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**POOSH – Occupational Safety and Health of Posted Workers: Depicting the existing and future challenges in assuring decent working conditions and well-being of workers in hazardous sectors (Project number VS/2016/0224; 2017 – 2018)**

**Work Package 4  
COMPARATIVE RESEARCH STUDY**

**POOSH COUNTRY Report  
Slovakia**

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## Executive Summary

- Slovakia is the 7th largest sending country in the EU with a total of 112,028 PD A1s issued in 2016, which comprise a share of 4.9% of the national workforce. The main destination countries have been Germany, Austria, the Czech Republic, the Netherlands and Belgium. Posting to Slovakia from other EU Member States, however, remains comparatively small (i.e. less than 10,000 registered postings in 2016), although in recent years Slovakia is increasingly becoming a receiving country of, in particular, temporary migrant workers from third countries such as Serbia, Bosnia and Herzegovina or Ukraine. The number of foreign workers has increased almost fivefold from around 11,000 in 2008 to almost 52,000 in 2018.
- The main sectors of employment for posted workers from Slovakia are construction (with around 45% of PDs A1), other industrial activities (34%) and services (19%). Workers posted to Slovakia are predominantly employed in the industry sector (55.8% of issued PDs A1), which includes construction as well as the relatively large automotive industry, followed by the service sector (43.8%).
- Since posting and temporary work migration to Slovakia are relatively recent phenomena, little attention has been directed towards OSH from a receiving perspective. On the other hand, posting from a sending perspective tends to be mainly considered an employer issue and is currently inadequately dealt with on a policy level. Nevertheless, there have been some steps taken recently to address this, including positive developments in cross-border cooperation and the implementation of the national strategy and action plan on health and safety at work until 2020.
- The main stakeholders involved in OSH-related matters are the Ministry of Labour, Social Affairs and Family, the Ministry of Health, the Labour Inspectorate, the public health authority and the Social Insurance Agency. The National Labour Inspectorate is the main body responsible for enforcement of OSH regulations. In addition, it has a mandate to oversee other non-OSH related issues, such as compliance of employers with the labour law (e.g. on remuneration, contractual obligations etc.) and violations regarding illegal work. As members of the tripartite body of the Economic and Social Council, the social partners (i.e. trade unions and employer associations) are actively involved in national OSH legislation.
- At the national level, there is close cooperation between the national labour inspectorate and the confederation of trade unions. The latter has its own OSH inspectors who can carry out controls in companies with an established workplace trade union, albeit such action is generally considered a measure of last resort.
- The main system for transnational cooperation in terms of posting is the IMI system which appears to function well. There also exists a special bilateral cooperation with Serbian authorities that addresses the issue of temporary migrants from Serbia.
- The vulnerabilities of temporary migrant and posted workers are grouped according to the layers of vulnerability framework proposed by Sargeant and Tucker (2009), namely the migration status and the conditions of recruitment, the characteristics of migrants themselves, and the receiving country conditions. We propose to add a fourth category capturing factors related to temporary migration itself and its impact on the psychological well-being of the workers.
- Illegal work has become a topic of concern in Slovakia, even among temporary migrant workers, as the numbers of foreign workers found to work illegally has risen in the last years, growing dramatically

from 301 in 2016 to 1,265 in 2017. The findings of the report confirm the high level of vulnerability that migrants residing and working illegally face as compared to other formally employed workers.

- The main motivation for the interviewed migrant/posted workers to come to Slovakia is economic. They are drawn by anticipated higher salaries and hope to be able to save money by working for some time in the country. Given this driver, OSH risks are taken as part of the deal and often ignored. However, as soon as the wage differentials between what they can earn at home and what they can earn (and save) from working in Slovakia decrease, as in some reported cases, there is no incentive to stay.
- The OSH situation is particularly problematic along the subcontracting chain. The pressure to reduce costs is transferred to the end of the chain and therefore, low-paid workers bear these costs, especially if they are hired by employment agencies. These workers often do not receive adequate or any training on OSH at all. Furthermore, to save costs personal protective equipment is either insufficient or not provided at all. Main contractors do not consider the workers at the end of the subcontracting chain as theirs, therefore they often do not provide the necessary OSH protection to these workers but transfer such responsibility to their direct employers, i.e. either the subcontractor or the agency. Workers turn a blind eye to OSH grievances or justify them as a comparative improvement to the situation in their home country. This situation has been shaken after the public uproar triggered by an investigative media report that exposed the vulnerabilities and level of exploitation of Serbian workers in Slovakia. As a result, more labour inspections have been carried out in Slovak workplaces.
- Other related vulnerabilities include poor accommodation arrangements, which although accepted by posted/temporary migrant workers as a way to save money, still have repercussions on their well-being in a number of ways. The most prominent are the lack of ease, and the increase in feelings of social exclusion, since the local population has not been very receptive. On a slightly positive note, these arrangements have also been perceived as a way to live among co-nationals/co-workers and therefore not to have to face language barriers and discrimination from the local communities.
- The short duration and therefore transient nature of migration adds another dimension of vulnerability for migrant workers in terms of the psychological pressures and other related risks. Being away from home, from their families and friends is draining, pushing workers to constantly ponder whether the earnings are truly worth the price of emotional strain.
- In general, language barriers seem to be less of a salient issue with the current composition of the temporary migrant workforce in Slovakia being mostly from Serbia or Ukraine where basic communication is possible due to the shared Slavic origin of the languages. Nevertheless, language barriers exist and they contribute to the feeling of social exclusion as reported by the interviewed migrant workers.
- Differences in safety culture or risk perception might affect the attitude towards the need for protective equipment. The research revealed workers turning a blind eye to OSH grievances due to the comparative improvement in regard to the working conditions in their home country.
- In terms of recommendations, as a sending country Slovakia should be more involved in the provision of prevention and protection of posted workers. Illegal employment should also be addressed further, and checks must be made that OSH regulation is applied across the subcontracting chain. The measures should be complemented with information dissemination, in terms of workers' rights and employers' obligations, which are particularly important for non-Slovak workers who do not know local rules and sometimes have difficulty in accessing information due to language barriers.

## 1. Introduction

### 1.1. A quick overview of OSH and posted work in the country

Overall, there has been a decreasing trend in temporary labour mobility of Slovaks abroad: from the peak in 2007 of 177,200, the number of Slovaks working abroad on a temporary basis has decreased to 149,300 by 2017. This constitutes a decline of around 16% over the ten-year period (DATAcube, 2018). The number of posted workers, however, if measured by the number of Portable Documents A1 (PDs A1) issued, has increased since 2010. The 2016 report ranked Slovakia as the 6<sup>th</sup> largest sending country with a total of around 98,000 PDs A1 issued in 2015 across the EU, with a share of 3.3% of posted workers in national employment (European Commission, 2016). The data for 2016 indicate a further increase in the number of PDs A1 issued to 112,028 with a share of 4.9%, although now Slovakia ranks 7<sup>th</sup> among the largest sending countries (European Commission, 2018).

Increasingly, Slovakia is becoming a receiving country as well, especially of temporary migrant workers from third countries, such as Serbia or Ukraine. The number of foreign workers has increased almost fivefold from 2008 to 2018: While in March 2008 (data is available on a monthly basis) around 11,000 foreign workers were working in Slovakia, the workers added up to almost 52,000 workers in March 2018 (Central Office of Labour, Social Affairs and Family, 2018c). The number of PDs A1 issued to workers posted to Slovakia, however, is still rather small at 9,694 in 2016 (the latest reports data), which rank Slovakia 19<sup>th</sup> in the list of receiving EU countries.

Temporary migrants are predominantly employed in the manufacturing sector and the construction sector. Both have been identified as hazardous sectors exposing workers to higher risks for occupational health and safety. However, little attention has been directed towards this issue in Slovakia, both from a policy and research perspective.

This research attempts to provide first insights on the OSH vulnerabilities of temporary migrant workers in Slovakia. The main research question we pose is:

How does the interplay of EU-regulation and national OSH systems affect the health and safety of (posted) workers in a transnational workplace?

To answer this question, we use the following sub-questions:

- How do national and transnational OSH and employment regulation interact in transnational workplaces within the EU common market?
- What are the OSH-related vulnerabilities of posted workers stemming from the existing systems? (Access, quality of service and protection, ...)
- How do OSH preventative practices manifest in transnational workplaces?
- How are OSH-related grievances addressed in transnational workplaces?
- What are the legal and health care mechanisms and practices in case of work-related accidents in which posted workers are involved?

- How are language and cultural barriers managed in transnational workplaces, in terms of prevention as well as grievance management?
- What measures can be developed at the systemic and workplace level to reduce OSH-related vulnerabilities?

## 1.2. Main Findings

In view of Slovakia fast becoming a host country for temporary migrants from third countries, the low awareness of issues related to temporary migrant workers, in particular their OSH situation, has been identified as an area of concern.

Vulnerabilities of temporary migrant workers are especially pronounced if they lack a legal residence status and/or work permit which leaves workers in illegal employment situations with severe implications for their health and safety in the case of occupational accidents or injuries. Due to the difficulty of finding (cheap) workers in Slovakia, employers have started to hire workers from abroad, especially from Serbia or Ukraine. Since acquiring a residence/work permit is a lengthy process, employers or employment agencies circumvent this by claiming that the workers are exempt from the requirement of obtaining a permit because of being eligible for one of the exceptions specified by law. This, however, is not always the case and if detected these workers become exposed to having worked in Slovakia illegally.

