



Migrant Workers from the Former Yugoslavia and European Migration Policies

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Abstract:

Since the 1960s most migrants have originated from the republics of the former Yugoslavia, but after Yugoslavia's dissolution in 1991 migration management in Slovenia has changed. What used to be internal borders became external ones and at the same time European migration policies were implemented. These pushed for labour migration and Slovenia experienced an increase in the number of migrant workers. Such workers are subjected to exploitation due to the structural paradigm embedded in migration management.

As a member of the Socialist Federal Republic of Yugoslavia (SFRY) Slovenia experienced a number of consecutive migration flows, which increased significantly from 1975 onward. The vast majority of migrants came from other Yugoslav republics, primarily Bosnia and Herzegovina. Since these migration flows were considered internal, migrants were not exposed to rigorous procedures in order to arrange residency status in Slovenia. However, this practice changed dramatically during the emergence of new nation states on the territory of ex-SFRY. Migrations considered internal until 1991 became international after that year.

Through the independence process Slovenia introduced a qualitatively different form of migration management, which was in accordance with the change of its political and economic system due to structural adjustments implemented in view of Slovenia's forthcoming acceptance into the EU. Formal management of migration has therefore been drastically transformed and its most visible effect can be seen in the diminishing of opportunities for ex-SFRY migrants to participate equally in the society and to fully develop their potential. At the same time, the creation of new countries on the territory of ex-SFRY was a violent process caused by the establishment of new national bodies that consequently created new categories of citizens, noncitizens, and migrants. Over the past 20 years we have witnessed considerable turbulence in the field of migration and the treatment of old and new foreigners in Slovenia, and this was the result of processes with intentional implications.

The first population confronted with the new regime was the subject of new categories created for residents of Slovenia: migrants from other republics who in 1991 had temporary residency status in Slovenia, or permanent employment without any residential status, or permanent residency status in Slovenia. According to the new citizenship and alien laws, those with temporary residency status or employment could register their temporary residency status only for reasons of employment or family reunification. Those with permanent residency status had the option to apply for Slovenian citizenship by December 1991, but those who did not do so, or saw their applications rejected, were erased from the registry of permanent residents. By this act they lost all rights connected with the status of permanent resident and had to arrange their status anew, which was usually a prolonged and complicated process.

The second population that was the target of new migration policies were refugees from other Yugoslav republics (Croatia in 1991, Bosnia and Herzegovina in 1992, and Kosovo in 1999) affected by war. Registered refugees numbered in the tens of thousands but to these we must add unregistered refugees that sought temporary shelter with their friends and families in Slovenia. Both categories faced great difficulties in obtaining more permanent residency statuses.

Since 1992 so-called third country nationals have the possibility of arranging their residential status on the basis of the Employment and Work of Aliens Act. The law has been changed many times but basically it enables migrants to legalize their residence in Slovenia through work permits. The third population subjected to changes in migration management are thus migrant workers in Slovenia. The peak of labour migration was between 2004 and 2009, in 2009, 92,078 valid work permits were issued¹, mostly to citizens of Bosnia and Herzegovina. After that year the number dropped significantly due to the economic crisis.

Why did labour migration take a leading role?

Marginalization and the weak social, economic, and political position of ex-SFRY nationals in Slovenia, who reside here on the basis of temporary work permits, need to be understood as a result of a structural paradigm. The EU and its migration policies should not be regarded as mechanisms intended to make borders impermeable, but rather as mechanisms for imposing preconceived categories based on social positions constructed for migrants. The former Slovenian Minister of the Interior Dragutin Mate said at the 39th session of COSAC: “In the area of migration, we are in the phase of building a common European immigration policy. We are working in two directions: stemming irregular immigration and facilitating legal migration. In practice, we find ourselves in a paradoxical situation. Our economy needs a labour force (...); therefore immigrants will be urgently needed. This need is already evident today, as illegal

¹ See <http://www.ess.gov.si>

migrants who come to Europe get work easily.”² As Mate freely admitted, the EU is interested in the labour force, not in the human being who provides it. Furthermore, not even in the labour force in general but only for those branches of the economy that lack workers. The EU is therefore not a fortress; its migration policies are a sophisticated mechanism for the hierarchical inclusion of migrants on the labour market.

On the other hand, people migrate for various reasons. Obviously, one of the important reasons are “objective” circumstances (wars, natural disasters, lack of prospects, etc.) in the countries of their origin. However, many factors are completely subjective, such as the desire to move, love and establish other kinds of relationships, the wish to live in a specific city, etc. The combination of these reasons is crucial for a person to migrate. Migrant workers therefore are not only in search of employment but they also legalize their residence through mechanisms that a specific state makes available. Since the EU is pushing for labour migrations while restricting other paths for the legalization of residence, this phenomenon increases during times of economic well-being. The increased number of migrant workers in Slovenia between 2004 and 2009, when the construction sector was flourishing, and its rapid decrease at the onset of the economic crisis, when the sector crashed, supports this hypothesis. In this category we also often find individuals who migrated to Slovenia in any of the flows mentioned above, including refugees and the people erased from the registry of permanent residency.

The intertwining of migration regulations and practices is then directed in such a way that the labour force is extracted from migrants when the economy is in an upswing while at the same time keeping them from the benefits and protections of the welfare state, which are based on accumulated years of legal residence. Moreover, Slovenian migration policy does not enable migrants with temporary work permits to reside legally on its territory if they lose employment – even if the obligations of employers toward their workers have not been fulfilled. In practice, this is achieved through the subtle mechanism connecting the work permit and residency permit. The residency permit is dependent on the work permit, and the latter is arranged by employers, which means that they have in their hands an influential tool for exploitation.³ This opens up possibilities for violations of rights in practically all fields and consequently hugely affects migrants’ quality of life. However, many workers agree to this condition with the intention of accumulating enough years of residency status to gain access to free movement on the labour market, free movement within the territory of the EU, and more rights. The damage done by violations of workers’ rights (unpaid salaries, pensions, overtime work, layoffs in cases of sick leave, dangerous working conditions resulting in accidents and other health problems, poor living

² See http://www.eu2008.si/si/News_and_Documents/Speeches_Interviews/May_0507MNZ-COSAC.html (27 November 2009).

³ In the case of regular naturalization, Slovenian legislation enables obtaining a permanent residence permit after five continuous years of having a temporary residency permit. After two years of having a temporary work permit, migrants gain the right to a personal work permit that enables them to change employers. But since they still need employment to obtain a residency permit, in practice the change of employer is not a simple process.

conditions, lack of free time, rest, and paid holidays, bullying, having to pay for procedures that should be covered by the employer, illegal work, restrictions on forming unions, etc.) in many cases cannot be compensated, since official sanction procedures are ineffective or persons are not allowed to reside in Slovenia anymore. They face great obstacles when trying to launch official investigations, since they are illegally residing in Slovenia (after losing their jobs) and avoid contacts with official institutions, or they are physically absent. A court procedure is expensive and takes a long time, and even if the judgement is returned in favour of the migrant, the money owed is long gone.

Global hierarchies are embodied in migrant workers. As some economies are considered peripheral and subjected to central economies, so are their citizens, regardless of their residing in the latter. Since the desire for movement cannot be suppressed, an obvious solution to prevent future violations of migrants' rights and improve the weak position of migrant workers in Slovenia (and the EU in general) is to redirect European migration policies in favour of the migrants and break the connection between the work permit and residency permit, especially while they depend on employers. Only giving migrants more freedom can empower them and result in the more equal participation of this segment of the population in society.

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