

PROBLEMS AND PRIORITIES FOR PREVENTING UNDECLARED LABOUR IN UKRAINE

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Abstract. The *purpose* of the article is to identify the scale of undeclared labour in Ukraine and to study the problems, principles and prospects of its prevention in unstable socio-economic conditions. *Methodology.* In line with the EU and ILO methodology, the State Labour Service of Ukraine interprets undeclared labour as legal paid activity that is not fully or partially registered in accordance with the law. *Results.* Undeclared work plays an important role in the practice of business management and competitiveness stimulation in countries with industrial, neo-industrial and post-industrial economies, which has been developed almost since the middle of the 20th century. The paper proves that undeclared work is a broader concept that includes legalised (both official and manipulative) as well as shadowy mechanisms of its occurrence and functioning. Given the problematic performance by the State Labour Service of Ukraine of its inspection and sanctioning powers, as well as the widespread use of non-standard labour relations (with mediation in the performance of employer functions, outsourcing of auxiliary, service and some specialised personnel to companies), tariff-free remuneration systems encourage numerous manipulations in the area of labour declaration and decent wages. The source of problems with the spread of remuneration systems based on an assessment of the complexity of the work performed and the qualifications of employees, as well as with ensuring decent working conditions for agency (loan, temporary) workers, is the unclear legislative regulation of these systems. *Practical implications.* The priorities for preventing undeclared labour in Ukraine are: a consistent increase in the share of wages in the structure of production costs; strengthening cross-control over the fulfilment of obligations to pay the minimum wage under the tariff-free and hourly wage systems; and the introduction of a sound methodology for harmonising the minimum wage, the subsistence minimum and other basic social standards linked to them. *Value/Originality.* The expediency of identifying institutionalised and manipulative mechanisms of undeclared labour, their formal and illegal bases is confirmed by the classification of the main forms of undeclared labour used by the EU, ILO and the State Labour Service of Ukraine; this approach will increase the complexity and effectiveness of systemic measures to regulate it (control, mitigation, prevention).

Keywords: undeclared labour, employment, wages, tariff-free remuneration systems, non-standard labour relations, socio-economic policy of Ukraine.

JEL Classification: J20, J38, J46, J78, J80

1. Introduction

Declaration (as a mechanism of accounting for the results of entrepreneurial activities, including on the basis of self-employment, and hired labour with identification of the financial potential for further redistribution of the received income and taxes for socially significant purposes) consolidates the task of tracking and maintaining compliance between the results of activities, the permits and licences obtained for them, as well as the remuneration of personnel of various categories (according to the status regarding ownership of production means and consumables,

the right to dispose of them, as well as received intermediate and final benefits).

The quality of the estimates of undeclared work obtained by the State Statistics Service raises some doubts about their reliability in relation to the real extent of its distribution in: a number of service sectors with predominantly seasonal technological cycles; branches of production, collection, primary processing of plant and animal products; economic sectors of mineral extraction, primary processing, transport, metallurgy, chemical and petrochemical industry. The basis for such a conclusion is the role

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of undeclared work in business practices and in stimulating competitiveness in countries with industrial and neo-industrial economies, which has been developing since the middle of the 20th century.

The purpose of the article is to identify the scale of undeclared labour in Ukraine, and also to study the problems, principles and prospects of its prevention in the unstable socio-economic environment, which combines the powerful pressure of the current military and political situation, the need for high-quality fulfilment of obligations on social protection of the population, and the attempt to increase the effectiveness of the strategy of expansion of national producers to foreign markets of goods and services.

2. Methodological Principles for Identifying Undeclared Labour

Guided by the methodological approaches of the EU and the International Labour Organisation (EU – ILO, 2018), the State Labour Service of Ukraine and the State Statistical Service of Ukraine interpret undeclared work as legal paid activity that is not fully or partially registered in accordance with the requirements of the legislation, using the terms informal, unofficial, unregistered, shadow, hidden employment as synonyms for such activities (State Labour Service of Ukraine, 2021, 2024).

The definition was based on the methodological approaches of the EU and the International Labour Organisation, according to which the main and most relevant forms of undeclared work in Ukraine include Informal employment in the formal sector; employment in the informal sector; concealment of actual working time and payment of wages "in an envelope"; replacement of actual employment contracts with civil and commercial ones, as well as artificial use of remote and outsourcing mechanisms to conceal hired labour; improperly registered secondary employment of persons who have formal employment relations at their main place of work (EU – ILO, 2018).

