

**General Confederation of Autonomous Trade Unions (CONFSAL)**

**Independent Trade Union of Slovenia (NSDS)**

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**RESEARCH REPORT »Posting of third-country nationals to care services in the health and social care sectors - current situation and future scenarios«**

**Introduction**

Society is becoming more longevous and life expectancy is increasing. The changed age structure requires changes and new solutions. To address these challenges in a comprehensive way, on 20 July 2017 the Government of the Republic of Slovenia adopted the Strategy for a Long-Lived Society, which sets out the substantive framework for implementing the necessary changes. The document contains development starting points, vision and goals, as well as proposals for possible directions.

Demographic changes, which reduce the supply of labor, and the withdrawal of the population from the labor market, with increased demand for labor in 2021, affect the excess of demand over supply and the difficulties of companies in finding skilled workers. In 2021, many countries once again faced the problem of labor shortages. Increased economic activity, combined with demographic change and a significant share of the active population falling into inactivity, has led to excess demand for labour. The latter is reflected in the record high and rising vacancy rate, which reflects the ratio between the number of vacancies and the number of occupied jobs. Labor shortages also apply to Slovenia, where more and more companies are reporting difficulties in finding new workers, and labor shortages are cited as a limiting factor for the production and provision of services.

Due to the lower number of births than in the past and the increase in life expectancy, we are facing a process of population aging, which according to demographic projections in Slovenia will be more intense than the EU average. The growing share of the population over the age of 65 has a significant impact on the increase in expenditure on pensions, health care, long-term care and other age-related expenditure, where Slovenia will stand out significantly compared to other EU countries. An ageing population will also require changes in social protection, employment and policy responses in many other areas, such as adapting the environment and services for older people.

According to demographic projections, the ageing process that Slovenia is already experiencing will be more intense than in other EU countries. In the labour market, the decline in the number of people of working age will become a limiting factor for economic growth over the next ten years. Even if migration remains subdued, increased employment of young people and the elderly will not be enough to cover the need for more employment due to the strengthening of economic activity.

The need for long-term care in Slovenia will start to increase more markedly after 2025, when the most numerous generations begin to cross the 80-year mark. An important factor in the growth of public expenditure on long-term care is, in particular, the size of the population that is disabled and needs the help of a foreign person to perform basic daily tasks - this share increases markedly with age.

source: Long-Term Society Strategy, UMAR

Labor Market Adjustment in EU Countries in the Covid-19 Crisis, UMAR

**RESEARCH METHOD:**

The research is based on an analysis of the legal framework in the field of health and social care activities, available literature and existing data from official institutions, interviews with focus group experts and



interviews with employees of care providers. A survey of migrant workers was also conducted as part of the survey. The aim of the research is to understand the key factors in the growth of the number of employed foreigners - third-country nationals in the care sector, to understand the business model and the interests of all actors in the cross-border provision of care services. The next goal of the research is to understand the model and legal forms of providing care services with an emphasis on the work of foreign nationals of third countries.

Survey questionnaire:

- voluntary involvement and anonymous answering of questions,
- the survey was conducted in the period January-February 2022
- foreign workers from third countries in the health and social work sector were invited by the trade union to participate,
- the survey was completed by 66 public service employees in the period January-February 2022
- processing of survey results: Excel application, conversion of optional answers into percentages,
- interpretation of the results of the questionnaire

In addition to the results of the survey, the research is based on interviews with experts from the relevant institutions: Mr Malec - Head of the Migration Sector, Ministry of Labour, Family, Social Affairs and Equal Opportunities, presented the area of posting and the implementation of the Act on Cross-Border Provision of Services;

Greta Metka Barbo Škerbinc - Employment Service of the Republic of Slovenia, member of the Administrative Commission for Social Security Coordination during the EU Presidency of the Republic of Slovenia, presented the mobility of workers from the perspective of social security coordination; Miha Šepec - Employment Service of the Republic of Slovenia, Legal Affairs Department, Work Permit Issuance Area presented the system of employment and work of foreigners and the procedures for issuing work permits and consents to single permits; Andrej Vojnovič - Chamber of Health and Midwifery Care presented the regulations, procedures and conditions for registration in the register and obtaining a licence for nursing staff in the health and social care sector.

Interview with caregivers in care services: self-employed Sara M., work location Maribor and employed caregiver and patronage nurse Katja V., work location Ljubljana.

**Country Health Profile 2021 for the Republic of Slovenia**, Country Health Profile 2021 for the Republic of Slovenia, states that life expectancy in Slovenia has increased significantly since 2000, but has temporarily decreased by one year in 2020 due to the covid-19 pandemic. The Slovenian health care system provides almost universal coverage and a wide range of rights. Voluntary health insurance plays an important role in covering surcharges charged for services; this also provides significant financial protection against direct payments. Weaknesses of the health care system, including labor shortages, long waiting times, and aging hospital facilities, include fragmented and underfunded long-term care.

Health status of the population in the RS: Life expectancy increased by more than five years between 2000 and 2019:

Demographic factors Slovenia – EU

Population Slovenia 2,095,861 - EU 447,319,916

Share of population over 65 (in%) Slovenia 20.2 - EU 20.6

Birth rate (2019) Slovenia 1.6 - EU 1.5

Socio-economic factors GDP per capita (PPP in EUR) Slovenia 26 414 - EU 29 801

Relative poverty rate (in%, 2019) Slovenia 12.0 - EU 16.5

Unemployment rate (in%) Slovenia 5.0 - EU 7.1.

## 2. Care - presentation

Slovenia has a system of compulsory social health insurance and a single public insurer - the Health Insurance Institute of Slovenia (ZZZS). The system is mainly financed by contributions to social and health insurance. Three private insurance companies provide voluntary health insurance, which is mainly used to cover the co-payments defined in the Health Care and Health Insurance Act.

More than 99% of the total permanent population is covered by compulsory social and health insurance. The scope of entitlements includes services at primary, secondary and tertiary levels, medicines, medical devices, sickness benefit for absences of more than 30 days and some travel expenses to health facilities. Full coverage is provided for a comprehensive list of services, including emergency care, health care in hospital/residential



settings (such as nursing homes and other social care facilities). The health component of long-term care expenditure in 2019 was €233 per capita, or 10.2% of total health expenditure, well below the rate for the EU as a whole (€617 and 16.3%). For some categories of long-term care, more cash benefits are available, such as home help for daily activities, but together they are not enough to pay for the essential services needed, especially within the home or community care facilities. **Slovenia has introduced several measures to tackle the shortage of health workers, one of the biggest challenges facing the system. These measures include additional funding, devolution of work and tasks, and new models of care delivery.** The covid-19 pandemic put additional strain on the workforce and required several temporary measures to cope with the situation. However, the crisis underlined the need for continued investment to increase the workforce.

Vir: OECD/European Observatory on Health Systems and Policies (2019), Slovenija: Zdravstveni profil države 2021, State of Health in the EU, OECD Publishing, Paris/European Observatory on Health Systems and Policies, Brussels in Spletna stran ZZS.

