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Article

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Posted Workers from Slovenia: Six out of Ten are Third-Country Nationals

Slovenia is one of the main sending Member States of posted workers in the EU, mainly towards Germany and Austria (De Wispelaere et al. 2022). The upward trend of the posting of workers from Slovenia to other EU Member States continued even in 2020 despite the COVID-19 pandemic. There was a 6 percent increase in the number of persons posted compared to 2019. Outgoing posted workers amount to roughly 7 percent of total employment in Slovenia and even to 30 percent of total employment in the Slovenian construction sector.

A high number of the posted workers from Slovenia do not have Slovenian nationality but are nationals of several Western Balkan countries, mainly Bosnia and Herzegovina (BiH) and to a lesser extent Serbia, Kosovo, North Macedonia, and Montenegro. These countries share a strong historical link, as they were once part of the same federation, and are in relatively close geographical proximity to Slovenia. This article provides insight into the vibrant dynamics of posting of third-country nationals from Slovenia by presenting figures on the nationality of posted workers, on the proportion of third-country nationals posted to another Member State, and on the proportion of posted third-country nationals in the total group of third-country nationals residing/working in Slovenia. First, the article discusses the historical and institutional networks between Slovenia and the former Yugoslavian republics, now defined as the Western Balkan countries, and their impact on the establishment of close institutional cooperation shaping the recruitment and employment of workers by Slovenian companies. Also, the legal and policy instruments that enable posting of third-country nationals are briefly described.

DRIVERS OF MIGRATION TOWARDS SLOVENIA

Migration trends between Slovenia and BiH are shaped by a combination of push and pull factors. The labor market in BiH has suffered from political and economic instability, the collapse of key industries, and skills and demand mismatches (Danaj et al. 2020). It is also characterized by low wages and a large informal sector (Efendic 2021), which contributes to the vulnerability of workers in terms of income irregularity and lack of social security. This has resulted in a significant outflow of workers and consequently persistent labor shortages. The Bosnian government has recognized the challenges posed by persistent emigration, but a comprehensive policy framework di-

rectly targeting these challenges is still missing (*Ibid.*). According to the latest available World Bank estimates published in 2017, the share of emigrants as a share of its population is 44.4 percent, which positions the country in the 16th place among the 214 countries they collect data on (in Čičić et al. 2019). According to the World Bank, the number of emigrants born in BiH and residing in other countries is 1,638,113 and the Ministry of Security of the Bosnia and Herzegovina estimates that the total number of BiH emigrants and their descendants is even higher, around 2 million (Danaj et al. 2020). Furthermore, the latest World Migration Report states that BiH had the largest share of emigrants as a share of its population in Europe in 2020 (McAuliffe and Triandafyllidou 2021). The Eurostat statistics of residence permits within the EU show the increasing popularity of Slovenia (as well as Croatia and Germany) as a country of destination in the current emigration flows from BiH (Efendic 2021).

In addition to the push factor of discouraging economic and political conditions in BiH, the pull factor is the high labor demand in Slovenia. Slovenia is an appealing option for Bosnian workers due to significantly higher wages, better labor market prospects, familiarity with the language, historical ties, geographical proximity and, importantly, facilitated immigration procedures. Slovenia has a bilateral agreement on employment of workers with BiH (since 2012) which allows citizens unrestricted access to the Slovenian labor market if a set of conditions are fulfilled: they are registered with the public employment agency in their home country, there is a justifiable demand for labor in Slovenia, and they are offered a work contract for at least one year by a Slove-



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Table 1

The Number of Granted Work Permits and Total Valid Work Permits under the Bilateral Agreements between Slovenia and Bosnia and Herzegovina, Serbia, 2019–2020

	Work permits – BiH nationals		Work permits – Serbian nationals	
	Granted	Total valid (M12)	Granted	Total valid (M12)
2019	16.225	36.154	706	425
2020	13.624	36.383	1.970	2.017

Source: Employment Service of Slovenia (2021).

nian employer.¹ Many Bosnian workers also prefer Slovenia as their country of destination over other high-paying EU countries because of less demanding and less uncertain procedures for granting work permits. With many other countries, the outcome of their visa application is more uncertain and so are the prospects of finding suitable employment once they arrive (Danaj et al. 2020). Slovenia also has a bilateral agreement with Serbia (since 2019), but the majority of recruited workers in the last three years have been Bosnian nationals (Employment Service of Slovenia 2022) (Table 1).

