

# LABOUR MOBILITY REGULATION IN SOUTH-EAST EUROPE

*Legislative assessment report*

*The former Yugoslav Republic of Macedonia*



**IOM Development Fund**  
DEVELOPING CAPACITIES IN MIGRATION MANAGEMENT



International Organization for Migration (IOM)

## Disclaimer

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**Report prepared by:** Biljana Nastovska under overall guidance of the Labour Migration and Human Development Unit, IOM Regional Office in Vienna. This country report is a part of the broader IOM study “Labour Mobility as a Factor of Development in South-Eastern Europe” conducted within a project funded by the IOM Development Fund and implemented by IOM in partnership with the governments in the region in 2014.

The research team produced seven separate reports for Albania, Bosnia and Herzegovina, Croatia, former Yugoslav Republic of Macedonia, Montenegro, UNSC resolution 1244-administered Kosovo<sup>i</sup>, 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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<sup>i</sup> Hereinafter referred to as Kosovo/UNSCR 1244

## List of abbreviations

|       |                                   |
|-------|-----------------------------------|
| EU    | European Union                    |
| EURES | European Employment Services      |
| FDI   | Foreign Direct Investment         |
| ILO   | International Labour Organization |
| SEE   | South East Europe                 |
| TEA   | Temporary Employment Agencies     |

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## 1.0. Introduction

Migration in the former Yugoslav Republic of Macedonia has two sides - external emigration and immigration of foreign nationals to the territory of the country, with the former demonstrating a tendency to increase in the last two decades. Mostly the young and qualified nationals tend to leave the country and work abroad.

In the last two decades the forms of incoming migration flows have changed too. With the last EU enlargement, the former Yugoslav Republic of Macedonia has become a transit country for regular and irregular migration heading towards the EU. Given its geographic position, according to the National Resolution on Migration Policy, this tendency has a potential to grow further.

In terms of regional labour migration in South-East Europe (SEE) the country has not elaborated a structured policy on this issue so far, in the absence of an overall regional policy in this area. Due to the fact that most of the countries in the region were once a part of the ex-Social Federal Republic of Yugoslavia, the region as a whole is characterized by traditionally good relations in terms of labour mobility and protection of workers. The former Yugoslav Republic of Macedonia has signed bilateral agreements in the social and labour sphere and readmission agreements with the most countries in the region. However, those treaties need to be supported further in order to have effective implementation.

The present report presents an assessment of entry, stay and documentation procedures for foreign nationals who intend to enter and perform labour activities on the territory of the former Yugoslav Republic of Macedonia. It also gives an overview of regulations related to obtaining the long term residence status and rights that arise from this type of residence status. The analysis also summarizes procedures for foreign nationals to obtain a citizenship of the former Yugoslav Republic of Macedonia.

Other issues examined below are existing labour market protection mechanisms and measures ensuring preferential treatment of the national labour force. The report also describes situations when foreign nationals can access labour market on different bases grounds, focusing on the rights and obligations of the following categories of migrants while entering and residing on the territory of the former Yugoslav Republic of Macedonia:

- Cross-border workers,
- Seasonal workers,
- Highly-qualified workers,
- Intra-corporate transferees,
- Foreign entrepreneurs,
- Investors,
- Students/pupils,
- Researchers,
- Volunteers,
- Health professionals,
- Sports /athletes,

- Foreign workers in entertainment/tourism industry.

The report is defining the right to family reunification and the right of family members to accessing labour market and other rights, once they enter on the territory of the country.

In addition, the report is examining broader labour and social rights of foreign nationals residing on the territory of the country, such as unemployment and social benefits, medical protection, education and vocational training etc.

In terms of protection of migrant workers' rights, the report is also defining the authority of agencies for temporary employment operating in the former Yugoslav Republic of Macedonia, and the way those agencies are regulated to guarantee workers minimum rights when employed on the territory of the country.

Finally, the report is identifying areas where the national legislation and practice is aligned with the EU minimum standards on labour migration, as well as where gaps still exist.

This report is a part of a broader regional study and has an intention to contribute to promoting labour mobility in the region already traditionally characterized by a spontaneous mobility and workers' movement. Most of the countries in the region, including the former Yugoslav Republic of Macedonia, are already candidate countries or have applied for an EU membership. With a consistent regional migration policy, all the countries in the region will benefit from joint efforts to align with the EU standards.

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

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

The Resolution on Migration Policy 2009 – 2014 is the main policy document in the country reflecting strategic directions in the area of migration management, including labour mobility, for the period 2009-2014. The Resolution is comprised of three parts, including an introductory part that provides an overview of the international context in which migration flows take place, as well as lists key postulates, main elements, criteria and principles of the migration policy. The second segment is assessing the situation concerning migration processes in the country from the perspective of the visa regime; regular migration (emigration abroad, stay and employment of foreign nationals in the country); asylum; integration of foreign nationals; citizenship and irregular migration. The third part sets directions and goals of the migration policy in line with the determination to conceive a comprehensive and consistent policy regarding the issue of external migration.<sup>1</sup>

The Resolution on Migration Policy 2009 – 2014 recognizes the importance of labour mobility and proposes measures to support temporary emigration of nationals and general circulation of workforce. The political will of the Government to support regional and wider labour mobility is also demonstrated by continuous efforts to conclude new, or to enforce existing, bilateral agreements on seasonal labour migration. Moreover, according to the Policy on Foreign Direct Investments (FDI), all foreign investors

are granted the same rights and privileges as nationals, i.e. they are entitled to establish and operate all types of self-owned private companies or joint-stock companies.<sup>2</sup> In an effort to promote FDI, the Government has introduced a one-stop-shop system that enables investors to register their businesses within 4 hours after the submission of an application.

Concerning a one-stop shop system for employment of foreign workers, according to the current system regulated by the Law on Movement and Stay of Foreigners and the Law on Employment and Work of Foreigners, work and residence permits are issued by two institutional bodies - the Employment Agency responsible for issuance of work permits, and the Ministry of Interior that approves and issues residence permits.<sup>3</sup> However, the country is making efforts to further simplify procedures for foreigners' employment and plans to conduct a feasibility study that would provide recommendations on the alignment of the existing legislation with Directive 2011/98/EU on a single application procedure for a single permit, which would lead to the introduction of a one-stop shop approach towards registering employment of foreign workers too, similar to the simplified procedure of registering foreign investments.

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

The Parliament of the former Yugoslav Republic of Macedonia determines the migration policy and the general policy for employment and work of foreigners on a proposal from the Government. A draft resolution is prepared through a consultation process among the key institutions whose designated representatives comprise the Inter-ministerial Working Group on Migration Policy. Based on the adopted overall policy for work and employment of foreigners, the Government establishes a work permit quota, on an annual basis. As per the Resolution of the Migration Policy, the following institutions have principal competencies in the accomplishment of the goals of the migration policy, as per their institutional mandate:

- Employment Agency issues working permits;
- Ministry of Interior issues residence permits;
- Ministry of Labour and Social Policy and Employment Agency are main institutions responsible for labour market policies, including labour market assessment and maintaining the overall labour market information system;
- Ministry of Education and Science is responsible for recognition of qualifications;
- Ministry of Labour and Social Policy and Ministry of Foreign Affairs are responsible for conclusion of bilateral labour agreements; in the case when a foreigner is applying for employment from abroad, the diplomatic consular mission communicates the application to the competent services in the Ministry of Foreign Affairs and the Ministry of Interior;
- Ministry of Foreign Affairs through its consular authorities have competences over protection of migrant workers abroad;

- Ministry of Labour and Social Policy, Employment Agency and Ministry of Foreign Affairs have competencies over facilitation of circular labour migration, with the Ministry of Labour and Social Policy having jurisdiction regarding the transferability of social benefits.

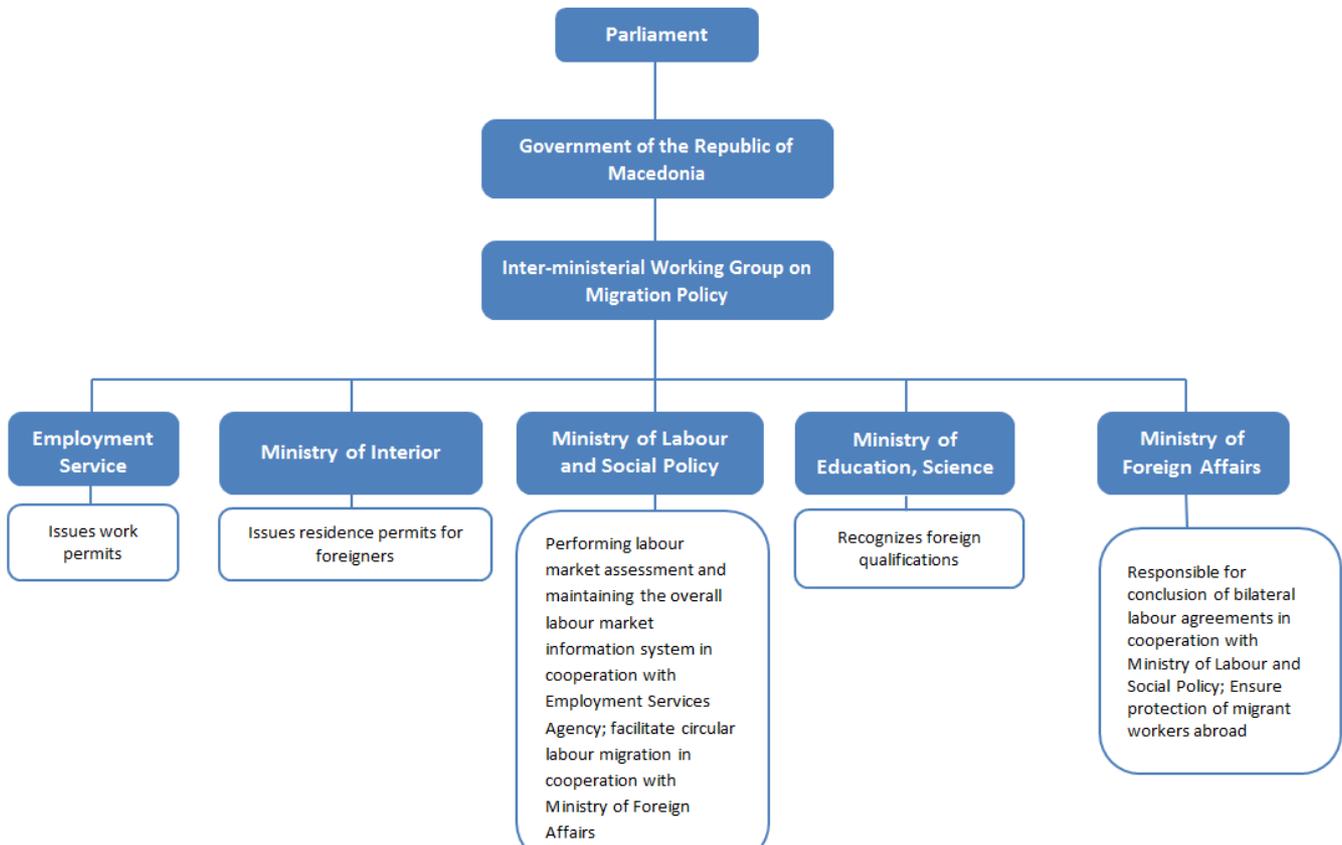


Figure 1. National Institutional Mechanisms for Labour Mobility and Migration Management

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

The country has signed and ratified bilateral agreements in the field of social security, labour and readmission. Depending on the type of the bilateral agreement, mainly the Ministry of Interior, the Ministry of Foreign Affairs and the Ministry of Labour and Social Policy have key competencies.

