

LABOUR MOBILITY REGULATION IN SOUTH-EAST EUROPE

Legislative assessment report

Croatia



IOM Development Fund
DEVELOPING CAPACITIES IN MIGRATION MANAGEMENT



International Organization for Migration (IOM)

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The research team produced seven separate reports for Albania, Bosnia and Herzegovina, Croatia, former Yugoslav Republic of Macedonia, Montenegro, UNSC resolution 1244-administered Kosovo¹, Serbia and one regional overview. The seven reports looked at the policies and regulative mechanisms which govern labour mobility, in terms of their approaches in facilitating movements of specific categories of migrant workers, consistency with evolving regional objectives and compliance with the EU *acquis* and standards. The regional overview presented an overall framework for regulating labour mobility from the perspective of existing international and regional norms and their relevance to the South-Eastern European (SEE) region. The regional overview explored the degree of harmonization of existing regulative frameworks within the SEE region and their coherence with the increasing labour market integration and overall socioeconomic development at national and regional levels.

The IOM study was carried out in close coordination and partnership with the Regional Cooperation Council (RCC), whose labour mobility study conducted in 2014 complements IOM’s legal assessment by looking at labour mobility from the socioeconomic perspective. It is the expectation that both IOM and RCC reports will help the governments in the region in operationalizing the South-East Europe 2020 Strategy adopted in 2013, which specifically foresees a common regional action on facilitating labour mobility as a tool towards stronger economic growth and closer integration with the EU. The initial consultations for such a common regional action took place in the SEE region in October 2014 within the framework of the RCC Working Group on Social Agenda, where representatives of various stakeholders expressed their views on possible topics and modalities of regional cooperation, including ministries of labour, education, interior, health, trade, chambers of commerce, business/employer association, trade unions, statistical offices, public employment services. The international partners and the governments in the region are committed to continuing the consultations to ensure that the proposed regional initiative addresses the needs in the region in the most effective, collaborative and realistic manner.

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¹ Hereinafter referred to as Kosovo/UNSCR 1244

List of abbreviations

CPESSEC	Centre of Public Employment Services of South – East European countries
EURES	European Employment Services Network
FDI	Foreign direct investors
GRETA	Council of Europe's Group of Experts on Action against Trafficking in Human Beings
ICTs	Intra-corporate transferees
ILO	International Labour Organization
MFEA	Ministry of Foreign and European Affairs
MICs	Migration Information Centres
MOI	Ministry of Interior
MS	EU Member State
O.G.	Official Gazette
OHRNM	Office for Human Rights and Rights of National Minorities
PES	Croatian Public Employment Service
SAA	Stabilization and Association Agreements
SEE	South East Europe
TCNs	Third country nationals

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1.0. Introduction

Republic of Croatia has a long history of labour emigration and a very short history of labour immigration. Number of labour immigrants to Croatia remains low, but available statistics clearly demonstrate steady interest of labour migrants from neighbouring countries in employment in Croatia. Continued shortages of workers in certain professions and concerning demographic trends warrant for more comprehensive and strategic approach to the labour migration. In addition, the Republic of Croatia became the EU Member State at the external borders of the Union, which could contribute to the larger influx of voluntary and involuntary migrants from third-countries, among which certainly from South-East European (SEE) countries.

In recent years, Croatia has aligned and harmonized its national legislation to the EU *acquis* in all areas of law, including migration law. Harmonization of migration law was a particular challenge due to very recent EU directives adopted in the area of common migration policy that provide for a large margin of appreciation in transposition of provisions. As a result of that process, Croatian national migration legislation currently consists of rather complex set of legal norms, among which many provisions are vague and provide for discretionary power of the competent body. While the EU common migration law is shifting towards rights-based approach, new Member States, including Croatia, still struggle with traditional, protective approach towards migration. Therefore, their migration policies frequently reflect higher emphasises on the prevention of illegal migration, fight against international crimes and forced migrations, rather than strategic, targeted approach towards attracting and facilitating of foreign investments, stimulation of labour migration and measures aimed at attracting the most qualified labour migrants. In regional context, Croatia is perceived as a leading country of employment for SEE labour migrants, but this position is not evident in migration related policy documents and laws.

The principal objective of this report is to provide in-depth analysis of current Croatian migration legislation in regards to the labour mobility of SEE nationals. The analysis will include reference to other third-country nationals and the EU nationals, particularly if they are holders of one of the specific residence statuses such as Blue Card holders or long-term residents. It will also provide an overview of the scope of labour and social rights of migrant workers, and assessment of overall compliance of the Croatian migration legislation to the EU *acquis*. In conclusion, the report will provide basic recommendations for amendments of applicable laws and regulations which could facilitate labour mobility, particularly regional, SEE labour mobility.

2.0. Regulative framework and its alignment with the EU *acquis*

2.1. Overview of main policies governing labour mobility in the country

The Republic of Croatia does not have a separate policy document, action, plan or strategy on labour mobility, and no active position of the Government on promoting regional labour mobility in the South-East Europe has been openly expressed so far. The main national strategic document in the area of migration is the Migration Policy of the Republic of Croatia for the period 2013-2015 (hereafter referred to as “the Policy”), developed by the Ministry of Interior (MOI) and adopted by

the Government in February 2013.¹ The Policy only marginally reflects labour migration in points 2.3. and 2.4. specifying the measures aimed at updating labour needs in order to put forward a proposal for measures to address those needs through annual quota for employment of foreigners as well as potential for employment of nationals abroad). The Migration Policy also contains Integration Policy part, specifying an involvement of the Ministry of Labour. The chapter dealing with Croatian diaspora does emphasise the need to establish a catalogue of foreign employment and investment opportunities in Republic of Croatia (p. 7.2). Finally, the Migration Policy refers to further legislative regulation of labour mobility,² but national policy towards labour migration of third country nationals has not been devised up to date. In the Report on Discrimination for 2012, the Ombudsman noted that the Policy was directed only towards the competencies of the Ministry of Interior, but failed to involve other sectors of the state administration.³

Other strategic documents in the area of socio-economic development do not specifically address or reference labour migration. The Strategic Plan of Ministry of Labour and Pension System for the period 2014-2016 only refers to intra-EU migrants in the context of portability of social security benefits within the EU.⁴ The last Strategic Framework for Development (covering the period 2006-2013) merely acknowledged shortages of qualified labour in certain industries, compensated by the employment of migrant workers, but without specifying branches faced with shortages.⁵ The Joint Assessment of the Employment Policy Priorities of the Republic of Croatia adopted in 2008 considered immigration as beneficial to “offset some of the effects of the current ageing of the population”.⁶

2.2. Key institutions involved in labour mobility regulation and their main functions

The Government of Republic of Croatia has competency in setting up the annual quota and setting up the list of regulated professions as per Law on Regulated Professions and Recognition of Foreign Qualifications.⁷

The MOI has an overall competency in migration management, including the implementation of the Migration Policy, law enforcement and labour mobility regulation. The Ministry is responsible for the implementation of the Aliens Act and its Regulations, meaning that it has competency over decisions on entry and residence, issuance of travel documents, passports, visas and identity documents; issuance of single permits and law enforcement measures, including expulsions and repatriations.

The Croatian Public Employment Service (PES) has a competency over labour market regulation, including information management. It provides advisory support to the Government in the area of labour mobility of migrants, for instance in the area of setting annual labour quotas, and carries out job search counselling for the general population, including migrants who qualify for such services. The PES also implements bilateral agreements on social security that contain a clause on the aggregation and assimilation of employment insurance specifying entitlement to unemployment benefits. The Croatian PES is members of the European Employment Services Network (EURES) and as such acts as an intermediary in job mediation within the European Economic Area (EEA) and Switzerland, provides all necessary employment related information to Croatian nationals, EU nationals and third-countries nationals. The EURES-associated information system is operational in Croatia and serves the labour market through four regional contact points - EURES Advisers in Zagreb, Rijeka, Osijek and Split. In addition, there is a network of EURES Assistants in all field offices of the Public Employment Service. The plan is to expand the existing network of the EURES Advisers

to facilitate improved cross-border cooperation with the employment services in Hungary and Slovenia.

The Office for Human Rights and Rights of National Minorities (OHRNM) is a leading body in the implementation of the Action Plan for Removal of Obstacles in Realization of Certain Rights in the Area of Integration of Foreigners in the Croatian Society in the Period 2013-2015.⁸ It also holds competencies in the area of implementation of anti-trafficking measures, including prevention of human trafficking that involves migrant workers.

