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## **Practical recommendations from the project - summary**

### **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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## **Recommendations for improving the general conditions and statutory framework**

The research conducted within this project is one of the first such researches with regard to mobile workers in Serbia in general. Accordingly, the conclusions and recommendations are of great importance for formulating new statutory solutions and improving collective bargaining regarding the position and labor rights of mobile workers. The growing numbers of frontier, seasonal, and migrant workers in Serbia are caused by global, demographic, and national, social and demographic, political and economic shifts over the last several decades. For decades, Serbia has predominantly been a country from which labor emigrates; however, the last few years have seen its rising popularity as the destination of choice for foreign workers. Hence, it is vital to update the statutory framework regarding (labor) immigration in Serbia and harmonize it with the highest standards and recommendations issued by the competent international bodies and institutions.

The Constitution of the Republic of Serbia (as the supreme law) prescribes that foreigners “in accordance with international treaties, in the Republic of Serbia shall have all of the rights guaranteed by the Constitution and the law, with the exception of the rights afforded only to the citizens of the Republic of Serbia, as per the Constitution and the law”. Therefore, with reference to the above, there are no specific recommendations aimed at advancing the position of foreigners and their right to work in this sense. Needless to say, this begs the question of how this article is applied in practice, which is what the first recommendation pertains to.

**Recommendation 1:** In their activities, all of the relevant institutions (the Constitutional Court of the Republic of Serbia, in particular) ought to dedicate special attention to the implementation of the above-mentioned article of the Constitution (particularly in terms of foreign citizens’ right to work, as one of the fundamental human rights).

The employment of mobile workers in the Republic of Serbia is governed in detail by laws and by-laws, more specifically, the Law on Employment of Foreign Citizens (2014) (including subsequent changes and amendments) and the Rulebook on Work Permits (2018). In July 2023, the Law on changes and amendments to the Law on Foreigners, and the Law on changes and amendments to the Law on Employment of Foreign Citizens, were adopted. The principal acquis of the above statutory solutions is the possibility for foreign nationals to

exercise both the right to temporary residence and the right to work in Serbia within a single procedure. The qualitative research conducted within the project has demonstrated that all of the relevant stakeholders of the world of labor in Serbia - representatives of employees (trade unions), representatives of employers, and representatives of institutions have indicated the fact that the above changes to the statutory framework have substantially contributed to improving the legal situation in terms of the above, and consequently, the position and exercise of labor rights by mobile workers. In recent years, Serbia has seen a substantial increase in the number of work permits issued to foreign nationals, which attests to the existence of a more suitable statutory and institutional framework, but also to the growing need of employers to hire foreign workers.

**Recommendation 2:** The development of the statutory framework, as well as of the institutional framework in general, regarding the employment of mobile workers in Serbia, has brought about major improvements in the last few years; a trend which should be continued, but also built upon. Special attention must be dedicated to the adoption of a new Labor Law, which would serve to advance the collective bargaining process, both for domestic, as well as for foreign workers.

An important aspect of the creation and further development of the institutional framework for advancing the position of and exercise of labor and social rights by mobile workers pertains to the adoption and implementation of international standards and conventions (chiefly, the Convention of the International Labor Organization (ILO)) and European Union directives. This project has demonstrated a worrying lack of harmonization between European Union member countries (Spain, Poland, Portugal, and Greece) on the one side, and North Macedonia and Serbia (European Union membership candidates), on the other side. The following recommendation is related to the above.

**Recommendation 3:** Ratifying the relevant conventions of the International Labor Organization and the corresponding European Union directives is one of the most important prerequisites for the essential improvement of the position of workers in Serbia (both domestic and foreign).

Finally, when it comes to the general conditions and the statutory and institutional framework of hiring mobile workers, numerous advancements have been observed in Serbia over the last few years. Needless to say, even the significant improvement of laws and by-

laws, regulatory mechanisms, and the manner in which the relevant institutions function will not suffice, unless control mechanisms concerning the implementation of existing regulations are developed. Hence, the following recommendation is very important.

**Recommendation 4:** The empowerment of inspectorates in material, technological, and personnel terms is a significant factor when it comes to advancing the manner in which labor and social rights of domestic and mobile workers in Serbia are exercised.

