

# LABOUR MOBILITY REGULATION IN SOUTH-EAST EUROPE

*Legislative assessment report*

*Serbia*



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



International Organization for Migration (IOM)

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**Report prepared by:** Dragana Marjanovic 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

EC	European Commission
EU	European Union
EURES	European Employment Services
EUSDR	EU Strategy for the Danube Region
ILO	International Labour Organization
IOM	International Organization for Migration
MAARI	Migration, Asylum, Refugees Regional Initiative
RCC	Regional Cooperation Council
RESC	Revised European Social Charter
SEE	South-East Europe
SEECF	South-East Europe Cooperation Process
TCN	Third-country national

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## 1.0. Introduction

As the South Eastern-European (SEE) countries are moving towards European Union (EU) membership, the issue of labour market integration within the region and with the EU is acquiring particular importance. Migration regulation lags behind the on-going integration process, often acting as a barrier to mobility of persons, services and trade, as well as resulting in persistent fragmentation and imbalances of labour markets. Mobility of workers within the region and towards the EU has been happening primarily along informal channels, leading to sub-optimal economic and human outcomes, associated with rights breaches and exploitation.

Within the International Organization for Migration (IOM) regional research conducted through the *Labour Mobility as a Factor of Development in South-Eastern Europe* project we seek to inquire into the growing discrepancy between labour mobility regulation and economic integration in the SEE and determining what could be the most important and tangible actions at regional level to ensure that labour migration regulation acts as a facilitator, and not as a barrier to socio-economic development. This report will provide an overview and analysis of the overall regulative context and the national policies and regulation mechanisms which govern labour mobility and the identification of and remedies for the existing gaps and inconsistencies in Serbia within this sphere.

The Republic of Serbia has announced freedom of movement of labour as a short and medium-term priority within its National Programme for Integration with the European Union.<sup>1</sup> Among key actions in this area are harmonization of relevant regulations in the areas of education, youth, sports and professional training, educational reform and legislative framework development, in particular what concerns the introduction of a law on foreigners' employment. In practical terms, the movement towards the Single Market with the EU would result in removing the remaining barriers in the labour markets for the citizens of EU member states, such as protective mechanisms for citizens' employment, i.e. labour market tests and quotas; enabling mutual recognition of qualifications and skills; harmonizing and uniting recruitment and control mechanisms. Through a relatively lengthy process requiring several years of transitional arrangements, the perspective of Serbia becoming a part of the European Single Market is becoming a less distant future, given the entrance into force of the Interim Agreement in February 2010 and of the Stabilization and Association Agreement in September 2013.<sup>2</sup>

In the 2011 Opinion of the European Commission (EC) on Serbia's application for membership of the European Union one of the key messages in the realm of labour market was that "Serbia needs to urgently address the structural rigidities on the labour market, including the mismatch between demand and supply of skilled workforce" and that Serbia will need to undertake additional efforts to align with the *acquis* and to implement it effectively in the medium term in the field of freedom of movement of workers.<sup>3</sup>

According to data from the 2012 Migration Profile of Serbia, the number of temporary residence permits issued for the first time amounted to 6,893 and does not differ greatly in comparison to 2011 when 6,381 temporary residence permits were issued.

The bellow table shows the distribution of temporary residence permits, according to the purpose of issuance.

Purpose of issuance	2011		2012	
	Number	Percentage	Number	Percentage
<b>Work</b>	2,574	40.33	2,942	42.68
<b>Family unification</b>	3,009	47.16	3,182	46.17
<b>Study</b>	489	7.55	384	5.57
<b>Other</b>	316	4.95	385	5.58
<b>Total</b>	6,381	100	6,893	100

Table 1. Number of Temporary residence permits issued in relation to purpose of stay

Source: Ministry of Interior, 2014 Migration Profile Serbia

In 2012, a total of 2,958 work permits have been issued to foreigners. The number of work permits for foreigners with temporary residence in Serbia has remained stable in the past four years. However as the number of work permits refers only to those who have requested an employment relation to the Law on Conditions for Establishing a Labour Relation with Foreign Citizens it is estimated that the total number of foreign citizens working in Serbia is much higher than the number of issued work permits, as foreigners performing work outside of an employment relation, members of steering boards and other types of engagement are not included in this count. This explains the discrepancy between the number of temporary residence permit issued for the purpose of work (above) and the number of issued work permits.<sup>4</sup>

Although regional labour mobility is not a major focus in Serbia's policy documents, data shows that Western Balkan countries remain by far the top destination of the Serbian labour migrants, followed up by the Russian Federation and only then the EU and the US. Based on work permit statistics, the regional dynamics of labour migration towards Serbia appears to be similar to the one of labour out-migration: the majority of foreign workers (from European states) arrive to the country from the Western Balkan region (former Yugoslav Republic of Macedonia, Bosnia and Herzegovina, Montenegro), Eastern Europe (Russian Federation, Ukraine), but also from the new EU member states of Rumania and Bulgaria.<sup>5</sup>

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

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

The *White Paper: Towards a Labour Migration Policy in the Republic of Serbia*, prepared by IOM in 2010, concludes, that in the migration management sphere, the Republic of Serbia is still in the process of laying down the foundations for a comprehensive national policy and an efficient and operational framework for its implementation. The 2009 Migration Management Strategy (*Official Gazette*, RS No. 59/2009), with a corresponding action plan, highlights key migratory trends and challenges in the Republic of Serbia and sets up the overall priorities of action in the years to come. The intention is to transform migrations into a positive developmental factor benefiting both the receiving and sending countries. Serving as a comprehensive and objective-setting framework, the Strategy calls for

*streamlining migration issues into other spheres* and developing more specific sector policies, including the *policy on labour migration*. Strategic Objective 2, “Integrating the strategic, legal and institutional framework for the joint management of migration”, formulates the priorities of relevance to economically-induced migration as follows:

*instituting “[...] a policy of employment in the Republic of Serbia according to the needs of the labour market and the principle of freedom of movement for the labour force” (measure 11, specific objective 2), clearly defining “[...] the jurisdictions and procedures in the employment and protection of citizens of the Republic of Serbia abroad in a manner that will ensure the effective employment and protection of citizens temporary working abroad and in the process of redirecting employees to work abroad” (measure 2, specific objective 3), continuing “[...] negotiations and concluding agreements on social security with the countries of interest for the Republic of Serbia” (measure 3, specific objective 3).<sup>6</sup>*

While the Strategy does not explicitly state its focus in terms of regional/EU/Third-country Nationals (TCN) migration, it does devote significant attention to the brain-drain affecting particularly highly skilled youth and makes mention of the “numerous benefits” offered to professionals of occupations needed in the labour markets of EU and other developed countries. Hence, it is calling for programmes to be developed to promote the return of highly qualified Serbian nationals or applying their knowledge and skills from a distance to aid the development of the Republic of Serbia. The Migration Management Strategy further states that efforts to promote temporary employment of Serbian nationals should be made, pointing out that no legal provisions exist for the establishment of Temporary Employment Agencies, nor are they in preparation.

The National Employment Strategy 2011-2020 was adopted in May 2011. One of the priorities of the Strategy is the stimulation of employment in the less developed regions and the development of regional and local employment policies. Given that Serbia faces demographic and educational challenges, some of the necessary new solutions may include encouraging of immigration of younger and more educated workers, primarily from neighbouring countries.

A part of the Strategy is devoted to the enhancement of institutions and development of labour market. A need to harmonize legislation with the EU *acquis* has been acknowledged, and in order to achieve that, a new law is being prepared, which will regulate the employment of foreign nationals in a modern and comprehensive way. Initially, the adoption of this law was planned by the end of 2011.