The Ministry of Foreign and European Affairs (MFEA) has overall competency in consular affairs, including approval of visa requests. MFEA, also in bilateral and multilateral initiatives, focusses, among others, on migration matters such as South-East Initiative. This initiative has Working Group for Migrations dealing with exchange of information and statistics, exchange of best practices in the area of migration management and legislation and measures aimed at combating organized crime related to migratory movements. MFEA is also in charge of the facilitation of information related to the acquisition of Croatian citizenship, although applications are dealt with by the Ministry of Interior. MFEA conducts regular training programs on prevention of labour exploitation and trafficking for its diplomatic staff.

The Ministry of Labour and Pension System has a role of national coordinating body for the implementation of the Law on Regulated Professions and Recognition of Foreign Qualifications (as per Art. 65 of the Law). The Ministry is also a competent body for Labour Inspectorate that is authorized to conduct inspections on the legality of employment of migrant workers and overall compliance of employment and work of migrant workers to the Croatian labour legislation.

The Croatian Pension Insurance Institute is in charge of implementation of portability of social insurance, when applicable. It is also the competent body in regards to all social benefits and entitlements stemming from social insurance of migrant workers in Croatia.

The Croatian Health Insurance Institute has overall competency in all health related matters, including health insurance of migrant workers, access to health services for particular categories of migrants, public health schemes, implementation of bilateral agreements regulating provision of health services and approval of health care entitlements to migrant workers contributing to the national health insurance system.

The Ministry of Social Policy and Youth is in charge of implementation of social welfare entitlements of migrant workers, including parental and childcare entitlements and disability entitlements.

The Croatian Chamber of Commerce deals with the promotion of foreign investments, through its Investment Promotion Centre. The main role of the Centre is to attract foreign direct investments through provision of information and linking potential investors with project holders, facilitation of communication with the institutions on national and local level and support to the investors in administrative matters. The Centre also organises individual, tailor-made visits of potential investors to Croatia and employs its network of 20 County Chambers in Croatia and representative offices abroad.

The State Office for Croats Abroad implements various programs and projects targeting Croatian diaspora, mainly focusing on the Croatian language and culture. According to the publicly available information, the Office is not involved in promotion of foreign direct investments.

The Croatian Heritage Foundation has a very similar mandate to the State Office for Croats Abroad in implementing cultural and language programs for Croatian diaspora.

In addition to line ministries and specialized offices, there are other institutions whose functions are relevant for labour mobility. Specifically, **the State Statistical Office and the Ministry of Interior** collect and analyse migration statistics.

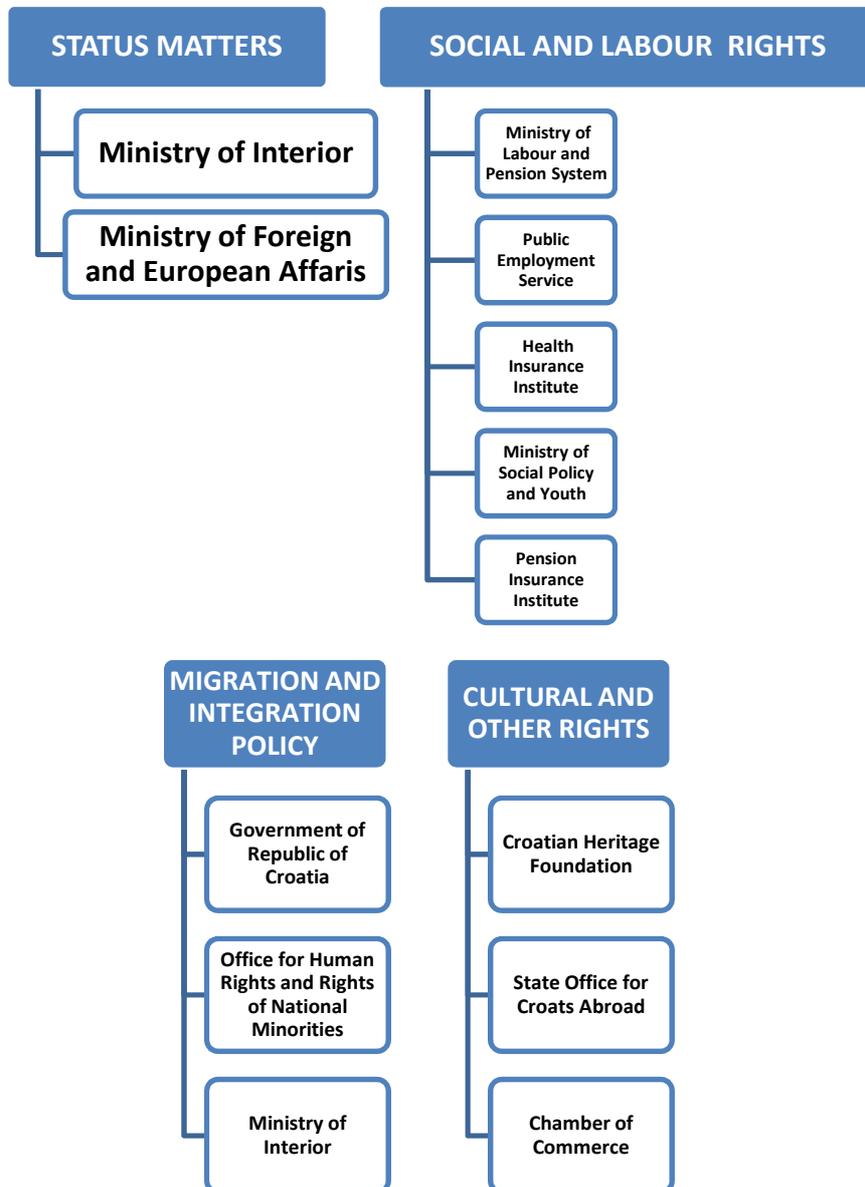


Figure 1. Key institutional competencies in labour migration

2.3. International and Regional framework regulating labour mobility to and out of the country

Bi-lateral agreements and other arrangements specifically on labour mobility within SEE

According to information of the Croatian Public Employment Service, there are no bilateral agreements covering labour mobility within the South East Europe (SEE) region.⁹ The only bilateral agreements in force are those on social security that the Republic of Croatia has concluded with

Bosnia and Herzegovina, Serbia, former Yugoslav Republic of Macedonia and Montenegro. These agreements cover the aggregation and assimilation of employment insurance that provides entitlement to unemployment benefits.

The Croatian Public Employment Service has concluded bilateral agreements on technical cooperation with employment service offices of Bosnia and Herzegovina, Montenegro, Hungary and Germany. Regionally, the Public Employment Service is involved in multilateral cooperation through membership in the Centre of Public Employment Services of South – East European countries (CPESSEC), along with Bosnia and Herzegovina, Bulgaria, Montenegro, Croatia, former Yugoslav Republic of Macedonia, Romania, Slovenia, Serbia and Turkey.

The mutual recognition of expulsion orders has been bilaterally regulated by 28 readmission agreements signed between the Republic of Croatia and 26 countries, among which are the all SEE countries. Agreements on the expulsion and readmission of persons who illegally entered or resided in both countries were signed and promulgated by law in 2002 with the former Yugoslav Republic of Macedonia, in 2005 with the Government of Albania, in 2010 with the Government of the Republic of Serbia and the Government of Bosnia and Herzegovina, and in 2013 with the Government of Kosovo/UNSCR 1244. All regional readmission agreements are in force, except the agreement signed with the Government of Kosovo/UNSCR 1244.

2.4. National framework regulating labour mobility to and out of the country

2.4.1. General access to labour market

The EU nationals are the only category of labour migrants who enjoy almost unrestricted access to the Croatian labour market, with the exception of access to regulated professions. Third-country nationals enjoy conditioned access to the Croatian labour market, mainly dependant on their profession (which might be exempted from quota), nationality, existence of the visa regime and knowledge of the local language that might prevent them from being eligible to apply for certain jobs.

SEE citizens do not enjoy any particular privileges in accessing the Croatian labour market or any privileges in obtaining residence status, as compared to other categories of migrant workers. Moreover, there is insufficient public awareness on the legal obligation of Croatia to provide SEE nationals, whose countries have concluded Stabilisation and Association Agreements (SAA) with the EU, with a more favourable treatment as regards working conditions, remuneration or dismissal. This obligation stems from specific provisions of SAAs.²

The Republic of Croatia does not have a special work visa and only a limited number of migrants who do not need visa can extend their residence status in the country. The possibility to change residence status after entry is available only to Blue Card holders and temporary residents who qualify for long-term residence status.

² Example is SAA between Republic of Serbia and the EU, Art. 49 which specifies: „treatment accorded to workers who are nationals of Serbia and who are legally employed in the territory of a Member State shall be free of any discrimination based on nationality, as regards working conditions, remuneration or dismissal, compared to nationals of that Member State”.

Permanent residence status application includes a test on local culture and customs and fluency of the Croatian language. These are the same requirements that are used as conditions for obtaining the Croatian citizenship and as such have been heavily criticized as overly complex and unjustified as a pre-condition for permanent residence status.

