



EMPLOYERS' VIEWS CONCERNING BUSINESS ENVIRONMENT

Labour Law, Wages Taxation Policy, Trade Regulations and Inspections

Belgrade, May 2013





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From the Employers

The period 2009 – 2012 was very difficult for the Serbian economy. Simultaneous pressure of the world economic crisis which strongly affected Serbia and insufficiently reformed business environment over the last two decades have led to the significant decline of economic activities, accumulation of losses and sharp decline in employment.

At this moment, according to the numerous indicators of the domestic statistics, but also according to the data of the World Bank and other international financial agencies and institutions, Serbia is in the group of the five least developed European countries, and according to the indexes of bureaucratization and corruption it belongs to a group of underdeveloped African countries.

One of the highest unemployment rates within the European continent and share of the grey economy which different studies estimate from 27,5 up to 40,3 percent of GDP, along with the continuous four years' decline in purchase power represent the huge obstacle to further development of our state and its economy.

High burdens on labor (total amount of wage taxes and contributions) and the outdated Labor Law which does not meet the needs of the modern market economy, but still treats the labor relations similarly as in the old socialist Yugoslavia, are the main factors of the rapid decline in employment and black market labor of big part of the working-age population (according to different estimates from 620.000 to 1,05 million). Therefore it was necessary to ask the Serbian employers how the present Labor Law and tax policy related to wages reflect on their businesses and whether they can even think, within the present conditions, about creation of the new jobs.

The regulations related to the trade, one of the biggest sectors in the Republic of Serbia, are a separate segment of burdens on business, which also lead to the significantly higher costs of doing business and unnecessary bureaucratization and, again, reduce the funds necessary for the new jobs. During 2009 – 2012 turnover in the retail trade declined for almost 1/3 compared to 2008. In the meantime, the state not only failed to reform the old regulations, but it has introduced dozens of the new ones within the EU accession process without using a possibility to gradually implement these regulations and adapt them to the real situation in the domestic economy. The result of such treatment of the trade sector is that this sector, which is the most sinewy sector in Serbia with the largest labor force, also ended 2012 with 5% fewer employees than in 2008.

Each successive government will have to maximally save on itself and on the public sector, with the simultaneous efforts to disburden the doing business, if it wants to recover Serbia from the present deep economic and social crisis. This means determined and frequently painful reforms and each lost month will bring even worse results in the future. This Study and its recommendations make it clear to the Government of the Republic of Serbia, experts and wide public what changes are needed in the field of the Labor Law, tax policy and regulates related to trade and labor inspections, in order to enable the permanent economic growth and employment increase during the following years.

Serbian Association of Employers expects that the key actors on the political scene finally start to rule in accordance with the principles of the good management and to decisively carry out postponed reforms. For this, they will always have full and unambiguous support of the entrepreneurs and the business community of the Republic of Serbia.

President of the Serbian Association of Employers
Nebojša Atanacković

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List of Abbreviations

GDP	–	Gross Domestic Product
CEFE	–	<i>Competency-based Economies through the Formation of Enterprises</i>
CLDS	–	Center for Liberal-Democratic Studies
D.C.	–	<i>District of Columbia</i>
GCI	–	<i>Global competitiveness index</i>
EU	–	European Union
FEFA	–	Faculty of Economics, Finance and Administration
IEF	–	Index of Economic Freedom
FREN	–	Foundation for the Advancement of Economics
MAT	–	Macroeconomic analysis and trends
ILO	–	International Labor Organization
OECD	–	The Organization for Economic Co-operation and Development
WTO	–	World Trade Organization
CIS	–	Commonwealth of Independent States

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Executive Summary

This study analyzes the primary and the secondary data on labor market, tax legislation and trade regulation in Serbia. Analysis of primary and secondary data and comparative analysis of countries in region resulted in several key findings. Labor market in Serbia appeared to be relatively liberal “on the paper” compared to EU, but the problems in the other spheres, relevant for the labor market functioning, diminish this “advantage” to the great extent. **Therefore this study clearly identified the need for the substantial improvement of the present Labor Law and the supporting legislation, in particular in the area of redundancy calculation and the length of fixed-term employment contracts.** The big majority of the employers are of the opinion that the high levels of taxes and contributions are the essential obstacle for employing new workers and increase of salaries. The employed workers are favored at the expense of the unemployed workers, and the sparse laying-offs and employing lead to a stable, poorly changeable labor force in companies. Disrespect of the laws is being encouraged, con-

sidering that the life inevitably tries to bypass unnecessary barriers. Due to the small companies’ lack of expertise concerning the labor legislation, the court procedures related to the prescribed procedures are more frequent, which, due to the evident bias of the courts in favor of the employees, leads to violation of the rule of law and losses in the economy, and transition to the grey economy is also being encouraged. The employers also believe that the existing level of rights of the trade union officials should be reduced, the flexible forms of employment should be introduced and the procedures related to employment/dismissal should be simplified. The employers showed readiness to at least share with the workers the funds released by reduction of the wage taxes and contributions. Work of the inspections in Serbia has improved, but the decision making left to the discretion of the inspections at the expense of the employers is still present. There are still numerous levies which exist without a cornerstone in the spirit of the laws that prescribe them, i.e. there are cases of neglecting of the law by the state itself.

Recommendations

Research of the employers' positions shows that the certain aspects of the labor legislation, tax policy related to wages and trade regulations should go through changes. The strongest obtained arguments are supporting reforms which would lead to reduction of contributions that are paid by the employers on net wage. However, this should not be through the formal separation of the taxes and contributions to those at the expense of the employer and those at the expense of the employee, which is the present situation (even though, in practice, both parts represent increase of labor costs paid by the employer), but through the systemic solutions which would lead to reduction of difference between the gross and the net wage, in particular when it comes to the lowest wages.

If there is a consensus among the employers about a certain aspect of the business environment in Serbia, it is the one about the difference between the gross and net wage amounts – it is the insurmountable obstacle for increase of the net wage. The biggest number of employers do not see the possibility to employ more workers, some announce reduction of labor force or they have already reduced it, so it is clear that we have here the phenomenon of the non-optimal excessive taxation and that it is better to think about the lower taxes and contributions which could result in a similar amount collected from a wider tax bases on a medium run¹. The results of the research show that the majority of the employers are ready to redirect the possible savings from tax reduction to an increase of the net wages. The results also clearly show that the different fiscal policy would stimulate the big part of employers to increase payments through the forms of payments which are partly or completely tax free. This is in accordance with the practices that exist even today, because the issue of payment of per diems, for example, is for some companies the issue of payment of wages through tax free items, and for some companies it is the issue of emission of the additional rights for employees.

Reduction of taxes and contributions for the lowest wages is of a particular importance when it comes to efforts to alleviate the problem of grey economy. The fact that the percentages of taxes and contributions for the lowest wages and those for the wages which are even three times higher are almost equal creates, within the present conditions, the strong incentive for having a big part of labor market within the grey zone, leaving thus a big number of employees without

the rights formally offered by the existing solutions for taxes and contributions, or with the possibility to exercise these rights without taking part in financing them. The surveyed employers said that they would accept the certain level of progressivity in wage taxation. For them, the most relevant steps in implementation of such solutions could be an increase of the tax free base to a significantly higher level than the present one (which would probably lead to considerably less decrease of chargeable taxes and contributions than it is supposed, due to transition of the significant part of grey economy to formal one) and introduction of the progressive tax system, where the threshold would be a little lower and the highest rate could be more than 20%, which is at the moment the maximum for wages higher than 6 times average wage. Tax measures within this field should be followed by a package of tax changes in other fields, above all changes in the tax legislation concerning taxation of property of the legal entities. Such reform creates a foundation for healthy competition among the companies, on one side, because the companies which pay all the taxes and the contributions are today facing the disloyal competition of the grey economy, and, on the other side, there is no possibility to collect taxes, using the measures of the state coercion, from the employees who work for the minimum or for little wage within the grey economy.

The second group of questions is related to liberalization of the Labor Law itself, as well as of the other legal acts and by-laws from this field. During the period 2003-2004 Serbia had a Labor law which was the institutional basis for creation of the flexible labor market. The present Labor Law puts in front of the small and medium size enterprises insurmountable obstacles when it comes to employinf older workers. There is no small company of which is reasonable to require paying a severance pay for all years of service to a redundant worker. The solution is to have the severance pay only for years of working for a particular employer, and certainly not for all the years of service, as it is the case at the moment. The solution which is a half-way solution, but which would still leave a large portion of employees outside of the labor market, is to make the severance pay payable only once for each year of service. The existing solutions essentially protect only employees working in the state owned companies, while the constantly reduce permanent employment in the private sector. The employers simply do not want to accept the risks coming along with the permanent employment and they use the flexible forms of employment, i.e. they employ workers through a service contract or an author contract, or even through the student cooperatives (without introduction of the grey market as a specific form of the flexible employment). Without the liberalization within this field, followed by the changes of the tax policies, it is hard to expect that the grey economy and unemployment will reduce and that there will be progress in general. Serbia is in no position to have the inflexible labor market, as the

1 Effects of the changes in tax rates applied on taxable incomes are usually explained by Laffer curve. The basic conception of the Laffer curve exists longer than Arthur Laffer himself, but it is still named after him because he is the one who put it and its concept of stimulating activities into the center of the economics of supply. The curve is a well-known fact that no one disputes. Namely, if the state does not impose any taxes at all, it will not generate the tax revenue, just the same as if it had imposed a tax rate of 100%, because no one would work if he had to give all the money to the state. Between these two extremes the state imposes different tax rates and collects the tax revenues that first grow with the increase of the tax rates, but them drop down with the further increase of the tax rates.

one existing in Germany, and to still be competitive and the country with the high growth rates of GDP and low unemployment.

The employers believe that the present level of protection of the former trade union officials is too high and that they should be on equal footing with the other employees. They also think that the representativity threshold for trade unions should be higher, because the classical issues of the industrial relations turn, in some companies, in problems connected with the existence of a big number of trade unions. The recommendations of this study are to lower the level of bureaucratization related to conclusion and termination of the labor contract, annual leaves and flexible forms of employment. The flexible forms of employment are practice which is appropriate for the dynamic market economies and the bigger set of options should be available in Serbia, starting from the longer duration of the fixed-term employment, through the other flexible forms of employment. All these issues illustrate the need to arrange labor market in such a way that it is both easier to start and to end the employment relation, to put an accent on industrial relations in the private sector, to bring to an end the discrimination of unemployed workers, i.e. of those who work in the grey sector.

Replies to the questionnaire reveal that the inspections visit employers relatively often, and also that the inspections last inappropriately long. Preventive form of work of inspections is equally present as imposing sanctions. The average marks for work of the inspections are different and the highest ones concern the inspections with the broadest base of those who are subject to the inspection. The employers clearly state that there are numerous regulations that represent the informal taxation, i.e. that some of the rights related to the costs' refunding are not respected in practice. The basic conclusion of this study is that fire protection and risk analysis should not be taken into consideration uniformly, on the level of the whole economy, because in a large number of cases they represent the unnecessary cost which cannot be justified by the intentions which were a framework for adoption of legal provisions related to these two fields. The essence of the employers' objections is that there are hidden costs that go along with doing business in Serbia. Apart from the set of procedures to be followed, like risk assessment in companies which, by the nature of things, do not have such risks in a degree large enough to justify such assessment, or totally unnecessary costs for making an evacuation plan in

case of fire for business premises which have only one entrance/exit or companies have plans standardized at the firm level, there are more forms of the hidden taxation of the legal entities. These are, for example, high costs for communal services where the key for calculation has nothing to do with the really used services, or an obligation to submit a project for ordinary things like setting up the sunshades, all the way to the complete lack of the state's wish to respect the regulations that the state itself has adopted (reimbursement of the costs for the correct samples). The solutions for the majority of the hidden taxes lie in their abrogation and affirmation of the principles that the companies are free to make their own decisions related to the risks and to bare the consequences of their decisions, instead of imposing them the way they are going to manage such risks.

Certain replies of employers indicate the significant level of distrust of employers towards the state, which is particularly visible when it comes to the relatively unattractive engagement of the women on maternity leave at the very affordable and flexible terms.

In short, even though the Serbian labor legislation looks on paper relatively liberal compared to the EU countries, Serbia cannot afford the luxury of the present emission of the employees' and trade unions' rights, because there are no elements of the quality business environment which exist in EU and which could compensate that. The reality also supports such thinking, having in mind the important characteristic of the Serbian market that the large portion of labor is informal, and such market always advocates for the reforms. For the optimal development of Serbia, it would be advisable to adopt the solutions which would make the labor market more flexible, labor relations less bureaucratic, and relations at the labor market subject to the market forces. For Serbia, one of the ways out would be to adopt the changes to the Labor Law which would bring solutions from this field close to those that existed in period 2003-2004. In the trade sector, it would be necessary to conduct a deeper research because the sampled companies still do not represent statistically representative group, considering that some inspections exist only in certain sectors.

The fundamental recommendation of this study is to make the findings obtained through the secondary research operational, through the proposals of amendments to the laws and the by-laws with analysis of costs and benefits from such amendments.

1. Introduction

1.1 Aims of the study

The aim of this study is to identify, through the primary and the secondary research, the areas within the labor legislation, tax policy concerning wages and legislation regulating trade which represent the biggest obstacles for doing business in Serbia and to use the findings of the two research segments for development of the comprehensive proposals for changes of the laws and by-laws. The methodology of this research is based on the ILO's toolkit for Enabling Environment for Sustainable Enterprise (ESEE).

This study consists of:

1. The secondary research (desk research) about the findings and the recommendations of the credible institutions concerning the labor legislation, tax policy concerning wages and legislation regulating trade, such as the World Bank, International Monetary Fund, International Labor Organization, The Organization for Economic Co-operation and Development, Heritage Foundation and others, including the comparison between Serbia and EU and the other countries in the region, with the special accent on Slovenia and FYR Macedonia, as well as the overview of the present situation in Serbia,

2. The primary research conducted through the direct interviews with the general directors, sector managers and company owners which outlines the employers' positions about the issues covered by this research. This part includes the analysis of the research results and the recommendations based on the obtained results. One part of the primary research includes the relevant focus groups' meetings which helped the research to focus on the particular fields of the labor legislation, tax policy concerning wages and the legislation that regulates trade.