In January 2006, the Government adopted the Strategy for Integrated Border Management (IBM) in the Republic of Serbia. The concept of IBM implies that borders should be open for trade and movement of people, and, at the same time, closed for criminal and other activities which jeopardise the stability and security of the SEE region.

The National Youth Strategy was adopted in May 2008, which recognized youth out-migration as a key challenge to the development of the country and proposed a series of measures which could counteract migration outflows of the young. Encouraging and stimulating all forms of employment, self-employment and entrepreneurship are among such measures which should reduce negative effects to the economy of the Republic of Serbia and motivate young people to remain in the country or even consider returning back.

In January 2011, the Government of the Republic of Serbia adopted the Strategy for Sustaining and Strengthening of Relations between the Home Country and Diaspora and between the Home Country

and Serbs in the Region. The Strategy recognized that migration of highly educated citizens of the Republic of Serbia due to low employment opportunities is one of the largest concerns. The Strategy points out to the need to create a data base of persons with university or college degrees who moved out of the country and to the need to mobilize the emigrant population and their resources for the country's development, including for reducing the unemployment rate and poverty in the Republic of Serbia.<sup>7</sup>

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

As described by IOM and the Serbian European Integration Office (SEIO), several institutions have competences in the area of migration. In the following paragraphs only the institutions with key functions related to labour migration management will be mentioned.<sup>8</sup>

The Coordination Body for Managing and Monitoring Migration ensures, through its activity, an integrated policy and harmonization of activities undertaken by competent ministries in the field of migration, by coordinating the activities of ministries and special organisations.

Expert, operational, administrative and technical tasks for the Coordination Body are carried out by the Commissariat for Refugees and Migration as specified in the Law on Migration Management.<sup>9</sup>

The Ministry of Interior is responsible for the stay of foreigners, issuance of residence permits and identity cards for foreigners.

The Employment Department of the Ministry of Labour, Employment, Social Policy and Veterans takes a lead in labour migration policy development. The draft Law on Employment of Foreigners has been prepared by this Department which includes provisions covering migration and employment abroad. This Ministry is therefore responsible for proposing and monitoring the implementation of strategies in the field of migration as it affects the labour market; the conclusion of employment contracts with foreign employers and other contracts related to employment; harmonisation of legislative framework with the European standards in the field of employment; monitoring of enforcement of international conventions; monitoring of the situation and trends in the labour market in the country and abroad; employment in the country and abroad and referring the unemployed citizens to work abroad. It is additionally responsible for the safeguarding of labour rights of workers temporarily employed abroad, protection of citizens employed abroad, conclusion of agreements on referring the employees to work abroad and referring the employed to temporary employment abroad, keeping records in the field of labour and employment, anti-discrimination policy, the social welfare system, taking part in preparation, conclusion and enforcement of international treaties on social insurance, exercise of rights and integration of refugees and displaced persons, returnees under the readmission agreements, Roma population and other socially vulnerable groups, etc.

As it will be described in more detail bellow, the National Employment Service (NES), through the Department of Inter-state Agreements and Compensation within its Directorate conducts activities to protect Serbian nationals employed abroad and to support employment of foreign nationals in Serbia, including issuance of work permits,. Employment advisors in each of the 34 Branch Offices of the NES perform mediation for employment abroad and the employment of foreigners, as do 56 licensed private employment agencies.

The draft Law on Employment of Foreigners identifies the Labour Inspectorate as the authority responsible for the oversight of the implementation of this Law in the part of ensuring that the conditions for the employment of foreigners prescribed by the Law are observed. This is in line with this institution's overall mandate in enforcing the implementation of the Labour Law and other regulations on labour relations, by-laws and contracts, which regulate the rights, duties and responsibilities of employees and employers.

The Ministry of Education, Science and Technological Development is responsible for the recognition of acquired educational certificates (primary, secondary and University), while the Ministry of Health is responsible for the health care of foreigners and taking part in the preparation and implementation of international treaties on mandatory social insurance.

Several other State bodies have a role in labour mobility regulation, such as the Office of Human and Minority Rights (protection and improvement of human and minority rights, including the rights of vulnerable migrant groups, monitoring of harmonisation of the national legal framework with international treaties and other international legal instruments pertaining to human and minority rights and initiating changes in the national legal framework, etc.), the Office for Cooperation with Diaspora and Serbs in the Region (monitoring the situation of citizens of the Republic of Serbia who live outside the Republic of Serbia; improvement of connections of emigrants, citizens of the Republic of Serbia living abroad and their organisations, with the Republic of Serbia; supporting the process of inclusion of emigrants, persons of Serbian origin, persons originating from Serbia and citizens of the Republic of Serbia living abroad in the political, economic and cultural life of the Republic of Serbia and their return to the Republic of Serbia, etc.), and the Council for Combating Illegal Migration was established as a common, inter-departmental expert body gathering a number of experts in particular areas, with a task to coordinate the activities of entities implementing the Strategy for Combating Illegal Migration.

