Introduction

The project was adhered to by all countries/territories involved in the CARDS/SISP programme. They chose this theme on the basis of the following description of the background issues:

“It is obvious that the existence of the black/grey/informal economy is in the first place undermining the financial situation of social security system, as contributions which should come in, do not. But the consequences are even more far reaching. The concerned workers will often not be socially insured as a consequence of the non-reporting of their work. They do not contribute to the solidarity system, so they have nothing to expect from social insurance. It is logical, but may confront the country in a later stage with enormous problems in social assistance and welfare. It also makes the getting of the right picture difficult, e.g. in relation with the number of the unemployed or the self-employed people.
Thus, it is essential for all, i.e. for the concerned persons, the social security system and the country, to transform as much as possible unregistered into registered work. This will mean also invent creative approaches, allowing for a smooth transition of enterprises and workers from the informal to the formal economy.

The avoidance or evasion of social security contribution is a universal evil. It is particularly pressing in some countries of the region. The most common methods to improve the collection of contributions consist of extending powers to the authorities (often by transferring these powers to the tax authorities) and stepping up law enforcement (increasing the number of fraud inspectors, imposing higher fines, etc.). However, in a country where the evasion of contributions is a widespread and structural phenomenon, the question rises if the improvement of the collection of contributions should not be dependent on a wider set of policy measures than these two instruments alone. Both negative and positive (financial) stimulants might help to improve the situation (providing tax relief, create investment possibilities and contract compliance, etc).

In a first chapter we shall identify the precise field of our research and delimit its ambit. Also the methodology we shall follow will be explained;

In a second chapter we shall focus on the causes of the phenomenon of undeclared labour.

In the third and most important chapter we shall explore some roads to avoid black and grey work and to transform undeclared activities into legal, registered work.

In the fourth chapter we shall develop some ideas for further action in this area, ideas which might then constitute the core of the terms of reference for a more comprehensive donor programme.
Chapter 1. The concepts used and the way to tackle the issue

We are well aware of the fact that the states and territories of this SISP/CARDS programme did not express their choice in favour of the project ‘Bringing to the surface black and grey work’, because of academic or theoretical reasons. To the contrary, as they could already express during a first meeting with members of the delegations, they are all interested in research results which they could consider for tackling in practice the problems of black and grey work. Out of this first meeting also other elements were put forward, which will be directing our further work. These elements included:

- the restriction to the area of social security
- the distinction between black and grey work on the one hand, and self-employed activities on the other
- the emphasis on non-repressive courses of action against black and grey work;
- the exclusion of debating the quantitative importance of the phenomenon
- the wish to have some best practices put forward.

We could also add that the interaction between the present project and three of the other selected topics of further regional research in the framework of the CARRDS/SISP programme, needs also to be kept in mind.

Let us clarify some more each of the above mentioned orientations for our present research. Yet, notwithstanding our very pragmatic approach we are bound to clarify first the concepts we shall use in this report.
The concepts

The literature relating to black and grey work does not always use these terms, but also utilises concepts like moonlighting, informal work, informal or unofficial economy, underground work, cash-in-hand work, hidden economy etc. as equivalents or larger concepts. We shall not go into this rather theoretical discussion. Let is simply define, for the purposes of the present report:

- black work as the work that is performed without it being known to social security authorities;
- grey work as the work that is performed whilst the social security authorities being deceived as to the quantitative importance of the work (in terms of worked hours, earned income etc.)

Both are forms of ‘undeclared work’, so we shall also use this term.

We are aware that other and more sophisticated definitions might be given\(^1\), but we prefer these simple definitions as they seem most fit for our social security study. The more sophisticated other definitions then also take into consideration other aspects, such as company registration, fulfilment of tax duties, respect for labour law etc. which we are not directly interested in here.

The social security dimension and the other dimensions

As it was said before, we shall restrict ourselves to bringing to the surface black and grey work, as far as social security is concerned. This issue is already very important and we shall only be ale to tackle it partially in the framework of this small project. The development of core ideas for more comprehensive research into the area is however also a matter to be dealt with here. Yet it needs little explanation

that the phenomena of black and grey work do not only have an impact upon social security law, but also on a series of equally very important topics, with which they are interconnected. Some will even say that black and grey work, or the informal economy etc. should not and cannot be looked at exclusively from one angle, viz. social security, but should be dealt with in a multifaceted way. True that this may be we shall have to restrict us here to social security, merely mentioning in this introduction the most import of these other aspects of black and grey work.

When one starts professional activities, very often he/she will have to register (hem/herself or the company) with all kinds of registers (commercial register, register of the profession etc.). This registration may be a rather complex activity including quite some red tape and important costs. Sometimes it will have to be combined with the application for all kinds of operational permits and licenses. Again quite a lot of formalities and costs may ensue. Once registration and necessary permits and licenses obtained, the whole set of rules applicable to the concerned activity will be applied or at least its (mandatory) application become more easily verifiable. In other words, if one fails to register, fails to ask the necessary permits and licenses, the supervision of the activities of the concerned are much more difficult than after registration and licenses/permits making it easy to identify the concerned enterprises. We are thinking of legal obligations concerning consumer law (quality check on services and goods provided), labour law standards (such as minimum wages and maximum working hours), health and safety at work regulations and of course taxation (VAT, profit taxes etc.). In order to avoid some of these regulations (consumer law; labour law; health and safety regulations; taxation) persons may be reluctant to register and apply for the necessary licenses and permits. In so far as the registration for social security purposes presupposes the registration of the activity or the obtention of certain licenses/permits, black work in terms of social security may be the consequence of the failure to take up registration or ask for the necessary permits. Reducing the red tape and the costs of commercial registration, can thus lead to more registration and thus also more social security affiliation and thus reduce black work also in
terms of social security. The same can be said about reducing the other 
(negatively perceived) consequences of registration (in terms of consumer law, 
labour law, etc...) or, what is more practical, from the disconnection of social 
security registration from other forms of registration having unwanted 
consequences.
Although we have to keep all this in mind, it goes without saying that the issues 
concerning:
- the black confection of goods and delivery of services, and the 
  consequences of it for the consumer;
- work places where labour law and safety rules are fully disregarded and 
  exploitation of the work force which results from it;
- the wish to avoid taxes of all kinds;
that all these issues are important but exceed the ambit of present project which is 
only to deal with black and grey work as far as social security is concerned. What is 
to be taken on board though, are all the pre-conditions which in a country may be 
set in order to be able to work ‘white’ as far as social security is concerned. Very 
often these pre-conditions will include that registration of the commercial activity, 
the obtention of licenses and alike; if all these are too complex and/or too 
expensive one will have to tackle the question also here. Let us already observe in 
this context that the mere monetary costs often seem to constitute less important 
obstacles to white work as far as social security is concerned, than the red tape that 
goes with it. This seems especially true at the beginning of professional activities; 
once started, the monetary aspect may become more important to consider black 
work.

By way of conclusion we can repeat that we shall limit ourselves thus to bringing to 
the surface black and grey work as far as social security is concerned, 
understanding social security in the way the International Labour Organisation and 
the Council of Europe understand this concept, inclusive of social assistance. Our 
goal is to come up with a series of proposals in the area of social security fit to 
avoid and combat black and grey work.
Distinction with the issue of social protection of the self-employed

Literature dealing with the informal economy, very often includes under that same heading both black and grey work, on the one hand, and self-employment, on the other. This is often (partly) due to the fact that only wage earners have a decent social protection system, whereas the self-employed have no social coverage, just like those in the submerged economy. As said before, we do not want to dwell on theoretical distinctions; but we do want to emphasise that in a European understanding of social protection a fundamental distinction has to be made between persons working without fulfilling their registration and reporting duties (black and grey workers) and persons exercising legally professional activities in another capacity than that of a wage earner or a civil servant (self-employed). The self-employed cannot and should not be considered in a European context, as ‘informal’ or ‘atypical’ workers. Their professional activities are legal, they fulfil their legal duties and deserve adequate and adapted social security protection; at least all this is possible. That their social protection presents quite a lot of loopholes, that they do not always register their activities as a self-employed, that they may systematically under-estimate their income for social security (and tax) purposes may all be true, but it does not allow to equate self-employed and black/grey workers. In the present report we shall include the social protection of the self-employed as far as issues of black and grey work are concerned; but we shall not deal with the design of a proper social protection system for the self-employed as such. In the framework of this CARDS-SISP programme a topic was presented dealing with the social protection of the self-employed but was not selected; the very much related topic of the social protection of the farmers was selected though.
It goes without saying that our present project will have to take into consideration the results of the project on the social protection of the farmers and vice versa.

**A non-repressive approach**

Black and grey work refer fundamentally to a breach of law: whereas they are legally obliged to do so, people refrain to register as workers (with the social security administration); whereas they should report correctly about the volume of their work and their earnings, socially insured workers lie about the number of hours worked or what they get as wages, etc. As there is a breach of law, the ‘natural’ reaction might be a repressive one. A person who violates the law will be sanctioned, in order to punish him or her and in order to deter others (and him/herself afterwards) to commit a breach of law. This is the way law and order are upheld in all societies. It is not different for social security law and for the Balkan region. However it appears that the repressive approach does not always show the best possible effects: only a marginal section of offenders are actually punished, no real deterrence proceeds from the sanctions etc. In social security the question is quite often asked whether a repressive course of action is the most efficient and most effective. It is not different in the countries of the South-West Balkans. Therefore it was insisted upon from the outset to focus the project to bring above water black and grey work in social security, upon non repressive measures. We shall comply with this request, be it that we shall allow ourselves also to make some comments concerning improving efficiency and effectiveness of (some) repressive measures too.

**The quantitative dimension**
It is striking to see that the literature has spent very much attention to establishing the quantitative importance of black and grey work, of the ‘informal economy’ etc. Depending upon the used definitions and the followed methodology (to discover what wants to be hidden), the figures may differ considerably. Also within the countries/territories involved in present research the vision about the percentages of people involved in black and grey work may diverge considerably. We are not able nor want to mix in into this debate. We can suffice with making the following statements, which cannot be contested we believe,

- in all countries/territories of the region the percentages of people involved in black and grey work are well above the EU averages;
- in all countries/territories of the region the phenomenon of a quantitative important black and grey labour market, undermines or threatens to undermine the sustainability of the social security systems;
- even if and when the black and grey work phenomenon would be small in size, the mere fact that there is a visible black and grey work sector undermines the credibility of the solidarity system embedded in the social security system.

Merely for information sake, we give some statistical information about the quantitative importance of the discussed phenomena; we shall also summarise how recently interviewed social security CEOs in Western Europe were looking upon undeclared work.

Friedrich Schneider\(^2\) gives a good overview of how difficult it is to establish correct data. He writes:” The measurement of the size and development of the shadow economy in the transition countries has been undertaken since the late 80s starting with the work of Kaufmann and Kaliberda (1996), Johnson et.al. (1997) and Lacko (2000). They all are using the physical input (electricity) method […] and come up

with quite large figures. In the work of Alexeev and Pyle (2003) and Belev (2003) the above mentioned studies are critically evaluated arguing that the estimated sizes of the unofficial economies are to a large content a historical phenomenon and partly determined by institutional factors.[...] Turning again first to the development of the size of the shadow economy over time, the average size of the shadow economy of these 25 East and Central European countries was 38.1% of official GDP in 1999/2000 and increased to 40.1% in 2002/2003 which is an increase of 2 percentage points over these four years. The highest shadow economies have Georgia, Azerbaijan and the Ukraine with 68.0%, 61.3% and 54.7%. The median country is Bulgaria, surrounded by Serbia and Montenegro of 39.1% and Romania of 37.4%. At the lower end are the Czech Republic with 20.1%, the Slovak Republic with 20.2% and Hungary with 26.2% of official GDP.

The Size of the Shadow Economy in 25 East and Central European and Former Soviet Union Countries

<table>
<thead>
<tr>
<th>Country</th>
<th>Shadow Economy (in % of off. GDP) using the DYMIMIC and Currency Demand Method</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1999/00</td>
</tr>
<tr>
<td>Albania</td>
<td>33,4</td>
</tr>
<tr>
<td>Armenia</td>
<td>46,3</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>60,6</td>
</tr>
<tr>
<td>Belarus</td>
<td>48,1</td>
</tr>
<tr>
<td>Bosnia and Herzegovina</td>
<td>34,1</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>36,9</td>
</tr>
<tr>
<td>Croatia</td>
<td>33,4</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>19,1</td>
</tr>
<tr>
<td>Estonia</td>
<td>38,4</td>
</tr>
<tr>
<td>Georgia</td>
<td>67,3</td>
</tr>
<tr>
<td>Country</td>
<td>1999/00</td>
</tr>
<tr>
<td>-------------------------</td>
<td>---------</td>
</tr>
<tr>
<td>Hungary</td>
<td>25,1</td>
</tr>
<tr>
<td>Kazakhstan</td>
<td>43,2</td>
</tr>
<tr>
<td>Kyrgyz Republic</td>
<td>39,8</td>
</tr>
<tr>
<td>Latvia</td>
<td>39,9</td>
</tr>
<tr>
<td>Lithuania</td>
<td>30,3</td>
</tr>
<tr>
<td>Macedonia</td>
<td>34,1</td>
</tr>
<tr>
<td>Moldova</td>
<td>45,1</td>
</tr>
<tr>
<td>Poland</td>
<td>27,6</td>
</tr>
<tr>
<td>Romania</td>
<td>34,4</td>
</tr>
<tr>
<td>Russian Federation</td>
<td>46,1</td>
</tr>
<tr>
<td>Serbia and Montenegro</td>
<td>36,4</td>
</tr>
<tr>
<td>Slovak Republic</td>
<td>18,9</td>
</tr>
<tr>
<td>Slovenia</td>
<td>27,1</td>
</tr>
<tr>
<td>Ukraine</td>
<td>52,2</td>
</tr>
<tr>
<td>Uzbekistan</td>
<td>34,1</td>
</tr>
<tr>
<td><strong>Unweighted Average</strong></td>
<td>38,1</td>
</tr>
</tbody>
</table>

To compare some figures relating to some other European countries:

<table>
<thead>
<tr>
<th>Country</th>
<th>1999/00</th>
<th>2001/02</th>
<th>2002/03</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>9,8</td>
<td>10,6</td>
<td>10,9</td>
</tr>
<tr>
<td>Belgium</td>
<td>22,2</td>
<td>22,0</td>
<td>21,0</td>
</tr>
<tr>
<td>Denmark</td>
<td>18,0</td>
<td>17,9</td>
<td>17,3</td>
</tr>
<tr>
<td>Finland</td>
<td>18,1</td>
<td>18,0</td>
<td>17,4</td>
</tr>
<tr>
<td>France</td>
<td>15,2</td>
<td>15,0</td>
<td>14,5</td>
</tr>
</tbody>
</table>
In the report Schoukens and Pieters made reflecting the vision of the future of the CEO's of social security in Western Europe; attention was also paid to the issue of black and grey work.  

When questioned about the importance of black and grey work, CEOs were often hesitant to give their views. The over-all impression was that, of course, the country is confronted with black and grey work and that it affects in a distinct way different sectors of the labour market. Furthermore, many observed that measures had already been taken, but that more could probably be done. In nearly all countries, the interviewed CEOs declared needing better data. Furthermore, it was striking that regularly CEOs in one and the same country were having quite different appreciations on the extent of black and grey work in their country. Often black and grey work were also linked to legal and especially illegal immigrants. Let us now look some more in detail.

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There was a rather important inconsistency between the visions of the CEOs within the same country as to whether a large or rather a limited number of persons were working in the black or grey economy, i.e. without them being registered for their income/work with the social security authorities. (SWEDEN, THE NETHERLANDS, BELGIUM, GERMANY, IRELAND, SPAIN, FRANCE)

This might be explained by the fact that in absolute figures the number of black workers (both nationals and illegal foreigners) may be limited, but that their number may be relatively important in certain sectors (hotels, restaurants, cleaning and other small services for private households, …), so important even that they may risk to push regularly working persons out of the market. Also, even if the number of fraudulent workers is low, some cases may reach public attention in such a way that they cause major public and political upheaval. (SWEDEN)

Moreover, a more general discomfort with the changing morals in society can be felt in the opinions that were expressed; from culturally homogenous societies of rather strict protestant ethics with highly valued honesty to a culturally more differentiated society with declining ethics (SWEDEN, NORWAY). Simultaneously, the high degree of social control has disappeared and has not been replaced by a developed public anti-fraud system.

Combating black and grey work is seen as a major challenge in Austria, Italy and Portugal, and also in France, though in the latter country the numbers involved might be rather low according to the persons that were interviewed. (AUSTRIA, ITALY, PORTUGAL, FRANCE) In Belgium, Germany and Spain, the phenomenon is supposed to have been considerably reduced in recent years. (BELGIUM, GERMANY, SPAIN)

**Best and other practices**
The delegations from the South-Western Balkan have chosen this topic for further investigation, expressed from the outset their keen interest to learn about best practices in bringing above water black and grey work as far as social security is concerned. In order to comply with this wish, we structured our third chapter around a number of concrete ways to fight black and grey work in social security, where possible giving examples of countries having chosen this approach. We are however reluctant to say that in all these cases the examples reflect really ‘best practice’. Sometimes it seemed also interesting to report of attempts to fight black and grey work in social security, which ended up to show less effective.

**Interrelation with other regional projects of the CRADS/SISP program**

We already mentioned the distinction, but also the interrelation of present report, with the research carried out concerning the social protection of the farmers. But the present project also shows important links with two other of the selected topics, viz. the one dealing with the information centers and the one-stop-shops, and the one concerning the contribution collection.

The information centers and the one-stop-shop approach are aiming at a multiplicity of aims. Yet they may contribute also in better tackling the grey and black work phenomena. Information centres or even one stop shops could enhance transparency and contribute to improve relations between social security administration and benefit claimants and within social security administration itself. They could facilitate registration and make a more efficient control possible. One stop shops are a good administrative practice for facilitating access of citizens to information and services, reducing bureaucracy and corruption, reducing also non-compliance with registration and reporting duties out of ignorance. In the field of social security, multifunctional one-stop-shops can address many of the
malfunctions of the existing system, including the perseverance of important phenomena of black and grey work. The results of the research on the information centres and the one stop shops may thus be of direct relevance for the topic we are investigating upon.

Also the research concerning the problems related to the contribution collection are very much interesting for us. It is even important to stress from the outset the fundamental distinction between both projects, as they may seem so very much related that it may seem difficult to distinguish them. Present project deals with black and grey work, meaning that the work performed is not or wrongly reported to social security. In the other project the work performed is not hidden to the social security authorities, - it thus deals in principle with ‘white work’-, but those who have to contribute for the social security system fail their duties to do so. Of course, not only the grey and black work circuits constitute important problems for the social security systems in the region, but also the fact that (the employers of even) registered workers do not pay in the due contributions. These employers and employees are registered and operate legally, but for one reason or another, they do not fulfil their contributory duties. This may be linked to the fact that the concerned employers face major financial problems and e.g. prefer to pay out wages (if they are able to) than to conform with their social security contribution duties. Penal and other sanctions may be a response to an unwilling employer, but also here more often more ‘soft’ measures are more adequate if one tries to keep an eye to the over-all social problem. The topics of present and the contribution collection research projects are thus theoretically clearly distinct, but the results of each project may show to be useful also to the other.
Chapter 2. Causes for black and grey work in a social security context

As we have stressed already, the ambit of present research is to deal with black and grey work as far as social security is concerned, in other words with the phenomena of non registration of work, under-registration of work and deception as to the quantity of work performed (in hours, in earnings etc.).

Why do people lie about them being professionally active? And do people always have to lie? May they sometimes not even know what and how to report, where to register? In this chapter we shall try to explore these questions. However we shall immediately be confronted with the difficulty that social security cannot be separated from other areas of life; black and grey work for social security purposes is intrinsically linked with cheating tax authorities about professional income, with a lack of registration of the company as such etc. Most of the existing studies on black and grey work take the broader picture, and only mention in passing by that there is also a problem with social security. We shall try to focus on the latter, but will often be constrained to start also from the broader picture.

Groups most concerned

It is obvious that every man or woman may be involved in black or grey work. Indeed if there is a duty to report about work, to register work etc., it is always possible to fail ones obligations, producing less desired social security effects, being mainly the non-payment of the due contributions (and taxes) or the reception of benefits one would not be entitled to if the registration/reporting had been carried
out according to the law. Yet some groups of persons will be more inclined to turn
to black and grey work than others. We shall try to identify some of them hereafter.

A group clearly affected very much by black and grey work, are the people for
whom there is no legal possibility to work legally. In other words, if a person is not
allowed to perform economic activities in the country or even is not legally entitled
to stay in the country, these people may be more or less pushed to take up black
(and grey) work. Illegal immigrants often have no other real option than taking up
black work. In most countries it is not possible to be registered with social security,
if one is illegal labour immigrant. It is only exceptionally that countries will accept the
idea that an illegal labour immigrant may be registered with social security, that he
can pay contributions and that he could qualify for social security benefits. But even
in the case of it being possible to be an illegal labour migrant, whilst still being a
‘white’ worker for social security purposes, the illegal will think twice to use this
possibility as his/her registration with social security may constitute the first step of
a process of the removal from the territory.

Sometimes immigrants may be restricted in their possibilities to take up work.
These restrictions may be linked to their residence title (only for studying, only for
performing work with employer X or only to exercise profession Y) and may be
absolute or related to a number of hours worked or an amount of money earned
(which is e.g. often the case for students). Again these groups are most vulnerable
to get involved in black and grey work if they (want to) exceed the limits set to their
activities.

We should add that there may also exist other categories of people, who although
staying legally in the country, cannot perform work. We can refer here e.g. to
youngsters not having reached the age they are allowed to leave school. Child
labour nearly by definition is black labour. In some countries important numbers of
refugees and internally displaced persons may find themselves in such a situation
too. According to Sergejus Glovackas\(^4\) “[a]nother source of labour in the [informal economy] in some countries are the refugees from war and national conflicts – in the South Caucasus countries (Azerbaijan -0.5 million, Georgia - 300 thousand), Serbia, Bosnia, Croatia, Kosovo; the Russian speaking people from Central Asia and from the Caucasus in Russia.”

A next group of persons which might be identified as especially at risk for black and grey work, are persons who receive a social security benefit, which in one way or another bars them from working and/or having an income out of work (above a certain amount). Indeed, in all countries, a series of social security benefits will be dependent upon the fact that the recipient of the benefit does not work or does not have a (non negligible) income out of work. This is evidently true for the recipient of unemployment benefits: the benefit is just meant for covering a period one is not working and thus not having an income out of work. But also for others working and/or earning an income out of work may be out of the question: pensioners are very often expected to have stopped their professional activities, incapacitated people get a benefit because they cannot work … and thus are supposed not to work. Even sometimes people may not have an income (out of work) above a certain limit, in order to qualify for family allowances. In all these cases benefit recipients may be reluctant to register their work, inform social security about the (right volume of the) work they do, in order not to loose their social security benefits. So again black and grey work becomes most attractive.