Furthermore, in order to maximise savings workers either willingly or unwillingly consent to their own exploitation and overlook OSH risks. They turn a blind eye to OSH grievances or justify them as a comparative improvement to the situation in their home country. The OSH situation is particularly risky for temporary migrant workers across the subcontracting chain around the manufacturing industry (especially the automotive industry), where pressures to cut costs lead to employers paying less attention to risk prevention. Additionally, differences in safety culture or risk perception can affect attitudes towards the need for protective equipment. Another set of vulnerabilities that emerged from the research are factors related to the “life-style”/“work-style” of temporary migration. This includes psychological pressures and strains that arise from the temporariness of the stay in a foreign country. The separation from their home and their networks as well as from everyday conveniences such as their usual diet, causes difficulties. The monotony of the work increases this pressure, since there is little to “keep the brain occupied” with.

Finally, language barriers seem to be less of a salient issue with the current composition of the temporary migrant workforce. Workers are mostly from Serbia or Ukraine where basic communication is possible due to the shared Slavic origin of the languages. Nevertheless, language barriers are contributing to the feeling of social exclusion as reported by the interviewed migrant workers.

This research highlights the need for increased attention on OSH of temporary migrant workers, which is a multi-faceted issue not only affecting the workers’ working life but also their overall well-being. Since temporary migration to Slovakia is a new development, policy-makers could look at best practice examples from other EU countries and thereby avoid problems from the past in other countries related to the OSH vulnerabilities of temporary migrant workers.

### **1.3. Structure of the country report**

This introduction is followed by a description of the country context in Slovakia regarding OSH and posting in section 2. Section 3 then presents the methodology used to gather empirical data for this study. The results are presented in section 4, followed by a synthesis and some conclusions in section 5. Some tentative policy implications and recommendations are outlined in the final section 6.

## 2. Country Context

### 2.1. Socio-economic overview

Slovakia had a population of 5.4 million in 2017 (Eurostat, 2018a) out of which 2.5 million people of working age (15 to 65 years) are employed (Eurostat, 2018b). The employment rate of people aged 15 to 64 has increased from 58.8% in 2010 to 66.2% in 2017 (Eurostat, 2018c).

The number of those working part-time or on temporary contracts increased from 87,000 in 2010 to 146,000 in 2017, i.e. from 3.6% to 5.8% (Eurostat, 2018e). Compared to countries such as Austria (27.9% in 2017) or Belgium (24.5% in 2017), Slovakia has a very low level of part-time employees. Most of them are women, with around 62% in 2017 (Eurostat, 2018f).

Since 2004, the statistical office of Slovakia conducts surveys (Labour Force Sample Survey) of the workforce to estimate the number of those working abroad on a temporary basis. In 2017, around 150,000 citizens were working outside of Slovakia for a period up to one year (DATAcube, 2018; Zackova et al., 2018). The peak, with 177,200 people, occurred in 2007 while 2011 saw the lowest level, with 115,100. While around two thirds of these temporary migrants are men, the share of women has increased slightly from 32.7% to 36.4% over the ten-year period from 2007 to 2017. The main host countries in 2017 were Austria (36.6%), followed by the Czech Republic (24.4%) and Germany (16.1%). Most of the workers abroad work in construction (around 26%), the health/social work (24%) or industry (21%) (Zackova et al., 2018).

In terms of employment by sectors, the manufacturing sector is the most important employer, with around 621,000 workers (almost one quarter of the workforce) employed in this sector in 2017 (Eurostat, 2018g). This is mainly due to the large automotive industry, which will continue to grow with the new Jaguar Land Rover plant that is expected to start production at the end of 2018 (Poracký, 2018). Other important sectors in terms of employment are wholesale and retail (2017: around 291,000) and transportation and storage (2017: around 161,000). After a declining trend from 2010 (around 257,000 workers) onwards, the construction sector had the lowest level of employment in 2015 (212,000 workers). The past two years, however, have seen a rising trend in employment in the construction sector, with around 242,000 people employed in this sector in 2017.

Concerning unemployment, there is seemingly a contradiction: The unemployment rate in Slovakia is high in comparison to the EU average and neighbouring countries. Yet, employers have claimed that there is a lack of labour supply over the past years. In 2017, the unemployment rate was 8.1%, which lies above the EU average of 7.6%. It decreased from 14.5% in 2010, i.e. by 6.4 percentage points. The comparison with neighbouring countries, such as the Czech Republic (2.9%), Hungary (4.2%), Poland (4.9%) and Austria (5.5%), also shows that Slovakia had the highest regional unemployment rate (Eurostat, 2018d). At the same time, countless newspaper articles claim that employers cannot find qualified workers since over a decade (Tyzden, 2008; Spectator, 2018). This is also reflected by the number of vacancies which is rising steadily too. Only between September 2017 and May 2018 it increased from around 75,000 (Central Office of Labour, Social Affairs and Family, 2018a) to 88,000 (Istp, 2018). The main reason for this “contradiction” is that the skills of those (often long-term) unemployed do not match the qualifications required by employers. This is due to the fact that the education system is outdated and unable to provide the young generation with adequate training. Furthermore, there is also a regional mismatch: Eastern Slovakia has the highest unemployment rates, while most vacancies are posted in South-Western Slovakia. However,

the most recent unemployment statistics signal that labour demand is so high that employers are starting to hire even less qualified workers: In April 2018, the unemployment rate amounted to 6.65% continuing to decline further from 6.97% in February 2018 (Central Office of Labour, Social Affairs and Family, 2018b).

Meanwhile, employers have started to hire foreign workers, especially from countries outside the EU. In order for a foreign citizen to work in Slovakia they will need to issue either a work permit or an “infocard”. An infocard is a form that needs to be filled by the employer in the case that s/he employs an EU citizen or a third country national under an exemption from the requirement of a work permit specified in the law on employment of third country nationals (more details below). The numbers of foreign citizens employed in Slovakia have increased fivefold during the ten-year period from 2008 to 2018: While in March 2008 the number of third country nationals with a work permit in Slovakia amounted to 1,139, those of third country nationals with “infocards” lay just at 859 and those from other EU countries at 9,028. In March 2018, the total number of third country nationals with a working permit in Slovakia amounted to 9,425, third country nationals working on the basis of an “infocard” was 13,637, and the number of workers from other EU countries working on the basis of an “infocard” was 28,798. Most of these workers come from Serbia, Romania and neighbouring Ukraine (Central Office of Labour, Social Affairs and Family, 2018c). The main recruitment form of these workers is via employment agencies, sometimes located in other EU countries, such as Hungary for example.

We must underline that in Slovakia posting itself is not the only or the major source of temporary migration. Third country nationals from e.g., Serbia, Ukraine, or Bosnia-Herzegovina, can obtain a temporary residence permit for work purposes and some of them are (or at least their employers/employment agencies claim they are) exempt from having to apply for a work permit altogether. The regular procedure of employing a third country national is a lengthy bureaucratic process and can take from a couple of months up to three quarters of a year. If the permit is granted workers can work in Slovakia for 90 days. In response to labour shortages, employers or employment agencies therefore look for loopholes. The easiest way would be to employ EU citizens but the share of workers from EU countries willing to come to Slovakia is declining because of the higher wage levels elsewhere (Nejedlý, 2018). The law on employment of third country nationals specifies some exemptions which are exploited (also highlighted in the interview with the representative of the Labour Inspectorate). Employers can, for example, hire third country nationals directly (without a work permit, by only filing an “infocard” with the Central Office of Labour, Social Affairs and Family) in the following cases: the position could not be filled with a Slovak worker in some specific occupations where there is a shortage of Slovak workers, the third country national is a relative of another EU citizen, the worker falls under the category of highly qualified workers needed in Slovakia<sup>1</sup>, or the worker is sent for assembly or repair work. In the last case a Slovak company only needs a service contract with, e.g., a Serbian company (Nejedlý, 2018). To curb the avenues of abuse yet allow for sufficient inflow of workers needed, the law on employment of third country nationals (Act 108/2018) together with the law on employment services (Act 64/2018) have been amended. These changes were enacted on the 1<sup>st</sup> of May 2018. The effects of these changes remain to be evaluated in the future.

Illegal work, i.e. work carried out without a formal contract or without the employer paying social insurance contributions, also plays a role in Slovakia. The actual size of the informal sector and its

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<sup>1</sup> Employers/employment agencies have begun to classify factory workers as pedagogues or other high-qualified workers, thereby abusing these exemptions.



evolution over time is difficult to assess due to lack of appropriate data. The Act on illegal work (Act 82/2005) came into force in 2005 and with it the national labour inspectorate gained the mandate to carry out controls specifically of illegal work. Since then the number of such controls has increased steadily, from below 10,000 in 2008 to around 26,000 in 2016. Last year however, in 2017, there has been a decline in controls to just below 21,000. The number of natural persons found to be working illegally rose in parallel to the number of controls: from 354 in 2008 to 3,384 in 2017. The number of foreign workers working illegally was 1,265 in 2017, out of which 1,170 were third country nationals. In 2008 109 foreign workers were found to work illegally in Slovakia (no breakdown by EU/non-EU exists for 2008; National Labour Inspectorate, 2018a).

