Chapter 26

Migrants' Access to Social Protection in Slovenia

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26.1 Overview of the Welfare System and Main Migration Features in Slovenia

This chapter discusses the key characteristics of the Slovenian welfare system grounded in the continental archetype of corporatist, contribution-funded¹ Bismarckian social insurance, reflecting the country's Austro-Hungarian heritage, with a subsidiary tax-funded social assistance scheme firmly in place. The social security (insurance) scheme is grounded in the notion of gainful employment, therefore as a rule guaranteeing social protection regardless of one's nationality or residence status. Access to the labour market, the main gateway to social insurance inclusion or coverage, can however be limited. The social assistance scheme is based on the notion of communal or long-term territorial affiliation (Slovenian citizenship, permanent residence or permanent residence permit for foreigners).

¹All branches of social insurance are financed by contributions paid by the employees and the employers. All employees pay the same amount of contributions (in proportion to their wages/salaries), regardless of type of employment (e.g. wage earners, civil servants). The state budget covers the difference between the expenses and revenue of individual social insurance carriers. The financing of social insurance is regulated by the Social Security Contributions Act (*Zakon o prispevkih za socialno varnost – ZPSV*), Official Gazette of the RS, No. 5/96, last amended in 2014, with special provisions found in sectoral legislation.

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26.1.1 *Main Characteristics of the National Social Security System*

Article 2 of the Constitution of the Republic of Slovenia² establishes Slovenia as a state governed by the rule of law and a social state (see also Strban 2017). The social state principle is considered a binding legal principle in regard to the rule-making, decision-making and administrative or executive powers of state bodies. The inclusion of both constitutional principles in a single provision establishes Slovenia as a normative social state (Strban 2012a/1). All other articles of the Constitution concerning social security originate from the social state principle (Kresal et al. 2016).

Article 50 of the Constitution stipulates the right to social security, although the constitutional content of the right is difficult to determine (Kresal et al. 2016, 28):

- Citizens have the right to social security, including the right to a pension, under conditions provided by the law.
- The state shall regulate compulsory health, pension, disability and other social insurance, and shall ensure its proper functioning.
- Special protection in accordance with the law shall be guaranteed to war veterans and victims of war.

The content of the right to social security is rather open, with possibly no direct correlation between the constitutional provisions and concrete rights stemming from the social security system. Therefore, the right has to be further determined fore and foremost by the general legislator, bound to stipulate individual rights and obligations of insured persons and other beneficiaries (Strban 2016a/1).

From Article 50, also taking into account the case-law of the Slovenian Constitutional Court, several relevant conclusions can be derived. First, according to the plain meaning rule, only Slovenian citizens enjoy the right to social security. However, the provision ought to be interpreted in line with international human rights documents and social security conventions. The theological interpretation significantly broadens the scope of the provision. The Slovenian social security system, grounded in the notion of professional, functionally decentralized social insurance (Strban and Mišič 2018; Mišič 2019), as a rule guarantees coverage to all gainfully employed persons in the territory of Slovenia.

Second, there exists no *numerus clausus* of social insurance branches, according to the Constitution. The Slovenian social insurance system is established in regards to the traditional social risks stipulated in the ILO Convention No. 102, and consists of compulsory health, pension, disability, unemployment, and parental insurance, with the legislator authorized by the Constitution to regulate additional branches, e.g. long-term care insurance. The introduction of a new branch of insurance does not require for a Constitutional amendment. The system currently lacks a structured, unified approach to long-term care and personal assistance both in legislation and

²Constitution of the Republic of Slovenia (*Ustava Republike Slovenije – URS*) Official Gazette of the RS, No. 33/91-I, last amended in 2016.

practice, with benefits in kind and cash dispersed between different branches of social insurance and the social assistance scheme (Strban 2012b/2, 2018a/1).³

Third, the Constitution explicitly refers to social and not to other types of insurance or social security schemes. Any substitution of professional insurance with a residence-based scheme or private insurance would therefore require a Constitutional amendment. Compulsory health insurance, providing coverage to almost all Slovenian nationals and permanent residents, has however transgressed its professional roots, mimicking in regards to the personal scope of application (coverage) a residence-based scheme. As other branches of social insurance, health insurance is however implemented in a functionally decentralized system, with secondary legislative, financing and administrative functions reserved primarily for the social insurance carrier. Articles 51 and 52 of the Constitution stipulate the right to health care (from public funds) and rights of disabled persons. Special protection is awarded to family and children in accordance with Article 53 and 56.