Recent changes of migration legislation have introduced a single (residence and work) permit. All labour migrants are required to obtain single permit, while other migrants who migrate for other purposes than work, are eligible for temporary and permanent residence permits. Aliens Act recognizes 25 categories of migrants who are eligible to work in Croatia for 30, 60 or 90 days per year based on a work certificate (Art. 82 and 83 of Aliens Act). The approval of work certificate is subject to accelerated procedure. The permit is usually issued on the same day when the application is submitted.¹⁰

The Croatian Aliens Act does not prohibit filing a new application for another type of residence upon rejection of the previous application. Unless a foreigner needs a visa, he/she is allowed to submit a new application at the local police station (Art. 48 of Aliens Act). A foreigner who lost a job without his/her fault has a right to stay in the Republic of Croatia until the expiry of the single permit (Art. 91 of Aliens Act). The appeal on a decision related to residence status or rejection of a work permit would have a suspensive effect. A second instance appellate body considering matters on rejected temporary residence is the Appeal Commission appointed by the Government of the Republic of Croatia. A second instance appellate body on negative decisions on single permits due to fulfilment of annual quota, negative decisions on application for permanent residence according to Article 95. Par. 2. of the Aliens Act, cancellations of permanent residence or expulsion orders is the Administrative Court (Art. 50, par. 3 of Aliens Act). Competent body can reject an application for single permit if an employer previously violated labour and social security laws (Art. 82 of Aliens Act).

In the 2013 Annual Report, the Ombudswoman emphasised lengthy procedures for approval or extension of temporary or permanent residence permits at the Ministry of Interior.¹¹ This resulted in loss of social rights or the right to work. An additional obstacle to effective legal protection is significant backlog of cases before the Administrative Court, an appellate body for status matters of foreigners.

Data protection is regulated by the Aliens Act and the Law on Data Protection.

A one-stop-shop for migrants does not currently exist in the Republic of Croatia. The overall competency for decision making on eligibility for residence and work permit is with the Ministry of Interior, while the Croatian Public Employment Service provides employment related information to migrant job seekers. During 2010 – 2012, the Croatian Public Employment Service with support of IOM was operating four migration information centres (MICs) in regional Employment Service Offices (Zagreb, Rijeka, Split and Osijek) which provided counselling and reference services to foreign migrants in Croatia. Currently, the European Employment Services Network (EURES) information centres replaced MICs, and EURES advisers provide employment-related information to third-country nationals.

The Government does not explicitly reference promotion of FDI within migration context, although the Aliens Act allows for the accelerated procedure for the investors, subject to certain conditions. Options to change employer once in the country are very limited and available to permanent residents and their family members and Blue Card holders who have to maintain the same highly qualified status, fulfil requirement of the salary, and other conditions.

Labour market protection mechanisms and measures ensuring preferential treatment of national labour force

The main protection mechanism limiting access of foreigners to the Croatian labour market is the quota system. The Government of Croatia issues yearly a quota decision based on the projections of labour shortages reported by employers, the Ministry of Labour, the Croatian Employment Service, the Croatian Chamber of Economy, the Croatian Chamber of Trades and Crafts and representatives of social partners. Approval of a high number of work permits outside of quota questions the justification for the existence of the quota system. In 2011, 566 migrants were employed within the quota system, while 1436 migrants were employed outside of quotas. In 2012, out of 4641 permits, 2534 permits were outside of quota system and 2095 within the quota system. In 2013, 2653 work permits were issued outside of quota system as compared to 329 approved quota permits and 129 issued quota permits.¹²

The Aliens Law regulates employment outside of quota system in Art. 76 specifying fifteen categories of labour migrants qualifying for single permits outside of quota system such as daily migrants, key personnel, inter –corporate transferees and self-employed foreigners.

Another protection mechanism ensuring preferential treatment of nationals is justification of employment of a foreign worker. According to the Regulation on Status and Work of Foreigners in Republic of Croatia, employer is required to enclose explanation justification of the employment of the foreigner, including information on his professional competencies, qualification and working experience and justification on why the position cannot be fulfilled from the Croatian national labour market. Police Administration of Police Station then may check with the Croatian Public Employment Service if the position indeed cannot be fulfilled from the Croatian national labour market. The applicable laws and regulations do not stipulate obligation to advertise the vacancy in the national labour market.¹³

2.4.2. Regulation of employment of special categories of labour migration

Cross-border workers

Daily migrants or cross-border workers are eligible to obtain work permits outside the quota system, but under the condition of reciprocity, i.e. only applicable to nationals of countries that provide the same right to Croatian nationals as per Art. 76 of the Aliens Act. Daily migrants are not entitled to calculation of employment period in Croatia towards the minimum time requirement of five years that would qualify them to obtain a permanent residence status in Croatia (Art. 93 of Aliens Act).

Seasonal workers

The Croatian Aliens Act does not contain any particular provisions related to the scope of rights of seasonal workers or a facilitated application procedure for seasonal workers. They apply for temporary single permit as all other categories of migrants and are subject to pre-determined labour quota, as per Art. 47-54 of the Aliens Act. Criteria for admission, scope of rights, grounds for refusal and procedural safeguards for seasonal workers are the same as for all other temporary residents (see 1.3), with the exception of ineligibility for family reunification as per Art. 55 (4-3). In addition to all other grounds for refusal to grant temporary residence, seasonal workers may be subject to a special seasonal employment quota as per Art. 74(5) of the Aliens Act. The residence of seasonal workers is limited to a maximum of six months within one year and they have to remain at least six

months outside of the Republic of Croatia before becoming eligible to re-apply for seasonal work (Art 80(4) of the Aliens Act). The Croatian law does not envisage any legal possibility for the issuance of multi-seasonal worker permits or re-issuance of permits for the same workers.

Highly-qualified workers

The criteria for Blue Card applicants are the same as for applications for temporary residence (e.g. a proved purpose of stay, a valid travel document, adequate resources to maintain him/herself, health insurance, absence of prohibition of entry and residence in Croatia, not posing threat for public order, national security or public health), plus three additional criteria: a work contract for a highly qualified job valid for at least one year, a proof of high qualification and a gross annual salary amounting to at least 1,5 times of the average gross annual salary, calculated based on the official state statistics (Art. 191 (5), (6), 86 (5) of the Aliens Law). The validity of residence permits for highly skilled third country nationals (TCNs) is set to a maximum of up to two years. If the period of employment is shorter than two years, the Blue Card's validity is set based on the period indicated in the work contract, with additional three months (Art. 191 (3), (4) of the Aliens Act). There are no specific provisions in the Croatian legislation which stipulate safeguards for ensuring the ethical recruitment principle.

Regarding the recognition of qualifications, Blue Card applicants will face a very limited, if any, access to over 200 regulated professions. The list of regulated professions was adopted by the Government of Republic of Croatia in May 2013 on the basis of Article 72 p. 1. of the Law on Regulated Professions and Recognition of Foreign Qualifications (Official Gazette No 124/09 and 45/11). In order to qualify for work in any of the regulated professions, applicants must satisfy criteria stipulated by the professional chambers. Another obstacle to foreign workers' employment in regulated professions is a common criterion of citizenship. The only possibility of broadening access of the highly qualified worker to other economic sectors after two years of legal employment is a change of status. The Blue Card holder is eligible to apply for permanent residence after 5 years of uninterrupted residence in Croatia, or anywhere else in the EU, provided two of the five years of residence in Croatia (Art. 199 of the Aliens Act).

Intra-corporate transferees (ICTs)

ICTs are eligible to apply for a single permit outside of the quota system (Art. 76 (4)) which has a longer validity period than other single permits (2 years), unless specifically requested otherwise (Art. 80 (3), the Aliens Act). The conditions of entry and residence for ICTs are the same as for other temporary residents. ICTs' family members can apply for family reunification as stipulated in Art. 55 but enjoy the same scope of rights as family members of other temporary residents (Art. 61 – rights to education, vocational training, work and self-employment).

Foreigners' access to prioritized sectors of labour market

The Aliens Act does not stipulate any specific procedure for researchers but instead introduces an additional requirement on top of the already existing requirements for temporary residence, except the condition to obtain health insurance. Art. 64 of the Aliens Act provides that temporary residence for the purpose of scientific research will be approved if the researcher has a hosting agreement and provides evidence documenting the purpose of his/her stay, a valid travel document, adequate resources for maintenance, absence of a prohibition of entry and sojourn in the Republic of Croatia and if he/she does not pose threat to public order, national security or public health (Art. 54). A

scientific residence permit is valid for up to one year (Art. 64(2)). In a case of a hosting agreement concluded in another EU Member State (MS), the scientist or researcher has a right to sojourn for up to three months without a residence permit (Art. 64(4)).

