

SCIENTIFIC ARTICLE

MOBILEurope project

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The **MOBILEurope**¹ project aims to carry out an analysis of industrial relations at EU and candidate country level, identifying convergences and differences between them, through the exchange of information and experiences between partners. The main task will therefore be “*to develop recommendations and proposals to improve theory and practice related to labour mobility in Europe*”. By doing so, we are taking as our starting point fundamental principle of the *Treaty on the Functioning of the European Union* on the **free movement of workers**, which establishes as a fundamental right the right of workers to move and reside, the right of family members to enter and reside, and the right to work in another Member State. It should be noted, however, that these rights are subject to certain restrictions.

In this article, we will try to discuss some aspects related to the impact of the COVID-19 health crisis on mobile workers in terms of employment, working conditions and social protection. We will also identify the role and impact of social dialogue and collective bargaining in mitigating the challenges of this pandemic.

Indeed, it is not surprising that the COVID-19 pandemic has caused many problems for society as a whole in many ways over the past three years. Perhaps one of the most serious of these has been in the world of work, which is closely linked to major changes in the social system.

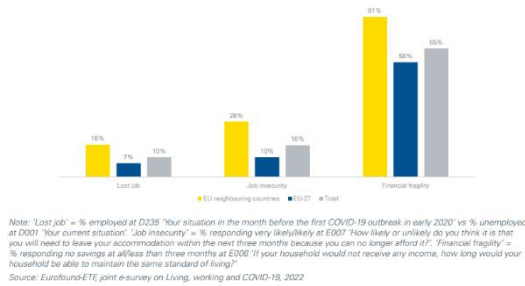
Many companies have closed, leading to job losses, particularly affecting the most precarious workers, those with less stable employment and poorer working conditions, associated with sectors such as services². In this context, the UN even

¹ *The MOBILEurope project, Collective bargaining for mobile workers in Europe during the COVID-19 pandemic. Frontier, temporary and migrant workers* is funded by the European Union and led by Coalición Sindical Independiente de Trabajadores de Madrid, CSIT UNIÓN PROFESIONAL, Spain, with the participation of professionals from prestigious European universities: University of Belgrade - Filozofski fakultet, UB-FF in Serbia; University of Thessaly, UTH in Greece, NOVA University of Lisbon in Portugal, University of St. Cyril and Methodius, UKIM in North Macedonia and from the Institute of Public Affairs in Poland.

² ILO (ILO Monitor: COVID-19... 2) indicated that 81 million people became inactive due to adverse economic conditions, compared to 33 million who lost their jobs but did not withdraw from the labour market. In the first half of 2020. (World Employment... 12) there will be a decline in labour income of



Figure 1: Exposure to poverty (% for three indicators)



went so far as to say that the COVID-19 pandemic had “*turned the world of work upside down*” (UN, 2020: 2).

Irrespective of the general situation in the world of work³, there is a category of workers who, due to their particular vulnerability, have been particularly affected by COVID-19 in terms of their work activities: *mobile workers*, who have been affected by, among other things, border closures, lack of social

or health benefits or lack of adequate health and safety conditions at their workplaces.

Who do we consider to be mobile workers?

In our article, we will focus on three groups in this category: *frontier workers, seasonal workers and migrant workers*.

Frontier workers are defined in Regulation 883/2004/EU as: “*any person pursuing an activity as an employed or self-employed person in a Member State and who resides in another Member State to which he/she returns as a rule daily or at least once a week*”. This is a characteristic that distinguishes them from migrant workers.

However, this definition only applies to the social protection of the workers concerned within the European Union. In the case of tax issues, it refers to more restrictive definitions and bilateral double taxation agreements that define the tax regime for these workers, imposing the spatial criterion as a component of the concept of frontier work.

In turn, *Directive 2014/36* defines seasonal (or temporary) workers as: “*third-country national who retains his or her principal place of residence in a third country and stays legally and temporarily in the territory of a Member State to carry out an activity dependent on the passing of the seasons, under one or more fixed-term work contracts concluded directly between that third-country national and the employer*

5.3%, reaching 8.3% by the end of the year, primarily affecting women, young people and lower-skilled workers.

³ Cf. EURES Report: *Shortages and Surpluses Dashboard, 2022*



*established in that Member State*⁴, including both EU nationals and third-country nationals.

With the emergence of the COVID-19 pandemic, the EU established guidelines on the movement of these workers and restrictions on non-essential travel⁵.

