Fiscal Evasion in the Republic of Kosovo

Bedri Peci1

Abstract: The aim of this research is to analyze and find out the major issue of fiscal evasion in Kosovo. In this analysis we have used the research method of case study. The results of research show that the phenomenon of fiscal evasion and informality in Kosovo can hardly be measured because in essence these phenomena belong to the hidden economy. Fiscal evasion occurs as a result of disorders in the overall economy and is present in many countries, including industrialized countries as well as those with economy under development, and therefore the state of Kosovo is exposed to this phenomenon. This phenomenon is even more developed in countries lacking legal infrastructure, with particular emphasis the readiness of responsible persons for combating this phenomenon in the context of available opportunities. Kosovo has a high level of informality and this is due to insufficient inspection of enterprises and failure to implement applicable laws.

Keywords: Fiscal evasion; informal economy; shadow economy; Kosovo

JEL Classification: H26

1. Introduction

The expression Fiscal evasion is related to all those actions aiming at reducing or eliminating fiscal contribution to the state budget from citizens or entities violating the provisions and specific fiscal norms. Fiscal evasion is non-payment of tax liabilities deriving from the law. This phenomenon has a destructive effect towards fiscal policy causing a significant loss to the state from its fiscal incomes. Tax evasion is often regarded as petty crime that may, to some extent, be socially acceptable. This is also reflected in the observation that tax evasion is often punished with monetary fines rather than actual imprisonment (Pickhardt & Prinz, 2012, p. 4).

Fiscal evasion is also known by many other names such as: underground economy, shadow economy, informal economy and black market economy. Tax evasion mostly appears to direct taxes (the shadow economy), but can also occur to indirect taxes known as smuggling. Smuggling is also illegal phenomenon that occurs with

¹ Associate Professor, PhD, Department of Financial Law, Faculty of Law, University of Hasan Pristina, Kosovo, Address: Agim Ramadani Str. p.n., 10000, Pristina, Kosovo, Corresponding author: bedri.peci@uni-pr.edu.

the distribution of any secret goods which is subject to turnover tax or customs. Smuggling appears on the turnover tax if sold goods are not registered and if avoid from payment of turnover tax within state borders is made for e.g. the sale of alcoholic beverages from producers directly to consumers without paying turnover tax (Komoni, 2008, p. 109). Failure to pay direct payments is known as shadow economy. This means that part of the economy is known as the "underground activity". Shadow economy is also termed as illegal, unofficial, informal, and black market economy, etc. It is defined as an economy aiming to avoid (flee) tax obligation and its non-inclusion on statistics from economic and political point of view appears in shadowy. Shadow economy appears in crisis situations because it is a convenient terrain for it. More spent than earned; it talks about illegal enrichment, theft, fictitious sales actions that belong to the shadow economy. The forms of the shadow economy appear on exceptional situations such as: wars, social conflicts, crisis, economic blockade, etc. The presence of the shadow economy has serious implications for the performance of the economy and public politics. In these circumstances, assessments and recommendations of policymakers have greater tendency to fail due to poor quality of official statistics (Blackburn, Bose & Capasso, 2012). This economy has a great impact on general economic trends, distorts the official situation and the data are incorrect. The high level of tax evasion is a danger not only for economic development but also for the development of free competition. The notion of the informal economy mainly refers to that part of the national economy that is not subject to tax payment and failure to respect the applicable legal provisions; reducing state revenues from the formal sector from failure to pay the taxes by damaging the economy seriously. So, the notion of the informal economy is a broader concept that includes in itself all activities performed outside fiscal and legal system.