Foreign entrepreneurs may obtain a Croatian residence permit outside the annual quota only if a foreigner is self-employed in his/her own company or in a company in which he/she holds a share exceeding 51% or in his/her own craft (Art. 76, par.5. of the Aliens Act). The law conditions the entrepreneur status by the obligation to invest at least HRK 200.000,00 in the establishment of a company or craft; to ensure that at least three Croatian nationals have been employed; to document that his/her gross salary corresponds at least to the amount of an average gross salary paid in the Republic of Croatia in the previous year; to ensure that the company or craft operates without losses; and to enclose evidence of the settled tax obligations and contributions in the Republic of Croatia (Art. 78, pr. 3 of the Aliens Act). In addition to this, a foreign entrepreneur has to fulfil all other requirements for temporary residence. Foreign entrepreneurs would need to fulfil seven conditions for temporary residence, should they wish to establish their business in the Republic of Croatia.). The law does not stipulate a procedure for accelerated approval of a residence permit for entrepreneurs.

Foreign direct investors (FDIs) can obtain a single permit outside of the annual quota if they meet general temporary residence criteria and if they perform key activities in a company, or own at least a 51 % share in such a company. Other conditions include that the company is a holder of incentive measures in accordance with a regulation on investment promotion, or carries out strategic investment projects in conformity with the regulation on strategic investment projects of the Republic of Croatia (Art. 79 of the Aliens Act and provisions of Law on Investments and Promotion of Investment Climate (O.G. 11/12, 28/13). The competent authority is obliged to decide on the application for a single permit within 30 days of submission of the application (Art. 79, par. 2 of Aliens Act).

Shortage occupations (health sector; ICT; recognition of foreign diplomas)

Foreign professionals in the economic sectors which experience labour shortages have to apply for residences and work permits within the established Croatian annual quota. The Aliens Act does not stipulate any favourable treatment or a facilitated application procedure based on the type of the profession that the migrant workers possess. The only exception is the stipulation of a 30-day decision deadline for FDI applicants.

Recognition of diplomas depends on the sector because migrant workers specialized in any of over 200 regulated professions have to apply for recognition of diplomas at the professional chamber or the association which grants access to a specific regulated profession, as stipulated by the Law on Regulated Professions and Foreign Qualifications (O.G. 124/2009, 45/2011). Migrant workers specialized in non-regulated professions have to submit application for recognition of qualifications to the Agency for Science and Higher Education in Croatia.

Students

TCN students have to fulfil all the requirements as other temporary residents (Art. 54, see above), in addition to fulfilling following requirements: studying at the University in the Republic of Croatia, participating in student exchange or youth mobility program, intension to do traineeship through an authorized organization or based on the international of inter-university agreements (Art. 63). Art. 73 (6) of the Aliens Act stipulates that a student can work without a permit and outside of the quota

only when he/she performs tasks through authorized intermediaries, without establishing proper employment. The Law does not stipulate a number of working hours per week or per month in such employment.

Volunteers

Art. 82 (9) of the Aliens Act stipulates that unremunerated volunteers working in non-profit associations and institutions in the Republic of Croatia in accordance with special regulations or based on international exchange and volunteer cooperation programmes are eligible to work based on a work certificate up to 90 days per year. Should volunteers decide to reside and work in the Republic of Croatia for longer than 90 days, they can apply for a residence and work permit outside the annual quota, under conditions prescribed in Article 82 paragraph 2 and 4 of the Foreigners Act.

Sports/Athletes

According to the Aliens Act, professional athletes are eligible to obtain a single permit outside of the annual quota (Art. 76). The national Sports Law stipulates that national sport associations regulate the right of foreign athletes to play for Croatian clubs, as well as the conditions of participation in sports games (Art 47, par. 6).¹⁴ The Law explicitly excludes EU nationals from the notion of “foreigners.” i.e. EU nationals have the same rights as Croatian nationals. In the same time, Regulations of certain sports associations, such as basketball and volleyball associations, were not amended following the EU membership of the Republic of Croatia. Thus, they still do not differentiate between EU nationals, nationals of countries that have entered into the SAA with the EU and other foreigners. Thus, EU nationals can play in Croatian sports clubs in limited numbers and do not enjoy equal access to professional sports in the Republic of Croatia based on their nationality. This is not in accordance with the jurisprudence Court of Justice of the EU.¹⁵

Furthermore, Regulations of Sports Associations do not grant preferential treatment to nationals of the candidate countries (in the SEE region: Albania, Serbia, Montenegro and former Yugoslav Republic of Macedonia), based on their association agreements with the EU. Those agreements stipulate “treatment of legally employed workers free of any discrimination based on nationality. “ Consequently, the number of athletes from the SEE countries who can play at certain sports events in the Republic of Croatia is limited and they are equal to any third country nationals. This is not in accordance with the decision of the Court of Justice of the European Union related to the rights of nationals of non-Member States that concluded partnership or association agreements with the EU.¹⁶

Entertainment industry (also related to tourism)

According to Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) Reports, the Croatian legislation is fully compliant with the provisions of Trafficking and Smuggling Protocols, as well as with the Anti-Trafficking Convention.¹⁷ The Aliens Act provides a special status for victims of trafficking, allowing them to obtain temporary residence permit (Art. 66-71). The 2013 US State Department Trafficking in Persons Report for the Republic of Croatia emphasises that Croatia is a destination, source, and transit country for men, women and children subjected to sex trafficking, among which women and girls from Serbia and Bosnia and Herzegovina are explicitly mentioned. The Report also points to the issue of sexual exploitation of children on the Adriatic Coast during the peak tourist season.¹⁸ The US State Department repeatedly placed the Republic of Croatia into Tier 2 country rating *inter alia* due to a joint conclusion they shared with the Council of Europe that the real “extent of trafficking in Croatia could be considerably higher than that

identified by the Government.” The National Plan for Suppression of Trafficking in Human Beings Covering Period from 2012 to 2015 of the Government of the Republic of Croatia included a measure focused at “strengthening of proactive work of police officers in identification of potential victims of human trafficking during tourism season on the seaside”.

2.4.3. Regulation of return of migrant workers following the cessation of the contract/legal status of stay in the destination country

Expulsion and repatriation of migrant workers to their countries of origin is conducted in accordance with the provisions of the Aliens Act. The Republic of Croatia has signed readmission agreements with all SEE countries, which allows for a mutual recognition of expulsion orders. The agreement between Republic of Croatia and Kosovo/UNSCR 1244 is still not in force.

In addition to particularly vulnerable categories of migrants, such as minors, pregnant women, disabled persons, elderly, single parent families and victims of violence, certain categories of migrants such as long-term residents, temporary residents for more than 10 years and temporary residents married to Croatian nationals who reside in the country for three year also enjoy increased protection against expulsion (Art. 104 of the Aliens Act). The only migrants with an absolute protection against expulsion are persons under international protection. The issue related to the regulation of return of migrant workers is limited availability of a legal remedy. The only legal remedy available to certain categories of migrants whose legal status has ceased is the administrative dispute. Having in mind the backlog of cases before the Administrative Court and the lack of legal protection in a form of priority dealing with foreigners’ status disputes, it is difficult to evaluate current legal remedies as effective.

Despite the provision of the Art. 13 of the EU Return Directive, which requires Member States to provide “effective remedy before a competent judicial or administrative authority or a competent body composed of members who are impartial and who enjoy safeguards of independence,” Croatian law stipulates possibility of lodging an appeal against the decision on expulsion of the Police Administration or Police Station to the Appeal Commission appointed by the Government of the Republic of Croatia.¹⁹

Family reunification and formation for foreign workers and access of family members to the labour market

The Government of the Republic of Croatia is aware of the need to regulate the right to family unity, particularly because foreigners’ family members represent the highest number of TCNs residing in the Republic of Croatia. The Croatian Aliens Act has been partially harmonized with the provisions of the EU Directive on the right to family reunification. Family members enjoy the rights to education, vocational training, work and self-employment as regulated by Art. 61 of the Aliens Act. All categories of TCNs are eligible to apply for family reunification, except seasonal workers. The part regulating the duration of a residence permit has not been entirely aligned with the EU provisions. Family members in the Republic of Croatia are entitled to a residence permit for a maximum of one year or until the expiration of the temporary residence of the sponsor (Art. 59 (1)). The exception is the alien who has held a family reunification residence permit for an uninterrupted period of two years and to whom a new permit may be issued for additional two years (Art. 59(2) of the Aliens Act). Another specific feature of the Croatian law is provision of a condition for an at least two-year

residence of a sponsor prior to the application of family members, if the sponsor is employed within the annual quota (Aliens Act Art. 55 (2)).

