



Beogradski centar
za ljudska prava

Slavica Milojević

PRISTUP MIGRANATA PRAVU NA RAD U REPUBLICI SRBIJI

ACCESS TO THE RIGHT TO WORK OF MIGRANTS IN THE REPUBLIC OF SERBIA

Biblioteka / Library

Posebna izdanja / Occasional Publications



**Beogradski centar
za ljudska prava**

Izdavač

Beogradski centar za ljudska prava
Kneza Miloša 4, Beograd
Tel/fax. (011) 308 5328
e-mail: bgcentar@bgcentar.org.rs
www.bgcentar.org.rs

Za izdavača

Sonja Tošković

Urednik izdanja

Bogdan Krasić

Lektorka

Teodora Todorović Milićević

Prevod

Duška Tomanović

Dizajn

Ivana Zoranović

Priprema i štampa

Dosije studio, Beograd

Tiraž

100 primeraka

ISBN 978-86-7202-202-5

Publisher

Belgrade Centre for Human Rights
Kneza Miloša 4, Belgrade
Tel/fax: +381 11 3085 328
e-mail: bgcentar@bgcentar.org.rs
www.bgcentar.org.rs

For the publisher

Sonja Tošković

Editor

Bogdan Krasić

Proof-reading

Teodora Todorović Milićević

Translation

Duška Tomanović

Design

Ivana Zoranović

Prepress and printing

Dosije studio, Belgrade

Circulation

100

ISBN 978-86-7202-202-5

SLAVICA MILOJEVIĆ

**PRISTUP MIGRANATA
PRAVU NA RAD
U REPUBLICI SRBIJI**

**ACCESS TO THE RIGHT
TO WORK OF MIGRANTS
IN THE REPUBLIC OF SERBIA**

Beograd / Belgrade • 2019





Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Swiss Confederation

Federal Department of Justice and Police FDJP
State Secretariat for Migration SEM



International Organization for Migration (IOM)
The UN Migration Agency

Istraživanja i objavljivanje ovog izveštaja omogućio je IOM. Publikacija je nastala u okviru projekta „Ka održivom modelu zaštite ranjivih kategorija migranata u Srbiji“ koji je finansiran od strane Vlade Švajcarske.

Ovo nije publikacija IOM. IOM ne odgovara za njen sadržaj niti ga nužno podržava. Svi izneti stavovi predstavljaju isključivo stavove autora ili izdavača i ne odražavaju nužno stavove IOM, Ujedinjenih nacija ili njenih država članica.

The IOM enabled the research and publication of this Report, developed within the project “Towards sustainable community-based protection for vulnerable migrants in Serbia” funded by the Swiss Government.

This is not an IOM publication. The IOM is neither responsible for, nor does it necessarily endorse its content. Any views expressed are solely those of the author or publisher and do not necessarily reflect those of the IOM, United Nations or its Member States.

SADRŽAJ

I.	PREDGOVOR	9
II.	Pravni okvir Republike Srbije	12
III.	(Ne)mogućnosti ostvarivanja prava na rad iz perspektive migranata	20
IV.	Preporuke za unapređenje prakse	23

TABLE OF CONTENTS

I.		
FOREWORD		25
II.		
Right to Work – National Legal Framework		28
III.		
(Im)Possibility of Exercising the Right to Work from the Migrants’ Perspective		36
IV.		
Recommendations on Improving the Practice		39





PREDGOVOR

Svake godine stotine hiljada migranata dolazi u Evropu, od kojih mnogi prođu kroz Republiku Srbiju. Na teritoriji Srbije se najčešće zadržavaju kraće od godinu dana, a manji broj odluči da tu i oстане. Pitanje ostvarivanja prava na rad, kao jednog od osnovnih ljudskih prava, od posebnog je značaja među migrantima u odnosu na njihov status i implikacije na društveni i ekonomski razvoj Republike Srbije.

Države sveta, uključujući Srbiju, potvrdile su svoju privrženost olakšavanju pristupa pravu na rad migranata usvajanjem Globalnog kompakta o sigurnim uređenim i regularnim migracijama. Tim dokumentom, usvojenim 2018. godine, države su istakle olakšano pravedno i etičko zapošljavanje i uslove zaštite koji osiguravaju dostojanstven rad kao jedan od svojih glavnih ciljeva. Države planiraju da ostvare taj cilj preispitivanjem postojećih mehanizama zapošljavanja, kako bi radnici migranti bili zaštićeni od iskorišćavanja i zlostavljanja, ali i da bi se uvećali socioekonomski doprinosi migranata i da bi se obezbedio dostojanstven rad.

Ova publikacija je nastala u okviru projekta Beogradskog centra za ljudska prava – „Ka održivom modelu zaštite ranjivih kategorija migranata u Srbiji“, koji su podržale Međunarodna organizacija za migracije (IOM) i Vlada Švajcarske. Projekat predstavlja deo šireg programa švajcarsko-srpskog migracionog partnerstva, nastalog na osnovu izraženih potreba nadležnih institucija Republike Srbije. Cilj programa je da doprinese jačanju i

unapređenju socijalne zaštite migranata u Srbiji kroz povećanje dostupnosti i kvaliteta socijalnih usluga i programa podrške u lokalnim zajednicama.

Cilj projekta Beogradskog centra za ljudska prava je širenje usluga zaštite u zajednici, koje se pružaju ugroženim migrantima kroz izgradnju kapaciteta centara za socijalni rad, opštinskih kancelarija za mlade i drugih aktera. Poboljšanjem pristupa i dostupnosti usluga socijalne zaštite i programa zaštite u zajednici, migrantska populacija će biti manje ugrožena i verovatnije će se integrisati u srpsko društvo.

Postojeći modeli socijalne zaštite su procenjivani kroz participativno istraživanje, čiji su rezultati predstavljeni u ovoj publikaciji. Istraživanje je usmereno kako na migrante tako i na pružaoce usluga, s fokusom na ugrožene grupe i s pažnjom na rodno osetljiva pitanja. Krajni cilj je kreiranje modela održive strategije za bolju koordinaciju usmerenu na lokalnu zaštitu i pružaoce psihosocijalnih usluga, uključujući centre za socijalni rad, kancelarije za mlade, nevladine organizacije i institucije. Strategija će ponuditi predloge za mehanizme saradnje među različitim državnim institucijama koje su uključene u sistem zaštite migranata.