Long-term care is one of the areas that has become increasingly prominent in the social policies of economically developed countries in recent years. Life expectancy and average life expectancy are increasing in all countries of the world, and this trend in more developed countries is accompanied by a decline in the number of births, where the Republic of Slovenia is no exception. All of these factors are contributing to an increase in the number of people who, for various reasons, need help with basic and supportive activities of daily living. The risk of needing LTC (Long-term care) increases rapidly with age. Life expectancy at age 65 has increased significantly for both sexes in recent decades, mainly due to better and more accessible healthcare, healthier lifestyles and improved living conditions. In Slovenia, LTC services are currently provided in the form of formal services and services provided by informal care providers. Most informal care is provided by family or friends, most often by close family members (e.g. spouses, daughters). LTC services in formal health and social care systems are also predominantly provided by women. **According to the Ministry of Public Administration, 86% of nursing staff are women.** Data on social services for family support at home also show that the services are provided by a predominantly female workforce, which represents 97.1% of the total.

The basic mission of homes is to provide institutional care for the elderly. Institutional care for the elderly is intended to eliminate personal hardships and problems of people over the age of 65 and other persons who are unable to live at home due to illness, age or other reasons. Homes thus replace or complement the functions of the home and the family by providing accommodation, organised meals, care and healthcare. At the end of 2020, there were 21,321 places available in Slovenia in 59 public institutions and 43 licensed providers. Of which:

13,501 places in public homes for the elderly,  
5,476 places in private homes for the elderly,  
2 344 places in special institutions for adults.

SOURCE: Community of Social Institutions of Slovenia

The Ministry of Health (MoH) last obtained data on staffing directly from social care institutions, which reported a total of 8,656 total employees (including employees in primary, social and nursing care).

### **3. Legal framework of the posting country**

The employment and work of third-country nationals in the Republic of Slovenia is regulated by the Act on Employment, Self-employment and Work of Foreigners (Official Gazette of the Republic of Slovenia, No 91/21). According to Article 4 of the Act, a foreigner is defined as a person who does not have the citizenship of the Republic of Slovenia. If you want to work in Slovenia, you must obtain a single permit for residence and work issued by an administrative unit. If you employ a third-country national in the EU, he or she must have a valid uniform residence and work permit, and if you employ a national of Bosnia and Herzegovina or Serbia, he or she must also have a work permit under a bilateral agreement, which is consent to a single permit. When one of the conditions for obtaining a permit is that there are no suitable persons in the unemployment register, it is necessary to perform a labor market control. The single permit allows third-country nationals to enter, stay, work and to be employed in Slovenia.



The employer can make the following applications for the foreigner:

- application for permission to change jobs - change of employer - for multi-employer employment application for the issue/renewal of a single permit to stay and work
- application for an extension - extension of a temporary residence permit for the purpose of working in the field of research or higher education
- application for issuance - extension of a single permit due to highly qualified employment - blue card application for approval of change of employer - change of post of blue card holder application for issuance - extension of a single permit for posted workers (Article 45 of the Foreigners Act)
- application for issue - renewal of a single permit for seasonal work longer than 90 days
- application for the issue - renewal of a single permit for an intra-corporate transferee application for the issue - renewal of a single permit for a daily migrant worker
- application for issuance - extension of a temporary residence permit for a foreigner who has the status of a long-term resident in another Member State of the European Union and will reside in the Republic of Slovenia for employment or work or will be a daily labor migrant
- application for the extension of a temporary residence permit for a foreigner who has the status of a long-term resident in another Member State of the European Union who will reside in the Republic of Slovenia due to self-employment
- application for issuance - extension of a temporary residence permit for a foreigner who has long-term resident status in another Member State of the European Union and will reside in the Republic of Slovenia due to seasonal work

In the procedure for a single permit conducted by an administrative unit, the Employment Service of Slovenia issues a consent to this permit if the legal conditions for an individual type of consent are met. The consent procedure is initiated ex officio at the request of the administrative unit. Consent to the single permit may be issued by the institution for:

- employment, self-employment or work,
- employment, extension of employment, written approval due to change of job or employer
- EU Blue Card, consent for posted workers, consent for training or retraining of foreigners,
- individual services of foreigners, consent to work as an agent for more than 90 days in a given calendar year, or seasonal work in agriculture for more than 90 days.

Important regulations governing the field of employment and work of foreigners in the Republic of Slovenia:

- Employment, Self-Employment and Work of Foreigners Act (Official Gazette of the Republic of Slovenia, No. 91/21 - UPB)
- Foreigners Act (Ztuj 2 - Official Gazette of the Republic of Slovenia, No. 1/18 - UPB and 9/18 - amended, 62/19 - US and 57/21)
- Cross-border provision of services Act (Official Gazette of the Republic of Slovenia, No. 13/18 and 204/21)
- Labor Market Regulation Act (ZUTD - Official Gazette of the Republic of Slovenia, No. 80/10, 40/12 - ZUJF, 21/13, 63/13, 100/13, 32/14 - ZPDZC-1, 47 / 15- ZZSDT and 55/17, 75/19, 11/20 – US and 54/21, 189/20 – ZFRO, 54/21 and 172/21 – ZODPol-G)
- Employment Relationships Act (Official Gazette of the Republic of Slovenia, No. 21/13, 78/13 - amended, 47/15 - ZZSDT, 33/16 - PZ-F, 52/16, 15/17 - US decision, 22 / 19 - ZPosS, 81/19, 203/20 - ZIUPOPdVE, 119/21 - ZČmIS-A and 202/21)
- Prevention Act seq. and undeclared work (Official Gazette of the Republic of Slovenia, nos. 32/14, 47/15 - ZZSDT, 43/19 and 121/21 - ZJN-3B)
- Public Use of Slovene Act (ZJRS, Official Gazette of the Republic of Slovenia, 86/2004, 8/2010)
- Minimum Wage Act (ZMinP, Official Gazette of the Republic of Slovenia, 13/2010, 92/2015, 83/2018), Amount of the minimum wage in 2022 (Official Gazette of the Republic of Slovenia, No. 5/2022)
- Agreement between the Government of the Republic of Slovenia and the Council of Ministers of Bosnia and Herzegovina on the employment of citizens of Bosnia and Herzegovina in the Republic of Slovenia and Protocol on the implementation of the



Agreement between the Government of the Republic of Slovenia and the Council of Ministers / 2017)

- Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Serbia on employment of citizens of the Republic of Serbia in the Republic of Slovenia and Protocol on the implementation of the Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Serbia
- Order on the determination of professions in which the employment of an foreigner is not linked to the labor market (Official Gazette of the Republic of Slovenia, 200/20 and 100/21

In the control of the labor market, we check the fulfillment of the condition that there are no suitable persons or candidates for employment in the unemployment register. Non-labor-related occupations: Some occupations by foreigners do not require labor market controls. Therefore, for the above professions, it is not necessary to submit the PDM-KTD form before submitting the license application: welder; driver of heavy trucks and tractors; toolmaker; electrician; carpenter; cook; electromechanic; bricklayer; installer and servicer; foundryman; butcher; nurse caregiver in institutions.