The Croatian law requires fulfilment of several conditions in order to qualify for family unity (evidence of marriage or a long-lasting partnership, a valid travel document, adequate resources for maintenance, health insurance, absence of a prohibition of entry and residence in Croatia, not posing threat for public order, national security or public health). Different from the EU Directive on family reunification, the Croatian law does not require proof of accommodation, nor does it require compliance with national integration measures. Thus, we can assess current requirements for family reunification as very favourable, facilitating the realization of the right to family unity. An autonomous residence permit is available to family members and cohabitation partners after the uninterrupted period of residence of four years, or three years if the sponsor has passed away (Art. 60 of the Aliens Act). The Action Plan on Removal of Obstacles to Integration of Foreigners in the Republic of Croatia elaborates the integration policy for foreign nationals but without specific reference to family members or to A Common Agenda for Integration, Framework for the Integration of Third-Country Nationals in the European Union and the European Agenda for the Integration of Third-Country Nationals.

2.4.4. Social protection and labour rights of foreign workers

Social rights

The scope of social rights available to labour migrants is dependent on the residence and labour status in the Republic of Croatia.

The scope of health insurance in the Republic of Croatia for long-term residents, temporary residents who are legally employed and the EU nationals is equal to that of nationals, as regulated by provisions of the Law on Compulsory Health Insurance (O. G. 80/139) and the Law on Compulsory Health Insurance and Health Protection of Foreigners (O.G. 80/13, 137/13). By amendments adopted in 2013, the scope of beneficiaries eligible to compulsory health insurance has been expanded to family members of permanent residents, nationals of EU Member States holding temporary residence, unless they are insured in other Member States, and third-country nationals holding a temporary residence permit, unless otherwise stipulated by the Regulations (EZ) 883/2004, (EU) 1124/2012, international agreements or *lex specialis*.²⁰ Certain categories of temporary residents are particularly vulnerable, such as victims of trafficking, unaccompanied minors, victims of organized crime, persons holding refugee status for 10 years, *amicus curiae* – migrants who cooperate with state authorities on the criminal procedure against the employer or other persons who are granted temporary residence on serious humanitarian grounds (as per Art. 65 of the Aliens Act). There appears to be little justification for obliging these categories of migrants to pay for compulsory health insurance and they should be granted free health care during their humanitarian stay in the Republic of Croatia.

The Regulation on Status and Work of Foreigners in Republic of Croatia exempted temporary residents for humanitarian reasons from the obligation of presenting a proof of health insurance when applying for residence status (Art. 15 (2) and 16(2)).²¹ Due to the legal obligation of irregular migrants to pay for the emergency medical care, the European Committee on Social Rights has been repeatedly reporting that the situation in Croatia is not in conformity with Article 13 (4) of the European Social Charter, as there are no legally specified guarantees that all legally and unlawfully

present foreigners in need are entitled to emergency medical and social assistance.²² In addition, the national law does not contain any provision related to protection of the pre-natal, natal and post-natal health care, nor does it stipulate if delivery qualifies as emergency service.

Legal provisions related to migrant children are inconsistent and unclear, since undocumented migrant children are entitled to the same scope of health services as nationals, while children who are family members of irregular migrants accommodated in a reception centre have an obligation to pay for health care services. This is not in accordance with international human rights standards and the decision in the case *FIDH v. France*, which established obligation of states to provide free health care to all children, regardless of their residence status.²³

The Law on Pregnancy and Parental Support (O. G. 85/08, 110/08) and the Law on Child Allowance (O.G. 94/01, 138/06, 107/07, 37/08, 61/11, 112/12) stipulate as beneficiaries long-term residents, refugees and persons under the subsidiary protection (along with their family members). The Law on Pregnancy and Parental Support limits availability of such benefits only to foreigners who hold compulsory health insurance. The Law did not condition the use of benefits by the duration of residence in Croatia (Art. 8), while the Law on Child Allowance specifies that only aliens holding long-term (permanent) residence for at least three consecutive years prior to the submission of an application are eligible for the allowance (Art. 7.2.). Thus, seasonal migrant workers are excluded from the right to child's allowance for the period of contributions to the Croatian social security system. This is not in line with the Court of Justice of the European Union decision in *C – 611/10 Hudzinski* case, in which the Court considered that the EU applicable law regulations must be interpreted in a manner favourable to migrant workers. This is in the sense that the EU law must not have the effect of depriving a Member State, even if it is not the competent State, of the right to grant workers social benefits provided for under its national legislation. Therefore, the ECJ case might have significant impact on future jurisprudence and legislation in the Republic of Croatia. The European Committee of Social Right of the Council of Europe reported that foreign nationals in the Republic of Croatia are subject to an excessive length of residence requirement to become eligible for social assistance.²⁴

Access of children to education is regulated by the Law on Education in Elementary and Secondary schools (O.G. 87/08, 86/09, 92/10, 105/10, 90/11, 5/12, 16/12, 86/12, 126/12, 94/13) which stipulates eligibility to right to education for foreign children residing in the Republic of Croatia. EU nationals enjoy the rights to elementary and secondary education equal to the Croatians' right to education in the mother tongue, lessons on the culture of the country of origin and the right to extra-curricular beginners' lessons in the Croatian language (Art. 44 - 43). The Law provides the right to elementary and secondary education and the right to beginners' lessons in Croatian to children of asylum seekers, refugees, persons under the subsidiary protection and persons under temporary protection (Art. 46, p. 1). The Law does not regulate a scope of education rights of third-country nationals, so it is possible to assume that children of legally residing third-country nationals would be entitled to elementary and secondary education and catch-up lessons of Croatian. The Law is very explicit on the undocumented migrant's children, stipulating that only children who are accommodated in the Reception Centre for Aliens, if their forced removal has been temporary suspended and during the period, for which the removal has been postponed, will be allowed to attend elementary educational institutions. Conditioning right to education upon legality of the residence status is not in conformity with international human rights provisions, as under current circumstances the fundamental right to education is restricted to a small group of undocumented

migrants apprehended by the state authorities and awaiting to be forcibly deported. This is not in accordance with the universal right to primary compulsory education enshrined in Art. 28 of the Convention on the Rights of the Child and all other universal human rights instruments.

Pension rights acquired abroad are exportable in accordance with international agreements on portability of social rights between the Republic of Croatia and third countries. Up to present, the Republic of Croatia has concluded agreements with Australia, Bosnia and Herzegovina, Montenegro, Canada, Quebec, Serbia, former Yugoslav Republic of Macedonia and Turkey. Bilateral agreements between the Republic of Croatia and Bosnia and Herzegovina and Serbia regulate health insurance and health protection, pension and disability insurance, insurance for a work related accident and a professional disease, insurance for unemployment, while the agreements with Montenegro and former Yugoslav Republic of Macedonia regulate all above in addition to child allowance rights.

Labour rights

Only permanent residents and EU nationals enjoy labour rights fully comparable to nationals, except the unlimited access to regulated professions, which is mainly conditioned by the Croatian citizenship. The TCN temporary residents, posted workers, Blue Card holders and long-term residents enjoy the right to regulated maximum working hours, a minimum period of rest, paid annual leave, minimum remuneration including payment for the overtime, protection of health and safety at work, protective measures for pregnant workers and workers who recently delivered, who are breastfeeding or minor workers, protection against discrimination, the right to vocational training, education and study grants, social care, rights to pension insurance and health care, right to child allowance (subject to requirement of a three year residence), pregnancy and parenthood support allowance, tax benefits, access to goods and services markets, freedom of association and unionization, membership in organizations which represent the workers or employers, or organizations whose members perform a particular profession, including a right to fee for such work. All four categories also enjoy the right to recognition of diplomas and professional qualifications and job search counselling services (as per Art. 85a, 86 (5), (6), 98 (1) sub. 2-7, (2) of the Aliens Act. The scope of labour rights for TCNs provided by the Aliens Act is aligned with the scope of labour rights of Blue Card holders as per Art. 14. of Blue Card Directive All TCNs should conclude a labour contract with the employer, but the work without a labour contract has the same legal effects, as per provisions of the national Labour Law (Art. 12 and 13).²⁵

Long-term residents, family members of a sponsor and researchers enjoy the unrestricted right to employment and self-employment and, therefore, full labour market mobility as per Art 73 paragraph 3 of the Aliens Act.