1.2 Sampling and sample stratification

The structure of the sample is determined through the double criss-cross stratification:

1. **Regional stratification** was achieved by dividing the territory of the Republic of Serbia into 4 regional strata – Vojvodina, Belgrade, West Serbia and Sumadija, and East and South Serbia. The number of companies in each of the regional strata is determined based on the size of contribution of each of the regions to the gross domestic product of Serbia in 2011.

2. Further **stratification according to company size** introduced dividing companies to big, medium and small companies in accordance with the criteria followed by the Serbian Tax Administration in 2012 for the annual financial reports from 2011. All the three groups of the companies were pondered in accordance with their contribution to the total gross domestic product. The further correction of the ponder was done due to higher presence of informal em-

ployment within the small companies' sector. The informal sector creates the unregistered GDP in amount of 40% of the statistically registered GDP, and almost all of it is coming from the small companies' sector. The participation of the stratum without corrections is 31,5%; 22,4% and 46,1%, for small, medium size and big companies respectively. The data after correction are given below.

3. The sample includes the gender perspective.

The final regional representation is as follows:

Vojvodina - planned 27% or 54 companies (interval 53-56), surveyed 54 companies

Belgrade - planned 39,5% or 79 companies (interval 77-81), surveyed 82 companies

West-Sumadija - planned 19% or 38 companies (interval 37-39), surveyed 39 companies

East - South - planned 14,5% or 29 companies (interval 27-29), surveyed 27 companies

The final representation of **companies by size** after the correction is as follows:

Small companies – planned 51,2% or 102 companies (interval 99-105), surveyed 103 companies

Medium size companies – planned 16% or 32 companies (interval 30-34), surveyed 32 companies

Big companies – planned 32,8% or 66 companies (interval 64-68), surveyed 67 companies

5% Derogations are allowed (trust interval 2σ) by categories (the reason why the intervals are here given), because the criterion of structure of companies by size must also be met, which is difficult to fit in with 100% accuracy, when two stratifications of 200 companies' sample, i.e. of 202 really sampled companies, intersect at the same level.

1.3 Design of the questionnaire

The research was conducted on the basis of the questionnaire containing closed and half-opened questions that cover the key areas concerning the labor legislation, trade and foreign trade legislation and tax legislation. The questionnaire covered the areas which were identified as the key ones in previous researches of the relevant international and domestic organizations, including the data received from the Serbian Association of Employers. CEFEB Serbia has produced a longer list of 100 questions which was during the process of consultations with the Serbian Association of Employers reduced to 53 key questions.

After harmonization of the list of questions with the Serbian Association of Employers, the preliminary list of the companies was made in accordance with the criteria of stratification which included the list of 400 companies that were doing business in 2011.

1.4 Surveying process

After the preliminary list was made the surveying process started and the well trained researchers of CEFE Serbia were involved in it. Each company was informed about the surveying process by phone and e-mail, the exact date of the interview was scheduled and the person which would provide the answers was identified. In small and medium size companies the interviewees were primarily the company owners or general directors in cases where the ownership was separated from the management, i.e. the deputy or personal assistant to the owner/general manager if these activities are delegated to the closest co-workers. At the big companies, the target was the department dealing with the external relations and authorized by the internal documents to respond to the questionnaire on behalf of the company.

During the surveying process, the project manager of CEFE Serbia has conducted a control by calling 10% of the companies, which confirmed the validity of surveying by CEFE Serbia researchers.

1.5 Results of the research

The results are given as percentages for the sake of easier interpretation, except in those cases where such form of presentation leads to wrong conclusions (questions with 2 and more answers). Here are presented only companies which answered the question, while the comments include information on how many companies really answered. This is done because a company was required to have certain position on some of the previous questions, or in some cases the questions were not applicable for certain types of the companies, or a company did not want or did not know the answer.

2. Secondary research

2.1 Labor market freedom, trade freedom and the level of the state consumption

Very frequently analyses of the Serbian labor market use the statistical data or data from the researches which show that there is no need for the reforms in this field. For example, according to the data from the Index of Economic Freedom 2013 of the Heritage Foundation² Serbia is considered, in the European context, to be a country with “the relatively free labor market”, as shown in the Chart 2-1. Such a statement could even be more appreciated by the opponents to the reforms, as it comes from the organization that is one of the main promoters of the economic freedom in the world. With the mark of 70,4 Serbia belongs to a group of mostly free countries (level of labor market freedom 70-70,9) with the level of labor market freedom similar to the ones in Bulgaria, Montenegro and Albania, when compared to the countries in the region, i.e. to the EU countries like Ireland and the United Kingdom, or Azerbaijan from CIS (all these countries are shown in green color). Therefore, the labor market itself, according to this source, seems not to be rigid when looking into the elements such as the minimum wage, ease of employing a new worker, rigidity of working time, lay-off procedures and similar. This is particularly clear when the level of labor market freedom is compared with the rest of the EU or other countries of the region. The majority of these countries belongs to the group with the partly free labor market (mark 60 – 69,9), or mostly non-free labor market (mark 50 – 59,9) – countries marked with darker hue, or even to the group of the countries with non-free labor market (mark 0 – 49,9) – countries shown in darkest hue on the map. The European average for this indicator is 61,2. However, these elements are not the only ones that are affecting the position of the companies and the attractiveness of employing new workers (Chart 2-1).

However, the Global Competitiveness Index – GCI of the World Economic Forum gives a deeper overview of the unexpectedly high mark of the labor market freedom given by the Heritage Foundation. According to GCI for 2012/2013, Serbia is ranked 95 out of 144 countries which are included by this Index for 2012/2013. The World Economic Forum gives a lot worse mark to the competitiveness of the Serbian labor market compared to the similar indicator

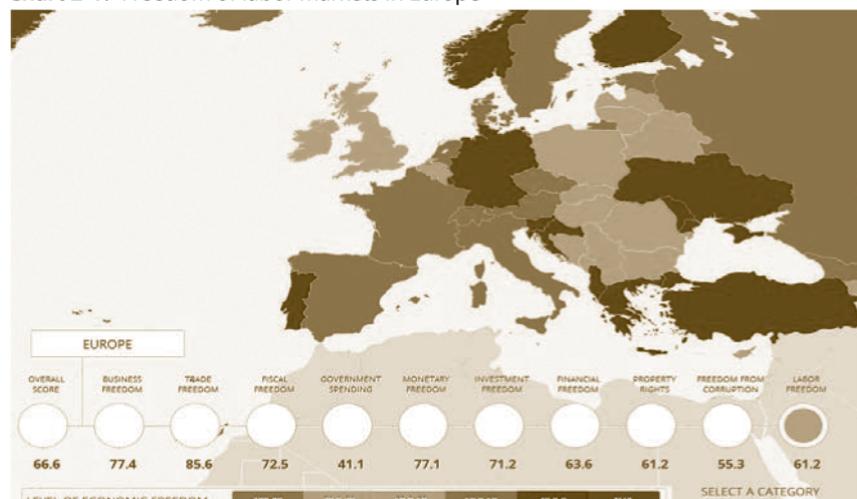
² Methodological explanations regarding the Index of Economic Freedom itself are given in the Annex 1 of this study, with links to the part of the Heritage Foundation's web site which is about the Index of the Economic Freedom and explanation why the methodology of the Heritage Foundation is appropriate for this study

of the Heritage Foundation, considering that Serbia is ranked at position No. 100 in the world, in terms of competitiveness of the labor market³. The main reason is that CGI's coverage is much deeper and it covers all the factors of importance for competitiveness, while the Index of Economic Freedom covers only part of the problem.

GCI has an advantage of giving a detailed overview of the marks in each of the categories that compose competitiveness of labor market. According to the employers' position, the biggest problem related to the competitiveness of the labor market is the brain drain (Serbia is here at 141st position out of 144 countries), i.e. the quality of the professional managers (135), and as one of the problems the cooperation between the employees and the employers (139) is also identified. In short, if we ignore the bad marks for the factors which are not included in the mark given by the Heritage Foundation, and which make part of the GCI methodology, the findings about the labor market character are similar⁴.

GCI gives the similar results as IEF when taking a look into which factors create the biggest problems in doing business. Employers don't perceive the labor market as the key problem, but they put emphasis, above all, on the inefficient state administration, corruption, access to sources of finan-

Chart 2-1: Freedom of labor markets in Europe



Source: *Index of Economic Freedom 2013*, Heritage Foundation, Washington D.C. 2013, <http://www.heritage.org/index/>

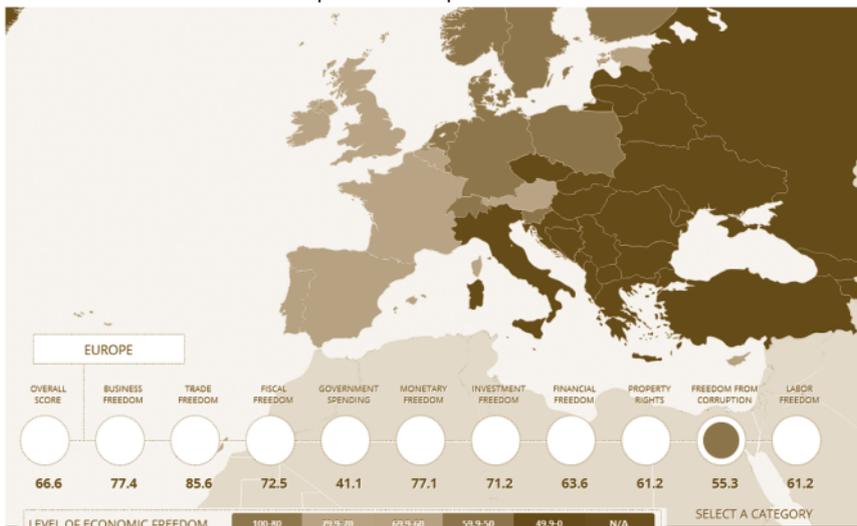
cing and legal regulation concerning the foreign exchange. The problems of the medium intensity are high tax rates, political instability, tax regulation, bad infrastructure, inflation and crime.

It is interesting to take a look on the Serbia's position in Index of Economic Freedom 2013 when it comes to assessment of corruption, where Serbia belongs to a group of highly

³ Schwab, K. (2013) Global Competitiveness Index 2013-2013, World Economic forum (http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2013-13.pdf)

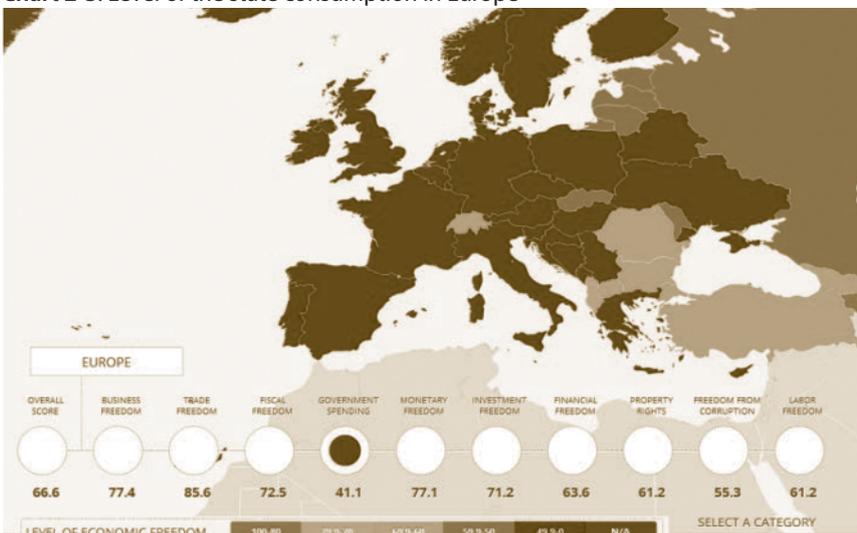
⁴ Schwab, K. (2013) Global Competitiveness Index 2013-2013, World Economic forum (http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2013-13.pdf)

Chart 2-2: Freedom from corruption in Europe



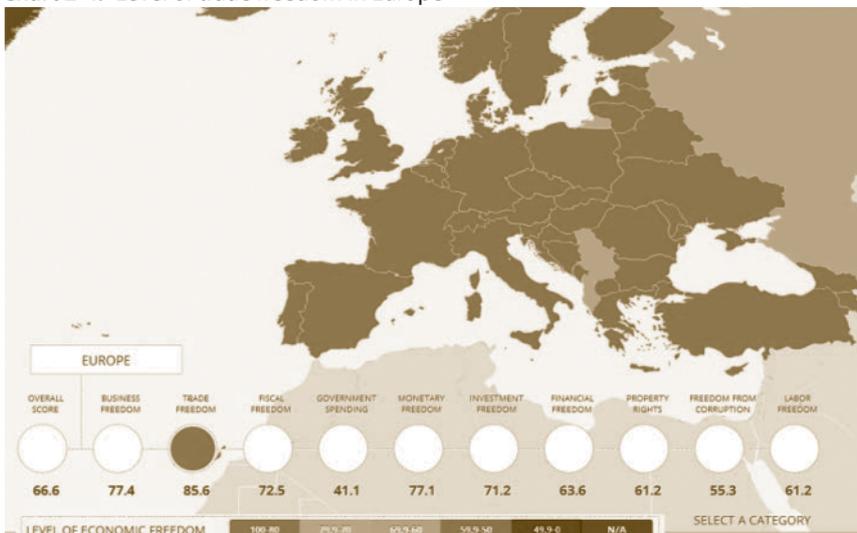
Source: *Index of Economic Freedom 2013*, Heritage Foundations, Washington D.C. 2013, <http://www.heritage.org/index/>

Chart 2-3: Level of the state consumption in Europe



Source: *Index of Economic Freedom 2013*, Heritage Foundations, Washington D.C. 2013, <http://www.heritage.org/index/>

Chart 2-4: Level of trade freedom in Europe



Source: *Index of Economic Freedom 2013*, Heritage Foundations, Washington D.C. 2013, <http://www.heritage.org/index/>

corrupted countries (countries that are not free of corruption), together with all the countries from the region, with the exception of Slovenia (mark 33,0). The corruption is an obstacle in functioning of the basic institutions which make the legal framework of the labor, tax and trade legislation. The European average for this indicator is 55,3 (Chart 2-2).