Persons may be legally perfectly entitled to take up work and they may not be barred from taking up work by social security, but experience a prohibition to take up other work by their current (white) employer. Indeed, some larger firms, administrations, may be under terms of contract excluding the concerned workers to do other work (in general, or in competing areas etc.) sometimes the prohibition of other work may be motivated by the need to guarantee the independence of the

concerned person in the exercise of the white job. Again the temptation may under some conditions be so big that work is nevertheless taken up next to the first job, but of course than preferably as black work.

In a more general setting persons who may be attracted a bit more to black and grey work than others, are those with a white job, providing them with a (possibly low) income out of work, but a relatively comprehensive social security coverage. These persons may be inclined to take up a second or even third job ‘in the informal economy’, say a black job, as they can fall back on the social security derived from their white employment when a social risk occurs. We believe that this group may be especially strong in black and grey work in labour markets in transition; but is also strongly present in some EU countries (especially where there is no linkage between benefit levels and contributions).

Finally we believe it is also often the case that groups which are discriminated or excluded, will be found overrepresented in the black and grey labour sectors. This is first and foremost the consequence of their very weak situation (see also hereafter), but we believe there is more. If in a given socio-economic-cultural setting it is ‘not done’ to employ some groups of workers. Employers faced with tasks that the others do not fulfil, may nevertheless be tempted to call upon the ‘excluded’ groups to the work in the hidden, and thus as black work. The phenomenon may also be stimulated if the discriminated or excluded groups, often constituting a ‘minority’ of some kind; can organise a subculture and sub-economy amongst each other and do not feel any moral or social commitment to live by the laws of the majority which oppresses them.

Exploring the people most concerned with grey and black work, we would also like to make a remark as to the various positions of strength on the labour market. Without any doubt many people involved in black and grey work may not have freely chosen this path. They may have been more or less compelled to take up black or grey work, simply because it was that or not working at all.
Some people may have taken up black or grey work perhaps not because they were forced to, but, being relatively weak, have been convinced of the advantages of black and grey work without due attention being paid to the disadvantages. One could say, these are the people who are not bright enough to understand fully what it means working black or grey.

Sometimes people may engage in black or grey work without knowing they are transgressing (social security) law. This may be even more possible, the more the whole social and cultural environment accepts the normality of a labour situation, which social security law though labels as ‘black’ or ‘grey’ work. It may also be related to the non understanding of some crucial concepts such as income out of work. A review of the income declarations by Irish farmers e.g. showed that they were systematically underestimating their profits, simply because they didn’t see that the growing of their life stock or the expansion of the farm may also be seen as income, and not only the cash proceeds of the products they sell on the market. Whelan writes in this respect: “most under-reporting is due to misunderstanding or conceptual problems rather than a deliberate desire to mislead.”

Finally you have the persons understanding perfectly well what they are doing and who make a clear and free choice for black or grey work. Their choice may be linked to the nature of their activities (e.g. illegal activities such as smuggling/ see hereafter) or may be the product of their very strong position on the labour market. In the latter case we find some professionals the services of which are accepted to be performed as black or grey work, or …not performed at all.

We have dwelt a bit longer on trying to identify some groups most inclined to do black and grey work, because we are convinced to keep in mind the wide diversity of human realities behind black and grey work. The policy responses to black and grey work will have to take into consideration this wide variety, if they are to be effective and efficient.

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Sectors most affected by black and grey work

All sectors of economic activity may be the object of black and grey work. As far as social security is concerned, only one reserve to this general statement is to be made: insofar an economic activity stays without any relevance to social security, such economic activity cannot be performed as black or grey work. If an activity is not to be registered, there cannot be a failure to register. If income out of an economic activity is not to be reported, one cannot cheat in reporting the activity. These statements may seem rather self evident and without purpose. One should however dare see that in some countries one has been reducing the volume of black and grey work simply by removing the social insurance duty concerning these activities. This is sometimes the case e.g. for minor domestic activities, a cleaning person working less than X hours a week or earning less than Y € a month, is then legally freed from social insurance; the person is not to report the activity and this is not a black (or grey) worker. The question remains of course whether freeing some economic activities from social insurance is a right answer to black and grey work! Allow me a somehow simplistic comparison; if tomorrow theft is removed from the Penal Code, the criminality figures will also drop: but will the real situation have improved? We shall come back to this issue when exploring the various ways countries can tackle black and grey work in social security (see chapter 3)

Even if (nearly) all work and all sectors may be affected by black and grey work, in most countries black and grey work seem to concentrate in some sectors of economic activity rather than in other. Let us explore which sectors are most open to the phenomenon.

For obvious reasons, illegal activities, such as all kinds of trafficking (women, drugs or arms e.g.), smuggling, exploitation of prostitution etc. cannot be carried out in the open; also for social security this will mean that they are and will always stay black
work or grey work. The latter may be the case as far as the activities may be disguised in legal activities. This will however in principle not lead to white work of the persons involved, as it is not likely they will unveil the (huge) profits coming from their illegal activities. One has therefore to reckon that whatever efforts are made to bring in the open black and grey work, one will always be confronted with this kind of black and grey work, which seems impermeable to all efforts. Here the solution cannot be but repressive and preventive of the illegal activities. In other words, these are case where the challenge is not to bring in the open the activities carried out underground, but rather to put an end to such activities and to avoid that these emerge or continue.

Although the sectors in which black and grey work occur most frequently may vary considerably from country to country, still some general patterns may be identified. Black and grey work is mostly rather important in the sector of services provided at the home of the client. Meant are services in the ambit of caring (for elderly, for small children), other domestic work, such as routine housework such as home maintenance and repairs or cleaning, as well as gardening services. Furthermore sectors in which seasonal work is to be performed seem to be especially attractive for black (and grey) work. More in general quite a lot of black or grey workers seem to be present in the agricultural sector in many countries. The tourist branch, as well has the hotel, restaurant and café branch (horeca) seem also to include quite a lot of black and grey work. Furthermore manual work performed in smaller ateliers, such as handicraft and textile processing activities, may be taken up in the underground sector. Black and grey work is also popular in the construction industry in some countries.
The phenomenon of black and grey work is also often related to the small and medium sized enterprises, which have difficulties to cope with competition and want to save on their labour costs.\(^6\)

Of a particular interest for the region we focus upon, is the analysis by Renooy & Co.\(^7\) concerning the areas in which undeclared work appears most often in the post-communist Central and Eastern European countries. According to the view of these authors: “Most of the undeclared work in the post-socialist countries is concentrated to the same sectors as in the EU in general. The difference is in the share of sectors and in the processes driving their development. Among the most interesting phenomena in the CEE countries the following should be mentioned:
- The importance of retailing and hotel/restaurant business
- The presence of a subsistence economy with a focus on agriculture, more typical for developing countries
- A relatively high importance of professional services
- A relatively low incidence of undeclared work in manufacturing

Characterising the forms of informal economy in the CEE countries, special attention should be paid to the wide-spread practice of “envelope wages”, where only the minimum wage is officially declared and an additional part is paid as cash in an envelope. This form of undeclared work exists in practically all of the CEE countries, but seems to be most common in countries with a lower level of economic development, which are at an earlier phase of transition.

[...]

Another important characteristic of undeclared work in the CEE new Member States and candidate countries is its interconnection with legal business. Small

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registered businesses, even if they themselves “play white”, often have subcontractors from the informal part of the economy. This has given rise to fears that suppressing informal activities may have a negative impact on private business. In some countries this also applies to large (many of them still state-owned) enterprises which pay envelope wages. For many of them this is a survival strategy, seen as a temporary arrangement during the time of unstable transition, which helps to retain well-trained personnel.

Corruption is emphasized by several experts (Bulgaria, Romania, Lithuania) as an important barrier on the way to democratic reforms and a factor that facilitates the functioning of a sizeable informal economy.”

Let us add that there are also sectors which will mostly have no or very little black and grey work. This is for obvious reasons the case in the public administration. Yet, exceptionally, one might even find there people working without their situation being in conformity with the social security law of the country. The cases of black or grey work in public administration being very exceptional, they may also be very difficult to remediate as the social security authorities may lack strength to compel other administrations to live by the law book.

For Macedonia Liljana Jankulovska of the Federation of Trade Unions of Macedonia CCM finds that “[t]he informal economy most often emerges where work is seasonal, and workers have lower qualifications and are paid less. These fall primarily in trade, the textile and leather industry, catering, tourism, craftsmanship, local transportation, agriculture, servicing businesses, etc.

Recently, the informal sector has also started appearing through various forms in places where one does not typically expect to find it. Unfortunately, it has begun occurring in health care, at state ministries and other governmental bodies, and in public enterprises. Most often, “employment” of these workers is done through youth cooperatives. […]”

“There are also workers in the informal sector whose profession is currently desirable (interpreters, computer scientists, other experts) who refuse to get a
steady formal job because they make more money by working informally. These are, above all, young people who are able to acquire and use their knowledge and skills effectively, and very often plan for their future lives abroad.⁸ In the National Action Plan for Employment 2004-2005 of Macedonia we can read:” The informally employed persons are usually engaged in the retail trade (reselling) mainly on the so called "green markets", but there are also many other forms of employment in the illegal labour market. Traditional branches for illegal employment are also catering, civil engineering, transport, textile industry, domestic services, agriculture etc. However, the development of the market economy, technology and information industry new untraditional forms of grey economy occurred (interpreters, professors giving private foreign and computer language lessons, programmers, providers of various hardware and software services etc)".⁹

**Reasons for starting or continuing with black and grey work**

Some authors have made in-depth analysis of the reasons for enterprises and workers to go underground, to stay in the informal sector etc., not specifically linked to social security. We shall not deal with the general issue of informal or underground work here, as we focus on the social security dimension only. Yet some of the argumentation lines developed in general, may be usefully applied also to black and grey work related to social security.

It is striking to see how often the literature boils the issue down to weighing the costs and the benefits of going/staying underground. Such an approach is e.g.

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taken by Djankov, Lieberman, Mukherjee and Nenova. In their opinion: “Entrepreneurs make choices based on their perceptions of what services they are foregoing by being informal; and what they gain by avoiding various regulations and taxes.” Consequently they believe that: “[t]his trade-off can be influenced by increasing the benefits and reducing the costs of formal business activity.” It goes without saying that the costs/benefits analysis isn’t to be limited to direct, monetary costst, but that also indirect and non-monetary costs (such as red tape, time and work spent) are to be taken into account. It is in this context interesting to remember the comparative study Djankov & Co made of the number of procedures, time and cost for registering a new business in a number of countries in transition, amongst which four of the countries involved in our research

**Number of Procedures, Time and Cost for Registering a New Business**
(Time is presented in business days; cost as a share of GNP per person)

<table>
<thead>
<tr>
<th>Country</th>
<th>Procedures</th>
<th>Time</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>11</td>
<td>55</td>
<td>64</td>
</tr>
<tr>
<td>Armenia</td>
<td>11</td>
<td>55</td>
<td>12</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>15</td>
<td>79</td>
<td>19</td>
</tr>
<tr>
<td>Belarus</td>
<td>20</td>
<td>105</td>
<td>16</td>
</tr>
<tr>
<td>Bosnia and Herzegovina</td>
<td>12</td>
<td>54</td>
<td>54</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>10</td>
<td>24</td>
<td>8</td>
</tr>
<tr>
<td>Croatia</td>
<td>13</td>
<td>39</td>
<td>17</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>10</td>
<td>62</td>
<td>5</td>
</tr>
<tr>
<td>Georgia</td>
<td>12</td>
<td>48</td>
<td>39</td>
</tr>
<tr>
<td>Hungary</td>
<td>7</td>
<td>65</td>
<td>64</td>
</tr>
<tr>
<td>Kazakhstan</td>
<td>12</td>
<td>42</td>
<td>38</td>
</tr>
</tbody>
</table>


11 Ibidem, p.7
It is also interesting to read in these general analyses of underground work, how authors look at black and grey work as far as social security is concerned. Djankov &Co write the following lines in this respect: “Another consideration of being informal, and the one most relevant for employees in such enterprises, is the absence of a safety net. Employees are not covered by the insurance and pension systems that the government and/or formal enterprises offer. If the firm fails, so do the prospects of its employees. Household surveys indicate that employees are willing to forego a 40% cut in wages in order to move to formal enterprises. This shouldn’t be surprising: in the average developing country social security benefit account for over half of official salaries.”\(^\text{12}\) They see the costs of informality for the government mainly in “the numerous programs that they implement to deal with poverty – from subsidized health care, to subsidized or free housing, large unemployment benefits, free training, etc. These programs target the very same strata of society that often operate in the informal economy and, for reasons already mentioned, are not adequately protected.”\(^\text{13}\)

\(^{12}\) Ibidem, p.8.
\(^{13}\) Ibidem, p.9.
Yet the general literature on the underground economy also voices the idea that a costs/benefits analysis may not show all reasons for turning to the informal economy. Based on a case study for South Italy, Liliana Bàculo e.g. argues that informal employment is often the result of a complex interaction of economic, but also psychological and social factors.\textsuperscript{14} She illustrates her thoughts with the example of the unemployed receiving a benefit and getting new employment, but not declaring the latter in order to continue to receive the unemployment benefit. In this context she writes: “In this case, the relationship between the government and the individual is distorted; the beneficiary of the subsidy is appropriating funds s/he is not entitled to and is taking away from others who may be truly unemployed. This kind of opportunism reflects the culture and history of a country and many times may depend on widespread corruption and political favouritism. In all of these cases (high taxes, inefficient public services, inefficient distribution of subsidies) there are clear signs of state malfunctioning contributing to the growth of the informal economy.”

In the following table Friedrich Schneider\textsuperscript{15} gives an overview of the main causes which in his opinion determine most the shadow economy and weighs these causes.

### Main Causes of the Increase of the Shadow Economy

<table>
<thead>
<tr>
<th>Factors Influencing the Shadow Economy</th>
<th>Influence on the shadow economy (in%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>The most important driving forces are:</td>
<td>With variable tax</td>
</tr>
</tbody>
</table>

\textsuperscript{14} Báculo, L., Tackling informal employment: the case of southern Italy; International Journal of Manpower, 2006, 552-571.

<table>
<thead>
<tr>
<th>(1) Increase of the Tax and Social Security Contribution Burdens</th>
<th>morale</th>
<th>tax morale</th>
</tr>
</thead>
<tbody>
<tr>
<td>(2) Intensity of State Regulations</td>
<td>8-10%</td>
<td>10-15%</td>
</tr>
<tr>
<td>(3) Social Transfers</td>
<td>5-7%</td>
<td>5-8%</td>
</tr>
<tr>
<td>(4) Specific Labor Market Regulations</td>
<td>5-7%</td>
<td>5-8%</td>
</tr>
<tr>
<td>(5) Public Sector Services</td>
<td>5-7%</td>
<td>5-8%</td>
</tr>
<tr>
<td>(6) Tax Morale</td>
<td>22-25%</td>
<td>-</td>
</tr>
<tr>
<td>Overall influence</td>
<td>76-94%</td>
<td>70-90%</td>
</tr>
</tbody>
</table>

The table gives an overview of a number of empirical studies is given which summarizes the empirical results of the various factors influencing the shadow economy. There are two columns, showing the various factors influencing the shadow economy with and without the independent variable, “tax moral”. This table clearly demonstrates that the increase of the tax and social security contribution burdens is by far most important single influence of the increase of the shadow economy, according to Schneider. This factor does “explain” between 35 -38% or 45 - 52% of the variance of the shadow economy with and without including the variable “tax moral”, then follows the variable tax moral which “explains” between 22 – 25% of the variance of the shadow economy and finally follows a third factor, “intensity of state regulation “(mostly for the labour market). In general the independent variables tax and social security burden followed by variables tax moral and by intensity of state regulations are the three major driving forces of the shadow economy. Schneider finds confirmation in the amply quoted general literature: “In almost all studies it has been found out, that the tax and social security contribution burdens are one of the main causes for the existence of the
shadow economy. Since taxes affect labor-leisure choices, and also stimulate labor supply in the shadow economy, the distortion of the overall tax burden is a major concern of economists. The bigger the difference between the total cost of labor in the official economy and the after-tax earnings (from work), the greater is the incentive to avoid this difference and to work in the shadow economy. Since this difference depends broadly on the social security burden/payments and the overall tax burden, they are key features of the existence and the increase of the shadow economy.

But even major tax reforms with major tax rate deductions will not lead to a substantial decrease of the shadow economy. Such reforms will only be able to stabilize the size of the shadow economy and avoid a further increase. Social networks and personal relationships, the high profit from irregular activities and associated investments in real and human capital are strong ties which prevent people from transferring to the official economy.” For present research project this is certainly an important finding; as is that other finding, that social transfers and specific labor market regulations only play a minor role.

Still in the more general reflection on the submerged economy, some authors have asked the question: why do politicians not do more to fight the underground economy. In the answers they formulate, some other causes of the persistence of important amounts of black and grey workers, also in relation with social security could be found. In Tendler's vision\textsuperscript{16} the political lack of interest is explained by “the devil’s deal” between politicians and the unregistered sector, whereby, in exchange for votes, politicians close an eye on firms' non-compliance with regulations. For Bàculo\textsuperscript{17} this explains only part of the politicians’ attitude. There are other reasons why politicians may deal ineffectively with the informal economy. Her considerations are certainly worth quoting:” The informal economy is a complex

\textsuperscript{16} Tendler, J. \textit{The Informal Sector, Small firms and the Devil's Deal}, MIT, Department of Urban Studies and Planning, Cambridge ( MA), 2001, n. 49,
\textsuperscript{17} Ibidem.
phenomenon involving economic, social, and cultural factors. Multiple interventions are needed to contest the irregularities. Instead, politicians tend to interpret the phenomenon of the informal economy unilaterally: they focus on a single cause, which they hold responsible for the entire problem according to their own view of the world and personal ideology. Therefore, a “left wing” politician will blame labour exploitation as a primary cause of the informal economy and will promote policies geared towards protecting workers’ rights, while a “right wing” politician will blame tax burdens and will promote a more lenient fiscal policy for businesses. Both sides neglect other aspects of the problem, such as state-business relationships and entrepreneurial skills. Moreover, politicians tend to neglect the reforms that should be made both in the market and in the public administration for fear of clashing with powerful interest groups.”

Let us add that Renooy & Co identified also the ‘legacy of socialism’ as a specific factor explaining undeclared work in the Central and Eastern European countries now having all joined the European Union:18 “The legacy of socialism is mentioned by practically all of the experts, phrases ranging from the low key “attitudes, inherited from socialist economy” (Estonia) to the more dramatic “history of fighting foreign authorities” (Poland). The most essential elements of the socialist economic culture are described as:
- Negative perception of the role of the state (which takes much but gives little in return)
- Opposition to all sorts of official institutions and established norms
- Lack of trust in public institutions
- Lack of understanding for linkages between taxes paid and social services received
- Egalitarian way of thinking: negativism towards any disproportions in income, especially between private and public sector, as well as to all sorts of social inequalities

18 Renooy, P. & Co, op.cit., p.31
- Underestimation of the postponed benefits from social security as compared to the immediate benefits provided through undeclared work
- The idea of a priority of producer over consumer, inherited from the “shortage economy” (e.g. the service is valuable as such and the consumer of that service should be thankful to its provider) and, as a result, limited understanding and practice of consumer protection
- A primitive understanding of capitalism as being driven by “the law of the jungle”, where any way of getting an income is justified

One should however be cautious to link the enumerated phenomena exclusively to a socialist society; in fact a post-socialist confusion may be showing the same consequences. We could refer here to the Poverty reduction strategy paper for Serbia in which we read: “In the ten years of deep economic crisis in Serbia, the grey economy was the main means of survival for a considerable part of the population, a phenomenon which was therefore tolerated by the state and became a deeply rooted pattern of behaviour.”

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Chapter 3. Seventy ways to overcome black and grey work in social security.

Black and grey work with respect to social security is but one aspect of the informal or underground economy. Efforts to combat the informal sector in general will also have relevance for social security. As it was announced it is not our intention to repeat or even summarise the important work others have carried out in order to facilitate entering the formal economy. In the first Part of this Chapter ‘General Context’ we shall merely report of the results of some studies which seem particularly relevant to us.

Black and grey work is also a crucial element in another broader challenge: that of providing all people decent work. It goes without saying that working in the underground economy reduces the chances of having decent work conditions considerably. We shall therefore in the first Part of this Chapter ‘General Context’ also look at this issue, limiting us to a very broad outline.

As we announced in the beginning, it is our intention to come up with a series of suggestions specifically related to the social security area, that could help countries counter-acting in this area black and grey work. We have grouped the suggestions under a number of broad headings, knowing that some of the concrete suggestions we make may be classified under one or other heading. These headings are:

1) the strengthening of confidence in the social security system and its administration
2) the registration with and reporting to the social security administration
3) the relations between social security administrations and with other institutions
4) the promotion of correct behavior and of ‘repentance’
5) the personal scope of application of social security arrangements
6) the benefits
7) the financing
8) creating attractive alternatives for black and grey work
9) adapting the repressive strategies

Where possible, we shall illustrate our suggestions with examples, which might or might not be considered as ‘best practices’. We cannot but agree with Renooy & Co.\textsuperscript{20} where in their policy conclusions they write: “The incidence of undeclared work has different root causes in the various countries […]. They even differ within countries. Consequently different approaches towards undeclared work should be used in different countries.

[…]Policy should be robust. Constant alteration should not be required for successful operation. Rather, it should contain a wide variety of tools and models, which can be used in different situations and circumstances as they appear.”

Or as the EC Commission puts it in its Communication on Undeclared Work:" The establishment of a comprehensive targeted strategy is essential if combating undeclared work is to be effective. A strategy which is to have any effect on reducing undeclared work should involve a mix of elements. This policy mix will inevitably vary from one Member State to another. Effective implementation and enforcement remain an important part of the overall strategy whatever the measures chosen.”\textsuperscript{21}

Likewise we shall propose a ‘toolbox of policy opportunities’.

\textsuperscript{20} Renooy, P. op.cit., p.186.
\textsuperscript{21} COM(98)-219, 
General context

1. Fighting the underground economy in general

For discussing the fight against the underground economy in general, we limited ourselves to summarizing a few of the most policy relevant research conclusions we met.

USAID\textsuperscript{22} formulates the following dozen recommendations for reducing barriers to formalisation:

1. · Support broad programs of regulatory reform to simplify new and existing laws and make the business climate more hospitable to formal enterprise. Introduce Regulatory Impact Assessment.
2. · Simplify official administration for businesses. Review and reduce paperwork.
3. · Design measures to create a business-friendly culture in government and improve the quality, quantity and accessibility of services. Consider service charters and one-stop-shops for business.
4. · Simplify tax administration: consider single taxes for MSMEs.
5. · Avoid retroactive taxation for enterprises that formalize.
6. · Share information on what tax revenues are used for, and how businesses will benefit from enhanced services.
7. · Rationalize business registration and licensing regimes, and separate the one from the other. Use IT to streamline the process and share information.
8. · Separate the function of revenue generation from business registration.
9. · Restrict licensing to those activities where it is justified on health, safety, environmental, consumer protection or other grounds.

10. Reduce registration fees and statutory requirements, e.g. for fixed premises, capital.
11. Identify areas for labor law reform, protecting essential rights while making it easier to hire and fire workers and to employ on flexible contracts.
12. Make it easier to register producer associations so that the benefits of formalization can be made available to groups comprising individuals who would not separately have made the effort to formalize.