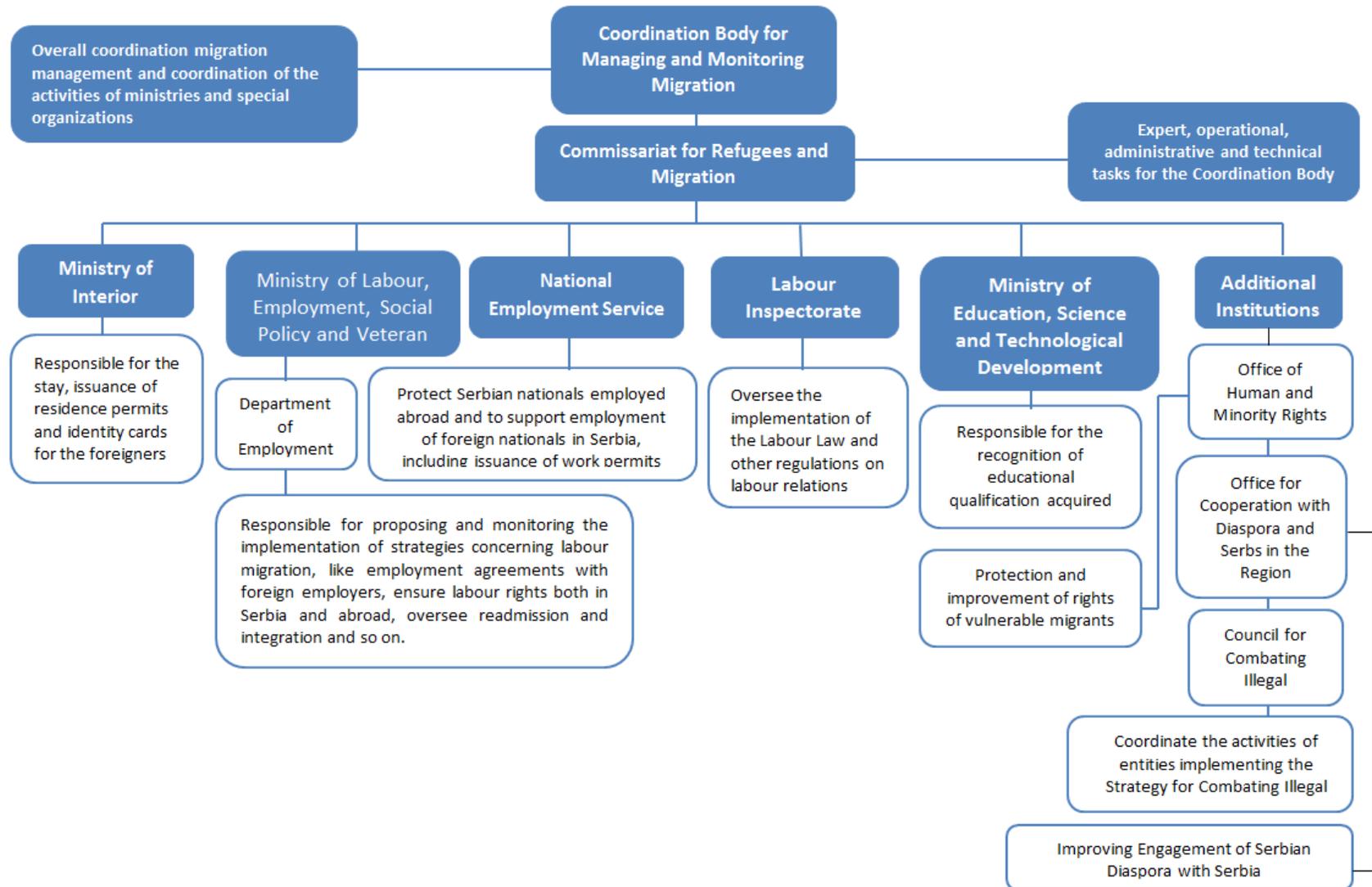


Figure 1. National Institutional Mechanisms for Labour Mobility and Migration Management, Serbia

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

On 11 November 2001, the State Union of Serbia and Montenegro has signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, however, this Convention still has not been ratified, which means that Serbia is not bound by its provisions.<sup>10</sup>

However, the Republic of Serbia is bound by the provisions of two Conventions adopted under the auspices of the specialized agency of International Labour Organization (ILO) and dealing with the status of migrant workers. The ILO Migration for Employment Convention (No. 97) (the Republic of Serbia ratified the Convention on 24 November 2000) binds all states to make available information on national policies, laws and regulations relating to emigration and immigration, information on special provisions concerning migration for employment and the conditions of work and livelihood of migrants for employment as well as the information concerning general agreements and special arrangements on these issues concluded by the state party.<sup>11</sup> The state is obliged to ensure the existence of adequate and free service to help migrant workers and provide access to medical services.

The state is especially obliged to grant migrant workers with the treatment no less favourable than the one it applies to its own nationals in respect to a number of economic and social rights.

ILO Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (No. 143) binds all State Parties to this Convention to respect the basic human rights of all migrant workers under Article 1. Each State Party to this Convention is obliged to systematically seek to determine whether there are any illegally employed migrant workers in its territory and whether there are any movements of migrants for the purpose of employment that depart from, pass through or arrive in its territory, in which the migrants are subjected to conditions contravening relevant international or national laws or regulations.<sup>12</sup> State parties are obliged to suppress clandestine movements of migrants for employment and illegal employment of migrants, as well as to undertake measures against the organizers of illicit or clandestine movements of migrants for employment. At the regional level, Serbia is not bound by the provision of the European Convention on the Legal Status of Migrant Workers which was adopted in 1977 by the Council of Europe.<sup>ii 13</sup>

The Republic of Serbia is actively involved in numerous regional initiatives. In 2012 its Presidency of the South-East Europe Cooperation Process (SEEC) and of the Adriatic-Ionian Initiative, as well as the presidency of the Migration, Asylum, Refugees Regional Initiative (MAARI) ended. Serbia's Presidency over the Central European Initiative (CEI) had ended one year earlier. In addition Serbia is also involved in regional cooperation under the coordination of the Regional Cooperation Council (RCC), within the EU Strategy for the Danube Region (EUSDR), the International Commission for Sava River, has

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<sup>ii</sup>A full list of ratified international treaties and conventions is available in Annex 2.

representatives in the Regional Southeast European Law Enforcement Centre Council, takes part in the Southeast European Cooperation Initiative, as well as in a number of other regional initiatives.<sup>14</sup>

Speaking of bilateral agreements with the states in the region, the Republic of Serbia has signed an Agreement on Temporary Work with Bosnia and Herzegovina, while, as SEIO reports, the Agreement on Recognition of Diplomas with the former Yugoslav Republic of Macedonia has been under negotiation for several years now. It is also expected that the cooperation with Montenegro will improve as both states have reached consensus on the importance of the freedom of movement of workers.<sup>15</sup> The bilateral agreements regulating social security of migrant workers will be addressed separately further in this report.

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

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

The 2013 IOM handbook *Protecting the Rights of Migrants in the Republic of Serbia* provides a detailed account of the legislation regulating the access of foreigners to the labour market.<sup>16</sup>

General conditions are defined under the Labour Law.<sup>17</sup> According to these conditions, employment relationship may be established with a person above the age of 15. General conditions also imply the conditions stipulated by the collective agreement and general document referring to a specific job post. Under this Law, general prohibition of discrimination is proclaimed in all respects, especially with regard to employment conditions and selection of candidates for a certain job, working conditions and all rights resulting from the labour relationship, education, training and advanced training, promotion at work and termination of the employment contract.

In accordance with the Law on Foreigners of the Republic of Serbia, temporary residence for work, employment, performance of economic or other professional activities may be permitted. Temporary residence may be permitted to a foreigner who has been granted the right to work, or if the permission for temporary residence is a precondition for the exercise of that right, in accordance with the regulations defining the work of foreign citizens in the Republic of Serbia. Similarly, it may be permitted to a foreigner intending to stay in the Republic of Serbia for a period longer than 90 days, if he/she fulfils other conditions defined by the Law on Foreign Citizens, and does not require a work permit in terms of regulations defining employment of foreign citizens in the Republic of Serbia.

Employment of foreign citizens is regulated by the Law on the Conditions for Establishing a Labour Relation with Foreign Citizens.<sup>18</sup> According to this Law, foreign citizens without work permits can be employed if they have temporary or permanent residence and if they are being employed for reasons of professional work as determined by a contract on business-technical co-operation, long-term productive cooperation, transfer of technology and foreign investment. In that case temporary residence is permitted until the expiry of the term of the approved employment contract in the Republic of Serbia. Alternatively a work permit must be granted.

A foreigner's labour relation shall terminate upon:

- The expiry of the permission for temporary residence;

- Cancellation of temporary residence;
- Annulment of the residence permit.

Employment relationship may be extended to a foreign citizen if his/her temporary residence is extended and if he/she is granted a new permission for the establishment of a labour relation.

The Rulebook on Conditions and Manner of Issuing Work Permits to Foreign Citizens or Stateless Persons adopted in 2010 defines the conditions and the manner of issuing work permits to foreign citizens or stateless persons in detail, as well as the role of the National Employment Service in that procedure.<sup>19</sup> In accordance with the said Rulebook, the National Employment Service issues a work permit to foreigners who have been granted permanent residence or temporary residence permits issued by the Ministry of Interior. The foreign citizen who is granted permanent residence submits an application for the issuance of the work permit himself/herself to the Branch Office of the National Employment Service associated with the place of residence where the foreigner resides. He/she is issued the work permit for the period for which permanent residence is granted. If the foreigner has been granted temporary residence, the application is submitted by the employer, along with an explanation on the need to employ a foreigner. In that case, the work permit is issued for the period for which the foreign citizen has been granted temporary residence.

The branch of the National Employment Service may deny the application for the issuance of work permit to a foreign citizen who has been granted temporary or permanent residence in the Republic of Serbia, if there are unemployed citizens of the Republic of Serbia matching the requirements of the position as described in the application for the issuance of the work permit of the foreign citizen. If those citizens are not interested in the job, the Branch Office may issue the said work permit to the foreign citizen. A foreign citizen who is granted temporary or permanent residence does not need permission for the establishment of the employment relationship in situations when the employment relationship is established for reasons of professional work as determined by a contract on business-technical co-operation, long-term productive cooperation, transfer of technology and foreign investment. Likewise, this permission is not required with regard to occasional and temporary jobs not lasting longer than 120 work days in the calendar year.