The Chart 2-3 gives an overview of “cost-effectiveness” of the state, i.e. the indicator of “the state consumption”. As it was expected, the countries of the “old Europe” are partly or completely non-free in this category, but Serbia is also in this group (with mark 40,3), even though this is unfavorable position from the development point of view. The countries which have achieved the high level of GDP growth and which have accumulated big national wealth can much easier sacrifice the speed of GDP growth for the sake of the emission of the rights that are financed from the budget. Countries like Serbia, that can recover from the relative poverty, in terms of Europe, only by high GDP growth rates, are in no position to do it with the present level of the state consumption. The examples of the countries which rapidly grew with the state consumption’s rate of over 45% are on the level of the statistical error, but even when it was the case it was most often the result of the national resources. Countries like FYR Macedonia, Romania, Turkey and Bulgaria are in the category of partly non-free countries. Albania is the freest country within the region in this category and it is the only one belonging to the group of the most free countries, and on the European level Azerbaijan belongs to the group of the totally free countries. The European average for this indicator is 55,3 (Chart 2-3).

Finally, when it comes to the trade freedom, according to the data of the Index of Economic Freedom 2013, Serbia (which is not member of WTO) is one of the least free countries in Europe (mark 77,9). More precisely, Serbia, Albania and Russia are the only ones belonging to a group which covers countries which are not completely free in terms of trade. The European average for this indicator is 85,6 (Chart 2-4).

If these data are compared with the two countries from the region that are selected for this study, FYR Macedonia

and Slovenia, it can be observed that Serbia, ever since the data about its economic freedom were recorded, was less economically free than the both countries and that Serbia's economic freedom grows very slowly. Serbia is constantly in the group of the countries that are partly non-free. Slovenia had minor oscillations during the previous 10 years and it is mostly at the level of the partly free country, while FYR Macedonia marks the fastest progress (Chart 2-5)⁵.

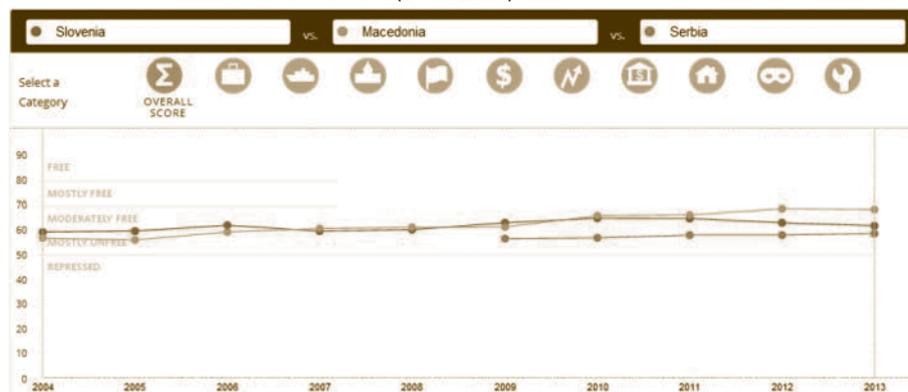
When it comes to labor market freedom, Serbia holds a constant level of freedom, FYR Macedonia has significantly improved it during the first years of the economic crisis, while Slovenia remains the country with significantly non-free labor market. Labor market in Slovenia is mostly non-free, in FYR Macedonia was made an important shift towards market which is extremely free in terms of the situation in Europe, while the level of labor market freedom in Serbia remains the same over the last 5 years (Chart 2-6).

2.2. Trends and key findings related to the labor and tax legislation in Serbia

According to the data of the Statistical Office of the RS, since 2004 Serbia does not manage to reduce the unemployment which is today higher than it was in 2004, and for 10 percentage points bigger than before the economic crisis. The rate of activity and the rate of employment are dropping simultaneously. It should be taken into account that employment increase/unemployment decrease in 2008 was a consequence of the change in the way of statistical coverage of these variables, and not of the real changes (Chart 2-7).

More accurately, unemployment rate in 2008 exceeded 25%, while it was 15% actually. It is also interesting to compare the unemployment rate in Serbia with EU countries and

Chart 2-5: Dynamics of economic freedom in Slovenia, FYR Macedonia and Serbia (2004-2013)



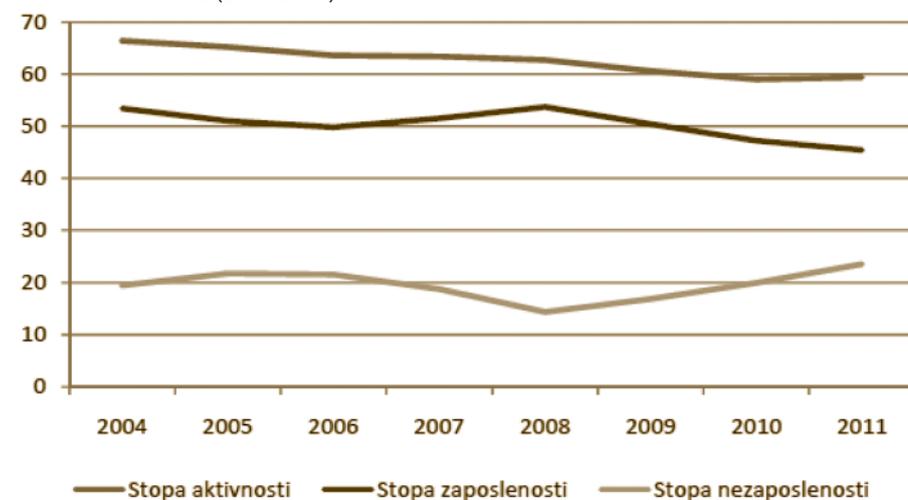
Source: *Index of Economic Freedom 2013*, Heritage Foundations, Washington D.C. 2013, <http://www.heritage.org/index/>

Chart 2-6: Dynamics of the labor market freedom in Slovenia, FYR Macedonia and Serbia (2005-2013)



Source: *Index of Economic Freedom 2013*, Heritage Foundations, Washington D.C. 2013, <http://www.heritage.org/index/>

Chart 2-7: Dynamics of the activity rate, employment rate and unemployment rate in Serbia (2004-2011)

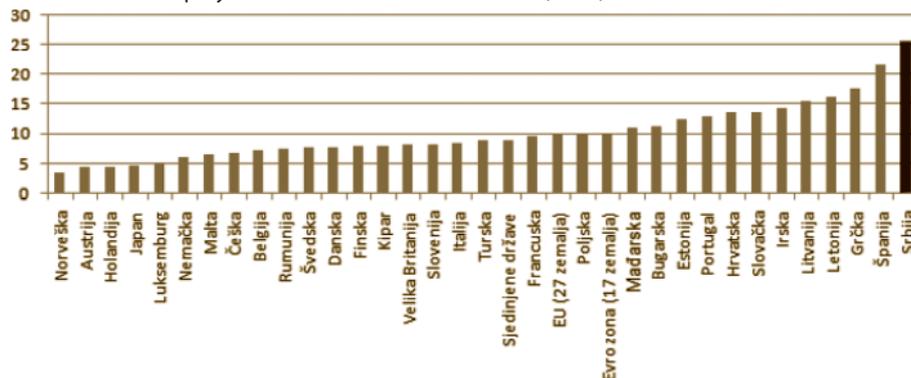


Source: Statistical Office RS - www.stat.gov.rs

some of the countries from the region where Serbia has the highest unemployment rate, which can be seen on the chart from a study of the Center for Liberal-Democratic Studies about the labor legislation in Serbia (Chart 2-8).

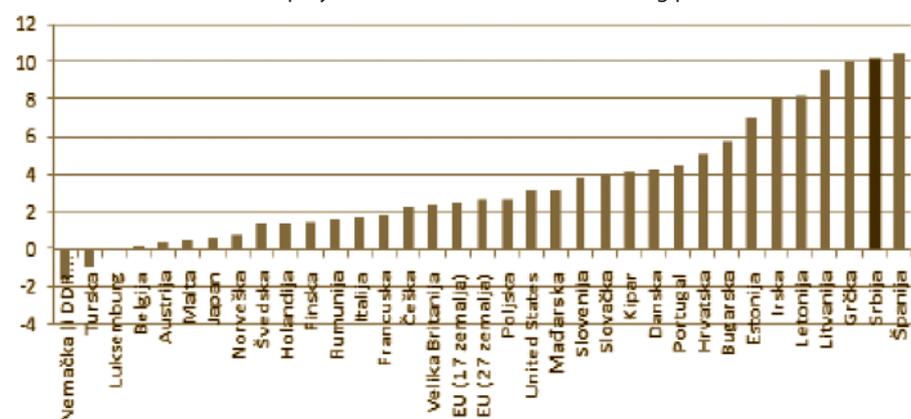
⁵ Ranking for Serbia has been performed since 2009.

Chart 2-8: Unemployment rate in selected countries (2011)



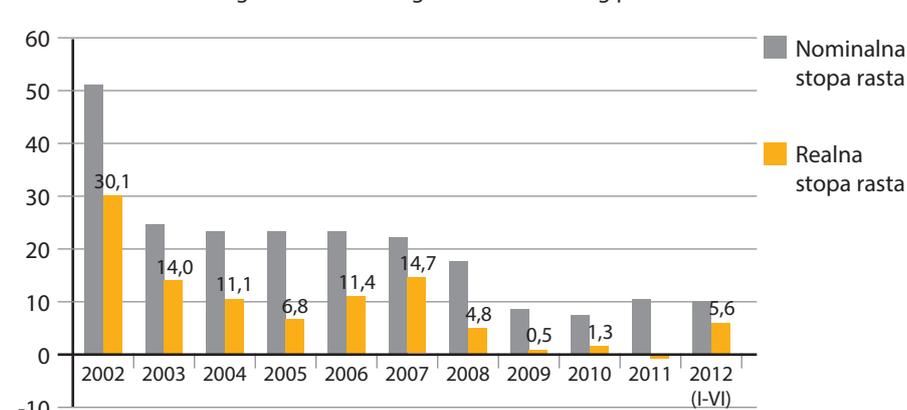
Source: Mijatović, B. (2012) *Labor legislation as an obstacle for more successful economy*, CLDS: Belgrade

Chart 2-9: Growth of unemployment in selected countries during period 2008-2011



Source: Mijatović, B. (2012) *Labor legislation as an obstacle for more successful economy*, CLDS: Belgrade

Chart 2-10: Rate of growth of real wages in Serbia during period 2002-2012



Source: Group of authors (2010) *Post-crisis model of economic growth and development of Serbia 2011-2020*, MAT and FREN: Belgrade

Beside the high unemployment rate, Serbia proved to be very vulnerable and open for influences of business cycles and external shocks, as shown in the Chart 2-9.

During the economic crisis (2008 – 2011) the unemployment growth rate was the highest in Serbia of all the countries, and, with the exception of Spain, all the countries which had high unemployment growth rate entered an accelerated recovery process.

The high unemployment rate is followed by the slowing down in wage increase, i.e. by the complete absence of increase during the period of crisis. Even though such development is not exclusively result of the labor market structure, the data concerning Serbia are indicative because we have a strong growth of unemployment which occurred while unemployment was relatively high, while at the same time there was a slow down in wage increase. According to the data of the Statistical Office RS during period 2009-2011 there was no increase of the real wages over 1% annually, while 2012 marks recovery, but without increase of employment (Chart 2-10).

The employment structure is unfavorable, because during the economic crisis there was no significant decrease of employment within the public sector, but there was significant decrease of number of workers in the private sector, most likely due to transition of employees or the whole companies to informal sector, for the most part (Chart 2-11).

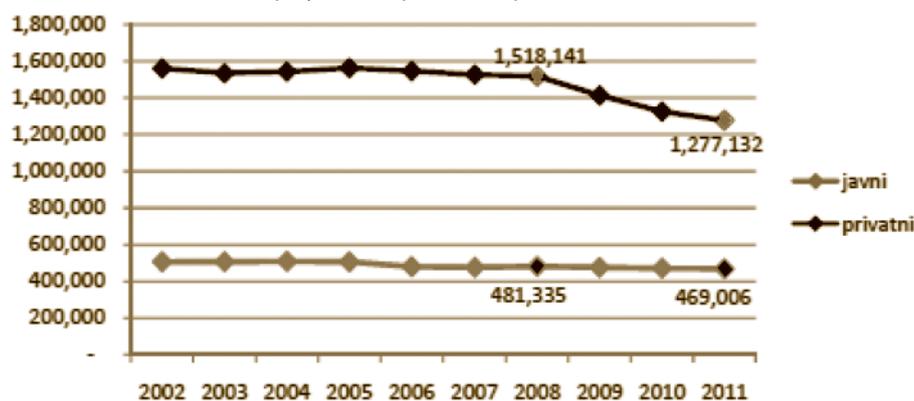
The issue of importance is also issue of wage burdening, i.e. whether there is in Serbia progressive taxation (Chart 2-12).

Due to solutions which limit the maximum amounts of the retirement and health insurance to five average salaries there is a tax degression in Serbia, i.e. a decrease of tax burden for the highest wages, in other words a mild progression for the middle wages due to the small amount of the tax free part of the wage. However, at the end of the year this degression is corrected through taxation of the incomes which are higher than three average gross wages, so it could be said that there is de facto mild tax progression in Serbia.

