



Resolution 1847 (2011)¹

Final version

The underground economy: a threat to democracy, development and the rule of law

Parliamentary Assembly

1. There is a growing concern that the underground economy, also referred to as the informal, shadow or grey economy, represents a large and increasing share of the overall economic activity in Europe and the world. For decades policy makers' attention focused on economic development priorities and the immediate serious threats to good governance or national security stemming from economic crime or the "black economy". Council of Europe member states have directed their action on the basis of Committee of Ministers Recommendation No. R (81) 12 on economic crime, the relevant conventions and their additional protocols, collaboration with international partners and the work of specialised intergovernmental committees. Yet the consideration of wider problems relating to the underground economy and its effects on society has been insufficient. This concerns, in particular, undeclared work and the unregulated use of assets through offshore financial centres.

2. The Parliamentary Assembly notes that, according to some estimates, the size of the underground economy ranges from under 10% of Gross Domestic Product (GDP) in countries such as Austria and Switzerland, to about 25% in Greece, 33% in Turkey, 37% in Bulgaria, and around 40% in the Baltic states, to over 60% in the South Caucasus countries. The "new democracies" of central and eastern Europe – where the rule of law is still fragile and vested interest groups are firmly rooted – are particularly affected. The evolving structure of the world economy, the geopolitical changes following the fall of the Berlin Wall (globalisation, spread of cyber-technologies, opening of borders, proliferation of free-trade zones, etc.) and, last but not least, the global economic crisis, have all together fuelled the growth of the informal economy.

3. The Assembly considers that both the underground economy and economic crime significantly erode state authority and the capacity for good governance which are essential for fostering democracy, development and the rule of law. The shadow economy and economic crime deprive state budgets of substantial amounts of tax revenue, distort competition in regular markets, flout citizens' socio-economic rights, slow down economic progress, abuse public welfare systems and propagate lawlessness. At the same time, they draw attention to problems with official laws, rules, regulations and practice, as well as shortcomings in law enforcement. Such problems include legal loopholes, red tape, excessive regulation or tax burden and a lack of effective oversight and control.

4. Together with its international partners, such as the Organisation for Economic Co-operation and Development (OECD), the World Bank, the European Union, the European Bank for Reconstruction and Development (EBRD), the United Nations, Europol and Eurojust, the Council of Europe has shaped policies, legal instruments, monitoring mechanisms, co-operation programmes and projects for targeting corruption, cybercrime, money laundering, tax evasion, terrorist financing, confiscation of criminal assets, insider trading, environmental crime and trafficking in human beings. However, it should strengthen its efforts to address the problem of undeclared work, notably in co-operation with the International Labour Organization (ILO) and the

1. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 25 November 2011 (see [Doc. 12700](#), report of the Committee on Economic Affairs and Development, rapporteur: Mr Pleskachevskiy). See also [Recommendation 1988](#) (2011).



International Organization for Migration (IOM), and to study the activities of the offshore centres as financial intermediaries. Furthermore, considering that the last Council of Europe study on the situation of organised crime was published in 2005, it seems necessary to prepare a new study.

5. The Assembly appreciates that the priorities for 2012-2013 put forward by the Council of Europe Secretary General lay emphasis on threats to the rule of law, in particular the various kinds of economic crime, including new forms of criminality. The Assembly trusts that these priority activities and any new action relating to the underground economy, as suggested in this resolution, will receive adequate budgetary support from the governments of member states.

6. The Assembly also welcomes the proposals by the Council of Europe Secretary General for a critical review of the Organisation's conventions. It is convinced that the Organisation should use this process to facilitate accession by the member states, the European Union and non-member countries to relevant conventions which are essential for fostering co-operation in combating the underground economy and economic crime.

7. The Assembly welcomes the recent adoption of the European Convention on Counterfeiting of Medical Products and Similar Crimes involving Threats to Public Health (Medicrime Convention, CETS No. 211) and the intention of the European Union to become party to this convention. It believes that the convention should be promoted without any further delay.

