INFLUENCE OF UNDECLARED WORK ON THE
ROMANIAN LABOR MARKET

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ABSTRACT
The issue of unregistered labor - employers and workers pay no social security contributions – is a major one with which Romania and the entire European community is confronted and tremendous efforts are made to develop and test policies and measures that would aim to fight unregistered labor. Thus, Romania, in April of 2011 adopted the law No. 40/2011, NLC (new Labor Code) which drastically punishes both the employers that pay workers outside the books, as well as the people that accept to work without any legal documents.

Moonlighting affects all the E.U. states and it is a global issue in the field of employment. The current crisis has made it so that the number of employees from the formal economy has dropped, and the number of employees from the informal economy has risen, because the employers, since they are going through a rough period, they didn’t want to pay taxes anymore.

KEY WORDS labor market, mobility, informal economy, employees
JEL CODES J11, J17, J24

1. INTRODUCTION
Unregistered labor represents a complex phenomenon influenced by many economic, social, cultural or institutional factors; in general it is accepted that unregistered labor impedes economic, social or budgetary policies which are oriented towards growth.
In order to fight the phenomenon the term of unregistered labor has to be defined according to ILO (International Labour Office), undeclared work it’s understood like: “all economic activities by workers and economic units that are – in law or in practice – not covered or insufficiently covered by formal arrangements” (ILC 2002 Declaration on the informal economy).

OECD definition is: “employment which, while not illegal in itself, has not been declared to one or more administrative authorities” (OECD 1986 Employment Outlook).

European Commission Definition is: “the concept of undeclared work is taken to mean any paid activities that are lawful as regards their nature but not declared to the public authorities, bearing in mind that differences in the regulatory system of Member States must be taken into account” (European Commission 1998 Communication of the Commission on Undeclared Work, COM - 219) This definition associates moonlighting to fiscal fraud and/or to fraud of the social security system.

The Green Card of the European commission regarding the right to labor has identified the unregistered work as the main factor that contributes to the social dumping and, as a result, it is one of the main aspects of work modernization in the E.U.

According to the Labor Inspectorate of Romania, labor without any legal forms represents the profitable activity which is undergone outside the legal boundaries. It is not pointed out, taxed, ensured or socially assisted, the laborer being at the discretion of the one for whom he is working. (The Territorial Labor Inspectorate of Bucharest, 2009)

2. EUROPEAN UNION LEGISLATION REGARDING UNREGISTERED LABOR

According to the European Community Committee, unregistered labor is a solution adopted by the employee and employer because of the potential gain (obtained by avoiding taxes and social contributions) compared to the risk of being sanctioned and to the cost involved by the conformity with labor law.

In the E.U., but also all around the world, unregistered labor tends to be associated with precarious work conditions for employees and with the risks that they imply for the laborer’s health, with an almost non-existent degree of social security, but also with little chance of career advancement.

In the E.U. there have been made studies and polls regarding the issue of unregistered labor and the following documents were written out: The Communicate for European Committees Commission of April 1998 regarding unregistered labor, The Resolution of the European Union Council of October 2003 regarding the turning of unregistered labor into legal labor, The Communicate for European Committees Commission of October 2007 regarding the acceleration of the fight against unregistered labor, as well as the Resolution of the European Parliament of October 2008 regarding the acceleration of the fight against unregistered labor, published in the Official Newspaper of the European Union C 9 E/01 of 15.01.2010.
From these documents, unregistered labor may be defined as “any gainful activity which is legal regarding its nature, but is not declared to the public authorities, taking into consideration the differences of the regulation (Communicate of the European Community Commission regarding the acceleration of the fight against unregistered labor)

2.1. METHODS OF UNDECLARED WORK MEASUREMENTS IN UE

In general, the statistical evaluation of the unregistered labor phenomenon at the E.U. level remains pretty difficult to accomplish, considering that it is not, by definition, nor visible, or registered, and thus it may be defined differently from one legislation to another.