The National Employment Service keeps special records on work permits issued to foreign citizens who were granted permanent or temporary residence based on the Rulebook on immediate data content and method of keeping the records in the field of employment adopted in 2010.<sup>20</sup>

Activities related to employment are regulated by the Law on Employment and Insurance in Case of Unemployment.<sup>21</sup> In accordance with the said Law, all forms of discrimination are prohibited during employment and impartiality is proclaimed in the conduct of employment activities both with regard to citizens of the Republic of Serbia and to migrant workers. Under Article 85, a foreign citizen or stateless person may register as unemployed to the National Employment Service if he/she has a permanent or temporary residence permit and a valid work permit. If there is a record kept on a foreign citizen or stateless person in the registry of jobseekers of the National Employment Service, they have equal treatment with the nationals with regard to the rights and possibility for employment. They are also included in the programmes and active employment policy measures conducted by the National

Employment Service. They are also entitled to obtaining information on employment opportunities, vocational guidance, career counselling, participation in programmes related to further education and training, financial support during employment, i.e. they may avail themselves of the right to employment subsidies and support to self-employment.

If a foreign citizen has been insured against unemployment on the territory of the Republic of Serbia, and has been introduced into the Registry of the National Employment Service, he/she shall exercise the right to financial compensation in the manner and under the same terms as citizens of the Republic of Serbia. A foreign citizen who registers as unemployed with the National Employment Service is entitled to participation in the additional educational and vocational training programmes.

Bearing in mind that the Law on Employment of Foreigners was adopted in 1978, a new version of the Law on Employment of Foreigners has been drafted and is currently pending adoption by the National Assembly of the Republic of Serbia. Under Article 4 of the said Draft Law, a foreigner employed in the Republic of Serbia has the same rights and obligations in terms of work, employment and self-employment that citizens of the Republic of Serbia have in accordance with the Law.

According to the Draft Law, nationals of the Member States of the European Economic Area and Swiss Confederation will have free access to Serbia's labour market as well as the members of their families who are not nationals of these states but have permission for temporary or permanent residence with regard to members of their families in those states.<sup>iii</sup> They must have provided housing, health insurance and subsistence funds guaranteeing that they will not become beneficiaries of social assistance. That right shall not be terminated:

- If the employment is terminated during temporary incapacity for work owing to an illness or accident at work;
- If an individual is dismissed without his/her own guilt, whereas the job lasted at least a year in the Republic of Serbia and the individual has been registered with the National Employment Service; and
- If he/she participates in educational and training programmes.

If the employment which lasted less than a year was terminated, or if an individual was dismissed from a permanent job during the first twelve months of stay without his/her own guilt, whereas an individual was registered in both cases with the National Employment Service, he/she will be entitled to free access to the labour market within six months starting with the date of the termination of employment (Article 7).

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<sup>iii</sup>“Family members” are spouses or cohabitants, direct descendants younger than 21 or adopted children or stepchildren younger than 21, children older than 21 not capable of supporting themselves, and direct ancestors an individual is obliged to support.

According to the Draft Law, employment of foreigners is carried out provided that the foreigner has either a temporary or a permanent residence permit, as well as the work permit in accordance with the Law. The previous condition is not required if the individual has registered temporary residence.

A work permit is issued for:

- Employment;
- Special cases of employment; and
- Self-employment.

A work permit for employment is issued at the request of an employer, in accordance with the situation on the labour market if the employer:

- Has not adopted the programme related to the resolving of the redundancy of his/her employees six months prior to the submission of the request for the issuance of the work permit;
- Has not found citizens of the Republic of Serbia, individuals having free access to the labour market or individuals with a personal work permit, having adequate qualifications, in the registry of the National Employment Service three months prior to the submission of the request for the issuance of the work permit; and
- Encloses a proposal of the employment contract (Article 16).

Work permit for self-employment is regulated under Article 23. It is issued at the request of a foreigner who has a temporary residence permit in the Republic of Serbia lasting as long as the temporary residence, that is one year at the longest, with the possibility of extension if the foreigner proves that he continues the performance of the same job under the conditions related to the issuance of the permit. The foreigner is obliged to commence business activities within ninety days starting with the date of the issuance of the permit.

Under Articles 14-23 the conditions and obligations related to the issuance of the work permit with regard to all of these situations have been defined.

Under Article 24 of the Draft Law, the Government may decide to limit the number of foreigners to whom work permits are issued in the case of disturbances on the labour market and in accordance with the migration policy and movements in the labour market. In that situation, the quota is defined by the Government, at the proposal of the Ministry of Labour, having previously acquired the opinion of the Social and Economic Council<sup>iv</sup> and the organization responsible for employment.

#### ***2.4.2. Access to labour market of specific categories of foreigners***

The provisions of the draft Law on the Employment of Foreigners do not apply to a person who is:

- entitled to privileges and immunities in accordance with ratified international agreements;

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<sup>iv</sup>Established in accordance with the Law on Social and Economic Council, *Official Gazette of RS*, No. 125/04

- in the Republic, without employment, resides to perform work on the basis of appropriate agreements or arrangements with international organizations, institutions or in the framework of international projects on vocational-technical cooperation, education and research;
- a correspondent accredited in the Republic or a reporter of foreign media;
- in the Republic of residence in order to perform religious activities and religious services or organizes and conducts charity events within registered churches and religious communities in the Republic in accordance with the law;
- a volunteer, in accordance with the law governing the field of volunteering;
- on the basis of an agreement concluded between the authorities responsible for defence and interior affairs performing activities of interest to the Republic or for the defence or security of the country or is professionally advancing his/herself on these fields;
- a member of the crew of a ship, or aircraft, or performing duties in land and rail transport, and is employed by a foreign employer;
- a member of a rescue unit that provides assistance in eliminating consequences of accidents and natural disasters, as well as cases of humanitarian aid.

The conditions of employment of foreigners under this law do not apply to a foreigner whose stay in the Republic does not last longer than 90 days within six months from the date of the first entry into the Republic, and to a foreigner who:

- is the owner, founder, agent or member of a legal entity registered in the Republic in accordance with the law, if not employed by this legal entity;
- is in the Republic of residence in order to establish business contacts and attend business meetings without an income in the Republic or performing other business activities related to the preparation of a foreign employer to establish a presence and begin to work in the Republic;
- is a lecturer or researcher who takes part in organized professional meetings or research projects or conducts work in order to present or implement various scientific and technical achievements, as well as his support staff;
- is personally performing temporary educational, sporting, artistic, cultural, and other similar activities, or resides in the Republic for the purpose of a scientific, artistic, cultural or sporting event, organized by authorized organizations, state bodies or bodies of territorial autonomy and local self-government, as well as supporting organizational and technical personnel;
- is a seconded worker to the Republic in order to execute works under a contract of purchase of goods, the acquisition or lease of machinery or equipment and its delivery, installation, assembly, repair or training to work on these machines or equipment;
- independently or on behalf of a foreign employer resides in the Republic for the purpose of performing the tasks of equipping and exhibiting equipment and exhibits at trade and other fairs and exhibitions.

In previous versions of the draft Law work permits for special cases of employment were intended to be issued for the following categories of migrant workers:

- Performing seasonal jobs in the field of agriculture, forestry, civil engineering and other sectors characterized by rapid temporary labour demand increases;
- Engaged in vocational training, specialization, obtaining qualifications or training;
- Transferring within the company registered abroad;
- Independent professionals;
- Pupils and students under 26 years of age; and
- Daily migrant workers. (Article 16)

However, the latest draft, stipulates only three categories:

- Seconded workers;
- Transferees within the company registered abroad; and
- Independent professionals (Article 18).