Certain aspects of the labor legislation, tax policies and trade regulation are significantly different in different countries of the region. The duration of the fixed-term employment varies from Montenegro where there is no upper limit, over 5 years' limit, as it is in Albania, FYR Macedonia and Moldova for example, to Serbia which is very restrictive regarding this issue with limit of only one year⁶. Majority of the countries which have high upper limit

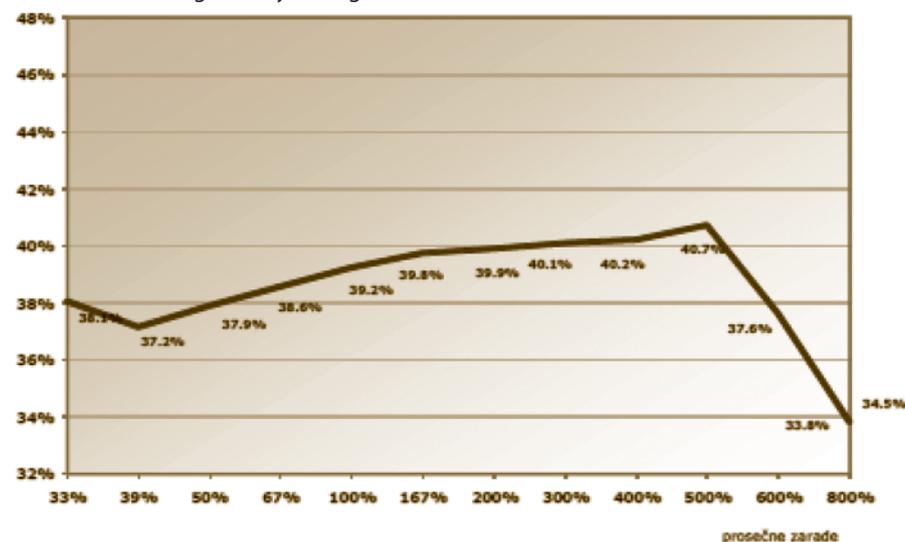
6 Group of authors (2010) *National employment strategy for period 2011-2020*, The Government of RS: Belgrade

Chart 2-11: Ratio of employment in public and private sector in Serbia (2002-2011)



Source: Mijatović, B. (2011) *Policies for increase of employment and competitiveness of the labor force*, CLDS: Belgrade

Chart 2-12: Progressivity of wage taxation in Serbia



Source: Aradarenko, M. (2011) *Supporting strategies to recover from the crisis in South Eastern Europe – country assessment: Serbia*, ILO: Belgrade

for the fixed-term employment also have the option of renewal, while this option does not exist in Serbia. The length of the compulsory annual leave is different, from 18 days, as much as it is in Montenegro, to 4 weeks in Albania, i.e. 28 days in Moldova⁷. Years of service in majority of countries influence the length of the annual leave, provided that in Serbia and Albania it is determined exclusively by the labor contract. Duration of the maternity leave is different and it is 18-20 weeks, as much as it is in Moldova, up to one year in average⁸. In Serbia the maternity leave lasts 365 days, but for the third child and more it lasts 2 years. The employer is obliged to pay the wage which must be equal to the average of the last 12 working months of the person on the leave, at the same time when paying the other workers, regardless of the fact whether this amount was refunded by the state or not.

Notice period, which is obligatory for the employer, is not determined in some countries, and in others it mostly la-

sts from 10 days to one month, with the exception of Albania where it can be as long as three months for an employee who has more than five years of service⁹. On the other hand, an employee has an obligation to work up to one month after giving a notice (FYR Macedonia), while in majority of countries this period lasts two weeks. In Serbia this period lasts up to 30 days.

In majority of the countries in case of labor contract cancellation an employee has a right on remuneration, which is in Serbia one third for up to 10 years of service, i.e. one quarter of the wage for each following year. In Macedonia it is one month's wage for up to five years of service, three wages for 10-15 years of service and 6 wages for more than 25 years of service¹⁰. In Albania, for example, this amount is 50% of one month's wage for each year of the service¹¹. However, in Albania and FYR Macedonia the calculation is made on the basis of the years of service with the particular employer, and not on the basis of the total years of service.

Taxes on wages vary from the minimal 7%, which is the lower limit in Moldova (where there is an upper limit of 18%) up, and in the majority of the countries this tax is between 9-12%¹². Contributions for retirement insurance are different and in total (part at the expense of the employer and part at the expense of the employee) they make around 18%, as in FYR Macedonia, or over 20,5%; 21,5% and 22%, as in Albania, Montenegro and Serbia respectively, up to 29%, as in Moldova¹³. However, there exist different ways of payment of pensions, so lower contributions in some countries with very old population (for example Serbia) mean bigger transfer from the budget to the retirement fund. The percentages for the health insurance significantly vary from one country to another. In some countries it is symbolic, for instance 3,4% in Albania,

9 International Labor Organisation - <http://www.ilo.org/global/statistics-and-databases/lang--en/index.htm>

10 International Labor Organisation - <http://www.ilo.org/global/statistics-and-databases/lang--en/index.htm>

11 Mijatović, B. (2012) *Labor legislation as an obstacle for more successful economy*, CLDS: Belgrade

12 Group of authors (2010) *National employment strategy for period 2011-2020*, The Government RS: Belgrade

13 Group of authors (2012) *Fiscal strategy of Serbia for 2013 with projections for 2014 i 2015* http://mfp.gov.rs/UserFiles/File/dokumenti/2012/Fiskalna%20strategija%20za%202013_%20godinu%20sa%20projekcijama%20za%202014_%20i%202015_%20godinu.pdf

7 Mijatović, B. (2012) *Labor legislation as an obstacle for more successful economy*, CLDS: Belgrade

8 Aradarenko, M. (2011) *Supporting strategies to recover from the crisis in South Eastern Europe – country assessment: Serbia*, ILO: Belgrade

or 7% in Moldova, while it is 16,9% in Bosnia and Herzegovina (the Federation) or 13% in Serbia¹⁴. If these contributions are added to those which are less significant for total amount (disability insurance and unemployment insurance), the contributions make in total from 26%, as in Albania, to 33%, as in Montenegro¹⁵. In majority of the countries the transport allowance and provision of meal at work (i.e. allowance for meal at work) are part of legislation or collective agreements, while in Serbia there is also a subsidy for annual holiday.

2.3. Basic findings

The main characteristics of the Serbian labor market are significant protection of employees, bureaucratization and formality of the labor relations and privileged role of trade unions, which are all obstacles for creation of the flexible labor market. Serbia has adopted big part of practices which exist in EU where the labor market is extremely inflexible and highly regulated, which is not a good solution for a country that hopes for higher growth rates and does not have institutions and other elements of market economy on the level of EU countries, so it could “pay the price” to non-free labor market. Speaking about the severance pay (by years of service) and the permanent employment (up to one year, without possibility of renewal), Serbia has the most rigid regulations in the region, which eliminate from the labor market the most vulnerable groups forcing them into long-term unemployment or work in the grey sector.

In short, the tendencies which are not good for the development of Serbia, and which concern the labor market, tax policy and trade legislation are:

1. The employers in Serbia are discouraged from employing more workers, which led, together with the delayed transition, to the very negative tendencies in employment and unemployment;

2. The employed workers are favored at the expense of the unemployed workers, and sparse laying-offs and hirings lead to a stable, poorly changeable labor force in companies;
3. Disrespect of the laws is encouraged, considering that the life inevitably tries to bypass unnecessary barriers, so that the breaches are frequent in attempts to solve the real problems (for example, the employees sign blank resignations without dates, that are kept by the employers),
4. Due to the small companies' lack of expertise concerning the labor legislation, the court procedures related to the prescribed procedures are more frequent, which, due to the evident bias of the courts in favor of the employees, leads to violation of the rule of law and losses in the economy,
5. Transition to the informal economy is encouraged, without any labor contract, in order to avoid the restrictive provisions of the labor legislation.

The new government initiated the changes of the laws which were adopted by the National Assembly, mostly in the field of tax legislation, but essentially it showed no intention of changing the Labor Law for now, considering that the proposed amendments concern only three articles which fortify the existing rights of the employees. Certain changes were introduced with regard to the abolition of the state taxes, but only the labor legislation and the related taxes and contributions remained unchanged, and there were also no changes concerning simplification of the rigid and bureaucratic procedures prescribed by the domestic legislation. For now, there are no indications that there will be in this field serious changes which would mean returning to the solutions which existed in the Labor Law valid in period 2002-2004, when Serbia had one of the most liberal Labor Laws in the world.

14 International Labor Organisation - <http://www.ilo.org/global/statistics-and-databases/lang-en/index.htm>

15 Mijatović, B. (2012) *Labor legislation as an obstacle for more successful economy*, CLDS: Belgrade

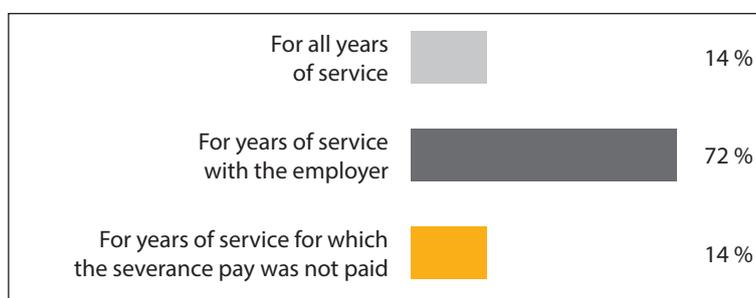
3. Survey of the companies in Serbia on key aspects of labour, tax and trade legislation

3.1 Labor legislation

1. How should the severance pay to redundancy workers be calculated?

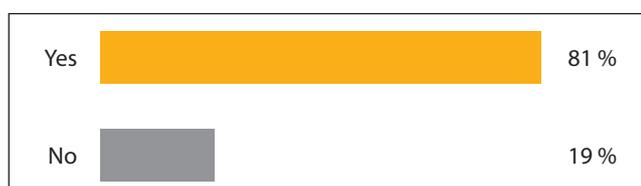
The first question assumes that the severance pays are part of the legislation and that they should be paid in any case. The big number of the interviewees remarked that a thought should be given to abolition of the obligatory severance pay (Chart 3-1).

Chart 3-1: Desirable way of calculation of severance pay to redundancy workers



201 interviewees responded to this question. 72% of interviewees consider that severance pay should be related to the years of service with the particular employer, 14% to the years for which the severance pay was not paid and 14% to the all years of service. Such position gives a strong argument for the change of legislation. It should be kept in mind that severance pays exist in the majority of the countries in the region, but they considerably vary. Dismissing someone with 25 years of service in FYR Macedonia costs 6 wages, while in Serbia this amount is close to 7 wages. On the other hand, in Albania this is 12,5 wages (but in Albania and FYR Macedonia for years of services with the particular employer). However, the situation in Serbia is specific because, in practice, it is possible that someone who was already paid severance pay for certain number of years of service, gets paid the same amount of severance pay more times if he/she stays without job with other employers. Therefore, the best solution for employers in this moment would be to make severance pay for years of service with the particular employer, and to insist in negotiations for changes of legislation that the trade unions' argument, being that the workers who were not paid

Chart 3-2: Frequency of practice to employ workers for the fixed term



severance pay for all years of service are put in a disadvantage, is contrary to the very purpose of the labor market, and that is employing. The proposals could also aim at the voluntary unemployment insurance with the higher rate.

2. Do you employ workers for the fixed-term?

The second question considers hiring for a limited period of time, as a way to alleviate the existing rigidities of the Labor Law (Chart 3-2).

198 companies replied to this question. 81% of interviewees employ workers for the fixed term, and only 19% does not do it. The reply to this question strongly indicates that it is necessary to have as many as possible flexible forms of employment in order to initiate creation of new jobs and preserve the existing ones. The special stimulus for flexible forms of employment would be the tax treatment that would stimulate these forms in accordance with the needs to create a more dynamic labor market.

3. How big is the percentage of the workers employed for the fixed term in your company's labor force?

This question gives a reply to a question related to the average portion of workers employed for the fixed term. The present portion in companies which employ workers for the fixed term is 14,9% of the labor force (there was no ponderation).

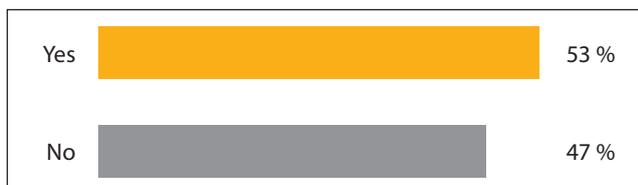
14,9%

The companies which do not employ workers for the fixed term are not included, so 157 companies replied, out of 159 possible ones. Therefore, even though employing workers for the fixed term is frequent, the total number of employees who are employed within the flexible forms of employment is relatively low. On the other hand, a lot of companies which would gladly use the flexible forms of employment resort to "the most flexible" form, informal hiring, considering that the state did not recognize in appropriate way the flexible forms of employment and their equal tax treatment as a way to reduce the extent of the informal economy (for example, employment for 4 hours work day is possible, but the amount of the "minimum base" is defined on the basis of employment for 8 hours work day).

4. Do you think that the situations in which you can employ a worker for the fixed term are too specific to satisfy your company's needs?

The fourth question researches the degree of rigidity concerning the fixed-term employment (Chart 3-3).

Chart 3-3: Companies' positions regarding limited possibilities for employing a temporary worker



201 companies responded. 53% of surveyed companies believe that the possibilities are too specific, while 47% does not think so.

5. Does a fact that a worker employed for the fixed term may work at the same workplace only one year represent a problem for your work organization?

The fifth question is related to the rigidity of duration of the fixed-term employment (Chart 3-4).

Chart 3-4: Companies' positions about aptness of one year limit for the fixed-term employment



201 companies responded. 59% of companies believe that one year limit is restrictive, while 41% considers that this limit does not represent a problem. The fixed-term employment for a longer period of time is offered as an option in many countries. In Montenegro, for example, there is a complete freedom in determination of employment duration, and in many countries there is a limit of five years with the possibility of renewal. Serbia is extremely restrictive about the fixed-term employment which in practice discourages employment and creates a labor market segment which is on a "seesaw" between grey and legal economy, i.e. a segment where an employee works on a fixed-term basis for more companies without changing a working place in effect. The essence of the employers' positions regarding all the proposed changes should rely on a very simple truth, and that is that the rigid regulations can always be made flexible through different forms of "creative solutions", but it represents unnecessary and unproductive use of resources, employers and the whole society.

6. Having in mind your company's needs, what is an optimum limit for the maximum length of the temporary employment?

This question has an aim to identify the optimum limit for the duration of the fixed-term employment. 201 companies responded and the arithmetic mean is:

2 years and 11 months

7. Does your company conclude contract for temporary and periodical work?

The seventh question is related to one more form of the flexible employment, contract for temporary and periodical work (Chart 3-5).

Chart 3-5: Frequency of hiring workers through the contract for temporary or periodical work



200 companies responded to this question. 42% of companies conclude this type of contract, while 58% states that there is no need for this. When it comes to this form of the flexible employment, the starting position and the recommendations are identical as those related to the other forms of the flexible employment.