## **2.2. OSH and posting in the country**

### ***2.2.1 OSH legal framework***

The OSH situation in Slovakia is improving if measured by the decreasing number of fatal or serious work accidents. While in 2007 there were 99 fatal work accidents reported, the number decreased to 41 in 2017. The number of serious work accidents decreased from 207 in 2007 to 118 in 2017, while there was a slight increase compared to the year before, when there were 103 serious accidents reported. However, the overall number of registered work accidents after decreasing until 2014 to 8,180, has started to rise again to 9,169 (National Labour Inspectorate, 2018b). Most of the fatal work accidents in 2017 occurred in the manufacturing sector, transport sector and construction sector (National Labour Inspectorate, 2018c).

The Strategy on Health and Safety at work until 2020, the main policy document in the field of OSH in Slovakia, specifies the goals and tasks for OSH until 2020. It is accompanied by an Action Plan which formulates the specific actions to be taken by the responsible ministries, state authorities, social partners and research institutes to achieve these goals (Kordošová & Fries-Tersch, 2016). The focus lies on information and education of workers in the field of OSH, creating a culture of preventative thinking among employers and employees, by especially including employees in the risk assessment and monitoring of OSH, and the rehabilitation of workers (IVPR, 2016).

The main legislation on OSH is laid down in the Act on occupational safety and health (Act 124/2006). This Act specifies the principles of prevention and the basic conditions to ensure OSH and to minimize any risks for health arising from work. It defines the responsibilities (and rights) of employers and employees to prevent an exposure to health and safety risks at the workplace and lays out the definition of work accidents and occupational diseases (Act 124/2006). In particular, §13 specifies the safety of building sites, work premises, technical facilities, work equipment and working procedures (Act 124/2006, §13; Mesároš, 2009).

### ***2.2.2 OSH and Posting Stakeholders***

In this section a brief overview of the OSH and posting stakeholders in Slovakia is presented. Section 4.2.1 presents more detailed findings from the research on the key actors.

The main public authority in all issues related to OSH in the Slovak Republic is the Ministry of Labour, Social Affairs and Family. It is responsible for legislation, policies and strategies on OSH and has developed

the Strategy on Health and Safety at work until 2020 as well as the Action Plan for its implementation. The Ministry also oversees the work of the National Labour Inspectorate. The National Labour Inspectorate, in turn, manages 8 regional labour inspectorates responsible for carrying out inspections and enforcement of all issues related to OSH, working conditions and labour relations, including controls related to posting (Kordošová & Fries-Tersch, 2016). Incoming posted workers must be registered through the website of the National Labour Inspectorate, which keeps a database of posting in Slovakia (National Labour Inspectorate, 2018e; interview with representative of the labour inspectorate).

Apart from the labour inspectorates, the Slovak Social Insurance Agency (Sociálna poisťovňa) is the main public agency that is concerned with OSH. SIA's responsibility is to provide health, pension, unemployment, accident and invalidity insurance. It also provides employer's insurance against liability in case of workplace accidents, diseases or injuries (Sociálna poisťovňa, 2017a). In case of an accident at the workplace the employee can inform himself/herself on the SIA homepage on the main characteristics of the insurance and the eligibility criteria. The relevant forms can also be downloaded from this website (Sociálna poisťovňa, 2017b). The detailed information, however, is only available in Slovak.

In the case of posting from Slovakia to another member state, the SIA website specifies that the employer has to apply for a PD A1 form for the posted employee, which confirms the applicability of the legislation of the Slovak Republic in all matters related to social insurance (including accident insurance; Sociálna poisťovňa, 2017c).

OSH for incoming posted workers is explicitly addressed by a document published on the website of the National Labour Inspectorate on the working conditions of workers posted to the territory of the Slovak Republic (National Labour Inspectorate, 2018d). This document, available in Slovak and English, summarises the basic obligations of employers with respect to OSH, such as keeping OSH regulation up-to-date, providing a written concept on OSH protection policy at the workplace, and informing ("regularly, understandably and provably", p. 4) each employee of legal OSH regulations, existing and predictable dangers and prohibited areas on the company premises (National Labour Inspectorate, 2018d).

### **2.2.3 Data on posting**

From a sending perspective, Slovakia was the 6<sup>th</sup> largest sending country across the EU in 2015, with a total of 98,383 PDs A1 issued in 2015 which means a share of 3.3% of workers in national employment (Pacolet & De Wispelaere, 2016). Out of these, 79,723 (81.0%) were issued to posted employed and self-employed persons – the number of PDs A1 issued to self-employed workers, 28,506, was the highest across all EU Member States – and 17,890 (18.2%) to persons active in two or more EU Member States. Another 770 (0.8%) PDs A1 were issued to persons posted under a different employment type (e.g. civil servants, flight or cabin crew members, or posting under Art. 16 of Regulation (EC) No. 883/2004). The data for 2016 indicate a further increase in the number of PDs A1 issued at 112,028 with a share of 4.9%, although now Slovakia ranks 7<sup>th</sup> among the largest sending countries (European Commission, 2018). The total number of individual posted workers might, however, be lower, since a person might be issued multiple PDs A1 for one year. Slovakia did not collect any data on the number of individual posted workers (Pacolet & De Wispelaere, 2016). Moreover, as it has been reported by a researcher on OSH during the interview, Slovak workers are required to collect a PD A1 form even for a business trip, which would significantly overestimate the true extent of posting from Slovakia. Official evidence of this could, however, not be obtained.

The main destination countries of posted workers from Slovakia in 2015 were Germany (by far the main destination country with 35,522 PDs A1 issued for workers posted to Germany), followed by Austria (10,789), the Czech Republic (7,556), the Netherlands (5,258) and Belgium (5,143). Similar to many other EU Member States, the number of PDs A1 issued to workers posted to two or more Member States has been increasing in Slovakia. From 16,059 in 2014, it increased by 11.4% to 17,890 in 2015 (Pacolet & De Wispelaere, 2016).

Slovakia didn't play a prominent role as a receiving Member State of posted workers in 2015, which is the year from which Pacolet & De Wispelaere (2016) use the numbers of PDs A1 forms for their evaluation. However, as described in section 2.1 above and highlighted by this research, Slovakia is increasingly becoming a host country for migrant workers, especially in the last two years. Whether or not this applies for posted workers specifically or temporary migrants in a broader sense, who use different channels for entering Slovakia, remains to be seen from further evaluations of PDs A1 forms. More on this will be discussed in section 4.

Nevertheless, here is a short glance at the situation in 2016, which can be contrasted with the new developments: With less than 10,000 postings registered in 2016 and a share of posted workers in national employment of 0.6% Slovakia had a very low share of incoming posted workers. There were 9,694 PDs A1 issued for workers where Slovakia was listed as their destination country in 2016, which is the highest number ever of PDs A1 issued for workers posted to Slovakia (European Commission, 2018).

In terms of countries of origin, most of the postings to Slovakia in 2015 were from Germany (1,951), followed by Poland (1,132), the Czech Republic (988), France (635) and Romania (587) (Pacolet & De Wispelaere, 2016). Germany, Poland and the Czech Republic remained the main countries of origin in 2016, although Slovenia replaced Romania in the fourth place with 6.7% of the posted workers (European Commission, 2018).

#### ***2.2.4 Sector(s) characteristics***

In 2015, most of the PDs A1 were issued to Slovak posted workers in the construction sector (around 45%) and those involved in other industrial activities (around 34%). These are followed by the service sector (around 19%) and the agricultural sector (1.4%) (Pacolet & De Wispelaere, 2016). In 2016, construction remained the main sector but the percentage decreased to 36.7%, followed by commerce at 33.6% and other industry at 28.0% (European Commission, 2018).

From the receiving perspective, the majority of the PDs A1s (55.8%) in 2015 were issued for workers in the industry sector (the large share of German posted workers might be due to the large automobile industry and workers being sent from Germany for the high-skilled jobs), out of which 28.2% were issued for workers in the construction sector. Another 43.8% were issued for workers in the service sector (Pacolet & De Wispelaere, 2016). By 2016, the share of construction had increased to 31.5% whereas the other industry decreased to 25.9% (European Commission, 2018). Other industries that are attracting temporary migrant workers are the automotive industry and transport.

### ***2.2.5 Specific issues for migrant and posted workers***

The literature on posting in Slovakia is scarce. The few reports we were able to find discuss the working conditions of agency workers (e.g. Bednárík et al., 2017). As most migrant workers in Slovakia are recruited via employment agencies, the findings of these reports could be applicable to migrant workers. More recently, there have also been a few articles that discuss the attitude of the public opinion on recent migrants and refugees arriving in Slovakia (Lincényi, 2017; Kissová, 2018). These studies depict a rather unfavourable context for migrants in Slovakia, in particular for refugees.