Autorka publikacije je Slavica Milojević, socijalna radnica i psihoterapeutkinja, rukovoditeljka Odeljenja za informisanje, promociju i podršku u Republičkom zavodu za socijalnu zaštitu. Autorka je brojnih istraživanja i analiza iz oblasti demografskih trendova i socioekonomskog razvoja, socijalne inkluzije, zaštite dece migranata i građanske participacije ranjivih kategorija. Pre Republičkog zavoda za socijalnu zaštitu radila je u Komesarijatu za izbeglice (1992–1995), Crvenom krstu i republičkom Ministarstvu za porodičnu zaštitu. Radila je kao ekspertkinja na projektima organizacija i tela Ujedinjenih nacija. Predsednica je opštinskog odbora Crvenog krsta Savski venac, osnivačica mreže istraživača socijalnog razvoja, članica Udruženja stručnih radnika socijalne zaštite Srbije i Društva socijalnih radnika Srbije. Angažovana je i kao gostujuća predavačica na Univerzitetu u Nišu.

„Države ugovornice ovog Pakta priznaju pravo na rad, koje podrazumeva pravo svakog lica da dobije mogućnost da obezbedi sebi sredstva za život slobodno izabranim ili prihvaćenim radom, te će preduzeti odgovarajuće mere za zaštitu ovog prava.“

*Međunarodni pakt o ekonomskim,
socijalnim i kulturnim pravima, član 6(1)*



PRAVNI OKVIR REPUBLIKE SRBIJE

Najvažniji međunarodni dokument kojim se garantuje pravo na rad i koji je Republika Srbija ratifikovala jeste Međunarodni pakt o ekonomskim, socijalnim i kulturnim pravima. Paktom je, u članu 6, proklamovano pravo na rad, odnosno pravo koje ima svaka osoba u pogledu ostvarivanja zarade kroz slobodno izabran radni angažman. Pakt nameće jasnu obavezu Republici Srbiji da, u cilju ostvarenja prava na rad, obezbeđuje programe tehničkog i stručnog usmeravanja i obrazovanja, izradu programa osposobljavanja, politiku i tehničke postupke koji su podobni za postizanje stalnog privrednog, društvenog i kulturnog razvoja i punog zaposlenja i proizvodnosti, uz poštovanje osnovnih političkih i ekonomskih sloboda radnika.¹ Iako je Međunarodna konvencija o zaštiti prava svih radnika migranata i članova njihovih porodica stupila na snagu 2003. godine, kao prvi ugovor koji na sveobuhvatan način definiše i garantuje prava radnicima migrantima i njihovim porodicama, Republika Srbija još uvek nije ratifikovala ovaj međunarodni ugovor. I pored stalnih poziva na ratifikaciju ovog instrumenta od strane brojnih ugovornih komiteta, Vlada Republike Srbije iznosi stav da domaće zakonodavstvo predstavlja adekvatan okvir za zaštitu radnika migranata, jer im garantuje ista prava koja uživaju i domaći radnici.²

- 1 Član 6 Međunarodnog pakta o ekonomskim, socijalnim i kulturnim pravima.
- 2 Vlada Republike Srbije, Odgovori na preporuke u okviru trećeg ciklusa Univerzalnog periodičnog pregleda, paragraf 7.1. Dostupno na: <https://bit.ly/2KLXb4l>.

Kako Evropska konvencija o ljudskim pravima i osnovnim slobodama ne garantuje pravo na rad,³ najvažniji regionalni izvor ekonomskih i socijalnih prava za države koje nisu članice Evropske unije je svakako Revidirana evropska socijalna povelja, koja je donesena pod okriljem Saveta Evrope i koju je Narodna skupština ratifikovala 2009. godine.⁴ Revidiranom evropskom socijalnom poveljom u članu 1 eksplicitno se garantuje pravo na rad. U pogledu prava na rad na teritoriji druge države, ugovornice su se obavezale da primenjuju postojeće propise u liberalnom duhu, da pojednostave formalnosti, umanje ili ukinu troškove taksi i da liberalizuju propise koji regulišu zapošljavanje stranih radnika.⁵ Ostvarivanje prava radnika migranata i njihovih porodica podrazumeva obavezu države da im omogući adekvatne i besplatne službe za pružanje pomoći i informacija i da usvoji mere za prijem radnika migranata i njihovih porodica.⁶ Pored toga, država ima obavezu da radnicima migrantima obezbedi tretman koji nije nepovoljniji od tretmana njenih državljana u pogledu naknada, sindikalnog angažovanja i smeštaja, te da garantuje i druga prava, poput spajanja porodice, zabrane proterivanja, transfera zarada itd.⁷

Pravo na rad je u Republici Srbiji i ustavno pravo.⁸ To pravo podrazumeva slobodan izbor rada, poštovanje dostojanstva ličnosti na radu, bezbedne i zdrave uslove rada, potrebnu zaštitu na radu, ograničeno radno vreme, dnevni i nedeljni odmor, plaćeni godišnji odmor, pravičnu naknadu za rad i pravnu zaštitu za slučaj prestanka radnog odnosa, a tih prava se niko ne može odreći.⁹ Ove ustavne odredbe su dodatno razrađene Zakonom o radu i drugim propisima.

3 Pravo na rad nije eksplicitno garantovano Evropskom konvencijom o ljudskim pravima i osnovnim slobodama, ali se u praksi Evropskog suda za ljudska prava štiti odredbama Konvencije, najčešće članovima 6, 8 i 14.

4 *Sl. glasnik RS – Međunarodni ugovori*, br. 42/09.

5 Član 18 Revidirane evropske socijalne povelje.

6 Član 19 Revidirane evropske socijalne povelje.

7 *Ibid.*

8 Ustav Republike Srbije, *Sl. glasnik RS*, br. 98/06.

9 Član 60 Ustava Republike Srbije.

U oblasti prava na rad, osobama koje su u potrebi za međunarodnom zaštitom bitne su i odredbe Zakona o azilu i privremenoj zaštiti,¹⁰ koji tražiocima azila i osobama koje uživaju izbeglički status ili supsidijarnu zaštitu garantuje pravo na rad koje se uređuje posebnim zakonom – Zakonom o zapošljavanju stranaca.¹¹ Njime se uređuju različiti aspekti slobode kretanja radnika i na sveobuhvatan način rešavaju pitanja lica iz posebne kategorije stranaca (tražioci azila, lica kojima je odobrena privremena zaštita, žrtve trgovine ljudima, lica kojima je odobrena supsidijarna zaštita, kao i lica koja imaju status izbeglice). Zakonom o zapošljavanju stranaca predviđeno je da lica kojima je odobreno pravo na azil, kao i, pod određenim uslovima, lica čiji je postupak još uvek u toku, imaju pravo na dobijanje lične radne dozvole koja nije vezana za određenog poslodavca, što je i osnovni preduslov za ostvarivanje prava na rad. Naime, ostvarivanjem prava na ličnu radnu dozvolu, migranti i izbeglice stiču mogućnost da na legalan način pronađu adekvatno zaposlenje i da zasnjuju radni odnos. Za dobijanje lične radne dozvole nije potrebno da lica prethodno nađu posao i potpišu ugovor o radu, niti se na poslodavca stavlja teret podnošenja dodatne dokumentacije za zapošljavanje stranog državljanina. Prednost lične radne dozvole u odnosu na ostale radne dozvole jeste u tome što osobe kojima je izdata imaju slobodu da obavljaju plaćeni posao za bilo kog poslodavca. Uslovi za sticanje drugih vrsta dozvola za rad najčešće zahtevaju da se radi o visokokvalifikovanoj ili deficitarnoj radnoj snazi. Među migrantima koji danas borave na teritoriji Republike Srbije dominira nekvalifikovana radna snaga ili osobe koje nemaju mogućnost da priznaju stečene kvalifikacije. Čak i među migrantima s visokom školskom spremom, iz iskustva Beogradskog centra za ljudska prava, najviše je onih koji nemaju deficitarna zvanja i stoga su teško zapošljivi u struci.

