

TRANSIT IMMIGRATION, THE MACEDONIAN WAY

LABOUR RIGHTS OF FOREIGN WORKERS IN NORTH MACEDONIA

The EU's overall assessment of North Macedonia's progress in Chapter 2. "Freedom of movement for workers", in the reports from 2019 to 2023, is that the country is still at an early stage and that no progress has been made in addressing the recommendations so far.

The purpose of this paper is to explore in more detail the challenges faced by the institutions in whose jurisdiction is the area of free movement of workers, i.e. the entry, employment and working conditions of foreign workers in North Macedonia.

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MAIN RESEARCH QUESTIONS

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What is the role of the Employment Service Agency of the Republic of North Macedonia in the integration of foreigners in the labour market and does it have the capacity to bring the regulations closer to those of the EUROpean Employment Services (EURES) and the European Labor Authority (ELA)?

1

What are the main challenges in adapting the legal framework in accordance with the EU acquis for access to the labor market?

3

What are the institutional capacities to continue concluding further bilateral agreements on the coordination of social security systems, both with EU member states and with other countries?



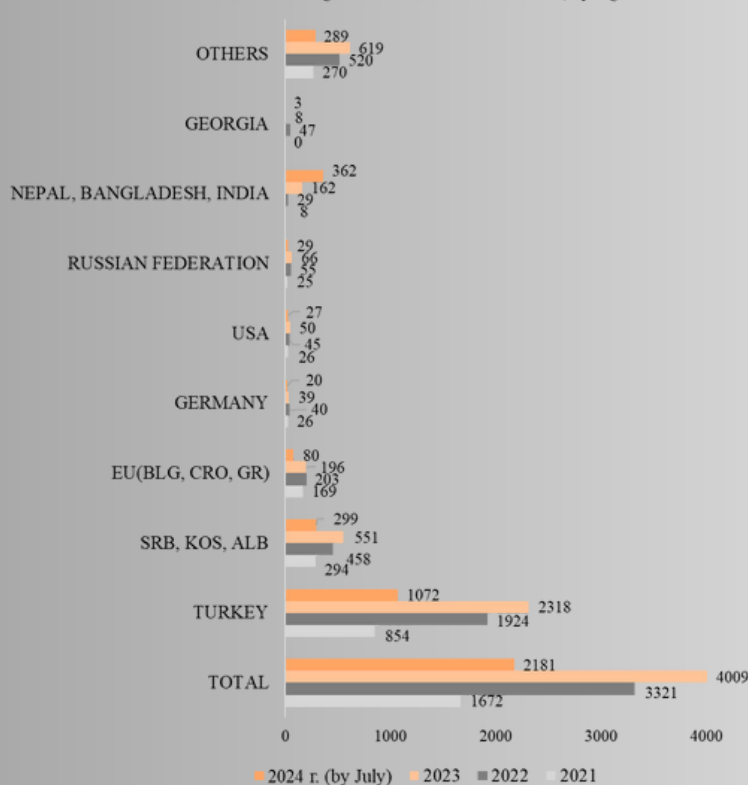
The starting **hypothesis** is that North Macedonia is becoming a country that will create a precariat of foreign workers (who do not enjoy all social and political rights), instead of offering conditions for the integration of workers and their families in the labour market itself as well as in Macedonian society in general.

METHODOLOGY

This study is based on data obtained through:

a) 11 interviews with concerned institutions (Ministry of Labour and Social Policy, Ministry of Internal Affairs, the Employment Service Agency of the Republic of North Macedonia, International Labour Organization, The trade union for construction, industry, forestry, and design of the Republic of Macedonia (SGIP), Organization of Employers of Macedonia (OEM), Private Agency "Kouzon", Fimar Balkan AD Skopje and Tritex, Prilep); b) analysis of 21 EU reports on the progress of North Macedonia, Serbia, Albania and Croatia in Chapter 2 "Freedom of movement of workers" and c) request for access to public data from the Ministry of Internal Affairs, Ministry of Labour and Social Policy and Ministry of Finance (Public Revenue Office).

Number of foreign workers in North Macedonia, by region



In North Macedonia, the largest number of workers from one country come from Turkey. In 2023, the number reached was 2318 Turkish workers, who in the same year constituted 60% of the entire foreign workforce in the country.

The next few countries that attract the most labour force are the neighboring countries (Serbia, Kosovo, Bulgaria and Albania), and in the last two years there has been an increase in workers originating from India, Bangladesh and Nepal.