#### **Social security and insurance**

Social security is largely provided by social protection systems. In Slovenia, social protection systems are mainly based on public social insurance, whose main source of income is contributions from labour. An employer must ensure equal treatment of a jobseeker or an employee in the recruitment process, during the employment relationship and in connection with the termination of the employment contract, irrespective of nationality, racial or ethnic origin, national and social origin, sex, colour, health, disability, religion or belief, age, sexual orientation, marital status, trade union membership, financial situation or other personal circumstances, in accordance with this Act, the provisions on the implementation of the principle of equal treatment and the provisions on equal opportunities for women and men. After concluding an employment contract, the employer is obliged to register the employee for compulsory social insurance (health, pension and disability insurance, parental care and unemployment insurance). Social security and insurance are regulated through compulsory social insurance. Compulsory social insurance covers the following insurance: pension and disability insurance, health insurance, parental insurance and unemployment insurance.

#### **Coordination of social security systems:**

Social security is coordinated between EU countries by Regulation (EC) No 833/2004 on the coordination of social security systems and by Implementing Regulation (EC) No 987/2009 laying down the detailed rules for implementing Regulation (EC) No 833/2004. EU provisions ensure the coordination of national social security systems, which means that it is up to each Member State to decide who should be insured under its national law. Regulation (EC) 833/2004 does not replace national systems with a single European system, but lays down common rules for determining which EU Member State's law is applicable to protect individuals' social security rights within the EU (and also within Iceland, Liechtenstein, Norway and Switzerland). EU rules on the coordination of national social security systems allow EU nationals to exercise their social security rights while working or living in another EU country.

#### **Postings and posted workers:**

In the area of cross-border provision of services and, in this context, the posting of workers, the Act on Cross-Border Provision of Services (ZČmIS) is of relevance, as it lays down the conditions under which legal and natural persons registered for the pursuit of an activity established in the Republic of Slovenia may temporarily provide services in another Member State of the European Union, and the conditions under which legal and natural persons registered for the pursuit of an activity established in another Member State of the European Union may temporarily provide services in the Republic of Slovenia (ZČmIS). Under the Cross-Border Provision of Services Act, a posted worker is any natural person, regardless of his or her nationality, who, in the context of the cross-border provision of services by a Slovenian or foreign employer with whom he or she is employed and who, on that basis, is covered by the relevant social security scheme in the country where the employer has its registered office, temporarily carries out work in an EU country other than the one where he or she normally carries out work. An employee may be posted abroad if he or she so wishes or if he or she is posted by his or her employer. In any case, a worker posted abroad must meet the following conditions arising from the Cross-Border Provision of Services Act.

**Cross-border postings:** Posted workers are persons in an employment relationship with an employer established in the Republic of Slovenia who are posted abroad for work or professional training, provided they





are not compulsorily insured in the country to which they are posted. During the posting, posted workers and self-employed persons who go to another country to carry out a similar activity remain covered by compulsory social insurance in the Republic of Slovenia. The employer or self-employed person in Slovenia pays contributions on all remuneration from work or business.

**Competent institutions:**

Employment Service of the Republic of Slovenia - ZRSZ, Ministry of Labour, Family, Social Affairs and Equal Opportunities - MDDSZEM, Ministry of the Interior - MNZ, Labour Inspectorate of the Republic of Slovenia - IRSD, Health Insurance Institution of Slovenia - ZZZS; source: website of the Ministry of Labour, Family, Social Affairs and Equal Opportunities - MDDSZEM

In Slovenia, the Health Insurance Institute of Slovenia - ZZZS is also responsible for determining the validity of social legislation by issuing A1 forms or certificates to mobile workers and other active persons. Under EU rules, in particular Regulations (EC) Nos 883/2004 and 987/2009, the A1 certificate determines the validity of social legislation for certain categories of insured persons. The purpose of A1 certificates is to ensure that a person is subject to the social legislation of only one EU and not two or more EU and EFTA countries.

ZZZS will issue a total of 168,126 A1 certificates in 2021, of which 60% will be issued to posted employees and the self-employed, and 40% to other categories of persons. Based on 2020 data, the total number of A1 certificates issued will increase by around 7%, of which 2.5% for referrals and 15% for other categories of persons. A1 certificates are issued under the Cross-Border Provision of Services Act, which lays down the conditions and procedure for issuing A1 certificates for posted employees and self-employed persons. In these procedures, in addition to the certificates issued, in 2021 the ZZZS refused or rejected the request for an A1 certificate in 9,985 cases because the employer or employee did not meet the prescribed conditions (e.g. outstanding tax liabilities of the employer, inadequate employment contract or contract with the client of the service, the employer did not habitually carry out business in Slovenia, labour law offences, procedural reasons). This is a 10% reduction compared to the number of such refusals in 2020 (11,199). In this way, the Health Insurance Fund has also contributed to reducing abuses in this area.

A1 certificate issuance in 2020 and 2021	2020	2021	Indeks 20/21
Number of approved postings*	98.340	100.824	102,5
Number of other A1 forms issued**	58.531	67.302	115,0
<b>Total</b>	<b>156.871</b>	<b>168.126</b>	<b>107,2</b>

Notes: \* posted workers and self-employed persons, \*\* e.g. civil servants, seafarers, airline and cabin crew; working or self-employed in two or more Member States; exceptions.

Source: data from the Health Insurance Fund.

Posted workers and the self-employed are entitled to reimbursement of the costs of emergency and necessary services they use in another country at the time of posting. For EU countries, Iceland, Liechtenstein, Norway, Switzerland, Bosnia and Herzegovina, Montenegro, North Macedonia and Serbia, this right is exercised with a European Health Insurance Card. The procedures for posting and exercising rights vary depending on whether the person is posted to work in:

EU Member States, Iceland, Liechtenstein, Norway and Switzerland, or countries with which Slovenia has bilateral social insurance agreements (Bosnia and Herzegovina, Montenegro, North Macedonia and Serbia), the United Kingdom, or countries to which the European acquis or bilateral social insurance agreements do not apply.

a) Posting to EU countries, Iceland, Liechtenstein, Norway and Switzerland

The rights of workers posted to these countries are governed by Regulation (EC) No 883/2004 (Article 12). The conditions and procedures for posting are regulated in Articles 4 to 9 of the Law on the Cross-Border Supply of Services (hereafter the ZČmIS). Before posting, employers or self-employed persons must obtain an **A1 certificate** for each posted worker from the Health Insurance Fund (ZZZS), certifying that the social security rules of the Republic of Slovenia continue to apply in the country of posting during the cross-border provision of the service. In the EU country where you are posted to carry out your work or activity, you are entitled to have the costs of urgent and necessary medical treatment covered. This right is exercised by means of a European Health Insurance Card. The A1 certificate must be applied for or terminated no more than 30 days



before the planned posting, and the A1 certificate must be applied for by the employer or self-employed person before the posting begins.

