

Executive summary

Slovakia is not one of the traditional destination countries for migrants, yet the number of employees from third countries is growing every year. The registered unemployment rate has been declining and as of 2018 it was at 5 percent or less. The good development of the economy, the inflow of new investments and the aforementioned reduction of the unemployment rate started to show a critical shortage of labour, especially in 2017. Labour market forecasts indicate that the number of missing workers will only deepen in the future in sectors such as industry, wholesale and retail trade, healthcare or construction. The desire of employers to fill the shortage of workers, coupled with high regulation and the rejectionist (populist) attitude of politicians to the issue of migration, have created space for the application of illegal practices. Prior to the pandemic, cases of illegal workers were frequently reported in the media, including by large employers. The refusal of towns and municipalities to allow the construction of workers' hostels, which were also opposed by the inhabitants of these municipalities, was not helpful in the integration of incoming foreigners. The attitude of the political establishment in the past and even today does not support the opening up of Slovakia to foreign workers, thus replicating the generally negative attitude of the majority of its electorate. Migration is considered a sensitive political issue. The government's priority is to protect the labour market and reduce the unemployment rate, which today stands (under the influence of COVID-19) at around 6.5 - 7.5%. Migration policy forms an important part of the national social dialogue. Employers analyse and discuss the legislative and procedural aspects of the migration process. Employee representatives focus more on the social aspect and the working conditions of these workers. There is a lack of legislation, appropriate tools and structure in the area of integration of foreigners.

Legal regulation

Legal regulation is rigid. It is generally regarded as administratively burdensome, lengthy and significantly protective of the Slovak labour market.

A number of employment schemes for third-country nationals can be identified (standard scheme, shortened scheme based on a shortage occupation list, schemes for highly skilled positions including Blue Cards and seasonal employment).

Shortcomings of the standard schemes: The scheme takes into account the labour market situation. The way in which the labour offices assess the labour market situation is not defined by law or by a published methodology. The central office of labour, social affairs and family only gives their approval for employment once the process of granting a residence permit has started. Thus, at the time of the application for residence, it is not known whether an employment permit will be granted at all. Hence the uncertainty of third-country migrants and employers that the costs and time invested in the process will be successful or not.

Shortcomings of short-time working schemes: The positive labour market developments and considerable pressure from employers, sectoral and national employee representatives achieved a moderate liberalisation of the legislation in 2018. Shortage occupation lists were introduced, for which the time limits for granting permits were shortened. The list is mainly specific to SK-

ISCO positions at classification levels 7 and 8. The social partners point out that the lists should also clearly reflect labour market forecasts. Although the position is on the list, the residence process requires a re-employment permit issued by the employment office.

Shortcomings of the regime for highly skilled occupations: Slovakia has transposed the European Directive on Blue Cards. The salary of the recruited employee must be at least 1.5 times the average monthly salary in the sector. This threshold is considered high and process is lengthy and financially demanding. There is very little, if any, interest in Blue Cards. The process of recognition of qualifications is seen as difficult. For example, in the health sector (one of the regulated professions), candidates have to also pass a balancing (nostrification) examination. However, these are time-consuming and the difficulty of the exams is very high. If potential candidates do not pass the exams and the qualification is thus not recognised. Thus, there is a phenomenon known as brain-waste - foreigners from third countries are thus performing less skilled jobs despite having been educated abroad. There is a lack of a higher number of bilateral agreements with schools in countries of interest.

The objective of all social partners is the same: to employ Slovak workers is a priority. The legal employment of citizens from third countries is costly and time-consuming process. Employers undergo this process because they currently have no other option but to secure stable and qualified employees. There is a condition of the Labour Code "equal pay for equal work" together with ancillary costs (permits, courses, doctors, time, recruitment, accommodation, travel) makes foreign workers clearly more expensive. Only illegal practices can reduce these costs.

Migration

The number of migrants currently stands at around 150 000 (2.7% of the total population). Of these, foreigners from third countries make up 64%. This group is dominated by temporary residence permits (up to 2/3), followed by permanent residence. The most frequent purposes of temporary and permanent residence are employment, business and family reunification.

In older data, the share of residence for the purpose of employment was always 10 to 20 p.p. higher than the purpose of business. In 2021, they no longer represent the same rate. This is due to the introduction of restrictive measures after the onset of the COVID-19 pandemic. In view of the rapid rise in unemployment, the labour authorities have significantly reduced the granting of employment permits to foreigners from third countries. In order to circumvent the disapproval of the labour authorities, often at the instigation of employers, migrants apply for business permits and set up trade licenses. This is a negative trend which reduces the social and labour protection of these workers. It is typical of the construction, services and transport sectors.

Almost half (46%) of all foreigners from third countries are citizens of Ukraine. They are followed by citizens of Serbia (16%), Vietnam (7%) and Russia (6%). They most often occupy positions in these main classes by SK-ISCO-08 level: Operators and assemblers of machinery and equipment, Skilled workers and craftsmen, Auxiliary and unskilled workers, and Service and trade workers.

Data on the number of migrants and residence permits provided by the Border and Immigration Police are compiled in annual reports, which are clear and traceable. They are not made available in database form. More challenging is the processing of issued employment permits.

The statistics kept by the employment offices are not summarised on an annual basis and monthly excel files are accessible, data extraction is here considerably difficult.