#### Bilateral agreements in the area of social security

Bilateral agreements in the area of social security are aimed at ensuring and protecting the rights to social security in reference to temporary work in the contracting states. The former Yugoslav Republic of Macedonia so far has signed 19 bilateral agreements on social security and two agreements with the Russian Federation and Albania on provision of health services to diplomatic and consular representatives:

- France (in force as of April 1, 1951)
- Hungary (as of July 1, 1951)
- United Kingdom (as of September 1, 1958)
- Italy (as of January 12, 1961)
- Sweden (as of January 1, 1979)
- Norway (as of September 1, 1976)
- Austria (as of June 20, 1997)
- Croatia (as of July 18, 1997)
- Turkey (as of February 10, 1999)
- Slovenia (as of March 4, 1999)
- Switzerland (as of June 2, 2000)
- Denmark (as of May 16, 2000)
- Federal Republic of Yugoslavia (as of February 13, 2002)
- Bulgaria (as of May 3, 2003)
- Germany (as of November 3, 2003)
- Bosnia and Herzegovina (as of September 28, 2005)
- Czech Republic (as of February 17, 2006)
- Netherlands (as of February 17, 2006)
- Romania (as of May 12, 2006)
- Poland (as of 2007)
- Luxemburg (as of April 13, 2007)
- Belgium (as of 2007)
- Montenegro (as of 2011)

### **Bilateral labour agreements**

The country has signed three labour agreements so far: the Agreement for the employment of workers from enterprises of the former Yugoslav Republic of Macedonia with the location on the territory of the contractual party – Agreement with Germany (1995); the Agreement with the Ministry of Labour, Family and Social Affairs of the Republic of Slovenia (2003); and the Agreement with the Government of Qatar for regulation of recruitment of migrant workers to Qatar (2011). It should be pointed out that some of the above agreements are not properly implemented in practice (such as the Agreement with Slovenia, for instance).

Regarding agreements regulating **labour mobility outside of South-East Europe**, the former Yugoslav Republic of Macedonia has signed a bilateral agreement for sending workers to Slovenia as a country that is a part of the SEE and is an EU member state. In 2013, the Ministry of Labour and Social Policy initiated negotiations on labour agreements with additional countries<sup>ii</sup>, but so far there have not been

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<sup>ii</sup> Spain, Republic of Azerbaijan, Sweden, Norway, Denmark, Finland, Czech Republic, United Kingdom and Northern Ireland, Republic of Estonia, France, Ukraine, Belgium, Russia, Turkey, Slovakia and Italy

tangible developments in this area. In the absence of bilateral labour agreements, the workers from outside SEE can access the national labour market on the same conditions as all other foreigners.

The country has signed several readmission agreements, specifically with the EU, as well as with the governments of Albania, Moldova, Bosnia and Herzegovina, Serbia, Montenegro, Switzerland and Norway. General articles of the Law on Foreigners (Articles 105 – 111) are applied in the case of return of foreign persons who are illegally residing in the country. There is no regulation in place regarding mutual recognition of expulsion orders in the SEE region.

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

The EU Progress report 2013, Chapter 24, noted some advancement in the field of migration, in particular the amendment of the Law on Foreigners leading to simplification of procedures for foreigners' employment. There were no developments as regards the preparation for participation in the EURES network. The government adopted a draft decision of the Stabilization and Association Council on the coordination of social security systems. In this area, as per the EU Progress report, the country is moderately advanced. An agreement on the use of the European Health Insurance Card was signed with Austria and entered into force, bringing the number of agreements to eight. Preparations in this area are slowly progressing.<sup>4</sup>

### **2.4.1. General access of foreigners to labour market**

#### **Entry procedures and documentation before entry**

The Law on Foreigners in Article 38 is defining preconditions for entry of foreign nationals into the country. Furthermore, Article 29 of the Law defines types of visa and general grounds for visa issuance. There are 4 types of visa according to the national legislation: an airport transit visa (visa A); a transit visa (visa B); a short-stay visa (C); and a long-stay visa (D).<sup>5</sup>

The long-stay visa (visa D) defined in Article 34 is issued to foreign nationals who have intention to reside in the country for the purpose of employment, work or self-employment, attending school or studies, participation in international student/pupil exchange schemes, specialization, vocational education or practical training, scientific research, medical treatment, family reunification, or humanitarian grounds.

According to the national legislation, Article 36 of the Law on Foreigners, a transit or short-term stay visa entitling a stay of up to 15 (fifteen) days in the country can be issued at the border, but only in exceptional cases. This type of visa can be issued only for a single entry into the county.

#### **Regulation of stay for the purpose of employment (special work related residence permit) and possibility to change status after entry**

The Law on Foreigners defines entry visas and residence permits for the purpose of employment and self-employment. At the same time, the Law on Employment of Foreigners lists the types of work permits that can be issued to a foreigner: a personal work permit, an employment permit and a work permit.

In terms of changing an employer after the migrant worker has been employed in the country, the national legislation does not have specific provisions on such rights. In general, when the temporary residence permit is issued together with a certain type of a work permit, it is automatically related to that ground only. Once the conditions for the work permit are ceased, the residence permit is also cancelled. It is clearly defined in the Law on Foreigners that the temporary residence permit shall be issued for the period necessary to fulfil the purpose of stay, however, not exceeding one year. In case the foreigner wants to stay on the territory longer, he/she needs to submit a request for extension within maximum 30 (thirty) days prior to the expiry of his/her temporary residence permit.

However some amendments have followed in 2014 in the law on employment of foreigners stating that the foreign national that have already established working relations with one employer can change the employer. The issued work permit will be ceased and replaced with the new one. The new one will be issued during the validity of the previous working permit. In a meantime the foreigner is obligated to submit evidence that all the employment obligations (medical and pension fees) have been covered by his/her first employer.

The Law on Employment of Foreigners, Article 3, envisages that foreign workers shall mandatory possess a work permit and acquire a regulated residence status in the country; and the person in charge of registration shall register their work as an labour activity according to the provisions referred to in that law. A work registration certificate on a prescribed form shall be issued to confirm the lawfulness of the work performed by the foreigner in the country. An employment or work contract concluded between the employer and the foreigner without a work permit shall be considered invalid. Foreigners in the country may only perform work for which they possess a work permit.

In terms of alignment of the current legislation with the EU Single Permit Directive, further work should be considered, particularly in the context of the introduction of a one-stop-shop system for registration of foreigners' employment.

### **Complain and appeal mechanisms**

A foreigner has the right to file a complaint in the case when denied entry for the purpose of employment, work and self-employment and when the temporary residence permit for the purpose of employment, work and self-employment is terminated.

#### **Complaint in the case of denied entry on the basis of employment, work and self-employment**

A foreigner can be denied entry into the country in case there is a grounded suspicion that she/he is to be employed or work in breach of employment and work regulations. Once denied entry for the purpose of employment, work and self-employment, a migrant worker can complain in accordance with Article 51 of the Law on Foreigners. The complaint procedure has two instances: the initial before the Commission of the Government, and the second before the Administrative Court in accordance with provisions of the *Law on Administrative Disputes*.

#### **Complaint in the case of termination of a temporary residence permit issued for the purpose of employment, work and self-employment**

A temporary residence permit shall be issued for the period necessary to fulfil the purpose of stay, however, not exceeding one year. The foreigner is to submit an application for permit extension within maximum 30 (thirty) days prior to the expiry of his/her temporary residence permit. The conditions for extension are that the foreigner has adequate means, accommodation and health insurance, as well as complies with other overall requirements, with each individual extension not exceeding one year.

The condition on health insurance shall be clarified at this point. When a person is entering in to the country according to the law on foreigners the health insurance is in a form of a (travel) insurance, but when a person shall enter into labour relations health insurance is understood compulsory health insurance applied through the Fond for health insurance or in another form of health insurance outside the former Yugoslav Republic of Macedonia.

A foreigner, who submits an application for the extension of the temporary residence permit within the time limit, may stay in the country until the final decision on such an application is reached. In this case, the Ministry of Internal Affairs shall document such a person with a special permit authorizing the stay in the country during the processing of his/her application.

A temporary residence permit shall not be extended if it is established that the foreigner has been absent from the country for unjustified reasons for longer than one quarter of the period of the validity of his/her temporary residence permit.

Following the decision of the Ministry of Internal Affairs to refuse the extension of a temporary residence permit, the foreigner has a right to lodge a complaint with the competent Commission of the Government within 8 (eight) days from the date of the receipt of such a decision. The decision of the competent Commission of the Government shall be taken within 30 (thirty) days from the date of lodging the complaint. Following the decision of the competent Commission of the Government an administrative dispute may be initiated before a competent court in accordance with the Law on Administrative Disputes.