In the long historical context, the policy and tax systems of Kosovo were followed during their evolution by many changes that were made based on the challenges of the political and socio-economic structure of Kosovo (initially as part of a federal system and later followed by the deployment of United Nations Interim Administration Mission in Kosovo (the UNMIK) (Peci, 2016, p. 170). Otherwise, today, the Kosovo tax system includes Corporate Income Tax, Personal Income Tax, Withholding Tax, Real Estate Tax, VAT, Excise Tax, and Customs Duties (Peci, 2009, p. 222). Since the declaration of independence on 17 February 2008 and to date, the Government of the Republic of Kosovo took two tax reforms. The measures taken are only related to reducing the tax rates on the main taxes, with the objective of stimulating foreign investment and allowing taxpayers to pay less tax so as to minimize evasion. Despite this, with the undertaken measures, we can rightly say that tax evasion in Kosovo is not only a serious problem, but it is a growing problem. Kosovo has a high degree of tax evasion and this, according to experts of economic affairs, is due to insufficient inspection of businesses and nonimplementation of positive laws. The high level of tax evasion hinders extremely the economic development, the way of developing free competition, attracting strategic investments in energy, infrastructure, education and health, and exacerbating the cost of people's lives as well. One of the main barriers of running a business in Kosovo is the presence of tax evasion and informality. These two negative phenomena, such as; tax evasion and informality do complicate the fiscal and social stability of the country, thus the greater presence of the informal economy and fiscal evasion means less income in the state budget. Such a thing causes an unfavourable climate for sustainable economic development and the rule of law, on the other hand creates a profitable climate for financial crime, illegal trafficking, circulation of dirty money. Investment and laundering such money encourages informality of the economy, which is a haven of crime and slowly becomes a serious obstacle to further developments threatening public order and citizens. Kosovo, recently, was criticized by the European Commission for a high level of smuggling and tax evasion, but also because of the situation in the north, where since the country's independence, the access of Kosovo institutions on the border with Serbia is impossible. Kosovo faces a high degree of informality in the labour force, where Kosovo businesses do not report at all their total labour force of around 40%. While tax evasion and informal market continue to increase the ratio in the society by deforming the development policy, this means that a number of individuals get rich so enormously and majority of citizens become impoverished, that this phenomenon continues to affect the customs to get corrupted and the business continues to avoid taxes from the state. This is because the law does not act and competent authorities do not impose sanctions, therefore they do not punish. According to the Criminal Code of the Republic of Kosovo, Chapter XXV (criminal offenses against the economy), pursuant to Article 313, tax evasion is considered as a criminal offense, however that was not sufficient to push taxpayers not to take such an action, taking into consideration the penalties (fines) that derive from this code (Salihu, Zhitija dhe Hasani, 2014, pp. 863-865).

Lack of justice threatens us with other catastrophes in economy, urbanization, environment, education, health and elsewhere. Failure to apply the law is the epicentre of tax evasion by increasingly deepening the economic crisis. Therefore, true recovery of the economy can only be achieved by a parallel revival with the justice. We often encounter this quote to Marx: "When the French farmer wants to envisage the devil, it envisages in the form of a tax collector." Avoiding (fleeing) the payment of taxes or tax evasion can be made for different reasons and different consequences of taxpayers. (Beshi, 2016, p. 244). France, for example, annually loses €100 billion due to fiscal and social fraud (undisclosed social contributions). If this amount would be recovered, this would enable to have regulated a part of the economic challenges that France encounters today.

Fighting tax evasion would bring very good things to the state of Kosovo by increasing the budget revenues and affecting the overall economic development

and social welfare of the country.

In this study we have used the research method of case study, based on theoretical and empirical data. Furthermore, the methodology of this research is based on different papers which talked about fiscal evasion as well as on other secondary sources. In addition to this introduction, the paper deals with two main parts. In the second we have treated the main characteristics of fiscal evasion in Kosovo, whilst in the third part the challenges for fighting fiscal evasion have been analysed. The analysis ends with a summary of conclusions.

To understand how tolerant Kosovars are towards evasion, we can take an example from our daily life. How many of us ask for a bill after they drink a coffee in one of our cafes, how many of us require the parking ticket, taxi bill or invoice from many services or products we consume on daily basis? (Abdixhiku, 2007).

