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NATIONAL REPORT - SERBIA

Topic

MOBILEurope: Collective bargaining for mobile workers in Europe under the COVID-19 pandemic - cases of frontier, seasonal and migrant workers

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1. Desk analysis

For decades, Serbia has been (and remains) predominantly a country of emigrating workforce. In Serbia (and, as a matter of fact, in the entire former Yugoslavia), the 60s of the 20th century were particularly characterized by an increased outflow of workers (who left to work mostly in Western European countries). The last decade of the 20th century altered and additionally accelerated emigration trends in Serbia. A short-lived period of optimism followed the political upheaval of 2000, in terms of a rapid and overarching recovery of Serbia's society; however, the trend of contemplating emigration and ultimately emigrating, especially of younger persons, has continued, a trend which has continued to date, where one may even dare to say that emigration from Serbia has been gaining in momentum over the last several years.

Namely, official data and expert estimates show that an average of 48,000 people emigrated from Serbia every year in the period between 2013 and 2021. The decline in population numbers (the so-called negative population growth) only exacerbates the above figures, resulting in the estimate that Serbia has, in fact, lost 91.000 inhabitants a year on average over the observed period, i.e., that nearly a million people in total have left the country (Radonjić, Ostojić, 2023). The above social and demographic changes largely explain the fact that Serbia has recently become the destination of choice for mobile workers. Art. 17. of the Constitution of the Republic of Serbia prescribes that “pursuant to international treaties, foreign nationals in the Republic of Serbia shall have all rights guaranteed by the Constitution and law with the exception of rights to which only the citizens of the Republic of Serbia are entitled under the Constitution and law.” (Constitution of the Republic of Serbia, 2006). Needless to say, the employment of foreign nationals in the Republic of Serbia is governed in detail by laws and by-laws, more specifically, the Law on Employment of Foreign Citizens (2014) and the Rulebook on Work Permits (2018).

The Law on Employment of Foreign Citizens provides for a distinction between the employment of foreign citizens with a permit for temporary residence or a visa for longer stay based on employment, and foreign citizens in the category of refugees or a special category of persons (asylum-seekers, persons granted temporary protection, victims of human trafficking, and persons granted subsidiary protection, under the law). The distinction is primarily evident in the type of work permit to which they are entitled, and consequently, the terms under which they can exercise the right to enter the labor market. Namely, unlike foreign citizens who



belong to the first category, refugees and persons from the special category of foreign citizens are only entitled to a personal work permit. Unlike the work permit, this form of work permit enables a foreign citizen to seek employment, to become self-employed, as well as to access rights in the event of unemployment, whereas the work permit is issued only for the purpose of employment or for special cases of employment. Further, the personal work permit is linked to the legal status of the holder and is typically issued for the duration of the period in which the person holds the status of asylum-seeker or victim of human trafficking or person who has been granted subsidiary or refugee protection (Grujičić, 2020: 45).

A person who is not a citizen of the Republic of Serbia may be issued the following work permits: A work permit for employment, a work permit for self-employment, and a work permit for training and specialist training. A foreign citizen intending to perform a particular job with an employer must previously obtain the work permit for employment. This type of work permit is issued at the employer's request, provided that there are no unemployed persons in the register of unemployed persons who correspond to the employer's requirements for a particular job (who are citizens of the Republic of Serbia, persons who may freely access the labor market or foreign citizens with a personal work permit).

“If a foreign national with granted temporary residence is planning on launching his/her own business or setting up a sole proprietorship, cooperative, agricultural farm or other form of entrepreneurship, either independently or in a joint venture with other unemployed persons, or on establishing a business company and becoming employed in it, he/she must previously obtain the self-employment permit. The prerequisites which he/she must meet include providing particular proof of possessing the required qualifications for carrying out the specific activity (i.e., the business he/she wishes to start), as well as proof of purchase or lease of business premises in which he/she intends to conduct business” (Grujičić, 2020: 45).

The Rulebook on Work Permits (2018) prescribes in detail the specified terms, as well as the necessary proof of fulfillment thereof. A work permit for self-employment is issued for the duration of the validity period of the temporary residence permit, but for no longer than one year, with the option of being extended, provided that the foreign citizen can demonstrate that he/she will continue to carry out the same activity under the same terms under which he/she was granted the permit (Grujičić, 2020: 46). In July 2023, changes and amendments to two relevant laws which govern the employment of foreign citizens in Serbia were adopted, namely



the Law on changes and amendments to the Law on Foreigners (2023), and the Law on changes and amendments to the Law on Employment of Foreign Citizens (2023), thereby enabling foreign citizens to exercise both the right to temporary residence and the right to work in Serbia within a single procedure.

In recent years, Serbia has seen a substantial increase in the number of work permits issued to foreign citizens. For example, in the first half of 2023, 24,785 work permits were issued, which is 1,000 more than in the whole of 2021. Serbia issued 35,168 work permits to foreigners in 2022. The majority of foreign workers come to Serbia from China, Russia, Turkey, India, Cuba, Belarus, Ukraine, and Nepal, followed by workers from neighboring countries - Montenegro, Bosnia and Herzegovina, and North Macedonia (more than 24,000 work permits were issued to foreigners over the course of six months, 2023). The situation with workers from Bosnia and Herzegovina is specific in the sense that the citizens of this country who are of Serbian nationality are permitted to apply for dual citizenship. It is safe to assume that work permits which foreign citizens are required to possess, are not requested for the majority of them working in Serbia.

When it comes to collective bargaining for mobile workers working in Serbia, it can be considered essentially non-existent (for a multitude of reasons). Namely, according to renowned labor law expert, Mario Reljanović, even when it comes to domestic workers, collective bargaining in Serbia is essentially non-existent in the private sector, unlike the public sector, where it is carried out automatically and does not yield any noteworthy results. Employers substantially restrict the activities (and even the setting up) of trade unions, and the key reason for this state of affairs lies in the extremely unfavorable (for workers) changes to the Employment Law from 2014, whereby collective bargaining was irrevocably retarded (Kožul, 2023).