Zahtev za izdavanje lične radne dozvole može da podnese osoba kojoj je odobreno pravo na utočište ili dodeljena supsidijarna zaštita odmah po pravnosnažnosti odluke. Pored toga, zahtev može da podnese i osoba čiji je postupak azila još uvek

10 *Sl. glasnik RS*, br. 24/18.

11 *Sl. glasnik RS*, br. 128/14, 113/17, 50/18 i 31/19.

u toku (tražilac azila), ukoliko je od podnošenja zahteva za azil proteklo devet meseci, a da, bez njegove ili njene krivice, nije donesena pravnosnažna odluka o zahtevu za azil. Zakon propisuje različite periode važenja lične radne dozvole, koji se vezuje za trajanje privremenog boravka u Republici Srbiji. Tako se osobama s odobrenim utočištem radna dozvola izdaje na period od pet godina, osobama s dodeljenom supsidijarnom zaštitom na period od jedne godine, a tražiocima azila na period od šest meseci uz mogućnost produženja.

Pravilnikom o dozvolama za rad¹² bliže se propisuju način izdavanja, odnosno produženja dozvole za rad, način dokazivanja ispunjenosti uslova i potrebni dokazi za izdavanje, odnosno produženje dozvole za rad, kao i oblik i sadržina dozvole za rad. U skladu s članom 2 Pravilnika, zahtev za izdavanje, odnosno produženje dozvole za rad, podnosi se organizaciji nadležnoj za poslove zapošljavanja prema mestu privremenog boravka ili stalnog nastanjenja stranca, odnosno prema mestu sedišta poslodavca ili mestu gde se obavlja rad, u zavisnosti od vrste dozvole za rad.

Za izdavanje lične radne dozvole neophodno je da osobe koja traže azil i osobe kojima je priznat azil plate republičke administrativne takse, shodno svim uslovima propisanim Pravilnikom o radnim dozvolama, što u praksi predstavlja jednu od prepreka za podnošenje zahteva za ličnu radnu dozvolu. Naime, taksa za izdavanje lične radne dozvole u julu 2019. godine iznosila je čak 13.890,00 dinara, a pored toga je potrebno uplatiti 320,00 dinara za sâmo podnošenje zahteva.¹³ Imajući u vidu da najveći broj tražilaca azila i izbeglica u Republici Srbiji nema nikakve prihode od kojih bi mogli da podmire ove troškove, jasno je da im postojanje takvih nameta u određenoj meri ograničava pristup pravu na rad.¹⁴ Iako je Zakonom o opštem upravnom postupku¹⁵ predviđena

12 Pravilnik o dozvolama za rad, *Sl. glasnik RS*, br. 63/18 i 56/19.

13 Vidi više na: <https://bit.ly/2ZkRVNc>.

14 U prethodnom periodu, troškove izdavanja lične radne dozvole uglavnom su pokrivala međunarodne organizacije preko svojih partnera, među kojima je i Beogradski centar za ljudska prava.

15 Član 89, Zakon o opštem upravnom postupku, *Sl. glasnik RS*, br. 18/16 i 95/18.

moгуćnost oslobađanja od plaćanja troškova kada osoba ne može da snosi troškove bez štete po svoje nužno izdržavanje ili nužno izdržavanje svoje porodice, za prikupljanje neophodnih dokaza su takođe potrebni vreme i novac. Za izdavanje lične radne dozvole vezuju se druga prava, poput upisa na evidenciju nezaposlenih, na osnovu koje se pak može podneti zahtev za smeštaj lica s odobrenim pravom na azil. Samim tim se svako dodatno odlaganje ostvarivanja prava na radnu dozvolu negativno odražava na uključivanje u društvo. Prema tome, Ministarstvo za rad, zapošljavanje, boračka i socijalna pitanja trebalo bi da preduzme mere u pogledu ukidanja obaveze plaćanja takse za ovu naročito ranjivu grupu stranaca, posebno kada se uzme u obzir da je ekonomsko osnaživanje ključna karika u njihovoj integraciji i vraćanju ljudskog dostojanstva. U tom smislu, bilo bi poželjno da dođe i do izmena Zakona o zapošljavanju stranaca, kako bi se osoba s odobrenim pravom na azil izjednačila s državljanima Republike Srbije u pogledu prava na rad, odnosno kako za ovu kategoriju stranaca ne bi ni bilo potrebno pribavljanje lične radne dozvole već bi automatski sticali to pravo danom pravosnažnosti rešenja o usvajanju zahteva za azil, bez sprovođenja odvojene procedure pribavljanja lične radne dozvole.

Posebno je značajno pitanje uređenja ove oblasti na način koji bi doveo do destimulisanja angažovanja ranjivih kategorija migranata bez radne dozvole. Iako bi se umanjeњem administrativne takse za sticanje radne dozvole budžet uskratio za određena sredstva, izgledno je da bi kroz šire zakonito zapošljavanje došlo do višestruko veće ekonomske koristi, većeg poštovanja ljudskih prava izbeglica i migranata, kao i sprečavanja potencijalne radne eksploatacije. Tokom istraživanja koje je Beogradski centar za ljudska prava sproveo u periodu od maja do avgusta 2019. godine, zabeleženi su slučajevi migranata koji su bili angažovani na nezakonit način, bez prijave i bez lične radne dozvole. Mnogi migranti koji su učestvovali u istraživanju izrazili su želju da rade i bili su nezadovoljni što će na pravo na rad čekati devet meseci od podnošenja zahteva za azil. U slučajevima u kojima su tražioce azila zastupali pravnici Beogradskog centra za ljudska prava, period od registracije u policijskoj stanici

do podnošenja zahteva za azil je, u proseku, 130 dana. Kako se rok za ostvarivanje prava na sticanje lične radne dozvole računa od dana podnošenja zahteva za azil a ne izražavanja namere za traženje azila, imajući u vidu i trajanje postupka azila, odnosno činjenicu da u ogromnom broju slučajeva po zahtevu ne bude doneta pravosnažna odluka u roku od devet meseci, to znači da od dolaska na teritoriju Republike Srbije do sticanja uslova za dobijanje lične radne dozvole može da protekne i više od godinu dana. Uporedna praksa drugih država pokazuje da upravo rano omogućavanje prava na rad dovodi do drastično pozitivnijih rezultata u dugoročnoj integraciji.¹⁶