Many studies conducted by economic associations estimated that the barriers of doing business, such as high level of corruption, lack of most favourable fiscal policies and fiscal evasion, affected many investors to not increase their capital in Kosovo. Since 2008, according to the official data of Central Bank of Kosovo, international investments in Kosovo have been decreasing continuously. While in 2007, Kosovo has had about €500 million direct international investments within a year, but in recent years said investments have fallen to around €250 million per year. The balance of foreign direct investments in the three quarters of 2014 was €121.7 million euro, while in the same period of 2013 this amount was €219.6 million euro. This decrease mainly reflects the fact that some foreign companies in Kosovo, during the second quarter of 2014 distributed dividends of a greater amount than their earnings for the relevant period, which reflected a foreign capital reduction in Kosovo. Investments have also fallen due to the damage of Kosovo's image. (Veseli, 2015). Neighbouring countries have advanced much more in absorbing international investments by offering much better conditions than Kosovo. Kosovo has a high level of corruption, investors say; and that is a key element why they do not invest in Kosovo. We have an economy with a high participation of the informal economy that causes an unreal competition, and affects negatively the attraction of foreign investor. Moreover, there is a lack of an attractive promotional strategy to attract foreign investment in Kosovo (Veseli, 2015). An alarming situation in Kosovo causes the liquidation of businesses, so this contributes to increasing the number of unemployment and raising the level of poverty in the country. Only in 2014 were registered 9616 businesses but 1663 got closed. While in 2013, there were 9485 registered businesses and 1515 got liquidated. Unfavourable fiscal policies, high interest loans, lack of a more serious commitment of competent authorities for private sector are some of the reasons for the liquidation of businesses emphasized by economic affairs experts. Another factor that affects the liquidation of businesses in Kosovo is unfair competition and border smuggling. If a company sells or manufactures products and services within the Kosovo market and pays all taxes to the national budget, however there are other companies that deal with smuggling and tax evasion and do not pay their fiscal obligations to the state, and those are much more competitive than serious companies. Fiscal evasion and informal economy in Kosovo shows an enormous level of this phenomenon in the country.

A conducted research aimed to identifying possible losses that the tax evasion and manpower informality caused to the state budget from the registered businesses. With regards to this question there were 600 businesses surveyed. The questionnaire replicated the standard methodology promoted by the World Bank and EBRD in BEEPS (Business Environment and Enterprise Performance Survey) surveys, when the evasion was concerned or of "World Values Survey", when the social aspects of the topic were treated - as it is the case of fiscal moral (tax morale). The most important result of the survey was related to the perception of the level of tax evasion in the country. According to the managers and businesses' owners surveyed, about 34.4% of sales are not declared – thus are deleted – by the tax authorities of the country. Other results show that around 62% of Kosovo businesses believe that if they decide to avoid tax payment, they can do it very easy and without being caught by the authorities. Moreover, about 68% of businesses believe that the level of fines is low or very low. Lack of supervising factors – such as inspection and fines - produce motives of evasion behaviour. Tax evasion has quite interesting characteristics. E.g. large businesses do fiscal evasion the least. In fact, according to the survey results, there is a linear relation between the business size (measured with the number of workers and sales level) and fiscal evasion; the smaller the business is the more evasive is (Abdixhiku, 2013). As shown in the figure 1, sales not reported due to the tax purposes (cross-tabulation with company size)

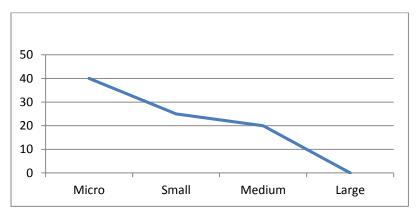


Figure 1. Tax evasion and size of the firm

Source: RIINVEST Institute for Development Research, (2013)16

The sales reported for tax purposes also seem to vary across seven regions of Kosovo. According to the survey results, the region of Gjilan is the most evasive one, with roughly 60 percent of sales being hidden from the tax authorities; followed by the region of Peja with 45 percent of sales evaded; the region of Mitrovica with 44 percent of sales evaded; the region of Ferizaj with 40 percent of sales evaded; the region of Prizren with 33 percent of sales evaded; and the region of Pristina with 27 percent of sales evaded. The last region, which is the most compliant, is the region of Gjakova, with 20 percent of sales evaded (see Figure 2).

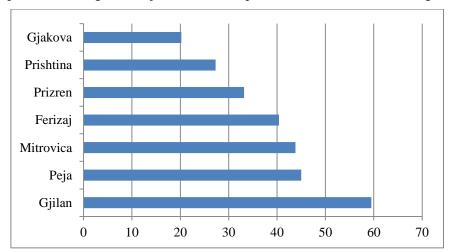


Figure 2. Percentage of non-reported sales by regions

Source: RIINVEST Institute for Development Research, (2013)17

A special focus of the study was the fiscal moral survey or voluntary readiness of tax payment. Outcomes have showed that Kosovo businesses have same fiscal moral with developing countries but far away from developed countries. About 44% of owners in Kosovo believe that, regardless level of public services they do receive, fiscal evasion must be justifiable. So it talks about a total incompliance of business – state relationship (Abdixhiku, 2013).

