



Sociedad Internacional de Derecho del Trabajo y de la Seguridad Social

XXIII Congreso Mundial

7 - 10 de Septiembre de 2021 - Lima, Perú

RETOS DE LOS SISTEMAS DE LEGISLACIÓN LABORAL Y SEGURIDAD SOCIAL

- Transformación del trabajo: desafíos para el Derecho del Trabajo
- Comercio internacional y trabajo
- Nuevos retos de la Seguridad Social
- Trabajadores migrantes
- Trabajadores atípicos e informales
- Igualdad en el trabajo
- El Estado y las nuevas formas de voz colectiva



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PATROCINADORES



AUSPICIADORES



Retos de los Sistemas de Legislación Laboral y Seguridad Social
PRIMERA EDICIÓN DIGITAL MARZO 2023
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<p>ISBN: 978-9972-9422-4-2 Hecho el Depósito Legal en la Biblioteca Nacional del Perú N.º 2023-02736 Publicado en el mes de marzo de 2023 DERECHOS RESERVADOS. Prohibida su reproducción parcial o total (D. Leg. 822)</p>

En su edición electrónica, el libro alcanza a un número de lectores peruanos y del extranjero, de los ámbitos universitario, gremial, profesional, impulsando el estudio del Derecho del Trabajo y de la Seguridad Social. Esta edición se encuentra alojada y disponible para descarga libre en la página web de la Sociedad Peruana de Derecho del Trabajo y de la Seguridad Social: www.spdts.org.pe

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TRABAJADORES MIGRANTES

MIGRANT WORKERS

POSITION OF MIGRANT WORKERS IN REPUBLIC OF SERBIA

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ABSTRACT: The position of migrant workers on the territory of the Republic of Serbia is an important topic, which unfortunately, has not been sufficiently considered. Despite all the efforts to make changes that would allow migrant workers to enjoy all the rights that belong to them in alignment with international standards, the path to greater success seems still questionable. Moreover, the pandemic of COVID 19 virus has further set back chances for improvement of the status of the migrants at our country. In this report, authors refer to the difficulties that migrant workers face on the territory of the Republic of Serbia, measures that have been taken so far to improve position of migrant workers as well as lacks in their implementation.

KEYWORDS: Republic of Serbia, migrant workers, labour market.

1. INTRODUCTION

Migrations are the reflection of freedom of movement of people with the aim to change their place of residence located in the same or another country for temporary or permanent residence. Migrations are often encouraged by the will to live a better life in order to secure higher economic power of the individual or family, or are inevitably the product of war events and the desire to save one's own life. These migrations are modern world reality and a lot of countries face problems in order to regulate work of foreign citizens especially the ones who are not regularly employed in foreign country.

Having in mind the geographic position of the Republic of Serbia, it is no surprise that a lot of migrant workers, in order to reach some of the European Union countries, decide to stay in Serbia and try to find a regular job, particularly when they face a lot of obstacles on their way to European Union.¹ However, it has to be mentioned that even though foreign workers decide to come and work in Serbia, there is a significantly higher number of those who decide to emigrate into other countries – usually some of which are part of the European Union.

Serbia faces a number of deficiencies regarding available data on external migration. Therefore, the precise number of those leaving is unknown, but UN

1 For more: Bojan Urdarević, „The Protection of Migrant Workers in International Labour Law“, The Legal Aspects of Migrations in the Region – the Balkan route, Thematic Collection of Papers, Faculty of Law Novi Sad, Novi Sad, 2019, 91-105.

estimates are that up to 49,000 people leave Serbia annually.² Having in mind this high number of people deciding to leave Serbia, in early 2019 the Government established the Coordination body for monitoring the flow of economic migrations to comprehensively analyze the state of play in the field of economic migrations. The Employment Strategy for 2021-2026 was adopted in the 2020, with the first action plan for the implementation of this strategy for a three-year period. The work plan of the Coordination Body includes the adoption of a Strategy on Economic Migrations for 2021- 2027 (with an action plan) with solutions and long-term measures for improving this field, aiming to prevent further departure of citizens from the Republic of Serbia abroad and promote the return of experts from the diaspora, as well as the creation of a business and economic environment for the arrival of foreign experts.³