LEGAL FRAMEWORK

1. The Law on Foreigners (systemic law) regulates the conditions for entry, exit, leaving, stay, return of foreigners with illegal stay, as well as the rights and duties of foreigners in North Macedonia.

2. The Law on Employment and Work of Foreigners regulates the conditions and procedure under which foreigners can be employed or work in North Macedonia, unless otherwise determined by an international agreement.

INSTITUTIONAL FRAMEWORK

Foreign workers entering the country request a work permit by submitting one request to one authority - the Ministry of Interior Affairs. The work-based residence permit procedure can also be initiated entirely through embassies around the world, personally or through an intermediary (firm). In that procedure, the Ministry of Internal Affairs only addresses to the Employment Service Agency of the Republic of North Macedonia, which has the authority to give an opinion. A positive opinion by the Employment Service Agency is one of the conditions for regulation of residence. That opinion means a check for fulfillment of the annual quota and a check of the current conditions on the labour market.

As soon as a decision is issued for a residence permit based on an employment relationship, Visa D is granted and the foreigner has the right to come to the country. With Visa D, he also submits a request for an identity card for a foreigner. The procedure for the residence permit is completed with the issuance of a personal identification number for a foreigner and a printed card, and the employer must register the start of the foreigner's work within 90 days from the date of issuance of the opinion of the Employment Service Agency.

PROCEDURE

The procedure for obtaining a work-based residence permit is expected to last 3 months, and after receiving the permit, it is valid for 3 months to 1 year. The procedure, however, usually takes longer, and the respondents, foreign workers, also witnessed frivolous and chaotic treatment by the services when applying for a residence permit.

The challenges faced by the Ministry of Internal Affairs in relation to the procedure for residence permits for foreigners are as following:

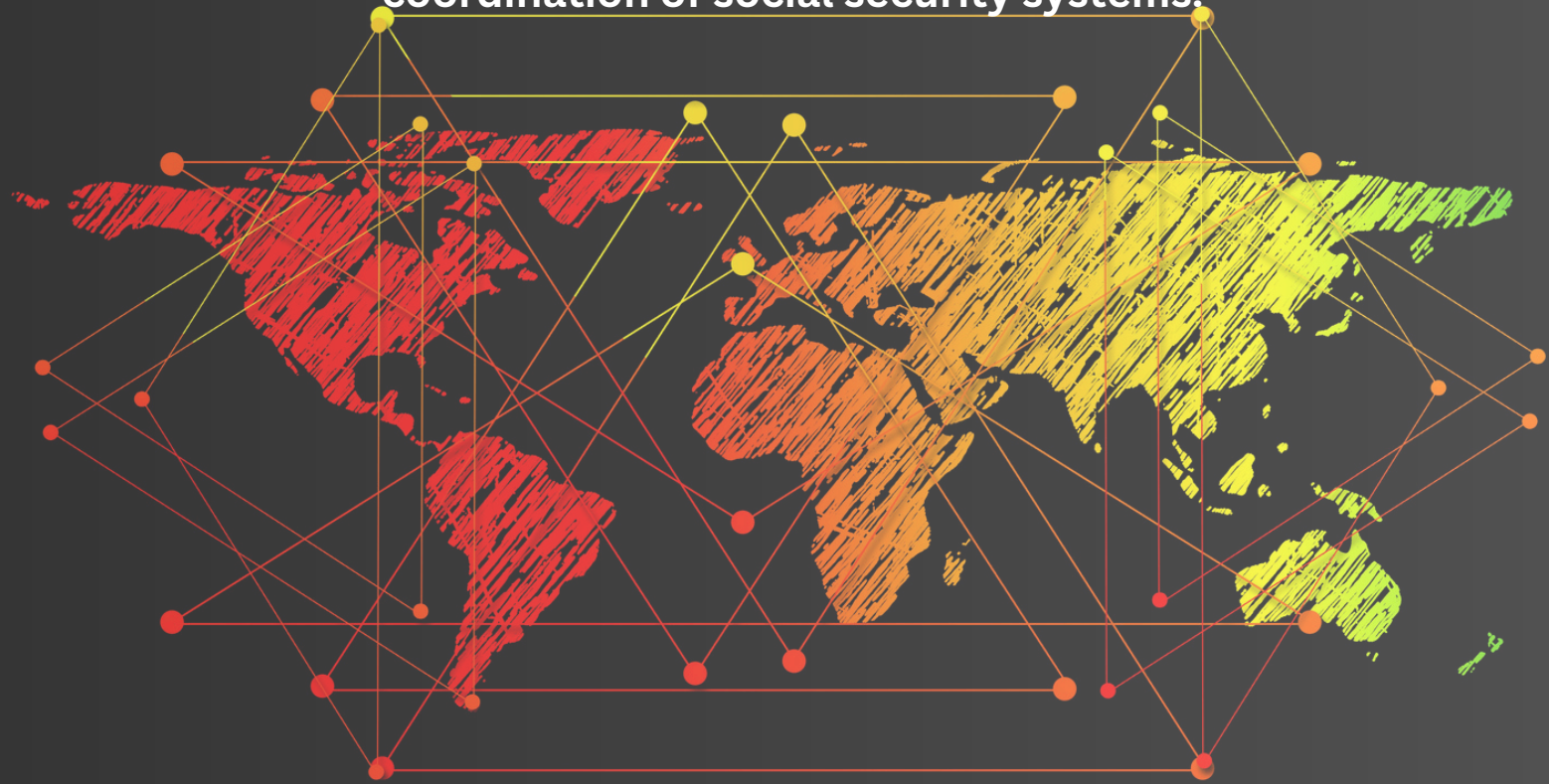
- There is no system in which all information flow in one place. The system is in the Ministry of Internal Affairs now, there is not enough staff in the Diplomatic Missions, the system is ENVIS, which everyone has access to.
- The systems are outdated.
- Complaints are not filed before the Administrative Court, but before the State Commission for decision-making on administrative procedure and second degree employment procedure.
- There is institutional incoordination. All institutions have separate, unrelated systems and there is no software solution.