The article ‘the case for business registration reform in Latin America of Tor Jansson and Geoffrey Chalmers of 2001 (Interamerican Development Bank) sketches an interesting pathway of principles for Streamlining Business Registration, including:

1) undertake a comprehensive review of business start-up formalities
2) Use widely available technology to facilitate the interaction between businesses and the government;
3) Establish a single business identification number to expedite and track the processing of official requests;
4) Set target deadlines for as many procedures as possible
5) Maintain close coordination between national and local authorities
6) Provide adequate training and resources to licensing authorities
7) Make all information regarding registration requirement and procedures widely available and accessible to the public
8) Maintain a feedback loop whereby clients can express their (dis)satisfaction with the process;
9) Involve the private sector

In the article the authors refer to a case study /best practice example carried out in Costa-Rica, including the involvement of six government authorities: commercial

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registry, tax authority, national insurance institute, social security institute, ministry of health and municipalities.\textsuperscript{24}

It is also interesting to note that authors observe that the facilitation of the registration process can but needs not to involve sophisticated technology. There was high-tech involved in the reforms carried out in Australia and Ontario (Canada), but this was (initially) not the case in Spain.\textsuperscript{25}

In their study, Djankov & Co.\textsuperscript{26} sum up four crucial measures to be taken to get businesses out of informality:

1) reducing the number of business licenses, permits and approvals;
2) streamlining the administrative process;
3) adopting uniform taxes; and
4) enhancing access to capital

We recall also the diversity of persons and sectors involved in black and grey work, calling for a diversity of remedies. In this respect we can agree with the British Small Business Council’s chair, William Sargent, stating: “There are of course businesses that simply choose to trade illegally: deliberately evading tax, refusing to meet statutory requirements and selling unlawful goods or services. With these businesses there can be no compromise.

There are, however, a great many businesses that stumble into the informal economy. Having started to trade in this way it can be very difficult subsequently to register as part of the formal economy. These businesses need assistance and incentives, not punishment and penalties.”\textsuperscript{27}

\textsuperscript{24} Ibidem, pp.15-19.
\textsuperscript{25} Ibidem, p.11.
\textsuperscript{26} Ibidem, pp.10-14.
2. The decent work for all –approach

The whole discussion on the underground economy gains dimension when taking the perspective of the human right of anyone, also of those currently working in the black or grey economy, to have access to decent work. This ‘decent work for all’-approach was especially promoted by the ILO.  

“The ILO has set decent work for all as the goal for its own work. The four pillars of decent work, according to the ILO, are employment opportunities, workers’ rights, social protection and representation. According to the Director-General of the ILO, the working poor in the informal economy experience the greatest deficits in decent work. They are the least likely to benefit from full-time employment and social protection and the most likely to suffer from lack of workers' rights and of organization and representation. The net result is that the majority of workers in the informal economy are caught in a poverty trap: in a "decent living standards deficit". To reduce poverty we need to reduce the decent work deficits of those who work in the informal economy.[…] Labour legislation is usually framed to apply to "employees" rather than "workers", which assumes a formal employment relationship. The ILO should encourage governments, and governments should accept, that labour legislation should apply to all workers, regardless of the existence of an employment relationship or of the form it may take.”

In the vision of the Global Labour Institute the following areas deserve amongst other special attention:

1) workers rights. “The longstanding commitment of the ILO to protecting the rights of all workers irrespective of where they work was reinforced in 1998 when the International Labour Conference unanimously adopted a Declaration on Fundamental Principles and Rights at Work that applies to all those who work,

regardless of their employment relationship. Most recently, the ILO has explicitly incorporated the informal economy in its policy framework called "Decent Work." The Global Labour Institute therefore seeks “the support by the ILO and its Members for a campaign for further ratifications and the implementation of the following conventions:

- Home Work Convention, 1996 (No. 177)
- Indigenous and Tribal Peoples Convention, 1989 (No. 169)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)
- Rural Workers’ Organisations Convention, 1975 (No. 141)

and the implementation of the provisions of the following recommendations:

- Migrant Workers' Recommendation, 1975 (No. 151)
- Tenants and Sharecroppers Recommendation, 1968 (No. 132)
- Promotion of Collective Bargaining Recommendation, 1981 (No. 163)"

2) social protection The Global Labour Institute formulates it as follows: “The ILO and its Members are invited to uphold the rights of workers in the [informal economy], particularly women workers, to adequate social security, including maternity benefits, health insurance and old age pensions.

National and local governments are invited to adopt the following measures and policies:

- Extend and strengthen existing social security schemes, including maternity benefits, and provide such schemes where they do not as yet exist;
- Provide childcare services that would enable women and men involved in the informal economy to engage in productive work. “

Let us now turn to the more specific areas of action in which concrete measures against undeclared work can be undertaken.
The strengthening of confidence in the social security system and its administration

1. Building trust in government and social security administration

In the OECD employment outlook, the OECD comes to the conclusion that “The informal economy involves broad issues of the legitimacy of central government and its taxation and regulatory powers. If central government is viewed as corrupt, unresponsive and wasteful with money, or if local actors view central government as a foreign power, tax evasion may be socially valued. But in informal arrangements and verbal contracts, the risk of being cheated is considerable: if the government enforces contracts and protects property rights, economic actors often prefer to conduct arms-length business on a formal basis in spite of tax costs” 29

In their study relating the new member states of Central and Eastern Europe, Renooy & Co. write: “A key element in any policy combating undeclared work, in old as well as new EU Member States, should be the strengthening of trust in government and government institutions. This must be done on the basis of long-term efforts that are designed to strengthen community morale and increase confidence in public institutions. Changing attitudes is a very important instrument in the struggle against undeclared work, since control measures, inter alia due to insufficient resources, can never by themselves eliminate the problem.” 30

We tend to agree with this policy recommendation of Renooy & Co., realizing however that the challenge is much broader than only concerning social security. Yet, if some public and/or private institutions do enjoy the trust of large sections

30 Renooy, P., op.cit., p.186.
of the populations, more than e.g. central government, this may be a reason to involve those ‘trusted’ institutions more in the administration of social security schemes. Creativity should prevail here. Sometimes non profit institutions, such as e.g. trade unions, religious authorities, may enjoy in the country a high moral standing and thus the thrust of the whole population, than they could be inserted in the social security administration too, always respecting the fundamental freedoms established by the constitution, such as the (positive and negative) freedom of association and religion, the protection of minorities etc.

In this context one should also address the ins and outs linked to a decentralized administration of social security schemes. As the OECD observes in a larger context: “Local authorities may tolerate undeclared work because it gives local small and medium-size enterprises a competitive advantage over similar enterprises in other regions of the country. Central government needs to ensure that tax collection is under control, and establish a consensus against this type of unfair competition. The authorities also must explain that heavy fines, which drive noncompliant firms out of business, do not reduce aggregate employment in the long run at the national level”.

Yet this is certainly not an easy task, and gets even more difficult, if minority issues are involved.

The challenge of strengthening the thrust in social security also relates to another issue: that of the stability of the social security system itself. One should not forget that many countries in Europe faced a collapse of a whole regime and the total social-economic system. How then to believe that the commitments by today’s social security system will effectively be upheld after twenty, thirty, forty years, when in the past ten years so many changes happened? Moreover, not seldom during the past ‘transition years’ not seldom the social security policies pursued have not always been uniform and coherent, but sometimes rather jumpy and uncoordinated. It is reported that e.g. in Latvia many argue that, given the instability of the social insurance system, they do not see any motivation to put possible future gains (from making tax and social contributions) before

present gains. In addition, paying full taxes would cut their net income, which is low in any event.\textsuperscript{32}

2. Strengthening the quality of the social security administration

The other side of the coin of strengthening the confidence in the social security administration, is of course to strengthen the quality of this administration. Although not always (fully) congruent, trust in an administration is depending upon the trustworthiness of that administration. Trustworthiness depends itself upon the ability and will to perform the assigned tasks and duties in the best possible way. This means that the administration has to dispose of the human and material resources to carry out its tasks in a decent way. Moreover, it means that also the personnel has to behave in a way which makes people trust in the administration. A corrupt administration obviously does not respond to such a requirement. Moreover, the way people are being treated by the social security administrations, should confirm that the people can reasonably trust the representatives of the administration. Some more concrete consequences of these broad requirements will be highlighted under following headings. May we suffice here by referring to Renooy & Co.’s suggestion to develop and adopt ‘a code of ethics’, i.e. a codified summary of ethical behaviour and codes of conduct for the various government and social security officials.\textsuperscript{33}

In the National Action Plan for Employment 2005-2008 of Croatia, it is said that investigation has concluded that it is more important to prevent the causes than to punish the consequences of the unofficial economy; linking this to the conclusion “The state and the state institutions should be based upon and implement ethical standards and conduct reforms of the educational and legal systems ” (sub guideline 9)

\textsuperscript{32} \url{http://www.eiro.eurofound.eu.int/2004/02/inbrief/lv0402101n.html}
\textsuperscript{33} Renooy, P., op. cit., p186.
Registration with and reporting to the social security administration

1. Registration of employers and self-employed

Very often work is performed undeclared, because the enterprise for which one is working itself neglected to fulfil all registration duties (under company law, tax law, etc.). The same goes for one-man enterprises or self-employed persons. The consequence is that social security registration is made impossible (e.g. when other licences or permits have to be shown to the social security administration) or simply very unfeasible, as declaration of the enterprise to the social security authorities is very likely to induce the denouncement of that enterprise to the other authorities.

In conformity with the general recommendations to fight underground economy, it is of the outmost importance to keep the red tape and the costs related to the registration of an employer or self-employed for social security purposes as low as possible.

Usually this is translated in the suggestion to integrate as much the process of all registrations. One action to register with company law authorities, tax authorities and social security is than said to be the solution. We could refer here to the example given of the Costa-Rican example where six authorities were integrated in the new registration process (see General Context, sub 1.). Yet we would like to observe that from a mere social security perspective, there is also some argument to make to keep the registration of an employer or a self-employed not too much interwoven with other registration. Indeed, if one makes the social security registration to much linked with other registrations, one has of course the advantage of simplifying the administrative duties, but one faces also the fact that reasons withholding enterprises to register for company law or tax law, will also be an obstacle for social security registration; whereas it cannot be fully excluded that
without the linkage some employers or self-employed may not object registration for social security purposes, whilst wanting to keep the head down for other registrations. It will highly depend upon the local conditions to what extent social security registration of enterprises is well served by strongly integrating it with other registrations. Normally it will be the case, but exception may appear.

Black and grey work may be hidden under the cover of a second (false) identity and/or social security number. Therefore to combat identity fraud, the procedures for issuing National Insurance numbers should be tightened. This may be seen as a repressive measure, but needs nevertheless to be mentioned at least in this context.

In Bosnia Herzegovina USAID has been funding tax modernization in Bosnia. The project has implemented a new taxpayer registration system that includes a single, smart-digit taxpayer identification number; cleared the taxpayer rolls of fraudulent companies; harmonized tax administration rules and regulations; decreased fraud and corruption and increased revenues and compliance by developing a self-assessment-based tax system. ¹ Also in Bosnia-Herzegovina, the British department for International Development is funding reform of the business registration system that will remove unnecessary steps in the process. Again, computerization will facilitate the process, the requirement for pre-approvals will be removed and there will be a legal deadline of five days within which the courts must approve applications. Data about the newly registered business will automatically be sent to the tax administration, the statistics office and the Chamber of Commerce. It is however unclear how the linkage with the social security administration was realised. (USAID, art.cit., p.31-32).

The results can be impressive. In Montenegro, primarily process-oriented reforms helped increase registered companies from 6,001 in 1999 to 21,724 in 2003. (USAID, art.cit., p.32) Again it is an open question to what extent this had social security consequences.
2. Registration and reporting of work

One thing is to register as an enterprise or a self-employed, another thing is to declare to social security that work is being performed by this and this worker; or to report the real income and working times of these workers to the social security authorities. If this reporting of the work is not done or not done properly we face black or grey work, or, ‘undeclared work’. The key idea here is to make that as soon as work is performed the work should also be declared to and thus known by the social security administrations.

Various EU countries have introduced requirements on employers to immediately declare new employment relationships. In France employers are e.g. obliged to declare an employee through the unified employment declaration (DUE, ‘declaration unique d’embauche’) to the competent social security institution before works start.

Also in Austria the combating of organized undeclared work took already in 1999 the form of introducing the duty to report any new employee to the social security administration as from the first day of employment. To that effect call centers were set up by government. The measure was first introduced for employment in sensitive areas such as construction, hotels, restaurants, cleaning services and transport and later widened to all other industries. 34

Let us dwell some longer with the Belgian case.

The Belgian DIMONA operation got quite some attention in literature.
As part of the administrative simplification process, and in order to combat social security fraud, since 1 January 2003 all employers, both new and existing, have had to electronically declare a new employee to the department of social security. For a new employer, this declaration also reports his capacity of an employer directly to the department of social security.

34 http://www.eiro.eurofound.eu.int/1999/01/inbrief/at9901127n.html
For employers in horticulture, agriculture, hotel, restaurants and cafés this was concerning their occasional employees, only the case as of 1 July 2006. The Dimona declaration does not have to be made for a number of categories of people who, subject to a number of conditions stipulated in the Belgian social security regulations, are not submitted to the Belgian social security system even though they are working in Belgium for a Belgian employer. The declaration has to be made at the latest when starting work. The date of commencing employment, i.e. the date stated in the contract of employment, must be reported. The date of leaving, i.e. the end of the working relationship, also has to be reported, and this at the latest on the first working day after the contract ends. The employer communicates his social security number, or will be given a provisional social security number that can be used for the Dimona declaration for as long as the final registration number is not known. For the employee, the social security identification number on his SIS card will be used. This is the national register number, or the central social security database number if the person is not registered in the national register. If this is not known or does not yet exist, a number of basic details about the employee have to be given. On the basis of the information provided, a social security identification number will be allocated if the employee does not yet have one, and he can then go to a health insurance fund to obtain a SIS card. After the Dimona declaration has been processed, a message will be sent to the employer within 10 working days, whereby he will have 5 working days to check that the information has been correctly registered. For the employer, this message is proof of the correct and prompt declaration. One of the advantages of making a correct Dimona declaration is that the employer does not have to keep a general personnel register, as the existing personnel file is always known electronically. This advantage is of course restricted to the employees who have to be declared through Dimona, and when done promptly and correctly. There still has to be a specific personal register, an individual account, and of course internal working regulations. For students, a copy of the contract of employment
does not need to be sent to the Social Laws Inspectorate, provided that the Dimona declaration is correct, and states the place of employment of the student.

The penalties for not satisfying a Dimona declaration requirement are rather draconian. A prison sentence of 8 days to one year, and a fine of 500 to 2,500 euros, or one of these penalties alone, can be imposed. The fine is applied as many times as there are employees with respect to which a breach has been committed, although the total amount of the criminal fine may not be higher than 125,000 euros. If there is no criminal prosecution, an administrative fine can still be imposed.

Finally, for social security contributions due as of the third quarter of 2005, the Dimona declaration requirements have to be observed in order to obtain certain social security reductions or a complete or partial exemption from social security contributions. Incorrect observance of the Dimona declaration requirement will be a legal impediment to the department of social security granting a reduction or exemption from certain penalties. These are the contribution surcharge and interest on arrears for the late payment of contributions, the payment of a fixed penalty for the non-payment, insufficient payment, or late payment of the monthly advances, the payment of a fixed penalty for not reporting the stoppage of activities as an employer on time, and the possibility for the department of social security to recover the costs of a correction or ex officio declaration from the employer, on account of not making the declaration or the declaration being late, incomplete or incorrect.

The OECD employment outlook recalls however that not all countries pursue a policy of immediate declaration. As such they refer to an earlier OECD document of 1998 reporting that “in Ireland (where administrative cross-checks between receipt of benefits and payment of employee contributions were lacking), “There is an obvious incentive for people who start work to ‘forget’ to inform the benefit authorities for as long as possible. In order to tackle this problem, Ireland has introduced regulations requiring employers in construction, forestry, road haulage,
contract cleaning, security, catering and the bar trade to send in a Notification of Employment form to DSW within one month of a new employee or subcontractor being taken on. DSW issues notification receipts, which can be checked by inspectors visiting the workplace.” However there was still no general requirement for declaration of new hires. This is a typical example of a regulation which some countries find necessary in order to tackle tax evasion, while others feel the need for it, but nevertheless consider that the regulatory burden involved is not justified.”

In any case, also preventive measures are to be considered as well. Here a good information duty concerning the obligation to report correctly, the way to do so and the consequences of failing ones obligations take a crucial position. We deal with this under another heading. One should in any case remember that the one who fails to report work to social security administration, is sometimes less to blame as the information on a rapidly changing social security may not always reach him/her, or, perhaps worse, be sometimes contradictory (in time or between various social security institutions). One can perhaps also not always expect employers and self-employed to understand the possible different understandings between social security schemes (as a whole or in between each other) and e.g. tax or commercial law. Reducing red tape, using as much as possible uniform concepts of ‘work’, ‘working hour, day, month’, ‘wage’, ‘income out of work’ are very important in this respect. An important work of internal harmonization of concepts has been realized e.g. when the Belgian Cross Roads Bank of social security, linking up all Belgian social security administrations was put in place.

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The relations between social security administrations and with other institutions

1. Permanent bodies for coordinating the fight against undeclared work

We have already repeatedly stated that the phenomenon of undeclared work is not single-sided, but as complex as it is requires all involved administrations and institutions to combat the phenomenon. This collaboration is desperately needed within the social security system; often even broader fronts to counter-act black and grey work may be needed. These broader fronts may then e.g. include the tax authorities or local authorities.

The co-operation between various institutions may require the direction of one body at the top co-ordinating the various actions to be undertaken. Countries have to that purpose sometimes created ‘committees’ at the ministerial level, in which also sometimes the social partners collaborate. Examples of such committees can be found in France\textsuperscript{36}, Italy\textsuperscript{37} and Slovenia\textsuperscript{38}.

In France, the Interministerial delegation for the Struggle against Illegal Work (Mission de liaison Interministérielle pour la lutte contre le travail clandestine, l’emploi non déclaré et le traffic de main-d’oeuvre, MILUTMO) is responsible for the struggle against all forms of illegal work, including undeclared work and illegal cumulation of work (e.g. private work for profit by a civil servant). MILUTMO provides links to advice to enterprises and self-employed workers, legislation, statistics and studies.

Italy was especially aware of the fact that if the fight against undeclared work was to succeed all public and private actors should be involved. This laid to the

\textsuperscript{36} \url{http://www.oecd.org/dataoecd/5/8/31932544.pdf}
\textsuperscript{37} Renooy, P., op.cit., 172.
\textsuperscript{38} Renooy, P.; op.cit., p.134.
establishment by Law No. 448/98 of 1998 of a Committee for the emergence of the underground economy (Comitato per l’emersione del lavoro non regolare), responding directly to the Prime Minister’s Office. The establishment of the national committee extended the joint approach combating undeclared work already adopted by the former alignment agreements. Now, the entire regulation process is supported and promoted by negotiations between social partners and institutions at the local level. The committee’s primary task is to analyse and co-ordinate regularisation initiatives. Besides the central committee, regional and provincial committees were set up, with the task of analysing local situations, promoting agreements and providing support reaching regularisation agreements. Each regional committee has 15 members, seven appointed by the public administration and eight appointed jointly by the social partners.

Also in Slovenia a Committee for the Exposure of Undeclared Work has been created which has come forward with a broad spectrum of measures both intended to discourage undeclared work and to encourage formal work.

2. The social security network and links with other authorities

One thing is to establish permanent body for coordinating the fight against undeclared work, another is to establish in reality a good transfer of information between the various social security administrations and between them and other institutions requiring similar data on work, income etc. such as tax administrations or local authorities.

In the research project asking 75 social security CEOs of 15 Western European countries about the main challenges they saw for the future of their social security systems, the need of a better networking was stressed over and over. Good
cooperation and exchange of data between the various social security and other (e.g.: tax) administrations (both centrally and locally) was said to be crucial to combat all forms of hidden labour (BELGIUM, GERMANY, SPAIN, ITALY, PORTUGAL, IRELAND) A smart use of IT and e-technology (e.g. e-insurance cards) could be helpful in this respect (AUSTRIA, BELGIUM) 39

The exchange of information and unique social security numbers to be used by various social security and possibly also other administrations, are mainly seen in the perspective of a policy of improving enforcement and controls, and are as a consequence left aside in this paper. Let us merely observe together with the OECD employment outlook that “[O]ne data match which seems to be lacking or sporadic in most countries is a real-time link between the records of social security contributions (paid on behalf of an employee by the employer) and social security benefits paid to the same person. In Switzerland, SECO (2000) recommended exchange of data from unemployment insurance records with old age and survivors (AVS) contribution records.”40

Linking up data and setting up a good exchange of data does not have to imply restricting the right to privacy or accepting the idea of a 'social security big brother'. In this respect the Belgian Cross Roads Bank of social security is often quoted as a best practice. The Crossroads Bank for Social Security indeed won the 2006 United Nations Public Service Award in the category of "Application of information and communication technology (ICT) in Government : e-government". 41

“Belgian social security system consists firstly of three insurance systems (employees, self-employed workers and civil servants), covering a maximum of seven social risks (incapacity for work, industrial accident, occupational disease, unemployment, retirement, child care and holiday pay - the so-called social security branches), and secondly of four social support systems (allowances for the disabled, guaranteed family allowance, minimum income and income guarantee for the elderly), which grant people specific minimum services after verifying their subsistence resources. In all, about 2,000 social security offices are responsible for the delivery of Belgian social security. More than 10,000,000 socially insured persons and 200,000 employers have very frequent contacts with those offices to claim their entitlements, provide information and pay their contributions.