Notably, when talking about legal position of migrant workers, we need to take into consideration the position of foreign workers, as well. The reason is simple and it is a consequence of lack of acts that refer only to the rights and duties of migrant workers. That is why it is a need that we use an analogously application of legal framework when it comes to migrant workers.⁴

The legal position of Serbian workers abroad, i.e. the legal position of foreign workers in Serbia, is determined in relation to two very important issues concerning the conditions of employment and the manner of security in case of unemployment. Both issues became the subject of bilateral agreements on social insurance that the Republic of Serbia concluded with other countries to which the largest number of our workers went. The legal status of a worker is closely linked to the employment status, on which personal, family and social position depends, as well as the position of his family members, both while he is abroad

2 The Republic of Serbia has a major problem in the area of emigration (the ILO experts' estimate, consistent with preliminary data from Eurostat, is about 150,000 short-term migrants who returned or will not be able to travel outside Serbia at least for the remainder of 2020) of labour workers (both well-skilled workers and less-skilled workers), rather than immigration. *Covid-19 and the World of Work*, https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms_754624.pdf, 7.7.2021.

3 National Employment Action Plan for 2020 (Government conclusion 05 No. 101-13100/2019-1 dated December 26 2019, Official Gazette No. 94 dated December 27 2019.

4 Ivana Krstić, *A handbook for migrants' protection in the Republic of Serbia*, British Embassy Belgrade/International Organisation for Migration, Belgrade, 2018, 41; Ivana Krstić, *Protection of migrants' workers in the Republic of Serbia*, International organization for migrants, Belgrade, 2012, 48; *Basics of ruling migration in the Republic of Serbia*, International Organisation for Migration, Belgrade, 2012, 24.

and when he has to decide whether to and under what conditions return to their country. The study of legal issues of temporary employment, both of our workers abroad and foreign workers in Serbia should show primarily the extent to which the contracting states succeeded in concluding bilateral agreements to ensure the protection of their rights regarding employment, working conditions and social security.⁵

2. POSITION OF THE MIGRANT WORKERS IN THE REPUBLIC OF SERBIA

Employment of the foreign citizens in the Republic of Serbia is regulated by the Act on Employment of Foreigners⁶ and Rulebook on Work Permits.⁷ The last one contains provisions regarding fulfillment of the conditions that have to be met in order to obtain work permits and/or its extension.

National legislation has formed a legal system to protect the rights of migrants, and foreigners in general. The rights of foreigners are mentioned in the Constitution of the Republic of Serbia, and they are “entitled to all rights guaranteed by the constitution and the law, except for the rights which, according to the Constitution and the law, belong only to domestic citizens.”⁸ The rights specifically guaranteed to national citizen refer to electoral rights⁹, as well as the special treatment of nationals and foreign nationals with regard to entry into and residence in the country. Pursuant to Article 39, paragraph 3, a foreigner may be expelled from the RS only with a decision of the competent court in a procedure specified by the law and which allows for legal remedies, more precisely appeals, where “he is not threatened with persecution because of his race, sex, religion, national religion, citizenship, belonging to a certain social group, political opinion and where he is not threatened with a serious violation of his rights.” Equal treatment is also stipulated by the Act on Employment Law and its provisions “apply to employees working in the Republic of Serbia, with a domestic or foreign legal or natural person, as well as employees who are sent to work abroad by the employer unless otherwise provided by law “.

5 Boško Latković, “Protection of Unemployed persons through bilateral social security agreements, with special reference to the agreements concluded by the Republic of Serbia and their ratification”, *Labour and Social Law*, No. 2/2015, 205.