Migranti i izbeglice koje nisu ostvarile odgovarajuće zaposlenje nakon pribavljanja lične radne dozvole imaju pravo da, kao i druge nezaposlene osobe, budu na evidenciji Nacionalne službe za zapošljavanje na teritoriji opštine na kojoj borave. Kada govorimo o pravima koja Zakon o zapošljavanju pruža migrantima i izbeglicama koji su registrovani na evidenciji nezaposlenih osoba, najčešće se misli na tzv. nefinansijske mere. One uključuju obaveštavanje o mogućnostima i merama za zapošljavanje, besplatno korišćenje različitih usluga, razvijanje sposobnosti za aktivno traženje posla, kao i utvrđivanje individualnog plana zapošljavanja. Izbeglice, migranti i tražioci azila koji su registrovani na evidenciji nezaposlenih osoba imaju pravo na ostvarivanje novčane naknade za vreme nezaposlenosti uz ispunjavanje određenih uslova.¹⁷

Značajan izazov u ostvarivanju prava migranata na rad predstavlja priznavanje kvalifikacija koje su stečene u zemlji porekla. Pravila o priznavanju diploma, sertifikata i drugih kvalifikacija mogu značajno da utiču na stepen kvalifikovanosti prema kojoj imaju pravo pristupa tržištu rada, čime se u velikoj meri može uticati i na njihov stepen ekonomskog i socijalnog

16 P. Legrain, *Step Up: How to Get Refugees into Work Quickly*, TENT, avgust 2017. Dostupno na: https://www.tent.org/wp-content/uploads/2017/08/TENT_StepUp_Final.pdf.

17 B. Latković, G. Grujičić, „Pristup tržištu rada tražioca azila i lica kojima je priznat azil“, Grupa 484, 2018. Dostupno na: <http://library.fes.de/pdf-files/bueros/belgrad/15005.pdf>.

doprinosa u Republici Srbiji. Postupak priznavanja stranih kvalifikacija može da bude gotovo nemoguć za osobe koje su napustile ratom zahvaćena područja, s obzirom na otežanost ili nemogućnost pribavljanja neophodne dokumentacije. U tom smislu, bilo bi poželjno, u saradnji s univerzitetima, razviti modele za proveru prethodno stečenog znanja, kako bi se osoba u ovakvom položaju omogućio pristup tržištu rada u skladu sa stečenim obrazovanjem.

Kada je u pitanju zapošljavanje migranata, nepoznavanje ili nedovoljno poznavanje srpskog jezika predstavlja još jednu prepreku. Iako je došlo do pomaka u pogledu organizovanja obuka za osobe koje se nalaze na evidenciji Nacionalne službe za zapošljavanje u pogledu uključivanja u tržište rada, još uvek nije prepoznata važnost učenja jezika. Međutim, iz iskustva Beogradskog centra za ljudska prava, upravo ova stavka najčešće stoji kao glavna prepreka u ostvarivanju prava na rad ove ranjive kategorije stranaca u Srbiji. Naime, poslodavci u većini slučajeva – pozivajući se ne samo na zahteve radnog mesta već i na propise o bezbednosti na radu – zahtevaju od svih radnika, pa tako i onih na najnižim pozicijama, da poznaju srpski jezik u dovoljnoj meri da mogu da razumeju informacije koje im se upućuju, te da mogu samostalno da upozore ostale zaposlene u slučaju problema. Upravo iz tog razloga, prilikom afirmisanja zapošljavanja ove kategorije stanovništva, potrebno je staviti poseban akcenat na organizovanje kurseva jezika, pre samih strukovnih obuka.

Poseban pravni dokument kojim se, pored ostalog, uređuje i način ostvarivanja prava na rad osoba s priznatim pravom na utočište ili dodeljenom supsidijarnom zaštitom jeste Uredba o načinu uključivanja u društveni, kulturni i privredni život lica kojima je odobreno pravo na azil,¹⁸ koja predviđa zajedničko delovanje Komesarijata za izbeglice i migracije i Nacionalne službe za zapošljavanje u pružanju pomoći migrantima i izbeglicama. Pomoć se sastoji u pribavljanju neophodnih dokumenata za prijavljivanje na evidenciju nezaposlenih osoba i obezbeđivanju neophodnih preduslova za njihovo uključivanje u programe do-

18
Sl. glasnik RS, br. 101/16 i 56/18.

datnog obrazovanja i obuka, u skladu s potrebama poslodavaca i tržišta rada.

Osobe s odobrenim privremenim boravkom iz humanitarnih razloga u skladu sa Zakonom o strancima¹⁹ – pored toga što su prepoznate kao izuzetno ranjiva kategorija, na osnovu čega im je i odobren taj status – nemaju nikakav povlašćen položaj prema Zakonu o zapošljavanju stranaca, odnosno nisu kategorija koja ima pravo na ličnu radnu dozvolu. Prema tome, potrebno je hitno izmeniti Zakon o zapošljavanju stranaca, kako bi se i ovoj izuzetno ranjivoj kategoriji stranaca što pre omogućio olakšan pristup pravima iz oblasti rada.

19
Sl. glasnik RS, br. 24/18 i 31/19.



(NE)MOGUĆNOSTI OSTVARIVANJA PRAVA NA RAD IZ PERSPEKTIVE MIGRANATA

DA LI STE BILI ZAPOSLENI I DA LI BISTE RADILI U SRBIJI?

Nisam radio, ali moji prijatelji i
porodica jesu

5%

Nisam radio i nisam
zainteresovan

14%

Nisam radio ali bih želeo

43%

Radio sam u Srbiji

38%

Terensko istraživanje,²⁰ koje je tim Beogradskog centra za ljudska prava sproveo u periodu od maja do avgusta 2019. godine, pokazalo je da se proces zapošljavanja migranata ne odvija

20 Istraživanje je obavljeno u okviru projekta „Ka održivom modelu zaštite u zajednici ranjivih kategorija migranata u Srbiji“, Beogradski centar za ljudska prava, 2019.

u potpunosti u skladu s normativnim okvirom koji je relativno dobro uređen.