The role of the Employment Service Agency in the integration of foreigners in the labour market.

North Macedonia has no preparation activities for joining EURES after accession, and in 2023 the capacity building activities for public servants took place in the area of EURES and ELA.

In addition to the key role of Employment Service Agency of the Republic of North Macedonia in the coordination of systems such as EURES and ELA for the faster fulfillment of the criteria for entry into the EU, the most direct role of the Agency in terms of opening the Macedonian labour market is in the definition and fulfillment of quotas. The quota of 20,000 is considered broad by the representatives of the institutions.

Institutional capacities for concluding bilateral agreements on the coordination of social security systems.



In the 2021 report, the EU recommends that North Macedonia should take steps in the coordination of social security systems to identify which administrative measures should be introduced in preparation for future accession. In the 2022 report, the EU calls for strengthening, and in 2023, the continuation of such steps.

North Macedonia has 23 bilateral agreements for coordination of social security systems, 13 of which are with EU member states. Until new social security agreements are concluded, North Macedonia applies the conventions taken over by the former SFRY (with France, England and Northern Ireland, Italy, Norway and Sweden).

Foreigners in North Macedonia can receive a Macedonian pension just like Macedonian citizens, and the length of service can also be collected to meet the minimum (15 years of service - 62 years of age for women and 64 for men for all who exercise their rights).

If the foreigner wants to return to the country of origin, they can receive their pension in their country, and the years of work in the home country can be added to those working in North Macedonia, but only if there is a bilateral agreement. "You have a residence permit, you have rights, otherwise you don't!"

The new immigrants in North Macedonia, however, come from countries with which there are no bilateral agreements. Foreign workers lose the benefit when they lose their residence because employment is one of the conditions for residence and that employment in a special procedure.

When the foreigner's contract expires, they have no basis to regulate their residence status, and thus they cannot use the social benefits they paid for, such as pension, health insurance, etc.

The foreign workers in our survey are not sufficiently informed about what will happen to their insurance in the pension fund.

ACCESS TO THE MACEDONIAN LABOUR MARKET

Channels for bringing in foreign workers

- The Law on Private Employment Agencies of 2018, regulates that a private agency can be licensed to mediate of the state, in the state and abroad or only abroad.
- In North Macedonia, employment takes place through unregulated (not illegal) channels of intermediaries who have no basis for mediation.