6 Act on Employment of Foreigners, *Official Gazette of the RS*, no. 128/14, 113/17, 50/18,31/19.

7 Rulebook on Work Permits, *Official Gazette of the RS*, no. 63/18, 56/19.

8 Constitution of the Republic of Serbia, *Official Gazette of the RS*, no. 98/2006, Article 17.

9 Constitution of the Republic of Serbia, *Official Gazette of the RS*, no. 98/2006, Article 52.

Furthermore, it is specified that the provisions of this Act “apply to employed foreign nationals and stateless persons who work for an employer at the territory of the Republic of Serbia, unless otherwise provided by law.”¹⁰

The national framework for the protection of migrant workers necessarily includes a regulation concerning the entry, movement and residence of foreign nationals, that was provided by the previously existing Act on the Conditions for Establishing Employment with Foreign Nationals¹¹, today replaced with the Act on Employment of Foreigners. In one article, the mentioned Act contains the equal treatment provisions saying “a foreigner who is employed in the Republic of Serbia in accordance with this law, entitles the same rights and obligations in terms of work, employment and self-employment as citizens of the Republic, if the conditions are met in accordance with the law.”¹²

When it comes to the employment of migrant workers, the main difference in comparison to the national citizen is made by the provisions of the Act on Employment of Foreigners. Employment of migrant workers is conditioned by certain residence permit (long-stay visa based on employment, temporary residence permit or permanent residence) as well as a work permit (work permit for employment, for special cases of employment, for self-employment).¹³The work permit specifies a description of the work that a foreigner may perform. On the other hand, Serbian citizens become employed without a special permit, except for minors who need the consent of a legal representative. Restrictions on the performance of work do not apply to domestic citizens, i.e. equal access to work has been proclaimed.

10 Act on Employment, *Official Gazette of the RS*, no. 24/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017 –decision of Constitutional Court, 113/2017, 95/2018, Article 2.1 and 4.

11 Act on the Conditions for Establishing Employment with Foreign Nationals, *Official Gazette of the RS*, no.11/78, 64/89, 42/92, 24/94 i 28/96, 101/2005.

12 Act on Employment of Foreigners, *Official Gazette of the RS*, no. 128/14, 113/17, 50/18,31/19, Article 4.1.

13 Act on Employment of Foreigners, *Official Gazette of the RS*, no. 128/14, 113/17, 50/18,31/19, Article 10.

TABLE 1
FOREIGN CITIZENS WHO WERE WORKING IN SERBIA DURING 2019¹⁴

CITIZENSHIP	NUMBER OF PERSONS	PERCENTAGE
Russia	1.454	24,7%
China	1.336	22,7
Turkey	469	8,0
Ukraine	358	6,1
Republic of Northern Macedonia	191	3,2
Federation of Bosna and Herzegovina	162	2,7
Italy	157	2,6
Greece	153	2,5
Montenegro	121	2,2
Albania	92	1,6
Other	1,399	23,7
Total	5,892	100

**TABLE 2: THE NUMBER OF ISSUED PERMITS
FOR WORK (FOREIGNERS WITH TEMPORARY RESIDENCE IN 2019)¹⁵**

CITIZENSHIP	TOTAL
China	3.040
Russia	2.749
Turkey	762
Ukraine	677
Republic of Northern Macedonia	446
Italy	439
Romania	421
Federation of Bosna and Herzegovina	377
Belarus	346
Montenegro	288
India	254
Croatia	249
Greece	247
Germany	212
Bulgaria	183
Poland	175

14 Government of the Republic of Serbia, *Migration profile of the Republic of Serbia for 2019*, Belgrade, 2020, 13.

15 Government of the Republic of Serbia, *Migration profile of the Republic of Serbia for 2019*, Belgrade, 2020, 14.

CITIZENSHIP	TOTAL
France	146
Great Britain	145
Slovenia	142
Albania	123
USA	121
Austria	102
Others	1.716
Total	13.360

TABLE 3: THE NUMBER OF ISSUED PERMITS FOR WORK (FOREIGNERS WITH PERMANENT RESIDENCE IN 2019)¹⁶

CITIZENSHIP	NUMBER OF WORK PERMITS
China	109
Russia	64
Republic of Northern Macedonia	55
Ukraine	20
Croatia	12
Romania	12
Greece	11
Turkey	10
Germany	9
Italy	9
Kazakhstan	7
Slovenia	7
Federation of Bosna and Herzegovina	6
Tunisia	6
The Netherlands	5
Others	100
Total	442