The self-employed person or employer proves that the conditions for obtaining an A1 certificate have been met by the duration of the employer's registration in the PRS) of at least two months, the existence of a transaction account opened in accordance with the law and which is not blocked, the number of workers employed in relation to the size of the enterprise and the number of posted workers in relation to workers carrying out work in the RS, the employer's declaration of activity completed on the application form.

In addition, the employer must not violate important provisions of labor law; proposes withholding tax returns for employment income in the observed period and has no outstanding overdue tax liabilities. The fulfillment of the conditions of the posted worker is checked on the basis of data from the records of insured persons and issued A1 certificates, namely that: the employee is employed by the employer and has appropriately arranged compulsory health insurance, certificate A1. The legal **deadline for issuing an A1 certificate (or other decision) is 5 working days** from receipt of a complete application. In these procedures, the ZZS decides. If the posting does not take place or is prematurely terminated, the employer or self-employed person must immediately inform the ZZS, as in such cases the ZZS can only invalidate the A1 certificate retrospectively. Source: ZZS website

A Vander elst visa is a visa that can be obtained by third-country nationals who are currently living and working in one of the countries of the European Union and who are posted for temporary work in another EU country. It should be borne in mind that each Member State determines in its legislation the conditions under which third-country nationals with regular status in another Member State may work as posted workers on its territory.

Example for Germany: if a citizen of one of the third countries (eg Bosnia and Herzegovina, Serbia, Northern Macedonia, Kosovo, etc.) lives and works in Slovenia, which is also a member of the European Union, and the employer sends him / her to work in Germany. To apply for a Vander elst visa, the foreigner or the employer must apply for one at the German Embassy in Ljubljana. **Third-country nationals can only work on a Vander elst posted worker visa.** Many workers are convinced that they are working abroad legally if they have previously obtained an A1 form, which can prove that they are included in the compulsory insurance in the Republic of Slovenia during their work. However, this is not the case. This is only enough for European Union citizens, but not for third-country nationals.

Third-country nationals (Bosnia and Herzegovina, Serbia, Northern Macedonia, Kosovo, etc.) must have a visa or residence and work permit for posted workers in the case of employment in another Vander Elst Member State. However, there is one exception: third-country nationals who have the status of "long-term EU resident" in another Member State can work as posted workers in Germany for 90 days within one year. No prior Vander elst visa is required.

»If a third-country national is employed by a company based in Slovenia and the company sends him/her to Germany to provide a service, he/she needs a visa. Third-country nationals who have long-term resident status in Slovenia within the meaning of Council Directive 2003/109 / EC of 25 November 2003 on the status of third-country nationals who are long-term residents and can prove this by submitting a permanent residence permit residence in Slovenia (long-term resident - EC), do not need a visa, provided that the duration of the service in Germany does not exceed 90 days in a period of twelve months. The visa is issued under the provisions known as the "Vander Elst" Regulation. In the application process, the embassy checks, inter alia, whether the conditions under the provisions of the Vander Elst Regulation are met at all. The following criteria are important: a Slovenian company that wants to post an employee abroad must carry out most of its business activities in Slovenia. The third-country national must be regularly employed by a Slovenian company that wants to send him / her to work and must perform most of his / her professional activity in Slovenia. The provision of the service in Germany must be short-term and temporary.

If a Slovenian company posts its employee to Germany for the purpose of providing a service, the provisions of the German Minimum Wage Act and the German Posting of Workers Act shall apply to the working conditions to be provided to the employee. These provisions stipulate, inter alia, that the company must, in principle, pay the employee a minimum wage. In addition, the company must comply with the registration obligations.«

Source: German Embassy Ljubljana

#### 4. Legal framework of the recipient country

Status of posted workers employed by a service provider established in the EU, EEA and Switzerland



The Act on the Cross-Border Provision of Services (ZČmIS) sets out the conditions under which legal and natural persons registered for the exercise of an activity, established in the Republic of Slovenia, may temporarily provide services in another Member State of the European Union (hereinafter referred to as "EU Member State") and the conditions under which legal and natural persons registered for the exercise of an activity, established in another EU Member State, may temporarily provide services in the Republic of Slovenia (hereinafter referred to as "EU Member State"). A foreign employer may provide a cross-border service in the Republic of Slovenia provided that:

- normally pursues an activity in the country where you work
- the posted worker does not normally carry out work in the Republic of Slovenia,
- does not infringe the most important provisions of labour law relating to the rights of the posted worker,
- the service is provided in the context of activities for which the foreign employer is registered in the country of employment, except in the case of the secondment of the worker to a related economic undertaking; and
- the service is provided in one of the permitted ways.

Posted workers employed by EU companies, regardless of their nationality, do not need additional permits from the ZRSZ to provide services (Article 5, paragraph 2, point 18 of the ZZSDT); Posted workers must arrange their residence in the RS - for EU citizens, a residence registration is required; for third-country nationals, a single posted worker permit is required.

An EU national who works in Slovenia as a self-employed person or provides services may be issued with a residence registration certificate if he or she has:

- a valid identity card or valid passport;
- proof that you are self-employed or a service provider;
- a valid work permit, where provided for by the law governing the employment and work of foreigners.
- registration of residence with the EU within 90 days of entry into the RS;
- proof of provision of services - e.g. service contract; certificate of commencement of service provision

Posted workers with third-country nationality (Article 45 of the Foreigners Act)

An foreigner who is posted for a limited period of time to work in the Republic of Slovenia by an employer established outside the Republic of Slovenia, who employs him or her, for the purpose of providing cross-border services or training in a company in the Republic of Slovenia, may be issued with a single permit for posted workers, if the foreigner holds a valid travel document, the validity of which is at least three months longer than the intended stay in the Republic of Slovenia, if he or she is socially insured in the country from which he or she is posted, if the competent authority under the law governing the employment and work of foreigners gives its consent to the issue of a single permit for posted workers. Social insurance in the country from which the foreigner is posted must include health insurance covering at least emergency medical services in the territory of the Republic of Slovenia, or the foreigner must have adequate health insurance in the Republic of Slovenia.

#### **Services provided by companies from EU, EEA and Swiss**

Employers established or resident in an EU Member State, the European Economic Area (EEA) or Switzerland may provide services to posted workers in Slovenia, regardless of their nationality. They must be registered under the Act on Employment, Self-employment and Work of Foreigners to carry out the activity. Before you start providing the service, you must register its start with the employment office. We will issue you a certificate of completion.

Posted workers can work in Slovenia:

- if you post them in your own name and on your own account, on the basis of a contract you have concluded with the service provider;
- if you post them in your own name and on your own account,
- if you post them to a company with which you have a capital link;
- if you provide the worker to a user (another employer) established or resident in Slovenia. The notification of the start of the service must contain the following information:
  - the name and address of the employer,
  - the personal name and date of birth of the responsible person of the employer,
  - the personal names, dates of birth, nationalities of the posted workers and the addresses of their places of residence in Slovenia,





- the type of service,
- the place and duration of the service
- the personal name and date of birth of the designated posted workers who will act as the link between the foreign employer and the competent supervisory authorities; and
- the recipient of the service.