Finally, a migrant worker (or immigrant) is, according to the definition adopted by the UN General Assembly in 1990 as „*any person who is to be engaged, is engaged or has been engaged in a gainful activity in a country of which he or she is not a national*”. This definition, given its scope, could also include the above-mentioned border or seasonal workers. The difference is that a migrant worker leaves his or her country of origin entirely to work and live in another country.

Impact of the pandemic on the work (and lives) of EU citizens

The EUROFOUND and ETF report *Living, working and COVID-19 in the European Union and 10 EU neighbouring countries* begins with a survey carried out in early 2020, which was completed in spring 2022. It was conducted through surveys in 27 EU countries and 10 neighbouring countries: Albania, Georgia, Jordan, Kosovo, Lebanon, Moldova, Morocco, North Macedonia, Palestine and Tunisia. It presents findings on living and working conditions in each country, financial instability, work-life balance or remote and hybrid working. It also confirms the negative impact of the pandemic on education and training, in particular in the EU's neighbouring countries, the serious problems of work-life balance, especially for women with a heavy workload, and the low level of life satisfaction, specifically in the 10 neighbouring countries.

⁴ Within the EU, these workers have legal provisions that can be broadly summarised as follows: Regulation 492/2011, on the free movement of workers within the Union; Directive 2020/1057, on the posting of workers; Directive 2008/14, on temporary agency work; the already mentioned Regulation 883/2004, on the coordination of social security; or Directive 2014/36, on the conditions of entry and residence of third-country nationals for the purpose of employment as seasonal workers

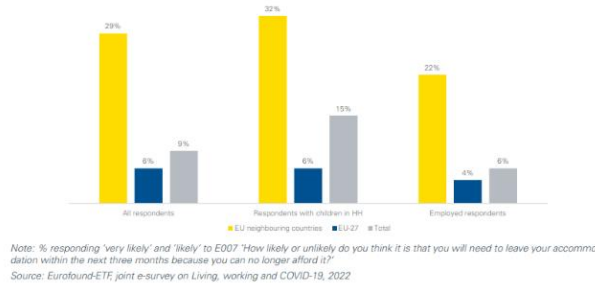
⁵ On 14 June 2021 the European Parliament and the Council adopted the Regulation on the EU COVID-19 digital certificate, which certifies a vaccination, diagnostic test or recovery, is legally valid throughout the EU and is valid until 30 June 2023. It establishes the right of all EU citizens (with the possibility to extend it to third-country nationals residing in Member States) to receive a digital COVID-19 certificate attesting to vaccination, recovery from a positive diagnostic test or a negative diagnostic test for SARS-CoV-2 infection.

In addition, Recommendation (EU) 2022/107 addresses the issue of restrictions on free movement in the EU during the COVID-19 pandemic, recognising that possession of the EU COVID-19 digital certificate does not allow for additional restrictions on their right to free movement, except in exceptional circumstances.



Summarising the findings this study, we can point out:

Figure 6: Perceived housing insecurity among all respondents, respondents with children in the household and employed respondents (in %)

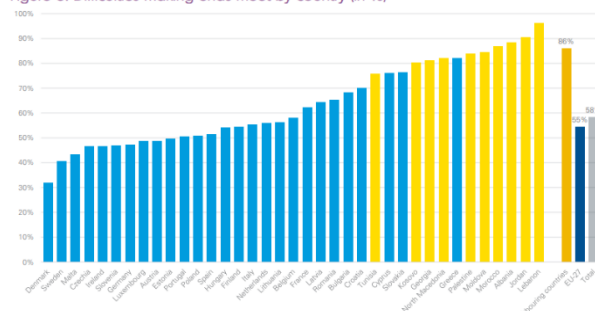


- a widespread sense of social exclusion emerged among younger respondents (28% in the EU and 41% in the neighbouring countries), with many expressing concerns about their financial situation and employment. This reflects the lasting effects of the pandemic and highlights the need for greater policy attention, particularly for young people;

- mental health and well-being are a major concern in all countries, recognising the high risk of depression and the need for specific policies measures to protect families from homelessness, improve childcare facilities and ensure access to quality health services, including mental health care;

- a poor work-life balance was reported, with large differences between countries in terms of working hours and work fatigue, with women more likely to report fatigue as they do most of the unpaid domestic work in their free time, especially in countries neighbouring the EU. This highlights the need for active gender-sensitive labour market policies and effective public policies in the health and social care sectors;

Figure 3: Difficulties making ends meet by country (in %)