26.1.2 *Migration History and Key Policy Developments*

Recent immigration flows can be divided into four time periods. First, the period until 1991 with predominant immigration of migrant workers from other Yugoslav countries. Second, the period from the early until late 1990s with mass immigration of refugees from Bosnia and Herzegovina. Third, the period between 1999 and 2004 with mass irregular immigration, and fourth, the period after 2004, when Slovenia became a EU Member State (Kogovšek Šalamon 2018). As highlighted in the 2009 Annual Report on Migration and International Protection Statistics, Slovenia was for the first time faced with migration policy development and implementation in 1991, after it has reached independence. From 2002, the country witnessed a steady increase in net migration from abroad. In 2002, Slovenia received 9134 immigrants from abroad, with 7269 emigrants leaving the country. In 2004, the numbers increased to 10,171 and 8269, reaching 30,296 immigrants (of whom 27,393 were foreigners and 2903 Slovenian citizens) and 18,788 emigrants in 2009. The emigration peak (6500 more emigrants than in 2008) can be ascribed to the developing economic crisis.⁴

In 2009, most immigrants were citizens of Bosnia and Herzegovina (47%), followed by citizens of Kosovo (13,1%), before 2009 considered as citizens of Serbia, leading to a decrease in the number of immigrants from Serbia (2900 in 2009). 1881 individuals immigrated from other EU Member States, with Bulgaria, Italy and

³ Personal Assistance Act (*Zakon o osebni asistenci* – ZOA), Official Gazette RS, No. 10/2017, last amended in 2018, does not regulate long-term care insurance.

⁴ Concerning the emigration of Slovenian nationals, it should be noted that relatively large Slovenian communities exist in the US, in Argentina and Australia, with concluded bilateral social security agreements following a once lively current of emigration. Slovenia has also concluded a social security agreement with Canada and the US.

Slovakia representing top three EU countries of origin. In 2009, 1442 individuals arrived from the neighbouring Croatia, then not yet an EU Member State. In 2010, the population of Slovenia (usual residence criteria) reached 2,046,976 persons, with 4626 EU nationals, 16,940 persons from candidate countries, 60,518 from third countries and only 92 from EFTA member countries (2009 Annual Report on Migration and International Protection Statistics).

A similar trend can be observed throughout the following years, with citizens of Bosnia and Herzegovina (4369; 4861; 6330), Serbia (1331; 1874; 2399) and Kosovo (1555; 1612; 1, 397) representing top three nationalities in regard to first residence permits issued between 2014 and 2016, followed by FYROM and Russia. The majority of residence permits were issued on grounds of gainful employment (European Migration Network 2017). Economically conditioned migration to Slovenia is by nature followed by family reunification.

According to the report issued by the national Migration Office, on the 31st of December 2017, 80,482 permanent residence permits were issued to third-country nationals, whilst 11,150 permits were issued to EU, EEA and Swiss nationals. 43,984 permanent residence permits were issued to citizens of Bosnia and Herzegovina (22,721 temporary residence permits issued), 13,530 to citizens of Kosovo (4457 temporary residence permits issued), 7750 to citizens of Serbia (7443 temporary residence issued), followed by FYROM (9477; 3449), Russia (858; 2165) and Ukraine (1216; 1116). The majority of EU nationals holding a permanent or temporary residence permit in 2017 originated from Croatia, Bulgaria, Italy, Germany, Hungary, Slovakia, Romania, the UK, Austria and Poland. 11,387 permits were held by Croatian, 4670 by Bulgarian, and 3094 by Italian citizens.