Integration

Foreigners from third countries who come on the basis of an employment permit must have a concluded employment contract. If an employment permit is not required, agreements on the performance of work outside the employment relationship may also be concluded. Therefore, employment contracts for foreigners are significantly more prevalent. There are no national instruments in the field of integration. Employers, intermediaries or non-profit organisations take on the integration role. Migrants report poor language skills of officials and lack of clarity about their duties. Many of companies support the entry of employees already f.e reimbursement of costs of permitting stage, get information on the application process and documentation, cover accommodation, transport, take over communication with the authorities or provide interpretation. Especially in large organisations, there are staff dedicated to this agenda.

Intermediaries and employment agencies

Employment agencies and intermediaries play an important role. Agencies can only assign foreigners on a temporary basis to positions that are on the shortage occupation list. Otherwise, temporary assignments from third countries are prohibited. This rule is circumvented by acting as a service provider rather than as an agency. This causes wage dumping of employees and circumvention of the rule of comparable working and wage conditions for employees laid down in the Labour Code. It is referred to as disguised temporary/agency employment. It can be observed in almost every sector, especially industry, services and construction.

Due to the rigidity of the migration legislation, foreigners enter the territory of Slovakia by posting from another EU country with a more liberal policy (Poland, Hungary). It is also implemented by employment agencies. There are a number of cases where the foreigner was not registered for the social security system in the sending country or in Slovakia. The use of agency employment is more typical for the "blue collar" positions. The number of cases of this illegal proceeding is decreasing.

Intermediary agencies offer excellent knowledge of migration processes. They provide advice and arrange the whole process on behalf of their client. This guarantees the desired legal employment of foreigners. This type of advice and service is in demand for White Collar positions, but is also applicable for Blue Collar positions. This way of employing foreigners is equally confirmed in industry, services and construction.

National social dialogue

Representative representatives of employers and employees are members of the consultative and deliberative body of the Government of the Slovak Republic - the Economic and Social Council of the Slovak Republic (Tripartite), where they present their comments on the adopted draft laws. Migration legislation is an important part of the national social dialogue. However, it is mainly of interest to employers, who are mainly concerned with procedural matters concerning residence and employment permits.

In contrast, employee representatives are more concerned with the social aspect of the employment of third-country nationals. Foreign employees are also given access to their structures. Although trade unions do not oppose the liberalisation of legal frameworks, they stress the need for companies to give preference to the employment of domestic workers. They also point to the need to make active labour market measures more effective, given the high proportion of long-term unemployed and the higher rate of graduate unemployment. Preventing and eliminating exploitation is important to them.

Collective bargaining

Collective bargaining takes place at both sectoral and company level. The automotive industry and the health sector are traditional well covered by the trade unions. There is also strong representation in the construction and services sectors. Platforms are not considered as a separate sector. Sectoral collective bargaining is covered by higher-level collective agreements. These are characterised by the negotiation of framework conditions for employees. In 2021, the scope of higher-level Collective Agreements has been limited and their conclusion is no longer automatically extended to all enterprises operating in a given sector, but only to those who sign it. Employee representatives consider this move to undermine collective bargaining.

Rather, company collective agreements offer more specific adjustments to working conditions. The content of such collective agreements also applies to non-unionised employees, foreigners and agency workers. The existence of collective agreements and the supervision of a trade union thus ensure the necessary social protection for all employees of an undertaking. It does not, however, apply to employees of service providers (disguised agency employment) or to illegally employed persons (seconded workers, unauthorised workers). However, these are examined individually by the supervisory authorities on the basis of their own findings and suggestions from the social partners.

Capacities of the social partners

The professional capacities of the social partners are modest. The sectoral social partners usually do not have experts and specialists on the subject. The national social partners are better off. Operational programmes and national projects, which finance the salaries of such experts, are also used to strengthen the expert capacities of the social partners. There is a diversification of tasks between sectoral and national social partners. The sectoral ones concentrate on

researching the issues of their members and their current or application problems. Expertise, advocacy and media coverage is transferred through the membership to the national partners. In the context of the COVID-19 pandemic, the role of the social partners has become fully apparent. Employers' representatives acted as an information channel on the anti-pandemic measures being introduced towards employers, analysed the impacts and communicated the needs of companies towards the government. Employee representatives, on the other hand, contributed to maintaining employment and negotiated remuneration for employees in times of tough lockdowns. They defended rights of medical staff and highlighted worsening conditions (overtime or inability to take leave).

Recommendations

The social partners pointed to the need to use transparent tools of the legislative procedure. They call for a reassessment of the use of parliamentary proposals and amendments in the social and labour fields, which are not compulsorily included in the social dialogue.

Migration policy

- Reduce the administrative burden on public authorities, foreign workers and employers,
- speeding up processes and faster entry of foreign workers into the labour market,
- systematic, transparent and predictable decision-making by public authorities,
- simplification of the system and merging all procedures into a harmonious whole,
- active participation and taking into account the views of the social partners in the development of legislation and integration instruments,
- strengthening bilateral cooperation with the countries of origin of foreign workers,
- digitisation of data collection and evaluation - employers' needs, sectors, regions and positions,
- labour market forecasting - critical sectors and positions that will face long-term staff shortages.

Integration policy

- Improve access to information for foreigners, e. g. through a single online platform,
- set up a communication strategy to inform the public positively about migration,
- strengthen the Slovak embassies in the countries of origin of foreign workers,
- provide integration/contact points in areas with a higher number of foreigners,
- adopt integration tools and an integration policy.

Support for social partners

- Ensure long-term support from the State or national projects to expand the professional capacities of the social partners in the future,
- avoid circumventing social dialogue by means of legislative procedures which do not require comments (parliamentary proposals, amendments tabled at a later stage),
- involve the social partners in the preparation of legislation at the drafting stage and maximise the adoption of measures proposed by them.