### 5. Comparative analysis of employment conditions between EU nationals and foreigners in the care sector

Demographic change and the labour market:

Demographic change has many consequences. The labour market has been experiencing an ageing workforce in recent years and already quite pronounced labour supply shortages in some segments of the market. Labour shortages are also acute in the health and social care sectors. The staff shortage is greatest in the care and care professions, which are poorly paid and very demanding in terms of working conditions. As a result, nursing staff also fluctuate into other occupations and jobs or are employed abroad where pay is higher. Particularly in the area of long-term care (care homes for the elderly, home care), staff shortages are a key inhibiting factor to the expansion of services that would adequately respond to the needs for such services in the population.

Source: Final Report on the Implementation and Achievement of the Objectives of the Resolution on the National Social Protection Programme for the Period 2013-2020, Report for the Period 2013-2020, Institute of Social Protection of the Republic of Slovenia

According to demographic projections, the ageing process that Slovenia is already experiencing will be more intense than in other EU countries.

- Population in the RS (October 2021)
- Population in the Republic of Slovenia: 2,108,708
- Number of citizens of the Republic of Slovenia: 1,937,250
- Foreign nationals: 171.458
- In December 2021, there were approximately 916,800 people in employment in the RS, with an average age of 43.3 years.
- 71,396 persons are in employment in the health and social work sector, of whom 69,165 are in employment.
- In the HEALTH activity 47,924 persons are in employment and 46,106 persons are employed.
- 15 434 persons in employment in SOCIAL WELFARE WITH ACCOMMODATION
- 8,038 persons in employment in SOCIAL WELFARE ACTIVITIES WITHOUT ACCOMMODATION
- **Labor force FOREIGN CITIZENS:**
- 2,270 people are in employment in the health and social care sector, of whom 1,815 are women.
- 1,766 third-country nationals in employment in the field of health and social care, of whom 1,553 are women
- 594 foreign nationals in employment in the field of health and social protection EU, of which 362 women.
- Average gross salary in the RS for Dec. 2021 is €2,064.12; the average net salary in the RS is €1,336.82.
- The average net salary in the Health and Social Protection sector for November 2021 was EUR 1,382.37.
- The average net salary in the social protection and accommodation sector for November 2021 was EUR 1,014.69.
- The average net salary in the social protection sector without accommodation for November 2021 was EUR 1 094,99

Source: SURS

### Macroeconomic conditions and other impacts

Despite various constraints, macroeconomic conditions have improved in 2021 compared to 2020. The euro area economy grew by 5.1% in real terms, while in Slovenia it grew by 6.1%. Labour market indicators have also improved, with employment growth of 0.8% in 2021 and a reduction in the number of unemployed by just under 20 000. Average gross monthly earnings also rose in 2021. The average gross salary in 2021 is around €1,969. The minimum wage has also risen, from €1,024.24 in 2021 to €1,074.43 in 2022.



### **Employers' forecast for the Slovenian labor market for the first half of 2022**

52% of employers expect problems finding staff in the future. Hospitality and health and social work activities are characterized by the highest share of employers who expect difficulties in finding staff in the future. In these activities, more than 70% of employers predict that they will have problems finding staff.

Lack of adequate staff most often led to overtime, which was used in 47.1% of cases by employers with recruitment problems. Overtime work is most often used in health and social work activities and public administration, defense, compulsory social security activities.

IMAD's Autumn Forecast of Economic Trends for the Next Two Years envisages continued decline in unemployment and continued economic growth, which, together with demographic factors in the aging population (Smaller generations of young people entering the labor market do not replace larger generations of retired workers) will increase the shortage of adequate labor.

Source: Employment Forecast 2021 / II, Employment Service of Slovenia

### **Occupational barometer 2021**

Results of the Occupational Barometer 2021 survey of the Employment Service of Slovenia predict a shortage of staff for many professions in health care, information technology, education, construction, transport and catering next year. There will also be a deficit for the following professions: Nursing professionals, Nurses in institutions, Health and social care professions, Social work and counseling experts, Specialists in the education of people with special needs, Health professionals.

Source: Occupational Barometer 2021, Employment Service of Slovenia

Twice a year, the Institute conducts a survey among employers with 10 or more employees EMPLOYEE FORECAST, the purpose of which is to obtain an estimate of trends in demand for products or services of employers, insight into short-term employment plans and possible current and projected future staffing problems. The latest survey provides employers with their forecasts for the second half of this year. The survey results show that, on average, 36.5% of employers have faced a shortage of suitable staff in the past six months. Health and social care employers face the most acute shortages (compared to other activities), with 52.5% experiencing difficulties in finding workers. Employers in this sector add that the shortage of workers is mainly reflected in the lengthening of recruitment procedures and the need for employees to work overtime.

In the first ten months of 2021, employers from the health and social care activities published 14,232 vacancies at the Employment Service of Slovenia (hereinafter: the Employment Service). Compared to the same period last year, employers in health and social work at the Employment Service announced 6.5% more vacancies. This demand represents 11% of the total number of vacancies reported by employers to the Service in this period 2021. As a rule, employers who are looking for workers for lower-paid jobs, which are characterized by unfavorable working hours and jobs that are physically demanding, have the greatest difficulties in finding workers. Employers also have difficulty finding workers for jobs that require specific skills from candidates. The Service notes that jobseekers who have been trained to work in health care or have work experience in health care, while improving the offer of employers in other activities, often decide to change their career path and look for work in other activities. Thus, in recent years, about half of the unemployed persons who were educated or had experience in nursing and left the Employment Service due to employment, were employed in other activities, mainly in manufacturing, trade, catering, etc. Suitable candidates are easier to find in employers in health care, where e.g. there is no night work or harder work in nursing. For the same reason, there are also transfers of employees within the health care system. In the health and social work sector, the number of people in employment is growing above average. From August 2011 to August 2021, the total number of persons in employment in Slovenia increased by 9.6%, while in health and social work activities it increased by 29.4%. For several years now, health care professions have been among the deficit professions in other European countries, which are also solving the labor shortage by employing foreigners. **Employment opportunities for foreigners from "third countries" are limited in this activity, mainly due to the regulation of sectoral legislation determining the conditions for employment in the field of health and care and language skills.** This is also confirmed by the data of the Statistical Office. In August 2021, 2,142 non-Slovenian citizens were employed in health and social security, of which 492 were from EU Member States and 1,650 from third countries. In total, they represented 3.0% of employees in the activity, and in all activities the share of foreigners among employees already exceeded 10%. The institute believes that the amount of doctors' salaries does not deter them from employment (average gross salary above EUR 5,100), otherwise nurses with an average gross salary slightly above EUR 2,000 to 2,402. It is even worse with paramedics. Their average gross salary of €1,579 is not sufficiently stimulating, given the conditions and complexity of the work, the hours, the



night work and the responsibility, compared to the salaries of various machine operators earning €1,580, telephone sales assistants (€1,553), cashiers (€1,498) and sales assistants (€1,281). They prefer to work in other occupations for slightly lower salaries.

