcji Pracy. Dz.U.01.124.1362 z póź. zm.

USTAWA z dnia 12 października 1990 r.o Straży Granicznej. Dz.U.02.171.1399 z póź. zm.

USTAWA z dnia 24 lipca 1999 r. o Służbie Celnej (Dz. U. Nr 156, poz. 1641, z późn. zm.)
http://www.mf.gov.pl/_files/_sluzba_celna/akty_prawne/ust_o_sc.pdf

USTAWA z dnia 27 czerwca 2003 r. o utworzeniu Wojewódzkich Kolegiów Skarbowych oraz o zmianie niektórych ustaw regulujących zadania i kompetencje organów oraz organizację jednostek organizacyjnych podległych ministrowi właściwemu do spraw finansów publicznych (Dz.U. Nr 137, poz. 1302)

USTAWA z dnia 13 października 1998 r. o systemie ubezpieczeń społecznych (Dz.U. nr 137, poz. 887 i nr 162, poz. 1118 i 1126 z póź. zm.)
Dz. U. z 2004 r. Nr 121, poz. 1267

USTAWA z dnia 21 czerwca 1996 r. Urzędy i izby skarbowe. Tekst pierwotny: Dz. U. z 1996 r. Nr 106, poz. 489. Dz. U. z 2004 r. Nr 8, poz. 65

USTAWA z dnia 28 września 1991 r. Kontrola skarbowa. Tekst pierwotny: Dz. U. z 1991 r. Nr 100, poz. 442 Tekst jednolity: Dz. U. z 1999 r. Nr 54, poz. 572

„W trosce o pracę. Raport o Rozwoju Społecznym. Polska 2004” Program Narodów Zjednoczonych ds. Rozwoju. Warszawa 2004
Wersja elektroniczna raportu: www.undp.org.pl/nhdr2004
2004 Program Narodów Zjednoczonych ds. Rozwoju,

Vagač Luboš. “Undeclared work in the Slovak Republic. Thematic article”.
Centre for Economic Development, Bratislava, August 2004

ZAPOTRZEBOWANIE NA PRACĘ OBCOKRAJOWCÓW W POLSCE. PRÓBA ANALIZY I WNIOSKÓW
DLA POLITYKI MIGRACYJNEJ dr Joanna Korczyńska dr Maciej Duszczyk – konsultacja
Instytut Spraw Publicznych Warszawa, 31 stycznia 2005