Hence, for the past 15 years, the majority of persons who migrated to Slovenia originated from Bosnia and Herzegovina, Serbia, Kosovo, Macedonia and Croatia. In simplified terms, the reasons for the ongoing migration inflows, of course going back further than the analysed 15 years, can be traced back to the countries' common Yugoslav history, tradition and cultural heritage, dating back to the disintegration of the Austro-Hungarian Empire after the First World War. It is as a rule enhanced by common language group affiliation or linguistic similarities (Slovene, Serbian, Croatian), traditional communities of nationals from former Yugoslav countries and their Slovenian descendants residing in Slovenia, and the sheer proximity of countries, with no major geographical barriers to separate the once united nations.

Migration inflows are (also historically) driven by (male) jobseekers, seeking gainful employment in the by far most developed Balkan country.⁵ The inflow is however not only of key importance for migrant (and posted) workers and their families, coming from socially and economically less developed countries in Slovenia's South-Eastern proximity, but also for the somewhat rigid Slovenian labour market, commonly experiencing shortages of workers in the construction

⁵In 2017, Slovenia reached 85% of the average GDP per capita in PPS (purchasing power standard) in (then) EU 28, whilst Croatia only reached 62%. Bosnia reached an average of 32%, Serbia of 36%, FYROM of 36% and Montenegro an average of 46%. Source: Eurostat.

sector, particular branches of the industry or particular professionals, e.g. graduate nurses. The labour market is also strongly affected by posting. High absolute and even higher relative numbers (in regard to the number of inhabitants) of workers posted from Slovenia to other EU Member States (see De Wispelaere and Pacolet 2017), can be considered one of its key features, to which large numbers of frontier workers can be added (e.g. daily migrants working in Austria or Italy). According to the Statistical Office's data for 2018,⁶ Slovenia's economy (import and export of goods) is most strongly interlinked with the economies of EU Member States, with EU 28 export making up 76,5% of all export and EU 28 import making up 79,8% of all import.

26.2 Migration and Social Protection in Slovenia

In order to enjoy coverage in compulsory social insurance schemes, Slovenian citizenship or residence status is as a rule not required. It is a requirement for particular types of insured persons, e.g. social assistance recipients or persons insured on grounds of special provisions such as war veterans. The personal scope of application (coverage) applies to the active working population of Slovenia, i.e. persons gainfully employed in Slovenia (Kresal et al. 2016).

Gainful employment represents the core insurance basis in all social insurance branches, irrespective of one's nationality or residence status (permanent, temporary, registered, habitual or usual, factual residence, etc.). Article 8 of the Employment, Self-employment and Work of Foreigners Act⁷ stipulates compulsory inclusion for foreigners in accordance with (general) provisions. Special conditions however apply to non-EU foreigners, who first have to obtain a working permit in order to exercise gainful employment leading to the *ex lege* conclusion of any compulsory social insurance,⁸ a feature as a rule typical for every professional or employment-based type of insurance.

The single permit (single residence and work permit) allows third-country nationals to enter the Republic of Slovenia in order to search for residence and employment. The permit, for which persons apply at the administrative unit, diplomatic or consular office in their country of origin, requires an approval to the permit obtained from the Slovenian employment services. As a result of transposed EU Directives, it is granted in regard to employment, self-employment and work,

⁶Statistical Office of the Republic of Slovenia. <https://www.stat.si/StatWeb/en/News/Index/7715>. Accessed 11 Feb 2019

⁷*Zakon o zaposlovanju, samozaposlovanju in delu tujcev* – ZZSDT, Official Gazette of the RS, No. 1/18.

⁸After compulsory social insurance has been *ex lege* concluded (pension and disability and unemployment insurance offer voluntary inclusion in regards to particular statuses) any limitations, such as the requirement to hold permanent residence in Slovenia in order the access benefits in cash or in kind, would present a breach of the right to private property.

posting, EU Blue Card, seasonal work, work performed by an agent, etc., with different conditions applying to different economic activities.

It is important to note that the transitional period, in which full access for Croatian workers (as EU nationals) to the labour market was not yet granted, has not been prolonged back in 2019. On grounds of bilateral agreements, access to the labour market is (administratively) facilitated for Bosnian and Serbian workers and Macedonian seasonal workers. No particular provisions apply for workers from Kosovo or Montenegro. Slovenia has also not yet concluded a bilateral social security agreement with Kosovo.