The Agreement on youth mobility between the Government of the Republic of Serbia and the Government of the Republic of France (effective as of June 2013) promotes the mobility of students, recent graduates and young experts, as well as an exchange of Serbian and French experts of 18-35 years of age in order for them to advance their professional careers on the basis of work experience in the fields of: health, social affairs, education, agriculture, crafts, industry, sales, free professions or services and other. Such individuals may be employed irrespective of the labour market situation. They may be employed for 12 months with the possibility of extension. Not more than 500 individuals may be employed yearly on the basis of this agreement and they are to enjoy equal labour, social insurance, health, occupational health and safety rights as the citizens of the receiving country. This agreement has still not entered into force, as the mechanisms for its implementation are currently being set up.

#### **2.4.3. Family unification**

Migrant workers performing professional activity on the territory of the Republic of Serbia may bring members of their immediate family with them. Their stay is regulated under Article 32 of the Law on Foreigners. Temporary residence of a foreigner who is a family member may be granted to last up to one year. The extension of the temporary residence may be granted up to the period of one more year, unless otherwise provided bylaw or international treaty. Family members are granted temporary residence for the same period it is granted to the family member who is the holder of their stay (that is, who performs professional activity in the Republic of Serbia).

In terms of the Law on Foreigners, the following are considered close family: spouses, their underage children born in or out of marriage, underage adopted children or underage step children. In exceptional cases, the member of close family can be the next of kin, if particularly important personal or humanitarian reasons for family reunification in the Republic of Serbia exist. The Rulebook on the Fulfilment of Conditions for Approving Temporary Residence of a Foreigner for Family Reunification defines the next of kin as the immediate relative who is in a direct relationship with the sponsor, or his/her spouse, who is dependent on them and does not have adequate family care in the country of origin.<sup>22</sup> It can also be an adult child of the sponsor or his/her spouse, who is not married and who is not able to fulfil his/her own needs due to the state of his/her health. This Rulebook prescribes that

alongside the request, the proofs confirming the kinship or the capacity of close family member are enclosed as well. In accordance with the Rulebook, an application should be supported by evidence on kinship or guardianship. This type of temporary residence may be extended for the period of up to three years, or until conditions for approval of permanent residence have been fulfilled.

In order for family members to work, they are required to obtain work permits. However, as most often, family members are migrant workers' children continuing their education in the Republic of Serbia, the right to education is emphasized as a particularly important area of social life enabling further education and development for migrant workers' children.

#### **2.4.4. Social and labour rights**

Foreigners working on the territory of the Republic of Serbia enjoy the same rights as citizens of the Republic of Serbia, except for the rights exclusively allocated to citizens of the Republic of Serbia. Owing to their importance, the rights to health care and to social security are described in more detail below.

According to the Law on Health Insurance compulsory health insurance is organized according to the principle of reciprocity and solidarity.<sup>23</sup> The Republic of Serbia has signed and ratified 28 bilateral agreements on social security agreements, while the procedure for enacting unemployment insurance is regulated in 20 of these agreements.

- Austria (entry into force as of 26.01.2012.)
- Belgium (as of 15.07.2010.)
- Bulgaria (as of 19.09.2011.)
- Czech Republic (as of 17.01.2002.)
- Denmark (as of 22.06.1977.)
- Slovakia (as of 02.03.2012)
- France (as of 05.01.1950.)
- Italy (as of 14.11.1957.)
- Luxembourg (as of 07.06.2013)
- Hungary (as of 29.11.2013.)
- Netherlands (as of 11.05.1977)
- Norway (as of 22. 11. 1974.)
- Poland (as of 16.01.1958.)
- Germany (as of 30. 09. 1974.)
- Sweden (as of 30.03.1978.)
- Great Britain and Northern Ireland (as of 24.05.1958.)
- Romania (as of 20.03.1976.)
- Slovenia (as of 29.09.2009.)
- Croatia (as of 15.09.1997.)
- Cyprus (as of 20.05.2010.)
- Switzerland (as of 08.06.1962.)
- Bosnia and Herzegovina (as of 29.10.2002.)
- Montenegro (as of 17.12.2006.)
- Panama (as of 26.11.1975.)

- Libya (as of 6.04.1989.)
- The former Yugoslav Republic of Macedonia (as of 29.12.2000.)
- Canada (as of 12.04.2013)
- Turkey (as of 26.10.2009)

Concerning EU countries, agreements have still not been reached with Greece, Latvia, Lithuania, Estonia, Finland, Spain, Portugal, Ireland and Malta. Speaking of the counties of the Former Yugoslavia, such bilateral agreements are in place with all succession states, while an electronic data exchange system is also envisaged, but currently operates only with Slovenia.

The principle of equal treatment is present in all social security agreements concluded by the Republic of Serbia. This is the principle legal instrument for social insurance of mobile workers according to which foreign citizens with whose countries an international agreement on social insurance has been concluded, exercise the right deriving out of compulsory health insurance in the same manner and to the same extent as the citizens of the Republic of Serbia until they have residence in its territory, unless otherwise stipulated by an international social security agreement. Besides this, the Law on Health Care (Official Gazette of RS No. 107/2005) ensures emergency health care for foreigners who are permanent residents, temporary residents or transiting through the territory of the Republic of Serbia (for the nationals of the countries that have not signed bilateral agreements on social insurance).

If there is a ratified international social security agreement, and if it covers pension and disability insurance rights, citizens of the countries which are part of such agreement will be able to exercise the agreed rights.

In order to comply with international standards and commitments Serbia has adopted a new Law on Social Welfare of the Republic of Serbia which governs the access of migrant workers to social protection.<sup>24</sup> Under the new Law beneficiaries of social welfare are primarily citizens of the Republic of Serbia. However, beneficiaries may also be foreigners and stateless persons, in accordance with the Law and international treaties.

The Law envisages a large number of social welfare services, including the right to financial social assistance and the right to professional rehabilitation. The procedure related to the usage of services defined by the Law is implemented by the centre for social work, *ex officio* and at the request of the beneficiary. The local jurisdiction of the centre is determined according to the beneficiary's place of permanent residence. In exceptional circumstances the procedure may be conducted by the centre for social work in whose territory the beneficiary has temporary residence.

According to the Law on the Basis of the Education System foreign citizens are enrolled into preschool institutions, primary and secondary schools and are entitled to education under the same conditions and in the same manner as prescribed by the law applicable to the citizens of the Republic of Serbia.<sup>25</sup>

In the case of foreign children and students who are not familiar with the language in which courses are delivered, the school is obliged to organize language learning classes, preparation for courses or additional classes, according to the special instructions prescribed by the Minister.

In the Republic of Serbia, a child or a student who is a citizen of a European country is entitled to attend lessons on his/her language and culture, either free-of charge based on the reciprocity condition or with his/her parents paying for the tuition, in the premises of the school designated by the local self-government unit authority.

Additionally, through the new Law on Secondary Education, the recognition of diplomas obtained abroad is assured.<sup>26</sup>

#### **2.4.5. Recruitment regulation**

Employment activities are conducted by the National Employment Service and employment agencies to which licences are issued by the Ministry responsible for employment activities. Legal entities and natural persons establish an employment agency for the purpose of conducting employment activities, such as:

- Informing about possibilities and conditions of employment;
- Mediation in employment in the country and abroad;
- Professional orientation and counselling on career planning;
- Implementation of measures of an active employment policy, on the basis of an agreement with the National Employment Service.