Morality can exist only when there is a choice. Stated alternatively, where there is no choice there is no morality. If a commanding officer orders a soldier to either kill someone or be killed because of disobeying the order, the soldier is not morally responsible for executing the person who has been chosen for execution, because he has no choice. From the basic premise, one may also state that paying taxes does not raise any moral issues because one does not have a choice. Paying taxes is neither moral nor immoral. It is merely something that one is forced to do' (McGee, 2012, p. 47). Regarding the determinants of tax morale aforementioned with regards to the case of Kosovo, the Kosovo Tax Administration has made a series of reforms being focused on improving the quality of services for consumers,

transparency and process improvement. Since 1999 the Government of Kosovo has made some tax reforms which mainly consisted in the reduction of Corporate Income Tax rate (CIT) and Personal Income Tax rate (PIT). Regarding CIT, government has had as an aim that through reduction of tax norm, to increase the competition capacity of Kosovo vis-à-vis foreign direct investments. In the case of PIT government had as an aim fighting fiscal evasion by stimulating with lower tax burden to move from subjects of shadow economy to the subjects which reach to finish their tax liabilities. So reduction of tax rates on CIT and PIT was a tax incentive, but nevertheless it was insufficient considering numerous incentives that apply to other Balkan states. Number of people involved in business in Kosovo is great even though the possibilities of doing business are small and challenging because government incentives are very limited or to say non-existent (they exist only on paper), but people in Kosovo run a business due to a lack of jobs because the unemployment rate is calculated very high around 40%. (Ukaj, 2012, p. 12).

The survey conducted by Riinvest Institute (2013) was also focused on informality labour force. The questionnaire's outcomes show that an average of 37% of total labour force employed is not declared legally. A special importance in the survey would be given to the Labour Law. Around 41.2 % of interviewed businesses have declared they have never heard about the new Labour Law or its requirements. The other part of businesses, so those that were aware about the law, considered the payment of maternity leave and its duration as serious obstacles in terms of female employment in the private sector. (Riinvest Institute, 2013, pp. 21-28)

Kosovo is still considered as the "champion" country in Europe regarding the unemployment and the high scale of poverty, yet are not seen any elements in terms of fixing this issue as a result of the high scale of unemployment and extreme poverty in double-digit ratio. We are witnesses that currently we are dealing with the phenomenon of people leaving in mass to European countries seeking for job and for a more secured and social life, thinking no return to their origin country.

"High rates of interest for provision of loans are still considered the highest in the region, and it does not stimulate new investments and those existing for renewed investment and make fluctuation (removal) of investments from the country to other countries in the region that offer favourable monetary policies with lower interest rate system compared to what our country offers." (PrizrenPress, 2014).

"I was highly surprised about the number 40 whenever I have been watching the latest survey data by Riinvest on the scanning of the state of Kosovo businesses. This 40 seems to be repeated more often than a simple probability could do it, furthermore occurrences on which they repeated have had a common numerator: disobedience to the requirements of the social system. For example, about 40% of the wages of the workforce in the private sector were hidden from employers, or about 40% of Kosovar businesses had no idea about the minimum wage, or 40% of

businesses were not aware at all about the Labor Law or the benefits for workers. This 40% was everywhere and to make the story more dramatic and interesting, about 40% of sales of Kosovo businesses were not reported for the purposes of tax administration; so, tax evasion in Kosovo reached completely 40%." (Abdixhiku, 2012). In essence, fiscal evasion creates a chain of consequences for businesses, society, institutions and for the country itself. One of the most important challenges of Kosovo in fulfilling the criteria set for integration into the European family remains combating tax evasion.

The Republic of Kosovo should create sufficient resources which are ready to influence the improvement of the image so that the investors and other interested parties reflect the willingness to prevent the deviant phenomena up to a maximum extent, including tax evasion. Strengthening of the judiciary is immediate demand of time in order to apply legislation when the phenomenon occurs, but with more social relevance is to raise awareness into higher level and contribute to the state, for the future of our country.

2. Challenges for Fighting Fiscal Evasion

Tax evasion in Kosovo reaches an amount of a budget, including also the northern Mitrovica, where the tax administration has never been extended there. Therefore, the fight against fiscal evasion brings great profits which must not be neglected.