In the past years there have been developed many ways to measure unregistered labor in order to improve the understanding of the gravity of this phenomenon. The methods are divided into two main categories: direct and indirect.

Indirect methods are focused, mainly, towards estimating the dimension of unregistered labor and they take into consideration the unseen side of this phenomenon.

Direct methods rely on questioning the population and their main advantage is that the reasons and structure of unregistered labor may be measured, while indirect measures such as the monetary model of Professor Schneider are based on calculating the rates of unregistered labor by analyzing a country’s cash flow. (Schneider, 2010)

2.2. MANIFESTATION FORMS OF UNREGISTERED LABOR

Literature has identified three types of informal employment depending on the causes of its determination: as an option (the case of those that chose, voluntarily, an informal employment in order to make higher incomes, through tax evasion), out of necessity (the case of those that cannot find legal employment, from different reasons – low degree of qualification, age, etc. – and who are, usually, poor and work in precarious work condition) and because of tradition (usually the case of those that carry on hereditary occupations from their family or their social group, which is inherited from one generation to another).

From the studies made in the Member States, it has been found that, in practice, unregistered labor is manifested through the following: in a formal way, the employees have set in the individual work contract a salary which is usually the minimum wage (to this wage, both the employee and employer pay taxes and contributions to the state), while the employees are paid by the employers with a larger sum than that which is put on the individual labor contract: the normal working hours are paid according to the individual work contract, signed between employee and employer, while overtime is paid in cash; thus, the sums which the employee receives for his overtime are no longer declared and for these sums there are no taxes, or social contributions; the employee works outside of an individual work
contract with the physical or judicial body under its authority and for its benefit. In the latter of the situations, there are the following issues:

(a) The employee is relinquished of the rights and benefits which he/she would have as a legal employee for the person under whose authority they work;

(b) The employer evades his legal obligation to register individual work contracts to the competent territorial labor inspectorate;

(c) The social funds and state budget suffer losses because both the employer and the employee remove themselves from the payment of social contributions;

(d) For the trial period there are no individual work contracts;

(e) There are no individual work contracts signed with the people that offer their services in individual homes.

(f) It is used in an illegal way seasonal labor.

Successfully applying a mix of policies that aim to turn untaxed labor into a formal economy will contribute to the achievement of the main objectives of the Europe 2020 strategy regarding employment.

3. UNREGISTERED WORK IN ROMANIA

Under current legislation in Romania, “working without legal forms or without an individual labor contract or being paid without a payroll, represents «black labor»”. Ministry of Labour specifies that “each and every employee must know that in order to be legally employed has to sign an individual labor contract and should sign a monthly payroll.

Article 279, paragraph 1 of Law no. 40/2011 (Labor Code) specifies that there is a punishable offense with imprisonment from six months to one year or with criminal fine the person who, repeatedly establishes for employees hired under individual labor contract wages below the minimum gross wage required by law. Also, paragraph 3 of the same article and law says: shall be an offense punishable by imprisonment of one to two years or criminal fine receiving to work more than 5 persons, regardless of their nationality, without an individual labor contract. Likewise, receiving at work up to 5 people without a individually work contract is punished with a fine from 10,000 lei to 20,000 lei for each person identified (article 276, paragraph 1, letter e, Law Code, 40/2011). These law provisions try to discourage black labour market and to promote signing labour contracts for increasing country tax incom. This new law - Labor Code drastically punishes both the employers that pay workers outside the books, as well as the people that accept to work without any legal documents.

«Black labor» has a lot of disadvantages for employees, such as: employers pay low wages, mostly under the minimum wage or under the proper level of expertise and experience of the
employee, the expertise and the labor time performed by workers; the these workers are not registered for the retirement or disease retirement, social aid to any illness or death, and has no right to benefit of unemployment allowance or health insurance. In addition, these employees cannot be pay on time, have no right for benefits or free hospital care, have no right for proper work schedule, they don’t have rights for free medicines or food tickets and they cannot have holidays or maternity leave.