A collective agreement has been defined as a general policy which governs the rights, obligations and responsibilities stemming from employment, as well as the mutual relationships of the parties to the collective agreement, which may be concluded as a general, special, or collective agreement with the employer. The general collective agreement ceased to apply in Serbia in May of 2011, and negotiations regarding its status have not been continued to date. Special (industry) collective agreements have been concluded in the public sector for



nearly all industries, whereas this is the case in only two industries in the private sector (nearly half of all companies in Serbia function without a collective agreement in place, 2022).

It is highly indicative that Serbia has yet to ratify Convention 154 of the International Labor Organization from 1981 (ILO, 1981), which provides for the advancement of the collective bargaining process and which applies to all industries. The ratification would serve to bring about a constructive social dialog, create the possibility for a more comprehensive legal definition of collective bargaining, increase the number of concluded contracts, and assist in the final conclusion of a General collective agreement, whereupon the process of collective bargaining for mobile workers in Serbia could at least be under way.

Frontier, seasonal, and migrant workers are exposed to labor exploitation and the violation of the right to dignified work to a much larger extent than domestic workers in Serbia (who are also in an unfavorable position, to say the least). Mobile workers are protected to a certain extent by the mechanism of issuing work permits for employment of foreign citizens, since these work permits are only issued to those employers who abide by labor law and immigration regulations. In this way, employers who violate the rights of migrant workers are prevented from employing new workers; however “there is a lack of instruments for the protection of sensitive categories of people from labor exploitation in the period leading up to the application for renewal of an existing or issuing of a new work permit for employment, all the more so, due to the fact that the link to the (work permit for) employment with a specific employer frequently deters migrants from initiating proceedings for the protection of their rights” (Kovačević, 2020: 21).

Naturally, the matter of working without possessing the above permits (for all categories of workers who are not Serbian citizens) and/or without any legal grounds whatsoever, i.e., without an employment contract, remains open. It would be quite unrewarding to attempt to provide an estimate of the numbers of mobile workers, the industries in which they are employed, working conditions, etc. This is why the carrying out of quantitative research (i.e., surveys for mobile workers) and qualitative research (focus groups or interviews) with trade union representatives, employers, and the relevant institutions on this project is invaluable for acquiring new knowledge regarding the position of mobile workers in Serbia in general, as well as during the COVID-19 pandemic.



The labor environment underwent severe global changes during the COVID-19 pandemic. It would not be incorrect to say that the above crisis “turned the world of labor upside down” (United Nations, 2020: 2), seeing that it had a dramatic impact on the work, lives, and overall wellbeing of workers and their families worldwide. When it comes to employment, working-hour, and labor income losses in Serbia, the trends are similar to a certain extent to global trends, although with slight differences. Informal workers were the first to suffer the repercussions of the crisis: The average number of informal workers in 2020 was 474 thousand, compared to 529 thousand in 2019, which is a reduction of 10.5%. It is evident that employers adapted to the crisis primarily by dismissing informal workers (Arsić, Anić, 2020: 22).

It is safe to assume that mobile workers were among the most at-risk categories in this sense, both in Europe in general, as well as in Serbia. Initial restrictions on movement (inter-state, as well as intra-state) at the beginning of the pandemic were extremely strict. Nevertheless, there were significant differences in this respect within the European Union. A distinction between internal and external borders was created, as well as a distinction between EU citizens and third-country nationals, on the one side, and those that had neither EU citizenship nor a residence permit, on the other side. Furthermore, permitting and facilitating the mobility of frontier workers was stimulated, particularly for those working in the healthcare and food production sectors, as well as in other essential service sectors (childcare, elderly care services, utility services).

“Essential sectors” of the economy were determined, with mobile workers making up the majority of those employed within them. As early as in April 2020, the European Commission recommended that member countries make exceptions in terms of permitting the movement of people through external EU borders to include seasonal agricultural workers who were arriving from other EU member countries. Similar recommendations were also adopted for mobile workers from the healthcare sector and care services sector, where there has been a long-standing demand for workforce, which was only exacerbated in the situation surrounding the health crisis (Pešić, Poleti Ćosić, 2020).

At the onset of the pandemic, the Government of the Republic of Serbia adopted a decision on extending work permits issued to foreign citizens during the state of emergency (Decision on validity of work permits issued to foreign citizens during the state of emergency, 2020). Therefore, in formal and legal terms, the situation concerning the employment of persons who are not Serbian nationals has not changed. Empirical research conducted as part



of this project will reveal the actual position of mobile workers during the COVID-19 pandemic.

Pending the results of this research, we will only indicate the humble standing of Serbia in the Global Rights Index of the International Trade Union Conference (ITUC) for 2023. According to the above report on respecting workers' rights across the world (which included 149 countries), Serbia was classified into the (fourth) group of countries in which systematic disregard for workers' rights is rife. The position of mobile workers in Serbia is particularly aggravated by the fact that these workers are employed in companies from countries classified in the fifth group of countries (countries which intensively violate workers' rights - Turkey, China, and South Korea). Turkey stands out in this respect, as it has been classified (according to the above index) among the 10 worst countries for workers' rights (Reljanović, 2023).