### **Recommendations for improving collective bargaining**

Research has shown that collective bargaining for mobile workers in Serbia is essentially non-existent. This should come as no surprise, given the fact that social dialog and collective bargaining when it comes to the world of labor in Serbia are generally on an extremely low level of development. Namely, collective bargaining is practically non-existent in the private sector, whereas it is merely a formal process which yields no effective results when it comes to the public sector. The key reasons for the above lie in the disadvantageous amendments to the Labor Law from 2014, whose provisions proved to be a severe setback to the collective bargaining process.

**Recommendation 5:** The previously mentioned need to change the statutory framework (primarily the Labor Law) implies paying special attention to the advancement of the social dialog and collective bargaining. With reference to the above, Serbia needs to ratify Convention 154 of the International Labor Organization from 1981, which provides for the advancement of the collective bargaining process and which applies to all industries, as soon as practicable.

Research also indicates inconsistencies between various categories of mobile workers (frontier, seasonal, and migrant workers) in terms of how they exercise labor and social rights. Furthermore, research also confirmed that a large number of foreign workers are working informally, without any permits or employment contracts in place.

**Recommendation 6:** In the process of collective bargaining, particular focus must be placed on the differences in the positions and labor rights of various categories of mobile workers, as well as on the involvement of informal workers in the process of social dialog and collective bargaining.

The COVID-19 pandemic shed additional light on the problems of the world of labor in Serbia, particularly when it comes to vulnerable/precarious forms of employment (which includes mobile workers). In the last few years (decades, even) we have been witnesses to the fact that vulnerable categories of workers have been most at risk during crises such as the above mentioned COVID-19 crisis, by having their earnings reduced, losing their labor and social rights, leaving both themselves and their families existentially threatened.

**Recommendation 7:** The institutional framework must be solidified and expanded so as to be capable of providing a proactive response in crisis situations, when it comes to preserving the positions and rights of all vulnerable categories of employees (including also mobile workers), whether the crises are caused by pandemics, natural disasters, economic turmoil or war events.

In the process of tripartite negotiations, and social dialog in general, close attention must be paid to strengthening the role of the trade union. Over the last several decades, the world of labor has been characterized by the dominance of employer and institution representatives, leaving workers (and the organizations which advocate for their interests) disadvantaged from the very beginning. This has become especially prevalent in Serbia in the past decade (ever since the coming into force of the above-mentioned Labor Law from 2014).

**Recommendation 8:** All key stakeholders in the world of labor in Serbia must be dedicated to raising awareness of the important role of trade unions in social dialog and collective bargaining, and especially in the protection of the position and rights of mobile workers. Trade union members and leaders themselves need to work towards raising awareness of the importance of trade union representation of the above-mentioned category of workers, as well as towards promoting and advancing activities to that end. Informing mobile workers of their labor and social rights must constitute an important aspect of the above-mentioned activities.

One of the most prominent results of the research is the finding related to the widespread practice of so-called temp agency employment in Serbia. This form of employment is very frequent even when it comes to domestic workers, let alone foreign workers (construction workers and so-called platform workers, in particular). The following recommendation is related to the above.

**Recommendation 9:** One of the vital prerequisites for advancing the position of and exercising the labor and social rights by this category of workers pertains to the regulation of the work of agencies which employ mobile workers, and involving workers employed as mentioned above into the process of social dialog and collective bargaining.

Despite the fact that research has indicated numerous difficulties faced by mobile workers in Serbia in terms of exercising their labor and social rights, there are also positive examples. Precisely these kinds of examples can substantially advance the entire statutory and institutional framework and the manner of functioning of the relevant institutions which govern and conduct inspections related to the employment of frontier, seasonal, and migrant workers in Serbia.

**Recommendation 10:** It is necessary to raise awareness and spread knowledge of examples of good practice when it comes to the activities of trade unions, employers, and institutions. One such example is that of the Republic agency for peaceful settlement of labour disputes. Even though they were not legally obliged to do so, during the pandemic, the representatives of this institution reacted to reports of violation of migrant workers' rights, thus effectively setting the standard for the actions of other relevant institutions (as well as other key participants in the domain of labor) in this respect in the Republic of Serbia.