3. EXPLOITATION OF MIGRANT WORKERS

As for labour exploitation of migrant workers, there is no special proscription in domestic law. There are certain provisions that can be found in special acts. For example, Criminal code of Serbia¹⁷, doesn't contain criminal

16 Government of the Republic of Serbia, *Migration profile of the Republic of Serbia for 2019*, Belgrade, 2020, 15.

17 Criminal code of Serbia, *Official Gazette RS*, no. 85/2005, 88/2005, 107/2005, 72/2009,

codes related to labour exploitation of migrant workers, but there are several prohibitions that protect migrant workers indirectly.¹⁸ There are some criminal provisions for employers to be found in Act on Employment of Foreigners.¹⁹ According to this Act, employer will face misdemeanor and will be obligated to pay fine if does not provide employee with social security benefits,. Also, there is a punishment for employer if the foreign employee is transferred for work to other employer. Misdemeanor is also prescribed if employer does not cover the costs for work permit's issuing. Employee is entitled to perform only those tasks, specified in work permits, otherwise, employer will face fines.

If we compare domestic legislation of the Act on Employment of Foreigners and the European Sanctions Directive, it can be seen that the Law on Employment of Foreigners stands with condition that the employment of foreigners must be based on some of the legal document for stay in domestic country. That document can be seen in long-stay visa, approval for permanent or temporary stay, as well as work permit.²⁰ Unlike the Directive, domestic employers have no obligation to inform the country of origin of the employment of their citizens, in order to check the documentation for legal stay. Such an additional obligation releases the employer from liability if it turns out that the foreigner's documents for legal residence in the country are plagiarized, unless he has been familiar with this information. Member States are required to adequately sanction employers, issuing order to take part in the charging costs of deporting those foreigners that stay illegally. Domestic law does not contain such a provision, but provides for a special penalty for the employer. If the domestic employer employs a foreigner without the stated documents, he is obliged to pay him all monetary damage from the employment relationship, with the payment of taxes, as well as the cost for social security system.²¹ The same provision is prescribed in the Directive in Article 6. Similar to the Directive, in the criminal provisions of the

111/2009, 121/2012, 104/2013, 108/2014, 94/2016, 35/2019.

18 Namely, there are some of these offences: Violation of equality in stipulation 128, Violation of the Right to Expression of National or Ethnic Affiliation in stipulation 130, Instigating National, Racial and Religious Hatred and Intolerance in stipulation 317, Illegal crossing of state border and human trafficking in stipulation 350, Criminal offences in stipulations 163-170.

19 Act on employment of Foreigners, *Official Gazette of the RS*, no. 128/14, 113/17, 50/18,31/19, Article 34.

20 Act on Employment of Foreigners, *Official Gazette of the RS*, no. 128/14, 113/17, 50/18,31/19, Article 9.

21 Act on Employment of Foreigners, *Official Gazette of the RS*, no. 128/14, 113/17, 50/18,31/19, Article 15.2

Law on Foreigners, domestic legislation obliges the employer to keep evidence of fulfillment of conditions for employment of foreigners at the work place, where he works.²² Although domestic legislation contains penal provisions for non-compliant employers, there are no provisions such as those in the Directive that provide for the exclusion of employers from receiving benefits and allowances of a financial nature from the state. Similar to the Directive, Serbian law also provides for higher fines for employers who are legal entities and who employ migrants contrary to the law. Unlike Article 13 of the EU Directive, domestic law does not contain simplified stipulations on the possibility of filing a lawsuit against illegally employed migrants through trade unions or other associations that care about the rights of employees.

When it comes to the protection of migrant workers, labour inspectors are obligated to supervise the applications of Act on Employment of Foreigners.²³ Without prescribing more authority in supervision of this Act and without special provisions that should be referred to regard migrant workers, there are irregularities in practice to be found. In addition to the exposed legal framework, in practice, in Serbia during inspections the following problems have been observed which must be taken into account during the following amendments to the law: lack of work permits for migrant workers for legal work, lack of travel documents for obtaining alleged permits, income minimum wage, as well as the waiver of the responsibility of the labor inspector for checking the application of domestic labor law, reducing the check only to the correctness of work permits.²⁴