At the time, an in-depth analysis of the functioning of social security proved that:
- the organization of social security offices’ business processes was not very customer-oriented and was certainly not standardized among the various social security offices;
- each social security office had its own set of paper forms with accompanying instructions, on the basis of which, when a social risk occurred, one would request information that was specifically necessary to grant the entitlements in the light of that particular risk;
- social security offices very often asked the socially insured persons and their employers to request information that was already available at another social security office in the form of a paper document, and to produce that document, rather than exchanging the information directly among themselves;
- socially insured persons and their employers thus had to inform many social security offices of a single event, following different legal concepts and administrative instructions each time;
- socially insured persons and their employers themselves had to claim their entitlements throughout the social security system and could not count on the automated granting of all entitlements on the basis of a single declaration.
Taking the above mentioned principles into account, a global review of the processes throughout the whole social security system has been carried out. The actual result can be summarized as follows:
- socially insured persons and their employers now need to make only a single declaration to the social security system as a whole in the following cases:
  · no later than the start of an employment relationship, an employer has to declare when (date and time) the employee in question takes up his duties;
  · every three months, the employer has to declare what income each of his staff has earned, divided into income components that from now are defined uniformly at all social security branches for employees and civil servants, and how many working days or equivalent days each of his staff has worked, divided into types of days that from now on are also defined uniformly at all social security branches for employees and civil servants;
  · when a social risk occurs, socially insured persons or their employers need only to declare information about that particular social risk; information on historic income, historic work performance or equivalent performance no longer has to reported as it is obtained from the quarterly declarations of wages and working time data; only if wages and working time data are necessary concerning a period for which the quarterly declaration has yet to be made, will the wages and working time data for this period still need to be reported in the form of an provisional declaration following exactly the same principles as the quarterly declaration;
  · no later than the end of an employment relationship, an employer has to declare when (date and time) the employee in question leaves the company;
- all declarations of the beginning and the end of an employment relationship have to be made electronically, either by exchanging XML messages between applications, or through transactions available at the social security portal, or over a voice server; declarations can be amended electronically, either by exchanging XML messages between applications, or through transactions available at the social security portal; each employer has access to his list of staff.
through transactions at the social security portal and can get an electronic list of his staff by file transfer in XML format, so that he no longer needs to keep up to date an own staff register;

- all quarterly declarations of wages and working time data have to be made electronically, either by exchanging XML messages between applications or through transactions available at the social security portal; declarations can be amended electronically, either by exchanging XML messages between applications, or through transactions available at the social security portal;
- all declarations of social risks can be made either on paper or electronically, either by exchanging XML messages between applications or through transactions available at the social security portal;
- the elements included in the XML schemes have been defined uniformly in all declarations; the XML schemes per declaration can be downloaded from the social security portal; each three months, a new version of the XML schemes is made available, with a note of amendments compared with the previous version, taking any regulatory changes into account ;
- all social security offices are connected onto a network for electronic information exchange managed by the Crossroads Bank for Social Security, and have a legal obligation to request all information available in the network from each other electronically;
- the Crossroads Bank for Social Security manages a reference directory, showing for each citizen, at which social security offices he is known, in what capacity and for what period;
  - by type of social security office and the capacity in which a socially insured person might be known to that office, which types of data on socially insured persons are available ;
  - by type of social security office and the capacity in which a socially insured person might be known to that office, which types of data that office needs and is authorized to receive from other offices in order to fulfil its duties;
- the Crossroads Bank for Social Security uses this reference directory:
- to ensure preventively that a social security office only gains access to
data it is allowed to access, and on people who are known to it;
- to route data requests to the social security office that can supply the
data in question;
- to transmit data reported automatically to the social security offices that
can use the data in question to fulfil their duties.

The introduction of this system led to the following:
- about 170 types of paper documents which socially insured persons or their
employers had to request at one social security office to pass it to another social
security office have been abolished and replaced by direct electronic data
exchanges between the social security offices in question; in 2002, 242.5 million
concrete electronic data exchanges took place;
- about 50 types of social security declaration forms have been abolished;
- in the remaining 30 social security declaration forms the number of headings
has been reduced on average to a third of the previous number;
- many declarations are made directly and electronically from employers’ staff
administration packs and accountancy packs;
- socially insured persons and their employers can make all social security
declarations on the basis of a standardized apparatus of concepts and
standardized instructions, and need to report data to the social security system
as a whole only once;
- the number of contacts between the socially insured persons and their
employers on the one hand and social security on the other has been drastically
reduced;
- remaining contacts have been streamlined as a function of life events of the
socially insured persons or events affecting the employment relationship between
employer and employee/civil servant (entering service, performing work, falling
sick, leaving the company, becoming unemployed, retirement, ...);
- personal services to employers and socially insured persons are provided;
- a great many subsidiary entitlements are granted using automated procedures,
without the socially insured persons or their employers needing to make declarations anymore.”

However, sometimes links are established between various social security administrations which lead to less desired effects. A striking example of this is provided by Macedonia. In this country health insurance certificates for people who are not in declared work, are issued by the employment offices, upsetting in this way the core business of these offices, being labour mediation. It also leads to a large number of persons who do not qualify for unemployment benefit, to register as unemployed, simply to qualify for health insurance, amongst them quite some persons involved in the grey or black economy. Even if much is to be said to maintain health care insurance when no unemployment benefit is paid out anymore, this way of doing is not desirable.

We would also like to suggest that in so far private, second or third pillar arrangements, exist in the country, and possibly enjoy some tax or other privileges, these arrangements should be fully declared and registered with the statutory social security system so they can be called upon to contribute also themselves to the financing of first pillar arrangements. In any case what should be avoided is that persons declare no or very little income out of work, and that simultaneously these persons build up considerable second or third pillar arrangements (on the basis of undeclared work incomes).

Networking is not only to be realised between social security institutions (even *lato sensu*) alone. As it has been pointed out earlier, black work as far as social security is concerned, may be only one element in a series of decisions of a person not to register his/her activities, not to ask for the necessary licenses and permits, etc. If we want to do something about black work as far as social security is concerned, one might want to tackle also the more general problem of streamlining business registration. A large number of government institutions and agencies are involved in
various aspects of tackling this problem. What should be avoided in any case is that initiatives taken to fight black or grey work are not ‘joined up’, leading to confusing messages towards the concerned people and an enormous loss of efficiency on the side of each of the involved authorities and institutions.
3. Coping with transnational features

Many of the measures which are presented in this report may be obstructed or hindered by people being active or living in more than one country. It is very difficult to operate controls over the border; so, a good international co-operation is required between neighboring states to have a grip on what is really going on in the country. It is a statement easy to make, but even between countries with long standing friendly relations, such as the BENELUX-countries, we have to concede that trans-frontier collaboration is not always easily achieved. Indeed, it is usually considered to be contrary to national sovereignty to allow foreign (social security) officials to come into the country to operate the necessary registrations, controls etc. So one will depend upon the colleagues of the country where the control, registration needs to be performed. These however have no direct interest in registering, controlling a person which is not insured with them (and thus will not pay any contribution to them)…and time and means are always short!

Furthermore, one should also consider the point of view of the person who has to make a transnational declaration. The declaration of work may de facto be obstructed by the fact that no legal entitlements will follow for the worker whose work would be duly registered. This can be the consequence of the nationality of the person concerned or simply of the intention to leave again the country after a short time (without fulfilling the minimum period necessary to qualify for benefits). In other words fighting black and grey work may also include improving the coordination mechanisms. Especially guaranteeing no discrimination in social security on the basis of nationality and the exportability of benefits seem crucial in this respect. These aspects have been already addressed more extensively elsewhere in present CARSD/SISP programme.
**The promotion of correct behavior and of ‘repentance’**

Under this heading we would like to stress first and foremost that the social security system itself and the rights and duties it entails need to be understood if one expects the majority of honest citizens to keep away from undeclared work. But there is more, it needs also to be stressed that working undeclared is unsocial. Also that aspect will be developed. If one sees the light (both in the sense of understanding the system and ones’ own interest; and in the sense of social morality), one needs to find a listening ear and to be able to follow tracks leading out of the black and grey zone to correctly registered work. These two steps will be examined separately. In the last section of this chapter we shall stress the importance of co-involvement of all concerned parties.

1. **Understandable social security and social security obligations**

It is a self-evidence: social security systems in nearly all countries are complex, sometimes very complex and hard to understand. One needs however not to accept that nothing can be done about this complexity and that it is fate that people will not understand… something which is very important to their daily lives.

Keeping the social security system as simple as possible, or rather keeping its complexity as much as possible between strict boundaries is therefore the first challenge. People have to understand the main logics of the social security system which is applicable upon them and to which they are asked to participate (in the form of contributions). The Western CEO’s which were interviewed on their vision of the future of the social security systems nearly all stressed the importance of making the social security systems more transparent if one is to combat black and grey work.
People have to understand the basics of the system to be committed to it; or to put it in a less idealistic way, to understand that it is in their own interest (certainly in the long run) to declare work to the social security authorities and not to run the risk of severe sanctions. When the persons concerned are aware that not declaring or under-declaring professional income, will lead to the loss or a reduction of benefits later, they will be less inclined to defraud the system (SPAIN, ITALY, PORTUGAL).

People also have to understand their obligations, simply to do what is expected from them.

Also entrepreneurs have to understand their obligations and best interest. “Information campaigns are needed to make clear the risks and costs of participation in the informal economy, as well as the benefits of using formal labour. Such publicity has the double effect of highlighting the risks involved in informality and benefits of formality, as well as strengthening trust in the system by taxpayers.”

An important element is to make the rules known and ensure that people understand what their responsibilities are. Clearly this is not easy, given the complexity of the systems.

A great deal of effort goes into designing information leaflets, making them accessible, producing foreign language versions and so on. National advertising has also been used, for example, through television campaigns.

It is of course debatable to what extent the phenomenon of undeclared work indeed finds its roots in a lack of information (rather than in a deliberate will and informed decision of the concerned people).

According to Lord Garbiner lack of information is more likely to induce undeclared work in the case people agree to be paid cash in hand without realising that they

43 Small Business Council, op.cit., 6
could lose out on a pension if their contributions are not paid. Another example might be collusive employers. Fraud investigators in Britain found that many of the employers they prosecute for helping their employees commit benefit fraud, are surprised to discover that they, as well as the individual claimants, can be charged with an offence. This seems an obvious information that could be included in the education provided to new businesses.44

Strengthening the population’s awareness of social security should prevent people from undermining it through black and grey work. In this context, it was stressed that even if black and grey work may be rather limited in quantity, it has nevertheless to be tackled as it is a cancer to social security. 45

Public awareness campaigns were launched in France and in the United kingdom and a campaign in Sweden to publicly clarifying the risk of going informal. In France a multilingual pamphlet was distributed with the title ‘The risks of undeclared employment’. A similar initiative directed to (foreign) undeclared workers was taken by the Italian trade union CGIL. In Finland also special attention is paid to the information of the foreign workers46

Although we do not discuss here control and repressive measures, it is worth mentioning how public awareness may also be raised through very indirect channels such as entertainment programs or even ‘soaps’. Lord Garbiner reported that a benefit fraud hotline had been running for some years in Britain, allowing people to report those they suspect of wrongfully claiming benefits. At that moment around 70 per cent of the several thousand calls received each month result in a referral to fraud investigators. One recent DSS tactic, which doubled the volume of calls, was to take advantage of a story in the soap ‘Coronation Street’

46 Renooy, P., op.cit., p.118; see also http://www.cgil.it
involving benefit fraud, by advertising at that time the hotline in newspaper TV listings.\textsuperscript{47}

\textsuperscript{47} Garbiner, The Informal Economy, 2000, \url{http://www.hm-treasury.gov.uk}, 8.13
2. Moving away from a culture of black and grey work acceptance

Another idea is to try to emphasise the unfairness of the hidden economy: that people evading tax are cheating their fellow citizens, and their honest business competitors, by not paying their fair share. The difficulty is showing the link between the fraud and its consequences. Unlike drunk driving (the classic example of how public opinion was changed radically by Government advertising), working in the hidden economy does not cause any obvious harm. Claiming that benefit fraud contributes to hospital bed shortages or underfunded schools may be true in a sense, but is a difficult message to get across.

More broadly, there is a culture of tolerance towards the hidden economy. Most people at some point pay cash in hand for household services, or pay cash in exchange for ‘discounts’. Even in the most trivial way, much of this may amount to turning a blind eye to tax evasion. Publicity campaigns could have some effect in changing attitudes.\(^{48}\)

Or as Lord Garbiner formulates it: "Tackling the hidden economy involves tackling the culture of connivance that sustains it. That means the culture among those working in the informal economy that tax evasion and benefit fraud are victimless crimes. It also means public attitudes, which often condemn the billions of pounds lost to the hidden economy but condone the small cases that make up the total as harmless fiddles. Publicity has a vital role in getting the message across."\(^{49}\)

The EC Commission in its Communication on Undeclared Work, also speaks in favour of awareness raising campaigns highlighting unsociable behaviour and that defrauding the system damages everyone.\(^{50}\) The Commission also refers to action undertaken by Member States to the same effect: “The campaigns focus on enhancing the feeling of belonging to a common society from which


everybody receives and to which everybody should contribute. The German example “illegal ist unsozial” can be considered as a general encouragement to the population to declare any work carried out. Some Member States have introduced information campaigns about the risks of using undeclared labour such as in the construction sector where the use of undeclared labour means there is no recourse against any defects in the work carried out or when using unauthorised transport firms where there is no cover against the risk of burglary or damage.”51 An echo of this is to be found in the EU Council resolution on transforming undeclared work into regular employment of 2003 (C260/1) in which the Council calls on the Member States: “To raise social awareness in order to enhance the efficacy of this mix of measures, through providing information to the public about the negative implications of undeclared work for social security and the consequences of undeclared work for solidarity and fairness”52

Information campaigns may not be sufficient; real civic and social educational initiatives may be needed. The British Small Business Council formulates it this way: “Educate young people about the benefits of the formal economy through citizenship classes. If the formal, rather than the informal economy is to grow, then it is vital that the next generation of entrepreneurs are fully aware of its benefits. Young people can also help in the education of their parents, as has happened successfully with anti-smoking campaigns."53 It should include discussing the ethical issues for and against working uniformly too as well as the benefits of paying tax and social security contributions.”

In the more repressive approach, more exposure of black and grey work to public contempt and disapproval may also be considered.

53 Small Business Council, op.cit., 6
3. Counseling in confidence

A first step in moving away from black (and grey) work to declared work, obviously is to discuss in confidence about the ‘ins and outs’ of going ‘in the open’. It is important that a person doubting whether to employ someone in an ‘informal way’ or rather in a declared way, that a person considering to move from black work/employment to declaring the job to social security (and other) authorities finds good and confidential advisors, which can help to make a decision in favour of legality without harming the one who asks for advice. Especially in Britain and Italy this issue got special attention.

In Italy, a network of regional “tutors” was established in the framework of the committees for the emergence of the underground economy. Tutors are independent professionals with backgrounds in socio-economic disciplines, for example lawyers or economists, and with profound knowledge of the economic and labour market situation of a region. The national committee temporarily hires them. The tutors are not governmental workers but work on a freelance basis. Their main task is to support the development of the regional regularization process by providing help to companies who want to leave irregularity behind and “surface”. One of the tutors describes himself and his colleagues as street level bureaucrats because they are “on the road” doing their job visiting companies, and do not have residence in or execute their work from a central office where the entrepreneur has to go for information.

Develop an independent ‘one-stop-shop’ service for businesses wishing to formalise operations was getting special attention in Great-Britain. In order to move from the informal to the formal economy, micro-entrepreneurs and businesses were considered to require help and support on a variety of issues. ‘One-stop formalisation shops’ could provide business support, finance assistance, legal, tax, debt and benefit advisory services. They would take a business through each and
every step from informality to full formalisation. An independent business support network is likely to attract more clients from the informal economy than one with more direct links to government. This ‘third sector’ transition service could act as an ‘honest broker’ between the entrepreneur and the Inland Revenue, in the same way that ACAS operates in Employment Tribunal cases.\textsuperscript{54}

Also Lord Garbiner recommended in 2000 that a useful way of targeting individuals who are worried about their position and would like to become legitimate would be to set up a telephone advice line. Callers would explain their circumstances and would be given help in understanding how the tax and benefit rules apply to them and what requirements they have to meet. In some circumstances they might be told that no further effort would be made to pursue their past actions in respect of personal tax and NICs, provided they make a full and frank disclosure. To reduce inhibitions about calling, callers would not have to identify themselves. As a further guarantee of confidentiality, the line should perhaps be run by an independent third party. The line should be in a position to tell callers about opportunities that may be available to them (such as the Working Families Tax Credit) and also refer them to other support and advice services, eg for small businesses. This would make the transition to legitimacy easier.\textsuperscript{55}

Street(UK) was set up in 2000 to offer loans, advice and business support to self-employed people and micro-enterprises, especially those wishing to formalise their business. The project has around 200 clients and they fall into two main categories: ■ people claiming benefits – such as disability benefit, carers’ allowance; ■ those not claiming any benefit but who are either not declaring or under-declaring income from their enterprise activity; Street(UK)’s approach is to provide them with the tools to make the transition into the formal economy. Since Street(UK) clients include a wide variety of people at different stages of development of their enterprises, their approach is to monitor clients’ progression in each of the areas listed below: 1

\textsuperscript{54} Small Business Council, op.cit., 6
\textsuperscript{55} Garbiner, The Informal Economy, 2000, \url{http://www.hm-treasury.gov.uk}, 3.12
Moving from part-time to full-time work; 2 Moving from home to business premises; 3 Keeping basic level records; 4 Keeping higher level accounts; 5 Purchasing public liability and employers liability insurance; 6 Hiring employees on a PAYE basis; 7 Using a bank account for their business transactions; 8 Opening a separate business bank account; 9 Obtaining the required licences and permits to operate the business; e.g. Health and safety inspection certificates, driver instructor licence, etc 10 Graduating off all non-work state benefits; 11 Graduating from majority cash revenues to majority invoiced revenues; 12 Incurring a formal business tax liability; and 13 Becoming VAT registered. This third sector community-based business finance, support and advice service thus represents one model for developing a ‘transition service’ infrastructure.\(^{56}\)

\(^{56}\) Small Business Council, op.cit., 17
4. Establishing a track for smooth transition to white work

As important it may be to have reliable and confidential counsel to help enterprises and workers make the step to registered work and accurately declared incomes out of work, the counsel’s work to convince the concerned persons to make the step to legality should be corroborated with the elaboration of a clear path to make an as smooth possible transition to white work.

Renooy & Co\textsuperscript{57} report that for the new member states of the EU in Central and Eastern Europe ‘stimulating measures’ aimed at the transformation of undeclared work (creating better conditions for legal jobs, improving business environment) seem to be more effective than preventive or repressive ones (control and punishment). Repressive (controlling) measures seem to work better in countries with a higher civic and business culture.

This transitional paths may include incentives for disclosure of enterprises, work or income out of work which until now was kept hidden for the authorities, in our field of interest, for the social security institutions.

Interesting voluntary disclosure systems seem to have been developed in North America. The voluntary disclosure has already a record mainly in the tax area, but could be translated mutatis mutandis in the area of social security (contributions).

We should not be surprised that the British Small Business Council advocates the introduction of a ‘voluntary disclosure system’ based on the ‘offer in compromise’ (OIC) model in the USA. The objective of the OIC programme is to establish, in advance, the procedures for voluntary disclosure so that they are clear to all parties. It also enables the Revenue Departments to accept a compromise on previous undeclared earnings when it is in the best interests of both the taxpayer and the government. Its main objective however is to promote voluntary compliance with all

\textsuperscript{57} Renooy, P., op.cit., p.155.
future payment and filing requirements. Such a system could be used as an incentive to come clean about past misdemeanors and to facilitate voluntary compliance in the future. When Revenue Canada introduced a voluntary disclosure policy, it resulted in voluntary disclosures quadrupling.58

Offer in compromise in the USA is open to taxpayers who are unable to pay a tax debt in full when an installment agreement is not an option. Generally, the OIC is seen as a last resort after taxpayers have explored all other available payment options. The IRS resolves less than 1 per cent of all balance due accounts through the OIC programme. An OIC is an agreement between a taxpayer and the IRS that resolves the taxpayers tax debt. The IRS has the authority to settle or ‘compromise’ federal tax liabilities by accepting less than full payment under certain circumstances. A tax debt can be legally compromised for one of the following reasons:

■ Doubt as to liability;
■ Doubt as to collectability;
■ Effective tax administration.

Under this third option there is no doubt that the tax is correct, and no doubt it is owed, but an exceptional circumstance exists that allows the IRS to consider a taxpayer’s OIC. To be eligible for a compromise on this basis, the taxpayer must demonstrate that collection of the tax would create an economic hardship or would be unfair and inequitable.

The objective of the OIC programme is to accept a compromise when it is in the best interests of both the taxpayer and the government and it promotes voluntary compliance with all future payment and filing requirements.

Such a system could be used as an incentive to come clean about past misdemeanours and to facilitate voluntary compliance in the future. If a person comes forward who has been working informally, an OIC could in some circumstances be offered.

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58 Small Business Council, op.cit., 6 and 15
It may not be sufficient to try to find a fair way of settling the past; it may be needed to convince the concerned enterprises and workers by allowing them to gradually transit from black work to declared work. In other words the duties related to declared work could transitionally be softened to attract people to disclose their activities and at the end, get into a fully normalised, registered situation. Interesting in this respect was the experience with the realignment contract in Italy\(^{59}\)

The realignment contract started in 1988 in the Southern regions of Italy.\(^{(\mbox{in accordance with law 210/1990 and subsequent modifications})}\): 7 unions and business associations could determine a minimum wage (no less than 25 per cent of the minimum salary established in the national labour contract) at the provincial level, to be adjusted within three years to 100 per cent of the national contract salary, with the twin objective of reducing the tax and social contribution burden for that time period and condoning past non-compliance in terms of tax evasion, safety in the workplace and welfare. The idea behind this policy was that labour costs are the only cause driving firms to avoid national labour contracts. The three year period and the granted allowances were considered enough to enforce regulation.

The results obtained were not the ones hoped. This was because labour costs, although a major cause of informal activities, are not the only ones. Where the realignment contract has had more success in terms of numbers of adhering firms and workers – in the Lecce province (Puglia region) 40 per cent of firms adhered – it has taken a good ten years to achieve an 80 per cent alignment with the national labour contract. This may be the fault of those firms who decided to free-ride, in order to acquire a competitive advantage. In addition, with international competition on the rise, unions and firms asked the government to prolong the grace period -

\(^{59}\) Case reported by Bàculo, L., art.cit, 562 ff.; see also Bàculo, L., Valutazione di una politica per l'emersione: i contratti di riallineamento, in Rassegna Italiana di valutazione, 2003,n.26.
from three to ten years. But, this stopped all innovation aimed at improving and increasing the competitive edge of enterprises.

The contract alignment policy proved unpopular in other regions in the South due to some pre-existing characteristics of the informal economies there, in particular, a low qualified labour force and irregularities which proved difficult to tackle (for example, premises in non-compliance with building codes).

After a few years later, realignment contracts were totally abandoned following a decision by the European Union which opposed interventions favoring single areas in a country, in this case the South. The initiative was however followed by another Italian initiative to fight undeclared work: a tax and social contribution alleviation for regularisation (according to the Italian Law 383/2001)\textsuperscript{60}

In 2001 the Italian Parliament approved law 383/2001 granting considerable tax and social contribution deductions over a three year period to those firms interested in regularizing. Despite various modifications to the law introduced to render it more adequate and to correct some initial errors, a meager number of firms applied for regularization. Interviews with entrepreneurs revealed that the proposal contained in law 383/2001 would not sufficiently alleviate the tax and social contribution burden that firms would have borne at the end of the three-year grace period. These interviews confirm a general weakness of the entrepreneurs and the need for a multifaceted policy: less fiscal and social burden, along with support for entrepreneurs and the development of a quality labour force: in other words, a need for improving company performance and competitiveness. In interviews with workers, it was found that some of them, women in particular, did not want to be formalized, in order to continue receiving unemployment subsidies or family assistance benefits. They know that they are defrauding the government. However, they think that defrauding the state is not that bad, because the state is responsible for public service inefficiencies, favouritism and corruption. Actually, for cultural

\textsuperscript{60} Case reported by Bàculo, L., art.cit, 562 ff.; see also Bàculo, L. (editor), Politiche di emersione e Politiche di sviluppo locale, Edizioni Scientifiche Italiane, Napoli, 2004.; see also Renooy, P. , op. cit., pp.172-173
reasons rooted in history the citizens of the Southern regions have always considered the public administration as oppressive and hostile.