2. Survey research of mobile workers: results and discussion

The total number of respondents encompassed by the research is 44. The majority of them are migrant workers, 54% (22), followed by frontier workers, 25% (10), and nearly an equal number of seasonal workers, 21% (9). A substantially higher percentage of respondents were male, 68% (28), compared to 29% of female respondents (12), and one respondent which identifies as non-binary. The age distribution is interesting to note, as those aged up to 25 and those aged 35-45 are in the minority, with 7% (3) each, while the majority of respondents are aged 25-34, 55% (22) and 45-54, 32% (13). The structure of respondents in terms of degree of qualification is relatively consistent, as half of the sample consists of university-educated respondents (51%), and the other half of respondents with completed secondary education (49%). The country of origin for more than half of the respondents (61%) is one of the neighboring countries, while the remaining respondents are mostly from Russia, Africa (Zambia, Zimbabwe, Tunisia), Turkey, and only one person from the EU (France).

About a third of the respondents, 34% (14) of them have an indefinite term employment contract, 46% (19) of them have a short-term employment contract (for a definite term), around 7% (3) are self-employed, while 12% (5) have no formal employment contract in place. The majority of them are employed in the services industry, 39% (16), in the construction industry, 20% (8), food-processing industry, 17% (7), the IT sector, 15% (6), while the remaining respondents are employed in the agricultural and other sectors.



Among the respondents, half (49%) are single, 31% are married, and 20% cohabit. Out of those who are married or who cohabit, 80% live in a joint household with their spouse/partner, whereas around 20% live separately and live in two different countries. Out of the total number of respondents, three quarters (74%) do not have children, whereas 10% (4) are parents to one child, 12% (5) are parents to two children, and 5% (2) are parents to three children.

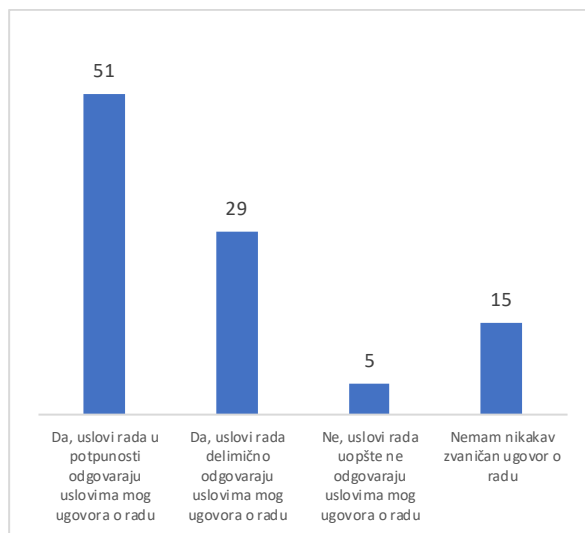
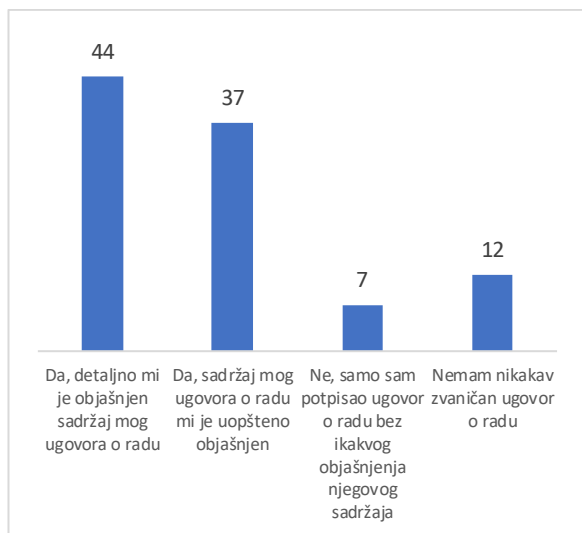
Only 10% (4) of the respondents in the sample are trade union members, whereas 28% (11) are not members (but would like to be, if the option existed), while 63% (25) are neither trade union members, nor do they intend to be. During the COVID-19 pandemic, 38% of the respondents had an indefinite term employment contract in place, whereas 30% of the respondents had definite term employment contracts. There was 8% of self-employed respondents, whereas 25% of respondents did not have a formal employment contract in place. Those with a lower degree of qualification were employed for an indefinite period of time less frequently (26%), and were more frequently left without any employment contract during the COVID-19 crisis (37% compared to 15% among those with a higher degree of qualification). The majority of those working without an employment contract in place belong to the category of frontier and seasonal workers, and the minority of them to the category of migrant workers. The only difference is present as regards gender, as only men are present in the category of workers working without an employment contract in place. The respondents' age is not linked to the degree of job security.

Currently, 34% of the respondents have an indefinite term employment contract in place, whereas 46% of the respondents have definite term employment contracts. 7% of the respondents are self-employed, whereas 12% of the respondents do not have a formal employment contract in place. Even today, those with a higher degree of qualification are at an advantage, as they have an indefinite term employment contract in place more often (43% of them as opposed to 26% of those with a lower degree of qualification) and rarely work without an employment contract in place (5% as opposed to 21% of those with secondary education). As was the case during the pandemic, only men, namely frontier and seasonal workers far more frequently than migrant workers, have been found to have worked without an employment contract in place.

The majority of the respondents (44%) received a detailed explanation related to the contents of their employment contract before signing it, whereas 37% received a general



explanation of the contents of the contract. Around 7% of the respondents signed the employment contract without having received any sort of explanation regarding its contents, whereas the remaining respondents did not have a formal employment contract in place. The contract was more frequently explained to those holding a university degree (58%) than to those with lower levels of education (26%), with no difference based on gender or age.