Free access to the labour market, accompanied by EU rules on social security coordination, is granted to EU, EEA and Swiss nationals. The tax-funded social assistance scheme however requires the existence of a relevant link between the beneficiary and the state or a sufficient level of one's societal integration, i.e. the fulfilment of permanent residence conditions (see also Mišič 2018).⁹ In that sense, the Slovenian social security system fully mirrors the traditional distinction between employment (contribution) based social insurance and residence (tax) based social assistance schemes.

According to Article 33 of the Foreigners Act,¹⁰ foreigners can obtain a residence permit if possessing sufficient means – income, income support, rights from social insurance, etc., are considered in regard to the threshold. Rights from public funds and family benefits are not considered when applying for the first residence permit (as a rule valid for 1 year). According to Article 52, permanent residency is possible after 5 years of continuous residence. Social assistance benefits can also be granted to persons obtaining a special legal status, such as international protection, who are not Slovenian nationals or permanent residents.

According to Article 25 of the Pension and Disability Insurance Act,¹¹ Slovenian nationals, employed abroad, enjoy the right of voluntary pension and invalidity insurance if they were insured or held permanent residence in Slovenia prior to emigration. They however only enjoy the right if they are not insured abroad or if they enjoy coverage but cannot export their benefits. In regard to cross-border healthcare, the Healthcare and Health Insurance Act¹² stipulates three distinct legal bases. Two follow EU regulation, one however presents a “purely national” provision, allowing for medical treatment of insured persons abroad and cost reimbursement when all possible means of treatment have been exhausted in Slovenia, whilst it is reasonable to expect an improvement of patient's health with treatment obtained abroad (see Article 44.a). According to Article 7, the state budget covers costs of “necessary” treatment (urgent medical treatment and treatment preventing

⁹ According to Article 7 of Regulation (EU) 492/2011, equal treatment applies to workers, who are EU citizens.

¹⁰ *Zakon o tujcih – Ztuj-2*, Official Gazette of the RS, No. 1/18, last amended in 2019.

¹¹ *Zakon o pokojninskem in invalidskem zavarovanju – ZPIZ-2*, Official Gazette of the RS, No. 96/12, last amended in 2020.

¹² *Zakon o zdravstvenem varstvu in zdravstvenem zavarovanju – ZZZVZZ*, Official Gazette of the RS, No. 72/06, last amended in 2019.

deterioration of health) of foreigners and Slovene nationals residing abroad during their temporary stay or travel through the territory of Slovenia if no payment of services was possible. Moreover, Article 133 of the Rules on Compulsory Health Insurance¹³ stipulates the right to cost reimbursement up to the average price of the service provided in Slovenia for insured persons obtaining necessary treatment in countries, where EU law does not apply, nor has Slovenia concluded a bilateral agreement with the country of provided treatment.

26.2.1 *Unemployment*

Unemployment insurance, regulated by the Labour Market Regulation Act,¹⁴ is implemented by the Employment Service of Slovenia and comprises: (i) unemployment benefit, (ii) the right to compulsory social insurance contributions payment, and (iii) the right to pension and disability insurance contributions payment 1 year prior to the fulfilment of the minimum retirement conditions. Insurance is compulsory for all workers, regardless of their nationality or residence status. According to Article 6 of the Labour Market Regulation Act, stipulating equal treatment, same rights and obligations apply to Slovenian, EU, EEA and Swiss citizens.

According to Articles 59, 63, 8¹⁵ and 64 of the Act, unemployment benefit is granted and paid under the following conditions: (i) the individual has to be insured for at least 10 months (9 months prior to the amendment in 2019) during the 24 months period prior to unemployment or – if younger than 30 – for at least 6 months during the same period; (ii) unemployment has to be involuntary and ought not to occur on grounds of worker's fault (Article 63); (iii) the individual has to possess working capacity, register with the employment services and be willing to accept suitable employment (Article 8) and (iv) (unless otherwise stipulated by an international legal act) resides in the Republic of Slovenia in order to avoid suspension of rights (Article 64).

In accordance with the bilateral social security agreements that Slovenia has concluded with the most relevant countries of origin of foreign residents, i.e. Bosnia and Herzegovina, Serbia, Croatia (now a Member State) and FYROM, mutual recognition of facts and calculation of periods is in place (see also Strban 2018b/2 for

¹³ *Pravila obveznega zdravstvenega zavarovanja*, Official Gazette of the RS, No. 79/94, last amended in 2020.