In the National Action Plan for Employment 2005-2008 of Croatia key measure 29 holds that the “[t]ransitions will be fostered from undeclared work to the official economy via incentives, amnesty and greater penalties”, assigning the responsibility for doing so to the Ministry of Finance.

For Macedonia Liljana Jankulovska of the Federation of Trade Unions of Macedonia CCM reports that the Federation is of the opinion that “Legal possibilities must be created for recognition of today’s informal work as work experience, with the possibility that employers will pay informal workers’ contributions and taxes retroactively at an agreed-upon rate”61

5. Involvement of the concerned groups

We would like to start here by repeating what we already wrote in our Regional Assessment report from a social policy perspective (under heading 13.3.2.): “No social protection system, nor a reform of it can be sustained without widespread public acceptance.

Employers organizations and trade unions may play a crucial role in contributing to such a consensus. Of course one has to take into account that some of these organizations are still struggling to be really representative for all the employers and all the workers they are supposed to represent.”

The importance of the role to be played by employers organizations and trade unions is especially prominent in the field of the promotion of (registered) employment.”

Also the Commission and the Council of Ministers of the European Union expect an important contribution in the fight against undecleared work from the social partners. In its Communication on Undeclared Work, the EC Commission favoured “a greater involvement of the social partners in information, enforcement and control, at the sectoral, local and European level”; stating also “The social partners can have an important role to play in combating undeclared work. This may for example take the form of vigilance at individual work places to ensure that regulations and working contracts are respected. In some countries collaboration with the industrial and trade union bodies from the sectors concerned has also been initiated. In France, for example, the government and certain industries have collaborated on information campaigns in order to encourage people to use declared labour for construction and for house-moving. Moreover, wherever there are wide ranging tripartite agreements any strategy to favour the reintegration of undeclared work is negotiated and monitored through
the social partners.” The Council in its resolution on transforming undeclared work into regular Employment invites the social partners:

“at European level:
3.1. To consistently address the issue of undeclared work in the context of their jointly agreed multi-annual work programme;
3.2. To further deal with undeclared work at sectoral level in the context of the sectoral social dialogue committees;

at national level:
3.3. To promote the declaration of economic activity and employment and combat the incidence of undeclared work through awareness-raising and other actions such as, where appropriate, collective bargaining undertaken in accordance with national traditions and practice, in ways which contribute inter alia to the simplification of the business environment, particularly as far as small and medium-sized enterprises are concerned.”

The reality may however be somewhat different.

Unions and employer organizations might be expected to favour the suppression of undeclared work for a range of reasons, including unfair competition. However the social partners may be reluctant to recognise the informal economy because they do not manage or represent employers and workers in this area, and because effective policies will involve giving government (e.g. tax) inspectors key powers in workplace. The OECD employment outlook suggests furthermore that “perhaps related to this, the ILO and its supervisory organs have over the years been quite cautious about analyzing policies towards the informal sector”.

In some countries the employers are especially invited to denounce competitors who are employing people without due declaration. The OECD employment outlook reports that in France employers may denounce individuals who supply undeclared work (generally in cases of unfair competition). In Quebec, a website for plumbing professionals sets out how they can denounce black-market competitors (www.cmmtq.org). In the United Kingdom the government set up a business anti-fraud hotline in 1998 which claimed immediate success (www.dwp.gov.uk/mediacentre/dss/, January and February 1998). The front page of the Australian Tax Office website (www.ato.gov.au) invites all callers to report suspected tax evasion.66

Furthermore the OECD document reports that collective agreements may commit both parties to denounce black-market work. In Belgium, an agreement with the Labour Ministry commits the cleaning and transport sectors to informing the public about the quality and guarantees offered by enterprises which respect the law, to notify illegal practices to public authorities and themselves take cases to court. In Switzerland, collective agreements in construction, plasterwork, painting, hairdressing, heating, ventilation, plumbing, metalwork and carpentry contain measures against blackmarket work, and have been extended to all employers in these sectors.67

For Macedonia Liljana Jankulovska of the Federation of Trade Unions of Macedonia CCM reports that the Federation is of the opinion that there must be a debate between social partners on unemployment and the informal sector, and on finding joint measures and activities for resolving the problems of unemployment and the informal sector.68

The personal scope of social security arrangements

1. Social protection for all (workers)

The right to social security is considered by many international and national constitutional legal instruments as a fundamental right of each person. Yet the way this right is realised may differ considerably. It is e.g. accepted that nevertheless a substantial number of social security rights are restricted to workers. Yet we see that informal workers, although in fact also workers, are as a rule excluded from these social security rights. We already had the opportunity in our General Context chapter to present the ‘decent work for all’-approach supported by the ILO. We shall not come back to this. Yet let us merely remember that only exceptionally social security protection is linked to work and not to formal work. This is already through in the ILO Conventions and recommendations themselves. Few are the exceptions. The provisions of the Maternity Protection Convention, 2000 (No. 183), already apply to "all employed women, including those in atypical forms of dependent work". Its principles should apply to all women in informal work, consistently with its definition of "woman" as "any female person without discrimination whatsoever". It should also be recalled that the Workers With Family Responsibilities Convention, 1981 (No. 156) applies to "all branches of economic activity and all categories or workers". Most informal work however is not covered by any legal protection regarding occupational safety and health. The provisions of the Occupational Safety and Health Convention, 1981 (No. 155) though should apply to workers in informal employment and not only to "employed persons".

Where social security and especially social insurance are linked to the status of formal worker, and the latter status is restricted to persons actually employed under a certain type of contract, larger number of workers are pushed out of formal employment and thus out of social insurance.
Although the issue certainly exceeds the scope of present study, we cannot pass by the problems posed by an excessive regulation both of formal employment and the termination thereof.

In our earlier Regional assessment report from a social policy perspective we already wrote under the heading ‘3.3.3. Flexibility in employment’:

“It has already been observed by many that the regulation of labour is still in many a country of the region taking the full time long term labour contract with one employer as the standard to be strived for. Other forms of employment, such as part time jobs, jobs in more than one capacity (both employee and self-employed e.g.), teleworking etc., are excluded or at least, dealt with as exceptions. If more flexibility is to be achieved, and through it more (registered) employment, it will be necessary to adapt labour legislation in order to give all kinds of more flexible forms of employment a decent place. One will also have to reflect about the (amounts of the) severance pays, the preconditions of dismissal, the duration of the dismissal notices etc.

What is of interest to us here, is that also the social security system should abandon its preconception of a ‘normal career’ of uninterrupted full time employment during some tens of years. The ways of connecting the entitlement to benefits to a number of years, months or weeks performed, need to be adapted to a more flexible employment reality. The rule existing in some countries of the region that the tax and contribution bases are for individual persons set at minimum levels which are based on full time employment is a hindrance for development of part-time jobs. In general, all social security systems should be scrutinized in order to explore how they can better be adapted to all kinds of registered work, other than full time employment with one employer. This will also contribute to bring flexible forms of employment which today do not fit in, to the surface and make them registered work.”
The Commission of the EC in its Communication on Undeclared Work (COM(98)-219) also points at the need of the “adaptation of inappropriate labour legislation in line with the evolution of new types of work” and of the “reform of the social protection system to cover short spells of work, irregular work, people in and out of employment, care etc.”

We should not be surprised that in the Macedonian National Action Plan for Employment 2004-2005 we find that Macedonia proposes as an answer to the EU guideline to eliminate work: the reduction of the regulatory barriers to formal employment and the reduction of the costs and other requirement for laying off workers. In the same sense Poot and de Voogd suggest in their report: “Legal and other constraints to part-time employment should be taken away. The Labour Relations Law and several regulations need to be adapted if part-time work will be accepted as a normal way of employment besides full-time employment, including reference to the 40 hour working week as the standard and changing overtime regulations. […]”

Legal constraints that exclude the possibility that a person has different statuses (employed, unemployed and self employed) are to be removed.

Legislation for temporary work agencies is to be drafted in order to allow them to operate in a legal way.[…]

Civil law contracts are now subject to taxation only. No social contributions are raised from the remuneration of these contracts. Reportedly, they are widely used to evade regular work contracts. It is suggested to restrict the conditions under which exemption of social contributions is allowed.”

For Serbia e.g. it is reported that “[a] relative inertia in the formal labour market, the recent rigid legislation in labour relations, and low wages and relatively high taxes and contributions on wages in the previous period were the main stimulants for the functioning and spread of the informal labour market. A high degree of discrepancy between the supply and demand for labour, a high hidden unemployment rate and the considerable size of the informal labour market, indicate that the formal labour market does not function adequately, i.e., that it does not allocate human resources optimally.”

As far as the social security schemes for salaried workers are concerned, we strongly hold the view that not the formal (written) labour contract should determine whether someone is socially insured, but rather the situation in reality: is there any performance of work for and in subordination to another (the employer) against payment of some form of wage. Is this the case than there is employer-wage-earner relation and thus there should be declaration and affiliation to social insurance.

The development of decent social insurance schemes covering also self-employed and all kinds of farmers may also contribute to a better control of the labour market and hence more declared work and hence to a more sustainable social security protection for all. We can only repeat what we already wrote in the Regional assessment report from a social policy perspective under heading 3.3.4; “Need it to be said, that when people are pushed to engage in self-employment, this can only be a valid social policy, if self-employment itself is the object of a decent social protection scheme. In other words turning (unemployed) wage earners to self-employed, presupposes a decent and adapted social security system for or open to the self-employed. Identification of self-employment with some non protected ‘informal’ sector of activity is not acceptable.” And under heading 4.2 we wrote: “Often no social contributions are raised from the

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remuneration for work performed under so-called civil law contracts. Reportedly, they are sometimes widely used to evade regular work contracts. It is suggested to restrict very much the conditions under which exemption of social contributions is allowed.

More in general, the self-employed are often ‘enjoying’ unclear and inadequate social protection systems. Sometimes they are assimilated to wage earners and confronted as a consequence to a legislation not adapted to their specific reality. Other times they are abandoned to the ‘informal sector’ and to the untrue belief that they are risk takers and should thus be able to take care of themselves. Here an important legislative work has still to be undertaken to provide the self employed with an adapted and adequate social protection, which possibly could also be opened up to all those who now perform small works in the informal sector.”
2. Minority arrangements?

Should the issue of undeclared work be dealt with in a different way when ethnic or other minorities are involved? Our staring point cannot be different from what we already wrote in our Regional assessment report from a social policy perspective (under heading 3.4):

“The delicacy of developing positive action programs and support targeted to minority groups, and e.g. to the Roma should not be underestimated. Whereas they may suffer from considerable (at least de facto) discrimination, doing something to improve their situation should not be interpreted by the majorities of the countries as extending privileges to them. The key words here should be ‘inclusion’ and ‘mainstreaming’.

Affirmative action should be developed in such a way as not to deteriorate inter-ethnic relations (‘do no harm’ approach). Well intentioned foreign advises may otherwise have perverse effects.”

This question arises e.g. in Serbia in relation with the Roma, which may be heavily depending upon activities in the underground economy. Following the principle of mainstreaming we do not favour special actions directed to the Roma group as such, but we are in favour of considering also their specific situation when developing strategies for fighting undeclared work in general. This implies amongst other things also paying due attention to the information of the concerned groups, if necessary in their languages. In line with this the Strategy for the Integration and the Employment of the Roma in Serbia foresaw that the Government should develop, in co-operation with the relevant Roma organisations, an information campaign especially for the Roma on their rights and duties in the field of employment, about the different forms of help available from administrative bodies and about the functioning of institutions such as social security. 73

73 Draft Strategy for the Integration and Empowerment of the Roma, 2.7 and 3.4.8.
We should add here also the practical problems that a person wanting to work in a legal, declared way can face. As we wrote also in our Regional assessment report from a social policy perspective (under heading 4.3.): “One thing is to belong to the personal scope of a social insurance, social assistance or welfare arrangement, another thing is to prove that one is. Here people may be confronted with the difficulty to prove once citizenship or place of residence. This seems a particular point of concern in the region, especially for already socially weak groups, such as Roma, internally displaced persons and refugees. Many Roma lack personal documents and sometimes even citizenship. The Roma encounter difficulties in accessing documents including birth certificates, personal identification cards, documents related to health insurance and social aid, passports. The lack of one document can lead to the impossibility to get others and access social benefits or registered work. Informal settlements (especially of Roma and other displaced persons or refugees) may constitute a problem as far as the identification of the place of residence is concerned.”

We can also only repeat what we wrote in our Regional assessment report from a social policy perspective (under heading 3.4): “The internally displaced persons and the refugees, proceeding from the wars which recently hit the region, are very often those who suffer most from deprivation and unemployment. Here also it is important to have an inclusive and mainstreaming approach. The perspective of once returning home should certainly not be abandoned, but at least in social protection one has to have the courage to face reality and not confine the concerned to a poor and idle provisorium, in the expectance of return once. Practically speaking, this will mean a readiness to deal with these people as an integral part of the own country and to try to provide also them with registered work and decent social protection.” Not providing these people with the same opportunities of (declared) work as nationals, pushes them into black and grey work.
3. Social security rights for illegal workers?

In the report Schoukens and Pieters made reflecting the vision of the future of the CEO's of social security in Western Europe, the link between black and grey work and illegal immigration was clearly put forward. In many countries, CEOs linked the issue of black and grey work to the phenomenon of illegal immigration (SWEDEN, DENMARK, NORWAY, SPAIN, PORTUGAL, FRANCE, THE NETHERLANDS, IRELAND, GERMANY). Only exceptionally, a CEO refuted the idea that immigrants would take a bigger part in defrauding social security than the autochthonous people (FRANCE). In Great Britain, the issue was touched upon indirectly by referring to the growing problem of identity fraud.

Generally, illegal labour migrants constitute by far larger percentages of the total of people working without (full) registration with the social (and tax) authorities, than autochthonous people. This is not surprising as persons who are not allowed to stay or work in the country, are more or less bound to take up black work.

Most countries do not provide social insurance benefits to illegal foreign workers; the latter do not qualify for social security affiliation, as they are not staying (universal insurances) or working (professional insurances) legally in the country. Nevertheless, even illegal people will sometimes be entitled to some social benefits, especially to health care, family allowances and social assistance. In such case, they obviously cause costs for the social security systems, whereas in principle they do not contribute to the financing of social protection (since they do not pay social contributions nor direct taxes).

Yet we can only repeat for the region what we already wrote in our Regional assessment report from a social policy perspective (under heading 4.4.):

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“The easy reasoning is: people illegally staying and/or working in the country, place themselves outside the law and thus also outside the social security system. They should not be or work here, so they cannot claim any social security entitlement. Recent evolutions and research has shown in the European Union that this reasoning cannot be seen as valid anymore, not from a human point of view, nor even from a legal point a view. It would be important that the countries in the region of our interest would also define the rights that even illegals and undocumented foreigners could claim in their country. In this way a real social problem could be addressed, without having to extend all social security rights also to those who are illegally staying and/or working in the country.

This is all the more true for a category of persons which in fact is neither legally nor illegally staying in the country, i.e. the sometimes important groups of ‘tolerated persons’, persons without title to stay or work in the country, but which the national authorities decided not to expel from the country neither.”

May we limit ourselves to suggest to get some inspiration in our earlier work for the Council of Europe, ‘Exploratory Report on the Access to Social Protection for Illegal Labour Migrants’.

The benefits

1. Reducing the social security burden upon labour

Social security costs money and the money has to come from somewhere. We know by now that a too big ‘wedge’ between gross income (wage plus employers’ contributions) and net income earned (after social security and tax levies) induces costly labour and thus destroys employment. Hence of course, the many who plead for containing or reducing the social security contributions and/or income and profit taxes. Marginally such reductions may have positive effects on the economy, yet it remains to be seen whether the losses for the social security finances generated by such reduction, can be compensated by more people in declared work. Although the credo of reducing the level of existing levies is chanted in many countries, the feasibility to combine such reductions with maintaining the standards of social protection is restricted. We therefore consider it a bit ‘easy’ and thus a bit ‘useless’ to put forward as a solution to reduce the volume of undeclared work, that the social security levies should be lowered. We shall come back to this in the next point when dealing with the importance to have a sound relation between social security contributions and social security benefits. May we suffice to disagree here with the conclusion of the OECD employment outlook examining the delivery of social protection through social insurance in an economy with informal employment, where it states referring to Marc and Kudatgobilik:" “In the poor countries of Southeast Europe, in which potential for large savings is limited and informal activity is widespread, financing social protection and health insurance through payroll taxes does not seem to be appropriate. It can only increase the rigidity of the labour market, be very costly in terms of tax collection and ineffective in mobilizing savings. It also contributes to social exclusion by not covering people employed in the informal sector – this is particularly relevant for health insurance. A major effort in this area is needed by governments and donors to find more
effective ways of financing social programs.”76 We tend to strongly disagree with this conclusion, as it is based on the premise that once there is large undeclared work, it hardly can be tackled, and moreover, it fails to present a better alternative.

2. The benefits and contribution structure in general

The over-all sound relationship between the way (and level) contributions are levied (at) and the way these lead to benefits (and the level these are set) is felt to be extremely important for avoiding undeclared work in social security. The EC Commission in its Communication of the Commission on Undeclared Work expressed the opinion that “If it is mainly an issue of individuals or firms taking advantage of the system and damaging everybody’s welfare in the process, then intervention should […] concentrate on: […]

· favouring systems where the rights to social protection benefits are linked to contributions effectively made.”

In the OECD employment outlook of 2004 we also find interesting observations concerning the relation between social security benefits as an incentive for declaration of work. “A link between social security entitlements and contributions improves the incentive to declare employment relationships. However, social insurance is not actuarially neutral for individuals for a number of reasons:
- It redistributes across incomes, i.e. contributions typically increase with income more than benefits do.
- It redistributes across risks, e.g. low-risk employers pay the same unemployment insurance contributions or accident insurance contributions as high-risk employers.
- Contributions towards pensions to be received forty and more years ahead are subject to a large financial discount and the risk of changes to the pension entitlement rules.
- Entitlement rules incorporate various non-linearities, thresholds and kinks, creating a high individual return to additional contributions at the margin in some areas, offset by low individual return in other areas.

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- The employment of the head of household in some cases provides health insurance coverage for dependent relatives (spouses and adult children), and disability and old age pensions with supplements for dependents and continuing entitlements for survivors. As a result, secondary family members can often get relatively little additional return from social security contributions that are paid if they enter formal-sector jobs.

So even though the return to social insurance contributions at the margin may be positive for some individuals, it inevitably is negative (in the same sense as it is for income tax payments, *i.e.* the contributions may be socially justified, but they finance public goods) on average. Even where many workers place a high value on social insurance entitlements, there are many others who would prefer not to pay the contributions.”

Sometimes the discrepancy between the wages in the informal and those in the formal sector are too important.

For Serbia we can read e.g. that “[t]he attractiveness of the hidden labour market lies in the fact that average earnings per hour were 28% higher than in the formal labour market, amounting to 83 Dinars or 1.3 USD. Higher earnings per hour in the informal than in the formal labour market, among other things, emanate from tax evasion. Another important characteristic of the grey economy is that it more adequately rewards educational attainment, in view of the fact that average earnings per hour of those with the highest educational qualifications were more than twice (2.7) as high as the earnings of those with secondary school qualifications, and more than twice as high as the wages of employees with university qualifications in the formal sector.”

In our Regional assessment report from a social policy perspective we addressed in relation with financing (heading 11) the very relation between contributions and

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benefits; we repeat the essentials here as we believe that these aspects directly affect the fight against undeclared work:

“It is important that as much as possible the contributions are levied on the total real income out of work of the socially insured. Working with maxima contribution levels, can be justified in some cases, but it should at least be considered whether it would not be better to do away with caps in the benefits, even if the principle of proportionality could be adjusted in a progressive way. In other words one might want to examine the opportunity of doing away with maxima both at the contribution and benefit side, in order to reinforce the proportionality principle, be it that the last € of contribution is not bound to result in an as high return in benefit as the first €.

Also minimum contributions deserve special attention; they may be useful in cases of very low paid jobs or when the income out of work is low and hard to control. Yet one should avoid to set minimum contribution levels (e.g. for some unemployed) which in fact become the ‘normal’ contributions, also of people having obviously an income way above the minimum. If a minimum contribution is used, it may be good to relate it to the normal contribution rate on the minimum wage (or a fraction thereof) or to the normal contribution on an income equal to e.g. 2/3 of the average wage.

If a person is working in more than one employment, it should also be preferred to calculate the contributions (and benefits) on the total income out of work in all jobs, and thus not job by job. This could stimulate the desired flexibilisation of the labour market.

[...] In general the level of contributions and the assessment of the contribution basis should get special attention when dealing with (social security schemes for) self-employed. All too often these are established in a rather simplistic analogy with those valid for wage earners.” With the latter are than meant the full time wage earners working for one employer.
We consequently tend not to agree with Poot and de Voogd\textsuperscript{80} where they propose for Macedonia to do away with the rule that the tax and contribution bases are set for individuals at minimum levels based on full-time employment (65% of the average wage), nor do we agree with their proposal to introduce a maximum contribution basis, to be set at about 2,5 times the average net salary. The minimum contribution base was introduced as a reaction to growing practices of underreporting of actually paid wages. We believe that by way of principle, there is to be said something in favor of such an approach, be it that it might be refined some more, e.g. by taking a more household based approach as in our Model Provisions. Poot and de Voogd criticize the minimum contributions as these would exercise a “distorting role […] for low skilled and part-time work”. They advocate to have levies on the actually paid wages.\textsuperscript{81} We hold however that having a minimum contribution basis is not contradictory with levying contributions on the real incomes out of work, as we tried to develop in our Model Provisions. At the end of the day the income on which the family is to subsist has to come from somewhere!

Between 1992 and 1994 a document called “Model Provisions in the field of social security” was prepared and then published by the Council of Europe’s Directorate of Social and Economic Affairs. It was followed in the year 2001, by new “Model Provisions in the field of social security” now not for the Central and Eastern European member states of the Council, but adapted to the needs of the then three new member states of the Council of Europe: Armenia, Azerbaijan and Georgia. In these “Model Provisions in the field of social security for the South-Caucasian region”, Paul Schoukens and Danny Pieters sketched a possible way to structure ones national social security in a way which was in line with the European Code of Social Security and its Protocol. The meaning of Model provisions in the field of

\textsuperscript{80} Poot, H. & de Voogd, J, Policies and programmes for reducing poverty and unemployment. (ECORYS) Skopje, 2003, 94 pages, iii-iv

\textsuperscript{81} Poot, H. & de Voogd, J, Policies and programmes for reducing poverty and unemployment. (ECORYS) Skopje, 2003, 94 pages, p.26
social security should primarily be found in an attempt to show how a social security system conforms to the norms of the Council of Europe; they also reflect modern thinking about social security. In that sense the present exercise could show useful far beyond the limits of the present challenges in the concerned regions, as it depicts a kind of abstract European vision of social protection. By no means should the Model provision be understood as the one and only way in which a country, viz. a new member state of the Council of European can fulfil its duties under the European Code of Social Security and its Protocol. In reality no country of the Council of Europe has a social security system completely corresponding to the Model provisions. Nor did authors conceive the Model provisions as the best social security system possible. This 'Model' is not the universal solution for the design of a social security system good for all. To the contrary, the authors are fully aware of the fact that only the peoples and policy makers of each concerned country separately are able to know best what is good for their own country and the men and women living in it.