Working conditions

- When a worker is already employed in North Macedonia, the same laws and rights apply to them (as well as the The Occupational Safety and Health Law). Practice shows that, however, foreign workers, due to the nature of their profession and cultural-linguistic barriers, can be easily abused, so apart from bad working conditions, they are also exempted from union protection.
- The Union considers the condition of the construction sites to be bad, there are many unregistered workers, including children from Kosovo, Albania and Turkey, but it is very difficult to enter on the field and talk to the workers.
- The foreign workers who worked on the construction sites until now worked for 12 hours because at that time they had nothing to do, and this was reflected in the law, where now, with the confirmation of the Constitutional Court, it provides that on strategic projects of national interest the worker can work up to 72 hours per week.

Attractive professions and qualifications

- National legislation still needs to be aligned with EU Directive 2005/36/EC to comply with minimum training requirements.
- We do not have a system for recognizing qualifications, only formal education is recognized, not qualifications in relation to certain licenses.

Integration

- And the living conditions of workers from abroad in Macedonia are often assessed as bad or substandard, because workers often live with many other people in one small apartment.
- Unions in the field saw workers sleeping in containers, without basic and labour rights.
- Employers are still not ready to offer solid conditions for accommodation and food, let alone take care of the cultural details from the aspect of living and nutrition.
- In order to be a beneficiary of an active measure from the Agency or financial support, the person must have the status of an unemployed person, an active job seeker, which is the first obstacle for foreigners who do not even get to such registration due to the automatic loss of the residence permit after the termination of the employment relationship.

CONCLUSIONS

There is a negative narrative and perceptions in Macedonian society when it comes to bringing in foreign labour. The media contributes to this through sensationalist captions.

The Ministry of Internal Affairs argues that the most important thing is to assess the qualified workforce that we really need in the country, and not to serve as a transit country and for the country to be used as a road to Western Europe.

From the Ministry of Labour and Social Policy, they believe that the lack of seriousness in the approach to solving the problem of opening the labor market comes from the fact that "it is not a topic that affects us so far, and if it does not put pressure on us, we have no problems. Governments follow the principle of priorities.

"We are just now finding out about the foreigners!"

North Macedonia has obstacles to face in order to address the challenges of bringing in and integrating the workforce from foreign countries, especially workers from countries with which it has not concluded a bilateral social security agreement and has not built compatibility in cultural relations.

If these challenges are not addressed, a large class of precarious workers will soon be created, defined by three key relationships that distinguish them from the traditional working class:

1) **insecure jobs**, deprived of reliable access to resources such as housing, public and social services which makes their life very unstable.

2) **without access to such additional sources of income** as social benefits - paid holidays, medical leave, pensions, salary supplements.

3) **marginalized in terms of political rights**, because their rights are limited compared to citizens who have full access to political and economic privileges.

A. Recommendations for improving the legal and institutional framework

11. To adopt a new law on the employment of foreigners, which will simplify the procedure for employment of foreigners.

2. To harmonize the Law on Foreigners and the Law on Employment and Work of Foreigners.

3. The Law on Foreigners to simplify the procedure for obtaining a work permit for foreigners.

4. Harmonization of the digital systems for monitoring the procedure for obtaining a work permit for foreign workers.

5. Institutions should be more open to employers and trade unions regarding the needs of the labor market, standards and working conditions and determination of quotas for the import of foreign workers.



6. The deadline of 90 days for the application of the foreigner to an employment agency by the employer should not start from the opinion given by the Employment Service Agency, but from the issued decision for a residence permit of the Ministry of Interior Affairs.

7. Better control over companies that import workers through unregulated channels, without being licensed or registered as private employment agencies.

8. Strengthening the capacity of the State Labour Inspectorate regarding the control of the contracts of foreign workers and the conditions in which they work.



9. To find a way to secure the rights to use unemployment compensation upon termination of employment and pension insurance.

10. To provide access to training and other services for unemployed foreigners by the Employment Service Agency of the Republic of North Macedonia.

B. Recommendations for improving the stay of foreign workers

1. To create migration centers.



2. To inform foreign workers (in different languages, through brochures and online) about their rights and ways to exercise them in the area of health and pension insurance, tax obligations, etc.

3. To offer programs for the preparation of foreigners (and their families) for entering the labour market (job search, CV preparation, etc.)

4. To introduce integration programs (linguistic and cultural) in order for foreign workers to become better acquainted with the functioning of society and institutions.



5. Regulation of minimum living standards for foreign workers. To establish and comply with housing standards, as part of the residence permit documentation.



6. To conduct public campaigns in order to address the culture of resistance towards foreign workers.

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INCLUSION OF FOREIGNERS IN THE WESTERN BALKANS
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