Due to an incomplete transposition of the EU Employer Sanctions Directive into the Croatian legislation, irregular migrants do not enjoy adequate legal protection of their labour rights. The Aliens Act omits to include the right to the outstanding remuneration and the obligation of the employer to cover the costs arising from sending back payments to the country to which the third-country national has returned or has been returned (as per Art. 6, par.1 of the Directive). The national legal provisions on mechanisms to introduce a claim against the employer and eventually enforce a judgement against the employer for any outstanding remuneration, and on possibility to recover the outstanding remuneration without a need to introduce a claim, are largely absent from the Aliens Act. The Aliens Act only stipulates the right of the foreigner to information on compensation and the possibility to lodge a complaint or a legal action against the employer in accordance with *lex specialis* (Art. 107 paragraph. 5 of Aliens Act). Employment contract or a verbal agreement on employment concluded with an undocumented migrant directly violates migration law on authorisation of entry, residence and employment, entails criminal liability and any formal agreement of that kind would be null and void, so in this case there is no applicable domestic *lex specialis*.²⁶

2.4.5. Recruitment, facilitation and regulation of Private recruitment agencies (PRAs)

PRAs is regulated by the Law on Job Matching Services (O.G. 12/13) and the Regulation on Activities Related to Employment (O.G. 8/14), as part of employment legislation. The Law allows legal and private persons to perform intermediary job search services. The Regulation stipulates conditions

and procedures for licensing of private and legal persons who are performing intermediary services in Croatia.

Within the deadline of 30 days, the Ministry of Labour has to decide on the approval of work of intermediaries. In case of a negative decision, the applicant has a right to appeal before the Administrative Court. Upon a positive decision, the applicant has an obligation to officially enrol into the National Registry of Employment Services. The consequences for non-compliance with the conditions of registration of work are financial fines (Art. 72 of the Law on Job Search Services), the removal from the National Registry and the prohibition of work (as per Art. 32 of the Regulation). The Law obliges private recruitment agencies and the Public Employment Service to provide their services free of charge (Art. 3 par. 5 and Art. 29 par. 1). The sanction for the violation of this provision is a financial fee (Art. 72 of the Law on Job Search Services). The explicit provision stipulates that intermediaries can charge a fee only from employer (Art. 19, par. 1 of Law on Job Search Services). Inspection of work of private recruitment agencies or private persons who registered to provide intermediary services is a competency of Ministry of Labour and State Inspectorate as per Art. 68-69 of the Law on Job Search Services. Prior to recruitment, intermediaries are obliged to provide information to job seekers on the living and working conditions, the rights and obligations arising from the employment and other important elements of the legality of work and working conditions (Art. 4, par. 2 of the Law on Job Search Services). The same provision regulates liability of intermediaries towards job seekers in relation to the legality of their employment and work abroad, in accordance with the legislation of the country of employment. Intermediaries are also liable to pay all the costs arising from the repatriation of the migrant worker whom they posted abroad as a result of illegal employment or work. They are liable to all the damages that the job seeker could suffer as a result of incorrect information on living and working conditions and are obliged to provide all the necessary employment related assistance upon return to the Republic of Croatia (Art. 4, par. 3-4). There is no provision on information sharing with other agencies. Minimum national standards for intermediaries have not been established, except the provision of the Regulation on Activities Related to Employment related to the recruitment of minors that stipulates that in the interest of health protection, the development and the mental being of minors, the intermediary should respect special rules applicable to the employment of minors. Otherwise, the conditions for registration of PRAs are very simple and not entirely harmonized with the International Labour Organization Private Employment Agencies Convention (C181), particularly with Articles 4, 5, 8, 11 and 12. Despite the fact that the Republic of Croatia has not ratified the Convention C 181, the provisions of the Convention can nevertheless serve as a guidance for providing better legal protection to job seekers and migrant workers and, as such, are recommended for incorporation into the national laws and regulations as much as possible.

Overall, the Croatian regulatory framework on recruitment can be assessed as partially favourable to legal protection of job seekers and migrant workers.

2.4.6. Roles and responsibilities of employers of migrant workers as compared to employing nationals

Prior to the hiring a foreign worker, employers have the obligation to request a single permit, or a work certificate of the foreign worker and have to keep the copy during the entire employment period (Art. 73(8) of Aliens Act). The employer should not be held liable for accepting a forged document, unless he/she knew that the document presented was forged or falsified (Art.74 (9) of the

Aliens Act). The employer has an obligation to present residence or work related documents to the Labour Inspectorate (Art. 208 (1)), and has legal obligation to notify the competent Police Administration or Police Station within 8 days on the employment of foreigner who is allowed to work without single permit or work registration certificate (as per Art 73, par 10 of the Aliens Act). Still, in order to issue a single permit or a work certificate, the police authorities require a work contract, the employer's written justification of the need to hire a foreign worker and reasons why the post cannot be fulfilled from within the national labour force.²⁷

The existence of clearly stipulated sanctions for employers of irregularly residing foreigners is only partially transposed to the Croatian Aliens Act, which stipulates financial fees for violation of immigration legislation and the obligation of the employer to pay public contributions.²⁸ Croatian employers are also not liable to cover the cost of return of illegally employed migrants as stipulated in Art. 5 of the EU Employer Sanctions Directive. The serious infringement of human rights, such as particularly exploitative working conditions, employment of minors, victims of trafficking, etc., as stipulated by Art. 9 of the Employer Sanctions Directive, was not transposed to the Croatian Aliens Act. Other measures against employers of irregular migrants, such as exclusion from entitlement to some or all public benefits, aid, or subsidies, were not transposed into the Croatian legislation. The Aliens Act only stipulates the right to information on "possibility of receiving compensation of salary, and of the corresponding contributions in accordance with special regulations, and of the possibility of lodging an appeal or complaint against the employer" prior to the adoption of the decision on expulsion (Art. 107 (5) (5)). The Law does not regulate a mechanism to enforce an outstanding remuneration. It does envisage granting a temporary residence permit to those who cooperate with the competent bodies, if their participation is essential to the criminal procedure against the employer who employed him/her illegally (Art. 65 (4) of the Aliens Act). Undocumented migrants usually face a swift deportation from Croatia, which deprives them of a possibility to submit a substantiated claim before the competent authority or the court. In addition, Art. 224 of the Aliens Act stipulates a financial penalty the illegally employed migrant has to pay, which amounts to at least an equal amount of a three-month assumed remuneration. The procedures for conducting inspections and risk analysis over employment of irregularly staying foreigners are regulated by Art. 207 of the Aliens Act. Inspection related to work of a foreigner is a competency of the State Inspectorate (the Labour Inspectorate), while the inspection of a residence status is a competency of the Ministry of Interior.

2.4.7. Labour migration data and statistics

All the official records are kept in accordance with the Law on Protection of Privacy.²⁹ The State Inspectorate keeps the record on detected illegally employed foreigners, while the Ministry of Interior keeps residence related records. The State Statistical Office and the Ministry of Interior collect and analyse migration statistics.

3.0. Main findings, recommendations and conclusions

3.1. Overall compliance with EU *acquis*

The Croatian legislation is largely harmonized with the EU *acquis*, which had been one of the pre-conditions for the EU membership granted to the country in 2013. Still, there are areas of migration

legislation that have to be further approximated to the minimum EU common standards. A wide range of regulated professions and a complicated procedure of recognition of qualifications for those professions will influence the implementation of the Blue Card Directive and might deter highly qualified migrations. Rights of seasonal workers will have to be approximated to the standards set out in newly adopted Directive on Seasonal Work. Legal requirements for residence of scientists, investors and entrepreneurs are currently more complex than for other categories of migrants, while from the economic perspective, these are priority categories whose entry, residence and work should be facilitated to positively affect their decision to reside and work in the Republic of Croatia. The right to self-employment which would include other categories of migrants other than long-term residents and family members would also contribute to higher labour mobility. Further approximation in the area of labour rights of irregular migrants and their right to access health services and schooling would also be beneficial. The same applies to the removal of residence condition as eligibility criteria for social rights for temporary labour migrants and amendments to the legal regulation of labour rights of professional athletes.

3.2. Key gaps in compliance with the EU *acquis*

Not applicable due to the EU membership of Republic of Croatia and overall satisfactory compliance of Croatian legislation to the EU *acquis*.

3.3. Key legislative provisions acting as barriers to labour mobility towards the country and within the SEE region

The current Croatian legal framework could be more conducive to the facilitation of access of investors, entrepreneurs and highly qualified migrant workers to the labour market of Republic of Croatia.

Legal provisions on regulated professions could impede higher and easier access of migrant workers to those professions due to complex requirements linked to either Croatia citizenship or/and fluency in the local language. Further, existing the quota system significantly limits access of migrant workers to the Croatian labour market and does not reflect real labour needs. This is evident in high discrepancy between quota and out-of-quota work permits. Therefore, quota system should be re-considered and possibly replaced by more flexible labour market protection system such as labour market testing.

Complicated and lengthy procedures for issuance of single permits, general administrative deadline prescribed by the Law on General Administrative Procedures (O.G. 47/09) instead of specific timeframe specified in the Aliens Act and lack of sufficient protection measures against discretionary assessment of residence eligibility criteria could also impede access to the labour market. Thus, the Government might consider simplifying procedures and setting clear criteria for assessment

of residence eligibility. In the same time, migrants of all categories should enjoy access to an effective remedy in the form of a judicial review of migration status related decisions. The review by the same administrative authority should be limited or avoided.