#### **Provision of a long-term or permanent residence status**

Permanent residence of foreign nationals in the country is defined in articles 87, 88, 89, 91 and 95 of the Law on Foreigners. These articles are defining the conditions for issuance of the long-term residence status, exceptions to the right to long-term residence, conditions for issuance of long term residence status for the purpose of employment, work or self-employment, permanent residence for the purpose of family reunification, rights of foreigners holding a long term residence permit, revoking of the right to long term residence and safeguards from withdrawal of the permanent residence permit. The safeguards are referring to the decision-making process concerning withdrawal of the right to permanent residence, the length of the foreigner's stay, his/her age, personal, economic and other relations with the former Yugoslav Republic of Macedonia as well as consequences resulting from such a decision affecting him/her or his/her close family.

According to Article 87 of the Law on Foreigners, a permanent residence permit shall be issued to a foreigner who, prior to application for permanent residence, has stayed on territory of the former Yugoslav Republic of Macedonia for an uninterrupted period of minimum 5 (five) years on the basis of a temporary residence permit. The condition of an uninterrupted five-year period of stay in the country

shall be deemed as fulfilled if within the period of 5 (five) years, prior to the application for permanent residence, the foreigner has not been out of the country for a period of uninterrupted 6 (six) months, or for a total period not exceeding 10 (ten) months. This article contains the exception for residence related to employment and stipulates that the permanent residence permit for the purposes of employment, work or self-employment may be issued to a foreigner who possesses high or deficit qualifications or education necessary for the operation of a host organization or authority in the former Yugoslav Republic of Macedonia.

In some specific areas, the current Law on Foreigners is granting foreigners with a long term residence status in line with provisions of EU Directive 2003/109/EC: access to employment and self-employment, education and vocational training, social protection and assistance (at least core benefits), access to goods and services.<sup>6</sup>

In general, the national legislation is in line with the provisions of the EU Long term residence permit directive. However, some adjustments are recommendable to ensure broader compliance, specifically:

- Specifying integration requirements for foreign nationals as stipulation the EU long term residence permit directive (such as sufficient knowledge of the national language),
- Providing more detailed specifications and conditions ensuring equal treatment with nationals with respect to access to employment and education as defined in the directive (e.g. by requiring proof of appropriate language proficiency).

#### **Issuance of a work permit together with a residence permit (“one-stop-shop”)**

Currently there is no one stop shop system registering issuance of long term residence permits. The country will launch a feasibility study aimed at elaborating and defining this standard.

The procedures for work permit issuance, renewal and revoking as well as the procedures for issuance of work certificates are defined in the Law on Employment of Foreigners which is listing three types of work permits: a personal work permit, an employment permit and a work permit.

1. The personal work permit is issued for a fixed-time period to 1 or to 3 years or for non-fixed time period.
2. The employment permit in general is issued for a period up to one year, unless otherwise determined by this Law.
3. The work permit is issued under various time limits depending on the purpose it is issued for. The work permit in general is issued on the basis of application submitted by employer, unless otherwise determined by this Law.

It is important to mention that when a foreigner is applying through the Diplomatic and Consular office of the former Yugoslav Republic of Macedonia then the procedure is similar to one stop shop system. In this case he/she is submitting two forms one for issuance of the residence permit and other for issuance of the work permit. In case of the OSS system there is one form for both procedures. However as mentioned before this will follow in the future.

The work permit for foreign citizens according to the Law on Employment of Foreigners can be issued based on two types of application: a) the application by a foreigner or b) the application by an employer and a service beneficiary.

### **1. The procedure for work permit issuance on the basis of application by a foreigner.**

The work permit in general is issued on the basis of application submitted by employer, unless otherwise determined by the law on employment of foreigners. The foreigner sends an application for work permit to the diplomatic-consular mission located abroad, in the country of the foreigner's citizenship or where he/she has established legal residence. In case there is no diplomatic consular mission in that country, the foreigner shall apply for a work permit at the diplomatic consular mission in the country with which the former Yugoslav Republic of Macedonia has concluded a joint representation agreement.

The application for work permit shall include information and documented by evidence on the type of activity to be performed in the country, the location and period of the planned stay, the qualification and the foreseen area of economic activity. In the case of self-employment, the application should be substantiated by an action plan, explanation about investment and economic benefits for the country from the proposed activity, the number of employees to be hired, as well as evidence on available funds necessary for the realization of the planned activity.

The diplomatic-consular mission of the former Yugoslav Republic of Macedonia in the relevant country shall inform about the application the competent services in the Ministry of Foreign Affairs and the Ministry of Interior in the former Yugoslav Republic of Macedonia. The Ministry of Interior shall, following the completed inspection, forward the application to the Employment Agency, which, within the period not exceeding 7 days, shall deliver it for approval to the Ministry of Economy. The Ministry of Economy shall consider the application with regard to the indicators in the business plan and the foreigner's self-employment economic capacity and, within 15 days, forward its opinion to the Employment Agency, taking into consideration limitations and measures adopted by the Government. The foreigner whose application has secured a positive opinion of the Ministry of Economy concerning his/her self-employment in the former Yugoslav Republic of Macedonia shall be issued a work permit by the Employment Agency, which shall be delivered to the Ministry of Foreign Affairs to be forwarded to the diplomatic-consular mission of the former Yugoslav Republic of Macedonia in the relevant country. Upon obtaining a temporary residence permit from the Ministry of Interior, the foreigner shall be obliged to register his/her independent activity pursuant to law applicable to trade companies and to certify the commencement and discontinuation date in the Employment Agency – Employment Centre, in the local headquarters where the company was registered.

### **2. The procedure for work permit issuance on the basis of application by an employer.**

The application for such a work permit shall be submitted by the employer/ to the Employment Agency – Employment Centre. This application shall include the following data: on the number of employees to be hired, qualification level (field), type of business and period of employment, description and place of work, salary expressed in hour units. The application should be substantiated with a statement from the Employment Agency that no domestic workers are available/ interested in to take up the jobs available with the employer. The full package of the application and supported documents are forwarded to the

diplomatic-consular mission of the former Yugoslav Republic of Macedonia in the country where the employer plans to recruit workers from, through the Employment Agency. The diplomatic-consular mission in the country abroad shall forward the application to the competent employment service of that country to assist with the selection of workers in line with the employer's application. The competent employment service of the foreign country shall, following the selection of workers, forward the list of these workers and relevant data to the diplomatic-consular mission of the former Yugoslav Republic of Macedonia to be delivered to the competent services of the Ministry of Foreign Affairs and the Ministry of Interior of the former Yugoslav Republic of Macedonia. The Ministry of Interior shall, following the inspection, transfer the verified list of workers to the Employment Agency, which shall summon the employer to select future employees from the proposed list of workers and to fill in and sign employment contracts. Following the selection, completion and signature of the employment contract by the employer, the Employment Agency shall issue to the employer a work permit for the persons he/she has signed an employment contract with. Information on the work permit together with the employment contract shall be delivered by the employer to the diplomatic-consular mission of the former Yugoslav Republic of Macedonia in the relevant country. The diplomatic-consular mission in the relevant country shall inform the competent employment service of the country which, in its turn, will notify the selected workers about the need to present themselves at the diplomatic-consular mission of the former Yugoslav Republic of Macedonia and initiate the procedure of obtaining a long-term residence visa provision (visa 'D'), or applying for a temporary stay as laid down in law.

If a foreign employer plans to employ foreign workers in the former Yugoslav Republic of Macedonia who have already concluded labour relation with that employer abroad, he/she shall submit the work permit application to the diplomatic-consular mission in the country where the company has been registered (trade association).

### **3. The procedure for work permit issuance on the basis of application by a service beneficiary.**

The beneficiary of services to be provided by a foreign worker submits an application for a work permit at the diplomatic-consular mission of the former Yugoslav Republic of Macedonia in the country of citizenship or residence of that foreign worker. The diplomatic-consular mission shall deliver the application to the competent services of the Ministry of Foreign Affairs and the Ministry of Interior in the former Yugoslav Republic of Macedonia, which, according to the Law, shall inspect the data. The Ministry of Interior, following the inspection, shall forward the application to the Employment Agency, which upon the inspection of the beneficiary of services shall issue a work permit for the person(s) he/she has signed a work contract with, which shall, through the competent bodies and according to law, be delivered to the diplomatic-consular mission in the relevant country.

Upon obtaining a work permit, the foreigner shall apply for a long-term visa (visa 'D'), or for temporary residence status at the diplomatic-consular mission. Upon securing either a long-term visa or temporary residence status, the foreigner may enter the country and shall be obliged, within 5 days from the date of, to register in the Ministry of Interior and finalize remaining documentation procedures. The service beneficiary shall be obliged to announce the commencement and discontinuation date of the work performed by the hired foreigners at the Employment Agency – Employment Centre in the relevant local office.

### **Personal work permit**

Personal work permit is a renewable or permanent form of work permit, which in the course of its duration shall facilitate the foreigner free access to the labour market. Personal work permit shall be issued for a period laid down in this Law regardless the situation conditions in the labour market. Personal work permit valid for a period of one year shall be issued to:

- Close family member of a national citizen who possesses valid temporary residence permit;
- Close family member of foreigner who possesses personal work permit for non-fixed time period;
- Foreigner originating from the former Yugoslav Republic of Macedonia or his/her successor to third generation who is lacking citizenship of the former Yugoslav Republic of Macedonia;
- Foreigner who resides in the former Yugoslav Republic of Macedonia on the basis of temporary residence permit concerning family reunion;
- Foreigner asylum seeker whose request for asylum recognition has not been resolved within a period of 1 year, following the expiry of the period of 1 year (the work permit shall be issued for a valid period of three months with possible extension
- Foreigner with recognized refugee status;
- Foreigner under humanitarian protection;
- Foreigner under temporary protection.

Foreigners referred to in paragraph 3 of this Article, in case their labour relation has been terminated, against their will, may register in the unemployed persons' records of the Employment Agency.

Personal work permit issued for the purpose of performing independent activity as a sole owner valid for one year may be obtained to a foreigner registered in the register as referred to in the law. The personal work permit may be extended if the foreigner may prove that he/she has performed his/her activity in the period of the validity of the previous work permit, provided that he/she has not been subjected to an infringement penalty according to the law on employment of foreigners in that period and if he/she submits positive opinion from the Ministry of Economy concerning realization of the business plan. Application for personal work permit valid for a period of three years may be submitted by a foreigner representing the company based of the right for establishment as well as by a foreigner performing his/her activity as a sole owner or by a foreigner who independently performs expert activity in the former Yugoslav Republic of Macedonia continuously for a period of one year and who was not imposed to misdemeanour sanction for a misdemeanour provided for in the law on employment of foreigners. The application shall be also accompanied by positive opinion from the Ministry of Economy concerning realization of the business plan.