4. DOMESTIC WORK

Bearing in mind that Serbia has a major problem in the area of emigration, rather than immigration, it is understandable that this topic does not draw decent attention and that the legal instruments related to work of migrants are not thoroughly regulated. This is not very strange for countries left out of the European Union, which is usually labour workers main destination due to better life standard. However, Republic of Serbia is on solid way to become an EU Member State in the future, which justifiably leads to the adoption of the key

22 Act on Employment of Foreigners, *Official Gazette of the RS*, no. 128/14, 113/17, 50/18,31/19, Article 34.1.2.

23 Act on Employment of Foreigners, *Official Gazette of the RS*, no. 128/14, 113/17, 50/18,31/19, Article 33.2

24 Mario Reljanović, *Recommendations for preventing labour exploitation*, Astra, Belgrade, 2020, 31.

legal standards of the European Union law, as well as the standards adopted by International Labour Organisation and European Council.

Among these standards, labour law standards are the ones of the highest importance and Republic of Serbia is taking every measure at its disposal to become a country where all laborers can enjoy right to work, as well as healthy and safe work conditions.

When it comes to domestic work, Republic of Serbia has not yet ratified Domestic Workers Convention 2011 (No. 189)²⁵ which is a cornerstone guarantee of the rights for all domestic workers. This lack of domestic legislation system can have a vital consequence on wide range of rights of all domestic workers. Nonetheless, Employment Act²⁶ contains basic provisions regarding the work of domestic workers. An employment relationship may be established for the performance of work relating to household help.

The employment contract may also stipulate in-kind payment of part of the salary. The in-kind payment of part of the salary is understood to mean providing accommodation and food, i.e. providing either accommodation or food. The value of the in-kind payment must be indicated in money. The lowest percentage of salary that must be calculated and paid out in money is determined by the employment contract, and may not be lower than 50% of employee's salary. Where salary is stipulated partially in money and partially in-kind, in case of the absence from work with provided salary compensation, the employer shall pay to the employee the compensation of salary in money. The contract referred to may not be concluded with a spouse, adopter or adoptee, blood relative in a straight line regardless of the degree of kinship, and in the collateral line up to the second degree of kinship, and with affine relative up to the second degree of kinship.

Before the Employment Act was implemented in 2005, the Ministry of Labor, Employment, Veteran and Social Policy of the Republic of Serbia in 2002 has adopted Rulebook on Manner and Procedure for Registration of Employ-

25 Domestic Workers Convention 2011 (No. 189), https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189,7.7.2021.

26 Act on Employment, *Official Gazette of the RS*, no. 24/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017, 113/2017, 95/2018.

ment Contracts of Domestic Workers at 2002.²⁷ Unfortunately, this rulebook has been repealed on the day of entering into force Employment Act in 2005.

5. SEASONAL WORK

As for seasonal workers, their rights and duties are stipulated by the law on simplified work engagement on seasonal jobs in certain activities²⁸. This act should follow the provisions of European Directive on conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers²⁹, but there can be found only a few matching. Therefore, national stipulations of Serbia need more compliance with European ones. For starters, the law on simplified work deals only with the position of seasonal workers in specific, particular areas of work, namely agriculture, forestry and fishing. The Act is applicable for the work of certain activities during seasons, such as: planting, sowing, harvesting, plant protection, soil preparation, pruning, cleaning, peeling, sorting, shearing / shearing, grazing.³⁰ On the other hand, EU Directive is not limited by areas and stipulates seasonal work with more details. There are special provisions for the document needed to start this kind of work performance, sickness insurance provided, as well as evidence that the employee will have adequate accommodation. Member States shall require from the seasonal employee to prove that he has sufficient resource during the stay. This kind of stipulation is established, taking into account the possibility for foreign workers to participate in seasonal work of countries in EU. This kind of provision is also needed in domestic law, having in mind an increased number of migrant workers. Seasonal employees in Serbia must be familiar with all the risks of the work performance, as well as first aid that is provided by employer. Novels of the act brought protection of employees into force, due to social security protection and health insurance are provided. Those provisions are simplified with the ones in EU Directive. Apart from the employee's right on monetary compen-

27 Rulebook on Manner and Procedure for Registration of Employment Contracts of Domestic Workers at 2002, *Official Gazette of the RS*, no. 1/2002.