**Results of a survey carried out in January 2022 among third-country nationals/foreigners working in the health and social care sector:** 66 people participated, of which 3 were male; 42% with citizenship of the Republic of Serbia; 45% with citizenship of Bosnia and Herzegovina; 13% with citizenship of the Republic of Macedonia; All respondents have arranged work or uniform permits for work and residence and work or are employed in the Republic of Slovenia and have a European health insurance card. Age structure: 17% of respondents are less than 30 years old; 56% of participants are over 30 and under 50 years old; 27% of participants are over 50 years old. All respondents indicated Slovenia as their country of employment. None of the respondents have obtained a Vander elst visa, which indicates that they do not intend to provide services abroad. The regulations on the employment and work of foreigners in the Republic of Slovenia allow foreigners to work only for which they have obtained a work permit and only for the employer who has obtained the work permit. The sanctions for possible infringements include heavy fines ranging from €500 to €30,000, as well as the possibility of the offender being banned from employment and work for a period of 2 to 5 years. All respondents indicated that they only have an employment contract. This suggests that they work for only one employer and do not have additional work contracts. Also, no one agreed to take care of two people in one household. In terms of the gender of the respondents, there is a strong female predominance in the care sector. Two female caregivers of older people also participated in the survey. Sara M. works as a self-employed person in the surroundings of Maribor, caring for a large number of mainly elderly and infirm people. Her working day starts at 7 a.m., when she visits the first immobile client and carries out a complete personal care and feeding. Services include washing/personal care, changing, feeding, massage, company, medication, home care, doctor's appointments,...In a full day, 4 to 5 clients are cared for in their own home. Some clients are also cared for in nursing homes. As a rule, it's low-paid work. Some elderly people have low pensions, so they stay at home regardless of their actual needs, and it is also very difficult to get a vacancy in care homes because of the occupancy rates. Sara M. finishes work in the evening and, due to the nature of her work, cannot work a normal working day. Due to the difficult working conditions (including physically demanding) and the low pay, she is considering a job in neighbouring Austria. Katja V. is employed as a maternity nurse in Ljubljana. She visits and caters to clients on a daily basis according to a schedule and a pre-arranged schedule. During her work, she meets many elderly people who would need constant care, but due to the lack of caregivers they are left to themselves or have only the most necessary basic care. A large number of her colleagues have already left her workplace to find jobs in other professions and activities that are not as responsible as working in health and social care. Katja also pointed out the necessity of a good knowledge of the language, as practice shows that adequate communication in care activities is of utmost importance, not only from a professional point of view, but also from a social point of view. Despite the low pay and the great responsibility, she loves her job and would not change it. She has also never considered working abroad. The focus group exchanged views and opinions on the current situation of third-country nationals working in the health and social care sector and highlighted the outstanding issues that society needs to address in order to improve the situation in long-term care.

**Greta Metka Barbo Škerbinc** (Member of the Administrative Commission for the Coordination of Social Security during the Slovenian EU Presidency in the second half of 2021) presented employee mobility from a social security perspective:

Services are free between EU countries. A Slovenian company providing services in EU countries does not need work permits for posted workers (but it must arrange registration of workers, notification of activities if regulated, obtain a Vander Elst visa, etc.) Form A1 for posted workers (ZZZS), the conditions are laid down in the Law on Labour Relations. The employer and the worker must sign an employment contract in accordance with the Labour Relations Act. Under Slovenian labour law, the employment contract must also contain provisions on: the duration of the work abroad, public holidays and days off work, the minimum annual leave, the amount of the salary and the currency in which it is paid, supplementary insurance for medical services abroad, and other benefits in cash or in kind, to which workers are entitled during the period of work abroad, the manner in which rights in respect of remuneration for work and other benefits which, in accordance with the legislation of the country in which the work is carried out, are otherwise provided and exercised, but at least to the same extent as provided for in this Act, or, more favourably, the conditions for returning to Slovenia. When you stop working abroad, your employer must ensure your return to Slovenia. Rights to work



and employment in the country of work - Posting Directives: Directive 96/1 concerning the posting of workers in the framework of the provision of services, Directive 2014/67 on the enforcement of Directive 96/71, Directive 2018/957 amending Directive 96/71, Transport Directive 2020/1057.

Freedom to provide services is one of the 4 cornerstones of the EU's internal market. Freedom to provide services means the right of companies established in one EU Member State to provide services in another Member State and, to that end, the right to send their workers (whatever their nationality) temporarily to carry out the work needed to provide the service in other Member States. **If you are posted, you remain employed in the first country and continue to be subject to the social security legislation of the first country.** This is set out in EU social security coordination rules Regulation 883/2004, implementing Regulation 987/2009 and Regulation 1231/2010, Decision A2 of the Administrative Commission for the Coordination of Social Security. A Slovenian company wishing to provide services must obtain a PD A1 certificate from the Health Insurance Fund (ZZS), which is harmonised at EU level and proves that the worker remains covered by compulsory social insurance in the Republic of Slovenia for the duration of the posting. Posted workers who are nationals of 3 countries can provide cross-border services in other Member States on the basis of a valid single residence and work permit.

#### National requirements in the countries of work:

Most countries require posted workers to be registered, usually through online services. e.g. in Slovenia: to register the provision of a service, the registration information must be submitted via the ZRSZ website before the work starts. Procedures vary from country to country. Each country has its own Liaison Office. **Third-country postings:** posting in accordance with the legislation of the country of work (in RS - ZčMS, ZZSDT and the social agreement concluded)

If there is a social agreement between the country of posting and the RS, the legislation of the country of posting applies to the compulsory social security cover for the period of posting. After the end of the posting/extension period - the legislation of the country of employment. If no agreement is reached - inclusion in compulsory social insurance in accordance with the legislation of the country of work. Source: G M Barbo Škerbinc

#### Work permits issued for selected professions, 2015-2021

##### all activities

Occupational group/occupation	2015	2016	2017	2018	2019	2020	2021
2211 Specialist general practitioners	32	6	3	1			
2212 Specialist doctors (except general practitioners)	41	11	7	3			1
2221 Nursing specialists	3					1	
3221 Nursing assistants	1			1	2		1
5321 Hospital attendants in institutions				3	4	5	
5322 Home health and social care occupations	2			2	10	4	4
5329 Occupations for health and social care, etc., d. n.					1		
9112.04 Hospital porter				3	9	7	7

##### Q Health and social work

Occupational group/occupation	2015	2016	2017	2018	2019	2020	2021
2211 Specialist general practitioners	28	5	3	1			
2212 Specialist doctors (except general practitioners)	32	10	6	3			1
2221 Nursing specialists						1	
3221 Nursing professionals				1	2		1
5321 Hospital attendants in institutions				3	4	5	