- 70% of respondents from EU neighbouring countries reported a lack of sufficient access to education and training programmes, which offer great potential by up-skilling and re-skilling jobseekers and the low-skilled, in

particular through public employment services;



Table 4: Access to education and training opportunities, by sex, educational attainment and labour market status (in %)

	EU neighbouring countries			EU-27		
	Yes	No	Total	Yes	No	Total
Male	24%	76%	100%	64%	36%	100%
Female	33%	67%	100%	65%	35%	100%
Primary	22%	78%	100%	51%	49%	100%
Secondary	22%	78%	100%	60%	40%	100%
Tertiary	39%	61%	100%	77%	23%	100%
Employed	34%	66%	100%	66%	34%	100%
Unemployed	16%	84%	100%	38%	62%	100%
Inactive	26%	74%	100%	71%	29%	100%

Note: Share of respondents considering to have insufficient access to education and training opportunities
Source: Eurofound-ETF, joint e-survey on Living, working and COVID-19, 2022

- in addition, challenges related to the cost of living were reported in the EU27 and neighbouring countries, with an exposure to poverty of 48% in the EU27 and 81% in neighbouring countries. Priority actions under the *European Pillar of Social Rights* to help create quality employment opportunities and equitable social protection systems are key to improving resilience in the future.

The impact of social dialogue and collective bargaining in the face of covid-19 challenges

Social dialogue and more specifically collective bargaining between employers and employee representatives are two other forms of employee participation besides *information and consultation*, which are regulated in *Directive 2002/14/EC* and in the framework of the fundamental objectives of European social policy established in Article 151 TFEU.

The problem with their application in all EU Member States, as well as in candidate and/or neighbouring countries, is that there is no minimum standardised regulation on how they should be developed.

Social dialogue, as defined by the ILO, is: “*all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy*”, established as one of the four pillars of the Decent Work Agenda and considered as a right and a means to recognise and enhance workers' rights.

Within the European Union, social dialogue „*aims to improve European governance by involving the social partners in decision-making and implementation*” and is governed by Articles 151-156 of the Treaty on the Functioning of the European Union



(TFEU), specifying that the Commission must consult the social partners before introducing social policy measures, and the social partners may decide to negotiate an agreement among themselves to replace those measures, within a period of nine months (Article 154). Article 153 TFEU allows the Member States to entrust the social partners with the implementation of Council decisions on collective agreements concluded at European level⁶.

On the one hand, *collective bargaining* is a fundamental principle of the ILO, along with freedom of association, established in 1919 and developed in Conventions 151 and 154, as procedures for the settlement of labour disputes and covering “*any negotiation that takes place between an employer and a trade union organization*”.

On the other hand, it does not have a decisive role in the European Union as a whole, where it is recognised as a right in Article 28 of the EU Charter of Fundamental Rights, establishing a regulation on the procedure for its implementation, respect for collective autonomy and freedom of association, but **there is no legal framework to regulate and promote collective bargaining**.

This deficit in the global implementation of collective bargaining contrasts with the establishment of collective bargaining as a right in some countries. In Spain, in particular, collective bargaining is a right recognised in the *Constitution*: “*the law guarantees the right to collective bargaining on labour between representatives of workers and employers, as well as the binding force of collective agreements*”, developed by the *Workers' Statute*, which results in a collective agreement that is binding on the parties.

As there are no specific provisions for national collective bargaining in the EU, clearly there is also no specific framework for transnational collective bargaining. The exception is the existence of *European Works Councils*, which have been given information and consultation powers **but not collective bargaining**. However, this would not include a group of mobile workers (except for their membership in a company with the capacity to create European Works Councils).

In short, we are faced with the need, common in most European countries, to implement negotiations for mobile workers in areas such as employment, social

⁶ Several communications advocate this option for social dialogue and empowerment of social partners and respect for their autonomy. These include the Juncker Commission at the March 2015 conference and the quadripartite agreement signed in June 2016, the 2017 European Pillar of Social Rights and its 2021 roadmap, the Von der Leyen Commission, which has repeatedly reaffirmed its commitment to social dialogue in communications such as the European Green Pact, a Strong Europe for a Just Transition, the Annual Sustainable Growth Strategy and country-specific recommendations; and the objectives of the Recovery and Resilience Mechanism.



security and taxation, working conditions or the improvement of mobility issues under COVID-19 on the free movement of workers.

We hope that the **MOBILEurope** project will allow us to move in this direction and, through the exchange of information and experiences between the partners, can "make recommendations and proposals to improve the theory and practice of worker mobility in Europe", as one of its objectives states.

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