Yet the model provisions for the South Caucasian Region may be of interest for the present report as its authors tried especially to take into account the real problem of huge numbers of black and grey workers, and hence wanted to design the 'model' social security structure in such a way as to counter the phenomena of black and grey work from inside the system design itself. Let us review some of the most important parts of the Model provisions in this respect.

The 'model' social security system distinguishes between general schemes and workers schemes. The general schemes provide all residents of the country with:
- general old age pensions;
- attendance benefits;
- health care;
- child benefits; and
- birth grants

The workers schemes grant all workers of the country:
- retirement pensions;
- benefits for survivors;
- sickness benefits;
- maternity benefits;
- invalidity pensions; and
- unemployment benefits. (Article 1.1.1.)

In principle the Model Provisions consider to be "workers", all residents earning an income from work under any type of contract or arrangement, including public sector employees and self-employed workers. (Article 1.2.2.)

Key concepts in the Model Provisions are the poverty line and the household.

According to article 1.2.3. Parliament establishes a basket of goods and services, which can be considered representing what is necessary for the members of one household for living a life in accordance with human dignity. The Government fixes every year the amounts of money corresponding to the cost of this basket of goods and services; it publishes the figures as the relevant 'poverty lines' of the next year. The poverty line is differentiated according to the number of adults and the number of children composing the household; and possibly according to their age. Article 1.2.4. defines household as the person or the group of persons sharing a major part of incomes and/or expenses. Each person belongs to one and only one household.

Further registration shall be made of the composition of the households.

With relation to the fight against black and grey work, chapter III dealing with the Financing is crucial. Again a distinction is made between the general schemes and the worker schemes.

The general schemes are basically financed out of the general contribution due by all residents and may as well be financially supported by special earmarked taxes and transfers from the Workers Social Funds. (Article 1.3.1.1.) The general contribution is equal to a percentage of the personal income. This percentage is fixed by the competent minister. For all residents the general contribution will at least amount to the set percentage of the relevant poverty line. As a consequence, residents of the same household have fulfilled their general contribution duty from the moment that a total sum equivalent to the set percentage of the relevant
poverty line established for such an household will have been paid (Article 1.3.1.2.).

In case a resident and his/her family members composing the same household are unable to pay even the minimal general contribution, being the set percentage of the relevant poverty line, the competent social assistance authority will advance or pay the general contribution. The social assistance authority competent is, unless otherwise established, the authority of the place of permanent residence, or, if no such place can be established, of the capital city (Article 1.3.1.4.). Without prejudice to the possibility of imposition of all sanctions foreseen under tax and penal law, intentional failure to pay general contribution can result in total or partial, temporary or definitive forfeiture of the general benefit. (Article 1.3.1.5.)

The workers schemes are financed out of social contributions, due by the workers and/or their possible employer. (Article 1.3.2.1.)

The social contribution is calculated as a percentage of the income out of work before payment of taxes. All income from work is taken into account, whatever the type of contract or arrangement the work is performed under, including public service sector employment and professional activities as a self-employed. Social security benefits replacing income out of work may also be totally or partially subject to social contribution.

This percentage of social contributions is fixed by the competent authority.

The competent minister will after decide what (part of the) social contributions is eventually to be paid as employers' and what as employed persons' contribution; the total of social contributions of the employed person never exceeding the total of social contributions of his employer.

The social contribution of a full time worker is always at least calculated on the officially established minimum wage, or, if this would be an higher amount, on the officially established poverty line for an isolated person.

The percentage of social contribution may differ between the employed workers and the self-employed workers.

Employers and self employed persons are responsible for the correct payment of all social contributions, be it the employer's or the employed person's part. In order to
respond to their responsibilities, they withhold the employed person’s part from the wage of the employed person.

The employed person’s part is however reduced with the amount of the general contribution paid over the same period. The employer will have to submit the proof of payment of the general contribution by the worker in order to deduct the corresponding amount from the social contribution liability.

The social contribution paid by the self-employed person is reduced with half the amount of the general contribution paid over the same period. The self-employed person will have to submit the proof of payment of the general contribution in order to deduct the amount from his social contribution liability.

In case the household consists of several persons who are liable to pay a social contribution, the general contribution can only be deducted in an amount as many times as a general contribution that is being calculated on the poverty line for an isolated person. Each member of the household can deduct from his social contribution maximum an amount that equals the general contribution for an isolated person. (Article 1.3.2.2.)

When income from work is not declared, or social contributions are not paid within the prescribed time, sanctions are taken and interest is due according the regulations concerning personal income tax.

Employers and self employed persons neglecting or refusing to pay due social contributions will in any case be excluded from all tenders, public markets and contracts with public authorities. They will also not be allowed to the stock market. These employers and self employed persons will neither be allowed to leave the country (Article 1.3.2.4.).
3. The relation between contributions and pensions

In our Regional assessment report from a social policy perspective, we already addressed the issue of especially the pension schemes (under heading 6.1) where we wrote: “Often pension systems know minimal and maximal amounts. The minimum will be targeted to guarantee persons who have worked most of their lives, a decent pension above the poverty line, even if they earned little with their work before. One should pay attention though that minimal pensions do not undermine the reporting of the full income out of work and lead to under-contributing to the system: as the minimum is always being guaranteed! If income related pension arrangements are set up, one may reconsider minimal pensions in these arrangement and provide for another non contributory pension for all people over pension age.

Also maximal pension amounts may be questionable if the maxima are not set high enough (and the possible contribution maxima also). Indeed if the system wants to remain sane it is important that the (upcoming) middle income classes stay interested in participation. If thus the maxima are set at a too low level, these classes may have to complement the state pensions with private pensions, disaffecting this way the public system. The easily made next step is to call for even lower state pensions and more individual pension provision. The first victims of too low maxima may then very well be the lowest income classes!”

Renooy & Co.\(^82\) see the establishment of what they call ‘direct channels between tax contributions and received benefits’ as a good practice in fighting black and grey work, that was realized by the Swedish pension reform of the late nineties. In this respect they write:” Although the principal reason for reforming the pension system was that the cost of pensions had increased while growth was low, it has also had an undeniable effect on the incentives for working undeclared. The new pension systems is primarily based on career earnings

\(^82\) Renooy, P., op.cit., p.164.
along the lines of the lifetime earnings principle. This principle means that the value of all paid pension contributions – contributions paid in the course of working life – equals what is received as a pensioner. The system is hence, contrary to its predecessor, contribution-defined rather than benefit-defined. By shifting focus to lifetime earnings instead of incomes earned during a more limited time span, it clearly amounts to strong action taken against undeclared work.

By depositing a share of the contribution in an individual pre-paid pension account the linkages between contributions and what is finally received is also strengthened. The share deposited in this system always corresponds to money actually saved, and the growth of this money depends entirely on the returns of capital funds chosen by the pension-saver. This obviously highlights the connection between what is contributed today and what is returned as pension in the future. The incentives of the general public to contribute to the system by avoiding undeclared work are thereby enhanced."

A similar effect dissuasive of undeclared work is reported for the Baltic countries. In Estonia, the new pension scheme was seen as an incentive to find work in a formal setting, since the build-up of pension funds was connected to the formal salary. In Latvia the main feature of the pension reform was a gradual transition from a traditional PAYG system to a partially funded three-pillar system. Linking taxpayers’ contributions to benefits was thought to improve taxpayers’ morale and reduce underreporting. A move towards more equal shares of employees’ and employers’ social tax contributions was also a step in this direction. Also in Lithuania the launch of a pension reform and voluntary fully funded pension insurance was expected to strengthen incentives for formalising labour relationships. Starting from the beginning of 2004, insured individuals would be allowed to transfer 2.5 % of the state social insurance contribution to private pension funds or life insurance companies.

83 Renooy, P., op. cit., p.123.
84 Renooy, P., op.cit., p.128.
85 Renooy, P., op.cit., p.130
We tend to be less enthousiastic about the reforms sketched by Renooy & Co. as their effect upon turning undeclared work into declared still needs to be proven. Moreover, these reforms are much more complex and show a number of features which may indeed counter the positive effects of making the benefits more in line with the contributions. To mention only one: by making the result of the operation, the pension level, depending sometimes heavily upon the evolution of the financial markets (which are mainly to be situated outside the country) the linkage between social security and labour market incomes (at home) may get more and more lost. Pensions may then appear rather as the potential result of speculation than what one ‘earned’ by working and contributing to the social security system. Why than preferring one type of speculation (pension) over other forms: the step to not participating in the pension system and working in the underground economy could be made easier this way.
4. Health care

As for the health care, we maintain what we wrote earlier (under heading 9.1 of our Regional assessment report from a social policy perspective) that one should undertake “a strategic review of the health insurance systems in the countries of the region with a view to moving over to a tax-based system of health finance with universal health coverage to avoid the phenomenon of diminishing access to health care services due to unpaid health insurance contributions and in order to minimise the administrative costs of providing health care.” Yet we would also like to point out that from the perspective of the fight against undeclared work, it may be commendable to maintain a link between the payment of social insurance contributions (all branches) and the coverage of health care, as such would create an incentive for declaring work. Again the basic line could be that households do survive on income or on the benefits and assistance they get; so a minimal contribution could be calculated on the basis of what is needed minimally for the household. If the household is not in a position to pay such contribution social assistance could pay on their behalf. An illustration of this alternative road can be found in our Model Provisions proposal.
5. Working and receiving a benefit

Not seldom black and grey work is being performed by people who are recipients of a social security benefit and who are registered as such (as unemployed, work incapacitated etc.). The relation between receiving a benefit and working is complex. Let us merely address it from three angles:
- a) the existence of a good unemployment benefit scheme may as such already keep the recipients away from undeclared work, but it needs not to be;
- b) making recipients of social benefits work, may be a way of making it difficult or impossible for them to do undeclared work. Here workfare can in other words be used as a tool against black and grey work.
- c) more and more one is convinced that people who are confronted with unemployment, work incapacity etc. should be 'activated', i.e. brought back to a situation where they will not be dependent upon benefits but can earn an income out of their (declared) work. Yet very often every step in that direction, every little job or work taken up, may confront the benefit recipient with the reduction of even the loss of his/her benefit. Thus people who want to get out of their dependency situation may be specially attracted to do work undeclared. To counter this perverse effect, it is important to allow benefit recipients to combine to a certain extent receiving the benefit and doing (declared) work.

Each of these angles will be developed some more in the following paragraphs.

As to a), the OECD employment outlook provides us with interesting reflections concerning the relation between unemployment benefits and undeclared work. Unfortunately we cannot but find that in the Balkan region we are in the hypothesis of ineffective control of the unemployed. We read: “[…] the payment of (insurance-based or assistance-based) benefits during unemployment may reduce incentives for undeclared work. In the absence of unemployment benefits, unemployment is not a long-run option and many workers can only choose between regular work and undeclared work. If unemployment benefits are paid with lax controls on combining these with undeclared work, the benefits promote
undeclared work. But if controls are rigorous, the payment of benefits may discourage undeclared work among those who are temporarily unable to find regular work and facilitate its detection:

- Because of the reduced incentive for undeclared work, its volume is reduced and therefore more intensive inspection of the remaining amount of undeclared work is possible.

- The coverage of administrative records become more complete, and this may permit identification of individuals (e.g. prime-age males who are neither in work nor claiming benefits) who are working irregularly.

- In some countries without benefits, social security contributions and tax rates on low earnings are low and the tax authorities may have relatively little institutional incentive to investigate undeclared work. When benefits are paid, the benefit administration has a strong institutional incentive.66

As to b) we can refer to our Regional assessment report from a social policy perspective where we advocated (under heading 3.3.5.) the creation of public works and workfare, and this for reasons of its own. It needs however to be seen that in doing so, also a tool in the fight against undeclared work can be found. We wrote earlier: “We leave it open whether these public employment programs should result in registered socially insured work as such, or , should be performed as a kind of counter performance for receiving an unemployment or social assistance benefit. Whatever option is taken, the system should be complemented with a fair and effective sanction system for those potential beneficiaries who refuse to participate in it.” Whatever attitude is taken as to the status of the person performing the work under a workfare programme, what is sure is that the work he/she does is declared and known to social security. At the same time he/she will not be able to perform other work undeclared.

The problem with workfare approaches not seldom is that no decent work can be provided to the benefit recipients. Hence, ‘softer’ measures may be preferred, such as requiring people suspected of working while claiming they are unemployed to

attend the Jobcentre more frequently, and at unpredictable times, as a condition of receiving their benefit; as was suggested in Britain by Lord Garbiner.\textsuperscript{87}

In the United Kingdom claimants of Jobseeker’s Allowance must “sign on” at their Jobcentre as a condition of entitlement. The rules provide that: “A claimant shall attend at such place and at such time as the Secretary of State may specify by a notice in writing given or sent to the claimant.” Usually, job seekers have a regular appointment at the Jobcentre every two weeks, at which they are asked about their progress in looking for work, and are frequently offered the opportunity to apply for a job placement. The time of this appointment is usually fixed at the beginning of the claim. The fact that these jobsearch reviews are a regular appointment makes it easy for fraudsters to arrange their working lives around them. In most cases they will be able, and, if the employer is colluding, will be encouraged, to take time off work for that purpose. Hence the recommendations of Lord Garbiner to call people suspected of working while claiming a benefit to attend the Jobcentre more frequently, and at unpredictable times.

As to measures to activate the benefit recipients and keep them away from entering into undeclared work (c), a series of measures can be imagined: maintaining the entitlement for a while when taking up a job; keeping some income out of (declared) work out of the income testing etc.

Income and means testing are typical for social assistance arrangements and welfare services; they may also appear in relation with social insurances. In our Regional assessment report from a social policy perspective, we already wrote in relation with social assistance and welfare services (under heading 10.1): “A distinction can be made between benefits for persons capable of work but with limited resources; and benefits for needy persons unable to work (disabled; frail elderly, one parent families with child under 3 etc). It may be appropriate to make both the benefits and the demands for the first higher than for the second. More

\textsuperscript{87} Garbiner, The Informal Economy, 2000, \url{http://www.hm-treasury.gov.uk}, 7.23-30
specifically persons capable to work (fully or partially) should be encouraged to do so; this means that social assistance should not operate income tests which take into account the full income out of registered work. Indeed, by allowing people on social assistance to keep some of the money they earn through their work, they will be stimulated to follow a path which may lead them to self-help through income out of work.”

Lord Grabiner recommended that claimants of Jobseeker’s Allowance and Income Support (perhaps only long-term claimants) should automatically be offered an extended payment of their benefit when they report starting work. He recommended also that claims should be suspended rather than closed when claimants report starting work. This way, people whose job had ended would more easily be able to take up their benefit again (subject to the necessary safeguard of checking for changes in their circumstances), which would reduce some of the risk of taking a job. ⁸⁸

The UK ‘Back to Work Bonus’ was introduced in October 1996 with the aim of encouraging individuals and their partners to ‘keep in touch’ with the labour market. They are incentivised to undertake small amounts of work whilst still claiming Income Support (IS) or Job Seekers Allowance (JSA). The rationale was that it would provide an incentive for claimants to move from unemployment into paid work. In effect it became a measure to condone paid informal work. It works in a complex way by the accrual of a bonus if the claimant’s earnings from part-time work reduce the amount of JSA or IS they are paid. They can then claim the bonus (a tax-free lump sum of up to £1,000) if and when they move off benefit and into proper work. The bonus is accumulated from 50 per cent of the declared earnings above the ‘earnings disregard’ (normally £5) but this can only commence after 91 days of being on IS /JSA. It also has to be claimed within 12 weeks of leaving benefit (otherwise it is lost) and it can only be paid if the claimant starts work within ⁸⁸

2 weeks of leaving benefit. It cannot be accrued by people over 60 claiming IS although men aged 60-64 on JSA can join the scheme. If a claimant is on IS, the earnings of the claimant’s partner are taken into account in the calculation of the bonus, but this is not the case if the claimant is on JSA.\textsuperscript{89}

In the National Action Plan for Employment 2005-2008 of Croatia key measure 30 holds that “[a]ll groups of registered unemployed persons will be activated and workfare will be introduced in the form of a pilot project”, assigning the responsibility for doing so to the Ministry of the Economy, Labor and Entrepreneurship, and to the Croatian Employment Service.

Also Poot and de Voogd\textsuperscript{90} suggest for Macedonia the introduction of workfare programs, as they suggest to improve the means test in the unemployment benefit scheme in order to allow unemployed persons to accept part-time jobs, whilst remaining (part-time) registered unemployed persons.

\textsuperscript{89} Small Business Council, op.cit., 13-14.
Creating attractive alternatives for black and grey work

Whereas certain sectors of economic activity are more prone to undeclared work, the strategy to fight undeclared work may consist in lifting some of the red tape or costs related to formal employment. It may even lead to simply take activities in such sectors out of the social insurance. In the latter way one solves the ‘black and grey work’- issue by simply lifting the social insurance duty. As a consequence all work performed in the sector than becomes ‘white’, but whether this is solving anything is highly questionable.

In the report Schoukens and Pieters made reflecting the vision of the future of the CEO’s of social security in Western Europe; attention was paid to all kinds of working without (full) social security coverage. Various CEOs expressed their concern that an increasing number of persons (who did not defraud the system, nor are immigrants) are not or not enough protected by the social security system, whilst legally working in the country. This situation is due to their irregular labour pattern or to all kinds of provisions ‘freeing’ some groups of workers from social insurance.

Some groups of workers (small jobs) may also be freed from social insurance, thus not having to pay any contributions because the volume of their work is restricted. This is in the end bad for those workers, as they will not receive any income replacement when they are facing a social risk. It is also negative for the state and the social security systems, as these persons will very often still benefit of (some) health care coverage and social assistance, thus creating costs usually avoided for socially insured people (as they contribute for insuring themselves).

A specific problem relates to people combining various small jobs, whose income out of each of these small jobs remains below the social insurance level, the total however not. Such workers combine several of these small jobs without declaring

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the total amount of their income. Hence they stay outside social insurance. Sometimes, it is difficult for the system to avoid these fraudulent behaviours.

Yet full exemption of social insurance is rather exceptional and one will rather turn to reducing the tax and social security burden on activities most exposed to black and grey work.

In Germany there has been already a rather long history of dealing in a special way with so-called minor employment (‘geringfügige Beschäftigung’). Renooy & Co. give a good summary of the evolution in this respect.92

“In the 1970s, the so-called minor employment (Geringfügige Beschäftigung) was introduced on the German labour market. It became increasingly popular in the 1990s as a form of low cost employment. Until 1999, minor employment was allowed up to a certain income level, then DM 630, and a weekly working time of 15 hours. It was completely exempt from social security payments on the side of employers and employees alike. Employers had to pay a lump-sum tax of 23%; employees had to pay no tax at all. Minor employment could be combined with normal employment and still be exempt from tax and social security contributions. This was a fairly liberal regime, which allowed for small jobs on the side for employees, students and pensioners alike, and for a small extra income for married people already insured by the family health scheme of their bread-winning partner. Originally, these groups were the target groups of the law, and were considered to be so small that their exemption from tax and social security payments would not cause any significant income losses for the state budget and the social security systems. However, during the 1990s, minor employment grew dramatically and became a significant part of the labour market. In the beginning of 1999, there were over 6.5 million minor jobs and these kinds of jobs represented almost 70% of all jobs in catering and 60% of all jobs in cleaning.

92 Renooy, P., op.cit., pp.168-170
This growth of minor jobs posed a threat to the financial basis of the social security system, in particular pensions and health insurance. Moreover, labour unions feared the loss of normal jobs in favour of minor jobs. So in 1999, the government reformed the minor jobs scheme somewhat, with a view to limiting its growth.

The Hartz Committee in 2002 launched new proposals for the minor jobs. The German government (newly re-elected at that time), adopted these proposals, introducing three types of mini jobs.

400 Euro jobs
The income limit of the 630 Deutsch Mark jobs was raised to € 400. Within this income limit, minijobs enjoyed social security contributions reduced to 23 % (12 % for the pension insurance system and 11 % for the health insurance system) and a lump-sum tax of 2 %. A major change of the 2003 reform was the lifting of the working time restriction of 15 hours per week. Now minor employment can be executed without any working time restrictions, presumably increasing flexibility for employers but also lifting a de-facto minimum wage.

Mini jobs in the household sector
Also introduced in the latest round of reforms, the household mini jobs are specifically geared at fighting undeclared work in the household sector (the Hartz Committee calculated between 1.2 and 2.9 million undeclared employment relations in this sphere). For household mini jobs, the employer has to pay a levy of 12 % (5 % for pension insurance scheme, 5 % for health insurance system and 2 % as a lump sum tax). Moreover, the employer can deduct a certain amount of payment from taxes (Dienstmädchenprivileg).

Midi jobs
In order to ease the transfer from minor into normal employment, a transition zone ranging between an income of € 400.01 to € 800 was introduced, in which social security contributions for the employee rise gradually from around 4 % to the full 21 %. Earlier, the sudden jump from zero to full social security contributions resulted in a real income loss when moving beyond the income limit (poverty trap)."
The informal economy there is often concentrated in some sectors, such as in the West firstly in the home maintenance and improvement sector and secondly other domestic services (e.g. household cleaning, gardening, child-care). Thus any tax measures developed should target these two economic sectors. One option would be to give straightforward relief on tax returns to customers using formal labour to do specific household maintenance tasks (e.g. roof maintenance, outside painting). This could be easily incorporated into the self-assessment tax returns. Another option is to learn from initiatives in other advanced market economies. For example the Home Service Scheme in Denmark allows people to claim back 40% of the costs of registered home service providers. This encouraged businesses from the informal economy to register and created 3,700 full-time equivalent jobs in three years.93

The Danish Home Service Scheme began in 1994 as a pilot. It was made permanent three years later in 1997. Its aim was: 1 to compete with the informal economy; 2 to promote the development of enterprises that provide household services; and 3 to offer job opportunities for low skilled jobseekers. Once businesses register with the Danish Commerce and Companies Agency (DCCA) to participate in the scheme, they can provide services to households (e.g. cleaning, small jobs around the home, gardening). The government reimburses 40 per cent of the cost. (Only labour costs; expenses for materials are not reimbursed.) In 1998, 3,506 companies were registered, 91 per cent of which were one-person businesses. Households find information on companies they can hire within the scheme at the town hall and are allowed to spend a maximum of €7,000 p.a. on such services. In 1998, 1 in 8 Danish households used the Home Service Scheme, an average of 5 times per year. Almost 90 per cent of consumers were very

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93 Small Business Council, op.cit., 7; see also Renooy, P., op.cit., pp.170-171.
satisfied with the company and its services. In 1997 alone, more than 2,000 jobs were created; by 2000, it had grown to 3,700 Full-Time Equivalent (FTE) jobs.