Application for personal work permit valid for a non-fixed time period may be submitted by a foreigner who possesses permanent work permit in the former Yugoslav Republic of Macedonia and a person with a recognized refugee status.

The persons obliged to register the commencement and discontinuation date of the work performed by foreigners are the employers who establish labour relation with the foreigner or the foreigners themselves if they are self-employed.

**Employment permit**

Employment permit is a form of work permit related to the need for permanent employment with employers on the basis of organization of job positions. A foreigner who has regulated residence in the former Yugoslav Republic of Macedonia and possesses such permit may only be employed with employer who has applied for work permit.

The employment permit is used in cases when a foreign national wants to work in a company or representation office of the former Yugoslav Republic of Macedonia and all the contributions for the employment relations are covered same as for the national workers.

The employment permit may be only issued on the basis of application if the following conditions are met:

- the employer fulfils the legally prescribed conditions;
- the quota applied for this form of employment is not filled up;
- the foreigner's employment does not affect the labour market, in particular, the domestic unemployment situation, employment structure or regional requirements concerning creation of new job positions in industries;
- the foreigners was not imposed a misdemeanour sanction pursuant to the law on employment of foreigners two years pending the application for employment permit. This provision shall not apply to foreigners who have lost the self-employed status.

The employment permit, in general, shall be issued if domestic job seekers do not look for that particular job or the persons who in the view of their entitlement to employment enjoy equal status with the citizens of the former Yugoslav Republic of Macedonia are registered in the Employment Agency record, and taking into consideration the priorities stipulated with the law on employment of foragers.

In cases related to athletes, workers in the field of culture, scientists, editors, staff in the diplomatic offices lacking privileged status, the employment of foreigners shall not be connected to the labour market due to the nature of the job in question.

Whether the employment does not have seasonal character according to the provisions referred to in this Law, employment permit shall be issued for the period indicated in the employer's application. This period may not exceed one year, unless otherwise determined in the law on employment of foreigners.

Following the expiry of the employment permit it may not be extended, except if first employment of a foreigner is in question if the permit has limited issuance to four months. Upon the expiry of this period, the permit shall be renewed for one year without checking the conditions referred to in paragraph 3 of this Article, provided that neither the employer nor the foreigner in that period has violated the provisions referred to law on employment of foreigners.

The first employment of the foreigner in the country shall be considered employment of a foreigner who does not possess residence permit in the country. In case of seasonal workers, it shall be considered first employment if the foreigner, when applying, does not possess valid work permit.

Pending the expiry of the employment permit, the employer may re-apply for permit, pursuant to the conditions laid down in the law on employment of foreigners.

If the Employment Agency determines that it is impossible to eliminate the deficit in particular expert profiles of workers in the labour market with a period of two years, it may, in exceptional cases, issue work permit valid for a period of two years under condition that the application for permit is submitted by the same employer the foreigner works for continuously two years.

Close family members of citizens of the former Yugoslav Republic of Macedonia or of foreigners who possess work permits shall be issued employment permits to be valid as long as to the validity period of their residence permits provided that they are recorded as unemployed in the Employment Agency and fulfil the requirements posed by the employer.. The employment permit shall be issued as a part of the quota determined for employment of foreigners in the former Yugoslav Republic of Macedonia. Employers where the foreigners take their labour relation shall be persons who are obliged to register the commencement and discontinuation date of the work performed by foreigners according to the law on employment of foreigners.

### **Work permit**

Work permit shall be a type of work permit with previously determined time limit on which basis the foreigner may temporary work in the former Yugoslav Republic of Macedonia in line with the purpose the permit has been issued for.

Work permit is used in cases where foreign worker already works for a foreign company and he or she is health and pension insured in other systems (outside the country). This person in the former Yugoslav Republic of Macedonia is working up to 3 months in cases if there is no representative office of the foreign company or up to 1 year if such representative office exists.

With regard to the purpose, the work permit shall be related to:

- Work performed by posted foreign workers;
- Training and advancement of foreigners;
- Seasonal work of foreigners;
- Work performed by foreign representatives;
- Individual services by foreigners.

A foreigner shall be issued work permit on the basis of application submitted by the employer or other legal person according to this Law.

The work permit shall be issued within the quota determined for particular purposes. Following the expiry of the work permit, the foreigner may not be issued employment permit or personal work permit unless he/she temporary discontinues his/her job in the country, except for the cases determined by the law. Following the expiry of the work permit, it may be renewed only in exceptional circumstances pursuant to the provisions referred the law on employment of foreigners. The person obliged to register the commencement and discontinuation date of the job performed by a foreigner who possesses work permit shall be the employer where the work is performed, unless otherwise determined by this Law.

### **Naturalization/obtaining citizenship**

The issues related to naturalization of foreign legal residents are defined in the Law on Citizenship.<sup>7</sup> More precisely, Article 3 of this Law defines that a citizenship of the country can be acquired by: origin, birth, naturalization, or in line with international agreements. Article 7 is defining the specific requirements for acquisition of citizenship:

- to have reached 18 years of age;
- until the submission of the application, to have been legally and continuously residing on the territory of the country for at least 8 years;
- to have ensured a place of living and a permanent source of sustenance;
- absence of criminal penalties;
- sufficient knowledge of the local language;
- the naturalization shall not be considered as a threat to the security and defence of the county;
- to sign a pledge to be a loyal citizen of the county;
- to denounce the previous citizenship or to prove that denunciation will take place after acquiring the citizenship of the former Yugoslav Republic of Macedonia.

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

Article 5 of the Law on Employment of Foreigners is clearly defining the establishment of work permit quotas for foreigners.<sup>8</sup> The size and composition of the quota shall be proposed to the Government by the Minister competent in the matters of labour based on a proposal from the Employment Agency. In line with the labour market conditions, the Government establishes annual work permit quotas. The quota may not exceed 5% of the total legally employed population of the country calculated based on the State Statistical Office data. In addition to the overall quota for employment and work permits to foreigners, the Government may place further restrictions and bans on employment and work of foreigners by regions, areas, companies and job positions. Furthermore, the Government can decide to implement special measures to limit the number of self-employed foreigners, if the growth of the number of self-employed foreigners negatively affects the growth of the national unemployment in the economic activity concerned.

Individual increases of the annually determined quotas in the course of a year shall be approved in exceptional cases, if the Government establishes that such a change is of public commercial interest for the country.

#### ***2.4.2. Regulation of employment of special categories of migrant workers***

##### **Cross-border workers**

The Law on Employment of Foreigners is defining issues regarding employment of cross-border workers. This Law defines the terms of cross-border services and contains an entire chapter on cross-border provision of services by foreign companies through posted workers.

Cross-border services can be provided by foreign companies through posted workers if the conditions laid down in the Law on employment of foreigners are fulfilled. The provision of cross-border services through posted workers shall not be permitted if the presence of foreign companies in the market is

required. The provider of foreign services in the country may be a foreign company providing services on its own behalf and account, on the basis of a contract concluded with a client – beneficiary of the services from the former Yugoslav Republic of Macedonia. The foreign company may provide services through posted workers who have been employed in the foreign company for at least one year. A posted worker may be individually re-granted a work permit several times for a maximum of three months in one calendar year. A work permit to a foreigner shall be issued on the basis of an application submitted by a foreign employer – the service provider. The foreign employer shall be obliged to ensure that the posted workers have minimum rights to working hours, rest and holiday periods, during night shifts, annual leave, salaries, healthcare and safety at work, in accordance with the overall legal regulations and the general collective agreement - the industrial collective agreement – whichever provides more favourable conditions for the worker. The Employment Agency performs inspection of the Contract for performing services within the specified timeframe and validating the proof of registration of the contracting parties.

### **Seasonal workers**

Issues related to seasonal work are defined in the Law on Employment of Foreigners. This legal act is defining: seasonal work, seasonal border workers, general conditions for issuance of a seasonal work permit, obligations of the employer, the size and composition of the quota for seasonal work, durations of seasonal work permits (general - six months, for seasonal work in construction - nine months and to be issued only once in a calendar year), conclusion of a fix-duration employment contract, conditions for re-issuance/extension of a seasonal work permit. The Law on Employment of Foreigners is also defining special seasonal work permits related to specific sectors, such as agriculture, forestry and construction.

The national legislation is generally aligned with the EU Directive on seasonal workers. However, further amendments are necessary to ensure full-scale compliance. Namely, for the purpose of encouraging circular migration of seasonal workers, the country may consider exempting seasonal workers from some general requirements for entry, for instance presentation of certain documents as supplements to work permit application; issuing several seasonal worker permits in a single administrative act or through an accelerated application procedure; equal treatment with nationals in social security benefits linked to sickness, disability and old-age. Here some limitations can be introduced regarding equal treatment in unemployment, family benefits, tax benefits, education and vocational training. It is important to clearly define the right of seasonal workers to join a trade union and to have access to social security, pensions, training, counselling offered by employment offices and other public services, except for public housing. There is a need to ensure alignment with article 17 of the Directive in terms of defining explicit sanctions towards employers infringing rights of seasonal workers as defined in the Directive.

### **Highly-qualified and recognition of qualifications**

The country hasn't yet achieved compliance with the standards of the EU Blue card directive. According to the Law on Foreigners, a foreigner can be granted a long term residence permit based on his/her high-level/deficit qualifications or level of education. The standards of the Directive stipulated in Article 5 in terms of admission criteria are not reflected in national legal provisions. This also holds true about

the grounds for refusal, withdrawal or non-renewal of residence status, procedural safeguards and others.

There are, however, some provisions in the Law on Foreigners, Article 84 paragraph 4, that refer to highly skilled employment: “A permanent residence permit for purposes of employment, work or self-employment may be issued to a foreigner who possesses high or deficit qualifications or education necessary for operation of the relevant institution in or authority of Macedonia”.<sup>9</sup>

Moreover, highly skilled workers are mentioned in the Law on Employment of Foreigners (Article 20 paragraph 2) as natural persons working for a legal entity and are of/or have special significance for the provision of services, research equipment, methods and management of the company. The assessment of need for such special knowledge shall take into account not only the particular knowledge about the company, but also that the person possesses high level of education required for the type of work for which that special expert knowledge and membership in professional associations are necessary.