The residence status of migrant workers in Croatia is currently attached to the specific employer, which is not fully in line with regional and international human rights recommendations. Particularly vocal in that regard were the Council of Europe and the European Court on Human Rights which both

pledged Member States to detach the residence status from the labour relationship in order to prevent labour exploitation.³⁰ Our suggestion is that migrant workers have independent residence status in the country and that employers are not involved in migration competencies of the state i.e. that employers are not obliged to apply for the approval or extension of residence or single permit.

Currently, migrant workers in Croatia are faced with a limited labour mobility within the labour market. Provisions on the possibility to change the employer while in the country could be amended to include other categories of migrants, particularly temporary migrant workers. In the same vein, the legislator might wish to consider expanding legal options for self-employment of various categories of migrant workers, as this proved to be beneficial to the national economies of traditionally successful migration destination countries, such as Canada, Australia, USA, etc.

Lack of regulation of rights of seasonal workers, as well as regulation on their residence status and social rights might increase incidence of labour exploitation and denial of rights recognized by the EU *acquis*. The overall Croatian migration legislation lacks protection mechanisms for particularly vulnerable categories of migrants, especially in the area of employment.

Lack of gender sensibility of national migration laws and the Migration Policy could negatively impact female migrations. Migration statistics are not gender segregated, thus making difficult to devise any gender sensitive migration strategy.

The legislative framework does not provide sufficiently meaningful measures aimed at facilitation of integration of migrant workers. The competency in implementation of integration measures for migrant workers could be shifted to local government authorities that are closer to migrants and more efficient in recognizing specific integration needs of migrants.

Finally, employers of irregular migrants should be legally excluded from public procurement contracts, as stipulated in the EU Employer Sanctions Directive.

3.4. Recommended steps in the mid-term perspective (up to 2020)

The Republic of Croatia could further align its migration policies and legislation to facilitate economic migration, skills recognition, portability of social benefits and protection against labour exploitation. Laws and regulations could additionally enable labour mobility of migrants through introduction of accelerated procedure for issuance of single permits. This is particularly crucial in the area of labour mobility of foreign investors and private foreign entrepreneurs. In that regard, facilitated access to regulated professions would directly contribute to the economic development of the country. The national legal framework which allows broader and easier access of third country nationals to regulated professions would certainly compensate for the existing labour shortages and negative demographic trends. The facilitated access of third-country nationals to the regulated professions in Croatia would also largely compensate for the on-going increased emigration of Croatian professionals (principally of health and IT professionals) to the EU Member States.

Having in mind the on-going economic crisis and continuously high levels of unemployment, the migration legislation can have significant influence on the creation of new jobs, business establishments and attraction of new technologies. In order to achieve that, the national migration policy should focus on measures that would promote regional labour mobility, particularly in the sectors where labour shortages exist. Thus, the conclusion of labour mobility agreements with the

countries in the region could decrease irregular migration and facilitate targeted, specialized labour migration.

Numerous existing links between the SEE countries would favour increased regional mobility. Primarily, this is related to the recognition of educational qualifications as the education systems of SEE countries have numerous similarities. Secondly, the majority of SEE nationals would not face language barriers, which would significantly facilitate local integration and job performance. Thirdly, current migration trends clearly show a continued high rate of regional labour and other forms of migration towards the Republic of Croatia in last decade. Nationals of Bosnia and Herzegovina, followed by nationals of Serbia and nationals of Kosovo/UNSCR 1244, have been for many years the most numerous applicants for temporary and permanent residency in the Republic of Croatia. It is realistic to expect that this interest will continue due to a higher average Croatian remuneration compared to other SEE countries, seasonal labour opportunities in tourism and agriculture and a higher rate of construction work due to tourism. Furthermore, the on-going lack of legislative and policy provisions which would specifically target regional migrants and provide them with legal protection against exploitation results in an increased vulnerability to labour and other forms of exploitation, as reported by trade unions. Another important point that needs further regulation is local integration in the Republic of Croatia. Integration might fall under the competency of local authorities and should address all issues related to the successful integration of migrant workers and their families.

Finally, the legislation related to the regulation of work of private employment agencies and intermediaries could be amended to reflect European and international standards of protection of migrant workers.

Conclusion

Regional mobility has been a reality in the Republic of Croatia for a past decade. Despite that, it has not been adequately acknowledged at the political level, probably as a legacy to previous regional conflicts and other political reasons. This is currently reflected in the Croatian Migration Policy and migration legislation that omit to stipulate regionally specific measures for the promotion of labour mobility of SEE migrant workers. Consequently, SEE migrant workers experience long-lasting procedures for the regulation of residence status, discretionary assessment of certain residence eligibility criteria, attachment of the residence status to a specific employer, denial of basic labour and social rights during employment in the Republic of Croatia and very limited, if any, access to collective bargaining. All of this contributes to increase of their vulnerability to exploitative and abusive practices by private employers. Proper legal regulation of bilateral or regional labour mobility would certainly prevent the above-mentioned abuses and would contribute to the safe, well-informed and mutually beneficial labour migration.

¹ Republic of Croatia, *Migration Policy of the Republic of Croatia for the period 2013-2015*. (Zagreb, 2013). Available from: <http://www.mup.hr/UserDocImages/ministarstvo/2013/MIGRACIJSKA%20POLITIKA%202013-2015.pdf>.

² Republic of Croatia, *Migration Policy of Republic of Croatia for the period 2013-2015*. (Zagreb, 2013). P. 7. Available from: <http://www.mup.hr/UserDocImages/ministarstvo/2013/MIGRACIJSKA%20POLITIKA%202013-2015.pdf>.

³ Republic of Croatia, *Report on Discrimination for 2012, Ombudsman, (2013) p. 39*. Available from: <http://www.ombudsman.hr/dodaci/lzvje%C5%A1%C4%87e%20o%20pojavana%20diskriminacije.pdf>.

⁴ Republic of Croatia, the Strategic Plan of Ministry of Labour and Pension System for the period 2014-2016. Available from: <http://www.mrms.hr/wp-content/uploads/2013/02/strateski-plan-2013-2015.pdf>.

⁵ Republic of Croatia, *Strategic Framework for Development 2006 -2013*. (2013). p. 16. available from: http://www.mrrfeu.hr/userDocImages/Publikacije/Strateski_okvir_za_razvoj_2006_2013.pdf.

⁶ Republic of Croatia, *Joint Assessment of the Employment Policy Priorities of the Republic of Croatia*. (2008) p. 9.

⁷ O.G. 124/2009, 45/2011.

⁸ Republic of Croatia & Office for human rights and the rights of national minorities, Action plan for the removal of obstacles to the exercise of particular rights in the area of integration of foreigners 2013 – 2015. (July, 2013). Available from: http://www.uljppnm.vlada.hr/images/30092013/Integration_Action_Plan.pdf

⁹ As per information provided during a phone interview with Ms. Vilma Mostahinić, Head of EURES Unit Department and International Job Service, Department for Employment, Croatian Employment Service Office, conducted on 23 June 2014.

¹⁰ Data provided for this report by the Ministry of Interior on 26 June 2014.

¹¹ Republic of Croatia, Ombudswoman's Report for 2013. (Zagreb, 2014). p. 48.

¹² Data provided by the Ministry of Interior, available from:

http://www.mup.hr/UserDocImages/Dokumenti/stranci/statistika/2013/pregled_potreba_NN144_12.pdf

¹³ According to Art. 23 (3) of the Regulation on Status and Work of Foreigners in Republic of Croatia, (O. G. 52/12, 81/13)

¹⁴ Sports Law, Official Gazette No 71/06, 124/10, 124/11, 86/12, 94/13.

¹⁵ C-13/76, Gaetano Dona v. Maria Mantero, 14 July 1976; C-415/93, Union royale belge des sociétés de football association ASBL v Jean-Marc Bosman, Royal club liégeois SA v Jean-Marc Bosman and others and Union des associations européennes de football (UEFA) v Jean-Marc Bosman, 15 December 1995, cited according to I.Z. Pivač, Economic Freedoms of the EU Analysed from the Point of Sports Organizations in Republic of Croatia, Pravni vijesnik, Faculty of Law Osijek, forthcoming.

¹⁶ C-265/03 Igor Simutenkov v. Ministerio de Educación Y Cultura and Real Federación Española de Fútbol (2005), cited according to V. Smokvina, Freedom of Movement of Workers in Context of Sports Labour Law, Collection of Judgments of European Court, (eds. N. Bodiroga-Vukobrat, D. Đerđa, A. Pošćić), Zagreb, 2011, pp. 71-91.