Current issues related to labour undeclared work (factors, spheres, socio-economic consequences of its spread, mechanisms and priorities for regulation, mitigation, prevention) are addressed in works devoted to: Problems of adequate remuneration of labour and functioning of wage systems (State Labour Service of Ukraine, 2021; Onyschenko, 2020; EU – ILO, 2018; National Institute of Strategic Studies, 2011); processes of shadow economy, features of functioning of its shadow segments (EU – ILO, 2018; Tsvihun, Nechyporuk, 2018; Shevchuk, 2016; Savchenko, Jordanov, 2012; National Institute of Strategic Studies, 2011); non-standard labour relations, temporary (loan) workers (State Labour Service of Ukraine, 2024; EU – ILO, 2018; Lahutina, 2015; Kurzina, 2012).

3. The Scale of Undeclared Labour in Ukraine

According to the State Statistics Service, which did not take into account data on workers who received salaries "in an envelope", did not work part-time, had other contracts instead of employment contracts (in particular, civil law agreements with employers), as of 2021, there were 3 million 61.6 thousand informally employed people in Ukraine (19.5% of all employed) (State Labour Service of Ukraine, 2021). Among those identified by the survey as informally employed, 46.3% worked in agriculture, forestry and fisheries, 17.1% in construction, 15.2% in wholesale and retail trade, vehicle repair, 5.7% in industry, 4.3% in transport, warehousing, postal and courier activities, and 2.2% in temporary accommodation and catering and food service. By main age groups, they were dominated by people aged 40-49 and 50-59, with shares of 24.5 and 21.7%, respectively; by education level, workers with vocational and complete secondary education prevailed, with shares of 35.2 and 31.5%. Approximately 60% of people whose work was not declared were men, and 57.2% lived in rural areas (State Labour Service of Ukraine, 2021).

In terms of employment status, the majority of undeclared workers in 2017 reported that they were unemployed (33.5%), employed (31.2%), self-employed (18.4%), retired (10.5%) and studying (1.9%) (EU – ILO, 2018). The main unregistered activities in 2017 were represented by services for technical maintenance, upkeep or repair of housing stock (25.7%), sale of food products (e.g., from agriculture) (14.1%), gardening (8.9%), vehicle repair (8.1%), sale of goods/services related to the preferred occupations of undeclared workers (7.4%) (EU – ILO, 2018). The main reasons for undeclared labour, according to the surveyed undeclared workers, are difficulties in finding a permanent job (19.7%); participation in seasonal work that does not require declaration (15.4%); traditional nature of certain activities as areas of undeclared labour (12.9%); lack of effective state efforts to improve their economic situation as a motive for not paying taxes (10.8%); mutually beneficial relations between undeclared workers and their employers (10.2%) (EU – ILO, 2018).

Taking into account the practice of detecting undeclared labour in recent years, the State Labour Service of Ukraine (2024) focuses its main efforts on tracking and preventing this phenomenon in the following areas:

– Wholesale and retail trade (workers without proper registration of labour relations in general and specialised stores, small architectural forms (kiosks), bases and warehouses, service stations, including on the terms of the so-called probationary period and

internships as sellers, pickers, loaders); public catering (unofficial employment, including of underage workers as cooks, bartenders, waiters, kitchen workers, cleaners, dishwashers, order carriers in restaurants, cafes, bars, and as sellers in coffee shops, even on an unpaid probationary basis);

- construction (performance of installation and construction, as well as auxiliary works at construction sites, most of which are hazardous to life and health and are classified as high-risk work, by persons without an employment contract); production of construction materials; mining;

- food production (performing work on processing food products, including animal and poultry meat, bakery products, by employees without registration in labour relations, especially by foreigners); agriculture, particularly farming (unofficial hiring of workers, including minors, for seasonal harvesting, assembling and loading of relevant products, work in animal and poultry farming, fertilising fields); forestry and wood processing (in particular, using the labour of persons without proper documents for production, loading and unloading of wood materials, forest fire protection);

- freight transport, including cross-border transport organised by individual entrepreneurs; provision of public transport services (by temporary drivers without any documents or under civil law agreements); maintenance, repair, tyre fitting, vehicle washing (including the engagement of unregistered workers on the basis of so-called internships);

- provision of services and maintenance of infrastructure for temporary accommodation, including seasonal accommodation; specialised recreation (employees without employment contracts in children's entertainment centres), maintenance of park recreation areas;

- medical services, in particular, pre- and post-trip medical examinations of drivers; security services (employees without proper registration of labour relations); information services (use of unregistered employees in call centres); hairdressing services, in particular, prior to registration of the status of an individual entrepreneur; cleaning services, in particular, such services for office premises;

- sewing production, including sewing of uniforms (employees without written employment contracts between them and individual entrepreneurs, including on the terms of the so-called internship).