Translation of chart on the left (from left to right):

- Yes, I have received a detailed explanation of the contents of my employment contract
- Yes, I have received a general explanation of the contents of my employment contract
- No, I have just signed the employment contract without receiving any explanation of its contents
- I do not have a formal employment contract in place

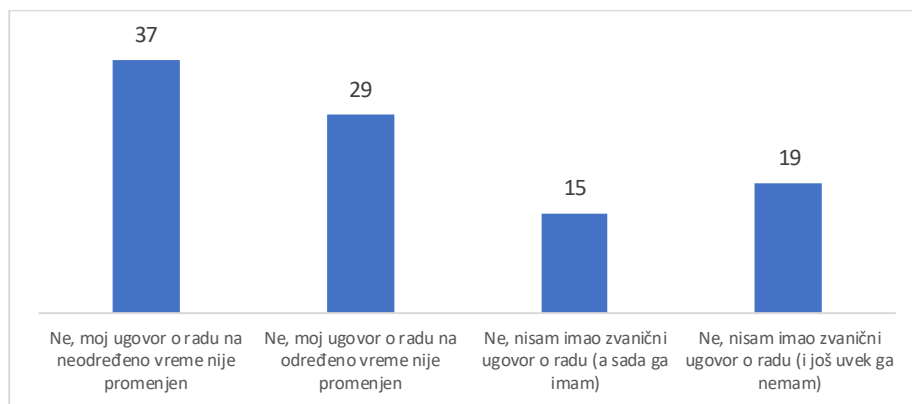
Translation of chart on the right (from left to right):

- Yes, the working conditions fully correspond to the conditions provided for under my employment contract
- Yes, the working conditions partially correspond to the conditions provided for under my employment contract
- No, the working conditions do not correspond to the conditions provided for under my employment contract at all
- I do not have a formal employment contract in place

As far as working conditions are concerned, 51% of the respondents stated that the working conditions fully matched those provided for under the provisions of their employment contracts, whereas 29% of them felt that the working conditions only partially corresponded to those provided for under contractual provisions. Only 5% of the respondents stated that the working conditions did not correspond to the working conditions specified in their employment contracts at all, whereas the remaining respondents were unable to provide a comparison as they had no formal employment contract in place. There is no significant degree of difference based on the type of worker, degree of qualification, gender or age in this respect, which

indicates that across all categories, on average, only half of the workers actually encounter the conditions they were promised in the contract signed with their employer.

Around 20% of them have been working in Serbia for less than a year, whereas the majority of them, namely around 45%, have been working in Serbia between one and three years, while the remaining respondents have been working in Serbia for a longer period of time. 32% of the respondents state that during the crisis caused by the COVID-19 pandemic, their work organization had temporarily suspended its operations, whereas 10% of them state that their organization had expanded its operations. A substantial percentage of respondents, namely 56% of them, state that the pandemic had absolutely no effect on the functioning of their work organization. Seasonal workers and migrant workers faced the largest pressure, among which a large number testified that their companies had either stopped working or had scaled down their activities.



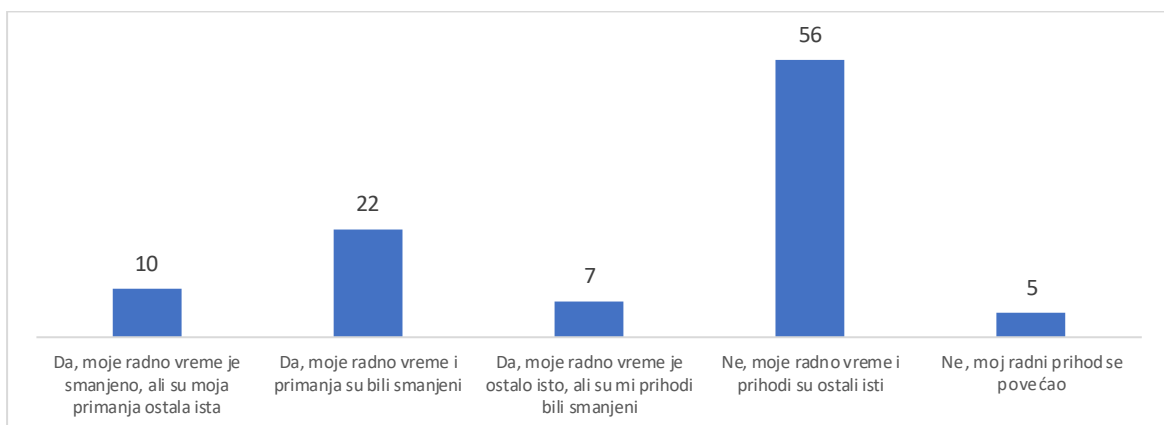
Translation of chart (from left to right):

- No, my indefinite-term employment contract was not changed
- No, my definite-term employment contract was not changed
- No, I did not have a formal employment contract in place (but I now do)
- No, I did not have (and still do not have) a formal employment contract in place

Around two thirds of the respondents testify that their employment contracts (be they indefinite or definite term contracts) did not change during the period of the COVID-19 pandemic, around 15% of them state that they did not have an employment contract at the time (whereas they now do), while one in five testifies that they did not have a signed contract with their employer in place (nor do they presently have one). Despite the fact that a number of mobile workers experienced a transition towards a formalization of employment, a significant number of them still work in unregulated circumstances, meaning that they are completely invisible to the law and, therefore, unprotected.

When it comes to transportation to and from work, the majority of respondents (54%) states that the pandemic did not have an impact on their transportation to/from work. Around one fourth of them (27%) state that they experienced minor difficulties with regard to transportation, whereas 7% of them were unable to commute to and from work during the pandemic. Additionally, 7% of work organizations temporarily suspended activities, thereby eliminating the need for transportation. None of the specific characteristics of the respondents or the categories of mobile workers are related to issues in commuting to and from work.

During the pandemic, one in ten respondents experienced reduced working hours, with salary remaining unchanged, whereas approximately less than one fourth experienced both reduced working hours and reduced salary. Around 7% of them testify that their working hours remained the same, but their income was reduced. More than half of the respondents state that both their working hours and salary remained unchanged during the pandemic, whereas one in twenty highlights the fact that his/her salary was increased while the volume of work remained unchanged. Overall, one in three workers experienced a reduction of income during the pandemic, which definitely had an effect on their quality of life, and even livelihood. The risks were particularly prominent in living conditions in a foreign country, where informal support networks are underdeveloped, and the possibility of receiving institutional support reduced, due to lack of information, coupled with legal and language barriers.