A recent investigation of the Belgian transport union BTB revealed that Slovakia is not only one of the main sending countries for posted workers, but that its territory is actively involved in social dumping practices in the transport and haulage sector. In a publication titled 'The road to Slovakia. Social Dumping: this is how it works', the BTB investigation report identifies hundreds of Belgian transport subsidiaries registered in Slovakia, who hire drivers from Romania and Bulgaria to drive trucks in Belgium. Their findings also indicate most of these subsidiaries are letterbox companies, with several of them located in the same building (for example, there were 110 companies with offices at Hraničná 18) assisted by shady consultancy companies for a fee to set up operations in Slovakia. Their study also found that most Slovak workers do not engage with these companies any more, but Romanian and Bulgarian drivers still do under the promise of better pay and good working conditions. Not only do they not receive the terms promised, but in case of injury drivers for these letterbox companies have found themselves with unpaid medical bills, and sometimes also asked to pay the company for any damages to the trucks. This study puts Slovakia in the posting map as a place that facilitates social dumping of workers from further Eastern European Member States. And it also reveals how letterbox companies' attention to OSH is minimal, thus increasing the OSH risks posted workers face.

In terms of occupational safety and health literature, it is also minimal. From grey literature we know that Slovakia is taking part in the European campaign on health and safety at work of temporary agency workers and cross-border workers which was launched in September 2017 by the Senior Labor Inspectors Committee (SLIC) and runs until May 2019 (National Labour Inspectorate, 2017a). The Slovak labour inspectorate highlights the vulnerabilities of this particular group of workers and offers information materials for temporary work agencies, for hosting employers and their workers on their homepage. They list the main targets to improve the OSH situation of agency and cross-border workers: i) enforce the risk assessment at work for agency/cross-border workers, ii) improve information sharing between temporary work agencies, host-employer and agency/posted workers, and iii) support the supervision of health of temporary workers. In reality, these workers have "two employers" as far as OSH is concerned, the temporary work agency and the host employer. This creates information gaps and confusion about responsibilities, which must be addressed through close communication between agency/posted workers and both the temporary work agency and the host employer. The labour inspectorate stresses the responsibility of host employers to secure the same protection of agency/posted workers as for their core workers (National Labour Inspectorate, 2017a).

Another salient issue that is not specific to one particular sector is the often undetected form of illegal employment – bogus self-employment. This remains hidden because the worker often consents to this form of exploitation either believing that he receives a higher remuneration, unaware that s/he has to cover all insurance costs her/himself or because he is otherwise pressured by the employer. Employers use this strategy to cut labour costs further and to avoid paying social insurance contributions and other

payroll taxes. Trade unions are trying to address this issue (as highlighted by all interviewed trade union representatives), in particular by fighting for a compulsory accident insurance for self-employed workers; however, with little success. The Labour Code has been adapted in 2013 to include a more specific and narrow definition of dependent work. Nevertheless, this problem persists. This form of employment has severe repercussions for workers' OSH, since the employer is no longer responsible for a worker in terms of OSH if the worker is self-employed. The employer is only responsible for the OSH of a worker on the basis of an employment contract, not in the case of a service contract. A person working on a self-employment basis has to provide all OSH protection, including his/her own personal protective equipment him/herself but since this decreases the net profit, it is often neglected.

### **3. Methodology**

#### **3.1. Data collection**

This research is motivated by the lack of academic or even grey literature on the topic of OSH of temporary migrant or posted workers in Slovakia (as well as in other countries of this project). Apart from statistical data from the Central Office of Labour, Social Affairs and Family and the National Labour Inspectorate as well as some grey literature (reports) and newspaper articles, the main underlying data source are semi-structured interviews. Sixteen interviews were carried out during the period from June 2017 to February 2018. In terms of geographical coverage, the focus was laid on the South-Western regions of Slovakia, where most temporary migrant workers/posted workers are employed in the automotive industry or other manufacturing companies. The interviews with stakeholders were either individual or two-person interviews and carried out in Slovak, while the interviews with temporary migrant workers were conducted with the support of Tibor Meszmann as a translator in Serbian.

Nine interviews with various stakeholders plus six with posted workers and one with a family member of a deceased posted worker were carried out. Specifically:

- Representatives of the labour inspectorate (2)
- Researchers on OSH (2)
- Representatives of trade unions (2)
- Employer representatives (2)
- Political advisor (1)
- Migrant/Posted workers (6) and widow of posted worker (1)

#### **3.2. Analysis**

The data collected was analysed using thematic analysis. Codes emerged from the preceding literature review and the focus points of the research, mainly OSH-related vulnerabilities of posted workers, OSH institutional framework, including actor's roles and national/transnational interactions, OSH practices in transnational workplaces, as well as the dimension of language and cultural barriers. Through this type of thematic analysis based on Sargeant and Tucker's (2009) layered framework we could identify and assess the OSH-related vulnerabilities of posted and other temporary migrant workers in transnational workplaces.

#### **3.3. Challenges and limitations**

Challenges for this research arose from the fact that the issue at hand is a combination of two distinctly addressed spheres. Stakeholders either deal with temporary migration/posting or with OSH and therefore it is difficult to approach experts who have a knowledge of both. Another challenge was the fact that temporary migration from a receiving point of view is a rather new phenomenon. Therefore, stakeholders and experts mixed some anecdotal evidence into their statements which had to be disentangled from the actual observations they have made. The sending perspective on the other hand receives very little attention in terms of OSH because it is deemed to be the employers' issue and not dealt with on a policy level.

## 4. Results

### 4.1. OSH-related vulnerabilities of migrant and posted workers

Although Slovakia remains predominantly a sending country of posted/temporary migrant workers to other EU Member States (6<sup>th</sup> largest as of 2015; Pacolet & De Wispelaere, 2016), it is fast becoming a receiving country as well. As more and more temporary migrant and posted workers come to Slovakia (see section 2.1 above) their OSH-related vulnerabilities become exposed. Anecdotal evidence of this has been shared by a trade union representative who recounted that on the yearly organized memorial service for victims of fatal work accidents by the Ministry of Labour, Social Affairs and Family and the confederation of trade unions, the list of names carried a surprisingly large number of foreign workers. This has not been the case in previous years.

The findings from this research on the vulnerabilities of temporary migrant and posted workers are grouped according to the layers of vulnerability framework for assessing OSH-related risks for migrant workers proposed by Sargeant and Tucker (2009). Circumstances related to migration status and the conditions of recruitment belong to the first layer, the second layer captures characteristics of migrants themselves, and the third is determined by receiving country conditions (Sargeant and Tucker, 2009). As a fourth layer we propose to add a category capturing factors related to temporary migration itself. Although Sargeant and Tucker apply their framework to temporary migrants from A8 countries to the UK and address the temporary migration as one factor (Sargeant and Tucker, 2018: 16), they do not identify the OSH-related vulnerabilities that arise from these circumstances. The present research shows that this type of migration creates yet another layer of vulnerability. As Danaj (2018) writes, this dimension needs to be considered to adequately “capture the complexities of their situation and provide a more detailed account of their OSH vulnerabilities and experiences.” (p. 15) We therefore add “Temporary migration factors” as a fourth category.

#### A. Migration factors

Illegal work, a topic of concern in Slovakia, also affects temporary migrant workers. If posting is not carried out correctly, it can leave migrant workers in an illegal employment situation. At the same time, there are a number of other channels through which temporary migrants enter Slovakia which are being abused (as described in section 2.1 above).

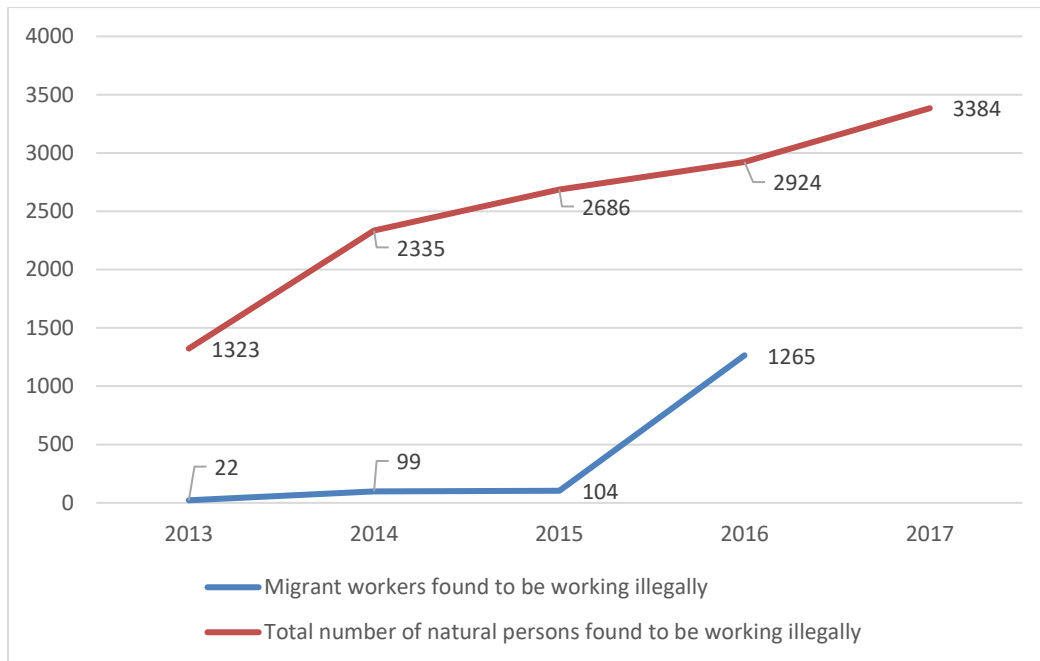
The number of foreign workers (see Figure 1 below; National Labour Inspectorate, 2018a) found to work illegally has risen in the last years, surging dramatically from 2016 to 2017: from 301 in 2016, to 1,265 in 2017 (during the same period when actual controls of illegal work carried out by the labour inspectorate have declined from 25,931 in 2016 to 20,945 in 2017)<sup>2</sup>. The lack of a formal employment contract often goes hand in hand with the lack of legal residence status. In 2016, there were only 42 cases identified, but the numbers have increased more than six times in 2017 with 288 cases identified. These compound vulnerabilities of migrant workers as identified by Sargeant and Tucker (2009) and stated by one of the

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<sup>2</sup> To prevent illegal employment of third country nationals the Ministry of Labour, Social Affairs and Family offers information on the Slovak legal framework in Serbian, Ukrainian, Vietnamese, Macedonian and Bosnian on its homepage (Ministerstvo Práce, Sociálnych Vecí a Rodiny, 2018).

interviewed trade union representatives: While it is already difficult to enforce OSH among legally employed workers, “[i]n the case of illegal work OSH is not even mentioned by a single word.”