28 The law on simplified work engagement on seasonal jobs in certain activities, *Official Gazette of the RS*, no. 50/2018.

29 European Directive on conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex%3A32014L0036>, 11.07.2021.

30 European Directive on conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex%3A32014L0036>, 11.07.2021. Article 4.1.

sation, seasonal employees in Serbia may agree with employer for some other rights. Specified by law, seasonal worker is entitled to monetary compensation for unemployment, as well as social security pay, due to seasonal work stays outside the employment relationship. As for notice, The law on simplified work engagement on seasonal jobs in certain activities doesn't stipulate valid travel document for seasonal work, ignoring the fact that foreign workers are present at the Serbian labour market. Therefore, Serbian law doesn't prescribe specific permit for seasonal work, as the stipulation in Directive.³¹ Also, equal treatment for seasonal workers with domestic ones is not guaranteed in domestic law, as it is prescribed in EU Directive. This stipulation is seen as crucial to provide dignified work and it is a necessity in each national law.

6. MIGRANT WORKERS AND COVID 19 PANDEMIC

During the COVID-19 pandemic, the Republic of Serbia has tried, as well as numerous countries around the world, to save economy and ensure that all workers can enjoy safe and healthy work conditions.

Government of Serbia has adopted amendments of the Decree to declare COVID-19 disease caused by the SARS-CoV-2 virus a contagious disease, which allows foreign and domestic persons to enter Serbia without being quarantined for 14 days, provided that they have negative PCR test not older than 72hrs and a Permission to enter and/or transit issued by the Government body with conditions and restrictions of their stay or transit.³²

When it comes to the status of migrant workers, it is important to emphasize that while the Decision on Declaration of the State of Emergency was in force, work permits issued to foreigners as well as permits for the temporary residence were in force even though they were expired or were supposed to expire during the pandemic.³³ This means that migrant workers have not received any

31 European Directive on conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, Article 13, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex%3A32014L0036>, 11.07.2021.

32 Decree to declare COVID-19 disease caused by the SARS-CoV-2 virus a contagious disease, *Official Gazette of RS*, no 20/2019.

33 Ljubinka Kovačević, Boško Latković, „Legal position of Migrant Workers in the Republic of Serbia with special reference to their status in times of COVID-19 epidemic outbreak“, *Labor and Social Law*, No. 1/2020, 90.

type of special treatment during the pandemic when it comes to the extension of personal documents.

Furthermore, migrant workers who have lost their jobs were not considered as in irregular situation based on the fact that they do not have employment due to pandemic - if they have been legally working in Republic of Serbia. This is in accordance with the Convention on Migrant Workers No. 143, which Republic of Serbia has ratified.³⁴

During the state of emergency laborers among migrants did not have a variety of possibilities to find job or to continue with their work since the whole work process was endangered. Majority of cash and in-kind social assistance measures in Serbia were aimed at the prevention of joblessness and support to small and medium-sized enterprises. Although belonging to the most vulnerable category, migrants were not eligible for the universal emergency cash payments that the Government distributed to all adult citizens, nor to any stimulus measures, as it was targeting Serbian citizens only. However, if migrant worker has been employed at the enterprises his/her status was the same as the one of the Serbian citizen. The greater problem posed those workers who have not been employed regularly, but performed at the black market. Having in mind the flagellant position of these workers, it is objectively hard to get information of how many of them were able to continue with their work during the pandemic, since the biggest part of the economy was stopped.

During the pandemic there were no new social protection instruments envisaged for migrants to help them alleviate the impact of Covid-19 and the envisaged budget cuts will directly affect this population.³⁵ Nevertheless, migrants in the Republic of Serbia have been treated the same as Serbian citizens when it comes to the health care. According to available data, by May 2021, a total of only 50 members of the Covid-19 virus-positive migrant population had been registered. With adequate therapy and examination, they were successfully recovered thanks to the good and timely response of the medical teams.