8. How big is the portion of workers for temporary or periodical work in labor force on the annual level?

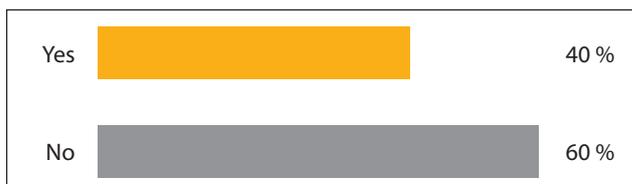
This question has an aim to identify participation of workers for temporary or periodical work. 85 companies responded and the arithmetic mean, without pondering, is:

9,7%

9. Does a maximum duration of 120 days during the calendar year for temporary and periodical work represent a problem for you?

The ninth question is related to the rigidity of duration of temporary and periodical work (Chart 3-6).

Chart 3-6: Companies' positions concerning aptness of the maximum duration of 120 days for temporary and periodical work



181 companies responded. 40% of them believe that the existing limit is restrictive, while 60% believes that 120 days per year does not represent restriction.

10. If yes, what limit do you consider to be optimum, having in mind your company's needs?

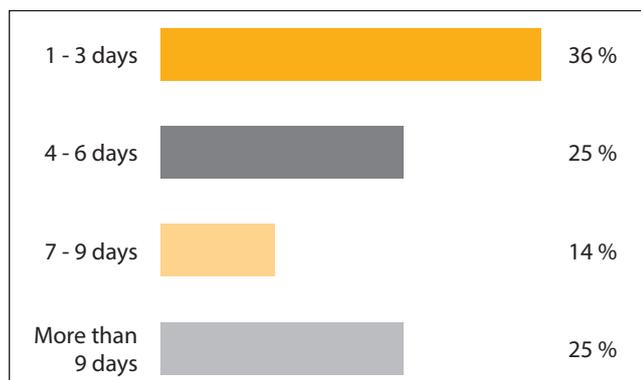
The tenth question is focused on the optimum limit from the perspective of the companies which consider the present limit restricting. 72 companies responded, and arithmetic mean is:

250 working days

11. What is the average duration of the employment procedures in your company?

This question reviews the degree of bureaucratization of the employment procedures (Chart 3-7).

Chart 3-7: Duration of dismissal procedure

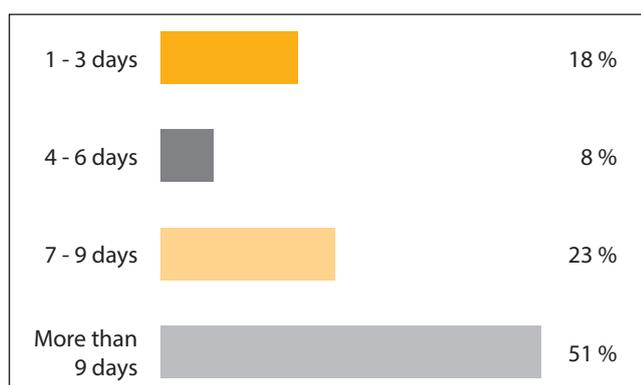


In 25% of companies the employment procedures last more than 9 working days, 7-9 days is necessary in 14% of companies, in 25% it is done for 4-6 days, while in 36% of companies 1-3 days is enough. 201 companies responded to this question. The differences in duration of the employment procedures resulted from differences in the size of a company, degree of the internal division of work and process administration, as well as from the specific demands related to employment in certain sectors.

12. In case an employee violates the work obligation and if it is a ground for dismissal, how long is the dismissal procedure, in accordance with all the standards of the Labor Law?

This question deals with the ease of termination of labor contract in case of all the legal requirements being met (the responds concern the dismissals consistent with the law which is very restrictive, just as the judicial practice which is almost always at the expense of the employers) (Chart 3-8).

Chart 3-8: Duration of dismissal procedure



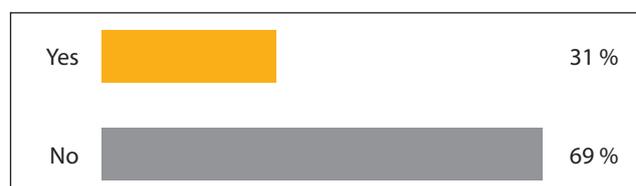
201 companies responded. In 51% of companies it takes more than 9 days for a dismissal, 7-9 days are needed in 23% of companies, while 4-6 days are necessary in 8% of companies. In 18% of companies 1-3 days is enough. Even though a dismissal procedure is slightly slower than employment procedure, the main issue is that in practice it is very difficult to get to a situation where the dismissal is irrefutable

at court. Therefore, it is better to review this procedure as the total process that includes the actions that precede the dismissal, i.e. the ever present danger for small companies of having the court decision that returns the dismissed employee to work due to some small legal flaw.

13. Do you consider that the employees who perform work in the field, and whose accommodation and meals are paid by the company, should be paid per diems for the same work that the other employees perform for the same company but not in the field?

Question No 13 is related to the per diems which are paid to the employees who work in the field. The replies to this question are only indicative because part of the employers uses this option in order to pay part of the salaries through the tax free per diems, so the motivation for per diems payment is a fiscal optimization, and not compensation for the work in the field (Chart 3-9).

Chart 3-9: Employers' positions on usefulness of per diems



201 companies replied. 69% of employers consider that per diems should not be paid for the work in the field, while 31% of them consider that it is a good practice. It is indicative that even 69% of employers refuse to pay per diems, even though it is a pretty simple way to increase "tax free portion of wage" for a certain number of employees.

14. If you think that the per diems for the work in the field should be paid, please state the percentage of the employee's monthly salary which should be on the daily level:

This question aims at identification of the optimum amount of the per diem. Only 44 companies (out of 66 which consider that per diems should be paid) responded and the arithmetic mean is

1,8%

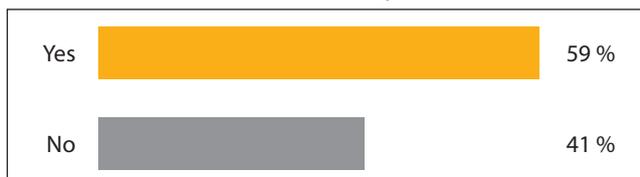
with the methodological note that the conversion was made on the 23 working days' basis, due to different ways of calculating per diems.

15. Should the Labor Law divide the employee's annual leave in two equal parts, in order to enable the employer to organize work more efficiently?

Question No 15 analyzes complexity of usage of annual leaves (Chart 3-10).

202 companies responded and 59% of them consider the obligation of two parts' annual leave as way to reduce the administration, while 41% considers that it is not relevant. The procedure related to the annual leave in unnecessary made complicated and the companies could save money if the whole process would be simplified.

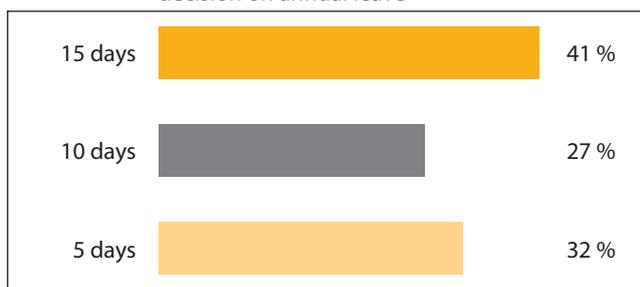
Chart 3-10: Employers' positions on introduction of usage of annual leave in two parts



16. What should be the legal period in which the employer submits employee decision on annual leave, before the start of the holiday?

Question No 16 concerns the legal period for submitting decision on annual leave (Chart 3-11).

Chart 3-11: Employers' position on period for submitting decision on annual leave



202 companies responded. 41% of them consider that 15 days is the optimal period, 27% considers that it is a 10 day period, while 32% would want it to be 5 working days. This question also is an indicator of a need for flexibility.

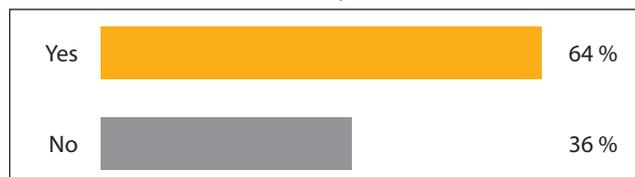
17. Would the option of electronic delivery (by e-mail) of decision on annual leave to the employee make your business administration easier?

Question No 17 researches about how much the usage of IT could make the procedure related to annual leave easier for employers (Chart 3-12).

201 companies responded. 64% of employers consider that electronic delivery would significantly make business administration easier, while 36% of them are not of this opinion. The employers state the need to make the procedures prescribed by laws and by-laws more apt to the development of techniques and technology. The option of electronic delivery would bring savings to majority of the employers. Solution of more minor problems, due to outdated procedures which had much more sense in time they were prescribed, could have cumulative effects which are not negligible and release the company's resources for more productive purposes.

18. Would the introduction of the institution of the collective annual

Chart 3-12: Employers' positions on delivery of decision on annual leave by e-mail



leave, with informing employees through your company's bulletin board, make the business administration easier?

This question is similar to question No 16, but the option is the collective annual leave (Chart 3-13).

Chart 3-13: Desirability of the institution of the collective annual leave

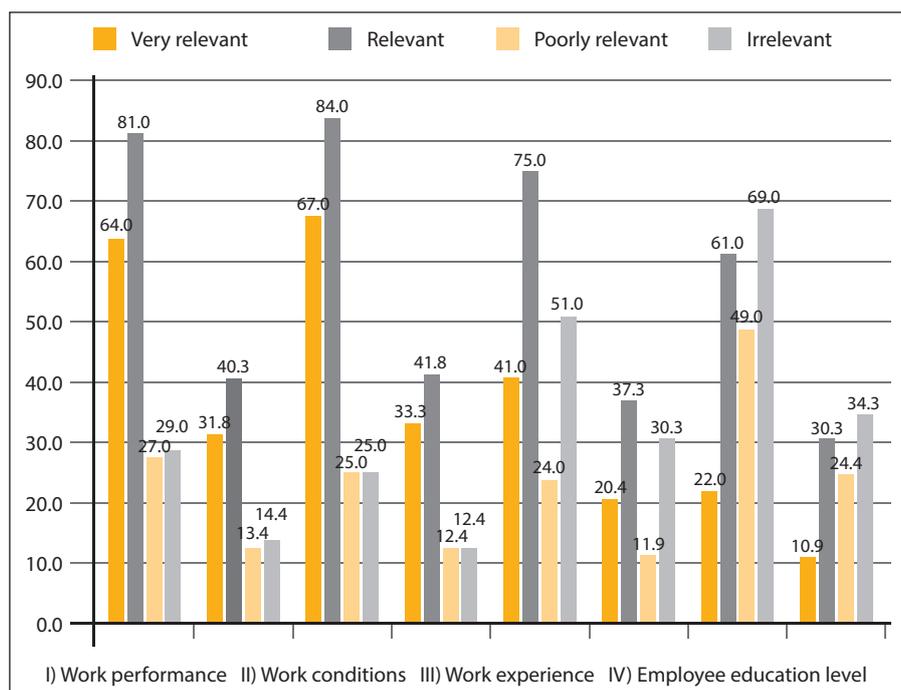


202 companies responded. 47% of companies consider the collective annual leave to be a good idea, while 53% are not of this opinion. "Feragosto" in Serbian way is desirable for an important percentage of the companies which have a possibility for interruption of business for a certain period of time, and this option should be left for those companies which want to use the institution of the collective annual leave.

19. The Labor Law stipulates the following criteria for increasing duration of annual leave. How relevant do you find the following criteria for increasing duration?

Question No 19 concerns the criteria which are relevant for the right on additional days of annual leave. 4 criteria are given, and the chart shows the percentages and absolute number of responses (Chart 3-14).

Chart 3-14: Relevant criteria for additional days of annual leave



When it comes to work performance criteria, 31,8% of companies consider it very relevant, 40,3% relevant, while it is poorly relevant or irrelevant for 13,4% and 14,4% of companies respectively. Concerning the work conditions, the percentages are 43,3%, 41,8%, 12,4% and 12,4% respectively. Work experience is very relevant for 20,4% of companies, relevant for 37,3%, poorly relevant for 11,9% and irrelevant for 30,3% of companies. Finally, when it comes to the educational level, the respective marks are 10,9%, 30,3%, 24,4% and 34,3%. 201 companies replied. Contrary to the positions stating that the employers in Serbia do not consider their employees to be the most valuable resource, this shows that the employers highly rate the contribution at work and that they are ready to grant the employees working in the difficult conditions the longest leaves. This is also followed by the employers' orientation to more appreciate the employees' work performances and their contributions, than the formal educational level. When it comes to duration of the statutory annual leave it varies within the countries of the region from only 18 days in Montenegro to 28 days in Moldova. The duration of the annual leave should be corrected by the number of holidays in the country, but also by the Government's recommendations related to "linking" holidays (recommendation to companies not to work also on a day falling between a holiday and weekend) in order to come to the real picture of the number of the working days.

20. In the past, did you use the option of referring an employee to work with another employer?

Question No 20 concerns the option of referring an employee to work with another employer (Chart 3-15).

201 companies replied.; 60% of companies did not use this option because they did not even have the opportunity, 11% did not use it even that there was a need. 22% uses this possibility, while 7% uses this possibility on a regular basis. This question covers the area which has lately become more and more popular in Serbia due to the restrictive legislation, and it is the labor force leasing. Giving up from the fact that a company must have all its functions under its own roof is not new to the world, even to Serbia, but the motivation for this practice is somewhat different because leasing is a way for a company, that employs labor force in such a way, to protect itself from the "potential dangers" of permanent employment.

21. When referring an employee to work with another employer, does it represent a problem for you that an employee should not be granted lesser rights than those granted with you?

Question No 22 concerns the principle that an employee's rights cannot be lesser rights in the company he is referred to, than those in the parent company (Chart 3-16).