**The recognition of foreign higher education qualifications** is carried out for the purposes of employment (professional recognition) or continuation of education (academic recognition) in the country and is based on the Law on Recognition of Qualifications.<sup>10</sup> The authority responsible for issuing certificates is the Information Centre for Equalization/ Nostrification and Recognition of Foreign High Educational Qualifications, within the Ministry of Education. The Law on Recognition of Qualifications is defining the procedure and the list of the documents required for recognition of certain diplomas and qualifications in the country.<sup>11</sup>

There is no yet compliance with the requirements of sectorial directives related to various professions. Overall, the EU progress report considered the preparations on mutual recognition of professional qualifications to be only moderately advanced.<sup>12</sup>

### **Intra-corporate transferees**

The Law on Employment of Foreigners is clearly defining the position of the so-called *designated workers*. Articles 19 and 20 of the Law stipulate that a foreign legal entity, pursuant to defined conditions, may temporary post their workers from their permanent job location abroad to a branch office or another organizational unit in the former Yugoslav Republic of Macedonia for the purpose of accomplishing some specific tasks or for providing contractual services. Furthermore, this law defines the conditions for issuance of a work permit to *designated workers* and stipulates that the quota should also be taken into consideration. The duration of this work permit is at least one year.

The national law to some extent regulates the status of intra-corporate transferee workers. However, in order to fully comply with the EU Directive, the national law should specifically define the conditions to family reunification for this specific category. Currently, the general provisions of the Law on Foreigners also apply to this specific category of workers.

### **Foreign Entrepreneurs**

Any foreigner who intends to establish or co-establish a private commercial company in accordance with the Company Law, as well as any foreigner who intends to conduct a single-owner business or is a self-employed person, is required to obtain a personal self-employment work permit.

The application is to contain data, documents, and evidence of the type of activity to be performed by the foreigner, the place and period of activity, qualifications (specialty) including a business plan for the self-employment activity with the number of jobs to be created, as well as funds available to conduct the activity.<sup>13</sup>

### **Investors (FDI)**

The Company Law defines the types of companies, procedures and regulations for their establishment and operation. As all foreign investors are granted the same rights and privileges as nationals of the former Yugoslav Republic of Macedonia, they are entitled to establish and operate all types of self-owned private companies or joint-stock companies. Foreign investors are not required to obtain special permission from state-authorized institutions, other than what is customarily required by law. Under the Company Law, companies are formed as separate legal entities that operate independently and are distinct from their founders, shareholders and managers. Depending on the type, companies have their own rights, liabilities, names and registered offices. The Law defines five forms of companies: General Partnership, Limited Partnership, Limited Liability Company, Joint Stock Company and Limited Partnership by Shares.

A one-stop-shop system was introduced in the former Yugoslav Republic of Macedonia which enables investors to register their businesses within 4 hours after submitting an application (in practice, it might take 1-2 business days). One can register a company by visiting one office, obtaining the information from a single place, and addressing one public official. This significantly reduces administrative barriers and start-up costs.

The Agency for foreign investments has a special department that supports foreign investors with useful information prior and during the procedure of establishment of their businesses in the former Yugoslav Republic of Macedonia.

### **Students/pupils**

Issuance of a residence permit for students/pupils is regulated by Law on Foreigner's Articles 59, 60, 61, 62. These articles are defining general provisions on granting a residence permit to a student/pupil, the conditions for permit issuance and the residence permit validity.

According to Article 7 of the Law on High Education, foreigners have access to education under the same conditions as the citizens of the former Yugoslav Republic of Macedonia in those cases where the principle of reciprocity applies. In other cases, foreigners can be educated in high schools and universities in the former Yugoslav Republic of Macedonia under conditions defined by the related high school or university.<sup>14</sup>

The national law is defining entry conditions for minors/pupils under Article 16, by stipulating the obligation of submitting a parental or guardian permission, in line with the EU *acquis*.

In general, foreign students are not allowed to enter into employment relations in the former Yugoslav Republic of Macedonia. This is clearly defined in Article 60 of the Law on Foreigners that stipulates that the foreigner who stays in the former Yugoslav Republic of Macedonia for purposes of participation in international student/pupil exchange schemes may not be employed or work in the country. On the

other hand, this article allows exceptions and defines that the foreign student may be allowed to do short-term or subsidiary jobs in accordance with the law. The exception is regulated by Article 30 of the Law on Employment of Foreigners that states that foreign students may perform short-term or ancillary activities without a work permit for the duration of up to 10 working hours within one week. The employer shall be obliged to cover expenses for social security of these foreign students during the performance of such short-term or ancillary activities.

In terms of the Council directive on conditions for admission of third country nationals for the purpose of studies, the national law is partly in line with its provisions. Finally, the national legislation does not contain provisions similar to the ones from article 19 of the Directive, the so called fast-track procedure for issuing residence permits or visas to students and school pupils.

### **Researchers**

In a special section under the general conditions for issuance of a temporary residence permit, the Law on Foreigners is defining the right of a foreign national to temporary residence for purposes of scientific research. Articles 65, 66, 67 and 68 of the Law on Foreigners are defining: conditions for permit issuance, consent of the Ministry of Education and Science, contractual conditions on scientific research and the validity of residence permit.

Article 66 of the Law is obliging the host scientific institution to conclude a contract with the foreigner for the conduction of a scientific research and specifies relevant conditions. Further, the host institutions are obligated to submit a document confirming their financial obligation to bear costs related to the stay, health insurance and return of the foreigner. The scientific institutions entered in the registry of scientific institutions of the Ministry of Education and Science, the Academy of Sciences and Arts of the former Yugoslav Republic of Macedonia as well, as accredited at the highest level may conclude a contract with a foreigner to conduct scientific research in a simplified manner, upon a prior endorsement by the Ministry of Education and Science of the overall research project. The validity of residence permit is defined for a period of up to one year, which can be extended provided that some general conditions are fulfilled.

In general the national legislation is in line with the relevant EU Directive provisions. Some issues will be taken into consideration in the new draft Law on foreigners: a clearer definition of rights of the researcher's family members to residence (taking into consideration of the Directive's standard for only in exceptional cases) and a clear definition of the researcher's right to teach a certain amount of hours and equal treatment provisions as stipulated in Article 12 of the EU Directive.

### **Volunteers**

Issues regarding volunteers are defined in the Law on Volunteering.<sup>15</sup> This law stipulates that a volunteer can be a domestic or foreign natural person. This act defines general terms, the period of volunteering, basic rights and obligations of the organizer to protect the volunteer's rights in terms of covering expenses for stay, health insurance and return trip, conclusion of a contract for all types of volunteering services. It is important to highlight that Article 3 of the Law on Employment of Foreigners in paragraph 11 is defining that the provisions of this act (right to work) cannot be applied to foreign persons who are residing on the territory of the country as volunteers. The Law on Employment of Foreigners also

stipulates a fine for a responsible entity /organizer of the volunteering work in the case of failure to inform the Ministry of Labour and Social Policy about the start of volunteering by a foreign person.

Besides having a separate law on volunteering, the national legislation does not foresee a special residence permit on this basis as foreseen in the relevant EU directive. The new law on foreigners is expected to regulate the special residence permit for volunteers, which will ensure full transposition of the Directive to the national law.

### **Health professionals**

Article 158 of the Law on Health Protection envisages that a national health institution can employ a foreign national who fulfils general and special conditions.<sup>16</sup> After verifying the fulfilment of the general conditions, the medical institution can employ health workers with higher education who are foreigners and prominent experts in the field of medicine, dentistry or pharmacy, at the discretion of the Government and based on the positive opinion from the Ministry of Health and the Ministry of Interior and in accordance with general regulations on hiring foreigners.

A foreign health professional shall fulfil the special conditions in order to be granted the right to work in a national health institution: he/she should have completed appropriate education, have acquired necessary professional experience and comply with other conditions specified in the act for systematization of jobs. Furthermore, in exceptional cases when a health worker with high education has obtained his/her qualifications in the Member States of the European Union or Switzerland, Norway, Canada, Japan, Israel, Turkey, Russia or the United States, no additional training and examination of professional knowledge and skills are required before employment of such a foreigner in a national medical institution.

Health professionals are also covered with the Law on medical studies and continues professional development of the medical doctors which defines in Article 10 that:

“(1) In order to improve skills and knowledge of doctors, medicine specialists and subspecialists through transfer of skills and knowledge in the areas of work of the medical institution, the Ministry of Health Public health institutions can contract to hire, prominent doctors medicine specialists or sub-specialists from member states of the OECD or Macedonian citizens who worked at least five years continuously in health institutions or higher education institutions in the field of medicine in the states OECD, as well as managers of health institutions in the member states of OECD.

(2) The Ministry of Health with medical doctors, specialists, or subspecialists of paragraph (1) of this Article shall conclude a contract on medical activity as a health worker in a public health facility, and managers of paragraph (1) of this article, sign a contract, which determines the amount of the particular fee that cannot exceed the amount of salary received in health institution abroad where he worked before to close the deal”.<sup>17</sup>

### **Sports/Athletes**

The Law on Employment of foreigners in Article 13 defines the status of sportiest as a special category as follows:

“In cases related to athletes, workers in the field of culture, scientists, editors, staff in diplomatic missions that do not have privileged status, foreigners more than a year are working with the same employer and at

the same workplace, employment of those categories of foreigners will not be associated with the labour market.”<sup>18</sup>

The foreigners providing services in the field of science, culture, sports, healthcare and education may be issued work permits valid for one year if conditions for establishing a labour relation exist.

### **Entertainment industry and tourism<sup>iii</sup>**

Contractual services provided by foreign artists and professional authors are regulated in Article 27 of the Law on Foreigners. This covers the following categories of foreigners: artist performers or professional authors who perform entertainment programmes, individually or in groups of performances in the former Yugoslav Republic of Macedonia; who provide creative services in the field of culture as participants in cultural workshops, meetings, artistic settlements and other cultural events; creators and revisers in the field of music, musical performances, folk dances, ballet and literary works, photography, video, film and art of electronic media as well as experts in the field of protection of cultural heritage, librarianship, archive ship and creative culture. Foreigners of these professions may provide such services for the period of up to seven days. For the purpose of stay on one of such grounds, the foreigner is obligated to have consent from the Ministry of Culture.