8. In this context, the Assembly recalls its Recommendation 1793 (2007) on the need for a Council of Europe convention on the suppression of counterfeiting and trafficking in counterfeit goods, in which it proposed to consider preparing a legal instrument that would cover a full range of consumer goods which, if counterfeited or adulterated, pose serious risks to the lives and health of Europeans. Trafficking of counterfeit goods continues to escalate across Europe and the implementation of the Medicrime Convention will require reliable data. An observatory could therefore be set up under the aegis of the Council of Europe, possibly in co-operation with the European Union, to gather data on cases of fraudulent goods which put public health at risk. This measure would facilitate a decision on the need for an additional protocol to the Medicrime Convention in order to widen its coverage to all dangerous goods.

9. The Assembly is convinced that pan-European co-operation on preventing and combating trafficking in human beings can only be effective if the Council of Europe and European Union combine their efforts and means, in particular with a view to strengthening the monitoring mechanism of the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197) and synergies with other institutional actors at national, regional, European and international levels.

10. Enhanced transparency in relations between decision makers, economic players and citizens is essential for better governance. The Assembly notes a positive first reaction of the Committee of Ministers, on the basis of opinions from the Group of States against Corruption (GRECO) and the Conference of International Non-Governmental Organisations (INGOs), to its Recommendation 1908 (2010) on lobbying in a democratic society (European Code of good conduct on lobbying) and trusts that progress will be made rapidly towards the drawing up of such a code.

11. Moreover, the Assembly welcomes the intention of GRECO to use its forthcoming 4th Evaluation Round on "Corruption prevention in parliamentary assemblies, the judiciary and among other actors of the pre-judicial and judicial process" to assess the existing standards of conduct for parliamentarians with regard to lobbyists and lobbying. It believes that it would be appropriate to widen the scope of the evaluation to also cover the executive branch of governance.

12. The Assembly is convinced that curbing underground economic activities, in particular economic crime, is essential to ensuring the smooth functioning of democracy, the competitiveness and strong performance of national economies, more adequate protection of citizens' socio-economic rights and the honouring of commitments to foster the rule of law. It therefore calls on member states to:

12.1. carry out national audits of their economic systems with a view to evaluating the extent of underground economic activities and their interface with the formal economy;

12.2. assess the weight of their regulatory systems related to taxation, licensing, labour, environment, health and safety, consumer protection and intellectual and industrial property rights, with a view to determining whether these could be streamlined and the cost of compliance lowered;

12.3. work towards the harmonisation of the definition of the underground economy and support the Council of Europe efforts in this respect;

12.4. study the impact of migrant labour, in particular the trend of “low-cost” labour, on national welfare systems and corporate compliance with core labour standards;

12.5. put in place specific assistance in favour of better integration of vulnerable groups (including minorities, refugees, asylum seekers, displaced persons and Roma communities) through targeted educational schemes, employability training, self-employment programmes and measures to improve access to public services and decent housing;

12.6. strengthen the electronic monitoring and active surveillance of money flows by banks and financial institutions;

12.7. tighten the rules regarding the use of cash transactions and increase penalties for unrecorded or undeclared cash receipts;

12.8. improve liaison, information exchange, sharing of best practice and co-operation between monitoring, investigating and prosecuting bodies at local, regional, national and international levels;

12.9. facilitate the work of national economic intelligence agencies by strengthening their surveillance and investigative powers, as well as their human and financial resources;

12.10. increase the scrutiny of business transactions involving the use of the services of offshore financial centres;

12.11. support G20 efforts towards improving global rules for the regulation of financial markets, particularly in respect of hedge fund activities, and increased transparency of financial instruments;

12.12. review, clarify and, where necessary, strengthen the national legislative provisions for:

12.12.1. regulating lobbying activities and the work of professional associations;

12.12.2. ensuring transparency in public procurement, administration of state property and privatisation;

12.12.3. enhancing the responsibility of business entities, regulators and control institutions for the disclosure of truthful information;

12.12.4. optimising personal data protection;

12.12.5. improving domestic controls for intercepting counterfeit goods;

12.13. promote whistle-blowing and ensure adequate witness protection.

13. Finally, the Assembly invites national parliaments to ensure continued monitoring of domestic policies and action for tackling the underground economy and economic crime, notably as a follow-up to measures proposed in this resolution.