144 companies responded. 55% considers that this principle does not create a problem, 24% considers that in some cases it does not enable the usage of this option, while 21%

Chart 3-15: Frequency of referring an employee to work with another employer

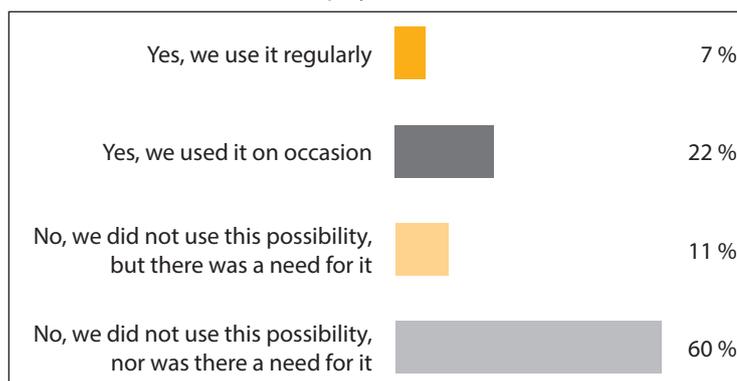
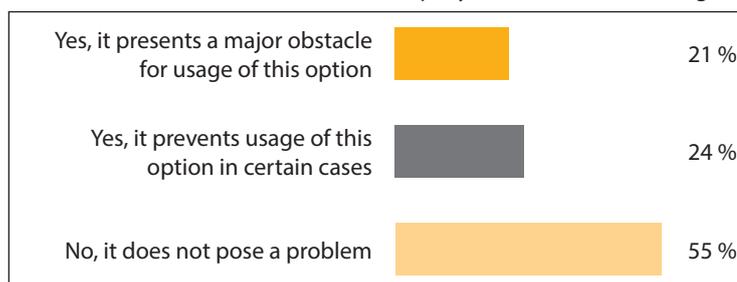


Chart 3-16: Influence of the principal that an employee referred to work with another company must have the same rights

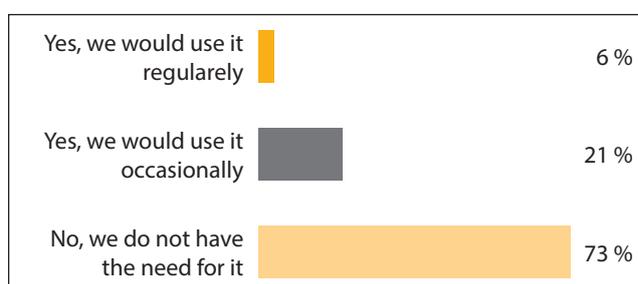


considers this to be the major obstacle for usage of this option. Here is also the basic recommendation to make Labor Law and the relative by-laws more liberal and to minimize incentives for overcoming the problem which are created by the restrictive law.

22. Would you use this option more often if you could refer an employee to work with another employer with lesser rights?

Question 22 focuses on the option of referring an employee to work with another employer with the lower level of rights (Chart 3-17).

Chart 3-17: Potential consequences of lessening the rights of the employee referred to work with another employer

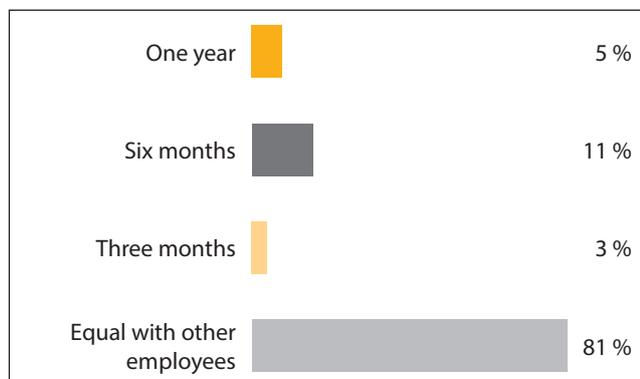


163 companies responded. 73% considers that there is no need for this, 21% would use in that case the option of referring, while 6% considers that it would use this option regularly. In this case, too, we do not have a clear indication of motivation to use this option, i.e. of its attractiveness in conditions of the easier and more cost effective employment/dismissal.

23. For which period may the former trade union official at the company level be protected from the termination of the labor contract upon expiry of the term of office?

Question 23 concerns the period during which the former trade union official is protected from dismissal (Chart 3-18).

Chart 3-18: Optimum period of protection of the former trade union official from dismissal

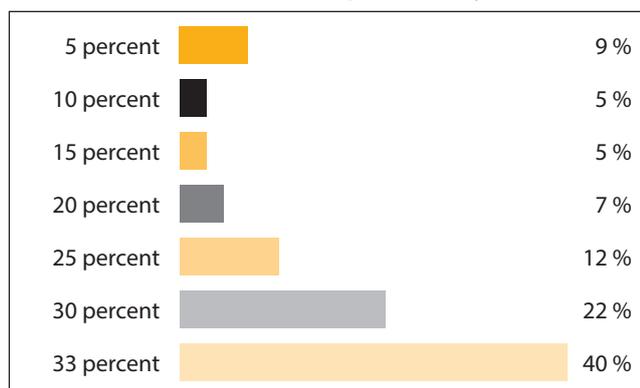


200 companies responded. 81% of employers consider that the former trade union official must be equal with the other employees, 3% considers that he should be protected from dismissal during 3 months, 11% that he should be protected for 6 months, while 5% considers that he should be protected for one year. The protection of the trade union official is a reflection of the understanding that the trade unions and the employers cannot be partners without some sort of the legal force, which is essentially a wrong approach.

24. At what level should the representativity of the trade union with the employer be approved, so the employer would have the authoritative and quality partner to negotiate and conclude collective agreement with?

Question 24 relates to the number of employees necessary in order for trade union to be representative (Chart 3-19).

Chart 3-19: Employers' positions on the threshold for trade union's representativity



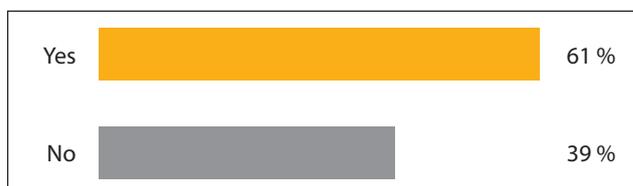
186 employers responded. 40% of employers consider that the minimum of 33% is desirable, while 22% consider the minimum to be 30% of employees. 12% consider that the minimum is 25%, while 7% consider that 20% is an optimal number. Finally, minimum of 15%, 10% and 5%, is seen as optimal by 5%, 5% and 9% of employers respectively. The

low level threshold of representativity can lead the industrial democracy in big companies to its opposite, and the companies which experienced the problem of coming to an agreement with more representative trade unions offer the strong arguments for higher census or at least lower census combined with provision about the minimum absolute number which would follow the low representativity threshold (for example 5% but at least 20 employees).

25. Would you as an employer be interested in employing a person who is on a leave for child care and wants to work to 4 hours a day, with the possibility that 50% of the wage and the due taxes and contributions are paid by you as an employer, and the remaining 50% are paid by the state on the basis of the Labor Law and Law on financial support to families with children?

Question No 25 is the last one from the set of questions about the labor legislation and it concerns the possibility of flexible employment of persons on the leave for child care (Chart 3-20).

Chart 3-20: Acceptability of flexible employment of persons on a leave for child care



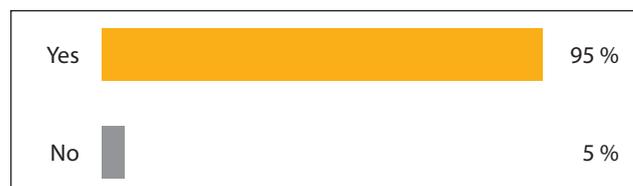
201 employers responded. If the conditions for employment would be flexible as it is suggested in a question, 61% of employers would be ready to employ persons on a leave for child care with the reduced working time. 39% would not use this option. This question presents the strong indicator of the employers' distrust in the state, i.e. of the bad experiences they had with the leaves for child care. One of the issues which are presented in public in a completely wrong way is the employers' positions related to the leave for child care, due to lack of presentation of the employers' costs arising from this basis.

3.2 Tax Legislation

26. Does the amount of wage tax and social contributions paid present a barrier to the growth of wages in your company?

The question 26 refers to the relation between the difference between gross and net wage and the growth of wages (Chart 3-21).

Chart 3-21: Influence of taxes and compulsory social security contributions on wage growth

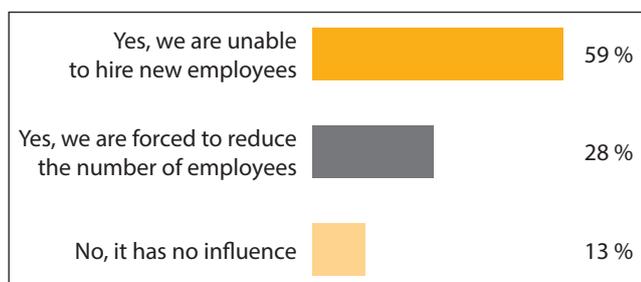


201 employers answered the question. 95% of the employers consider the amount of wage tax and compulsory social security contributions a crucial barrier to the increase of the employee wages. Only 5% consider that this is not the case. This is the question that gives the strongest argument for the demands directed toward the reform of tax policy. Emission of rights by the state which is embodied in the tax wedge leads to the fact that the employees cannot hope for the real growth of net wages, and consequentially with percentually higher rights in absolute terms they will receive lower pensions, lower quality of health service and lower unemployment security. It is necessary to insist on common sense, that is, the emission of rights that can realistically be financed and that allow growth of gross and net wages, instead of current approach.

27. Is the amount of wage taxes and social security contributions a barrier for the increase of the number of employees in your company?

Question 27 focuses on the tax wedge on wages and the possibility for the increase of employment (Chart 3-22).

Chart 3-22: Influence of taxes and compulsory social security contributions on the increase of employment



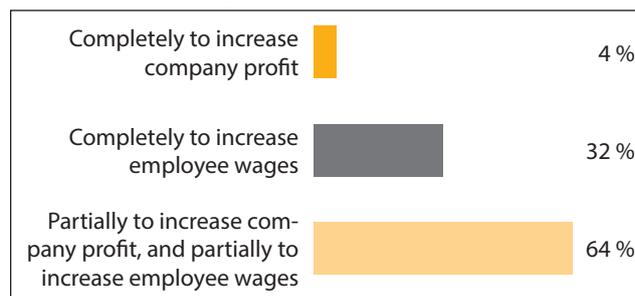
The answers were given by 201 employers. 59% of the employers is not able to hire new employees due to the tax wedge, 28% are forced to further reduce the number of employees, while only 13% consider that the tax wedge has no influence on employment. This question reveals that the wages taxation policy is in direct confrontation to the core goal of every development strategy of the Republic of Serbia, that is, the increase of employment. It is necessary to insist that the measures aiming to reach the core development goal of the Republic of Serbia be consistent with that goal, that is, to insist that the higher employment can be achieved through the reduction of tax wedge on wages.

28. If the tax and social security contributions were to be reduced, would you use the financial gains to:

The question 28 refers to the plans of the employers in case of hypothetical reduction of wage tax and contributions (Chart 3-23).

The answers were given by 202 employers. 64% of employers would partially use the funds „liberated“ through the reduction of tax and contributions for the increase of wages, and the rest for the increase of company profit. 32% would use all the funds for the increase of employee wages, while only 4% would use the funds exclusively to increase the company profit. The answer to this question gives high moral strength to the employers in the collective bargaining

Chart 3-23: Purpose of funds that would be gained through the reduction of wage tax and social security contributions



process, as it stands contrary to the public perception of the employers caring only about maximizing their profits, at the expense of employee wages. It is often remarked that the reduction of wage tax and contributions would lead only to higher company profits, while the employees would retain their current earnings. Only 4% of employers does not see their employees as a key company asset.

29. Current fiscal burden on wages is 68.19 RSD on each 100 RSD of employee net wage. Which amount do you consider appropriate for your company?

Question 29 concerns the optimum amount of wage tax and contributions on 100 RSD of net wage of the employee from the point of view of the employers. The arithmetic mean of the answers of 191 employers was:

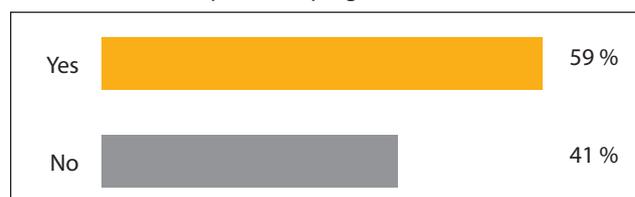
40.4%

It is hard to expect ideal fiscal burden, except for lowest wages that could be completely nontaxable. The practices in the West Balkan countries differ due to health system and population age differences. Serbia, with current level of fiscal burden on net wages does not fall into the group of countries with highest fiscal burdens, but one should consider the amount of subsidies the central government budget gives to the pension fund and partially the health security fund, in order to realize that the current social security system is expensive, unreformed and inefficient. Without a crucially different system of pension and health system it is impossible to expect a significant reduction in the fiscal burden on wages.

30. Would you accept introduction of progressive taxation of wages, in which lower wages would be less taxed than the wages higher than average?

Question 30 refers to the possibility of progressive taxation, or the possible increase of non-taxable amount of wages (Chart 3-24).

Chart 3-24: Acceptance of progressive taxation

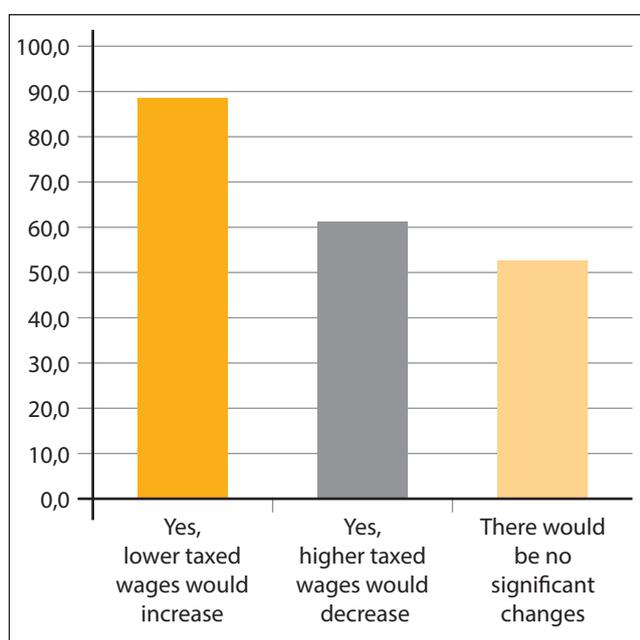


202 employers answered this question. 59% of the employers would accept the progressive taxation, while 41% is against it. Considering that the employers and company managers are the most affected by the potential change toward a more progressive taxation, it is once again clearly demonstrated that the employers are a constructive partner in social dialogue and that they are ready to set an example to assist the reform process.