The National Employment Service (NES), as prescribed by the Law on Employment and Insurance in Case of Unemployment, conducts mediation services for employment abroad for the unemployed and workers seeking different employment.

Both the NES and private employment agencies are obliged to ensure the protection of the rights of individuals in the employment process. This includes at the minimum equal treatment in labour relations with that of the citizens of the country providing employment, securing working and residence permits, covering the expenses of sanitary and health checks as well as travel expenses, providing information on the living and working conditions as well as on the rights and obligations stemming from the employment relation. In addition, signing the employment contract prior to departure is obligatory. Both the NES and agencies are obliged to keep records on such employment.

In order to support labour market mobility the NES is in the process of preparing its vacancy's data base, counsellors and creating a portal compatible with the European Employment Services (EURES) Portal in order to join the EURES network.

#### **2.4.6. Employer responsibility**

The Law on Labour defines rights, obligations and responsibilities of employment of foreign nationals and stateless persons employed by an employer in the Republic of Serbia.<sup>27</sup> It stipulates that foreign nationals are equated with nationals as regards remuneration (salary) and work conditions as well as the right to trade union membership and exercising their rights under the collective agreement.

According to the draft Law on Employment of Foreigners the employer is obliged to cover the expenses related to the issuance of the work permit. The employer is also obliged to register the foreigner in

order to obtain compulsory social insurance, as well as to notify the National Employment Service if the foreigner has not commenced working within 15 days starting from the date of the issuance of the permit. The employer is also obliged to store all evidence on the work permit eligibility of the foreign employee at the work premises.

## 3.0. Main findings, recommendations and conclusions

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

In Serbia's 2013 Progress Report, the European Commission concludes that with respect to freedom of movement of workers 'preparations are moderately advanced'. This is mainly based on the fact that the new Law on Employment of Foreigners has not yet been adopted and that in preparation for EURES the NES vacancy database remains incomplete as employers have no obligation to register all vacancies. Additionally the capacity of the social security institutions need strengthening, bilateral agreements regulating social protection are still lacking for nine EU states, and the electronic system for data exchange among the Former Yugoslav states is still not functioning, with the exception of Slovenia. European Health Insurance Card preparations have not yet commenced, nor has legislation for the mutual recognition of qualifications been adopted.<sup>28</sup>

SEIO assesses that the obligations that the Republic of Serbia has assumed by its membership in the Council of Europe and ratification of the Revised European Social Charter (RESC) in May 2009 and its enforcement in November the same year, are in some elements consistent with the commitments stemming from EU membership.

This is particularly true with respect to Article 19 of the Charter which the Republic of Serbia almost fully accepted, referring to the right of migrant workers and their families to protection and assistance, and containing provisions on the prohibition of discrimination against migrant workers on the basis of citizenship.<sup>29</sup> In its 2013 National Plan for the Adoption of the *acquis* (2013-2016), SEIO states:

*“The new law on employment of foreigners shall be harmonized with Directive 2004/38/EC on the right of EU citizens and their family members to move and reside freely within the territory of a Member State and Regulation 492/2011 on freedom of movement for workers, including allowing nationals of member states free access to the labour market in the Republic of Serbia. Measures that comply with Directive 2004/38/EC and Regulation 492/2011, shall apply only to citizens of EU member states, and that only when the Republic of Serbia becomes a full member of the European Union. Also, by this new law partial harmonization will be achieved with EU directives that are primarily related to the movement and residence of foreigners, however, they are partly linked to the employment opportunities and ensuring the right to work under the right conditions (Directive No 2003/109/EC, 2004/81/EC, 2001/55/EC, 2003/9/EC, 2004/83/EC, 2009/52/EC, and 2004/114/EC)”.*<sup>30</sup>

A number of laws and by-laws in the area of migration management have been adopted with their content harmonized with the EU *acquis*, such as, among others, Law on Foreigners, Law on Asylum and the Law on Protection of the State Border and including the Law on Migration Management itself. Also, with respect to integration of foreigners Serbia is considered to be quite advanced, as citizenship may be granted after five years of consecutive residence.

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

New regulation for the employment of foreign nationals is needed in order to regulate this area on the basis of the current legislation (laws that were concluded in the meantime); obligations arising from Stabilization and Association Agreement for harmonization of national legislation with EU directives; ratified ILO conventions and WTO basic principles, institutes and requirements. As already mentioned, the **Law on Conditions for Establishing a Labour Relation with Foreign Citizens** from 1978 is still applied. The Ministry of Labour, Employment, Veteran and Social Affairs has developed a draft law which regulates this area in compliance with EU standards. This Draft Law has in fact already undergone public discussion but as a result of the recent elections in Serbia the public consultations procedure will be repeated. However, this draft Law does not envisage fast-tracking, nor simplified procedures for key categories such as highly skilled professionals, seasonal workers and students.

During 2013 by-laws were to be passed that are to allow for the implementation of migration management and through which the legal framework was to be further harmonized with Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on the statistics of the Community of migrations and international protection and on the repealing of the Council Regulation (EEC) No 311/76 on compiling statistics on foreign workers. Upon the adoption of by-laws, the construction of integrated information systems are to be continued.<sup>31</sup> However there was little progress in this respect.

Although the issue of qualification recognition is prominent and hampers labour mobility, there is still no Law on Recognition of Qualifications. Also the Migration Management Strategy further states efforts to promote temporary employment of Serbian nationals should be made, but no legal provisions exist for the establishment of Temporary Employment Agencies.

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

In analysing the draft Law on Employment of Foreigners a few issues emerge as hampering mobility towards the Republic of Serbia.

- Lack of single administrative procedure in applying for residence and work permits.
- Labour mobility barriers have not been fully relieved: a labour market test is envisaged prior to the granting of a work permit to a foreign national and the possibility of introducing a quota system is envisaged.
- The requirements for employing highly skilled TCN, scientist researchers and seasonal workers are in no way relaxed, nor is the procedure fast-tracked, allowing for multiple or renewable permits for seasonal workers for instance. Also, there is no guarantee of the remuneration level for highly qualified TCN.
- Foreign workers may only work for the employer specified in the work-permit and no possibilities for expanding the employment options is envisaged.

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

Several recommendations stem from the overview and analysis of the current legal framework governing the area of labour mobility in Serbia.

1. Introduce additional provisions easing the procedure and fast-tracking and the possibility of issuance of work permits for longer periods for highly qualified TCN, students/researchers and seasonal workers and adopt the new Law on Employment of Foreigners.
2. Work towards adopting a single procedure for residence and work permits.
3. Having in mind the importance of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the influx of migrant workers in Serbia, it should be ratified as soon as possible, followed by work on the establishment of conditions for meeting the obligations resulting from this international instrument.
4. While significant progress has been made in the field of migration management, coordination and data collection (Migration Profile is regularly produced) additional efforts are needed for the continuation of the preparation and adopting of by-laws and rulebooks regulating the creation of the integrated information system on migration.
5. Continue strengthening the institutional capacities for future participation of the National Employment Service in the EURES including the improvement of the vacancy data-base so as to assure it is complete.
6. While the recognition of school certificates obtained abroad is eased, the National Qualification Framework and laws regulating the mutual recognition of qualifications is still lacking.
7. Initiate the development of bilateral agreements providing social security to migrant workers with remaining EU countries and Albania (being the only SEE country with which such an agreement is not in place). Facilitate the social protection electronic data exchange system with the remaining Former Yugoslav republics (currently operating only with Slovenia).
8. Promotion of circular types of mobility, through establishing a legal framework for temporary work agencies and easing seasonal worker's access to work permits in Serbia.