In general, the most reliable estimates indicate that the total amount of hidden wages in Ukraine is about 85-90% of declared wages. The share of employees in formal sector enterprises with 10 or more employees, for whom reasonable assumptions have been made about the possibility of concealing part of the salary, is now 12.4% of all employees in these enterprises (16.9% in 2015). According to the results of the

Population Economic Activity Survey, employees estimate the average length of the working week to be 11.3% longer than that recorded by formal sector enterprises, which should be taken as a rough estimate of the average weekly undeclared working time (EU – ILO, 2018; National Institute for Strategic Studies, 2011).

4. Factors, Problems and Consequences of Undeclared Labour in Ukraine and the Globalised World

The demand of the business environment in market and transition economies around the world to increase the competitiveness of business entities, maximise the profitability of production (including its possible rent and quasi-rental profits), among other things, by reducing hiring costs, ensuring that staff are properly qualified, remunerated, and comply with certain production and non-production standards of working life, at least since the mid-20th century, has been manifested in such trends as:

- The spread of non-standard (including informal) employment based on split labour relations mediated by a number of employment and recruitment agencies, which often actually perform formal employer functions, relieving entrepreneurs of a number of responsibilities and costs for recruitment, labour organisation, and social protection of staff;

- corporatisation and corporatisation of enterprises, parts of their production cycles and subdivisions (primarily the relevant logistics, administrative, accounting, auditing and other service components) into a network of technologically linked smaller business entities (including individual entrepreneurs) that may have national and transnational scope;

- establishment, legislative support, and expansion of tariff-free remuneration systems based on corporate professional and qualification standards for positions and scope of work (in particular, duration and frequency of remuneration for labour, compensation for downtime and losses caused by the employer or employee, specifics of technological cycles or force majeure);

- social and corporate recognition of non-formal education and legally paid informal employment, including part-time work.

Given all of the above, the concept of undeclared labour is broader than the one used by the State Labour Service of Ukraine and includes standard (both official and manipulative) and shadow mechanisms of its emergence and functioning.

The study of legislation and business practices in Ukraine and in the countries of the world with developed market and transition economies confirms the legal possibility of carrying out undeclared activities by members of personal auxiliary peasant

households in the sphere of the range of services of ecologically oriented and, in particular, rural green tourism, as well as collection, primary processing, sale of wild products of forestry and fishing, folk medicine, beekeeping, national culture, etc. Permission to provide specialised and related recreational services using the potential of personal peasant households and places of their location without compulsory declaration of the total volume of work and income according to the spectrum of branches of their obtaining actually formed the sphere of ecologically oriented tourism, which has been popular in the European Union and Ukraine for quite a long time (at least since the mid-1990s).

The relevant and increasingly widespread formal mechanism of work non-declaration in the spectrum of economic sectors is the non-tariff wage system. The latter, together with hourly wage systems, have significant advantages due to the possibility of defining standardised tasks for employees, justifying differentiation of labour remuneration, ensuring an individual approach to remuneration in accordance with employees' personal qualities, work complexity, professional qualifications, their own contribution to labour results, which contributes to increasing capacity and improving the mechanism of bonus fund distribution. At the same time, this remuneration practice remains to a large extent an unsatisfactorily legally regulated entrepreneurial development, based on: subjective entrepreneurial standards of compliance with education, qualifications and competences, scope of duties; insufficient efficiency of the mechanisms for their correlation and tracking in accordance with the state standards of education and remuneration; lack of sufficiently legitimate mechanisms for public recognition of informally acquired education and qualifications (including within the framework of vocational training at the workplace).

The source of the problems with the spread of remuneration systems based on the company's assessment of the complexity of the work performed and the employee's qualifications should be recognised as the vagueness of their regulation in national legislation. A number of current tax regulations indirectly encourage employers to use the hourly wage system and the corresponding company standards within their non-tariff systems to save the wage fund at the expense of the employee in order to hide a certain proportion of labour costs. In particular, employers are allowed to save the wage fund at the expense of the employee, provided that they pay a unified social contribution from the monthly minimum wage (Onyschenko, 2020).