31. Would an introduction of such taxation system impact the wage policy in your company? (maximum of 2 answers)

Question 31 concerns the consequences of introduction of progressive taxation regarding the wages in surveyed companies. As multiple choice is allowed the absolute values of the answers were given (Chart 3-25).

Chart 3-25: Expected consequences of progressive taxation



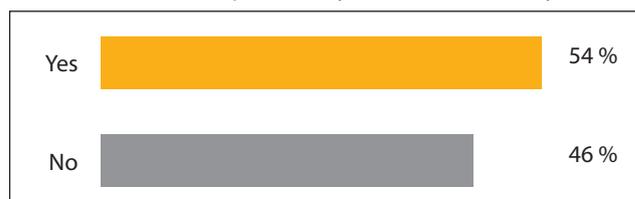
The answers were given by 202 surveyed companies. In 89 companies the lower-taxed wages would grow, in 61 companies the higher-taxed wages would be reduced, while in 52 companies the wages would remain the same. These are the expected answers.

32. Do you think that it would be good to introduce the model of different wage taxation according to the profitability of the economic activity, where more labour intensive industries would be taxed with lower rates, while more profitable sectors would be taxed with higher rates?

Question 32 refers to the possibility of different wage taxation according to the economic activity (Chart 3-26).

201 companies responded to the question. 54 percent of the survey respondents consider that it is desirable to introduce different taxation of wages depending on the profitability of economic activity. It is here disregarded that Serbia already has different taxation for different economic activities in lump sum taxation system, and that it makes

Chart 3-26: Acceptability of differing taxation depending on the profitability of economic activity

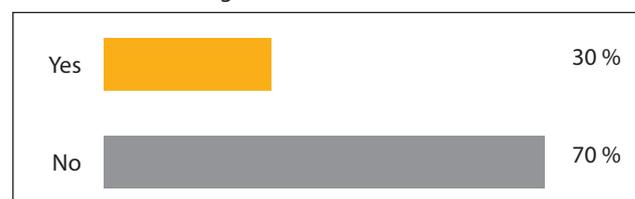


little sense to encourage larger companies to remain in low profitable economic activities.

33. Did you have problems with inability to pay regular wages and tax and social security contributions in the last three fiscal years?

Question 33 focuses on the issues in regular payment of wages in the last three years (Chart 3-27).

Chart 3-27: Frequency of issues regarding to payment of wages, tax and contributions



200 companies answered the question. 70% of surveyed companies did not have issues regarding the payment of wages, while 30% encountered problems. This is contrary to the common perception that avoidance of paying the full gross wage is practice in Serbian companies, and not an exception.

34. If you had issues with regular payment of wages, including the corresponding taxes and contributions, name the cause of the issue: (multiple answers allowed)

Question 34 refers to the causes of companies' inability to regularly service their obligations concerning employee wages. Multiple choices were allowed (Chart 3-28).

Total of 67 companies had problems, and 170 individual problems were identified. Insolvency is the problem in 25 cases, inability to collect the receivables in 51 cases, inadequate turnover in 31 cases, large debts and bank account blockages in 16 cases, entering into irrational credit debts in 7 cases, exceptional circumstances and damages in 6 cases, high amount of taxes and other parafiscal charges in 18 cases, while other cases were registered in 16 cases.

35. Does your company pay meal and vacation allowances to the employees?

Question 35 concerns the payment of meal and vacation allowances. A total of 201 company answered the question. All companies that pay meal allowances also pay vacation allowances (Chart 3-29).

10% of companies does not pay the meal and vacation allowances at all, 36% does, but in symbolic amount, while 54% of companies pay them in average 4,650 RSD per month for meal allowance, and 24,316 RSD per year for vacation allowance. If the companies that pay these allowances in a symbolic amount the total average would certainly be lower

Chart 3-28: Issues with regular payment of wages, tax and contributions

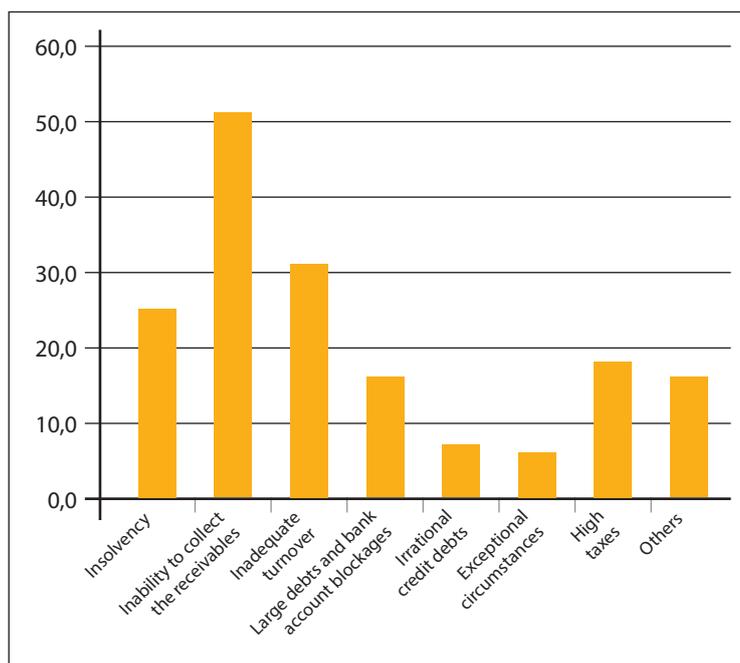


Chart 3-29: Company practice regarding meal and vacation allowance

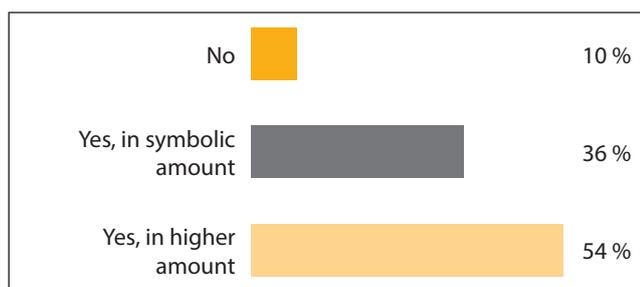
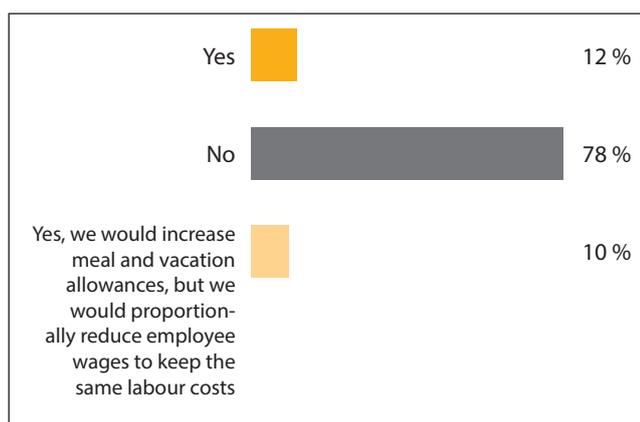


Chart 3-30: Changes due to potential partial tax exemption of vacation and meal allowances



because 34% of companies has this practice. However, most of the companies pays meal allowances to their employees, for two main reasons. Firstly, it is an inheritance that is present in most other countries in the region, and secondly, the payment of meal allowances severely reduces the attractiveness of „false sick leaves“.

36. Would the exemption of certain amount of meal and vacation allowances from taxation contribute to the increase of these payments to the employees in your company?

Question 36 focuses on the hypothetical tax exemption of meal and vacation allowances and the consequential changes in company policy (Chart 3-30).

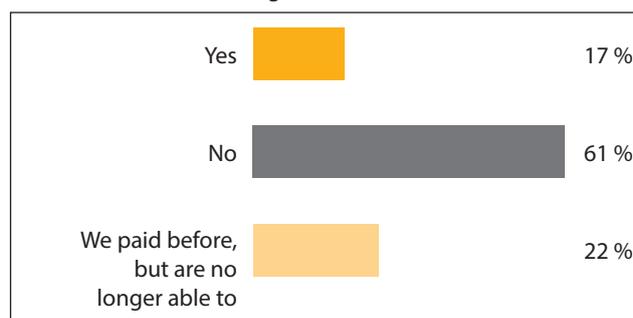
Total of 193 companies answered the question, and 78% stated that they would not increase their payments to the employees. 10% of the employers would increase these payments, however, they would proportionally reduce the wages, while 12% would increase the amounts of meal and vacation allowances. The question clearly illustrates that there would be no significant difference in case the system from 2002 was re-introduced, that is, uniform wage without meal and vacation allowances.

37. Do you pay 13th wage to the employees?

Question 37 refers to the payment of 13th wage. 201 company answered this question (Chart 3-31).

61% of companies does not pay 13th wage, 22% used to pay them but is no longer able, while 17%

Chart 3-31: Company practices regarding payment of 13th wage

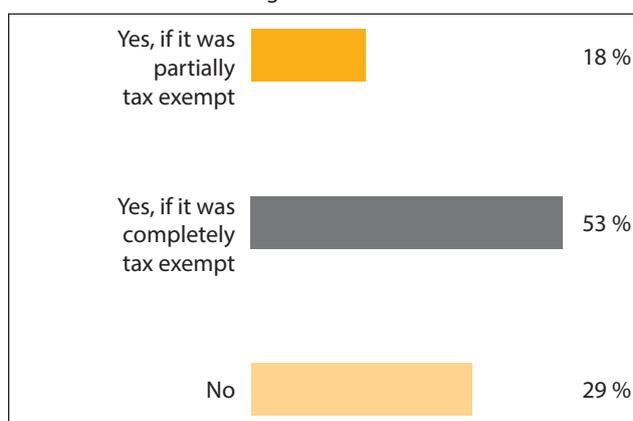


of companies has the practice of paying 13th wage. Almost 40% of companies either had the practice or still awards their employees according to the performance.

38. Would tax exemptions stimulate you to pay 13th wage?

Last question in this section is the effect of tax exemptions on the payment of 13th wage (Chart 3-32).

Chart 3-32: Effect of potential tax exemption of 13th wage



202 companies answered this question. 53% of the companies would have a positive reaction to the complete tax exemption of 13th wage, 18% would pay 13th wage even if the tax exemption would be partial, while 29% would not change their policy.

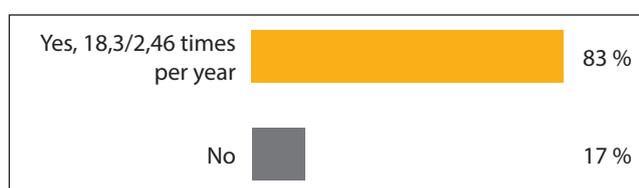
3.3 Trade legislation

Examinations in third section have been conducted only in companies classified in the trade sector of economic activity. A total of 46 companies answered the third part of the survey.

39. Has the inspection been performed in your company in the past period?

This question identifies the frequency of inspections, independently of the type of inspection (Chart 3-33).

Chart 3-33: Frequency of inspections



There was no inspections in the last two years in 17% of the companies. In 83% of the companies the inspections were held and they occurred 18.3 times per year in the sample with outliers and 2.46 times per years in the sample without outliers.

40. If the inspection have been performed during the 2011 and 2012, how long in average did it last? (answer for each year)

This question gives the average length of inspection in the company (Chart 3-34).

Usual duration of the inspections has been 3-5 days (49% and 46% in 2011 and 2012, respectively), and then 1 day (36% and 35%). Inspections longer than 25 days are noticed in 5% and 7% of cases. It is important to avoid practice of inspections that, according to their duration suggest a certain intention of the control institutions, instead of control as a regular process.

41. If the irregularities were identified during the inspection process, did the inspection give you a period for correction of those discrepancies?

This question gives an overview of intensity of different practices by the inspections, that is, deadlines given for correction of irregularities (Chart 3-35).

In most cases the inspection gave a reasonable deadline for correction of discrepancies from legal requirements, which has averagely lasted for 21 days. In 23% of cases the deadline was given, which on average lasted for 17 days, and was judged as suboptimal by the respondents. In 28% of cases the inspection immediately fined the respondent. This question shows the change of focus of inspections to preven-

Chart 3-34: Length of inspection

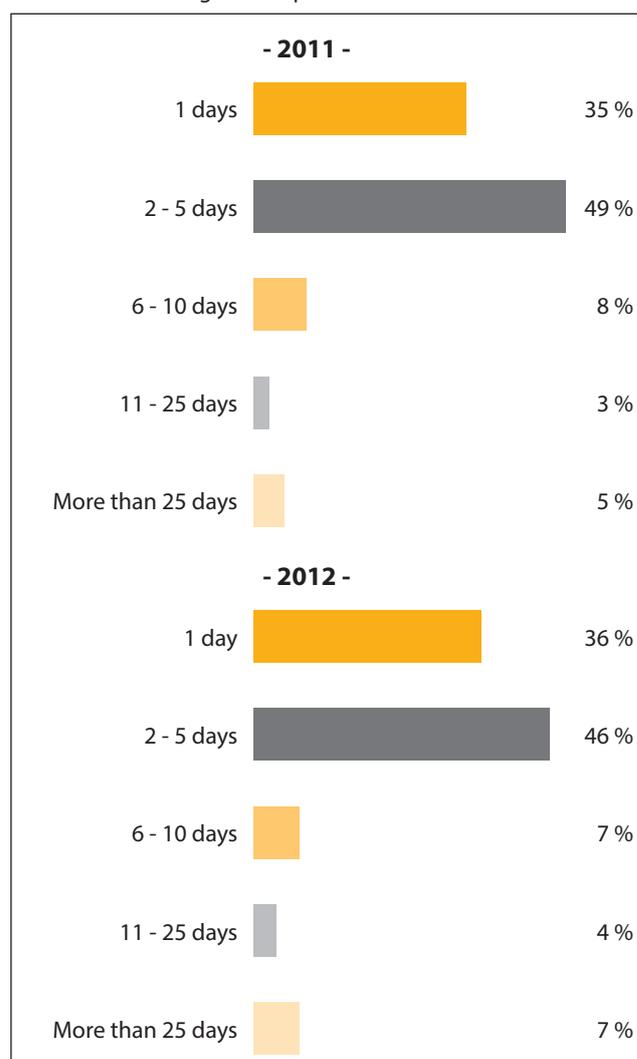
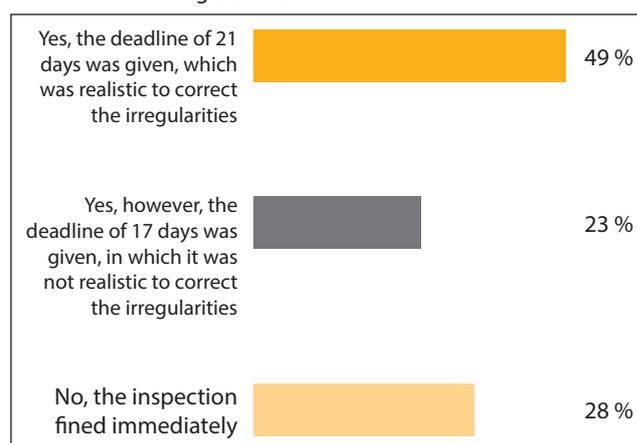


Chart 3-35: Inspection practice when identifying irregularities



tion as dominant practice, instead of issuing monetary fines for the purpose of increasing the budget revenues.

