Resolution by the Euronest Parliamentary Assembly on tackling informal and undeclared labour and enhancing the social security of employees in the European Union and Eastern Partner countries

(2018/C 343/04)

THE EURONEST PARLIAMENTARY ASSEMBLY,

— having regard to the Association Agreements (AAs) between the European Union and, respectively, Moldova, Georgia and Ukraine, to the Comprehensive and Enhanced Partnership Agreement (CEPA) with Armenia, and in particular to the chapters of these agreements on trade and sustainable development and on employment, social policy and equal opportunity,

— having regard to the Treaty on European Union (TEU), in particular its preamble and Articles 3 and 6 thereof,

— having regard to the Treaty on the Functioning of the European Union (TFEU), in particular Articles 6, 9, 145, 151, 152, 153, 154, 156, 159 and 168 thereof,

— having regard to the Charter of Fundamental Rights of the European Union,

— having regard to the European Convention on Human Rights,

— having regard to the European Social Charter of 3 May 1996, in particular Part I and Part II, Article 3 thereof,

— having regard to the European Code of Social Security of 1964 and the revised Code of 1990,

— having regard to Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems ([1]) and to the European Convention on Social Security (ETS No 078),

— having regard to the proclamation of the European Pillar of Social Rights in November 2017 and to the European Parliament resolution of 19 January 2017 on a European Pillar of Social Rights ([2]),

— having regard to Convention and Recommendation Nos 81, 102, 129, 155, 187, 197, 202 and 204 of the International Labour Organisation (ILO), as well as its Decent Work Agenda,

— having regard to the Joint Declaration of the Eastern Partnership summit of 24 November 2017 in Brussels, and to the 20 Deliverables for 2020 and the revised architecture adopted and annexed thereto,

A. whereas in accordance with Article 3 of the TEU, the European Union seeks to work for the sustainable development of Europe, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment; whereas the EU proclaimed the European Pillar of Social Rights in response to the growing challenges in the areas of social security and the protection of EU citizens; whereas there is an EU social *acquis* based on various national, EU and international legal instruments, in particular ILO and Council of Europe conventions, which typically cover rights linked essentially to employment contracts, working conditions or access to welfare;

B. whereas the Charter of Fundamental Rights of the European Union sets out rights that are of particular relevance for workers moving within or to the EU, in particular human dignity (Article 1), the prohibition of slavery and forced labour (Article 5), the freedom to choose an occupation and right to engage in work (Article 15), non-discrimination (Article 21), the right to information and consultation (Article 27), the right of collective bargaining and action (Article 28), the right of access to placement services (Article 29), protection in the event of unjustified dismissal (Article 30), fair and just working conditions (Article 31), the prohibition of child labour and protection of young people at work (Article 32), social security and social assistance (Article 34), the right to healthcare (Article 35) and the right to an effective remedy and to a fair trial (Article 47);

C. whereas there is no binding mechanism in place on cross-border cooperation between relevant authorities in the EU Member States to address issues related to undeclared work; whereas the European Platform tackling undeclared work (UDW platform) was established in May 2016 with the aim of exchanging best practices and information on the issue and encouraging cooperation between Member States;

([1]) OJ L 166, 30.4.2004, p. 1.
([2]) Texts adopted, P8_TA(2017)0010.

D. whereas the Commission has proposed a new directive on transparent and predictable working conditions;

E. whereas the Commission has presented a proposal for a Council recommendation on access to social protection for workers and the self-employed;

F. whereas the Commission has announced the establishment of a European Labour Authority to ensure that EU rules on labour mobility are enforced; whereas it has also announced plans to introduce a European Social Security Number;

G. whereas the European neighbourhood policy, in particular the Deep and Comprehensive Free Trade Areas (DCFTAs) with Georgia, the Republic of Moldova and Ukraine, and visa-free travel arrangements have far-reaching implications for the labour market and the social conditions of employees both in the EU Member States and the Eastern Partnership (EaP) countries; whereas cross-border business requires cooperation among national labour monitoring and enforcement bodies to ensure the implementation of existing legislation;

H. whereas unemployment, corruption and bad governance, and violent conflicts in the EU neighbourhood force people to leave their homes and find work where they can, including abroad; whereas refugees and immigrants are more likely to become undeclared workers without social protection and are often employed for unskilled work; whereas refugees and migrants, in particular women, represent the most vulnerable groups on the labour market and in society as a whole;

I. whereas the social consequences of the global financial and economic crisis and the transformation processes in EU Member States and EaP countries have been far-reaching, from youth and long-term unemployment to growing inequality and poverty; whereas these developments, which are often a by-product of austerity measures, have resulted in a number of changes in the social security systems of EU Member States and neighbourhood countries that have led to reduced standards, including in the areas of healthcare and pensions; whereas labour code reforms have resulted in deregulation and liberalisation, but have not reduced the informal economy;

J. whereas undeclared work often has a cross-border dimension; whereas the nature of undeclared work may vary from one country to the other, depending on the economic, administrative and social context; whereas national legislation on undeclared work and the definitions used at national level differ from country to country; whereas measures to tackle undeclared work should therefore be tailored to take account of these differences;