¹⁴ *Zakon o urejanju trga dela – ZUTD*, Official Gazette of the RS, No. 80/10, last amended in 2020.

¹⁵ According to Paragraph 2 of Article 8 ZUTD, third-country nationals count as unemployed persons if they enjoy free entry to the Slovenian labour market, possess the single permit, the EU blue card, or temporary residency permit when having filed for an extension on grounds of employment or self-employment whilst being recipients of unemployment benefits. A third-country national has to – according to Article 8a ZUTD (introduced with the amendment in 2019) – showcase A1 level of Slovene language skills within 12 months of becoming registered with the unemployment office in Slovenia.

key principles commonly incorporated in social security agreements). Agreements, which are very similar to one another (in part even identical) however do not permit the export of unemployment benefits.¹⁶

Voluntarily insured persons enjoy same rights as compulsorily insured persons. The majority of voluntary insurance basis is however reserved for Slovenian citizens, e.g. nationals working abroad if they cannot claim benefits upon their return; spouses of nationals working abroad, who were employed or self-employed prior to departure, etc.

26.2.2 *Health Care*

Health insurance, regulated by the aforementioned Health Care and Health Insurance Act, is implemented by the Health Insurance Institute of Slovenia and comprises: (i) medical services at the primary, secondary and tertiary level, (ii) sickness cash benefit paid due to a private or occupational social risk realization, and (iii) travel expenses reimbursement. In case of long-term or permanent loss of working capacity, the insured person is transferred from the health to the pension and invalidity insurance scheme (Bubnov Škoberne and Strban 2010).

The benefits in-kind system is supplemented by private supplementary insurance for co-payments. Private insurance is open to every compulsorily insured person under equal conditions. The lump sum insurance premium is set regardless of one's income and risk level. Due to its claimed socially unjust nature, supplementary insurance has long been expected to become substituted with an earnings dependent public charge. An increase in contribution rates would however present the most straightforward and legally sound solution for an increase in available funds (Mišič and Strban 2017).

Social health insurance is compulsory for all employed and self-employed persons in Slovenia, employee-like persons and recipients of social security benefits. If not covered by any other insurance basis, two general clauses stipulate the insurance of all (i) permanent residents, who (are obliged to) pay their health insurance contributions, and (ii) national citizens and foreign permanent residents, who were granted the right to compulsory insurance contribution payment due to their low income. Derivative insurance of dependant family members is possible regardless of their nationality. Unless otherwise stipulated by an international agreement, permanent residence possessed by family members in Slovenia is however required.

In regard to social security coordination, concluded social security agreements as a rule also stipulate the condition of permanent residence, held by the family

¹⁶Social security agreements, concluded with FYROM, Bosnia and Herzegovina, Serbia, Macedonia and Croatia, as a rule prohibit the export of the social assistance supplement, special assistance and attendance allowance and other means-tested benefits, invalidity and unemployment cash benefits, death grants and funeral expenses reimbursements.

member in territory of the other party, in order to receive medical services at the expense of the affiliated (country of origin) social insurance carrier. Article 15 of the Health Care and Health Insurance Act also lists the insurance base for family members of insured persons, affiliated with a foreign social insurance carrier, who possess permanent residence in Slovenia and are not derivatively insured at the foreign social insurance carrier. The provision however in the first place *de facto* refers to Slovenian nationals, who are dependent family members of persons working abroad.

Regarding compulsory insurance, all gainfully employed persons are treated equally, regardless of their nationality or residence status. Emergency treatment is universal and guaranteed regardless of one's insurance or other status. The social security agreements mentioned above, concluded with the most relevant countries of origin, establish a coordination mechanism in regard to both private and occupational social risks, with special provisions applying to posted workers, retirees and family members, thus facilitating freedom of movement between both parties to the agreement.