Prema mišljenju migranata koji su učestvovali u istraživanju, ostvarivanje prava na rad u uslovima migracije je veoma složeno i za većinu teško ostvarivo pravo. Iz dobijenih odgovora se zaključuje da je ostvarivanje radnih dozvola za migrante veoma složen proces, kako zbog dugih rokova za ostvarivanje prava na ličnu radnu dozvolu (devet meseci nakon podnošenja zahteva za azil) tako i zbog toga što često ne poseduju dokaze o stručnim kvalifikacijama (diplome, svedočanstva itd.). Nepoznavanje srpskog jezika i nedostatak časova srpskog u centrima za azil i prihvatnim centrima takođe se ističe kao problematično.

Praksa Kancelarije za azil da se podnošenje zahteva za azil organizuje samo u centrima za azil znači da jedino osobe smeštene u Beogradu, Banji Koviljači, Bogovađi, Sjenici i Tutinu mogu da ostvare pravo na radnu dozvolu kao tražioci azila, a da taj proces ne traje nerazumno dugo. Za osobe koje borave u prihvatno-tranzitnim centrima se, posle izražavanja namere da podnesu zahtev za azil, preko punomoćnika u postupku azila organizuje „premeštaj“ u centar za azil, gde se kasnije organizuje podnošenje zahteva za azil. Taj proces može da potraje i do nekoliko meseci, čime se značajno umnožava period do sticanja uslova za ostvarivanje prava iz oblasti rada.

Dodatni problem predstavlja činjenica da se mnogi od smeštajnih kapaciteta nalaze u ekonomski devastiranim opštinama ili izolovanim mestima, gde ne postoje ni objektivne mogućnosti za zapošljavanje. Ispitanici koji su tokom istraživanja izjavili da su bili radno angažovani tokom boravka u Srbiji, naveli su da su često bili neprijavljeni, a da su mahom radili na poslovima predviđenim za niskokvalifikovane radnike, i to kod privatnih poslodavaca. Naknade za rad koje su ostvarili bile su ispod zakonskog minimuma, što je dodatno negativno uticalo na motivaciju za traženje novih poslova. Pored toga, tokom obavljanja tih poslova, u potpunosti su bili isključeni iz zaštite radnika predviđene zakonom, uključujući bezbednost na radu.

„Pozvan sam da se priključim fudbalskom klubu, ali zbog neregulisanog statusa nisam u mogućnosti, traže da imam radnu dozvolu i ostala dokumenta. Tako dugo neigranje će uništiti moju karijeru. Zarađujem tako što radim u fabrici i kao drvoseča za dnevnicu.“

muškarac, samac, 26 godina,
smešten u Tutinu

Najbrojniju grupu migranata čine oni koji bi rado našli zaposlenje u Srbiji (43%), ali ne uspevaju zbog prethodno navedenih problema – nepoznavanje jezika, nemogućnost dobijanja radne dozvole, nemogućnost pribavljanja dokaza o stečenim profesionalnim kvalifikacijama i slično. Za njima sledi grupa migranata koji su za vreme boravka u Srbiji bili angažovani na određenim poslovima (38%). S druge strane, svega 14% migranata ne pokazuje spremnost da traži posao i radi u Srbiji. Reč je mahom o onima koji svoj boravak u Srbiji vide isključivo kao privremeni.

„Radije bih radio nego primao pomoć, ali nemam pravo da radim ukoliko ne zatražim azil.“

muškarac, 34 godine,
smešten s porodicom u Bosilegradu

Iskustva onih koji su bili zaposleni nisu ohrabrujuća, jer su, bez obzira na prethodne kvalifikacije, zbog nepostojanja dokaza u vidu diplome ili svedočanstva, bili prinuđeni da rade niskokvalifikovane i nedovoljno plaćene poslove, bez adekvatnih uslova za rad.

„U Iranu sam bio vozač, a ovde radim na proizvodnoj traci. Nemam radnu dozvolu i radim na crno.“

muškarac, samac, 37 godina,
smešten u Tutinu

IV.

PREPORUKE ZA UNAPREĐENJE PRAKSE

Osnovni preduslovi za unapređenje prava migranata u oblasti rada jesu olakšavanje postupka za dobijanje potrebnih dokumenata, kao i pojednostavljenje administrativnih procedura. U skladu s tim, potrebno je:

- uspostaviti sistem informisanja migranata o njihovim pravima u oblasti zapošljavanja i rada;
- u saradnji s Nacionalnom službom za zapošljavanje, intenzivirati aktivnosti na kreiranju posebnih mera za zapošljavanje migranata;
- raditi na informisanju poslodavaca i najšire zajednice o mogućnostima angažovanja migranata, kao i o njihovim pravima i obavezama;
- razvijati modele praćenja i publikovanja pozitivnih primera kako bi se unapredila motivacija migranata za rad, kao i motivacija poslodavaca za angažovanje migranata;
- obezbediti intenzivne kurseve srpskog jezika kako bi se ostvario osnovni preduslov za dobijanje posla u Srbiji;
- obezbediti automatsko pravo na rad osobama s odobrenim pravom na azil, bez podnošenja zahteva za ličnu radnu dozvolu, čime bi se omogućila njihova ubrzana integracija u srpsko društvo;
- uskladiti Zakon o zapošljavanju stranaca sa Zakonom o strancima kroz prepoznavanje osoba s odobrenim privre-

menim boravkom iz humanitarnih razloga kao posebne kategorije koja ima pravo na ličnu radnu dozvolu;

- intenzivirati napore za iznalaženje adekvatnih rešenja u postupku priznavanja kvalifikacija osobama koja nemaju validna dokumenta, koristeći raspoloživa pozitivna iskustva i instrumente drugih zemalja;
- skratiti rok za sticanje prava na dobijanje lične radne dozvole za tražioce azila s devet na tri meseca, u skladu s najboljom praksom drugih evropskih država;
- usvojiti uredbu o tolerisanom boravku kojom bi bilo regulisano pravo na rad i onih osoba koje nisu zatražile azil u Republici Srbiji i koje su smeštene u prihvatno-tranzitne centre;
- preispitati odluku o otvaranju prihvatnih centara u izolovanim područjima poput opština Šid i Kikinda, te preispitati odluku o formiranju centara za azil i prihvatno-tranzitnih centara u ekonomski devastiranim opštinama u kojima ne postoje adekvatne mogućnosti za ostvarivanje prava na rad i uključivanje u tržište rada.



FOREWORD

Many of the hundreds of thousands of migrants coming to Europe every year pass through the Republic of Serbia. Most stay in Serbia less than a year; some decide to settle down in it. Exercise of the right to work, one of the fundamental human rights, is of particular importance to migrants and their status and has implications on the social and economic development of the Republic of Serbia.

Countries across the world, including Serbia, reaffirmed their commitment to this principle by adopting the Global Compact for Safe, Orderly and Regular Migration. In this document, adopted in 2018, the States committed to facilitating fair and ethical recruitment and safeguarding conditions that ensure decent work as one of their main objectives. States plan to achieve this objective by reviewing the existing recruitment mechanisms to protect all migrant workers against all forms of exploitation and abuse in order to guarantee decent work and maximise the socioeconomic contributions of migrants.