K. whereas the possibility of finding undeclared work is a key pull factor in encouraging illegal immigration; whereas residents with irregular or non-regulated status, who tend to fall outside the social security system, are often offered undeclared work under conditions that are socially unacceptable and in breach of health and safety regulations or national collective agreements;

L. whereas labour markets and societies are evolving in both the EU Member States and the EaP countries, with substantial challenges arising from the digital revolution, changing working patterns and demographic developments, creating new challenges and opportunities for the labour market;

M. whereas despite the fact that severe forms of labour exploitation are criminalised under EU and EU Member State law, there are cases in which exploitation in the domestic work sector, for example in roles involving cleaning and caring for children or the elderly, is tolerated;

General remarks

1. Stresses that the fight against undeclared work and measures to guarantee social security constitute a serious joint challenge for EU Member States and EaP countries and should therefore become the subject of joint efforts and cooperation;

2. Recognises that undeclared work is a complex and demanding challenge, especially for countries encountering difficult socioeconomic circumstances marked by high unemployment, widespread poverty and social exclusion, a poor business environment and a lack of fiscal space; stresses, however, that undeclared work has serious consequences for societies in general, including lost revenue for national tax authorities, the undermining of social welfare funding and distribution, precarious working conditions and systemic risks relating to violations of fundamental workers' rights, a lack of collective representation and unfair competition between businesses; underlines, therefore, that coherent and integrated national strategies and international cooperation are needed to facilitate the transition from the informal to the formal economy;

3. Regrets, therefore, that the complex web of issues linked to undeclared work, to the transition from informal to formal as regards the economy and work, and to the social security of workers has not so far been a focus of Eastern Partnership policy;

4. Points to the fact that a public administration and judicial system that can be trusted by citizens discourages undeclared work; underlines, therefore, that the rule of law, good governance and the eradication of corruption are crucial for the transition from the informal to the formal economy;

5. Expresses concern at the level of youth unemployment and the number of young people not in education, employment or training (NEETs) in the EU and the EaP countries, and the level of youth participation in the shadow economy; stresses that it is young people who carry a country's cultural, economic and social heritage forward into the future and that priority should therefore now be given to job creation for young people and to measures that encourage those working undeclared to move into the declared economy; points out that the next EU Multiannual Financial Framework (MFF) and the successor to the European Neighbourhood Instrument (ENI) should provide increased support to youth employment in the official economy by employing the good practices developed under the Youth Employment Initiative;

6. Encourages the development of a system through which qualifications obtained in EaP countries are recognised in the EU;

7. Reiterates the importance of zero-tolerance policies in public procurement and in lending by international financial institutions (the World Bank, the International Finance Corporation, the European Bank for Reconstruction and Development and the European Investment Bank) on undeclared work, including in sub-contracting and supply chains;

Short-term measures

8. Calls on the EU Member States and the EaP countries to increase public awareness of the urgent need for action and to step up their efforts to tackle undeclared work, including through public awareness campaigns in conjunction with the social partners; calls on the Commission to support the EU Member States and the EaP countries in ensuring the effective provision of information about the implications of undeclared work for workers, businesses and society, and about workers' rights stemming from the international labour norms enshrined in the ILO conventions, including complaint and appeal procedures; stresses the need to increase awareness among the general public of the fact that people working undeclared can be severely exploited and to promote a climate of zero tolerance of the exploitation of such workers, including their exploitation in private households;

9. Encourages the EU and EaP countries that have not yet done so to ratify and promote in practice the relevant ILO conventions and recommendations, including Nos 94 (Labour Clauses (Public Contracts)), 102 (Social Security (Minimum Standards)), 144 (Tripartite Consultation), 155 (Occupational Safety and Health) and its Protocol of 2002, 167 (Safety and Health in Construction), 177 (Home Work), 184 (Safety and Health in Agriculture), 187 (Promotional Framework for Occupational Safety and Health), 189 (Domestic Workers), 202 (Social Protection Floors), 204 (Transition from the Informal to the Formal Economy) and 205 (Employment and Decent Work for Peace and Resilience);

10. Takes the view that much more emphasis should be placed on the implementation of provisions related to the 'trade and sustainable development' and 'employment, social policy and equal opportunity' chapters of the bilateral agreements between the EU and the EaP; calls on the Commission to provide extensive information about the implementation of the relevant provisions in the AA/DCFTAs with Moldova, Georgia and Ukraine in the context of the annual implementation reports, as well as progress towards the implementation of the relevant provisions of the EU-Armenia CEPA following its ratification;

11. Calls for the establishment under the EaP multilateral architecture of an institutional cooperation mechanism to tackle undeclared work; recommends the establishment of a multilateral (sub)platform under the Directorate-General for Employment, Social Affairs and Inclusion that could provide the EaP bodies, including Platform 2, with input on the social and labour aspects of trade and economic cooperation;

12. Takes the view that a mechanism based on an exchange of best practices and the improvement of data collection could be established following the example of the UDW platform; points out that such a mechanism should provide a framework to assess the factors, characteristics, causes and circumstances relating to informal and undeclared work and poor working conditions in a national and cross-border context, and to exchange best practices on how to enhance the social security of workers and promote decent work and social protection for all;