Fighting this fraud is effectively a complex and difficult job, because machinations sometimes are intelligent and discoverable barely. Then, it must be said that the fiscal fraud is mainly an international problem, avoided amounts are rapidly drawn abroad through fictitious companies and accounts sited in bank heavens. And finally, the means used to fight it are insufficient or better saying, misused (Verner, 2014). Palan, Murphy & Chavagneux, stated that: "We can find examples of people taking advantage of collective goods for private pleasure at every level of society, of course, from the poorest to the richest. The tax haven phenomenon is a massive organized attempt by the richest and most powerful to take advantage of collective goods on a scale rarely seen; and it is, perhaps for the first time, taking place globally" (Palan, Murphy & Chavagneux, 2010, p. 7). In order to limit, respectively prevent tax evasion, different measures are applicable. For example, supply with special customs equipment for detecting smuggled goods, cooperation between financial authorities and other state authorities, such as judicial and police ones (Bungo, 2009, p. 125).

According to Eric Verner (2014), the first and the most urgent measure that must be put in place is related to the redefinition of the regulation for prices of transfers within the multinational societies. They can set transaction prices between societies of the same group and be resident in different countries. Automatic exchange of

information for fiscal purposes between the countries contains the second key measure. That is being put in place, but it will be efficient only when the national administrations would play the game with a total reciprocity. In addition, there should be foreseen sanctions against the countries that refuse to cooperate. The modernisation of the prosecution system and control of fluxes (selling-buying, salaries) is also important. Fiscal harmonisation in Europe could allow accelerating this process. Fraud with "VAT rounded" which means unfair reimbursement of VAT in virtual transactions between the countries — considered as the most important fraud in Europe that will be eliminated rapidly by changing the rules related to VAT among the countries (Vener, 2014).

It should be stressed that not only tax avoidance but also tax evasion by transnational companies happens outside the EU in developing countries, too. And, importantly, while this is often regarded by European publics as a problem of unethical behaviour and unfair personal financial gain, in developing countries it frequently leads to consequences that are a lot more far-reaching. It can put entire public finances at risk.

The tax-to-GDP ratio, an indicator of how effectively taxes are collected, is below 20% in several developing counties. In the EU Member States, it is typically between 30-40%. 15% is considered necessary for a country to finance its basic functioning and services. Recently, a start was made: The European Parliament is currently working on an own-initiative report on "Tax avoidance and tax evasion as challenges for governance, social protection and development in developing countries". Afterwards, it will be time for the Commission to come forward with an action plan to help boost weak administrative capacities of developing countries to deal with the complexity of imposing taxes on transnational companies, the lack of sufficient tax collection infrastructures, and the drain of skilled personnel away from tax administrations. At the same time, it will be equally important to help foster a perception among businesses and citizens that paying taxes is "a good thing" and helps countries, economies, and societies function (Heeger & Meerkamp, 2015).

Kosovo Business Alliance (KBA) gives some recommendations for reducing the informality in Kosovo economy, such as: 1) Identification and inclusion in the scheme of taxation of businesses so far not subject to tax liability; 2) When policy and necessary legislation to limit this phenomenon is drafted, laws and other bylaws should support each other and the work of executive institutions shall be coordinated in order not to stumble its implementation in practice; 3) Coordination of requirements of supervising institutions accountable for insertion into the scheme of social insurance of all businesses and private employees; 4) Another direction where attention should be focused is determination of the ways and concrete measures to attract agricultural employees to be inserted into the scheme of social insurance.

According to Balliu, there are several ways to combat fiscal evasion. First of all the quality of audits needs to be increased. This can be done through an improvement in tax audit methodologies and existing topics, establishing a unique database with the results of inspections made on businesses and individuals. Strengthening of financial control may also help in the reduction of the size of informal economy. We should develop business management tools for a more precise control or a database, including taxpayer's habits (Balliu, 2014, p. 241).

3. Conclusion

No doubt that the fiscal evasion and informal economy have become a global problem with consequences extended to all global economies.

A large number of multinational corporations, banks and criminal networks are using so-called "fiscal heavens" in order to avoid tax payment by benefiting from these "favourable" conditions, such as: banking secrecy, lower rates or non-existence of tax rates for non-residents or lack of mutual cooperation between the countries. It is extremely difficult the calculation of cash amount passing through fiscal heavens or tax evasion. Presence of this phenomenon and extent of its spreading leads to reducing tax revenues and public incomes. Means lost due to the presence of tax evasion in Kosovo is almost the same as budget itself.

Fiscal evasion has a destructive impact on fiscal policy of the state government causing non major loss from its fiscal incomes. This problem occurs not only in our country, but also in the countries with developing fiscal system turning into a phenomenon with global ratio.

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