In our country was published an editorial work: *Informal economy and its impact on labor market*, which shows that three quarter of the employees from the “black labour market” said that they have labor contract on undefined period of time, but they couldn’t prove it. About the wage, only 12, 4% of them know that the figures from the working book are lower than the real one (Voinea, 2011).

In 2010, the average number of employees was: 6062, 0 thousand persons, down from the previous year by 151 thousands persons. (INSSE, 2011, Press release – Labor cost in 2010). In 2011 number of employees was: 6153 thousands persons.

The results from Labor Inspection show: the most affected sectors by “black labor” are constructions, clothing industry, forestry and wood industry, agriculture, bakery and small commerce. For example, in 2010, from 1491 building business units were controlled by authorities, there were sanctioned 968 units. The controls performed in 2009 and 2010 prove that the black market of labor increased (table 1).

Table. 1 Indicators of characterized the labor market

<table>
<thead>
<tr>
<th>Nr.crt.</th>
<th>INDICATORS</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>No. Controls to identify cases of undeclared work</td>
<td>81.241</td>
<td>86.421</td>
</tr>
<tr>
<td>2</td>
<td>No. Of employers who use undeclared work</td>
<td>8.500</td>
<td>9.263</td>
</tr>
<tr>
<td>3</td>
<td>Total nr. of undocumented working people, of which:</td>
<td>17.464</td>
<td>17.755</td>
</tr>
<tr>
<td></td>
<td>-women</td>
<td>7.116</td>
<td>7.556</td>
</tr>
<tr>
<td></td>
<td>-young people, 15-18 years old</td>
<td>164</td>
<td>69</td>
</tr>
<tr>
<td>4</td>
<td>No. of applied sanctions</td>
<td>8.676</td>
<td>9.287</td>
</tr>
<tr>
<td>5</td>
<td>Fines value (lei)</td>
<td>24.803.100</td>
<td>50.614.500</td>
</tr>
<tr>
<td>6</td>
<td>No. of individual labor contracts registered for undocumented employees identified during the controls</td>
<td>8.430</td>
<td>7.380</td>
</tr>
</tbody>
</table>

Source: The *Annual report – Monitoring controls to combat undeclared work in Romania, 2010, Romanian Government*
Despite the significant increase of fines value in 2010 and the numbers of controls also increased by 6.37%, the number of employers, who has undeclared work practice, increased by 8.97%, the number of employees working on the black labor market also increased by 1.66%. (The Annual report – Monitoring controls to combat undeclared work in Romania, 2010, Romanian Government)

Labor Inspection applied, as result of its 99.662 controls during first 11 months of 2011, 16.552 fines in a total value of over 119 million lei, of which over 101 de million for undeclared work.

We can see that the number of controls have increased in recent years, thus trying discourage the black market of labor.

In Romania, those caught working in the informal sector are young and old. Two vulnerable groups of the labor market in our country, where high levels of unemployment rate are recorded.

4. CONCLUSIONS

According to figures published by Voinea, if all employees of the informal economy (black labor market) would go into the formal economy, the rate of employment would increase by 45%. Thus, we would ensure us to achieve the tare of employment established by 2020 European Strategy, assumed by Romania too, of 75%. (Voinea, 2011).

Successful implementation of policies aimed at transforming the undeclared work into formal employment will contribute to the main objectives of Europe 2020 on increasing the rate of employment.

Undeclared work has negative implications that affect both the economy and social life on the macroeconomic point of view, by decreasing income taxes, thus negatively influencing the financing of social security system, and the microeconomic point of view, too.

To reduce the phenomenon of undeclared work and encourage the registration of employment contracts for the future is desirable to simplify the formalities in labor relationships and to reduce the high level of fees, taxes and social contributions payable by the employee and by employer.

5. ACKNOWLEDGMENT

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