



Mutual Learning Programme

DG Employment, Social Affairs and Inclusion

Peer Country Comments Paper – Czech Republic

**Work-related crime and social fraud in the
Czech Republic: economic and political
obstacles for the cross-agency cooperation**

**Peer Review on “Joint operation groups between public
agencies – an effective tool to prevent and tackle
undeclared work”**

Oslo (Norway), 25-26 September 2017



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1 Situation in the Czech Republic relative to the host country

1.1 Introduction

Work-related crime and social fraud representing violations of labour market-related laws and regulations, exploitations of social benefits and camouflaging illegal activity in ordinary economic activities have gained wide attention in the Czech Republic in the past few years. Similar to the case of Norway (hereinafter “the host country”), in 2012 the Czech government declared its ambitions to fight work-related crimes and fraud. In 2012, new legislative measures were adopted, namely the Act No 435/2004 Coll. on Employment and the Act No 262/2006 Coll. The legislative measures provided changes in the definition of undeclared work in order to ensure more efficient control of this phenomenon, increased penalties for undeclared work (fines starting from CZK 100,000 (EUR 3800) for employees, or starting from CZK 250,000 (EUR 9500) for employers), enabled centralisation of the competencies under one main authority in order to increase the efficiency of tackling undeclared work, ensured the exclusion of employers punished for illegal employment from public funding, imposed the obligation to keep documents proving the legality of employment in the workplace as required by labour legislation, as well as brought the changes in the definition of “dependent work” in order to eliminate covert labour relationships (of officially self-employed persons) and push through the formal labour relationships. Moreover, in 2016, the law on the electronic record of sales (Law 112/2016 Coll) was passed, requiring all business companies and sole traders to gradually adapt the electronic cash registers and register all cash transactions. Electronic cash registers helped to control the cash payments and “over-the-counter” payments as well as “envelope payments” (when parts of the salary are paid in cash and remain unregistered by the tax system and therefore untaxed).

However, there are stark differences between the Czech Republic and Norway in relation to the prevalence of work-related crime and social fraud. While cooperation across agencies and sectors clearly represents an important and useful tool in tackling undeclared work in Norway, there are some economic and political obstacles for such cooperation in the Czech Republic. For example, there are still economic factors that in a number of cases make illegal work/ employment more appealing than legal work/ employment. According to many researchers (see, for example, Brunet-Thornton and Bureš, 2012; or Hamplová and Provazníková, 2014), doing business in the Czech Republic is not that simple due to the weak and unstable legislative support of businesses. Belás et al. (2015) noted that the Czech Republic distinguishes itself from other post-Communist countries given the country’s history with corruption. Furthermore, Plaček et al. (2017) mentioned the high level of corruption prevalent in public contracts in the Czech Republic, while Virglerová et al. (2016) ranked the Czech Republic amongst the countries with the highest levels of perceived corruption. Moreover, a study based on the results of the in-depth interviews conducted with 300 Czech small and medium enterprises showed that almost every firm has encountered some form of corruption and even used corruption to either increase sales, help negotiations, or increase production. Moreover, most of the respondents admitted that corruption was useful for day-to-day business (Koudelková et al., 2015).

Intra-agency cooperation on combating illegal employment and social fraud is also hampered by the political situation in the Czech Republic. According to the Gallup’s second annual global audit (2013), perceived corruption is one of the main reasons for distrust in key government institutions.

Another study conducted in 2013 showed that the overall atmosphere in the Czech labour market was tense and that the majority of business owners considered undeclared work as being a “normal” part of the economy (Strielkowski, 2013).

1.2 Undeclared work in the Czech Republic

At EU level, undeclared work is defined as "any paid activities that are lawful as regards their nature, but not declared to public authorities, taking into account differences in the regulatory systems of the Member States" (European Commission, 2017).

According to Schneider (2015), the size of the shadow economy in the Czech Republic in 2015 constituted 15.1% of the official GDP (with the average for the 31 European countries being 18%).

Undeclared work and work-related fraud in the Czech Republic typically takes two forms: i) the above-mentioned "envelope payments", and ii) the form of work-related fraud when a person exercising the employer's normal activities is not an employee in legal terms but acts as an independent entrepreneur acting on a basis of "živnostenské oprávnění" (a business concession). The latter type of work-related fraud is known as "svarc system" (Duvell, 2011).