This publication was developed within the Belgrade Centre for Human Rights (BCHR) project “Towards sustainable community-based protection for vulnerable migrants in Serbia,” supported by the International Organization for Migration (IOM) and the Swiss Government within a broader Swiss-Serbian Migration Partnership, which was developed to respond to the expressed needs of the competent institutions of the Republic of Serbia. The goal of the programme is to contribute to strengthening and improving the social protection of migrants in Serbia

through increasing the availability and quality of social services and support programmes in local communities.

This BCHR project seeks to expand the community-based protection services extended to vulnerable migrants through capacity building of social work centres, municipal youth offices and other stakeholders. The improvement of access to and availability of social care services and community-based protection programmes will reduce the vulnerabilities of the migrant population and facilitate their integration in Serbia's society.

The existing social protection models were assessed in a participatory research, the results of which are presented in this publication. The research focused on both the migrants and service providers, notably on vulnerable groups, whilst devoting attention to gender-sensitive issues. The ultimate goal has been to create a sustainable strategy model to improve coordination focusing on community-based protection and psychosocial service providers, including social work centres, youth offices, non-government organisations and institutions. The strategy will offer clear rules of conduct and mechanisms of coordination among various state institutions involved in the migrant protection system.

The publication was authored by Slavica Milojević, a social worker and psycho-therapist, who heads the Outreach, Promotion and Support Department of the Republic Institute for Social Protection. Ms. Milojević has conducted numerous researches and analyses of demographic trends and socio-economic development, social inclusion, protection of migrant children and civic participation of vulnerable categories. Before joining the Republic Social Protection Institute, Ms. Milojević worked in the Commissariat for Refugees (1992–1995), the Red Cross and the Family Protection Ministry. She has been engaged as an expert on projects implemented by UN bodies and organisations. Ms. Milojević chairs the Savski venac Municipal Red Cross Committee. She founded the network of social development researchers and is a member of the Association of Social Protection Professionals of Serbia and the Society of Social Workers of Serbia. She is a visiting lecturer at the University of Niš.

"The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right."

*Article 6(1), International Covenant
on Economic, Social and Cultural Rights*



RIGHT TO WORK – NATIONAL LEGAL FRAMEWORK

The Republic of Serbia has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR), the most important international document guaranteeing the right to work. Article 6 of the ICESCR enshrines the right to work, i.e. everyone's right to earn a living by work he freely chooses or accepts. The ICESCR imposes a clear obligation on the Republic of Serbia to achieve the full realisation of this right by putting in place technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.¹ The Republic of Serbia has not yet ratified the main treaty that comprehensively defines and guarantees the rights of migrant workers and their families, notably, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which entered into force in 2003. Despite appeals by numerous treaty committees, Serbia has held that the national legislation is an adequate framework for the protection of migrant workers, because it guarantees them the same rights that are enjoyed by domestic workers.²

.....
1 Article 6, ICESCR.

2 Replies of the Government of the Republic of Serbia to the recommendations issued within the Third Cycle of the Universal Periodic Review. Available at
<https://www.ohchr.org/EN/HRBodies/UPR/Pages/RSindex.aspx>.

Given that the European Convention on Human Rights does not guarantee the right to work,³ the revised European Social Charter (ESC(R)), adopted under the auspices of the Council of Europe and ratified by the Serbian parliament in 2009, is the most important regional source of economic and social rights for states that are not members of the European Union.⁴ Article 1 of the ESC(R) explicitly guarantees the right to work. As per the right to work in other states, the States Parties committed to apply existing regulations in a spirit of liberality, to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers, and to liberalise, individually or collectively, regulations governing the employment of foreign workers.⁵ The realisation of the right to work of migrant workers and their families entails the State's obligations to maintain adequate and free services to assist such workers, particularly in obtaining accurate information, and to adopt appropriate measures to facilitate the reception of such workers and their families.⁶ Furthermore, States are under the obligation to secure migrant workers treatment not less favourable than that of their own nationals in respect of remuneration, membership of trade unions and accommodation, and to guarantee them other rights, such as family reunion, non-expulsion, transfer of wages, etc.⁷

The right to work is enshrined in the Serbian Constitution⁸ as well. It comprises free choice of occupation, respect for the dignity of person at work, safe and healthy working conditions, requisite work protection, limited working hours, daily and weekly rests, paid annual leave, fair remuneration and legal protection in case of termination. No one is entitled to waive these

3 The right to work is not explicitly guaranteed by the European Convention on Human Rights, but the European Court of Human Rights case law has referred to ECHR provisions, especially Articles 6, 8 and 14, in connection with it.

4 *Sl. glasnik RS – International Treaties*, 42/09.

5 Article 18, ESC(R).

6 Article 19, ESC(R).

7 *Ibid.*

8 Constitution of the Republic of Serbia, *Sl. glasnik RS*, 98/2006.

rights.⁹ These constitutional provisions are elaborated further in the Labour Law and other regulations.

The Law on Asylum and Temporary Protection¹⁰ guarantees asylum seekers and foreigners granted asylum status or subsidiary protection the right to work, which is regulated by a separate law – the Law on the Employment of Foreigners.¹¹ The latter law governs various aspects of the freedom of movement of workers and comprehensively addresses issues of the so-called special category of foreigners (asylum seekers, human trafficking victims, and foreigners granted asylum or subsidiary protection). Under the Law on the Employment of Foreigners, persons granted asylum, and, under specific conditions, asylum seekers are entitled to personal work permits that are not tied to a specific employer. Possession of a work permit is the main prerequisite for exercising the right to work. Namely, by realising their right to personal work permits, migrants and refugees have the opportunity to lawfully find adequate jobs and employment. They do not need to first find a job and enter into an employment agreement before applying for a personal work permit; nor do the employers bear the burden of submitting the additional documentation required for employing foreign nationals. The advantage of personal work permits over other work permits lies in the fact that the individuals to whom they are issued individuals are free to perform remunerated work for any employer. Other types of work permits are tied to the employers and are usually issued to high skilled workforce or workers Serbia is short of. Most migrants in Serbia today are low skilled or unable to have their qualifications recognised. In BCHR's experience, most migrants with university education are not specialised in shortage occupations and are thus difficult-to-employ in their professions.

Foreigners granted asylum or subsidiary protection may apply for their personal work permits as soon as the decisions granting them asylum or subsidiary protection become final. Asylum seekers are also entitled to apply for such permits, provided

9
Article 60, Constitution of the Republic of Serbia.

10 *Sl. glasnik RS*, 24/18.