In the context of the problematic functioning of the State Labour Service of Ukraine in terms of the unsystematic exercise of its inspection powers

in relation to business entities, monitoring and prevention of shadow employment, on the one hand, and the widespread practice of non-standard labour relations (with the mediation of employer functions, outsourcing of auxiliary, service and some specialised personnel to enterprises of various specialisations and capacities), on the other hand, the tariff-free system of remuneration stimulates numerous manipulations in the area of declaration and decent remuneration.

The effective mechanism of preserving manipulative practices of undeclared work in Ukraine and other countries of the world, increasing the burden of related social problems (primarily in the spheres of social protection of the working and retired population, reproduction of the desired quality of professional and qualification potential) is the spread of non-standard labour relations, typical for the current period of development of national market economies in the environment of globalised technological and consumer standards and a range of practices of life activities (Lahutina, 2015; Kurzina, 2012).

Non-standard (or split, unstable, atypical, flexible) labour relations and corresponding forms of employment organised on their basis are usually understood as the practice of hiring employees by business entities (personnel, staffing, recruitment and similar agencies) for their further work for another employer. The specified forms of employment for the organisation of agency (loan) labour, which are actively promoted by business (primarily with the purpose of reducing production costs, including due to the decrease of a wage fund and full-time employees, limiting the responsibility for complaints with certain standardised working conditions and labour relations' quality), still remain hotly debated at the level of tripartite partnership institutions and an unsatisfactorily regulated phenomenon of the world and national labour markets.

The main disadvantages of agency (loaned) labour, which are based on the low level of participation or exclusion of the employee from determining the terms of sale and purchase of his/her own labour in favour of the intermediary business entity and, therefore, contribute to manipulation of the declaration of the volume and results of the work of hired personnel, are as follows:

– Violations of labour legislation on the part of staffing agencies, recruitment agencies and organisations using temporary workers, which are manifested in differences in working conditions in the same job positions in a given enterprise for these and full-time employees (primarily through their payment; working regime – overtime, weekends; possibility and duration of rest; availability of transition to other labour functions performance

and compulsory social insurance), as well as in the worsening of guarantees of temporary workers' employment (conclusion of fixed-term labour contracts (or civil law contracts) instead of permanent collective labour contracts with all legally accepted norms of protection and benefits, which can be terminated in case of refusal of a company – user of temporary labour from the services of an agency – intermediary);

– unclear scope of responsibility for working conditions, occupational health and safety on the part of the intermediary agency and the user company;

– unjustified substantial reduction or evasion of expenditures on training and professional development of personnel in production and at workplaces;

– lack of prospects for increasing the level of remuneration for a particular employer-user, who calculates its amount based on the salary and actual hours worked;

– widespread practice of substantial reduction or evasion of contributions to social insurance funds, which should be spent on payments to borrowers who have suffered workplace injuries, occupational diseases, or their families (in the event of the employee's death), as well as on pensions for these categories of employees;

– threats of a decline in the level and quality of life, economic and professional degradation of persons engaged in temporary work (deterioration of the quality of the workforce due to the lack of conditions for self-study, expansion of work experience and professional development; reduction of effective demand due to unequal remuneration conditions for temporary workers and full-time employees; irregularity of income to the households of temporary workers, and thus instability of their expenditures);

– social dumping, which is primarily manifested through the use of temporary workers as strikers in opposition to the workers' struggle for labour and socio-economic rights, which poses a threat to the employment of permanent workers; an increase in the unpaid production workload of the latter due to the high turnover of temporary workers and the need for their initial professional orientation and training;

– vagueness of the mechanism and methodology for calculating insurance period and pension benefits for temporary workers, and the doubtful possibility of early retirement for this category of employees;

– development of schemes for violation of fiscal legislation based on declaring for taxation only the full-time staff, excluding employees who have been outsourced, outstaffed or temporarily employed.

5. Conclusions. Key Priorities for Preventing Undeclared Labour

Taking into account the principles and mechanisms of operation of the spectrum of labour payment systems (both tariff and non-tariff), current and long-term problems and consequences for the social protection of employees caused by concealment and non-declaration of their work, the minimum wage should continue to be the basic state social guarantee, obligatory throughout the territory of Ukraine for enterprises, institutions, organisations of all forms of ownership and management, as well as individuals using the labour of hired workers. First of all, it's about the obligation to provide minimum state guarantees, for which it's necessary that the hourly rate of the tariff cannot be lower than the hourly minimum wage approved by the state.