26.2.3 Pensions

Pension and invalidity insurance, regulated by the aforementioned Pension and Disability Insurance Act, is implemented by the Pension and Invalidity Insurance Institute of Slovenia. The first, repartition-based pension pillar comprises: (i) old-age pension, (ii) early pension, (iii) partial pension, (iv) invalidity pension, (v) widow's and widower's pension, (v) family pension, and (vi) assistance and attendance allowance. It is compulsory for all employed, self-employed and employee-like persons. Recipients of particular social security benefits (such as unemployment benefits) are also insured. Voluntary insurance is possible. The first pillar also consists of compulsory occupational insurance. The second pillar consists of voluntary individual and collective supplementary insurance, offering additional income protection in regards to the first pillar. The third pillar consists of private life insurance schemes.

As with other branches of what was considered professional insurance, equal treatment applies to all gainfully employed persons. Special conditions however apply to foreigners regarding access to particular benefits, e.g. parental allowance, whose recipients also enjoy coverage within the pension and invalidity insurance. At the same time, foreigners do not enjoy equal access to voluntary insurance – the general clause for the voluntary insurance stipulates the condition of permanent residence. According to Article 25, the possibility of voluntary insurance is granted to Slovenian nationals, but not foreigners working abroad, if they were insured in Slovenia prior to their departure or possessed permanent residence in Slovenia. Voluntary insurance on grounds of covering for the difference between part-time and full-time insurance is however possible regardless of one's citizenship or residence status, since it depends on one's occupation.

As in the case of health insurance, the above listed social security agreements, establish a coordination mechanism concerning old-age, invalidity and death, thus facilitating freedom of movement between both parties. The export of benefits, predominately pensions, is their key feature.

26.2.4 Family Benefits

The broadly defined category of family benefits can be divided in two categories: (i) parental insurance benefits and (ii) family benefits, including means-tested benefits and two lump sum benefits. Both categories are regulated jointly by the Parental Protection and Family Benefits Act.¹⁷ The first part of the Act regulates the compulsory, contribution-funded social insurance scheme, consisting of maternity, paternity, and parental leave and benefits, and the right to part-time work due to child-care and contribution payment. The second part of the Act regulates means-tested lump sum benefits, provided within a tax-funded scheme, which however is not a social assistance scheme since it aims to cover the costs related to child-care and not necessarily to prevent poverty or social exclusion (Bubnov Škoberne and Strban 2010). The Act covers birth grant, child benefit, large family supplement, special child-care allowance for children requiring special care and partial compensation for the loss of income for parents providing for disabled children.

As with other branches of insurance, equal treatment applies to all gainfully employed persons. Recipients of particular social security benefits (e.g. unemployment benefits) are also insured. Voluntary insurance is, however, not possible.

Social insurance rights can be exercised regardless of one's citizenship or residence status. Every application is to be filed with the Social Work Centre competent in the territory of the insured person's permanent residence, temporary residence (if no permanent residence exists in Slovenia), the employer's headquarters (if no residence exists in Slovenia) or competent in regard to the child's place of birth. The rights to family benefits however require a particular link to exist between the parent, other person and/or child, and the state, i.e. the existence of permanent or common permanent residence, commonly complemented by the requirement of actual, factual residence, and temporary residence in Slovenia. The above-mentioned social security agreements include in their material scope: maternity leave (Croatia before joining the EU), maternity leave and child benefits (FYROM), maternity leave, paternity leave, parental leave (Serbia), and maternity leave, paternity leave, parental leave and child benefits (Bosnia and Herzegovina) (for an in-depth analysis, see also Strban 2016b/2).

¹⁷ *Zakon o starševskem varstvu in družinskih prejemkih – ZSDP-I*, Official Gazette of the Republic of Slovenia, No. 26/14, last amended in 2019.

26.2.5 *Guaranteed Minimum Resources*

The tax-funded and means-tested social assistance scheme aimed at preventing poverty and social exclusion, is regulated by several Acts.¹⁸ The Social Assistance Benefits Act stipulates the following benefits: (i) monetary social assistance (minimum income benefit), (ii) extraordinary monetary social assistance and (iii) supplementary allowance (social assistance supplement). The beneficiaries can be: (i) Slovenian citizens with permanent residence in Slovenia, (ii) foreigners, possessing a permanent residence permit, which is, however, not required for EU workers, and (iii) persons granted international protection and their family members, exercising the right to family reunification. In addition, the Social Assistance Benefits Act stipulates that monetary social assistance and supplement are to be granted to all persons entitled on grounds of international legal acts, binding Slovenia. Social assistance benefits cannot be exported. Moreover, no social assistance benefits fall within the material scope of the bilateral social security agreements listed above.