11 *Sl. glasnik RS*, 128/14, 113/17, 50/18 and 31/19.

that a final decision on their asylum application has not been rendered for over nine months through no fault of their own. The Law lays down different personal work permit validity periods, which are tied to the duration of the applicants' temporary residence permits in the Republic of Serbia. Foreigners granted asylum are issued five-year personal work permits, those granted subsidiary protection are issued one-year work permits, while asylum seekers are issued renewable six-month work permits.

The Rulebook on Work Permits¹² governs in detail the issuance and extension of work permits, the way the applicants prove they fulfil the requirements and the proof they need to submit to be issued a work permit or renew it, as well as the format and content of the work permits. Under Article 2 of this Rulebook, foreigners shall submit their work permit applications and work permit renewal applications to the organisation charged with employment affairs in the place of their temporary or permanent residence, the headquarters of the employer or the place where the work is to be performed, depending on the type of work permit.

Asylum seekers and persons granted asylum applying for personal work permits are under the obligation to pay all the republican administrative fees specified in the Rulebook on Work Permits. This obligation has been one of the obstacles to acquiring personal work permits in practice. Namely, in July 2019, they had to pay not only a permit application fee standing at 320.00 RSD (circa €2.8), but also a permit issuance fee, which stood at as much as 13,890.00 RSD (circa €120).¹³ Given that the vast majority of refugees and asylum seekers in Serbia have no income with which they can pay these fees, the existence of such levies clearly restricts their access to the right to work.¹⁴ Although the General Administrative Procedure Law¹⁵ provides for waiver of fees if their payment would undermine the individuals' or their families' ability to meet their subsistence needs, asylees also need time and

12 Rulebook on Work Permits, *Sl. glasnik RS*, 63/18 and 56/19.

13 More is available in Serbian at: <https://bit.ly/2ZkRVNc>.

14 The personal work permit issuance fees used to be mostly covered by international organisations, via their partners, including the BCHR.

15 Article 89, General Administrative Procedure Law, *Sl. glasnik RS*, 18/16 and 95/18.

money to collect the required documentation. Successful asylum seekers may exercise other rights once they are issued personal work permits, e.g. to be registered as unemployed, which, in turn, renders them eligible to apply for accommodation. Any additional delays in exercising the right to a work permit thus impinge on the migrants' integration in society. Therefore, the Ministry of Labour, Employment and Veteran and Social Issues should take measures to abolish the fees for this particularly vulnerable category of foreigners, especially given that their economic empowerment is pivotal for their integration and restoration of their human dignity. The legislator may wish to consider amending the Law on the Employment of Foreigners and equating foreigners granted asylum with Serbian nationals with respect to the right to work. Successful asylum seekers could automatically acquire personal work permits as soon as the rulings granting them asylum become final, without needing to launch a separate personal work permit application procedure.

The engagement of vulnerable categories of migrants without work permits also needs to be discouraged in the process. Although less money would flow into the state coffers if the personal work permit administrative fees were scrapped, greater lawful employment of refugees and migrants would undoubtedly generate manifold economic benefits, as well as result in greater respect of their rights, and, ultimately, prevent their potential labour exploitation. During its May-August 2019 research, the BCHR registered cases of illegally hired and unregistered migrants lacking personal work permits. Many migrants who participated in the research said they would like to work and were displeased that they would have to wait for their right to work nine months from the day they applied for asylum. An average of 130 days passed between the day the migrants represented by BCHR lawyers registered their intention to seek asylum with the police and the day they applied for asylum. Given that the nine-month deadline starts running on the day the asylum application is filed, and not on the day the intention to seek asylum is registered, and the duration of the asylum procedure, notably the fact that, in the vast majority of cases, the final decisions on the asylum applications are not rendered within nine

months, that means that over a year usually passes from the day a migrant enters Serbia until the day s/he becomes eligible for a personal work permit. Practices of other states show that allowing migrants to work as soon as possible yields more positive results and facilitates their long-term integration.¹⁶

Migrants and refugees, who have not found adequate jobs after they acquired their personal work permits, are entitled to register with the National Employment Service (NES) office in the municipality they are living in, just like other job-seekers. Under the Employment Law, registered migrant and refugee job-seekers may avail themselves of non-financial assistance: to be informed of employment opportunities and measures, use various services free of charge, build their active job-seeking capacities and be assisted in developing their individual employment plans. Refugees, migrants and asylum seekers registered with the NES are also entitled to unemployment benefits, provided they fulfil specific requirements.¹⁷

Recognition of the qualifications migrants acquired in their countries of origin poses a major challenge to their exercise of their right to work. The rules on the recognition of diplomas, certificates and other qualifications can substantially impinge on their right to apply for the jobs they are actually qualified for and, consequently, on the extent of their economic and social contributions in the Republic of Serbia. The recognition of foreign qualifications can be excruciating for migrants who have fled their war-torn countries of origin and find it extremely difficult, if not impossible, to obtain the requisite documentation. Therefore, models for testing their knowledge should be developed in cooperation with the universities, to facilitate their access to the labour market and to ensure that the knowledge they acquired is duly recognised.

- 16 P. Legrain, *Step Up: How to Get Refugees into Work Quickly*, TENT, August 2017. Available at: https://www.tent.org/wp-content/uploads/2017/08/TENT_StepUp_Final.pdf.
- 17 B. Latković, G. Grujić, "Pristup tržištu rada tražioca azila i lica kojima je priznat azil," Group 484, 2018. Available in Serbian at: <http://library.fes.de/pdf-files/bueros/belgrad/15005.pdf>.

No or insufficient knowledge of Serbian is another obstacle standing in the way of the migrants' employment. The importance of learning the language in the context of accessing the labour market has not been recognised yet, although some headway has been made inasmuch as language courses have been organised for migrants registered with the NES. However, in BCHR's experience, no or insufficient knowledge of Serbian is the chief obstacle to the exercise of the right to work by this vulnerable category of foreigners in the Republic of Serbia. Namely, most employers, citing both the job descriptions and the occupational safety and health regulations, require of all their workers, even those holding the lowest jobs, to be sufficiently fluent in Serbian to understand the information imparted to them and to be able to themselves warn other workers of any problems. This is precisely why special emphasis should be put on organising language courses before vocational trainings when developing measures affirming the employment of this category of the population.

The Decree on the Integration of Foreigners Granted Asylum in the Social, Cultural and Economic Life in the Republic of Serbia¹⁸ is a by-law that governs, inter alia, the way foreigners granted asylum or subsidiary protection exercise the right to work. Under the Decree, the Commissariat for Refugees and Migration (CRM) and the NES shall take concerted action to assist the employment of refugees and migrants, notably to collect the documents they need to register with the NES. The CRM and the NES shall put in place the prerequisites for their participation in additional education and training programmes to respond to the needs of employers and the labour market.