5322 Home health and social care occupations	2	3	3	1
9112.04 Hospital porter	1	9	7	4

### Q86 Healthcare

Occupational group/occupation	2015	2016	2017	2018	2019	2020	2021
2211 Specialist general practitioners	28	5	3	1			
2212 Specialist doctors (except general practitioners)	32	10	6	3			1
2221 Nursing specialists						1	
3221 Nursing professionals				1			
5321 Hospital attendants in institutions						5	
5322 Home health and social care occupations							1
9112.04 Hospital porter						1	1

### Q87 Social care with accommodation

Occupational group/occupation	2015	2016	2017	2018	2019	2020	2021
3221 Nursing professionals					2		1
5321 Hospital attendants in institutions				3	4		
5322 Home health and social care occupations				2	3		
9112.04 Hospital porter				1	9	6	3

### Q88 Social care without accommodation

Occupational group/occupation	2015	2016	2017	2018	2019	2020	2021
5322 Home health and social care occupations						3	

### Work permits issued for selected occupations by nationality, 2015-2021

#### all activities

Nationality	Occupational group/occupation							
	2211	2212	2221	3221	5321	5322	5329	9112.04
BELARUS	1							
BOSNIA AND HERZEGOVINA	5	4		2	11	19	1	25
BRAZIL		1						
CROATIA	13	30		1	1			
UNCLASSIFIED						1		
RUSSIAN FEDERATION	1							
NORTHERN MACEDONIA	2	2	1					
SERBIA	20	26	3	2		2		1
<b>Total</b>	<b>42</b>	<b>63</b>	<b>4</b>	<b>5</b>	<b>12</b>	<b>22</b>	<b>1</b>	<b>26</b>





## Consents issued for selected professions, 2015-2021

### all activities

Occupational group/occupation	2015	2016	2017	2018	2019	2020	2021
2211 Specialist general practitioners	3	33	24	23	20	20	27
2212 Specialist doctors (except general practitioners)	6	15	16	12	27	18	22
2221 Nursing specialists			1	3	3	1	3
3221 Nursing professionals			1	7	10	8	11
5321 Hospital attendants in institutions				1	4	7	8
5322 Home health and social care occupations		2	1	2	8	5	5
9112.04 Hospital porter				3	5	8	7

### Q Health and social care

Occupational group/occupation	2015	2016	2017	2018	2019	2020	2021
2211 Specialist general practitioners	3	33	19	15	16	17	25
2212 Specialist doctors (except general practitioners)	5	11	11	11	22	15	21
2221 Nursing specialists				1	2	1	2
3221 Nursing professionals			1	7	9	8	9
5321 Hospital attendants in institutions				1	3	7	7
5322 Home health and social care occupations				1	5	4	2
9112.04 Hospital porter				3	4	5	6

### Q86 Healthcare

Occupational group/occupation	2015	2016	2017	2018	2019	2020	2021
2211 Specialist general practitioners	3	33	19	15	16	17	25
2212 Specialist doctors (except general practitioners)	5	11	11	11	22	15	21
2221 Nursing specialists				1	1		
3221 Nursing professionals			1	7	8	7	6
5321 Hospital attendants in institutions						1	

### Q87 Social care with accommodation

Occupational group/occupation	2015	2016	2017	2018	2019	2020	2021
2221 Nursing specialists					1	1	2
3221 Nursing professionals					1	1	3
5321 Hospital attendants in institutions				1	3	6	7
5322 Home health and social care occupations					3	3	2
9112.04 Hospital porter				3	4	5	6

### Q88 Social care without accommodation



Occupational group/occupation	2015	2016	2017	2018	2019	2020	2021
5322 Home health and social care occupations				1	2	1	

### Consents issued for selected professions by nationality, 2015-2021

#### all activities

Nationality	Occupational group/occupation						
	2211	2212	2221	3221	5321	5322	9112.04
BOSNIA AND HERZEGOVINA	24	21	3	8	7	9	10
MONTENEGRO	15	7					
CHINA	2						
KOSOVO				1			
REPUBLIC OF MOLDOVA							
RUSSIAN FEDERATION	9	1					1
NORTHERN MACEDONIA	40	5		2	2	8	
SERBIA	59	80	8	26	8	6	9
UKRAINA	1	2			3		3
<b>Total</b>	<b>150</b>	<b>116</b>	<b>11</b>	<b>37</b>	<b>20</b>	<b>23</b>	<b>23</b>

Source: ZRSZ

## 6. Conclusions

**Two hypotheses were assumed at the starting point of the research:**

**Hypothesis: The lack of a suitable workforce results in an increase in the number of workers from third countries.**

**Hypothesis: The number of third-country workers is also the result of low demands on working conditions and pay by third-country workers. Both hypotheses are also confirmed in the research, which is confirmed by the data below.**

The ZRSZ data show that the number of workers from third countries has been growing rapidly in recent years, as a result of the shortage of domestic labor as well as the result of poor employment and employment opportunities in the countries of origin. Third-country nationals' employment contracts submitted when applying for work permits and ED consents usually state only the legal minimum wage. This implies that they are willing to accept lower paid work and to work under more difficult conditions than the national workforce.

#### Table: Work permits and consents issued

	2021	2020	2019
Consents (ZZSDT) and refusals	27.969	24.867	29.702
International agreement with Serbia	3.166	1.756	428
Work permits under the international agreement with BIH	20.572	13.131	15.733
Other work permits	574		
<b>Total</b>	<b>52.281</b>	<b>36.511</b>	<b>43.447</b>

In 2021, a total of 52,281 applications for work permits and consents for a single permit were processed, which represents a 25% increase in applications compared to the previous year and 8.6% more than in 2019, when we recorded the highest employment of foreigners in Slovenia. 24,312 decisions on work permits and 27,969 decisions on consent to a single permit (52,281 in total) were issued, of which 46,264 were positive decisions and 6,017 were rejected. The largest number of work permits and single permit consents were issued for



construction 16,261 DD/SED (bricklayers, carpenters, construction labourers), manufacturing 7,102 DD/SED (welders, locksmiths, electro-mechanics), transport and storage 4,009 DD/SED (transport...). According to the citizenship of the workers for whom consents and work permits were issued last year, the predominant workers are from Bosnia and Herzegovina and Serbia, 12,503 workers from Kosovo last year and 2,728 from Northern Macedonia. Of the non-SFRY countries, the highest number of consents to a single permit was issued to citizens of Russia, Ukraine and China.

**The starting point of the research was the hypothesis: The care sector is dominated by the gray economy and undeclared work (seemingly self-employed caregivers, direct employment in families of caregivers, civil contracts with health care providers ...). In the following, the data partially support the hypothesis, but it has not been confirmed by the supervisory authorities.**

In the period 2015-2021, in contrast to other activities (construction, transport and transport, manufacturing...) **the number of work permits and consents to single permits issued to third-country workers in the health and social work sectors was relatively low.** There are several reasons, but we highlight the demanding legal conditions for obtaining permits in this activity (These are predominantly regulated professions, and third-country nationals most often point out the legally prescribed condition for a high level of knowledge and understanding of the Slovene language for almost all professions in health care and social care as an obstacle.) It involves demanding and responsible working conditions, low pay and unfavourable working hours, including night, weekend and holiday work, work that requires a lot of sacrifice and is not family-friendly because of the working hours. Given the proximity of Austria and Italy, where pay for work in care services is significantly higher, both domestic and third-country labor force prefer to work abroad.