While the "envelope method" is widespread in all sectors of the economy where the employers wish to pay lower taxes, the "svarc system" typically occurs in those sectors where working as a private entrepreneur is more beneficial due to the financial incentives (e.g. construction, repairing and other vocational trades). This is caused by the fact that since 2005, all self-employed individuals (sole traders, entrepreneurs without concessions, private farmers or people profiting from rental income) could either opt for standard accounting procedures or for so-called "výdajové paušály" (spending packages). The current rate of spending packages (% from the total generated income) is the following: 80% for vocational trades, agriculture, forestry and water management; 60% for other trades, 40% for freelancers and beneficiaries of income from copyrights, business pursuant to special regulations; 30% for rental income beneficiaries. In addition, undeclared work is notorious in the sectors where any form of control might be ineffective (e.g. accommodation and gastronomy or information and communication).

In relation to social fraud, the typical social work-related fraud includes illegal or unauthorised collection of unemployment benefits, which are estimated to be about CZK 5 billion (EUR 191 million) annually (Strielkowski, 2013). The "grey economy" associated with undeclared work also deepens social exclusion of long-term unemployed.

Another form of undeclared work in the Czech Republic is related to the illegal employment of foreign nationals from Ukraine, Bulgaria and Romania (Svobodová and Vacovská, 2015).

2 Assessment of the national approach

In the Czech Republic, the list of agencies normally involved in tackling undeclared work and social fraud include the State Labour Inspectorate Office (SLIO), Labour Offices (institutions established by Act No. 73/2011 Coll (Act on the Labour Office of the Czech Republic) responsible for all areas of employment and protection of workers), Czech Social Security Administration (CSSA), as well as the Ministry of the Labour and Social Affairs, Ministry of the Interior, and the Ministry of Finance.

In general, cross-agency cooperation between such a wide group of entities might not be very effective in the Czech Republic. In the Czech Republic, various state agencies, institutions and ministries are often controlled by rival political parties. This fact contributes to the internal and external complexity of the cross-agency cooperation, which differentiates the Czech case from the case of the Host Country. Also, as outlined in the Norwegian Host Country report, it often happens that cooperative efforts of different agencies in the Czech Republic might contradict or negatively contribute to department-specific or agency-specific objectives.

Overall, it needs to be remarked that the creation of joint operation groups between public agencies in the Czech Republic for whatever purposes such groups are created – work-related crime and social fraud included – is not often smooth and easy. The main problem for the effective cross-agency cooperation between various Czech public agencies and institutions is the issue that is deeply rooted in the country’s socialist past. During Communist times (1948-1989), all state power was centralised and all agencies and state institutions worked together as one single mechanism. After the Velvet Revolution in 1989, the state control was de-centralised and this has remained until nowadays. Both state officials and local citizens consider tight state control to be a violation of their civic rights and any forms of improving this control are seen in a negative light (Grzymala-Busse, 2002; Kolářová, 2014).

Nevertheless, there are successful examples of cross-agency cooperation. One of these examples is the cooperation between SLIO and its partners (e.g. Labour Offices, Czech Social Security Administration, and the Ministry of the Labour and Social Affairs) in conducting inspections raids and optimizing performance in controlling illegal employment. This cooperation became possible due to shifting the control powers to the State Labour Inspection Office based on the newly adopted Employment Act.

According to SLIO (2017), a total of 26,620 inspections aimed at unveiling illegal employment and work-related crime were carried out in 2016. A total of 845 cases were uncovered. Controls discovered 2,290 illegally employed persons (760 Czech citizens, 193 citizens of other EU Member States and 1,337 third country nationals). Compared to the situation in 2015, there was a recorded increase of illegally employed third country nationals thanks to more rigid controls while the situation for the Czech citizens and citizens of other EU Member States remained more or less the same.

In 2016, SLIO charged 3,828 penalties that totalled 191 million Czech crowns, of them 714 penalties totalling at 73 million Czech crowns for work-related crimes and fraud. Therefore, the success in tracking and punishing work-related crime has been increasing over the years and represents a considerable contribution to the state budget.

In the section that follows, the two examples mapping the national approach to undeclared work and work-related crime and fraud are explained in more detail. These examples are: the DONEZ project conducted in cooperation with the Czech Post, which is employing both a novel approach and novel technologies; and the MOPNZC intra-agency Committee for fighting against the illegal employment of foreigners (Czech citizens were out of the scope of these activity).