26.3 Conclusions

Contribution-funded compulsory social insurance schemes are based on the notion of gainful employment. All gainfully employed persons in Slovenia enjoy coverage irrespective of their citizenship or residence status. Free access to the labour market is enjoyed by Slovenian, EU, EEA and Swiss nationals. Other foreigners first have to obtain a single residence and work permit, which allows them to enter the country, search for residence and employment, and reside in Slovenia. Gainful employment as a rule leads to coverage within social security, whilst long-term territorial affiliation or citizenship as a rule leads to coverage within the means-tested social assistance scheme.

Bilateral agreements concluded with Bosnia and Herzegovina, Serbia and FYROM facilitate freedom of movement rights for (seasonal) workers who are nationals of one of the three countries, thereby enabling the historic migration flow to continue. Workers' mobility is by nature commonly followed by family reunification. Freedom of movement is also facilitated by bilateral social security agreements concluded with Croatia (now an EU Member State), Serbia, Bosnia and Herzegovina, Montenegro and FYROM, some of them EU Candidate Countries. As mentioned, Kosovo, also a relevant country of origin of foreigners residing in Slovenia, has been left out.

¹⁸ *Zakon o socialno varstvenih prejemkih – ZSVarPre*, Official Gazette of the RS, No. 61/10, last amended in 2018, the Exercise of Rights from Public Funds Act (*Zakon o uveljavljanju pravic iz javnih sredstev – ZUPJS*), Official Gazette of the RS, No. 62/10, last amended in 2019, and the Social Assistance Act (*Zakon o socialnem varstvu – ZSV*), Official Gazette of the RS, No. 3/07, last amended in 2019.

Regarding the export of pensions, social security agreements regulate the export of non-EU foreigners' benefits. If not stipulated otherwise, pensions and other social security (insurance) benefits ought not to be limited or in any way altered on grounds of the recipient residing in the territory of a party to the agreement. This however does not apply to unemployment and means-tested benefits. Means-tested or lump sum tax-funded family benefits require different types of residence conditions (permanent, registered, actual) to be fulfilled by one parent, both parents, the child, or the person caring for/raising the child.

EU-foreigners' and national citizens' social security benefits are exported without limitations. Whenever general export is enabled for Slovenian citizens, it ought to be enabled for all EU citizens. It can be concluded that the Slovenian legislation facilitates freedom of movement rights for migrant workers entering Slovenia from former Yugoslav republics by means of concluded bilateral agreements and protocols to agreements that enable easier labour market access. At the same time, bilateral social security agreements, grounded in mutual recognition of facts and calculation of periods, offer a substantive level of social protection to migrant workers and their family members. Social assistance however remains available under the permanent residence condition, possibly fulfilled after 5 years of continuous residence. Regarding Croatia, one of the key countries of origin, EU rules on social security coordination apply.

As mentioned, the by far most relevant migration flow mirrors the common historical background of Slovenia and other former Yugoslav nations, which is only intensified by the countries' proximity. The migration flow in the opposite direction traditionally remains weak due to much lower wages and living standard in the South-Eastern Balkans. It predominantly consists of short-term stays of tourists. It however seems that Slovenia does not represent a tempting host country for other EU and third-country nationals, a fact possibly ascribed to its relatively small economy and/or labour market, with the country still falling short of the EU 28 average in GDP per capita in PPS. Other factors- such as the unfamiliar and complex Slavic language and the proximity of economically more developed countries such as Austria, Germany and (Northern) Italy- can also help explaining this situation.

Acknowledgements This chapter is part of the project "Migration and Transnational Social Protection in (Post)Crisis Europe (MiTSoPro)" that has received funding from the European Research Council (ERC) under the European Union's Horizon 2020 research and innovation programme (Grant agreement No. 680014). In addition to this chapter, readers can find a series of indicators comparing national social protection and diaspora policies across 40 countries on the following website: <http://labos.ulg.ac.be/socialprotection/>.

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