No special conditions exist in the current version of the law on hiring migrant workers in the tourism industry, but these are planned for introduction in the forthcoming new legislation.

A 2011 labour sector assessment found a preponderance of labour exploitation in the former Yugoslav Republic of Macedonian textile, tourism and catering sectors (Balkan Act Now, 2013 page 115). The former Yugoslav Republic of Macedonian National Strategy for Combating Human Trafficking and Illegal Migration, 2013-2016, acknowledges that while having primarily focused on trafficking for sexual exploitation, trafficking involves many other forms of labour exploitation in response to which they need to develop “a wider range of activities” (National Strategy, 2013).

The temporary residence permit for foreigners, which were trafficked within the country, is in detail regulated by the Law on Foreigners, Articles 80 - 83. Those articles in full reflect the relevant provisions of the Palermo protocol on trafficking in human beings. The temporary residence permit provisions and the measures aimed at improving the protection of victims as defined in Directive [2011/36/EU](#) are also are also incorporated in the national law.

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<sup>iii</sup> In this context attention could be paid to the incorporation/implementation of the Trafficking and Smuggling Protocols (to Palermo 2000); also: return of the smuggled (art. 18); return of the trafficked (art. 8) and/or special status/protection of the trafficked, based on relevant COE and EU regulations/recommendations.

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

The Law on Foreigners in Article 86 envisages that a temporary residence permit shall cease upon expiry of the granted period of the foreigner's temporary residence in the former Yugoslav Republic of Macedonia, if s/he does not apply for extension of his/her temporary residence permit. The procedures for cessation of a work permit differ, depending on the work permit type - personal work permit, employment permit and work permit, as defined in the current legislation.

**A personal work permit** will cease in case of the reasons listed in article 12 paragraphs 15:

- with the expiry date of the validity of the personal work permit;
- with the expiry of the validity of the residence permit;
- if the foreigner cancels his/her personal work permit;
- if the foreigner is granted citizenship of the former Yugoslav Republic of Macedonia;
- in case of death of the foreigner.

**An employment permit** will be discontinued in cases listed in article 13 paragraph 13 of the Law on Employment of Foreigners:

- with the expiry of the period the permit has been issued for;
- with the expiration of the validity of the residence permit;
- if the labour relation is terminated;
- if the foreigner has been granted citizenship of the former Yugoslav Republic of Macedonia;
- in case of death of the foreigner.

The expiry of the **work permit** is regulated in article 14 paragraph 8:

- with the expiry of the period the permit has been issued for;
- with the termination of the labour relation or work permit;
- in case of death of the foreigner.

Articles 105 – 111 of the Law on Foreigners are regulating issues related to voluntary return and **deportation**. The new Law on Foreigners is expected to be fully aligned with the EU Return directive, including issues of return decision, non-refoulement principle, removal, return of minors, procedures of removal and remedies. As confirmed by the Ministry of Interior, the appeal procedure will go directly to the administrative court and the Governmental Commission is not going to decide upon the appeals in the cases when a removal decision is enacted. The alignment with the Return directive is needed in terms of: common standards, special attention to family life, state of health, introduction of a single administrative decision covering various return forms and aligning the preparatory period for voluntary return (7-30 days).

### ***2.4.4. Family reunification and formation for foreign workers and access of family members to the labour market***

The Law on Foreigners is clearly defining the right of a foreign national to reside on the territory of the country on the bases of family reunification. The family reunification is defined in articles 71 – 75 of the

Law, including stipulation of who can be considered family members, rights of family members, conditions for issuance of a special type of a residence permit, its validity and the right to an autonomous permit.

The Law on Foreigners defines the rights of family members residing on the basis of family reunification as follows: the right to education, vocational education, employment and self-employment under the conditions stipulated by the national legislation. Furthermore, Article 87 defines the right to obtaining a long-term residence permit based on family reunification. This type of a permit can be issued only to close family members of a foreigner who has previously obtained a long-term residence permit, provided that they live together in a real matrimony or a family union. After obtaining a long-term residence status, the family members have the same rights as the ones mentioned above in Article 73, including right to employment and self-employment.

The Law on Employment of foreigners Article 12 paragraph 3 is defining the personal work permit issued to a family member on several grounds:

“The personal work permit is issued for the time period specified in this law, regardless of the situation and conditions in the labour market. Personal work permit valid for a period of one year is issued to:

- Member of the family of the citizens of the former Yugoslav Republic of Macedonia who possesses a valid temporary residence permit,
- Member of the family of a foreigner who owns a personal work permit for long period of time,
- Foreigner originating from the former Yugoslav Republic of Macedonia or its successor to third generation who does not obtain citizenship of the former Yugoslav Republic of Macedonia,
- A foreigner who resides in the former Yugoslav Republic of Macedonia on the basis of a temporary residence for family reunification,
- Foreigner asylum seeker whose application for recognition of right of asylum has not been resolved within a period of one year after the expiry period of one year (the work permit is issued to up to three months with the possibility of extension)
- A foreigner with recognized refugee status
- Foreigner under subsidiary protection and
- Foreigner under temporary protection”.<sup>19</sup>

In terms of family reunification standards, the national legislation is in line with most of EU law provisions. However, some refinements are currently considered by the governmental working group that is developing a new Law on Foreigners. Issue related to autonomous residence permit does exist in the Law on Foreigners article 75 but the new draft law on foreigners will define this type of permit in a more detailed manner.

#### ***2.4.5. Social protection and labour rights of foreign workers***

##### **Non-discriminative protection of labour rights and decent working conditions regardless of citizenship and legal status**

The provisions for protection of labour rights and decent working conditions are defined in the Constitution in Article 32. Furthermore, the Labour Relations Code, Article 57, more specifically defines

the protection of labour rights. The Law on Employment of Foreigners has special provisions regarding non-discriminative treatment of foreign nationals where the employer, when employing or granting work to a foreigner, may not treat unequally the employed or a job seeker due to race, skin colour, gender, age, health condition, disability, religious, political or other beliefs, union membership, national or social background, family status, property status, sexual orientation or other personal circumstances.

### **Conclusion of a labour contract with the employer**

According to the national law, the foreigner shall be considered an employed person in the country only if he/she has established labour relation on the basis of an employment contract with the employer, whose seat or place of residence is in the former Yugoslav Republic of Macedonia; or if the foreigner has acquired a status of self-employed pursuant to the Law. If the employment or work contract is concluded between the employer and the foreigner without a work permit, this contract will be considered invalid. Therefore, the employment contract is intrinsically linked with the work permit.

### **Possibility to change employers once in the country**

In terms of changing employers after the foreigner has been employed in the country, the national legislation does not contain specific provisions on such rights. As notified earlier in this report, the Law on Foreigners defines entry visas and residence permits on the bases of employment and self-employment, while the Law on Employment of Foreigners is listing three types of work permits: a personal work permit, an employment permit and a work permit.

In general, when the temporary residence permit is issued for a work permit of a certain type, it is automatically related to that ground. Once the conditions for the work permit become invalid, the residence permit is also annulled.

Similar situation to changing employers once the foreigner is on the territory of the country is defined in the Law on Employment of Foreigners in article 13 paragraph 6 and Article 14 paragraph 5:

“Once the validity of employment permit expires, the employment permit cannot be renewed, unless it is a case of a first employment of a foreign national and the license is issued with a validity period of six months. [...] On expiration of this period, the license will be renewed for one year without checking the conditions specified for issuance”.<sup>20</sup>

Article 14 paragraph 5:

“After the expiry of the work permit, the foreigner cannot be issued employment or personal work permit without temporarily termination of her/his work labour in the country, except in cases stipulated by the law. [...] If the application is filed before the expiry of the work permit and the foreigner meets the requirements of Article 4 of this Law, issued work permit will be canceled and the new license for employment or personal work permit will be valid for the time frame of the validity of the previously issued work permit.”<sup>21</sup>

### **Participation in social dialogue**

According to the national legislation, foreign nationals have specific fundamental rights including rights to join labour and trade unions, if they are granted a permanent residence status. For all other categories of foreigners, this right is not explicitly listed.

### **Export of pension rights acquired abroad**

The issues related to export of pension rights are defined in the bilateral agreements for social insurance that the country has signed with 19 countries all over the world.

#### **Access to medical treatment, medical insurance and/or reimbursement of medical expenses**

The Law on Health Insurance in Article 5 defines the categories of persons who need to be compulsorily health insured while on the territory of the county. In paragraph 11, it is stated that the compulsory health insurance is required for foreigners residing in the country who are employed or are in service of foreign natural and legal persons, international organizations and institutions and foreign diplomatic and consular missions, unless an international agreement provides otherwise.<sup>22</sup>

#### **Access to social welfare**

With regard to protection of social rights of foreign nationals, the Law on Employment of Foreigners, Article 2 paragraph 8, stipulates that the worker shall mean a natural person who, on the basis of an employment contract, has established a labour relation with an employer, and on that ground has been registered for mandatory social security by the employer.

Foreigners holding a long-term residence permit in accordance with Article 88 of the Law on Foreigners, among other rights, are also entitled to social protection and social support.

Article 15 of the Law on Social Protection defines the following users of social protection under the law, are citizens of the former Yugoslav Republic of Macedonia who have permanent residence in the country and foreigners regulated have permanent residence in the former Yugoslav Republic of Macedonia, according to the law.<sup>23</sup>

Citizens who have permanent residence in the former Yugoslav Republic of Macedonia and foreigners have regulated temporary stay the country, by law, use the social care under conditions determined by this or other law and international treaties and conventions.<sup>24</sup>

#### **Access of children to education**

Children of foreign citizenship and stateless children are entitled to elementary education under the same conditions as children with the citizenship of the former Yugoslav Republic of Macedonia (which also includes the right to free elementary education, Article 8, Law on Elementary Education).<sup>25</sup> The Law on Elementary Education does not require a regulated status of migrant children in order for them to exercise the right to access primary education.