¹⁷ COE/GRETA, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Croatia. (Strasbourg, November 2011). Available from:

http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2011_20_FGR_HRV_en.pdf

¹⁸ US State Department, The Trafficking in Persons Report for the Republic of Croatia. (2013). Available from:

http://www.state.gov/j/tip/rls/tiprpt/2013/?utm_source=Subscribers&utm_campaign=35f27bd04c-Trafficking_Bulletin_Issue_9_July_20137_22_2013&utm_medium=email&utm_term=0_1002a3b355-35f27bd04c-92744149

¹⁹ Art. 108 of the Aliens Act.

²⁰ Art. 4 of Law on Compulsory Health Insurance and Health Protection of Foreigners (O.G. 80/13).

²¹ Regulation on Status and Work of Foreigners in Republic of Croatia (O. G. 52/12, 81/13).

²² European Committee of Social Rights, Conclusions XX-2 (2013), (CROATIA), Articles 11, European Committee of Social Rights, Conclusions XIX-2 (2009), (CROATIA), January 2010, Art. 13 and 14 of the 1961 Charter.

²³ International Federation of Human Rights Leagues (FIDH) v. France, Complaint No. 13/2003, European Committee on Social Rights, available at: http://www.escr-net.org/caselaw/caselaw_show.htm?doc_id=400976. (Accessed on 12. 06. 2014), H., Špadina, Social Rights of Migrants in Republic of Croatia: Right to Access to Health Care Services, Pravni vijesnik 2/14, forthcoming.

²⁴ Human Rights Council, Working Group on the Universal Periodic Review. Geneva, 1–12 November 2010, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (c) of the Annex to Human Rights Council Resolution 5/1, Summary of 11 stakeholders' submissions¹ to the Universal Periodic Review. A/HRC/WG.6/9/HRV/3, page 8, point 52.

²⁵ Labor Law (O. G. 142/09, 61/11, 82/12, 73/13).

²⁶ Špadina, H., Undocumented Migrant Workers' Right to Remuneration: Consequences of Incomplete Transposition of the Employer Sanctions Directive into the Croatian Law, Contemporary Legal and Economic Issues IV, (eds. Barković, I., Lulić, M.), ISBN 978-953-6072-72-9, 2013, Osijek, pp. 189-206

²⁷ Art. 23 (3) of Regulation on Status and Work of Foreigners in Republic of Croatia (O.G. 52/12, 81/13).

²⁸ Art. 212, 220 (2) (2) and 226 of Aliens Act.

²⁹ O. G. 103/03, 118/06, 41/08, 130/11, 106/12.

³⁰ Decisions of the European Court for Human Rights in cases Rantsev v Cyprus and Russia [2010] ECHR 25965/04 (7 January 2010) and Siliadin v. France, 26/10/2005. Application no. 73316/01.

4.0. Annex

4.1. List of key national legal documents

Laws and regulations

1. Aliens Act (O. G. 130/11, 74/13).
2. Constitution of Republic of Croatia (O.G. No 85/10, 76/10, 55/01, 41/01, 28/01, 124/00, 113/00, 8/98, 135/97, 56/90).
3. Labour Law (O.G. 142/09, 61/11, 82/12, 73/13).
4. Law on General Administrative Procedures (O.G. 47/09).
5. Law on Child Allowance (O.G. 94/01, 138/06, 107/07, 37/08, 61/11, 112/12).
6. Law on Compulsory Health Insurance (O. G. 80/139).
7. Law on Compulsory Health Insurance and Health Protection of Foreigners (O.G. 80/13).
8. Law on Data Protection (O.G. 103/03, 118/06, 41/08, 130/11, 106/12).
9. Law on Education in Elementary and Secondary schools (O.G. 87/08, 86/09, 92/10, 105/10, 90/11, 5/12, 16/12, 86/12, 126/12, 94/13).
10. Law on Investments and Promotion of Investment Climate (O.G. 11/12,28/13).
11. Law on Job Matching Services (O.G. 12/13).
12. Law on Pregnancy and Parental Support (O. G. 85/08, 110/08).
13. Law on Prevention of Discrimination (O. G. 85/08).
14. Law on Regulated Professions and Foreign Qualifications (O.G. 124/2009, 45/2011).
15. Regulation on Status and Work of Foreigners in Republic of Croatia (O.G.52/12, 81/13).
16. Regulation on Activities Related to Employment (O.G. 8/14).
17. Sports Law (O. G. 71/06, 124/10, 124/11, 86/12, 94/13).

Policies

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2. Republic of Croatia, Ministry of Interior
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4. Republic of Croatia, Ministry of Economy, Labour and Entrepreneurship
2008 *Joint Assessment of the Employment Policy Priorities of the Republic of Croatia*. Available from: file:///C:/Users/admin/AppData/Local/Temp/croatia_en-2.pdf
5. Republic of Croatia, Ministry of Labour and Pension System
2014 *The Strategic Plan of Ministry of Labour and Pension System for the period 2014 2016*. Available from: <http://www.mrms.hr/wp-content/uploads/2013/02/strateski-plan-2013-2015.pdf>.

Other documents

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http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2011_20_FGR_HRV_en.pdf.
2. European Committee of Social Rights
2010 Conclusions XX-2 (2013), (CROATIA), Articles 11, European Committee of Social Rights, Conclusions XIX-2 (2009), (CROATIA), Art. 13 and 14 of the 1961 Charter.
3. Human Rights Council, Working Group on the Universal Periodic Review
2010 Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (c) of the Annex to Human Rights Council Resolution 5/1, Summary of 11 stakeholders' submissions¹ to the Universal Periodic Review.
A/HRC/WG.6/9/HRV/3.
4. Špadina, H.
2013 Undocumented Migrant Workers' Right to Remuneration: Consequences of Incomplete Transposition of the Employer Sanctions Directive into the Croatian Law, Contemporary Legal and Economic Issues IV, (eds. Barković, I., Lulić, M.), ISBN 978-953-6072-72-9, 2013, Osijek.
5. Republic of Croatia, Ministry of Interior
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6. Republic of Croatia, Ministry of Interior
2014 Ombudswoman's Report for 2013. Available soon: <http://www.ombudsman.hr> (forthcoming)

7. United States of America, Department of State
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4.2. List of key international legal documents

Case-law

1. C-13/76, Gaetano Dona v. Maria Mantero, 14 July 1976; C-415/93, *Union royale belge des sociétés de football association ASBL v Jean-Marc Bosman, Royal club liégeois SA v Jean-Marc Bosman and others and Union des associations européennes de football (UEFA) v Jean-Marc Bosman*, 15 December 1995, cited according to I.Z. Pivač, Economic Freedoms of the EU Analysed from the Point of Sports Organizations in Republic of Croatia, *Pravni vijesnik*, Faculty of Law Osijek, forthcoming.
2. C-265/03 *Igor Simutenkov v. Ministerio de Educación Y Cultura and Real Federación Española de Fútbol* (2005), cited according to V. Smokvina, Freedom of Movement of Workers in Context of Sports Labour Law, *Collection of Judgments of European Court*, (eds. N. Bodiroga-Vukobrat, D. Đerđa, A. Pošćić), Zagreb, 2011.
3. *International Federation of Human Rights Leagues (FIDH) v. France*, Complaint No. 13/2003, European Committee on Social Rights, available at: http://www.escr-net.org/caselaw/caselaw_show.htm?doc_id=400976. (Accessed on 12. 06. 2014), H., Špadina, Social Rights of Migrants in Republic of Croatia: Right to Access to Health Care Services, *Pravni vijesnik* 2/14, forthcoming.
4. *Rantsev v Cyprus and Russia* [2010] ECHR 25965/04 (7 January 2010) and *Siliadin v. France*, 26/10/2005. *Application no. 73316/01*.

List of European Union Directives

1. Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals. OJ L 157, 15.06.2002, p. 1–7
2. Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State. OJ L 343, 23.12.2011, p. 1–9
3. Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment. OJ L 155, 18.06.2009, p. 17–29
4. Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications. OJ L 255, 30.09.2005, p. 22–142

5. Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers. OJ L 94, 28.03.2014
6. Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research. OJ L 289, 03.11.2005, p. 15–22
7. Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer. OJ L 157, 27.05.2014, p. 1–22
8. Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals. OJ L 168, 30.06.2009, p. 24–32
9. Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers. OJ L 199, 31.07.2007, p. 23–29

4.3. Officials within following institutions consulted

Name	Institution/Department	Position	Date
Ms. Ines Krajčak	Ministry of Interior of Republic of Croatia	Assistant Minister of the Interior for Administrative and Inspection Affairs	26 June 2014
Mr. Zlatko Sokolar	Ministry of Interior of Republic of Croatia	Assistant Police Director-General, Head of Border Police Directorate	3 July 2014
Ms. Vilma Mostahinić	Employment Office Department for Employment, Croatian	Head of EURES Unit Department and International Job Service	23 June 2014