Labour shortages are also pronounced in the social protection and health sectors. In both areas, there is a shortage of adequate labour, particularly for care professions, which are poorly paid and very demanding in terms of working conditions. Mainly due to low pay and demanding working conditions, nursing staff also fluctuate in other professions (jobs) or are employed abroad (where the needs for this type of workforce are also high, but the pay is higher). This is also pointed out by many organizations in the field of home help, nursing homes and hospitals. In the areas of social protection, health care and long-term care, services should be expanded in terms of the needs of the population, but labor shortages are and will be a major obstacle to their expansion.

SOURCE: Institute of the Republic of Slovenia for Social Welfare

International labor mobility and migration are becoming increasingly important for a large number of areas and for many stakeholders. Around one in eight nurses work in a country where they were not born or educated. Reliance on a workforce of foreign-born or foreign-educated nurses is 15 times higher in high-income countries than in countries in other income categories. The same is true for midwives, as reliance on foreign-born or foreign-educated midwives was lower in low- and low- to middle-income countries. Smaller developing countries may have great difficulty in retaining health workers who can earn more in better-off neighbouring countries.

Source: Global Strategic Directions for Nursing and Midwifery 2021-2025, Slovenian Chamber of Nursing and Midwifery

#### **Employment and working conditions of migrants in the health and social care sectors:**

Migrant workers' employment conditions depend on their migratory status (regular migrant status, asylum-seeker, refugee, no regular status - undeclared work, temporary migrant work, etc.). The motives for choosing to work in the care sector as a posted worker are several: higher pay than in the country of origin and the sending country, better working conditions and career opportunities, better education opportunities, better access to the health system, ...).

#### **7. Challenges and problems for posted workers from third countries**

The posting of third-country nationals from neighbouring countries reveals many vulnerabilities of transnational workers. This is also evident from the content and number of IMI requests received by the RS State from the supervisory authorities of other EU Member States, which generally relate to infringements by employers or service providers of posted workers. The complexity of migration, the functioning of the labour market and the operation of social security systems and EU rules on posting have exposed third-country workers to a number of inequalities that require the reinforcement of preventive and control measures at national and EU level. Posting, as a form of transnational service provision, poses a challenge for both the workers and the countries involved. Unequal conditions can lead to exploitation of posted workers, especially if



they are third-country nationals and the situation in their country of origin is even worse than in Slovenia or other EU countries. The practice of posting can be beneficial for companies looking for flexible and relatively cheaper labour, but if it goes wrong, it can lead to deepening inequalities between workers. This can lead to poorer working conditions and lower social standards in the countries of posting and deployment. The most important attraction factors are the relatively better job opportunities, better pay and better working conditions in rich European countries than in countries of origin. In the case of Slovenia, attraction factors included historical ties, geographical proximity and simplified immigration procedures, and e.g. poor economic conditions and high unemployment in the countries of origin (BIH, Kosovo, Serbia, Macedonia). Slovenia has concluded bilateral agreements with Bosnia and Herzegovina and the Republic of Serbia, which allow nationals of both countries to be employed under simplified procedures and for workers to obtain work permits for 3 years. During the first year of employment, they are tied to the employer who obtained the DD. After one year of employment, they have free access to the labour market. The largest share of third-country nationals posted to Austria comes from Bosnia and Herzegovina. Most of them were from the Western Balkans - Bosnia and Herzegovina, Serbia, North Macedonia and Kosovo. Between 3,100 and 38,000 Bosnia and Herzegovina nationals have been posted to Austria annually in the period up to 2019. The majority of these were posted by companies registered in Slovenia.

The figures below show an increase in the number of third-country nationals living in Austria. The RS is also on the list, as many workers from the RS also work in Austria.

Population at the beginning of the year 2002-2022 by detailed citizenship.

STATISTIK AUSTRIA, Statistics on the state of the population. Created on 15.02.2022. - \*) Vorläufige Ergebnisse.

Nationality	2019	2020	2021	2022
All				<b>8.979.894</b>
Austria				<b>7.392.643</b>
Slovenia	20.168	21.441	22.280	22.912
Bosnia and Herzegovina	95.839	96.583	96.990	97.386
Serbia	121.348	122.115	121.990	121.734
Kosovo	25.549	26.032	26.339	26.848

## 8. Good practices and recommendations

Posted workers must have access to transparent and clear information about their rights. Workers must be informed of minimum wages and allowances and of possible legal action against the employer or service provider. The Directive on the enforcement of the Posting Directive 96/71/EC (2014/67/EU) requires Member States to set up multilingual websites with information on posting procedures and the rights of posted workers. Awareness-raising needs to be stepped up to prevent potentially exploitative practices.

Cooperation between supervisory authorities, and between supervisory authorities and social security providers in third countries, countries of posting, should be improved and procedures relating to regular migration of third-country nationals should be improved. Changes to the conditions for obtaining a work permit in countries such as Slovenia could allow workers to be more independent from their employers. Simplified immigration procedures in countries such as Austria could help to reduce irregularities in the posting of third-country nationals. Direct employment in the countries where they want to work gives them legal protection and ensures their inclusion in the social protection system. Simplifying procedures would limit the activities of intermediaries and consequently reduce workers' vulnerability. Regular employment would mean that social security contributions are paid in the country of employment, reducing unfair competition and financial pressure on welfare state policies.

**The Long-term Strategy for a Livable Society (UMAR) sets out the following orientations and recommendations:**

- encouraging longer work activity
- providing opportunities for greater participation in the labour market, especially for older and younger people;
- reducing disparities between supply and demand in the labor market, promoting immigration due to employment and reducing disparities in the labor market;
- creating conditions for reducing the emigration of Slovenian citizens;
- providing opportunities for the integration of foreigners;



- Increased support for the development of public-private partnerships and private partnerships which, with appropriate regulation and oversight, can successfully meet part of the growing needs in health and long-term care;
- greater support for the work of NGOs and associations working in the field of health and long-term care, partly supported by public and partly by European funds;
- developing formal and non-formal training programmes for social services, working with the elderly;
- optimising health care, in particular through health promotion and strengthening the primary level, and developing new ways of monitoring patients' health status through ICTs;
- establishing an effective system of long-term care that will promote independent living at home (in community forms) also for the socially weaker, prevent the deterioration of the health and disabilities of recipients and their premature institutionalisation;
- more support for informal caregivers and their integration into the long-term care system;
- encouraging local authorities to provide programmes and services to meet long-term care needs at home;
- ensuring a sufficient supply of staff and a better gender balance in long-term care (migration and activation of older people)

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