Figure 1: Illegal work in the Slovak Republic



Source: National Labour Inspectorate (2018a)

In particular, the OSH risks arising from a lack of a legal residence and work permit become evident in the event of an occupational accident. One of the workers interviewed explained the difference between formally employed migrant workers and others, implying that in case of work injury only those with work permit are safe and covered, others are not:

Here he works on a visa, on papers. He's not like these [other workers], who work for three months, and then again for three months – I think, that those people here are formally registered as if they are undergoing training, because they don't have a working visa. But this young man had a visa, the right to work here. For a one-year period. Because of that, they paid everything that has to be paid, treatment, recovery....

The interviewed worker is aware of the differences in registration of workers and their permits and infers dramatic differences in treatment in case of occupational accidents based on the type of employment situation they are in. However, as the interview with a representative from the labour inspectorate revealed, the registration of workers as “undergoing training” most likely refers to the practice of illegally employing third country nationals under one of the exemptions from the law on employment of third country nationals, although such an exemption should not be applied and workers should be issued proper work permits and visas. Without a permit, workers might not have health and safety coverage or at least not the right one, and if found working illegally might also suffer the consequences of their action (for example, by receiving fines and in more extreme cases deportation). The confusion on how to enforce legislation in the cases of exemption just adds to the vulnerability of these workers:



“What we see as a problem is the current free migration of Serbian, Ukrainian employees to Slovakia, where residence permits, and work permits are required. From the legal point of view it is difficult to understand the conditions, but also from the point of view of their enforcement.”

Both workers and labour inspectors uncover the direct connection between employment and residence status and treatment in the case of OSH grievances, injury and illness. The findings confirm the high level of vulnerability migrants residing and working illegally face as compared to other formally employed workers.

#### B. Characteristics of migrant workers

The main motivation for the interviewed migrant/posted workers who come to Slovakia is economic. They are drawn by anticipated higher salaries and hope to be able to save money by working for some time in the country. The minimum wage in Slovakia as of 2018 amounts to €480 but might be higher depending on the level of difficulty of the occupation. The minimum wage in Serbia for example amounts to around €285. The wage differential increases the vulnerability of workers in terms of OSH, since workers consent to poorer working terms and conditions and willingly or unwillingly overlook OSH risks in order to be able to maximise savings. So, in view of the temporariness of their stay and the aim to maximise savings workers accept long working hours: from 9 up to sometimes 12 hours/day, 5 days – during peak season even 6 days – a week. The only motivation to go abroad via the channel of temporary migration is to gather some savings. Given this driver, OSH risks are taken as part of the deal. However, as soon as the wage differentials between what they can earn at home and what they can earn (and save) from working in Slovakia decrease, as in some reported cases, there is no incentive to stay. As one migrant worker working in the automobile industry explains: “I came here with the idea to save money for further education, but I saw that this will not be possible.” And later: “The salary has been drastically cut, so, it’s not worth it for us to stay here. We accepted, more or less, the fact that we cannot prosper here, so we decided to go home.”

Language issues have been reported to be less of a problem since most of the incoming workers are from Serbia or Bosnia and Herzegovina as presented in section 2.1 above. Due to the Slavic origin of these languages basic communication is possible, which is also sufficient for OSH instructions, as mentioned by the interviewed posted workers from these countries. Nevertheless, language barriers become evident when it comes to understanding all local rights and regulations. Section 4.4 below will cover the issue of language and cultural barriers in greater detail.

#### C. Receiving country conditions

The OSH situation is particularly problematic across subcontracted companies, i.e. suppliers for larger, often transnational, businesses, such as automobile or electronic companies. There is a large pressure stemming from the major contractors to reduce costs and therefore low paid workers, increasingly migrant/posted workers, are hired throughout the subcontracting chain. The method of recruitment, as already explained above, is predominantly through agencies, who provide workers to the companies without taking over the OSH training and protection. To save costs further, personal protective equipment is either insufficient or not provided at all. Main contractors do not consider the workers at the end of the subcontracting chain as theirs, therefore they often do not provide the necessary OSH protection to these workers but transfer such responsibility to their direct employers, i.e. either the subcontractor or the agency. This issue has been reported by a trade union representative and OSH researchers.

One researcher further explains, however, that there has been a change in public awareness of posting and the vulnerability of posted workers in the aftermath of a large media scandal caused by a Serbian undercover journalist. He went to Slovakia as a factory worker and reported of bad working conditions. Until then, the researcher explains:

“our employers have really used these workers only in the sense that ‘they sent me workers, so I expect the job to get done’ and they weren’t paying attention to anything else, because they weren’t their employees. They relied on the agencies to supply them workers who had everything else taken care of, contracts, everything that is related to that.”

(researcher on OSH)

The ensuing public debate and political scrutiny, also from Serbia, increased controls from the labour inspectorate and therefore led employers to pay closer attention to the working conditions of temporary migrant workers.

Another reported issue is that of accommodation. Especially around the production sites of the automotive industry, which relies increasingly on migrant workers, separate migrant worker accommodations are being erected. These accommodations are segregated from the local population, spreading fears of “ghettos”, as reported by one trade union representative, who has been in touch with the local population in these towns in South-Western Slovakia. The locals are voicing their concerns against the new housing plans by signing petitions. This highlights the lack of any inclusory procedures for migrant workers and the level of resentment with which migrant workers are met in these towns. It further underscores the environment of social exclusion and isolation that posted/migrant workers face in Slovakia.

During the interviews, migrant workers themselves seem to be accepting of the cheaper accommodation options provided by the employers. They raised the problem of a trade-off between adequate accommodation and maximising savings: “If I would come here to live I could rent an apartment, but then I could not save money.” Therefore, they agree to stay in a low-standard workers’ accommodation for the period of their stay. This has repercussions on their well-being in a number of ways: Most prominent are the lack of ease, and the increase in feelings of social exclusion, since the local population, in part, has a negative attitude towards the migrant accommodations. A positive effect of being accommodated in one place is, however, that they do not face any great language barriers there and can therefore ask fellow workers for advice or exchange information if needed.

To avoid more negative effects of social exclusion and loneliness some workers, especially younger ones, report to come to Slovakia to work in pairs or groups of friends, two to four. Even though they might work in different companies, they stay in touch via facebook, exchange information, or stay in the same accommodation. Some even come with one parent which they describe as playing an important role in giving them a better feeling about the stay in Slovakia.

A final factor that has been mentioned by the workers as challenging is the monotony of the work. The work, albeit not physically hard, is experienced as strenuous due to the difficulty of “entertaining your brain for those 8 to 10 hours while you are there.”

#### D. Temporary migration factors

Characteristics related to the “life-style”/“work-style” of a temporary migrant emerged as a fourth category from the interviews with temporary migrant workers in Slovakia. The short duration and therefore transient nature of migration adds another dimension of vulnerability for migrant workers in terms of OSH, beyond language skills, social exclusion in the receiving country or complicity in their own exploitation to maximise income or retain a job. This layer relates to the psychological pressures and risks that arise from migration, especially temporary migration. The interviewed workers, mostly young men, have pointed out that being away from home, from their families and friends is draining. They are constantly pondering the question whether the gain in money is truly worth the price in terms of emotional strain.

In more detail, two interviewees reported, for example, that they could only afford to go home once in six months and during holidays, e.g. for Christmas, due to the long commuting distance. One worker mentioned that he preferred to have lots of work, because then time passed by quicker. It was draining to be there without anything to do. In some cases, it has been reported by the workers that the salary dropped due to lower production. This was a particularly difficult situation, since the only reason they were putting up with the circumstances – uncomfortable accommodation, social isolation, away from home, or different diet – were the economic rewards. As soon as those, too, were gone, the workers no longer felt any willingness to stay, even though they could be easily hired by another company. The demotivation grew too high. In one interview with two temporary migrants from Serbia the men pointed out:

R1: It's psychologically hard.

R2: Yes, it's psychologically hard. Physically it's not. But psychologically it's unbearable.