42. Have you noticed the following examples of corruption of inspections: (multiple answers possible)

This question definitely demands facilitation, as the companies normally avoid answering the question.

13 of 46 participants answered that the inspection wrongly interpreted the law against the subject

The participants have not identified other forms of corruption:

- a) Inspector demanded a bribe in order not to fine for a minor irregularity
- b) Inspector demanded a bribe in order not to fine for a significant irregularity (unregistered employees, tax evasion, etc.)
- c) Inspector fined according to non-existent legislation

43. How many employees in your company has an obligation of passing the „hygienic minimum“ course?

The question refers to the number of employees that must pass the „hygienic minimum“ training. The average number of employees is given.

On the sample of 18 companies, the average number of employees that must complete the „hygienic minimum“ is 201.

44. How much per year does the „hygienic minimum“ course, that has to be renewed every four year, cost for your company?

Here the costs of „hygienic minimum“ for each company is given, that is, the additional information of the cost of „hygienic minimum“ per employee required to complete the course is given.

On the sample of 18 companies, the average company expense for the employees required to pass the „hygienic minimum“ course is 419,916 RSD. The average expenditure per employee is 2,089 RSD.

45. What is the average expenditure for workplace risk assessment document, per employee, on the level of all business units?

This question gives average expenditure per company. Here the data is given both with and without outliers, since the first data gives information about average expenditure, while the other illustrates the effect of unnecessary procedure in the companies that do not have a significant workplace risk.

On the sample of 33 companies, with outliers average expense is 121,869 RSD, without outliers is 7,025 RSD

Difference between samples with and without outliers is the result of inclusion of companies with different economic activities in the sample, where some have significantly higher expenses of risk assessment due to the nature of their activity. Therefore, the average with included outliers shows the real average expense, while the average without outliers roughly presents the most common expense for the workplace risk assessment.

46. How many identical or similar business units you have in which employees work on identical tasks, and for which the risk assessment is completely identical?

This question gives the average number of company facilities that have separate risk assessments, even though the units are of similar or identical format and is unnecessary to perform a separate risk assessment.

On the sample of 24 companies that have business units of same format, the average number of facilities for which a superfluous risk assessment must be performed is 19.

Risk assessment in facilities where there is no risk is an example of hidden costs that are unnecessarily being imposed upon the economy. This interpretation of the law is contradictory to the purpose of the law, that is, to reduce the risk of damages through risk management, which is not achieved unless the risk management can be focused on the cases that have actual risk.

47. How many samples of products are being given by your company each year for quality testing?

The average number of units of products that have to be submitted for mandatory testing is given.

On the sample of 23 companies, the average number of product units given for sampling is 148 per year.

48. What is the yearly expense of your company for the quality testing of products?

The yearly expenses of quality testing are given, as well as the average cost of the procedure per sample.

On the sample of 23 companies, the average yearly expense for the quality testing fees is 843,328 RSD. The average expense per unit is 5,699 RSD.

49. Did your company ever receive the refund of fees that passed the quality testing, in accordance to the Article 71. of the Food Safety Law?

This question analyzes if the refund for samples that passed the quality control occurs in practice.

On the sample of 23 companies, none received the refund guaranteed by the Food Safety Law.

50. What are the average expenses of your company for the Fire Protection Plan in existing facilities or for opening of new ones?

Question 50 gives answer to average expenses for designing the Fire Protection Plan.

The average expenses for fire protection are 37.355 RSD on the sample of 31 companies.

51. How many of your facilities are considered so-called „small surface objects“ that have only one exit, and also need to have Fire Protection Plan and all accompanying markings?

The question gives an answer to completely unnecessary expenses imposed by the requirements of the Fire Protection

Plan for objects with single entrance/exit, through analysis of the average number of facilities per company that must have a separate Plan.

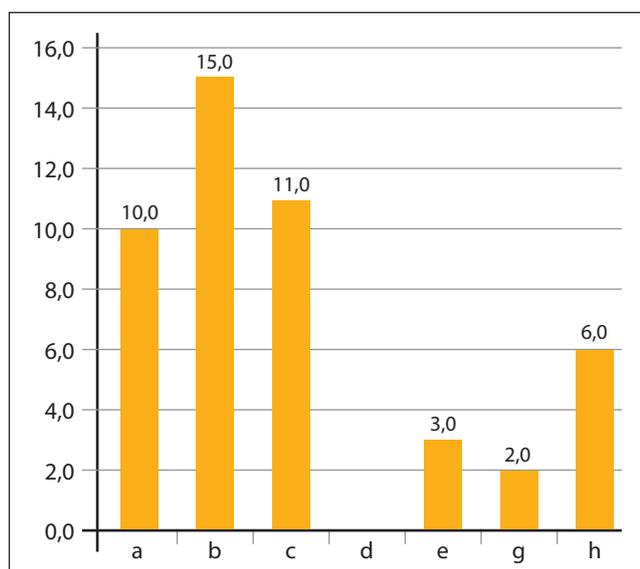
148 facilities in 12 companies

52. What are the most common reasons for the imposition of fines or warnings by the inspection?

This question shows the main reasons for imposing fines or warnings in absolute amounts:

- Certain documents did not have adequate title (they were titled „Decision“ instead of „Rescript“, etc.)
- Product prices were not visible enough or were moved
- Two different inspections interpreted the regulation in two different manners
- Lack of documentation due to slowness of government authorities
- Sign for allowance or prohibition of smoking was not placed in accordance to law

Chart 3-36: Reasons for imposition of fines and warnings by inspections



- Checklists for temperature checking in freezers were not filled by the hour
- Servicing of the cash register was not performed longer than one year, even though the cash register was operational
- Others

Most common reasons for imposing warnings or fines was inadequate price labeling (15 times), collision in the interpretation of legislation by different inspections (11 times) and formal mistakes (10 times)

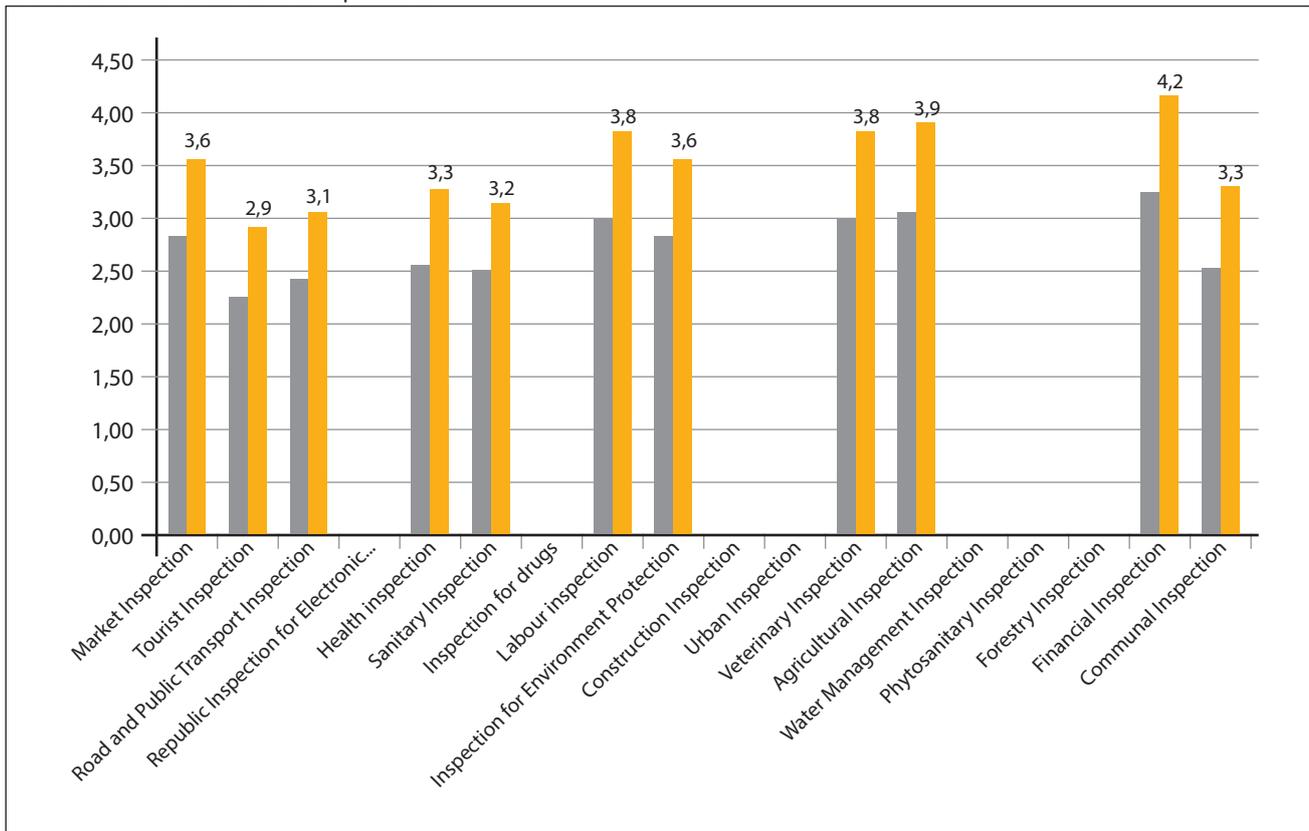
53. Grade the work of the following inspections with jurisdiction over your company

Here the average grade of the efficiency of inspections is given, for the inspections that have received at least 10 grades by the trade companies. Data has been recalculated from the 1-4 scale where 1 is the lowest, and 4 the highest grade (1 – mostly displeased, 2 – partially displeased, 3 – partially pleased and 4 – mostly pleased) into the system more understandable to the audience in Serbia, with 1 as the lowest and 5 as the highest grade (which is the grading system in basic and secondary education in Serbia, where 1 is the lowest and non-passable grade, while 5 is the best) (Chart 3-37).

Most respondents graded the market inspection (34), labour inspection (33), health inspection (32), sanitary inspection (33), financial inspection (31) and communal inspection (25). Over 10 grades were also received by tourist inspection, road and public transport inspection, inspection for environment protection and veterinary and agricultural inspections. Other inspections have received less than 10 grades and it will be necessary to conduct a focused research on the sample which would have more of the affected companies for realistic evaluation of their efficiency, which was not possible through this research.

The most efficient inspection is financial inspection (4.15) and agricultural inspection (3.91), while the most inefficient are tourist inspection (2.87), transport inspection (3.12) and sanitary inspection (3.20).

Chart 3-37: Evaluation of the inspections



Studies

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Index of Economic freedom

From the 1994, Heritage Foundation in cooperation with Wall Street Journal has been publishing Index of Economic Freedom. Original intention of the creators of Index was demonstration that economic development is not depend on any kind of assistance from abroad, but rather on level of economic freedom in the country.

Index of Economic Freedom were used in secondary research, bearing in mind that it is one of the most comprehensive composite indicators of business environment in one country, enable comparisons of data between countries, and it was not used in similar studies in Serbia yet. Index of Economic Freedom illustrate business environment of particular country from the perspective of employer, or other words said, it shows attractiveness of one country for doing business. If one firm is freer to independently decide about aspects of its business, and if the property rights are protected stronger, as well as if the firm is free from corruption, the business environment will be better. Index of Economic Freedom is especially illustrative, because all of its components is composite, consisting from several different variables. Therefore, overall evaluation of economic freedom includes evaluation of more than 50 different independent variables that illustrate quality of business environment in particular country. Those 50 variables are aggregated into 10 factors (property rights, freedom from corruption, fiscal freedom, government spending, labor freedom, monetary freedom, trade freedom, investment freedom and financial freedom), each of them separately evaluated. Bearing in mind that this Index is rarely used in previous studies in Serbia, and that methodology is not commonly known in Serbia, this annex gives brief methodological explanations about Index of Economic Freedom. More detailed explanations are available at web page <http://www.heritage.org/index/book/methodology>.

Economic freedom is defined as „absence of intervention of the government or limitation in production, distribution and consumptions of goods and services above the level necessary for protections of citizens and their rights”. Each variable is researched and evaluated, but quantification is presented only on the factor level. Evaluation for each factor is in 0-100 scale, 100 is the maximum and 0 is the minimum of freedom.

Final value of Index is average of values of all 10 factors, which consequently results in economic freedom mark between 0 and 100. In the 2013 Index of economic freedom, average economic freedom in the world is 58.2 and European average is 66.6. The freest countries in the world are Hong Kong, Singapore, Australia, New Zealand and Suisse, with respective values of 89.3; 88.0; 82.6; 81.4 and 81.0. The countries with lowest freedom in the world are North Korea, Cuba, Zimbabwe, Venezuela and Eritrea, with respective values of 1.5; 28.5; 28.6; 36.1 and 36.3. Serbia is ranked as the 94 at the list of the world countries with score of 58.6. More about ranking of countries and their scores could be found at web page <http://www.heritage.org/index/ranking>.

Outliers

Outlier is the element of some statistical group, whose value is significantly different from the values of other elements in group. If one does not exclude outliers from analysis, conclusion could be wrong. For example, if 9 people from group of than has salary of 15.000 RSD monthly, and just one earns 1.500.000 RSD monthly, average earning without outliers is 15.000 RSD, but with outliers is 163.000 RSD. Average earning with outlier do not illustrate well characteristic of group, while average without outlier demonstrate what is the most common characteristic of the group members.



Notes