#### ***2.4.6. Access of foreigners to vocational training and other professional education with the purpose of career development***

In terms of vocational training and other types of professional education, the Law on Foreigners has special provisions regarding issuance of a temporary residence permit on this ground. Article 49 states that a temporary residence permit can be issued to a foreigner who intends to stay in the country for the purpose of specialization, vocational education or practical training. A foreigner holding a long-term residence permit shall enjoy the same rights as those of the citizens, unless other laws provide otherwise.

The Law on Foreigners in Article 73 defines the rights of family members of a foreigner who is a holder of a temporary residence permit to education, vocational education, employment and self-employment.

Finally the Law on employment of foreigners in Article 12 defines that foreigners - members of the family, who are in the country on the bases of family reunification and are employed, in case their employment is terminated not on their fault, can be included in the record for unemployed persons in the Agency for Employment. So with this they are entitled to all rights inducing vocational training and professional development.

#### ***2.4.7. Recruitment, facilitation and regulation of private recruitment agencies (PRAs) and other stakeholders, involved in recruitment of foreigners***

The country has ratified ILO Convention 181 on Private Employment Agencies on 03 October 2012.<sup>26</sup> The Law on the Agencies for Temporary Employment governs the establishment of such agencies in the country and the conditions for temporary employment for performing temporary labour activities for another employer.<sup>27</sup>

##### **Licensing and fees**

The Law on the Agencies for Temporary Employment stipulates that in order to establish a temporary employment agency (TEA) a natural person is obligated to submit a bank guarantee to the Ministry of Labour and Social Policy, to the amount dependent on the concluded employment contracts. The bank guarantee will be activated if the TEA has not paid salary and/or salary contributions for the employee for more than three months.

According to Article 7 of the Law, the TEA may facilitate temporary employment only on the territory of the former Yugoslav Republic of Macedonia, if its licence covers only this type of activity. The TEA cannot begin with its work before receiving the license and before being registered in the Central Registry. The license for temporary employment shall be issued by the ministry responsible for labour and social policy, valid for two years, with a possibility of extension.

The following licenses are issued: "A" license for the conclusion of more than 250 contracts for employment; "B" license for concluding contracts for up to 250 employees and "C" license for concluding contracts for up to 100 employees.

##### **Inspection (fraud, abuse, exploitation)**

According to Article 9 paragraph 5 of the Law on the Agencies for Temporary Employment, the license for temporary employment is revoked 1) if the agency is performing employment against the law and/or 2) if the conditions for the establishment and execution of activities specified in the licence have changed without proper notification of the Ministry of Labour and Social Policy of such changes. According to paragraph 7 of the same Article, the Ministry of Labour and Social Policy is obliged to keep separate records of issued and revoked licenses for temporary employment and performance of temporary works.

Articles 11-12 of the Law on the Agencies for Temporary Employment regulate the scope of the transfer agreement. The worker first signs an agreement with the agency which, then in its term, transfer the

worker to the employer, while remaining obliged to protect the worker's rights. The transfer of an employee to perform temporary works is made on the basis of a written agreement concluded between a temporary employment agency and an employer using its services. Within Article 11, the employer is also obliged to provide the agency for temporary employment with information on the calculations of wages, social contributions from the employee's salary and state regulations that apply to the employer to determine the wage period and the method of payment.

Article 18 stipulates fines in cases of various frauds conducted by a temporary employment agency. The grounds on which an agency can be fined are: when the license is not visible in the premises of the temporary employment agency; if the agency concludes agreements above the number of agreements for which the license has been issued; in case it provides temporary employment contrary to articles 11 and 12; in case it does not keep a copy of the agreement in its premises and is not available for the inspection of the Ministry of Labour and Social Policy; if it does not conclude employment contracts before transferring the employee to the employer and if the contract does not include compulsory elements as stipulated by law; if it does not pay salary to the employee in compliance with article 14 of the Law.

#### **Scope of responsibilities after recruitment**

After the recruitment of a worker, the TEA is obligated to transfer the employee to the employer. Articles 11-12 of the Law on the Agencies for Temporary Employment are regulating the scope of the transfer agreement. The transfer of an employee to perform temporary work is made on the basis of a written agreement concluded between the temporary employment agency and the employer. Furthermore, Article 13: "In accordance with the agreement for transfer, before the transfer of the worker to the employer user the agency will conclude agreement for employment with the employee that will be transferred to the employer user".<sup>28</sup>

The private employment agency submits a copy of all concluded agreements to the Employment Agency.

#### **Existence of minimum national standards**

In terms of minimum national standards, the Law on the Agencies for Temporary Employment protects (migrant) ceded workers in provisions stipulated in Article 13 elaborated before. According to paragraph 1 of this article, the contract should obligatorily include the following: particulars about the contracting parties, terms of ceding the employee to the employer (terms of the employment agreement), date of start and end of work, accurate name and head office of the employer, location of work, the duties that the employee shall perform for the employer, working time (daily and weekly), the salary and contributions to the salary, allowances, periods and the way of payment, the private employment agency's obligations toward the employee during the period of his/her ceding to the employer.

Article 14 is stipulating in detail the terms of equal treatment of migrant workers with nationals, e.g. the ceded employee's salary cannot be lower than the salary of the national employee working for the employer and performing the same tasks. If such a professional profile does not exist, then the salary of workers performing similar work will be taken into consideration.

#### ***2.4.8. Roles and responsibilities of employers of migrant workers as compared to when employing nationals***

##### **Foreigners' file management and residence permit data**

Issues related to storage of data on foreign nationals residing on the territory of the country are regulated both in the Law on Employment of Foreigners and the Law on Foreigners. Article 38 of the Law on Employment of Foreigners defines principles on registering foreigners' work permits. As per Article 143 of the Law on Foreigners, to compile information on movements of foreigners as well as documents issued to them, the Ministry of Internal Affairs shall keep records regarding different data. On the other hand, the Ministry of Foreign Affairs shall keep records on: visa applications, issued, annulled and revoked visas, emergency passports for foreigners issued, and diplomatic or service identity cards issued.

Article 144 of the Law on Foreigners defines safeguards for data protection and stipulates that state authorities may use the data from the records in line with Article 143, provided that they have a legal interest thereto which shall be decided upon by the Ministry of Internal Affairs or the Ministry of Foreign Affairs.

##### **Reporting to authorities on employment of foreigners**

The Law on Employment of Foreigners in Articles 12, 13 and 14 defines the obligation to report facts of employment of foreigners. Persons responsible for registering work performed by foreigners shall report the commencement and discontinuation date of such work. The Employment Agency shall issue the persons/ organizations employing foreigners with a written certificate/ license. The persons/ organizations who have reported facts of foreigners' employment shall be obliged to keep the certificate during the entire period of foreigners' work in the main place of the activity, and the in case of side work, at the location where the foreigner works.

##### **Existence of clearly stipulated sanctions for employing irregularly residing foreigners**

The EU Employer Sanction Directive in Article 3 defines the prohibition of illegal employment of foreign workers which is reflected in paragraphs 5 and 6 of Article 4 of the Law on Employment of Foreigners, defining conditions when a working relation is not legitimate. Article 39 of the Law is defining the sanctions in the case of illegal employment of a foreign worker in line with the Employer Sanction Directive's Article 5. Article 8 paragraph 12 of the Law on Employment of Foreigners is in line with Article 4 of EU Directive 2009/52/EC. Article 149 of the Law on Foreigners is defining penalties when assisting an illegal stay of a foreigner in a country.

The national legislation is to some extent in line with the provisions of EU directive 2009/52/EC. Further harmonization, however, is needed in several areas such as: proportionality of sanctions in line with Article 5 of the Directive; the obligation of employers to cover costs of return of illegally employed third-country nationals in the cases where return procedures are carried out; changes of the Law on Employment of Foreigners and the Criminal Code need to be initiated in order to align with the minimum standards stipulated in Article 6 of the Directive, i.e. back payments to be made by employers.

##### **Clearly stipulated procedures for conducting inspections and risk analysis over employment of**

### **irregularly staying foreigners**

In regard to conducting inspections over employment of irregular migrants, the Law on Employment of Foreigners in Article 33 has clear provisions stating that the supervision over the implementation of the Law shall be carried out by the Ministry of Labour and Social policy. The inspection supervision over the implementation shall be supervised by the State Labour Inspectorate (Labour Inspectorate). The objects of supervision can be both legal and natural persons. The Labour Inspectorate is obliged to regularly report to the Employment Agency on conducted inspections and imposed penalties, with the latter obliged to keep records on committed infringements and penalties imposed on employers and foreigners.

In terms of risk analysis of irregular labour migration, the national legislation does not contain specific provisions. Some specifications can be found in the Rulebook on standard operational procedures for risk assessment in border management. This act stipulates that the state bodies and institutions are carrying different types of risk analysis, including the analysis of smuggling of migrants.

#### **2.4.9. Labour migration data and statistics**

The primary source of information on labour market developments, specifically in the area of labour market supply, is the Labour Force Surveys. In this context, there is a need to enhance the existing Labour Market Information System that would also incorporate labour migration information as a basis for evidenced based policy making in the employment and migration area. Considering the influence of migration on the demographic and socio-economic development, the existing Labour Market Information System should be upgraded to include regular and systematic labour migration data. Concerning the introduction of EURES, the country is implementing capacity building activities and is at a preparatory stage.

#### **Data protection / privacy**

General data protection provisions are contained in the Law on Border Control,<sup>29</sup> Article 62, in particular focusing on the stage once the foreigner enters into the country. Furthermore, Article 3-a of the Law on Protection of Personal Data<sup>30</sup> is also a safeguard for protection of privacy of foreign nationals. Article 35 of the Law on Employment of Foreigners defines principles for the protection of data of foreign nationals residing on the territory of the country. This act defines the format in which the data are kept, the transfer of personal data and the disposal of data. Article 144 of the Law on Foreigners defines that the state authorities may use data from the records, provided that they have a legal interest thereto which shall be decided upon by the Ministry of Internal Affairs or the Ministry of Foreign Affairs.

## **3.0. Main findings, recommendations and conclusions**

### **3.1. Overall compliance with EU *acquis***

The country is evidencing a continuous progress towards the overall compliance with the EU *acquis* in the area of migration. The Country is an EU candidate as of 2005 and since then considerable amendments to the legal and institutional framework in the area of migration have been introduced.