Translation of chart (from left to right):

- Yes, my working hours were reduced, while my income remained unchanged
- Yes, both my working hours and my income were reduced
- Yes, my working hours remained unchanged, but my income was reduced
- No, both my working hours and income remained unchanged
- No, my income was increased

During the COVID-19 pandemic, 70% of the respondents state that they had no problem in exercising the key social rights guaranteed to them, such as health insurance, paid sick leave

or days off. However, nearly one in ten (8%) workers experienced difficulties in being approved a paid sick leave, one in twenty (5%) in being approved paid days off, whereas one in fifteen (18%) experienced difficulties related to health insurance in the workplace. Having in mind that not all workers actually needed to exercise any of these rights, we can assume that the number of workers actually prevented from exercising said rights is significantly higher. Seasonal workers were particularly at risk, and above-average numbers of them testify that they had no possibility of exercising the above rights. Based on education, once again those with a lower degree of qualification were at greater risk than those with a higher degree of qualification. An interesting thing to note is that those below 35 years of age faced more challenges compared to those over 35 years of age, which indicates that it is more difficult to access social rights at the beginning of one's career.

A similar situation persists to date (after the pandemic) in terms of the possibility of exercising these rights. Despite the same share (around 70%) of those who testify that they did not encounter issues in exercising these rights, around one third state that they experienced difficulties. Today, a smaller number of respondents testifies that they have difficulties exercising rights under health insurance (7%), with roughly an equal share of those having trouble accessing paid sick leave (8%), and a higher share of those unable to get days off (17%).

Results show that 46% of the respondents feel that they are fully informed when it comes to their work rights, whereas 27% of them feel that they are partially informed. On the other hand, 24% of the respondents feel that they are insufficiently informed of their work rights, whereas 2% are not informed of their work rights at all. The data that less than half of the respondents know which workers' rights they are entitled to in the country calls for information of foreign workers as the first step towards achieving their full legal protection.

Sources of knowledge regarding work-related rights are also somewhat concerning. The majority of the respondents (51%) obtain information regarding their rights directly from employers, whereas 44% turn to the Internet as a source of information. Only 2% of the respondents obtain their information from the press, whereas 2% do not seek information regarding their work rights at all. Despite the fact that employers are obliged to familiarize their workers with workers' rights, this is frequently not the case in the domestic context (particularly when it comes to foreign workers). This is why it is necessary to establish other communication channels (which would be reliable and legitimate), as well, thereby lowering the chances of receiving false or incomplete information from the Internet or other participants.



The majority of the respondents (63%) cite that they have been informed of their rights by their employer, with regard to accommodation, education, personal safety, legal status, relationship with the police/border officials/military, personal documents. Only one in twenty mobile workers (5%) receives information from the trade union. Only 2% receive information both from their employer and from the trade union, whereas as many as 29% of the respondents were not informed of their personal and social rights. Hence, almost one third of the respondents have virtually no channel through which they could receive information regarding their rights, regardless of the quality and accuracy of said information.

When it comes to occupational health and safety, a significant number of respondents feels that they were at risk during the pandemic (more than one fourth - 27%). Two thirds (66%) cite that their occupational health and safety were not at risk during the said period, whereas 7% testify that their companies had temporarily suspended operations. Seasonal workers were, once again, at particular risk in this sense. Approximately less than half of the respondents (44%) feel that employers provided substantial information and trainings concerning the prevention of the spread of COVID-19 at the workplace, whereas an additional one third of them (34%) feel that they provided certain information and trainings. However, 15% of the respondents claim that employers did not provide any information or trainings. Having in mind that more than half of the respondents did not receive any or received insufficient information and trainings dedicated to pandemic risks, it can be concluded that a substantial number of them were at risk.

The majority of the respondents (56%) feels that employers provided adequate personal protective gear, whereas 20% of them feel that the personal protective gear was partially adequate. On the other hand, 20% of the respondents claim that employers failed to provide any personal protective gear. Seasonal workers had somewhat lower than average access to personal protective gear, which indicates the significant challenges which they faced. Further, the lack of gear (or lack of adequate gear) is more often reported by those with lower degrees of qualification than those with higher degrees of qualification. Professions which demand a higher level of expertise typically imply less occupational risks, whereas blue-collar and white-collar jobs typically imply more, which puts those with a lower degree of qualification at additional risk in pandemic circumstances characterized by inadequate protection. An interesting and important thing to note is that women were often exposed to greater risks, as they reported more frequently that their employer had failed to provide protection.



When it comes to financial assistance during the COVID-19 pandemic, the results show that the majority (71%) of the respondents did not receive any such assistance. A total of 17% of the respondents received financial assistance from their country, whereas 7% of them received assistance from the host country (Serbia). Additionally, 5% of the respondents received financial assistance both from their country and from the host country. There are no noteworthy differences based on the social and demographic traits of the respondents.



Translation of chart (from left to right):

- Providing information and support regarding workers' rights and occupational safety
- Advocating for a just treatment and equal opportunities for migrant workers
- Cooperating with the community, aimed at providing support to the social and economic integration of migrant workers
- Negotiating with employers on behalf of migrant workers in order to achieve better pay and working conditions
- Offering legal assistance and representation for migrant workers faced with discrimination or exploitation
- Setting up networks and communities of migrant workers, aimed at providing mutual support and resources

When it comes to the ways in which trade unions provided assistance to migrant workers, the respondents selected the following options. The majority of them (68%) feel that trade unions ought to provide information and support related to workers' rights and occupational safety. The second most frequently selected option includes provision of legal aid and representation (advocating) for migrant workers facing discrimination or exploitation (13%). Nearly one in ten respondents (8%) supports trade union advocacy for a just treatment and equality, whereas one in twenty (5%) respondents cites the setting up of migrant worker networks and communities for the purpose of providing mutual support and resources. There was a low number of those who cited cooperation with the community aimed at supporting the social and economic integration of migrant workers as the key activity of trade union organizations (3%), and those who cited negotiations with employers in order to achieve better pay and working conditions (3%).