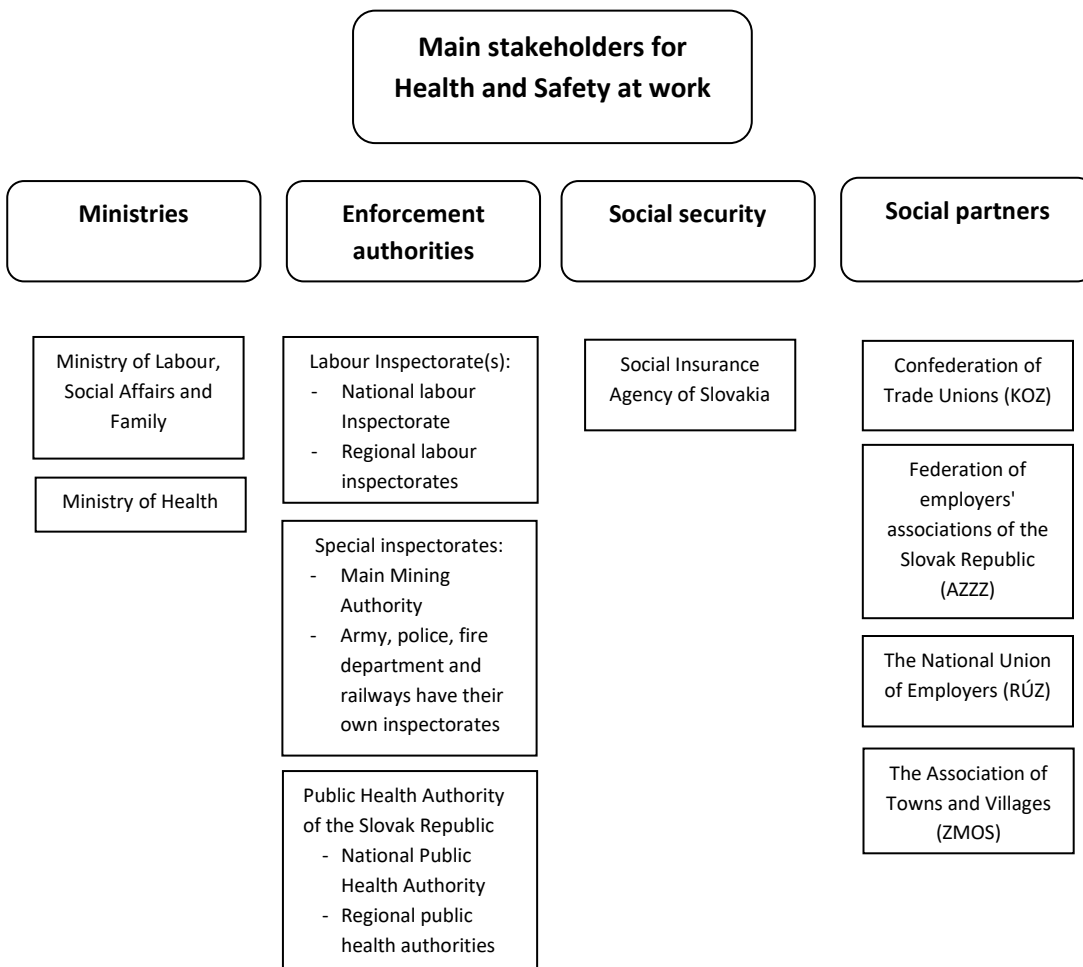
The situation is even more challenging for those workers that come from another EU country, such as Romania and Bulgaria, and are posted from Slovakia to other EU countries, such as Belgium. Being hired through letterbox companies in the transport and haulage sector, as the investigation of BTB shows (2017), for example, leaves workers without any access to OSH protection and in case of injury they are confronted with costs of care as well as obliged to pay the company for damages to the trucks involved in their accidents. Such form of posting exposes workers to elevated OSH risks and puts them in extremely vulnerable positions.

## 4.2. OSH Institutional Framework

### 4.2.1. Actors' roles

The institutional framework in Slovakia regarding OSH is depicted in Figure 2 below. It lists the main OSH authorities.

Figure 2: OSH Stakeholders in the Slovak Republic



Source: Interviews with OSH researchers and own mapping of the OSH landscape in Slovakia.

The government via the Ministry of Labour, Social Affairs and Family in cooperation with all other responsible ministries and the enforcement authorities are responsible for the completion of the strategic aims listed in the national OSH strategy until 2020. The vision pinned down in this strategy for the workers of the Slovak Republic is to decrease the number of work accidents and to guarantee decent working conditions in a satisfying work environment.

The main responsible enforcement body for OSH in the Slovak Republic is the system of labour inspection. The national labour inspectorate is the head authority which supervises the work of eight regional labour inspectorates. Their work focuses not only on OSH but since July 2001 also on employment relations, i.e. the compliance of employers with labour law – especially controlling correct remuneration and fulfilment of legal/contractual obligations – and the protection of employees. Labour inspection in Slovakia therefore has a mandate to oversee all aspects of safety at work, i.e. technical, social, economic and psychological (interview with OSH researcher). A third competency was added in 2005 when the Act on illegal work was passed (law 82/2005). The labour inspectorate keeps a central register of illegal work, where all natural and legal persons who have acted in violation to the law are registered. Despite being the main authority that oversees labour rights and working conditions, the Labour Inspectorate does not seem to have a positive image in Slovakia. It is mostly perceived as a prosecutory and punitive institution that must be avoided by both companies and employees. This perception has a negative effect on its

work, as citizen collaboration with the institution, which could help address some forms of abuse in the workplace, is not happening.

Apart from its inspection role, the national labour inspectorate compiles reports on the OSH situation on a yearly basis, on the fulfilment of main activities of labour inspection, on work accidents, on illegal work and gender inequality in the Slovak Republic, sometimes with a specific thematic focus. The basis for the report on the OSH situation and the situation of labour inspection are statements from all other bodies carrying out labour inspection with a mandate in specific areas, such as the main mining authority, responsible for labour inspection in the mining sector, or the Ministry of Defence, Ministry of Justice, Ministry of Transport and Ministry of Economy, all of which have their own control organs. These reports are then presented to the tripartite body (trade unions, employers' organisations and government), which can decide to take policy measures if issues were revealed.

It has been pointed out by one OSH researcher that the Public Health Authority also takes over some specific aspects of OSH. With a national authority on top, Slovakia has a system of regional public health authorities in place, which control adherence to hygienic standards and limits for exposure to hazardous substances. The aim is to prevent exposure for all citizens, workers in particular. This split in responsibilities – between the labour inspectorate and the public health authority, or between the Ministry of Labour, Social Affairs and Family and the Ministry of Health – has created tensions in the past as it is difficult to reach agreements in terms of legislation or cooperation.

The Social Insurance Agency is responsible for administering OSH-related grievances. Employers have to report work accidents to the social insurance agency within three days (and send a written report of the accident to the labour inspectorate within 8 days) if the worker will be out of work for more than three days. There is no special accident insurance agency like in Austria. One union representative describes that they “envy” the Austrian system of having a separate accident insurance agency due to the better targeting and strong focus on prevention matters there, which is lacking in Slovakia. There are three social security funds administered by the social insurance agency, the sickness fund, accident fund and pension fund.

Union membership is very low in Slovakia with a union density of around 17% (ETUI, 2018). Therefore, their role as OSH actors is rather limited. Since trade unions in Slovakia are, however, organised at the workplace level they can directly engage in cases of OSH grievances. The confederation of trade unions (Konfederácia odborových zväzov) combines 28 separate unions which are rather autonomous in their decision-making (ETUI, 2018). In terms of OSH, however, the confederation has a twofold role: firstly, it is a social partner in the Economic and Social Council, the most important tripartite body, and secondly, it also acts as an enforcement body through its own OSH inspectors (these are union members who are qualified safety officers). This latter role – OSH controls by unions – is also carried out by those unions that are not part of the confederation. Every union organisation can form a body of OSH inspectors and receives state funding for it. These inspectors can carry out controls upon prior notification to the employer in those companies with an established workplace trade union. These controls, however, are a measure of last resort. Only if all previous negotiations between the trade union OSH inspectors on behalf of the employees and the employers have failed, a control would be carried out or a notification to the labour inspectorate would be made (interview with a member of a trade union). As described in one of the interviews with a researcher on OSH, the trade unions in a sense carry out the controls of OSH in the name of society but only in those firms where a workplace trade union has already been established.

The OSH legislation also foresees the role of an employee representative for OSH (zástupca zamestnancov pre BOZP). The workplace trade unions select candidates for this post, one of which is then elected by the workers who are members of that trade union. This person represents workers' interests in terms of OSH and cooperates with the workplace trade union organisations. The aim is to improve the OSH situation of employees and control it. As one trade union representative informs, in some larger companies, where different workplace trade unions have been established, OSH commissions are formed (foreseen by law). Representatives from all trade unions and employer representatives are members of these commissions, which collaborate in controlling OSH and preventing OSH hazards.

There are also employer associations involved in OSH in Slovakia. The main ones are the federation of employers' associations of the Slovak Republic (Asociácia zamestnávateľských zväzov a združení Slovenskej republiky, AZZZ) and the national union of employers (Republiková únia zamestnávateľov, RÚZ). They represent the employers' side in the tripartite body of the Economic and Social Council and therefore contribute to the legislation on OSH.