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<sup>1</sup> Republic of Serbia, *Serbian European Integration Office. National Programme for Integration with the European Union (Npi)*. (Belgrade, 2008). Available from: <http://www.seio.gov.rs/documents/national-documents.226.html>

<sup>2</sup> International Organization for Migration (IOM). *White Paper: Towards a Labour Migration Policy in the Republic of Serbia*, IOM Belgrade. Available from: [http://rs.one.un.org/organizations/12/Labour%20Migration%20Policy\\_White%20Paper%20Serbia.pdf](http://rs.one.un.org/organizations/12/Labour%20Migration%20Policy_White%20Paper%20Serbia.pdf)

<sup>3</sup> European Commission (EC). *Communication from the Commission to the European Parliament and the Council Commission Opinion On Serbia's Application for Membership of the European Union*. (Brussels, 2011). Available from: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2011/package/sr\\_analytical\\_rapport\\_2011\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/sr_analytical_rapport_2011_en.pdf)

<sup>4</sup> Republic of Serbia, Commissariat for Refugees and Migration (CRM). *Migration Profile of the Republic of Serbia for 2012*.

<sup>5</sup> International Organization for Migration (IOM). *White Paper: Towards a Labour Migration Policy in the Republic of Serbia*, IOM Belgrade. (2010) Available from: [http://rs.one.un.org/organizations/12/Labour%20Migration%20Policy\\_White%20Paper%20Serbia.pdf](http://rs.one.un.org/organizations/12/Labour%20Migration%20Policy_White%20Paper%20Serbia.pdf)

<sup>6</sup> International Organization for Migration (IOM). *White Paper: Towards a Labour Migration Policy in the Republic of Serbia*, IOM Belgrade. (2010) Available from: [http://rs.one.un.org/organizations/12/Labour%20Migration%20Policy\\_White%20Paper%20Serbia.pdf](http://rs.one.un.org/organizations/12/Labour%20Migration%20Policy_White%20Paper%20Serbia.pdf)

<sup>7</sup> International Organization for Migration (IOM). *Review of Legal and Institutional Framework of the Republic of Serbia in the Field of Migration Management*, IOM, Belgrade. (2011)

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- <sup>8</sup> International Organization for Migration (IOM). Review of Legal and Institutional Framework of the Republic of Serbia in the Field of Migration Management, IOM, Belgrade. and Republic of Serbia, Serbian European Integration Office (SEIO). National Plan for the Adoption of the Acquis (2013-2016). (Belgrade, 2013). Available from: [http://www.seio.gov.rs/upload/documents/nacionalna\\_dokumenta/npaa13\\_16.pdf](http://www.seio.gov.rs/upload/documents/nacionalna_dokumenta/npaa13_16.pdf)
- <sup>9</sup> Law on Migration Management ("Official Gazette of RS", No. 107/2012)
- <sup>10</sup> International Organization for Migration (IOM). Review of Legal and Institutional Framework of the Republic of Serbia in the Field of Migration Management, IOM, Belgrade (2011). and International Organization for Migration (IOM). Protecting the Rights of Migrants in the Republic of Serbia: Handbook for Civil Servants and Local Self-Government Officials, IOM, Belgrade (2012). Available from: [http://www.kirs.gov.rs/docs/migracije/Protecting\\_the\\_Rights\\_of\\_Migrants\\_in\\_the\\_Republic\\_of\\_Serbia.pdf](http://www.kirs.gov.rs/docs/migracije/Protecting_the_Rights_of_Migrants_in_the_Republic_of_Serbia.pdf)
- <sup>11</sup> Official Journal of the SFRY– International Treaties and Other Agreements”, no. 5/68
- <sup>12</sup> Official Journal of SFRY – International treaties and Other Agreements, No. 12/80 - the Republic of Serbia ratified the Convention on 24 November 2000
- <sup>13</sup> International Organization for Migration (IOM). Protecting the Rights of Migrants in the Republic of Serbia: Handbook for Civil Servants and Local Self-Government Officials, IOM, Belgrade. Available from: [http://www.kirs.gov.rs/docs/migracije/Protecting\\_the\\_Rights\\_of\\_Migrants\\_in\\_the\\_Republic\\_of\\_Serbia.pdf](http://www.kirs.gov.rs/docs/migracije/Protecting_the_Rights_of_Migrants_in_the_Republic_of_Serbia.pdf)
- <sup>14</sup> Republic of Serbia, Serbian European Integration Office (SEIO). National Plan for the Adoption of the Acquis (2013-2016). (Belgrade, 2013). Available from: [http://www.seio.gov.rs/upload/documents/nacionalna\\_dokumenta/npaa13\\_16.pdf](http://www.seio.gov.rs/upload/documents/nacionalna_dokumenta/npaa13_16.pdf)
- <sup>15</sup> Republic of Serbia, Serbian European Integration Office (SEIO). National Plan for the Adoption of the Acquis (2013-2016). (Belgrade, 2013). Available from: [http://www.seio.gov.rs/upload/documents/nacionalna\\_dokumenta/npaa13\\_16.pdf](http://www.seio.gov.rs/upload/documents/nacionalna_dokumenta/npaa13_16.pdf)
- <sup>16</sup> International Organization for Migration (IOM). Protecting the Rights of Migrants in the Republic of Serbia: Handbook for Civil Servants and Local Self-Government Officials, IOM, Belgrade. Available from: [http://www.kirs.gov.rs/docs/migracije/Protecting\\_the\\_Rights\\_of\\_Migrants\\_in\\_the\\_Republic\\_of\\_Serbia.pdf](http://www.kirs.gov.rs/docs/migracije/Protecting_the_Rights_of_Migrants_in_the_Republic_of_Serbia.pdf)
- <sup>17</sup> The Law on Labour Official Gazette of RS, No. 24/05, 61/05 and 54/09)
- <sup>18</sup> Law on the Conditions for Establishing a Labour Relation with Foreign Citizens (Official Journal of SFRY, No. 11/78 and 64/89, Official Journal of FRY, No. 42/92, 24/94, 28/96, and Official Journal of RS, 101/05)
- <sup>19</sup> (Official Gazette of RS, No. 22/10)
- <sup>20</sup> Rulebook on immediate data content and method of keeping the records in the field of employment (Official Gazette of RS, No. 15/10)
- <sup>21</sup> Law on Employment and Insurance in Case of Unemployment (*Official Gazette of RS*, No. 15/10).
- <sup>22</sup> The Rulebook on the Fulfilment of Conditions for Approving Temporary Residence of a Foreigner for Family Reunification (*Official Gazette of RS*, No. 97/08)
- <sup>23</sup> Law on Health Insurance (*Official Gazette of RS*, No. 107/05 and 109/05 – corrigendum and 57/11),
- <sup>24</sup> Law on Social Welfare of the Republic of Serbia (*Official Gazette of RS*, No. 24/2011)
- <sup>25</sup> Law on the Basis of the Education System (*Official Gazette of RS*, No. 72/2009, 52/11)
- <sup>26</sup> Law on Secondary Education (*Official Gazette of RS*, No. 55/2013)
- <sup>27</sup> The Law on Labour (*Official Gazette of the RS*, No. 22/2010, 24/2005, 61/2005, 54/2009 and 32/2013)
- <sup>28</sup> European Commission (EC). Serbia 2013 Progress Report Accompanying the Document Communication from the Commission to the European Parliament and the Council Enlargement Strategy and Main Challenges 2013- 2014 Staff Working Document. (Brussels, 2013), Brussels. Available from: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/sr\\_rapport\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/sr_rapport_2013.pdf)
- <sup>29</sup> Republic of Serbia, Serbian European Integration Office (SEIO). National Plan for the Adoption of the Acquis (2013-2016). (Belgrade, 2013). Available from: [http://www.seio.gov.rs/upload/documents/nacionalna\\_dokumenta/npaa13\\_16.pdf](http://www.seio.gov.rs/upload/documents/nacionalna_dokumenta/npaa13_16.pdf)
- <sup>30</sup> Republic of Serbia, Serbian European Integration Office (SEIO). National Plan for the Adoption of the Acquis (2013-2016). (Belgrade, 2013). Available from: [http://www.seio.gov.rs/upload/documents/nacionalna\\_dokumenta/npaa13\\_16.pdf](http://www.seio.gov.rs/upload/documents/nacionalna_dokumenta/npaa13_16.pdf)
- <sup>31</sup> Republic of Serbia, Serbian European Integration Office (SEIO). National Plan for the Adoption of the Acquis (2013-2016). (Belgrade, 2013). Available from: [http://www.seio.gov.rs/upload/documents/nacionalna\\_dokumenta/npaa13\\_16.pdf](http://www.seio.gov.rs/upload/documents/nacionalna_dokumenta/npaa13_16.pdf)