However, it can be noted that in general the definitions of migration specific categories and procedures are not fully transposed into the national legislation. As the current report was being put together, the Government was working on a new Law on Foreigners which is expected to further align the national legislative framework with the EU *acquis*. Furthermore, there is a need to conduct an in-depth assessment of the existing institutional structure of migration management and policy making to further streamline relevant procedures and frameworks. In order to further enhance migration management and evidence-based policy making, it is important to improve the data collection systems, including alignment of the statistical methodologies and reporting systems with the international standards.

Key gaps in compliance with EU *acquis*, legislative provisions acting as barriers to labour mobility towards the country and within the SEE region and recommended steps in the mid-term perspective (up to 2020)

The main gaps in compliance with the EU *acquis* identified in this report include alignment with the Blue Card Directive, ensuring minimum standards on employment of seasonal workers, minimum standards on return of foreign nationals illegally residing in the country, establishment of a one stop shop system for issuing single residence permits. The employers sanction provisions should be further upgraded in line with the EU Sanctions Directive, and a special residence permit for volunteers should be also addressed in the new Law on Foreigners.

Specifically, the following recommendations can be proposed within the mid-term perspective:

- Need for improving the data collection systems.
- Need for alignment with the standards of the Blue Card Directive. It should be mentioned, however, that at this point the alignment with this directive is difficult since the county is not an EU member state. One of the main principles of the Blue Card Directive is the regulation of a foreigner's status in the first country of residence.
- Further simplification of procedures for foreigners' employment, including the assessment of possible models for the introduction of a one stop shop procedure for foreigners' registration.
- With regard to circular migration of seasonal workers, the following should be considered: reduction of the number of documents to be enclosed in the application for a seasonal work permit, issuing several seasonal work permits in a single administrative act and accelerating the application procedure; a clearer definition of rights and obligations of the employer of seasonal.
- There is a need to define the position of intra-corporate transferees in a more detailed manner by granting them the right to bring family members from the start of the assignment, if they apply at the same time.
- A special residence permit for volunteers shall be taken into consideration as part of the new law on foreigners. .
- Consideration should be made to introducing a special provision in the Law regarding rights of researchers for family reunification.
- Alignment with the Employers Sanction Directive can be broadened in terms of: gradation of sanctions in (line with article 5); regulating the obligation of employers to cover costs of return of illegally employed third-country nationals in those cases where return procedures are carried out; changes of the Law on Employment of Foreigners and the Criminal Code in order to comply

with minimum standards stipulated in Article 6 of the Directive, i.e. back payments to be made by the employer; non-application of the prohibition to work for those foreigners whose removal has been postponed and who are allowed to work according to the law.

- Alignment with the Return directive in terms of: common standards, special attention to family life, state of health, introduction of a single administrative decision covering various return forms and aligning the preparatory period for voluntary return (7-30 days).

In terms of the future development of the country and the alignment of labour migration regulation with the objectives stated in the South-East Europe 2020 strategy, further efforts should be made to:

- Increase labour market participation, reducing structural unemployment and promoting job quality,
- Develop a skilled workforce responding to labour market needs and promoting lifelong learning,
- Improve the quality and performance of education and training systems at all levels and increase participation in tertiary or equivalent education,
- Promote social inclusion and combat poverty.

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<sup>1</sup> Government of the Republic of Macedonia. *The Resolution on Migration Policy of the Republic of Macedonia 2009 – 2014*. Available from: <http://www.marri-rc.org/upload/Documents/MKD%20M%20R%202009-2014.pdf>

<sup>2</sup> United Nations Conference on Trade and Investment. (2011). Investment Policy Review of the former Yugoslav Republic of Macedonia [http://unctad.org/en/PublicationsLibrary/diaepcb2011d3\\_en.pdf](http://unctad.org/en/PublicationsLibrary/diaepcb2011d3_en.pdf)

<sup>3</sup> Law on Movement and Stay of Foreigners and the Law on Employment and Work of Foreigners Official Gazette no 70/2007; 5/2009; 35/2010; 148/2011 and 84/2012).

<sup>4</sup> European Commission. Former Yugoslav Republic of Macedonia 2013 Progress Report Accompanying the document Communication from the Commission to the European Parliament and The Council. Enlargement Strategy and Main Challenges 2013-2014. Brussels, 2013. Available from: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/mk\\_rapport\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/mk_rapport_2013.pdf)

<sup>5</sup> Law on Foreigners (Official Gazette no 07-1144/1 from 14 march 2006 and cleared text of the law from 25/01/2013), Article 38

<sup>6</sup> Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents

<sup>7</sup> Law on Citizenship (Official Gazette no 67/92 and cleared text of the law from 20/11/2012)

<sup>8</sup> Law on Employment and Work of Foreigners (Official Gazette no 70/2007; 5/2009; 35/2010; 148/2011 and 84/2012)

<sup>9</sup> Law on Foreigners, Article 84 paragraph 4

<sup>10</sup> Law on Recognition of qualifications (Official journal no 171 from 30.12.2010)

<sup>11</sup> Idem

<sup>12</sup> World Bank. *Mutual Recognition Agreements in Professional Services and CEFTA services integration*. 2014

<sup>13</sup> Visa and work permit for foreigners to enter the Republic of Macedonia, Invest Macedonia 2009 [http://www.investinmacedonia.com/sites/invest/files/content\\_file/Visas%20and%20Work%20Permits.pdf](http://www.investinmacedonia.com/sites/invest/files/content_file/Visas%20and%20Work%20Permits.pdf)

<sup>14</sup> Law on higher education, Official Gazette of the Republic of Macedonia" no. 35/2008; 103/2008; 26/2009; 83/2009; 99/2009; 115/2010; 17/2011; 51/2011; 123/2012; 15/2013; 24/2013 и 41/2014)

<sup>15</sup> Law on volunteering, Official Gazette of Republic of Macedonia no. 85 from 09.07.2007

<sup>16</sup> Law on Health Protection, Official Gazette no 43 from 29.3.2012

<sup>17</sup> Law on medical studies and continues professional development of the medical doctors, Official Gazette no 07/516/1 from 24 January 2013

<sup>18</sup> Law on Employment and Work of Foreigners (Official Gazette no 70/2007; 5/2009; 35/2010; 148/2011 and 84/2012), Article 13

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<sup>19</sup> Idem, Article 12 paragraph (3)

<sup>20</sup> Idem, Article 13 paragraph 6 and Article 14 paragraph 5

<sup>21</sup> Idem Article 13 paragraph 6 and Article 14 paragraph 5

<sup>22</sup> Law on health insurance Official Gazette no 65/2012. 16/2013, 19/2013

<sup>23</sup> Law on social protection Official Gazette no 10-2832/2, form 28 October 2013

<sup>24</sup> Law on social protection Official Gazette no 10-2832/2, form 28 October 2013

<sup>25</sup> Law on elementary education Official Gazette no 103/-8 from 19.08.2008

<sup>26</sup> International labour organization,

[http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200\\_COUNTRY\\_ID:103555](http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103555)

<sup>27</sup> Law on the agencies for temporary employment, Official Gazette no 49, 04/2006

<sup>28</sup> Articles 11-12 of the Law on the Agencies for Temporary Employment

<sup>29</sup> Law on Border Control Official Gazette no 171 from 30.12.2010

<sup>30</sup> Law on personal data protection Official gazette no 7/2005,103/2008, 124/2010, 135/2011 and 43/2014

## 4.0. Annexes

### 4.1. List of key national legal documents

#### Laws

1. Resolution on Migration Policy 2009 – 2014
2. Law on Foreigners (Official Gazette no 07-1144/1 from 14 march 2006 and cleared text of the law from 25/01/2013)
3. Law on Employment and Work of Foreigners (Official Gazette no 70/2007; 5/2009; 35/2010; 148/2011 and 84/2012)
4. Law on Personal Data Protection (Official Gazette no 7/05 and 103/08)
5. Law on Personal Data Protection (Official Gazette no 7/05 and 103/08)
6. Law on Social Protection (Official Gazette no 10-2832/2)
7. Law on the Agencies for Temporary Employment (Official Gazette no 49, 04/2006)
8. Law on pension and disability insurance (Official Gazette no 10-1373/23, 04/2013)
9. Law on Health Insurance (Official Gazette no 65/2012. 16/2013, 19/2013)
10. Law on Health Protection (Official Gazette no 43 from 29.3.2012)
11. Law on Citizenship (Official Gazette no 67/92 and cleared text of the law from 20/11/2012)
12. Law on Recognition of Qualifications (Official journal no 171 from 30.12.2010)
13. Law on Higher Education (Official Gazette no. 35/2008; 103/2008; 26/2009; 83/2009; 99/2009; 115/2010; 17/2011; 51/2011; 123/2012; 15/2013; 24/2013 и 41/2014)
14. Law on Volunteering (Official Gazette Macedonia no. 85 from 09.07.2007)

#### Policies

1. 2008 *Resolution on Migration Policy (2009 – 2014)*. Available from: <http://www.marri-rc.org/upload/Documents/MKD%20M%20R%202009-2014.pdf>

#### Other documents

1. International Organization for Migration Skopje, the former Yugoslav Republic of Macedonia 2007 *Migration profile 2007*. Available from: [http://iom.hu/PDF/migration\\_profiles2007/Macedonia\\_2007.pdf](http://iom.hu/PDF/migration_profiles2007/Macedonia_2007.pdf)
2. 2008 *Migration Profile 2008*. Available from: <http://www.marri-rc.org/upload/Documents/MKD%20Migration%20Profile%202008.pdf>
3. 2009 *Migration Profile 2009*. Available from :

<http://www.marri-rc.org/upload/Documents/MigracionenprofilnaRMza2009.pdf>

4. 2010 *Migration profile 2010*. Available from: <http://www.marri-rc.org/upload/Documents/MP-2010.pdf>

## 4.2. List of key international and regional agreements

### 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
10. Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents

**4.3. Officials within following institutions consulted**

| Name  | Institution/Dept.                       | Position   |
|---|---|--|
| <b>Ms. Svetlana Vlahovic<br/>Dimanovska</b> | Ministry of Interior                    | Head of the Department for<br>European Integration                             |
| <b>Mr. Dejan Ivkovski</b>                   | Ministry of Labour and Social<br>Policy | Head of the Department for<br>asylum, migration and<br>humanitarian protection |



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