34 Convention on Migrant Workers No. 143, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C143, 7.7.2021.](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C143, 7.7.2021.;); Ljubinka Kovačević, Boško Latković, „Legal position of Migrant Workers in the Republic of Serbia with special reference to their status in times of COVID-19 epidemic outbreak“, *Labor and Social Law*, No. 1/2020, 90.

35 Olga Mitrović, *Impact of Covid-19 on migrations and mobility in Serbia*, <https://serbia.iom.int/sites/serbia/files/publications/documents/SEIA%20Report%20Eng.pdf, 8.7.2021.>

Unfortunately, essential workers in the health sector – doctors and nurses were downsized during pandemic, since a high number of them had already immigrated to some of the EU countries. Therefore, in the future, it should be considered how to draw attention of high skilled migrant workers in order to increase the number of this group of workers in Serbia. Due to the pressure on the health care system during the state of emergency, the Ministry of Foreign Affairs and the Serbian Ministry diplomatic missions and consulates, with the support of the United Nations Development Programme (UNDP), invited Serbian medical workers (doctors, nurses, medical technicians and other health professionals) working or staying abroad to report their availability to temporarily return to the country and help with the COVID-19 epidemic in Serbia. More than 300 have applied to return and by 30 March, 24 arrived from Germany.³⁶ Even though it is highly doubtful that these workers will decide to stay in Serbia, it was a serious warning that there is a great lack of medical workers who have left the country in the last few years and gone primarily to Germany.

It is essential to emphasize that any tightening of border control, restriction of travel or freedom of movement must not prevent migrants fleeing war or persecution to approach the protection of their human rights. In that sense, the competent authorities of the Republic of Serbia, first of all, the Ministry of the Interior and the Border Police Administration were trying to provide migrants in need of international protection of access to the territory with respect to certain measures taken against COVID- 19. ³⁷

7. CONCLUSION REMARKS

- Domestic law should contain simplified stipulations on the possibility of filing a lawsuit against illegally employed migrants through trade unions or other associations that care about the rights of employees.
- Considering the fact that there is an increasing number of foreign workers in the labour market involved in seasonal and other work performance, national law must be changed in the way that prescribes: seasonal permits that should be considered by special authori-

36 <https://www.covid19healthsystem.org/countries/serbia/livinghit.aspx?Section=2.2%20Workforce&Type=Section>, 8.7.2021.

37 <http://euinfo.rs/podrska-eu-upravljanju-migracijama/migrantima-se-pruza-kompletna-zdravstvena-zastita/>, 8.7.2021.

ties, equal treatment for seasonal and other workers, as well as evidence for seasonal workers that they have adequate accommodation and sufficient financial resources during the stay.

- As for seasonal work, there should also be provided proof that the seasonal work is not accompanied by risk of illegal immigration, as it states in EU Directive. The progressive solution might be found in Directive that stipulates written information of rights and duties of seasonal workers provides for third-country nationals. The provision that requires employers of seasonal workers to pay for the cost of travel from the seasonal workers' place of origin to the place of work in the Member State and return journey and the cost of sickness insurance can also be found in Directive and should be incorporated into Serbian law.
- When it comes to the Domestic Workers Republic of Serbia has to ratify Convention on Domestic Workers which is a cornerstone guarantee of the rights for all domestic workers. This lack of domestic legislation system can have a vital consequence on wide range of rights of all domestic workers.
- The COVID-19 pandemic and the measures taken by the government to prevent and control the spread of the virus had an unprecedented impact on mobility and migration management systems. In Serbia, cross-border movements have been restricted and quarantine or isolation measures were put in place for travelers. With the progressive re-opening of borders, updated procedures for screening and handling ill passengers will become necessary, as well as increased supplies of protective equipment for border police officials, to ensure their safety while not disrupting passengers' movements.
- The consequences of the Covid 19 pandemic are yet to be felt in the future. Republic of Serbia has tried to ensure that migrant workers enjoy health life and safety during pandemic. However, the lack of workers in the health sector during the pandemic has shown that Serbia faces the major problem with emigrants rather than immigrants especially in the area of health workers. Therefore, the main goal in the future should be set in order to attract highly qualified workers who would return to Serbia (in case of Serbian citizens), as well as to attract foreign highly qualified workers.

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