3 Assessment of the success factors and transferability

There are several lessons that the Czech Republic can learn from the Norwegian example of cross-agency cooperation. First of all, it is the overall political consensus over the strategic foundations that cut across different governance levels and across agency boundaries and are accepted by the decision-makers and strategic leaders regardless of their party affiliations. In the Czech Republic itself, tackling undeclared work depends largely on the successful cooperation between authorities (such as SLIOs, Labour Offices and Czech Social Security Administration (CSSA), the Ministry of the Interior of the Czech Republic and Czech Post) and the integration of databases.

One of the examples of this cooperation was a project called “Checking the unemployed” (Docházka nezaměstnaných) or DONEZ. The project lasted between 2011 and 2013 and was operated by the Czech Post (technically, a part of the Ministry of the Interior). CzechPOINT units at Czech Post offices were used to monitor the unemployed individuals, to make sure that they are not engaged in undeclared work when being registered as unemployed individuals and to collect unemployment benefits. The cooperation between all these institutions represents an unprecedented step towards linking governmental registries and facilitating effective controls in the Czech labour

market. Before 2011, all controls were run separately and sporadically by various state inspections and organisations. The unification meant a great leap and a step towards a more effective system of covering, monitoring and uncovering of illegal and criminal activities on the Czech labour market. Activities implemented through a network of CzechPOINT centres were crucial for ensuring that the maximum extent possible to reduce illegal employment of Czech citizens and foreigners was reached and that the process started by the introduction of client access in services employment was completed. Using public contact points within the network of CzechPOINT for contacts with specific groups and applicants for employment (e.g. unemployed, school leavers, etc.) strengthens the control mechanism that prevents jobseekers from engaging in activities they were not authorized to perform and which were usually carried out under the so-called “grey economy”. The system of random checks run at CzechPOINT centres was cheap and effective and prevented the officially registered unemployed from working illegally on the side because they were regularly selected for visiting CzechPOINT offices during working hours and the time to visit was made known to the candidates up to three days ahead. Due to the fact that times and places of CzechPOINT places varied, employers faced increasing time and financial costs of transportation of their undeclared employees to the centres (usually Czech Post offices and local branches) where the controls were carried out. Due to complaints of ineffectiveness and costs, the project was shut down in 2014.

Second, the Norwegian example of effective information exchange across all involved units regardless of governance level that participate in information gathering, exchange and communication efforts and together make an essential component for a successful cross-agency cooperation which can also be used in the Czech case. Smooth and efficient flow of information, not only between colleagues from different ministries and agencies but among all stakeholders is a must when wanting to effectively fight work-related crime and social fraud. It has to be noted that the Czech Republic can boast some examples of cross-agency cooperation in fighting against work-related crime and social fraud which is related to the illegal employment of foreigners (Czech citizens were not covered by the projects in question). In 2000, the government of the Czech Republic created the Cross-agency Committee for fighting against the illegal employment of foreigners (MOPNZN) due to the national priorities in this field. The Committee is comprised of the representatives of several ministries, trade unions, labour inspectorates, the Czech Statistical Office and academic institutions (Ministry of Labour and Social Affairs, 2000). Typically, representatives of MOPNZN members meet twice a year in order to discuss legislative changes and to prepare a report for the Czech government. In 2016, the 39th meeting of MOPNZN focused on the issue of sending third-country nationals employed in another EU Member State to the Czech Republic. The discussion was sparked by the situation when non-EU citizens (mostly Ukrainians) employed in Poland by Polish companies were sent to the Czech Republic to work at food retail storehouses. While this situation might fall under the EU Directive 96/71/ES, there were some suspicions that in a number of cases the Directive was used for work-related fraud (Ministry of Labour and Social Affairs, 2017). MOPNZN prepared guidelines for the coordinated approach to all subjects in question that would be implemented by all its member organisations. Hence, in spite of some obstacles for the cross-agency cooperation stemming from the historical background, the Czech peculiarities and the socialist past, there are some success stories of fruitful dialogue and coordination that can be transferred to other Member States.

As it was stated in the host country report, single agency cannot assume full responsibility for the problem of work-related crime and social fraud. The same applies to Norway and to the Czech Republic alike.

3.1 Conclusions

Work-related crime and social fraud constitute a ubiquitous problem in every EU Member State. Joint efforts and determination are required to tackle this problem. A consensus

of all governmental and non-governmental institutions has to be reached and fruitful cooperation has to be built in order to face this problem.