The number of employed BiH nationals in Slovenia has been rising continuously. It has increased by over 50 percent since 2018 (Statistical Office of the Republic of Slovenia 2022). In 2020, for nearly 50 percent of all immigrants in Slovenia (whose country of first residence was not Slovenia), the country of first residence was BiH. For 10.3 percent, the country of first residence was Serbia (Razpotnik 2021).

LEGAL AND POLICY INSTRUMENTS THAT ENABLE POSTING OF THIRD-COUNTRY NATIONALS

As previously mentioned, recruitment and employment of workers from BiH and Serbia is enabled and facilitated by bilateral agreements on labor migration (Smolnikar and Marinček 2021).² With a few exceptions, workers from the two countries can only be issued a work permit in Slovenia according to the rules set out in the bilateral agreements and when there is an officially listed vacancy that cannot get filled by a Slovenian worker. Contrary to popular opinion, the process of recruitment and employment from both countries is not shorter but slightly longer than the process of obtaining a work permit by other third-country nationals. Public employment agencies cooperate bilaterally to ensure compliance with the regulations and the process takes time. Moreover, in the case of recruitment of workers from Serbia, the employment contract needs to be translated into Serbian and the worker needs to sign the contract in

person at the premises of the competent authority of Serbia, which is a time-consuming process. The agreements enable the nationals of BiH and Serbia free access to the Slovenian labor market after one year of working in Slovenia. For other employed third-country nationals this period equals five years. The length of a job contract for workers from BiH and Serbia must be at least one year, and the worker is to be employed by the same employer throughout this period. In the case of the early termination of the contract initiated by the employer, the worker is entitled to unemployment benefits. The validity of the work permit is three years, after which the permit can be extended for another three years.

Once the nationals of BiH, Serbia, and other third countries are legally employed in Slovenia, they may be posted abroad under the same conditions as Slovenian and EU nationals.³ This decision follows the series of cases of the Court of Justice of the EU (e.g., C-43/93 Vander Elst case, C-18/17 Danieli, or C-477/17 Balandin), where it has been decided that third-country nationals who hold a valid work and residence permit in one Member State may be posted across the EU. Therefore, all workers employed in Slovenia, regardless of their nationality, can be posted abroad to provide services under the Transnational Provision of Services Act (Official Gazette No. 10/17, No. 119/21, in force since 1 January 2018, hereinafter the Act) and under Article 12 of the Basic Regulation⁴ or under other applicable articles of the Basic Regulation.

NEARLY ALL THIRD-COUNTRY NATIONALS POSTED FROM SLOVENIA ARE NATIONALS OF FORMER YUGOSLAVIAN REPUBLICS

Workers from third countries posted from Slovenia are mostly nationals of Western Balkan countries, i.e., BiH, Serbia, Kosovo, North Macedonia, and Montenegro. In 2020, their share among all third-country nationals posted from Slovenia was 99 percent (Health Insurance Institute of Slovenia 2021). By far the highest number and share of third-country nationals posted from Slovenia in 2020 were the nationals of BiH (64.5 percent of all third-country nationals), followed by the nationals of Serbia (21.6 percent),

¹ Most work contracts are issued for jobs in the construction, manufacturing, and transport sectors (Employment Service of Slovenia).

² The Agreement between the Government of the Republic of Slovenia and the Council of Ministers of Bosnia and Herzegovina on the employment of the citizens of BiH in the Republic of Slovenia was ratified in 2012 (Official Gazette 92/12, 29/17), and the Agreement between the Government of the Republic of Slovenia and the Government Republic of Serbia on the Employment of Citizens of the Republic of Serbia in the Republic of Slovenia was ratified in 2019 (Official Gazette 38/2019).

³ It should be noted that third-country nationals may not be employed by the private employment agencies until they gain free access to the Slovenian labor market.

⁴ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems.

Table 2

Number of Third-Country Nationals Posted from Slovenia, Breakdown by Nationality, 2018-2020

Nationality	2018		2019		2020		Change 2020 vs. 2018	
	Number	% in total TCNs	Number	% in total TCNs	Number	% in total TCNs	Number	%
BiH	14.450	63,70	18.925	62,50	23.051	64,50	8.601	59,50
Serbia	5.917	26,10	7.670	25,30	7.706	21,60	1.789	30,20
Kosovo	1.343	5,90	2.404	7,90	3.368	9,40	2.025	150,80
North Macedonia	702	3,10	927	3,10	1.172	3,30	470	67,00
Ukraine	138	0,60	173	0,60	163	0,50	25	18,10
Montenegro	53	0,20	70	0,20	113	0,30	60	113,20
Other[1]	78	0,30	101	0,30	150	0,40	72	92,30
Total	22.681	100	30.270	100	35.723	100	13.042	57,50

Source: Health Insurance Institute of Slovenia (2021).