Another example of a selective approach in tackling black and grey work, was the creation of the so-called Melkert jobs in The Netherlands.\(^4\)

According to a 1995 survey in the Netherlands, one family in three needs more help at home, especially with cleaning, washing and ironing clothes. Under the ‘Melkert Plan’, a programme was implemented in 1998 to subsidise the wages of declared domestic cleaners so that they could compete with informal domestic workers. Under this Cleaning Services for Private Persons Arrangement (RSO, Regeling Schoonmaakdiensten Particulieren), a subsidy of not more than 19,000 NLG was granted for every long-term unemployed individual hired by a private cleaning company. The government, in effect, paid the difference between the cost of formal and informal domestic cleaners. The government thus paid a subsidy to firms to hire formal domestic cleaners rather than benefits to the unemployed. In 1997, only 250 jobs were created. In 1998, however, changes were made to the scheme and it now functions better. Cleaning companies however, have more trouble finding workers than they do customers since the potential workers are required to have been registered unemployed for at least a year, which excludes many women who would like such work but have not been registered unemployed. The Melkert Plan also created subsidised jobs in other spheres of domestic service beyond cleaning, including home help services and childcare. In the realm of home help, the finding was that some of these jobs were replacing regular formal jobs. Moreover, some 1,700 Melkert jobs were created in the sphere of child-care by the end of 1998.

In order to avoid some of the technical difficulties in making social security and tax levies on certain activities more sensitive to underdeclared work, a number of countries took the way of introducing subsidized vouchers to pay for the concerned activities, in a way that it delivered a decent income and social protection to the

\(^{94}\) Ibidem.
(now) declared worker, whilst still making the price for the customer competitive with what is asked in the informal sector. Using ‘vouchers’ to encourage employers to use formal rather than informal labour is proving popular in many advanced market economies. All four ‘voucher’ initiatives outlined in this paper are strongly recommended as ‘good practice’ in the most recent European Commission report on tackling the informal economy..\(^{95}\)

We shall first deal with the Belgian Local Employment Agencies\(^{96}\), which were followed up by a Service Vouchers System\(^{97}\). Then the French Cheque Emploi Service\(^{98}\) followed up by the Titre Emploi Service\(^{99}\) will be presented, to end with the Austrian Service Cheque for Employment in Private Households.\(^{100}\)

Local Employment Agencies (Belgium) In the mid-1990s in Belgium, Local Employment Agencies (Plaatselijke Werkgelegenheidsagentschappen; PWA) were introduced in all municipalities. These bring together the supply of labour of the long-term unemployed and the demand for labour in the domestic services sphere. Its legal form is a non-profit association, with local politicians and social partners on the executive board. Private persons, government bodies and firms buy vouchers. One voucher, with which one can pay for one hour of work, costs €7.45. When a household needs a job done (e.g. some odd jobs around the house), it makes its demand known at the PWA. The agency then searches its files for a suitable supplier. The worker receives the vouchers as payment and exchanges them for money at the PWA. They receive €4.10 per voucher/hour. The difference between the buying and selling price of the voucher is used for overheads and insurances. The long-term unemployed who earn the money can keep it as extra earnings alongside their social benefits allowance. By June 1999, 120,904 unemployed were registered at PWAs, 38,500 of whom were active and working an average of 30

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\(^{95}\) Small Business Council, op.cit., 7
\(^{96}\) Small Business Council, op.cit., 22; see also Renooy, P. op.cit., 159-161.
\(^{97}\) Small Business Council, op.cit., 23; see also Renooy, P. op.cit., 161-162.
\(^{98}\) Small Business Council, op.cit., 23; see also Renooy, P. op.cit., 165-166.
\(^{99}\) Small Business Council, op.cit., 24; see also Renooy, P. op.cit., 166-167.
hours per week. Between 1994 and 1999, 37 million cheques were sold, almost two-thirds to private households. An evaluation of this scheme found that 44 per cent of the work now conducted by PWAs was previously done on an informal basis and 84 per cent of users of the PWA were glad not to have to turn to the informal economy. Since many of the unemployed decided to stay in this scheme rather than seek a formal job, however, the Belgium government decided at the end of 2003 to transfer vouchers sold to private households into the ‘service vouchers’ scheme. The other purchasers of vouchers (i.e. government bodies and firms) remain in the PWA.

Service Vouchers (Belgium) This ‘service vouchers’ scheme was again created with the aim of stemming informal work in the household services sector. A household buys vouchers for a price of €6.20 (for an hour of work), which it then uses to purchase the services of certified businesses. These companies hire the unemployed at first on flexible contracts but after six months, the business has to offer them a permanent contract of at least a 50 per cent of the full time employee (FTE). An employee of a certified company is allowed to do the following activities: housecleaning; washing and ironing; sewing; errands; and preparing meals. The household pays with the vouchers, the face value of which is €19.47 (to be indexed from 2005). The difference is paid to the company by the federal government. Households can recover 30 per cent of the price of the voucher in their tax return. So for them the price of a voucher for one hour is €4.34. By July 2003 in Flanders alone, 10,000 cheques were sold (in three months) which is the equivalent of 350 jobs and in November 2003, the system of service vouchers created 2,000 jobs. In 2004, the vouchers provided under the PWA scheme to private households (see above) are being transferred into the service voucher scheme. All other purchasers remain in the PWA. More than 40,000 users have bought vouchers, which have created 4,200 jobs. Altogether, 1.7 million vouchers have been sold and there are more than 600 certified companies providing help.
In France to combat informal work in the domestic services sphere (e.g. cleaners), the government in 1994 introduced the Cheque Emploi Service (CES) to simplify the process of hiring and paying a domestic worker and making social security contributions. In this scheme, anybody can legally employ a domestic worker, without complying with extensive administrative procedures and labour contracts, by paying his or her salary with the cheques, which can be purchased at the local bank. The benefit for the purchaser is that they can claim an income tax reduction of 50 per cent of the sum spent on purchasing such cheques. At the end of 1995, 250,000 permanent users were registered, 160,000 being new customers of domestic services. Since its introduction, the number of households legally using domestic services grew to 800,000 in 2002 creating the equivalent of 88,000 FTE jobs, displaying how this scheme has legalised a significant share of the informal economy in domestic services.

A similar scheme was created in 1996, the Titre Emploi Service (TES). The essential difference to CES is that vouchers are obtained not through a bank but through work councils, regional and local authorities and welfare associations. These institutions provide the vouchers to their employees and members to enable them to hire formal domestic help. For those employing domestic workers, therefore, there is now a clear reason for employing formal workers rather than paying on an informal basis for such services. Six years after its introduction, a total of 1.3 million TES have been used, representing a value of €15.7 million, which is roughly equivalent to 1,000 FTE jobs.

Since 2006 also Austria has introduced a Service Cheque for Employment in Private Households. Employment contracts under the marginal earnings threshold of €333.16 per month are generally exempt from the obligatory contribution to health and pension insurance, but there is an obligatory contribution to accident insurance (contribution paid only by the employer). Where a person has several marginal income employment contracts, the earnings are cumulated and insurance is obligatory in all the employment contracts if the sum of the earnings
exceeds the marginal earnings threshold. If the marginal earnings threshold is not exceeded, the employee can take out voluntary health and pension insurance.

The objective of the service cheque is to offer a legal and attractive alternative to the existing undeclared employment and to provide social security protection to employees. The range of household-related services is growing and the potential is already quite significant (at present it is estimated that more than 150,000 persons are employed in private households. Legally employed at present are only slightly more than 10,000). The service cheque is intended for simple household-related services (support in household management, cleaning, child care, simple garden work, etc.).

The service cheque can be purchased by the employer. The purchase price includes the contribution to accident insurance (1.4%) and minimal administrative costs (6 cents for a 10 € cheque). The data of the employer and employee and the agreed payment must be entered on the cheques. The employer pays the employee with the service cheques and not in cash. The employee then has to submit the cheques to his social security institution not later than in the following month, the institution then pays out the earnings (e.g. a 10 € service cheque costs 10.20 €, the institution pays 10 € to the employee).

The purchase of the service cheques by the employer and the payment of the earnings through the institution ensures that

- First, the obligatory contribution to the accident insurance that is always due is paid, and

- Second, that in the case of multiple low-income employment contracts where the marginal earnings threshold is exceeded, the obligation to full insurance is recognised and implemented by the institution.

We may have dwelled a bit longer on the voucher-approach as it is relatively new and innovative. One should however show the necessary restraint towards such
an approach in the region we are studying. Tax and social security contribution exemptions and voucher-approaches seem appropriate for very much targeted actions against black and grey work in well defined sectors of industry; when undeclared work is a phenomenon touching twenty, thirty, forty or even more percent of the active population, such approaches seem rather unfeasible as they would require enormous amounts of money to support them.
Adapting the repressive strategies

Although we decided from the outset not to deal with the repressive side of the struggle against black and grey work, we consider it useful to highlight at least some elements which may be relevant in a comprehensive, mainly non repressive approach of black and grey work in social security. Let us also observe from the outset that the efficiency and effectiveness of enforcement measures is questioned. According to Enste e.g. “it does not make much sense to fight illicit work with intensified controls and higher fines. The tendency to engage in shadow economic activities should be perceived as a warning signal by politicians”101

As we said earlier we shall emphasize positive and not punitive measures. ‘Rather carrots than sticks’, is the maxim we follow in this paper. Yet one should also pay attention on possible improvement of the sanctioning side, too. In Britain special attention was paid to the improvement of the repressive side. The British Small Business Council summarises these measures as follows:

- “increasing sanctions for employers and/or employees;
- stepping up controls;
- increasing the level of punishments;
- increasing co-operation and data exchange between authorities;
- installation of cooperation networks at national, regional and local multidisciplinary levels;
- field checks;
- introducing a fraud hotline;
- a centralised population register;
- increasing registration and identification requirements
- arranging house visits or appointments with benefit claimants unannounced and/or during regular working hours;
- strict immigration policy;
- border controls; and

including from public tenders business that have made use of informal workers.”

Lord Garbiner in his report on the Informal Economy recommended for a better detection of black and grey work to:

- consider ways to use information from private sector sources as a cross-check on the details people provide to Departments (such as where they live and whether they have a bank account);
- give investigators the power to make routine “reverse searches” of the telephone directory, to find the names and addresses of people who advertise businesses giving only a telephone number;
- agree common guidelines for staff about what data sharing is legally permissible and how it should be carried out in practice. There should be a central point of contact to co-ordinate the exercise and monitor its effectiveness; and
- build on the joint work already started by Departments by setting up a specific Government function or line of work, accountable for detecting and investigating businesses in the hidden economy.

We cannot and do not want to deal with each of these suggestions here. We merely would like to touch upon two questions hereafter:

- are general amnesty or ‘regularisation’ operations wiping out the past and allowing for a fresh start adequate means to fight undeclared work.
- do more severe sanctions lead to less black and grey work?

102 Small Business Council, op.cit., 10-11
1. General amnesty?

In its Employment outlook the OECD introduces the issue of amnesty by stating “As in other policy areas, in a theoretical view low rates of detection need to be accompanied by strict sanctions in order to enforce compliance. However, there are practical objections to this: heavy sanctions on an employer may lead to closure of their business with the loss of its regular as well as its irregular jobs; the self-employed who previously were only concealing some work may be driven wholly underground; and when undeclared work reflects genuine difficulty in complying with complex regulations, heavy fines seem contrary to natural justice.”

The OECD than continues by opposing the views of Lord Garbiner and Tapinos on the subject of amnesties.

Lord Garbiner considered the possibility of declaring a general amnesty, under which those who admit to not paying enough tax or to claiming benefits wrongfully might be exempted from the usual penalties. The actual tax or benefit owed might or might not be overlooked, depending on how the amnesty was set up. For a number of reasons, amnesties are problematical.

First, there is the practical difficulty of defining the amnesty precisely enough to make it workable and lawful.

Secondly, there is the question of whether to treat different kinds of hidden economy fraud on the same terms. For example, it may be thought that deliberately over-claiming a benefit is more serious than, perhaps negligently, failing to declare income for tax. And offering an amnesty for VAT evasion is even more problematic because, in most cases, businesses have already collected the tax from their customers. There can be no justification for allowing the business to retain the amount of the tax.

Thirdly, there is valuable evidence from abroad that amnesties are not effective in practice. For example, in the 1980s, several states in the USA used them, as well as France, Italy and Ireland. Amnesties were perceived as unfair: as a free lunch for those who had not met their responsibilities, at the expense of honest

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taxpayers. Holding an amnesty tended to create the expectation of future amnesties – that is, more free lunches – which in turn reduced the incentive for tax-evaders to come forward immediately. These factors would have the effect of undermining public confidence in the system, and even encouraging honest payers to become less compliant. Finally, the revenue generated by amnesties is usually exaggerated. The net return – the revenue that would not have been collected without an amnesty, less the costs of operating one – is often low. One reason for this is that amnesties appear to be most successful when they are accompanied by tough enforcement measures. It is likely that much of the extra revenue attributed to amnesties in these cases would have been collected by enforcement alone.¹⁰⁵

Tapinos¹⁰⁶ basically holds the opinion that the experience in Europe with illegal migrants shows that the only choice is between repeated amnesties and discreet amnesties carried out on a case-by-case basis.

The OECD employment outlook observes in this context that the latter is certainly true if non-compliance has been tolerated in a particular sector for years. Legislation will typically require that all evaded taxes are repaid. If this is enforced, even businesses which want to register will be deterred from doing so, whereas governments will want to reward rather than punish the first firms in the sector that regularize their activities. The OECD fails however to get any further than concluding that the issue “underscores how essential it is not to tolerate undeclared work in the first place. If the problem is kept limited in size, the principle of repayment of all evaded taxes can be maintained even when this drives existing businesses into bankruptcy, with discrete amnesties existing at most in the form of regularization by the back door”.¹⁰⁷

2. Severe sanctions are often not applied

As far as fines are concerned we would like to refer also to Lord Garbiner where he doesn’t recommend an increase in the statutory level of the fines for the United Kingdom. He motivates this as follows: “Most people caught working in the hidden economy do not have the means to pay large penalties. Besides making the courts reluctant to impose high fines, this raises the practical problem of enforcement. The overpayment of benefit or the tax that fraudsters owe is usually a large amount compared to their income from benefit or their earning power. The only sure way of recovering overpayments and fines is by making deductions from subsequent benefit entitlement. Legally though, only a certain amount of benefit may be deducted from a claimant’s entitlement, and recovering overpayments is the lowest priority for deduction behind other demands such as paying utility bills: in practice, the rate of recovery might be only two or three pounds a week.

When the actual financial penalty faced by the offender is limited like this to a fixed amount, the size of the penalty makes little difference. At the time, a £5000 fine is no more of a punishment than a fine of £500: the difference will only be felt after many months or years of gradual repayment. The deterrent effect is also reduced if potential offenders know that there is no practical way of recovering fines in full.

At the same time, larger fines do act as an added incentive not to move into legitimate work, since there is a danger that if an offender’s wages rise, the penalty will have to be paid in larger instalments.”

Rather than making sanctions more severe, also in relation with undeclared work, it is true that the better way is to step up the chances of getting caught. We should thus not be surprised that also the CEOs interviewed in the research by PIETERS and SCHOUKENS pleaded for more controls in order to increase the chances to identify the free riders; also targeted controls, focusing on high risk groups, and resulting in highly efficient controls. Need it to be stressed that the control and inspection services should dispose of the

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most recent tools to perform their tasks and not get behind most recent evolutions (especially in ITALY). 109

Creativity in the area of sanction is also required. Sanctions such as barring enterprises that have been caught for black or grey work from doing any business for all public authorities, and excluding the same from on-going public contracts if an illegal situation is found, such as in Portugal or France, may be more deterring than penalties and other penal sanctions. To tackle the specific problem of chain subcontracting as a source of undeclared work, some EU countries have introduced legal responsibility of the chief contractor of the chain for compliance with the law by the subcontractors. Germany e.g. introduced in 2002 in the construction sector the principle of general contractor’s liability for the social security contributions of the contracted firm. In the Netherlands, the Law on Ultimate Responsibility in the clothing industry came into force already in 1994, allowing the authorities to claim tax and social security debts of subcontractors (usually clothing workshops) from contractors. 110 Also Belgium introduced similar legislation.

Executive Conclusion

In order to facilitate the policy reflection, we shall enumerate hereafter a whole series of possible measures to combat black and grey work in relation with social security. They all have been touched upon in this Part 3 of the paper. We do not explain each of them; this has been done already. We neither give a positive or negative evaluation of each of them. Some of the enumerated measures may even be contradictory between each other.

As we stressed already many times, the real challenge for each country will be to design a proper strategy to reduce as much as possible the phenomenon of work not declared to social security. Such a strategy will consist of an unique mix of measures, unique because it has to be tailored to the problems and opportunities of the country and its social security.

The measures which in one way or another were touched upon earlier are:

1. make that all people can have access to decent work, i.e. covered by some social security protection;
2. link social security arrangements only to work when the substance of the social security scheme is related to (income out of) work
3. take action in order to increase the confidence of the population in government and social security administrations
4. take action in order to increase the trust in the (new) social security system and its reliability over time
5. associate those institutions which appear to have the confidence of the population in the management of and/or control over social security
6. give local authorities a role to play in social security and secure they perform this role taking into account the general interest of the whole country
7. avoid constant major reforms of the social security system, undermining the confidence of the population and make long-term planning based on a broad political and social-economic consensus
8. strengthen the quality of the social security administration and its service oriented approach
9. establish a deontological and ethical code for social security administrators
10. simplify and codify social security law
11. make that people understand the basic logics of their social security system
12. make information campaigns concerning the broad lines of the social security system and their rights and obligations under it targeted to special groups such as linguistic and other minorities
13. make people understand the main concepts uses, such as ‘work’, ‘wage’ etc and to that effect harmonise these concepts between various social security schemes and in other areas such as tax and commercial law
14. inform the active people, especially the young, about the advantages of declared work and the dangers of working unreported
15. educate the young people that social security fraud and especially undeclared work is asocial behaviour which should be condemned
16. educate the population at large, via public awareness campaigns but also indirectly via entertainment, that undeclared work is ethically and socially wrong and contrary to the public interests and the well understood private interests of the people concerned
17. establish a central permanent platform for coordinating the fight against undeclared work
18. establish good and possibly electronic contact channels for sharing information between the various social security administrators (and possibly also other authorities such as the tax administration)
19. make realistic and efficient combination of data-linking and the protection of privacy, e.g. by establishing a cross road data bank
20. make that second and third pillar scheme administrators (private and public) transfer their information in correct way to the social security (and tax) administration
21. avoid that people working undeclared can constitute parallel social protection through private arrangements
22. create confidential councillors who can give right information to people who wonder to start or continue undeclared work and who consider declaration
23. establish a track for a smooth transition to declared work
24. allow for settlements of the past (social security and tax dues) for persons wanting to move from black or grey work to declared work
25. establish the possibility of ‘re-alignment’ contracts, providing a gradual transition to (the financial consequences of) declared work
26. establish ways to involve the employers and their organisations as well as the trade unions in the active fight against undeclared work
27. make collective labour agreements also addressing the fight against undeclared work
28. restrict ‘passive’ unemployment benefit schemes if no real control is exercised on the non performance of (undeclared) work by the beneficiary unemployed
29. introduce workfare in order to make it difficult for registered unemployed to exercise undeclared work
30. introduce unpredictable and many calls for reporting for registered unemployed making their exercising of undeclared work difficult
31. create possibilities for unemployed and other benefit recipients to earn some income out of declared work, which is not deducted (fully) from the benefit they enjoy
32. continue entitlement or right to benefit during a given period when the benefit recipient finds new declared work
33. ‘free’ some activities which are usually exercised as undeclared work, from social insurance
34. create a privileged treatment for some activities which are usually exercised as undeclared work, as far as the cost of these activities are concerned for the customers and as far as the social protection of the workers are concerned
35. introduce a ‘voucher system’ allowing some activities which are usually exercised as undeclared work, to be performed on the market in a declared way and subsidised by public authorities
36. take away the illegal character of certain activities
37. create appropriate social protection for ‘tolerated’ illegals and similar groups
38. allow ‘tolerated illegals’ and similar groups to work in a declared way;
39. take away non-relevant condition for declared work, such as having an official domicile
40. establish a sound relationship between (the level of) contributions paid and (the level of) benefits one will be entitled to, maintaining as far as feasible some form of (socially corrected) proportionality
41. introduce minimum contribution levels
42. do away with maximum contribution levels and maximum benefits
43. pay attention that minimal benefits do not induce undeclared work
44. establish as far as possible contributions on the basis of the really earned income
45. take over the logics of ‘the model provisions’ approach as far as social insurance and the relation with work is concerned
46. do away discrimination on the basis of nationality in social security
47. make social security benefits exportable
48. reduce the periods of work/insurance required to qualify for social security benefits
49. reduce red tape for registration of enterprise (in general and/or for social security purposes)
50. reduce costs for registration of enterprise (in general and/or for social security purposes)
51. reduce the cost of working declared, i.e. reduce social security contributions and taxes on incomes out of (declared) work
52. reduce red tape for declaration of the actual performance of work
53. reduce the costs of the declaration of the actual performance of work
54. make the declaration previous or coinciding to the start of the work
55. connect or disconnect declaration of work for social security purposes or for other purposes
56. make social security one-stop-shops for dealing with social insured, employers and workers
57. make the real relation worker-employer determining social insurance, rather than the formal labour contract
58. do away with formal conditions for an employment contract
59. make hiring and firing of personnel easier
60. make appropriate provisions for the declaration of work by and the social protection of part-time workers
61. do away with restrictions as to the possibility to have only one work status, in other words accept that people have different coverage according to the work they perform and co-ordinate these coverage
62. develop an appropriate social security for self-employed
63. develop an appropriate social security for farmers
64. make the price of declared work competitive with the price of black or grey work
65. on the basis of the de facto situation in the country, introduce IT channels of communication and e-government in social security
66. create a reliable unique identification system of persons (social security number) and fight identity fraud
67. establish good transnational co-operation for data transfer and control
68. do away with excessively heavy sanctions on undeclared work impeding their application in practice
69. raise the chances of getting caught when doing undeclared work and make this known to the population
70. restrict general regularisations or amnesties undermining the trust of the population that it pays off to be honest
Chapter 4. Long term vision of combating black and grey work in the region

Combatting black and grey work, also and not the least in the area of social security, belongs to the core concerns of the international community, and especially of the European Union. In order to address in depth both in a strategical and practical way this issue in the CARDS/SISP countries, a more elaborate programme would have to follow-up the present CARDS/SISP programme 2004-2007. In order to prepare for such, we developed a concept of Terms of Reference to such an effect. This concept is added in Annex.
Annex: Concept of Terms of Reference for a Programme to fight black and grey work in social security in the CARDS/SISP region

1. **BACKGROUND INFORMATION**

1.1. **Beneficiary region**
CARDS Countries: Albania, Bosnia i Herzegovina, Croatia, Montenegro, Serbia (including Kosovo), Former Yugoslav Republic of Macedonia.

1.2. **Contracting Authority**
European Commission

1.3. **Relevant background**
The region is still recovering from the devastating impact of the civil wars of the 1990s. Areas are impoverished, many people are displaced and are not in a position to establish living sources; the relations between governments are disturbed; new frontiers have been created, but border movements and traffics are not under control.

From a regional perspective, the particular position of Kosovo, with its controversial status, the fragmented government structure of Bosnia-Herzegovina as well as the difficult relations between Croatia, Serbia and Montenegro are key problems that impact the cohesion of policies, including social policies, in the region and in its relations with the Council of Europe and the European Union.