Among the priorities for raising the level of wages in Ukraine and radically strengthening the role of this component of the population's income in the effective filling of state and local budgets, compulsory and voluntary social insurance funds, and the reproduction of a competitive workforce, the following items should be noted:

– Promote a consistent increase in the share of wages in the structure of production costs by: providing fiscal incentives and preferences to employers and enterprises that implement similar measures to participate in public procurement, public-private partnership projects (including concession projects), competitive privatisation and re-privatisation procedures for a number of economic activities; establishing government programmes to lobby for the interests of socially responsible national producers in foreign markets for goods and services;

– strengthening cross-control over the fulfilment of obligations to pay the minimum wage (as a basic state social guarantee) under the tariff-free and hourly wage systems by the permanent and temporary commissions of the Cabinet of Ministers, national and regional fiscal structures and labour inspectorates;

– implementation of a well-founded methodology for harmonisation of the minimum wage, the minimum subsistence level and other related basic social standards in the direction of realisation of the basic principles of the social state, productive employment, decent work (i.e., creation of conditions for ensuring a decent life for workers and their families through the own efforts of the employed; increasing the effectiveness of mechanisms for social integration and prevention of marginalisation; equalising the initial conditions for entering the labour market and revealing personal potential on it), as well as strengthening the competitive potential for diversification of the national economy and maintaining the pace of economic growth.

In addition to systemic measures to increase the level of wages in Ukraine, domestic and foreign experts often include in the urgent list of non-declaration of work that prevents such priorities as (EU – ILO, 2018; Tsvihun, Nechyporuk, 2018; Shevchuk, 2016; Savchenko, Iordanov, 2012):

- Improving the tax system in the following areas: coordinated optimisation of tax administration mechanisms and the legislative framework that defines the conditions for business development and expansion at the initial stage, including the establishment of tax holidays on income tax for companies that increase their payroll and improve working conditions for full-time employees; balancing the tax burden of economic entities according to the groups of their production capacities, as well as according to the level of their involvement in programmes of modernisation and diversification of the national economy; maintaining the balance between the fiscal and regulatory functions of taxes, including increasing the transparency of the system of tax benefits; reduction of the fiscal burden on the wage fund; effective monitoring of offshore zones; justified use of amnesty mechanisms in relation to shadow capital of non-criminal origin, while opening ways for its legal investment, encouraging the investment use of legalised funds in the internal interests of the national economy;

- monitoring the informal economy and the illegal labour market, in particular in terms of tracking the practice of paying wages "in an envelope"; strengthening systemic mechanisms to prevent it;

- ensuring transparency of the real and service sectors of the economy; state support for innovation and investment projects in the real sector, as well as in other industries whose development contributes to the diversification, modernisation and competitiveness of the Ukrainian economy;

- coordination of a set of mechanisms for identifying and bringing to legal liability business entities that are dishonest in the use of undeclared labour and tax payments; toughening penalties for corruption in the system of issuing permits and licences, as well as for raiding;

- prevention of mutual settlements based on barter between business entities; monitoring of formal grounds and processes for the use of borrowed labour;

- improvement of the mechanisms of compulsory social insurance in terms of collecting the unified

social tax, distribution and use of these funds for their intended purpose.

The most effective measures to combat the practice of undeclared labour and penalties for non-compliance with the current legislation, which were recommended to Ukraine by EU and International Labour Organisation experts, include (EU – ILO, 2018):

- Revision of the existing system of fines (in particular by revising the method for calculating the fines provided for, which must take into account the turnover, gross income or budget of an employer; the type of non-declaration of work (complete non-declaration, underpayment of wages, hidden labour relations, etc.); the number and characteristics of the workers affected by this problem; the presence of recidivism, including non-compliance with the instructions or prescriptions of labour inspectors; the amount of the employer's economic benefit as a result of non-compliance with the legislation);

- introduction of additional sanctions for non-compliance with the current legislation that directly affect the vital interests of employers, such as transfer of facilities and assets owned by the business entity to the state; prohibition of work in certain types of activities that depend on state permission or approval by a state body; deprivation of the right to subsidies or assistance provided by state (public) services; disqualification from participating in exhibitions, fairs, markets; deprivation of the right to participate in state tenders for contracts or agreements for the performance of works, supply of goods and services for the state; deprivation of access to participation in state programmes, preferential bank loans, international assistance programmes, infrastructure support, and so forth; closure of an enterprise whose activities require a permit or licence from an administrative body; suspension of permits and licences; application of the practice of individual registration of the business entity responsible for the violation.

In addition, given the nature of non-declaration of labour in non-standard labour relations (when the functions of the employer are mediated by another legal entity), an equally important area of action is to standardise and regulate the list and content of the obligations of employers – users of borrowed labour within the framework of social and labour relations and social protection of freelance and temporary workers.

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