3. Interviews with trade union representatives, employer representatives, and representatives of institutions

Trade unions and mobile workers

Trade union representatives highlight the fact that the issue of mobile workers in Serbia is only just becoming a topic of interest, and that none of the participants responsible for governing their rights and obligations (least of all, state institutions) are sufficiently prepared for immigration in Serbia. A substantial increase in the number of foreign workers in Serbia over the last few years has been noted, which indicates that the labor market in Serbia has become even more open to mobile workers. On the other hand, the fact that institutions are “completely unprepared” for this sudden influx is one which also deserves mention.

Previous practice shows that mobile workers in Serbia were employed using several different modes, ranging from completely legal employment, to completely unregulated employment which is virtually invisible to institutions. The significant number of informally employed foreigners, particularly in the construction and agricultural sector, where workers often lack the necessary permits, and sometimes even only have tourist visas, is still prevalent. Trade union representatives make a clear distinction between the following three types of workers: 1. workers holding residence permits and work permits, 2. posted workers, and 3. workers hired through temp agencies. In the first category, they include, as an example, workers who have recently arrived from Russia, who are highly qualified and skilled, and who have obtained the necessary work permits. The second category includes workers who come to Serbia from other foreign companies, with a clearly regulated status. This category of workers is potentially faced with conflicted standards in their country of origin compared to their destination country, and since they receive their salaries and all other benefits in their country of origin, this may result in non-observance of certain rights on the territory of Serbia and the inability (or, more often, lack of interest) of the state institutions to insist that they be enabled to exercise these rights. The third category of workers is sourced through temp agencies, where practices differ across the board, ranging from “appropriate” functioning to “exploitative practices”. Agency workers are often faced with less advantageous terms and a higher risk of exploitation. Temp agencies play an important role in connecting workers and employers; however, the lack of adequate regulations and control may lead to ambiguities in terms of their rights and ultimately, to potential exploitation. *“First of all, a lot of people coming from abroad*



are working in Serbia illegally. Then, some of them manage to stay and work under a tourist visa, others come as posted workers, as evident in the case of Ling Long, where they were not actually posted, but instead arrived through a temp agency...”

In terms of the above, the focus is typically on the construction sector, despite the fact that similar patterns of employment and challenges linked to the above are also evident in other sectors, such as agriculture, hospitality, and the services sector. These sectors also rely heavily on seasonal and unregistered labor. Although this area still remains to be adequately regulated, certain positive trends are noticeable. *“Because the situation three years ago was horrendous, but has now improved. This means that three years ago there was a massive influx of people coming and working without a permit, coming illegally, etc.”* Trade union representatives have been noticing improvements in the regulatory environment, from the previously uncontrolled inflow of undocumented workers towards a regulated system in which the required work permits are properly obtained. However, challenges persist (as evident in case of the Ling Long factory under construction), as there were significant differences between the number of officially registered workers and the actual number of foreign workers present at the construction site. For the above reason, trade union representatives indicate the need for a better regulation and control in order to ensure that all workers (including mobile workers) are covered by the corresponding contracts, as well as work permits and residence permits. The need for a better cooperation between the state, trade unions, and employers, in order to improve working conditions and ensure a better protection of workers’ rights, has also been emphasized.

Based on the above, trade unions indicate that mobile workers are at great risk of exploitation, manifested in the form of lower pay, payment other than to employees’ accounts (cash-in-hand), absence of or inadequate employment contracts in place, working conditions (working hours, penalties for breach of work discipline), and in extreme cases, even blackmail, passport confiscation, misleading information about working conditions, etc. The fact that there is no trade union representation or unambiguous support provided to these workers represents a challenge in itself.

Mobile workers are faced with a series of challenges, ranging from inadequate occupational safety, lack of trainings, late payments, and unpaid overtime work. A particularly pressing concern is the lack of knowledge of language and the manner in which the relevant



institutions and the local legislation functions, which makes these workers vulnerable. The accommodation provided for foreign workers is often inadequate, with large numbers of people living under the same roof, and with limited access to hygienic conditions and adequate meals. Furthermore, there is a level of uncertainty in terms of health insurance and access to health protection, having in mind the fact that numerous workers are often referred to private health care institutions, instead of having access to state health insurance. Seasonal workers (who often work in difficult conditions such as high temperatures out in the open) are particularly exposed to risks. Social and cultural integration poses a distinct challenge. The main barrier is unfamiliarity with the language (not only Serbian, but often unfamiliarity with any world language), which makes movement and communication with the local population difficult. In addition, occasional incidents out in the street and problems in communication stand out as factors which further hinder their integration.

The COVID-19 pandemic has laid bare the legal uncertainties faced by mobile workers, particularly in terms of crossing borders, social insurance, and taxation. Trade unions have recognized these challenges, but their capability of effectively dealing with these issues is limited due to the unsatisfactory cooperation with state institutions and international organizations.

Trade union representatives (particularly those in higher positions) are mostly familiar with the regulations and standards which govern this domain. Thus, one respondent states that Serbia has social security agreements in place with 33 countries, and stresses the importance of ensuring that regulations, such as the Employment Law, Labor Law, and Law on Simplified Work Engagement on Seasonal Jobs in Certain Activities, are properly implemented. However, despite the existence of regulations, their implementation and control of adherence pose a challenge. Problems are evident in the implementation of regulations, in spite of the relative harmonization with EU standards in the domain of occupational health and safety. He highlights the fact that the implementation of regulations has “hit a glitch” and that Serbia is still in the early stages of keeping up with European standards. This is why the need to check the implementation of international treaties and conventions has been underlined, as well as the need to ensure a more comprehensive exchange of information between the relevant authorities.