The efforts of all CARDS countries to reform their social systems and competent institutions are hampered by a number of common severe handicaps, although the individual performance of each country is different.

In the long term perspective, it is mandatory to focus on improving the economic situation of each country and of the region as a whole. Economies are not yet able to absorb labour demands. The changeover to a functional market economy is incomplete, and internal labour markets are penalised by a very low labour offer, mostly related to outdated agriculture and industry systems, and consequent high unemployment rates.

It should be acknowledged that the CARDS countries have engaged in a serious commitment to reform their social set up and services. Moreover they are willing to intensify the regional cooperation in order to facilitate cross-border social security payments. However, more support is needed to develop appropriate and effective policy plans to improve the social sector. Particular attention has to be paid to ameliorate social security legislation, a sustainable funding system and the definition of clear criteria to provide social assistance, with an effort to homogenise the standards of assistance throughout the region.

Moreover, social support networks and social institutions are in urgent need of upgrading their capacity in terms of human resources, equipment and infrastructures.

In addition to a their in-house commitment, partner countries would benefit from a regional approach to develop social security policies.

It should be retained as a building point the fact that while political relations between
countries may not be always easy, contacts between professionals and civil administrators are established and regular.

In the framework of the current CARDS/SISP programme 2004-2007 a whole range of activities to attain the above mentioned goals were realised. Yet in some areas the need for more substantial regional projects in the future has become very clear. The combat against black and grey work as far as social security is concerned is certainly an area which has emerged as calling for special attention. Indeed, whatever choices are being made for structuring the social security and further social protection systems of the concerned countries, none of them can be successful if substantial amount of people working in the country do so without registration and/or without reporting correctly about their volume of work (hours/earnings).

Figures about the quantitative importance of black and grey work under the social security systems of the concerned countries may be debatable, that there is a rather important underground work sector in all of them is beyond doubt. We may refer here to the figures mentioned above in Part 1 of the Study of Pieters ‘Bringing to the surface black and grey work’, dealing with ‘the quantitative dimension’.

Tackling black and grey work both within the European Union, as in the partner countries, certainly belongs more than ever to the main concerns of the European Union. We may refer here to the background paper for the first meeting of the High Level Commission on the Legal Empowerment of the Poor, in which the former Finance Minister of Sweden, Allan Larsson makes the clear link between the decent work and fair globalisation issues and fighting informal economy. Before him the World Commission on the Social Dimension of Globalization: report, “A Fair Globalisation—Opportunities for All”, published in 2004, highlighted the fact that most workers and economic units in the informal economy have difficulty accessing the legal and judicial system to enforce contracts, and that their access to public infrastructure and benefits is limited. A variety of bureaucratic and other restrictions create barriers and difficulties which hinder formalization, growth and sustainability.

The Commission argued that informal activities have to become part of a growing formal sector that provides decent jobs, incomes and protection, and that such a transformation has to be an essential part of a national strategy to reduce poverty. A balanced approach to upgrading the informal economy would require the systematic extension of property rights to be accompanied by similar action on core labour rights for all persons engaged in informal activities. There is a particular need to ensure that workers and employers in the informal economy have the right to freedom of association and collective bargaining. Women and youth, who make up the bulk of the informal economy, especially lack representation and voice. There is likewise a need to build adequate social protection systems.

Reflecting the Decent Work agenda of the ILO, the overarching policy goals of an informed and comprehensive policy approach toward the informal economy should be to: promote opportunities, secure rights, protect informal workers, build and recognize the ‘voice’ of informal workers. Special efforts should be made to promote the opportunities, rights, protection and voice of women in the informal economy, who are often among the most disadvantaged. Virtually all policies affect at least one segment of the informal economy. However, four areas of policy have a particularly significant impact on the informal economy: macroeconomic policies, labour policies, urban regulations and social protection measures.

According to Chen, clearly, there is no universal policy prescription for the informal economy. However, the following guiding principles should be seen as essential aspects of a positive policy process: It should be participatory and inclusive, context-specific, gender sensitive, and it should be based on an informed understanding of the economic contribution of informal workers. It

should also serve to mainstream the concerns of the informal workforce in those institutions that
deal with economic planning and development.\footnote{Chen, M. A., "Rethinking the Informal Economy: Linkages with the Formal Economy and the Formal Regulatory Environment". EGDI-UNU-WIDER Conference, September 2004, referred to by Larsson, op.cit., p.5.}

We are not surprised that on December 1st, 2006, the European Council committed the EU to take part in the global strategy on decent work for all\footnote{The Council Conclusions on Decent Work for All were adopted at the 2767th Employment, Social Policy, Health and Consumer Affairs Council Meeting in Brussels on December 1, 2006. It followed the Communication of the Commission 'Promoting decent work for all – the EU contribution to the implementation of the decent work agenda in the world (COM (2006)249 final, accompanied by SEC(2006)643) of May 2006.}. In 2005 the UN World Summit gave strong support to the goal of decent work for all as part of worldwide efforts to achieve the Millennium Development Goals; mid 2006 the High-level Segment of the UN Economic and Social Council had also endorsed decent work as a global goal.

It is important to read in the European Council Conclusions on Decent work for all that “The Council […] emphasises that promoting decent work aims at the overall improvement of living and working conditions for all, and includes to this end support for the integration of the informal sector into the mainstream economy” In its Communication of May 24th, 2006, the commission of the EC had already observed: “Many developing countries have economies in which the informal sector and poor quality jobs predominate and in which dualism exists in the labour market, particularly in countries in which most people depend on subsistence farming. Women and young people, in particular, form the bulk of those who work in the informal economy and have poor prospects when it comes to income, training and social protection.

Even in the formal sector, the weakness of employment services, governance of the labour market and social protection systems make these countries less able to manage change. In the emerging countries, growth is not enough to reduce the poverty of significant sectors of the population. A rise in productivity does not always lead to wage increases. The number of poor quality jobs remains high and the size of the informal economy remains significant. In all these countries, but also, to a lesser extent, in the industrialised countries, workers in the informal economy are effectively excluded from rights at work and from social protection.”

As to the specific issue of undeclared work we should especially refer here to the Communication of the Commission on undeclared work as well as to the Council Resolution of 20/10/2003 on ‘Transforming Undeclared Work into Regular Employment’. Also the growing attention for the undeclared work issue in the Guidelines for the employment policies of the Member States should not go unnoticed. Let us have a closer look at each of these documents, especially as far as they are relevant in relation with social security.

With the Communication of the Commission on undeclared work\footnote{COM (98) -219, \url{http://www.ec.europa.eu/employment_social/employment_analysis/work/com98_219_en.pdf}}, the EC Commission aimed in the first place to “launch a debate on the causes of undeclared work and the policy options for combating it. It suggests that there is, firstly, a need to identify correctly the causes and extent of the problem, and, secondly, to regard combating undeclared work as part of the overall employment strategy.” The Commission wanted to involve the Member States, the Community institutions and the social partners in this debate. An increased awareness of the causes and extent of undeclared work, the identification of best practices in combating it and the possibility of coordinated EU action should be considered in this context. It was considered that the results could consequently be taken into account when developing the employment guidelines.

Indeed, full attention was given to the issue of undeclared work, by making the
transformation of undeclared work into regular employment to be one of the specific guidelines for the employment policies of the Member States. As the 9th specific guideline is mentioned:

"Member States should develop and implement broad actions and measures to eliminate undeclared work, which combine simplification of the business environment, removing disincentives and providing appropriate incentives in the tax and benefits system, improved law enforcement and the application of sanctions. They should undertake the necessary efforts at national and EU level to measure the extent of the problem and progress achieved at national level."

Let us observe that in the additional guidelines developed in 2005, attention was also paid to undeclared work, be it as part of Guideline n° 21 concerning the promotion of flexibility combined with employment security and the reduction of labour market segmentation, having due regard to the role of the social partners through a.o. "addressing the issue of undeclared work".

The Council resolution on transforming undeclared work into regular employment of October 20th, 2003 called on the Member States to work together to reduce undeclared work and to implement policies suited to their specific national requirements. It set out guidelines advocating preventive actions and sanctions aimed at eliminating undeclared work. As regards prevention, the Council wanted to create a legal and administrative environment conducive to the declaration of economic activity, which, without destabilising public finances and social protection systems, would encompass simplified administrative procedures, reduced costs and constraints affecting the creation and development of small businesses, removal of disincentives to declare work on both the demand and supply sides, reduction of high marginal effective tax rates and the tax burden on low-paid workers, and implementation of suitable employment policies vis-à-vis beneficiaries of social-protection measures to help them to participate in the regular labour market. As far as sanctions were concerned, the Council called for increased surveillance, where appropriate, with the active support of the social partners, especially in respect of those who organise or benefit from clandestine labour, whilst ensuring appropriate protection for the victims of undeclared work. Moreover, the Council invited the social partners to address the issue of undeclared work in the context of their multiannual work programme and within the sectoral social dialogue committees.

1.4. Current state of affairs in the relevant sector at regional level

The preliminary project has shown the importance of black and grey work and has also outlined a series of measures which could help reduce the phenomenon considerably. States should however be stimulated to confront these common challenges in a coordinated and if possible cooperative way, especially as internal migration may otherwise erode some of the more effective measures to combat black and grey work.

They may also act vis-à-vis each other as pilots for the trying out of some measures to reduce black and grey work as far social security is concerned to more reasonable

proportions, in line with the rest of Europe.

Moreover time has come for the international community to address specifically the social security dimension of the underground economy as such. Indeed some attention has gone in the past to formalising the informal economy, occasionally also addressing the social security aspects of it. Yet in doing so, some economical and tax aspects might have been over emphasized at the expense of paving the way for decent work for all also in this region of Europe. Time has come for the European Union to assist the beneficiary countries to take all social security relevant measures in order to bring above water all kinds of black and grey work, and in doing so to make a decent social protection for all workers possible.

1.5. Related programmes and other donor activities:

(*** Include both programmes in social security field and those aiming at formalising the informal economy)

2. CONTRACT OBJECTIVES

The wider objective of this project is to support the beneficiary states in reducing black and grey work as far as social security is concerned, in order to promote in this way the decent work for all objective set by the European Union, and to promote the co-operation between the beneficiary states in this area, in order to guarantee a useful exchange of best practices and in order to avoid the undermining of the measures taken as an effect of regional migration. The whole needs to be supported by improving institutional capacity for quality development and proficiency in the sector.

The work is laid down in two components:
- one addressing the promotion of the design and implementation of a strategy to reduce black and grey work as far as social security is concerned in each of the concerned territories; (A)
- one promoting on the regional level cooperation in the struggle against black and grey work as far as social security is concerned (B)

2.1. Specific objectives

Component A: promotion of the design and implementation of a country strategy to reduce undeclared work as far as social security is concerned

In the study of Pieters 'Bringing to the surface black and grey work', we find a review of a series of measures which can be undertaken to fight the lack of declaring work and income out of work to social security. We came to a total of 70 ways which can be chosen and combined to a real strategy. Perhaps even more ways could be added. We also stressed that there is no miracle solution which is universally valid; but that each country needs to select a number of the 70 measures put forward which are most fitted for its own realities, and combine them into a true strategy. Under component A the projects aims to make per country the selection of the most adequate measures to be taken, the development of a national strategy plan and the start up of the implementation of the plan.

Component B:) international co-operation within the region and with third states in order to avoid the undermining of measures against black and grey work by migration; exchange of best practices and Institutional capacity building for fighting black and grey work
Although every concerned territory needs to make its own choices and to develop its own strategic plan to fight undeclared work as far as social security is concerned, we also can see the added value of an intense regional collaboration in this area, as:
- to a certain extent the problems may be similar, and thus the measures to be taken and developed similar, which could lead to an advantage of scale to collaborate. Also common programmes of training and study-visits outside of the region are best organised on a regional level;
- the countries have in the course of the development of the programme all interest to get to know best practices in each other’s countries
- international co-operation within the region and with third states in order to avoid the undermining of measures against black and grey work by migration (B)

2.2. Targets to be achieved
Component A: At the end of the 24 months of the programme all concerned territories and countries should have in place a strategy to fight undeclared work as far as social security is concerned and should have started to implement the first steps of this strategy. The next steps have to be prepared in order to allow the country with no further external support to implement the next steps.

Component B: At the end of the 24 months a protocol of understanding has to be developed between the participating countries in order to establish administrative co-operation between each other in order to fight undeclared work as far as social security is concerned. By then staff of the social security administrations of the concerned countries and territories (as well as other relevant actors) will have been trained in joint seminars and will have participated in study-trips outside the region, in order to raise the chances of success of certain measures common to their strategies to fight undeclared work as far as social security is concerned.

3. ASSUMPTIONS & RISKS

3.1. Assumptions underlying the project intervention

In general:

- The clear commitment of the governments to engage in the path of fighting undeclared work as far as social security is concerned, to establish the necessary administrative capacity and to co-operate amongst themselves.
- The willingness of social partners and private institutions in different countries to work together, participate in joint meetings with other countries’ counterparts and exchange experiences.

- The international community continues funding technical assistance programs to improve the capacity of national institutions to design and implement reforms.

Component A:
- The readiness to make a selection of measures to be taken and to be combined in a strategy to fight undeclared work as far as social security is concerned

- The willingness of governments to engage in quality development

- The commitment to develop on the national level a strategy to fight undeclared work as far as social security is concerned; and the intention to start with the implementation of the strategy before the end of the 24 months of the project

Component B:

- The willingness to co-operate in matters of cross-border movements.
- The will to improve the relationships between the beneficiary countries and territories
- The willingness of staff members of social service organisations or administrations to update their skills,
- The necessary co-operation of governments and social partners in CARDS-countries

3.2. Risks

- Unsolved political or ethnical controversies impeding the finding of solutions for problems.
- Bureaucratic impediments, such as time consuming and unclear procedures, etc., in particular regarding (a) participation in the activities of the programme in general; (b) in the transfer of funds (pensions) across borders; (c) in the co-operation of police and justice regarding all mischief across borders.
- Insufficient budgetary means for income support in general, but in particular for refugees, migrants and victims of trafficking.
- Problems in political decision making
- Problems of funding in general.
- Persisting unemployment.
- Lack of willingness to co-operate and exchange information.

4. **SCOPE OF THE WORK**

4.1. **General**
The project will focus on regional co-operation and institution building
- to encourage regional technical co-operation on cross border issues and
- common regional problems of social policy and reforms of the social sector to reduce black and grey work.
4.1.1. Geographical area to be covered:

CARDs region

4.1.2. Target groups of the project (with whom to co-operate):

Component A:

The development of the national strategy and the start of the implementation thereof, suppose the involvement and cooperation of many actors in order to be successful: Government, politicians, officials of administration, high level civil servants, social partners, managers of social institutions, the press civil servants of local administrations and judges.

Component B:

In order to benefit from each other’s experiences and to pay study visits to relevant foreign experiments, component B will in the first place be in the interest of the social security administrations, although all parties mentioned above for component A can also be involved here.

4.2. Specific activities

Together with the actors above as well as relevant CoE/EU services the following will be done:

A.1 Discussing with the policy responsible in each of the concerned territories which of the 70 enumerated measures could show to be useful for the country. This leads to the selection by the policy responsibles of a number of these measures

A 2: Drafting per country of a strategy paper for introducing and then implementing the measures selected and integrating them in a comprehensive strategy

A3 For the measures which are only to be developed in one country, developing them with the concerned national authorities in a concrete road map.

For measures common to more than one country, see B1

A4 Translating the results of B1 in a road map for each of the concerned countries

A5 Integrating the various road maps into one comprehensive road map and setting out of a time frame which should start to be implemented at least three months before the end of the 24 months of the programme

B.1 Examining how measures selected by more than one country of the region can be developed and supported in the best way. Drafting of initiatives for realizing this target in a common way for the concerned territories. These initiatives may include common programmes of training and study-visits outside of the region are best organised on a regional level;

B.2 Setting up and carrying out the training programmes; in total about 100 people could be trained and about 6 training sessions of about 7 days can be organized

B3 Setting up and carrying out the study visits; in total about 50 persons could participate in about 6 study visits of about 7 days .

B4. Preparing for a regional roadmap for implementing the common measures to be taken. Followed up by A4
B5 Organising in the beginning, in the middle and at the end of the 24 months of the programme a larger international conference with the participation of all territories, dealing with the dissemination of best practices

B6 Design a protocol of international co-operation within the region and with third states in order to avoid the undermining of measures against black and grey work by migration

B7 Negotiating the protocol with the national authorities in order to get their approval of the protocol

B8 Conference presenting the protocol to the region and the rest of Europe.

All components: Ensuring cooperation with all donors (especially those mentioned above) to avoid overlap and give input for future funding by the international community.

4.3 Project management

4.3.1. Responsible body
The Council of Europe, DG III Social Cohesion.

4.3.2. Management structure
The project shall have two components:

A) promotion of the design and implementation of a country strategy to reduce undeclared work as far as social security is concerned

B) international co-operation within the region and with third states in order to avoid the undermining of measures against black and grey work by migration; exchange of best practices and Institutional capacity building for fighting black and grey work

The Management should secure that within all CARDS-countries regional focal points are established who facilitate the exchange of information and the discussion at the central point.

4.3.3. Facilities to be provided by the Contractor and/or other parties
Office space for the project team at the central point and the regional focal points and the necessary equipment.

5. LOGISTICS AND TIMING

5.1. Location

5.2. Commencement date & Period of execution
The intended commencement date is 1st of January, 2008 and the period of execution of the contract will be 24 months from this date. Please refer to Articles 4 and 5 of the Special Conditions for the actual commencement date and period of execution.

6. REQUIREMENTS
The proposal must be accompanied by a budget breakdown giving budget estimates for 4 periods of 6 months each and indicating which cost are covered by EU-funding and which cost by other sources.
6.1. Personnel

6.1.1. Key experts
All experts who have a crucial role to play in implementing the contract are referred to as key experts. The other experts support the key-experts in their activities. The profiles of the key experts for this contract are as follows:

Key expert 1: Team Leader
- Academic background of Social Sciences, Law, Economics or Business/Civil Administration. At least 10 years of experience in Social Policy, excellent management and communication skills, fluency in English, knowledge of one of the official languages in the region is an advantage.

Key expert 2: Social Policy expert
- Academic background of Law and/or Social and/or Economic Sciences, at least 10 years of experience in the field of Social Protection, fluency in English, knowledge of one of the official languages in the region is an advantage.

Key expert 3: Expert on Migration issues and social security co-ordination
- Academic background of Law, at least 10 years of experience in the field of Migration and related issues of social security co-ordination, fluency in English, knowledge of one of the official languages in the region is an advantage.

6.1.2. Other experts
CVs for experts other than the key experts, particularly for experts in the regional focal points are not examined prior to the signature of the contract.

The Contractor shall select and hire other experts as required according to the requirements identified in his proposal. Their profiles must indicate whether they are to be regarded as long-term/short-term, international/local and senior/junior so that it is clear which fee rate in the budget breakdown will apply to each profile. For the purposes of this contract, international experts are considered to be those whose permanent residence is outside the beneficiary region while local experts are considered to be those whose permanent residence is in the beneficiary region.

The contractor should pay attention to the need to ensure the active participation of local professional skills where available, and a suitable mix of international and local staff in the project teams.

All experts must be free from conflicts of interest in the responsibilities accorded to them. The selection procedures used by the contractor to select these other experts shall be transparent, and shall be based on pre-defined criteria, including professional qualifications, language skills and work experience. The findings of the selection panel shall be recorded. The selection of experts shall be subject to approval by the Contracting Authority.

Note that civil servants and other staff of the public administrations of the beneficiary countries cannot be recruited as experts.

6.1.3. Support staff & backstopping
The costs of support staff must be specified in the budget breakdown.

6.2. Office accommodation
Office accommodation of a reasonable standard and of approximately 10 square metres for each expert working on the contract is to be provided by the contractor.

The costs of the office accommodation must be specified in the budget breakdown. The cost per square metre must be in line with the prevailing local market rate for office accommodation of a reasonable standard.

6.3. Facilities to be provided
The contractor shall ensure that experts are adequately supported and equipped. In particular it shall ensure that there is sufficient administrative, secretarial and interpreting provision to enable experts to concentrate on their primary responsibilities. It must also transfer funds as necessary to support its activities under the contract and to ensure that its employees are paid regularly and in a timely fashion.
6.4. Equipment
Equipment is to be purchased exclusively on behalf of the project. The cost of equipment must be specified in the budget breakdown.

6.5. Incidental expenditure
The Provision for incidental expenditure covers the eligible incidental expenditure incurred under this contract. It cannot be used for costs which should be covered by the Contractor as part of its fee rates, as defined in Section 6.3 of these Terms of Reference. Its use is governed by the provisions in the General Conditions of the contract.

It covers travel costs and subsistence allowances for missions to be undertaken as part of this contract from the base of operations in the beneficiary region and other incidental costs (to be specified in the proposal).

The Provision for incidental expenditure for this contract must be included in the Budget breakdown.

Any subsistence allowances to be paid for missions undertaken as part of this contract from the base of operations in the beneficiary country must not exceed the per diem rates published on web site http://europa.eu.int/comm/europeaid/index_en.htm at the start of each such mission.

7. REPORTS

7.1. Reporting requirements
Please refer to Article 28 of the General Conditions. Interim reports must be prepared every six months during the period of execution of the contract. They must be accompanied by a corresponding invoice.

There must be a final report and final invoice at the end of the period of execution. The draft final report must be submitted at least one month before the end of the period of execution of the contract. Note that these interim and final reports are additional to the documents required for the activities mentioned in Section 4.2 of these Terms of Reference.

In addition, the cash flow monitoring spreadsheet must be updated and submitted with each of the above reports. The monitoring spreadsheet must contain details of the time inputs of the experts and of the incidental expenditure. The final report must be accompanied by the final invoice and an audit certificate confirming the final certified value of the contract.

7.2. Submission & approval of reports
3 hard copies of the interim and final reports referred to above must be submitted to the Project Manager identified in Article 8 of the Special Conditions. The reports must be written in English. The Project Manager is responsible for approving the reports.

8. MONITORING AND EVALUATION

8.1. Definition of indicators
For monitoring this complex programme two main sources of information are possible: written documents and surveys.

Written documents:

- Minutes of platform meetings, reports and other documents produced in that framework
- Meetings of the common social dialogue
- Results of trainings, reports on centres modernised or created
- Statutes, regulations and annual reports of social institutions and NGO’s in the field
- Minutes of meetings with participants of CARDS-countries, papers produced by them and other reports; registration of contacts in the network, written agreements on strategic plans; models in strategic plans; other written documents.

Copies of documents can be sorted by objective (overall objectives and specific objectives) and made available with an index after each period of six months.

The survey method can be used by repeated surveys held with the authorities in CARDS countries and with NGO’s and International organisations in the field. Such a survey can be held at the end of each 6 months’ period. The questionnaire will have to be made up and addresses collected during the first six months’ period. This should be a longitudinal survey in the sense that the data collected by the survey is comparable from period to period.

Copies of documents and survey results must be made available within two months after conclusion of each six months’ period.

8.2. Special requirements
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