Overall, it seems that in spite of the country's history and political culture the Czech Republic has developed a unique pathway and approach to tackling work-related crime and social fraud.

Cross-agency cooperation in fighting work-related crime and social fraud is conducted in a different fashion than in Norway and is most often carried out at the personal and individual level between officials from various ministries and inspectorates. Economic and political barriers to cooperation between various ministries and agencies prevent the Czech Republic from establishing intra-agency collaboration at all levels, including embedding the political consensus over the problems and main priorities, ensuring the smooth and easy flow and exchange of information between all involved institutions, and enabling the cooperation of all subjects that are required for solving the issues of illegal employment, tax and social frauds and exploitation of workers.

Nevertheless, there are some innovative projects aiming at reducing work-related crime and fraud in the Czech Republic that either were successful for some time or are currently being implemented. As such, the experience of Norway in cross-agency cooperation in fighting against work-related crime and social fraud represents a valuable lesson and an example to follow

4 Questions to the host country in the Peer Review

- Is the joint operation between public agencies in fighting against illegal activities, work-related crime and social fraud influenced by a country's national history? If so, how can the ice be broken?
- How can efficient intra-agency cooperation be promoted in spite of political tensions?
- How do you motivate various state agencies, ministries and organizations (as well as non-governmental organizations) to join the cooperation in tackling undeclared work and fraud?
- What is the role of mass media in the fight of illegal work and social fraud? Can mass media be helpful in changing the public opinion and political will and how?
- Can joint operation groups between public agencies be effectively established in the post-Communist countries, where the citizens still fear the total control of the state that existed during Socialism?
- Are there differences between the approach of public agencies to both their agenda and their cooperation in the “old” and the “new” Member States? Is it different in Norway which is not an EU Member State?

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Annex 1 Summary table

The main points covered by the paper are summarised below.

Situation in the peer country relative to the host country

- Although work-related crime and social fraud represent a serious problem in the Czech Republic, which is similar to the host country, the roots and the solutions differ.
- The Czech Republic underwent a transformation from the socialist to the market economy, which marked the development of its labour market
- The attitude towards the state is somewhat negative and the level of corruption in the Czech Republic are quite high.

Assessment of the policy measure

- Cross-agency cooperation aimed at fighting work-related crimes and social fraud can meet many economic and political obstacles in the Czech Republic
- The main reason for the above issue is the Communist legacy with its strict control over each and every citizen by the state and the close cooperation of the state institutions.
- Cooperation between agencies and institutions in the Czech Republic works on an interpersonal “know-your-colleague” approach.

Assessment of success factors and transferability

- In spite of some issues, the Czech Republic can boast some examples of successful cooperation across institutions and agencies.
- One of the examples is the DONEZ registration system built on the cooperation with the CzechPoint, an online database outlet offered by the Czech Post
- Another example is the Committee for fighting the illegal employment of foreigners comprised of the relevant stakeholders and policy-makers (MOPNZC)

Questions to the host country in the Peer Review

- Is the joint operation between public agencies in fighting against illegal activities, work-related crime and fraud country-specific and predetermined by the national history, pride and belief of the state authorities? If so, how can the ice be broken?
- How can the political rivalry be cast aside in the name of the efficient intra-agency cooperation, exchange of information and reaching the political consensus over the pending tasks related to work-related crime and social fraud?
- How to motivate various state agencies, ministries and organisations (as well as non-governmental organisations) to join the cooperation in tackling undeclared work and fraud?
- What is the role of mass media in the fight against illegal work and social fraud? Can mass media be helpful in changing the public opinion and political will and how?
- Can joint operation groups between public agencies be effectively established in post-Communist countries, where the citizens still fear the total control of the state that existed during Socialism?
- Are there differences between the approach of public agencies to both their agenda and their cooperation in the “old” and the “new” Member States?

Annex 2 Example of relevant practice

Name of the practice:	Cross-agency Committee for fighting against the illegal employment of foreigners (MOPNZC)
Year of implementation:	2000
Coordinating authority:	Czech government
Objectives:	Fighting against the illegal employment of third-country nationals, discussing legislative changes and preparing reports for the Czech government
Main activities:	Consulting the government, agreeing on the joint coordination and approaches to certain policies and agendas
Results so far:	Holding 40 meetings, preparing the criteria for dealing with the employment of third-country nationals registered in other EU Member States under the EU Directive 96/71/ES