13. Calls on the Member States and the EaP countries to conclude bilateral agreements on data exchange and administrative cooperation on cross-border undeclared work; stresses the need to develop practical tools to combat organised forms and networks of cross-border undeclared work;

14. Welcomes the adoption of the European Pillar of Social Rights; calls on the EU Member States and the EaP countries to hold discussions at their next high-level meeting on how to adapt Eastern Partnership policy in the light of the European Pillar of Social Rights and to develop a common framework for analysing the state of the implementation of fundamental social rights, using the 20 principles of the European Pillar of Social Rights and the social indicator scoreboard as a reference, and with the long-term goal of the adherence of the EaP countries to the 20 principles;

15. Is of the opinion that the UDW platform established may contribute to increased cooperation, bringing together experts from both EU and EaP countries; calls on the EU to reflect on a mechanism that could enable non-EU countries to participate in the activities of the UDW Platform and benefit from them;

16. Calls for the employment and decent work promotion programmes to be opened up to the EaP countries;

17. Stresses that labour inspection plays an important role in protecting employees' rights, ensuring health and safety in the workplace, combating unsafe working environments, preventing breaches of employment protection rules and promoting fair and socially responsible economic growth, inasmuch as it helps to ensure that wages are actually paid and social security contributions made, thus increasing tax revenue and the inflow of money to social security systems and ensuring that employees are covered for sickness, accidents in the workplace and pensions; deplores the fact that labour inspection authorities have been weakened or even abolished as a consequence of austerity measures and transition processes; calls, in particular, on the EaP countries to reverse this development and to provide the national labour inspection authorities with adequate funding, staffing and training; calls on the Commission to support cross-border training and other forms of cooperation among national labour inspection authorities;

18. Notes the important role played by social partners in many EU Member States in combating undeclared work; stresses the need to step up social dialogue and consultation of social partners in EaP countries in order to involve them in improving working conditions, labour standards and social protection;

19. Advises national authorities in EU Member States to encourage domestic alliances against undeclared work in the fields most affected, such as construction, transport, tourism and agriculture;

20. Underlines the important role of trade unions in combating undeclared work and protecting undeclared workers, as trade unions are usually the first bodies to be made aware of problematic, fraudulent, abusive or illegal situations; notes with concern the difficulties that trade unions face in the EaP countries, ranging from limitations on the freedom of association and assembly to impediments to pursuing social dialogue; calls on the EU Member States and the EaP countries to provide for the conditions necessary for trade unions to act, and calls on the European Commission to continue supporting them;

21. Encourages members of the business community in the EU and the EaP countries to assume their corporate social responsibility in fighting undeclared work, including in supply chains; reminds them that undeclared work creates unfair market competition;

22. Welcomes the establishment of Working Group 5 on social and labour policies and social dialogue within the Eastern Partnership Civil Society Forum; proposes that this working group contribute to the ongoing discussion on combating undeclared work through its own contributions on the role of civil society;

23. Calls for the EU to dedicate some of the assistance provided to the EaP countries, which will be deployed under the financial instruments of the post-2020 MFF, to this complex set of issues, including support to the institutional development of labour inspection systems, and to strengthening social dialogue and the capacities of the social partners, including at sectoral level, as well as civil dialogue and the work of civil society organisations in general;

Long-term measures

24. Stresses that the transition from the informal to the formal economy should be part of a broader long-term strategy to increase structured job creation, improve job quality and access to employment support, fight the segmentation of the workforce, combat corruption, secure fiscal and social contributions, develop or expand comprehensive social insurance coverage and ensure universal social protection floors in line with ILO Recommendation No 202;

25. Stresses that experience shows that both empowering authorities to enforce compliance with existing legislation and providing incentives, such as income tax relief and subsidy schemes aimed at regularising jobs, successfully contribute to moving undeclared work into declared work; calls on the EU Member States and the EaP countries to develop a long-term roadmap with verifiable benchmarks;

26. Encourages EaP countries to develop national capabilities for preventing and tackling undeclared work with the wide participation of stakeholders, including social partners and NGOs;

27. Stresses that the attractiveness of undeclared work can be effectively reduced by developing transparent tax and public social protection systems that are accessible and appealing; calls on the EU Member States and the EaP countries to develop national strategies aimed at achieving comprehensive social security systems in line with ILO Recommendation No 202 on social protection floors and with Convention No 102 on social security, so as to extend coverage to the currently uncovered population in the informal economy and to adequately address the issue of undeclared work;

28. Encourages EU Member States and EaP countries to conclude bilateral agreements, especially in the case of those countries experiencing a trend in emigration and immigration fluxes that ultimately generates undeclared work;

29. Calls on the Member States and the EaP countries to develop a common framework for social security coordination, in order to safeguard the social security entitlements of mobile workers;

30. Instructs its Co-Presidents to forward this resolution to the President of the European Parliament, the Council, the Commission, the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the European External Action Service, and the governments and parliaments of the Member States and of the Eastern Partnership countries.