When it comes to the role of trade unions in this process, the respondents highlight mainly those challenges which prevent them from deploying their full capacities. It has been assessed that trade unions in Serbia lack the technical and financial resources which would enable them to provide the same type of support to mobile workers, as is the case in Western European countries. The need to ensure better institutional support and adequate authorizations which would enable trade unions to more effectively assist foreign workers has been pointed out. *“Unfortunately, we lack the technical and financial resources to match the efforts of our colleagues from Austria, the Netherlands, Germany... in local circumstances...”* There is no clear direction of efforts to provide particular protection to mobile workers, partly due to the lack of resources, but also due to the absence of specific programs focused on these workers. *“In my opinion, the trade union is not providing any assistance to these workers, nor are they the topic of discussion within the trade union. No attention is dedicated to them at trade union meetings.”* This is why the support to these workers is classified as a general fight for workers’ rights. Trade union respondents say that (when fighting for the rights of their members) they are indirectly fighting for the rights of all the workers within the group of employees, including mobile workers. It has been emphasized that trade unions have managed to achieve an equal treatment for workers engaged in temporary and occasional jobs compared to those engaged on a permanent basis. *“Naturally, when we fight for our members, we also fight for all other employees within the group of employees, not just for our members.”* Nevertheless, trade union representatives believe that trade unions ought to be more actively involved in this process of support by setting up a dedicated infrastructure, e.g., immigration detention centers and providing information in languages understood by workers. They also cite the importance of working together with embassies and international organizations. Unfortunately, this type of infrastructure is non-existent at the moment.

Regular trade union activities include continual efforts aimed at ensuring the observance of workers’ rights. Trade union activities are focused on the protection and promotion of workers’ rights through a variety of activities, including putting pressure on employers and resorting to international appeal mechanisms. The effort put into protecting workers against unfair working conditions, abuse regarding salary payouts, and various forms of abuse at work, is commendable. Unfortunately, the treatment of foreign workers has still not been adequately regulated, hence the absence of trade union experience and procedures which govern how various situations should be handled. *“We already have this form of cooperation with the*



Ministry of Labor, Labor Inspectorate, Occupational Health and Safety Administration, non-government organizations... This is where things are looking good... But we still don't have direct contact and haven't managed to make migrant workers members of the trade union, we don't have contact, but are fighting for them in various ways, through cooperation...” Despite trade unions' stated intention of fighting for the rights of mobile workers, they are facing challenges in adding this group of workers to trade union membership and establishing direct contact with them. This problem indicates the existence of various obstacles (including language and cultural differences) which hinder communication and the efficient protection of mobile workers' rights. The absence of direct contact also limits trade unions' ability to provide specific information and support to workers regarding their rights and available resources.

Trade union representatives view the importance of information as a significant factor which could contribute to improving mobile workers' conditions. For example, brochures printed in the languages of mobile workers' countries of origin would provide them with important information regarding their rights in Serbia, as well as regarding potential risks with which they are typically faced in Serbia. *“So now somebody from, let's say, India, Vietnam, their trade unions to which we sent invitations to meet, somebody should, we should give them these brochures in our language and they should translate them into their language so that they know what they need to know when their workers come to Serbia to work, and they should also be given our addresses so that the workers know where to find us...”*

Despite general agreement that collective agreements which would include mobile workers would be very important for ensuring that they receive treatment equal to that reserved for domestic workers, skepticism abounds about whether this is actually feasible in the near future. *“But, to arrive at some form of collective agreement for migrant workers alone, in institutional terms, well, this would be very difficult... Very difficult right now, and very difficult in the future...”* Currently, the key support mechanism is encouraging mobile workers' trade union membership in order for them to have access to all the available resources and protection. *“As a rule, they should be enabled to become trade union members, whereby they would automatically have rights equal to those of all other (domestic) workers.”*

Employers and mobile workers

Most employers share the standpoint that mobile workers are neither the better, nor the cheaper option compared to domestic labor, but that they are the only reliable option on the



current labor market. *“Because when you organize a construction site, the market is much more volatile today, particularly in the construction business, and the borders are open. Our people can head over to Germany. Migrants can’t do that. So, we can take them and then it’s like, when we take 100 people, we know that we’ve packed them up and shipped them off to some camp where they’ll be living, eating, drinking and so on, and buses come to this camp and drive them off to the construction site. They have everything set up for them and they’re here every day.”* Their position when it comes to this workforce is primarily focused on their efficiency in completing tasks, and less on their rights and integration into the domestic and cultural context (even though they are aware of challenges in that sense). They see the solution in the existence of international agencies, which will provide them with a “services package”, as well as in the upcoming speeding up of the procedure for obtaining work permits from domestic institutions.

Some of the respondents testify that their companies have already relied on temp agencies and mobile workers, while others plan to start. There are examples of companies which actively import labor from abroad with the help of these agencies, all the while observing the processes for obtaining work permits and the integration of these workers into society. *“We are currently in the process, so to speak, of importing labor from India and we are planning on concluding an employment contract with them like we would with our employees here.”* Simultaneously, working through a temp agency implies that insurance contributions (social, health, pension) are borne by the agency with which they have contracts. *“These workers come in from Bangladesh and they’re not insured by their company. The agencies to which the company pays out a sum of money are responsible for their insurance, and these agencies take care of their social and health insurance.”* This leads to insufficient familiarity of local companies regarding the manner (if any) in which these workers can exercise their rights in the domestic context and whether they have been aligned with domestic legislation.