Kosovo (9.4 percent), and North Macedonia (3.3 percent) (see Table 2). Compared to 2018, the number of posted workers who are nationals of BiH has increased by nearly 60 percent, from 14,450 in 2018 to 23,051 in 2020.

ALMOST SIX OUT OF TEN POSTED WORKERS FROM SLOVENIA ARE THIRD-COUNTRY NATIONALS

In 2020, almost 60 percent of the workers posted by Slovenian undertakings were third-country nationals. Only one out of three workers posted from Slovenia had the Slovenian nationality and 7 percent had another EU nationality. Compared to previous years, the percentage of posted workers who are Slovenian nationals and EU nationals has been decreasing, while the share of third-country nationals has been rising. The number of Slovenian posted workers has decreased by over 8 percent, from 22,525 in 2018 to 20,616 in 2020. In 2020, compared to 2018, the number of posted workers who are third-country nationals increased by 58 percent. Moreover, the number of PDs A1 issued for third-country nationals has increased by 78 percent – from 55,111 in 2018 to 98,352 in 2020. In 2020, the share of PDs A1 granted for workers who are citizens of BiH was 45.7 percent, while the share of PDs A1 granted for Slovenian citizens was only 24.8 percent (Health Insurance Institute of Slovenia 2021). As a result, less Slovenian nationals were posted abroad from Slovenia in 2020 than BiH nationals. The share of BiH and Slovenian nationals posted abroad in the total number of persons posted abroad in 2020 amounted to 38 percent and 34 percent respectively (Health Insurance Institute of Slovenia 2021).

The breakdown by the sector of activity shows that in all four sectors, i.e., international freight transport, installation/assembly and servicing, construction, and industry, most PDs A1 are issued for third-country nationals. The percentage is highest in the construction sector, where over 73 percent of PDs A1 were issued for third-country nationals and

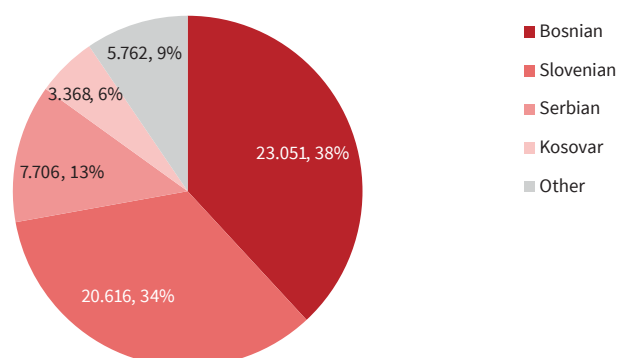
less than 19 percent for Slovenian nationals. In all four sectors, the highest share of PDs A1 was issued to the nationals of BiH. Again, the percentage for BiH nationals is the highest in the construction sector (49 percent).

FOUR OUT OF TEN OF ALL THIRD-COUNTRY NATIONALS EMPLOYED IN SLOVENIA ARE POSTED TO ANOTHER MEMBER STATE

It is estimated that one out of three third-country nationals of working age (which is a broader notion than the notion “employed” used in the next paragraph) and living in Slovenia was posted to another Member State in 2020. These figures contrast with only two percent of Slovenians of working age who were posted. For example, more than half of Serbians of working age and living in Slovenia were employed as a posted worker in another Member State.

The share of employed third-country nationals that were posted to another Member State is even higher. It is estimated that over 40 percent of all third-country nationals employed in Slovenia were posted to another Member State in 2020 (Vah Jevšnik et al. 2021).

Figure 1
Share and Number of Persons Posted from Slovenia by Nationality, 2020



Source: Health Insurance Institute of Slovenia (2021).

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CONCLUSION

An increasing number of third-country nationals are mobile across the EU as posted workers. In the case of Slovenia, most of them are low- and medium-skilled workers recruited from the former Yugoslavian republics, who would, as Lens et al. (2021) note, most likely have difficulties obtaining a work and residence permit from Member States that privilege highly skilled labor migration. In this article, we argue that recruitment and employment of persons from BiH and Serbia is facilitated by public employment agencies of all three countries and is based on the bilateral agreements concluded between Slovenia and BiH and Slovenia and Serbia. We discussed the figures that show that the largest share of persons recruited and subsequently posted by Slovenian undertakings are nationals of BiH.

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