Foreigners granted temporary residence on humanitarian grounds under the Law on Foreigners,¹⁹ granted such status as a particularly vulnerable category, do not have a privileged status under the Law on the Employment of Foreigners, i.e. are not entitled to personal work permits. The latter law thus needs to be amended urgently to facilitate easy access to work-related rights to this extremely vulnerable category of foreigners.

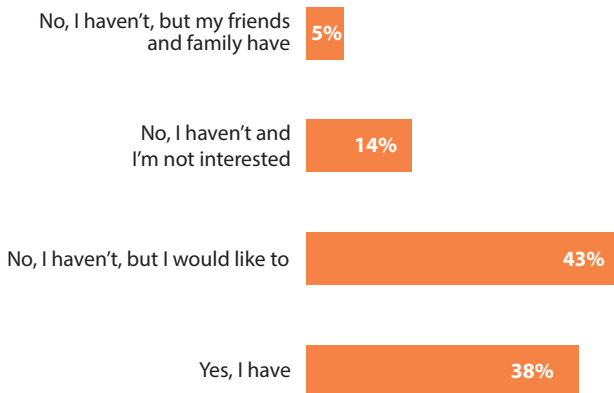
18 *Sl. glasnik RS*, 101/16 and 56/18.

19 *Sl. glasnik RS*, 24/18 and 31/19.



(IM)POSSIBILITY OF EXERCISING THE RIGHT TO WORK FROM THE MIGRANTS' PERSPECTIVE

HAVE YOU AND WOULD YOU WORK IN SERBIA?



The field research²⁰ conducted by the BCHR team in the May-August 2019 period showed that the migrant employment process was not implemented fully in accordance with the legal framework, which is relatively good.

²⁰ The research was conducted within the project "Towards sustainable community-based protection for vulnerable migrants in Serbia", BCHR, 2019.

In the view of the migrants who took part in the research, their realisation of the right to work is extremely complex and, for many of them, next to impossible. Their replies lead to the conclusion that the issuance of personal work permits is an extremely complex process, both because of the long time periods that have to pass until they are eligible to apply for the permits (nine months from the day file for asylum) and because many of them have no proof of their professional qualifications (diplomas, certificates, etc.). No knowledge of Serbian and lack of Serbian language courses in asylum and reception centres were also emphasised as a problem.

The Asylum Office's practice of organising the submission of asylum applications only in asylum centres means that only migrants accommodated in the asylum centres in Belgrade, Banja Koviljača, Bogovađa, Sjenica and Tutin can realise the right to a work permit in the capacity of asylum seekers without the process taking unreasonably long. Migrants referred to reception-transit centres when they express the intention to seek asylum are subsequently "transferred" to asylum centres with the help of their representatives, where they can later apply for asylum. This process may last up to several months and substantially prolong the period that has to pass before they are eligible to exercise their work-related rights.

Furthermore, many of the centres are located in economically devastated municipalities or remote areas, where there are objectively no employment opportunities. Most of the respondents who said they had worked in Serbia specified that they had not been registered, that they had performed low skill jobs and that they had been hired by private employers. Their remuneration had been under the minimum prescribed by law, which additionally discouraged them from looking for new work. Furthermore, they had been totally excluded from the protection of workers provided by law, including occupational safety.

"I was invited to join the soccer club, but I couldn't because my status is unregulated, they want to see my work permit and other

documents. Such a long time of not playing will destroy my career. I earn money by working in a factory and stint as a lumberjack.”

26-year-old single man,
living in the Tutin Centre

Most of the surveyed migrants (43%) said they would like to, but have been unable to, find a job in Serbia because of the above problems – no knowledge of Serbian, inability to obtain a work permit or proof of professional qualifications, et al. Migrants who have held jobs since they came to Serbia (38%) accounted for the second largest group of respondents. On the other hand, only 14% of the migrants were unwilling to look for a job and work in Serbia; most of them believe they are in Serbia only temporarily.

“I’d rather work than get welfare, but I am not entitled to work unless I apply for asylum.”

34-year-old man,
living with his family in the Bosilegrad Centre

The experiences of migrants who have worked in Serbia are discouraging because they have been forced to perform low skill and underpaid jobs in poor conditions regardless of their qualifications, because they lack diplomas or certificates to prove them.

“I worked as a driver in Iran and I’m working on a production line here. I don’t have a work permit and I am working illegally.”

37-year-old single man,
living in the Tutin Centre

IV. RECOMMENDATIONS ON IMPROVING THE PRACTICE

Facilitation of the procedure for obtaining the requisite documents and simplification of administrative procedures are the main prerequisites for improving the migrants' work-related rights. This calls for:

- Establishing a system for informing migrants of their employment– and work– related rights;
- Intensifying activities on designing special migrant employment measures in cooperation with the NES;
- Informing employers and the community at large about the possibilities of hiring migrants, as well as their rights and obligations;
- Developing models for monitoring and publishing good examples to boost the migrants' motivation to work and the employers' motivation to hire them;
- Conducting intensive Serbian language courses to achieve the first prerequisite migrants need to fulfil in order to find a job in Serbia;
- Automatically granting the right to work to foreigners granted asylum, without them needing to apply for personal work permits separately, thus facilitating their accelerated integration in Serbian society;

- Aligning the Law on the Employment of Foreigners with the Law on Foreigners, by recognising, in the former, foreigners granted temporary residence on humanitarian grounds as a special category entitled to personal work permits;
- Intensifying efforts to find adequate solutions for recognising the qualifications of foreigners lacking valid documents, by tapping into the positive experiences and instruments of other countries;
- Reducing the time period for acquiring the right to a personal work permit from nine to three months, in accordance with the best practices of other European states;
- Adopting a decree on tolerated residence that will regulate the right to work also of foreigners living in reception-transit centres who have not sought asylum in Serbia;
- Re-examining the decision to open reception centres in isolated areas, such as the Šid and Kikinda municipalities, and the decision to open asylum and transit-reception centres in economically devastated municipalities lacking employment opportunities.
-

CIP – Каталогизација у публикацији
Народна библиотека Србије, Београд
331.101.21-054.73(497.11)

МИЛОЈЕВИЋ, Славица, 1965–

Pristup migranata pravu na rad u Republici Srbiji = Access to the right to work of migrants in the Republic of Serbia / Slavica Milojević ; [prevod Duška Tomanović]. – Beograd : Beogradski centar za ljudska prava, 2019 (Beograd : Dosije studio). – 39 str. ; 20 cm. – (Biblioteka Posebna izdanja)

“Publikacija je nastala u okviru projekta ‘Ka održivom modelu zaštite ranjivih kategorija migranata u Srbiji!’..” --> kolofon. – Tiraž 100. – Napomene i bibliografske reference uz tekst.

ISBN 978-86-7202-202-5

1. Up. stv. nasl.

а) Право на рад – Мигранти – Србија

COBISS.SR-ID 279567372