## 4.0. Annexes

### 4.1. List of key national legal documents

#### Laws and regulations

1. Law on Foreigners ("Official Gazette of the RS", No. 97/2008)
2. Law on Migration Management ("Official Gazette of RS", No. 107/2012)
3. Law on Labour (Official Gazette of the RS, No. 22/2010, 24/2005, 61/2005, 54/2009 and 32/2013)
4. Law on Conditions for Establishing a Labour Relation with Foreign Citizens ("Official Journal of the SFRY", Nos. 11/78 and 64/89, "Official Journal of the FRY", Nos. 42/92, 24/94 and 28/96 and "Official Gazette of the RS", No. 101/2005)
5. Law on Employment and Insurance in Case of Unemployment ("Official Gazette of the RS", Nos. 36/2009 and 88/2010)
6. Law on Protection of Citizens of the Federal Republic of Yugoslavia employed abroad ("Official Journal of the FRY", No. 24/98 and "Official Gazette of the RS", No. 101/2005 – amended by another law and 36/2009 – amended by another law)
7. Law on Health Care ("Official Gazette of the RS", Nos. 107/2005 and 72/2009 – amended by other law)
8. Law on Health Insurance ("Official Gazette of the RS", Nos. 107/2005 and 109/2005 - amended)
9. Law on Pension and Disability Insurance ("Official Gazette of the RS", No. 34/2003, 64/2004 – decision of the Constitutional Court of the RS, 84/2004 – amended by another law, 85/2005, 101/2005 – amended by another law, 63/2006 - decision of the Constitutional Court of the RS, 5/2009, 107/2009 and 101/2010)
10. Law on the Fundamentals of the Education System ("Official Gazette of the RS", No. 72/2009);
11. Law on Primary School ("Official Gazette of the RS", No. 50/92, 53/93, 67/93, 48/94, 66/94 – decision of the Constitutional Court of the RS, 22/2002, 62/2003 – amended by another law, 64/2003 – amended by another law, 101/2005 – amended by another law 72/2009 – amended by another law)
12. Law on Secondary School ("Official Gazette of the RS", No. 50/92, 53/93, 67/93, 48/94, 24/96, 23/2002, 25/2002 - rev., 62/2003 – amended by another law, 64/2003 – amended by another law, 101/2005 – amended by another law, 72/2009 – amended by another law and 55/2013 – amended by another law)
13. Law on Higher Education ("Official Gazette of the RS", No. 76/2005, 100/2007 – original interpretation, 97/2008 and 44/2010)
14. Law on Social Protection ("Official Gazette of the RS", No. 24/2011)

15. Law on Social Housing ("Official Gazette of the RS", No. 72/2009)
16. Penal Code of the Republic of Serbia ("Official Gazette of the RS", No. 85/2005, 88/2005 - rev., 107/2005 - rev., 72/2009 and 111/2009)
17. By-laws adopted on the bases of the Law on Foreigners
18. Regulation on More Specific Conditions for Refusal of Entry of Foreigners into the Republic of Serbia ("Official Gazette of the RS", No. 75/09)
19. Rulebook on the method of keeping registers and contents of registers kept by the Ministry of Interior under the Law on Foreigners ("Official Gazette of the RS", No. 59/09)
20. Rulebook on more specific conditions and procedure for issuing visas at the border crossing ("Official Gazette of the RS", No. 59/09)
21. Rulebook on the layout, contents and procedure for entering permissions for temporary residence into a foreign travel document ("Official Gazette of the RS", No. 59/09)
22. Rulebook on more specific conditions, form of application and procedure for extension of visa validity ("Official Gazette of the RS", No. 59/09)
23. Rulebook on the form and contents of a foreigner's laissez-passer ("Official Gazette of the RS", No. 59/09)
24. Rulebook on the method of entering cancellation of the permission to stay and prohibition of entry into a foreign travel document ("Official Gazette of the RS", No. 59/09);
25. Rulebook on the method of registration of temporary and permanent residence, change of address and termination of foreigner's permanent residence ("Official Gazette of the RS", No. 59/09);
26. Rulebook on the fulfilment of conditions for approving temporary residence of a foreigner for family reunification ("Official Gazette of the RS", No. 59/09)
27. Rulebook on the fulfilment of health insurance related conditions for approving temporary residence of a foreigner ("Official Gazette of the RS", No. 59/09)
28. Rulebook on the fulfilment of conditions for approving temporary residence of a foreigner for enrolling a school, university or advanced education course, scientific and research work, practical training, participation in the programmes of international exchange of pupils or students or other scientific and educational activities ("Official Gazette of the RS", No. 59/09);
29. Rulebook on more specific conditions for approving permanent residence, and on the layout, contents and procedure of entry of approval for permanent residence into a foreign travel document and identity card, and form of renunciation from the right of permanent residence ("Official Gazette of the RS", No. 59/09)
30. Rulebook on the form, contents and procedure of issuing a foreigner identity card ("Official Gazette of the RS", No. 66/09)

31. Rulebook on the method of entry of mandatory stay into a travel document and on the form of a temporary identity card ("Official Gazette of the RS", No. 66/09)
32. Rulebook on Visas ("Official Gazette of the RS", No. 27/10)

## Policies

1. Republic of Serbia, Serbian European Integration Office  
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## Other documents

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## 4.2. List of key international legal documents

### 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

### Key international treaties and conventions

1. International Covenant on Civil and Political Rights (“Official Journal of the SFRY”, No. 7/71);
2. International Covenant on Economic, Social and Cultural Rights (“Official Journal of the SFRY”, No. 7/71)
3. International Convention on the Elimination of All Forms of Racial Discrimination (“Official Journal of the SFRY”, No. 31/67)

4. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment ("Official Journal of the SFRY – International treaties", No. 9/91)
5. European Convention for the Protection of Human Rights and Fundamental Freedoms ("Official Journal of Serbia and Montenegro - International treaties", No. 9/03)
6. Convention of Council of Europe on Action against Trafficking in Human Beings ("Official Gazette of the RS - International treaties", No. 19/09)
7. ILO Convention No. 97 – Migration for Employment Convention ("Official Journal of the SFRY - International treaties and other agreements", No. 5/68)
8. ILO Convention No.143 concerning Migrations in Abusive Conditions and the Promotion of equality of Opportunity and Treatment of Migrant Workers ("Official Journal of the SFRY - International treaties", No. 12/80)
9. The United Nations Convention against Transnational Organized Crime, with additional Protocols - the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air ("Official Journal of the FRY – International treaties", No. 6/2001)



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