General labor and legal standards have been guaranteed to domestic workers, whereas seasonal and migrant workers frequently do not have access to the same rights. There were attempts at formalizing the rights of seasonal workers, particularly through the Law on Simplified Work Engagement on Seasonal Jobs in Certain Activities: *“There were several different attempts at having their work somehow formalized, which was most successfully accomplished through the Law on Simplified Work Engagement on Seasonal Jobs in Certain Activities.”* Seasonal work often takes place through specific contractual arrangements, which



differ from standard employment contracts. However, there is concern that the formalization of seasonal work could lead to abuse and underestimation of workers' rights.

The construction industry is more frequently mentioned as the industry with lesser rights for workers, particularly when it comes to Asian companies. These companies have their own standards and work culture which does not always align with the standards of the host country. Employers fail to see the bigger picture when it comes to the share of this population in the local economy, and are instead only involved in their own sector and its practices. They also feel that mobile workers probably do not exercise the same rights as domestic workers and that they are at a disadvantage compared to domestic workers on the labor market, in numerous aspects.

Mobile workers are faced with numerous challenges, from being unfamiliar with all of the rights they have, to potential manipulation by the agencies which organize their work here (e.g., passport confiscation in extreme cases). The second challenge lies in the fact that domestic employers are not always certain of the ways in which mobile workers can actually exercise their social rights, and are therefore unable to assist them when necessary. Employers note that the language barrier is an important requisite for mobile workers' understanding of the context in which their rights exist and how to exercise them. Only a handful of respondents is actually familiar with international regulations and standards, and particularly with specific European directives. A number of respondents is familiar with the labor law only in the segment related to domestic workers.

Employers view the role of trade unions in several different ways. First of all, there is the opinion that this role is generally quite insignificant and insufficient for the protection of domestic workers, leading to the conclusion that any impact on the position of mobile workers would be a useful step forward. The second opinion is that regulations need to be changed so that mobile workers can also become trade union members, which would create the possibility of advocating for the interests of these workers as well. The third (and most widespread) opinion is that trade unions ought to be at the service of mobile workers in terms of support regarding language and cultural barriers, finding one's place in society, familiarization with work standards, etc. It has been suggested that trade unions could have a vital role in facilitating access to trainings and language courses for mobile workers.



The respondents emphasize that during the COVID-19 crisis, employers put in an effort to adapt to new circumstances by applying alternative legal mechanisms and procedures. The companies of the majority of the respondents mostly did not have any mobile workers during the pandemic, hence eliminating the need for specific measures.

Representatives of institutions and mobile workers

Representatives of institutions have an even more nuanced perspective when it comes to the position of mobile workers and the challenges they typically face. The most frequent form of employment for mobile workers is through employment agencies, which makes these workers vulnerable due to the very nature of unstable and temporary jobs. *“They are not permanently employed and have not been integrated into the formal public and legal regime, and are even overlooked by the regulations on employment of foreigners on numerous occasions. Informal contracts are typically definite-term contracts, linked to specific jobs and ad hoc hiring. Even those matters which ought to be observed under the Law on Employment of Foreigners, when we discuss migrants and this type of workers, are very often evaded in principle, because they are hired on an ad hoc basis, for a very brief period of time, and nobody really dedicates sufficient attention to these forms of their formal and legal hiring.”* Compared to domestic workers, mobile workers have similar working conditions, but often coupled with lower pay and a reduced access to social rights. Since these types of contracts are less secure, mobile workers accordingly lack access to a substantial segment of workers’ rights (right to leave, paid sick leave, days off, health insurance, etc.). Despite the fact that these situations should not occur, they did occur in the past due to the limited capacities of domestic inspectorates and the lack of previous experience related to how to proceed when the intermediaries are agencies with registered offices in other countries. Representatives of institutions are familiar with domestic legislation, international conventions, as well as European directives: *“Needless to say, I’ve been keeping up with some European directives and various regulations, and I’m familiar with them, even though its not my main point of interest, but in principle and in general, I’m familiar with them and I think that their consistent application would definitely be efficient. As far as the European Union directives are concerned, I’ve kept up with what was done during the COVID-19 pandemic regarding collective bargaining, distribution of working hours and free time, the demarcation of available time, time dedicated to personal life, and time for working from home.”* They feel that the



practices and laws under which domestic trade unions operate, limit the possibility of advocating for a significant part of mobile workers, as they represent workers which have employment contracts in place. *“As a rule, and under our regulations, i.e., in the Republic of Serbia specifically, trade unions are not able to represent people who are not employed on an indefinite-term basis, and they do not recognize them as potential trade union members.”* An additional challenge lies in the fact that collective bargaining in Serbia is dominantly present in the public sector, and very rarely in the private sector (only in the construction industry, hospitality, and for performing artists), hence the possibilities for collective bargaining and representation of mobile workers (who are mostly hired in the private sector, as it is) are very limited.

During the COVID-19 pandemic, the relevant institutions offered all workers hired under informal contracts the option of resolving labor disputes through alternative procedures (out-of-court) in order to speed up the processes and resolve challenges during the crisis. Unfortunately, mobile workers *“do not ask for help due to their non-familiarity with the language and regulations”*. During this period, workers faced numerous challenges because they easily lost jobs (particularly in the construction sector). If they did manage to keep their jobs, the working and living conditions (in collective housing) were not suited to the challenges brought on by the pandemic. Namely, adequate medical equipment and protection were often lacking, the above workers typically did not receive financial assistance from the country, and they were unable to return to their countries of origin. More critical forms of disease highlighted the obvious issue related to exercising the right to medical protection and treatment. When it comes to specific measures, representatives of institutions propose that the relevant regulations be expanded (specifically, the Labor Law) to include all forms of work and all sectors, so that mobile workers are afforded more comprehensive workers’ rights and the option of trade union representation.



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