The sole responsibility for compliance with OSH legislation and regulation lies with management. S/He has to undertake all efforts and measures to secure health and safety for the employees. The employer is required (by Act 124/2006 §21) to install a safety officer (bezpečnostný technik). S/He can either be an external one or, in larger firms, the employer hires a special person for this role. However, as a researcher on OSH highlights, ultimately it is the employer who is legally responsible for providing a safe and healthy workplace. The safety officer is rather an advisor to the management who assesses the risks and suggests prevention measures. However, the employer cannot transfer the obligations to fulfil his/her OSH obligations to the safety officer. The employer has to decide whether he will implement the suggested prevention measures or risk fines and recourse claims if an accident occurs.

Additionally, there are some other associations that are active in the field of OSH in Slovakia. One of them is the OSH and fire protection association (Slovenská asociácia pre bezpečnosť a ochranu zdravia pri práci a ochranu pred požiarimi). They collect the most recent OSH information and distribute it to all interested parties. Their aim is to foster a dialogue between OSH professionals, experts, stakeholders and the general public (Asociácia BOZP 2018).

#### **4.2.2. Mechanisms and procedures at different levels**

OSH in relation to posting is not an issue that is currently receiving any attention in the Slovak Republic, neither by researchers nor by labour inspectors, trade unionists or government advisors. Posting itself became somewhat of a topic of discussion only in the last three years or so. Only in 2015, the Slovak government passed the Act on cross-border cooperation in posting employees for the purpose of service provision (Act 351/2015). The law was enacted in June 2016. Before the separate Act came to pass, posting was regulated in rather general terms under the general labour code.

The initiative for the new law came from the Ministry of Labour, Social Affairs and Family to transpose the posting of workers directive into Slovak law (Fico & Richter, 2015). The main aim was to install a legal basis for transnational cooperation (addressing exchange of information, control activities, transmission of legal documents and enforcement of sanctions) of agencies for controlling posting. The law specifies administrative responsibilities of employers posting employees to Slovakia to prevent abuse of posting (including identification details of the employee and his/her employer, type of work and name of service provided, address of the workplace, date of posting) as well as obligations of Slovak employers posting

employees abroad to make all necessary information accessible upon request of the labour inspectorate. The third aim was to install a joint liability of the Slovak host employer and the sending subcontractor from abroad for correct remuneration of posted workers working in Slovakia (Act 351/2015, section II, point 4).

Until now no evaluation on the effects of the law has been carried out. As one interviewed OSH researcher explains, it took some time until all relevant authorities arrived at a common understanding of the terminology and the terms under which posting is carried out. This act on cross-border cooperation helps to clarify the posting process and further aims at strengthening the role of the national labour inspectorate in its position to enforce the act. In sum, the act is a clear attempt to state and specify all conditions related to posting to provide a precise legal basis for workers, employers and the enforcement authorities.

#### **4.2.3. National and transnational actor interaction and/or cooperation**

Apart from the institutionalised social dialogue within the Economic and Social Council there is an agreement between the National Labour Inspectorate and the Confederation of Trade Unions on joint cooperation. They meet on a yearly basis and exchange experiences and sometimes additionally invite representatives to thematic meetings. Thereby representatives from both institutions know each other in person, which facilitates cooperation as one trade union representative argues.

Regarding transnational cooperation, the main system for exchange in terms of posting is the IMI-system. As reported by representatives of the Labour Inspectorate the system is described to function well. It has been taken up by the labour inspectors in view of the ease of access to relevant information needed from other Member States. Furthermore, there is formal exchange through the European Agency for Safety and Health at Work (EU-OSHA), for which the National Labour Inspectorate is the national focal point, as well as through the SLIC.

Addressing the issue of temporary migrants from third countries, a special bilateral cooperation with Serbian authorities has been established, as reported by one representative from the labour inspectorate. Exchange exists between labour inspection authorities and social insurance agencies. In contrast with the well-established communication with other EU Member States (in particular through the IMI-system), communication and exchange with non-EU countries requires bilateral agreements and negotiations.

### **4.3. OSH in practice in transnational workplaces**

#### **4.3.1. Preventative practices in transnational workplaces**

##### 4.3.1.1. Information dissemination & training

If posting or employment of temporary migrants is carried out correctly, every worker receives information on OSH from the employer (i.e. the person responsible for OSH training and information at the workplace or a gaffer) on the first day. Mandatory by law, the worker will be informed about the OSH risks and dangers related to her/his particular tasks. Furthermore, s/he receives all necessary personal protective gear. The law on OSH requires the same treatment of posted or other temporary migrant workers as for local workers.

The interviewed workers have all reported to have received some sort of instructions translated into their native tongue (mostly Serbian). The worker is required to sign a form that s/he understood the training/instructions.

Interviewees working at a large transnational company reported to have attended a mandatory training course when they started working for the company. In the end they had to pass a test, based on which the employer decided whether they were fit for the job or not. OSH questions were included. Once they passed the test, they recalled having received a booklet with detailed OSH information.

##### 4.3.1.2. Artefacts

The interviewed workers reported to have received personal protective equipment that they deem necessary. However, as will be discussed in section 4.4 below, perceptions on what is necessary might differ between workers themselves and regulations. Plus, as the interviewed researcher on OSH put it, some employers rely (or relied, prior to the scandal with Serbian workers) on the agencies to be providing them with fully equipped migrant workers and were not considering them as their workers (see full quotation in section 4.1 above). It can be assumed that the agencies did not provide any protective equipment, especially since they could not know of the particular OSH risks at the worksite.

##### 4.3.1.3. Monitoring

Large companies, especially transnational enterprises, have established very high OSH standards around the world and in Slovakia. This has been reported by a trade union representative and an employer representative responsible for OSH in a Slovak branch of a transnational company. They are driven to do so by being in the public eye. Work accidents would cause negative publicity which they cannot afford to be associated with their company name. They have therefore put tight OSH monitoring mechanisms in place. As the employer representative responsible for OSH at a transnational company describes, they carry out their own strict and regular controls on OSH and have an internal bonus/sanctioning system in the case of OSH grievances. The OSH situation is, however, highly problematic in subcontracted supplying companies as described above in section 4.1. where many migrant workers are employed and is rarely monitored.



### **4.3.2. (Migrant and/or Posted) Worker Representation and Protection**

#### 4.3.2.1. OSH Representatives

Apart from the above-mentioned (section 4.2.1) employee representative for OSH, some companies have installed works councils (“Zamestnanecká rada”). The employee representatives in the works councils are not responsible for OSH matters only, but two interviewed migrant workers from one company viewed them as their persons of trust: “He represent the workers, and their rights. So, if you have a problem you can always, or if you need some information, he will get it for you.”

#### 4.3.2.2. Trade Unions

Trade unions have their own OSH inspectors. These, however, can only engage at a workplace where a workplace trade union has been established. Temporary migrant workers have not been found to become union members and union representatives have not mentioned any specific measures targeted at this group of workers.

### **4.3.3. OSH-related grievance procedures in transnational workplaces**

#### 4.3.3.1. Legal and health care mechanisms and practices for accidents involving migrants and posted workers

There is little awareness of OSH with respect to (temporary) migrant workers. Apart from the fact that legally the same conditions should be granted to migrant workers as to local workers little to nothing was shared during the interviews on specific OSH mechanisms and grievance procedures for temporary migrant/posted workers.

One interviewed temporary migrant worker has reported that he prefers to go home for quality treatment with more important health issues, even though he has health insurance covered in Slovakia. The waiting periods are too long and good quality treatment (especially with dental issues) is deemed too costly.

One tragic case, however, shows the difficulties surrounding transnational work and social security. A widow of a Slovak posted worker who was employed with a temporary work agency in Austria and posted back to Slovakia shared that she had great troubles obtaining the child benefits and sickness benefits from Austria retrospectively. Her husband died after being pressured to go back to work before being fit entirely after an illness because otherwise he would be dismissed. After having to return to the hospital due to deteriorating health the agency cancelled his social security contributions (health care and social insurance) regardless of him never having signed a termination. Only after obtaining legal support from an Austrian trade union the company agreed to cover at least the hospital costs. The child care benefits are still outstanding. She pointed out that the main difficulty is to get legal advice in cases of transnational grievances, because no agency understands the procedures abroad and they have a difficult time communicating across borders.

#### 4.3.3.2. Liability

No information on liability in the case of OSH grievances in transnational workplaces has been provided. This is a problematic issue. Both trade union representatives and workers have indicated that temporary migrant workers have suffered from work accidents in Slovakia, but there seems to be little awareness of any particular procedures in this matter or knowledge of specific cases. Likewise, interviewed labour inspectors did not share any specific details on this matter.

#### 4.4. Language and cultural barriers in transnational workplaces

In general, language barriers seem to be less of a salient issue with the current composition of the temporary migrant workforce. The workers are mostly from Serbia or Ukraine where basic communication is sufficiently possible due to the shared Slavic origin of the languages. Nevertheless, language barriers do exist and they contribute to the feeling of social exclusion as reported by the interviewed migrant workers. The fieldwork has not provided any data on the situation of Romanian workers in Slovakia, where language barriers are expected to persist.

Differences in safety culture or risk perception might affect the attitude towards the need for protective equipment. Questions regarding protective gear have been answered with an obvious “coolness” that it was either sufficiently provided or deemed unnecessary. The research revealed workers turning a blind eye to OSH grievances due to the comparative improvement to the working conditions in their home country. Asked whether breaks are included or not in the working time, one worker stated “It's an hour longer, but since I'm already there for 8 hours, I'll survive that extra hour. In Serbia I would be there for 12 hours.” Such comparisons with a country where the OSH situation (or employment situation) is even worse create a sense of gratitude and this way of ‘positive thinking’ is used as an individual coping mechanism to avoid looking at the down-sides of the working situation. This, however, leads workers to consent to their own exploitation – legitimize it even – and to not report OSH grievances, because they have internalised the employer saying “be grateful for the job.” An example of this attitude is given in the answer to the question whether there is an NGO which deals with grievances of Serbian workers:

“No. There is the agency, the coordinator, the coordinator helps you if he can, if not then not, and that's a bit sad and a bit stupid, but it's like that. You came here to work. You are a foreigner in their country and you have to understand that. You cannot do everything you want. Be grateful, that somebody gives you the chance to work and earn - that's how I think about it. If they would come to our country you would tell them the same, 'you are a foreigner here'.”

(Temporary migrant worker)

## 5. Synthesis and Conclusions

Although Slovakia remains predominantly a sending country of posted/temporary migrant workers to other EU Member States, it is fast becoming a receiving country as well, in particular for migrants from third countries, such as Serbia and Ukraine. As more and more temporary migrant and posted workers come to Slovakia (see section 2.1 above) their OSH-related vulnerabilities become exposed.

Since incoming temporary migration and the issues related to it are a very new topic on Slovakia's policy agenda, there is little information on this matter. This research presents the first mapping of the OSH situation of temporary migrant workers in Slovakia.

There is little awareness of OSH with respect to (temporary) migrant workers. Apart from the fact that legally the same conditions should be granted to migrant workers as to local workers, little to nothing was shared during the interviews on specific OSH mechanisms and grievance procedures for temporary migrant/posted workers. Nevertheless, issues do exist and they expose the vulnerabilities of this group of workers. When it comes to workers posted from Slovakia, OSH seems to be considered a matter for the receiving country, therefore little is done and known by Slovak authorities on their OSH situation and challenges. The experience of the deceased Slovak worker that was posted to Austria reveals the importance of institutions in the sending country as well as of the quality of cross-border institutional communication and exchange. A limited access to the other country's institutions and procedures further hindered by language barriers can increase the vulnerability of posted workers or their families in receiving health compensations they might be entitled to.

The findings from this research on vulnerabilities of temporary migrant and posted workers are grouped according to the layers of vulnerability framework from Sargeant and Tucker (2009) for assessing OSH-related risks for migrant workers. The first layer consists of migration factors. In Slovakia, temporary migrants from third countries sometimes end up in illegal employment or residence situations because their employers (often employment agencies) do not apply for proper work permits or residence permits as these are lengthy processes. Instead they officially register the workers as eligible to be employed under one of the exemptions from the law on the employment of third country nationals, whereby they do not need to apply for a work permit or a residence permit. In the case of illegal work, OSH matters are found to be neglected on a grand scale and cause vulnerabilities in case of grievances, when illegal workers face difficulties in asserting their rights.

In the second layer characteristics of migrant workers are addressed, such as socio-economic conditions in the home country and education and skill levels of the temporary migrants. The wage differentials between the home countries of the temporary migrant workers (mainly Serbia, Ukraine or Romania) and Slovakia are high enough to pressure workers to consent to their own exploitation in order to be able to retain the job. To maximise the savings further, workers accept exceptionally long working hours up to 12 hours a day, sometimes 6 days per week during peak production periods. The research revealed workers are turning a blind eye to OSH-related issues due to a comparative improvement to the working conditions in their home country. This, however, leads workers to consent to their own exploitation – legitimize it even – and not report OSH grievances. Language issues have been reported to be less of a problem since most of the incoming workers are from Serbia or Bosnia and Herzegovina as presented in section 2.1 above. Due to the Slavic origin of these languages basic communication is possible, which is also sufficient for OSH instructions, as mentioned by the interviewed posted workers from these countries. We did not manage to identify the language barriers of workers from other countries, such as Romania, for example.

Nonetheless, differences in safety culture or risk perception were found to affect the attitude towards the need for protective equipment among posted and/or temporary migrant workers.

Under the third layer receiving country conditions, such as characteristics of employment, access to collective representation and regulatory protection and problems of social isolation/exclusion, are combined. In Slovakia, the OSH situation of temporary migrant workers is particularly problematic across the subcontracting chain. Pressures to cut costs from the large contractors lead to a neglect of preventative measures against OSH risks. Furthermore, the type of work for which temporary migrant workers are hired is highly monotonous. This poses a great psychological challenge for the workers. Union membership is very low in Slovakia with a union density of around 17% (ETUI, 2018). Therefore, their role as OSH actors is rather limited and they can only engage in those workplaces where unions have been recognized. Temporary migrant workers have not been found to become union members and unions have no measures targeted at this group of workers. Another issue is that of social exclusion: Segregated accommodations for temporary migrants are being erected especially in those towns in the South-Western part of Slovakia where large automotive companies have erected their production sites. The resentment of local citizens is growing, and they are voicing their concern by signing petitions against these accommodations. Apart from that, the standard of living in some of the workers' accommodations was reported to be quite low.

Sargeant and Tucker do not address the OSH-related vulnerabilities that arise from the circumstances of *temporary* migration specifically. The present research, however, showed that this type of migration creates yet another layer of vulnerability and therefore adds a fourth layer of vulnerability capturing "Temporary migration factors". The short duration and therefore transient nature of migration adds another dimension of vulnerability for migrant workers in terms of OSH, beyond language skills, social exclusion in the receiving country or complicity in their own exploitation to maximise income or retain a job. This layer relates to the psychological pressures and risks that arise from migration, especially temporary migration. The interviewed workers, mostly young men, have pointed out that being away from home, from their families and friends is draining. They are constantly pondering the question whether the gain in money is truly worth the price in terms of emotional strain.

## 6. Policy Implications and Recommendations

As one of the Eastern European Member States that joined the EU in 2004, Slovakia has been among the main countries sending posted workers to other Member States. By 2018, posting from Slovakia is higher than to Slovakia, however, the situation is much more complex than before. The introduction of a legislation that aims to keep track of the posting from the country is a good step towards avoiding social dumping and protecting Slovak workers that are sent abroad. However, when it comes to their occupational health and safety, the sending country should be more involved in the provision of prevention and protection. One way this could be done is through the demand to provide training on OSH in Slovakia prior to the posting assignment. Public authorities have to make sure the workers are prepared before they are posted in order to minimize any OSH risks they might be exposed to.

The second policy aspect that needs consideration is the role Slovakia is playing in facilitating the establishment of subsidiary companies (often letterbox companies) and the monitoring/controlling mechanisms that exist. While the workers hired through these companies are not Slovaks, as long as companies are registered in Slovakia they should undergo the same scrutiny as local companies in regard to the posting practices as well as OSH. By national law, these companies are responsible for the occupational health and safety of their workers, despite the fact that most of them are not Slovak, therefore more should be done in terms of implementation and enforcement. Legal aspects, however, should be complemented with information dissemination, in terms of workers' rights and employers' obligations. This is particularly important for non-Slovak workers who do not know local rules and sometimes have difficulty in accessing information due to language barriers.

The third policy implication is on posted and temporary migrant workers that come to Slovakia. The most immediate concern that must be addressed is the clarification of procedures for permits for third country nationals. The loopholes that allow companies to hire workers under the exemption clauses should be addressed in a way that does not penalize workers but facilitates permit procedures. The Slovak labour market has a demand for labour supply, which due to its wage levels can be supported by the labour force from countries with lower rates. Formalized residence and employment for migrant workers allow for public authorities to monitor working conditions and prevent illegal employment and OSH risks at the same time. Furthermore, in order to avoid social dumping both in terms of preventing the exploitation of migrant workers and the driving down of local wages, these workers should be provided with equal terms and conditions. Findings indicate that the most vulnerable workers are those at the end of the subcontracting chain, in particular if hired by an employment agency. Strengthening of the liability along the subcontracting chain and a better monitoring of employment agencies' activities would benefit all parties involved and would definitely help minimize OSH risks for posted and temporary migrant workers. Finally, other aspects of transnational employment such as the use of tools to overcome language barriers should also be improved.

Some more specific recommendations are:

### *At the workplace level*

- Inspections in the workplaces should be increased in order to prevent illegal employment.
- Special attention should be paid to workers at the end of the subcontracting chain, especially those employed by agencies in order to make sure they have received the necessary OSH training and the protective equipment and outfits.

- Trade unions' involvement in the OSH of migrant workers should increase by establishing direct channels of communication and by increasing union membership among migrant workers.

*At the industry level and the national level*

- The existing tripartite social dialogue should address issues of OSH of posted workers to and from Slovakia in order to increase the collaboration of employers in abiding by OSH regulations at the national and EU level.
- The negative image of the National Labour Inspectorate in Slovakia could be improved by signalling a higher level of openness, e.g. through an online help-desk (in different languages) and would ease the access of workers to relevant information.

*At the EU level*

- Cross-border communication with other EU Member States seems to be working for Slovak authorities. However, they need to sign bilateral agreements with third countries whose workforce is employed in Slovakia. EU-level agreements with neighbouring countries to the EU that supply labour to the EU labour market could facilitate matters for individual Member States and allow for equal treatment of workers across the borders of the EU Member States.

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