*Lazar Jovevski**

STATUS OF POSTED WORKERS IN THE EU DURING CURRENT DYNAMIC CHANGES

-summary-

The principle of free movement of workers as a basic principle of the common market had a dominant influence on the labour legislation in the European Union. As opposed of this, a principle of free movement of people as EU citizens was later established. Removing the need for economic justification of the right to free movement for work, this transition to free movement of EU citizens has a wider impact on the initiatives and activities of EU institutions active in the field of free movement. In this paper, the author analyses the free movement primarily through the economic aspect, pointing out many problems of a social nature.

European law on posted workers, expressed through European *acquis communaitaire*, is considered to focus on regulating and balancing the creation of equal conditions for provision of cross-border services in a faster way and protection of the rights of posted workers by guaranteeing a single set of social rights to prevent unfair treatment and creating cheap labour force. It is this paradigm that is examined through this paper, through the normative aspect as well as through the practice of the European Court of Justice.

Through the paper, the author considers that it is crucial to understand the European normative framework regarding posted workers, especially the Directive on posted workers, which regulates this matter, and to achieve harmonization of practices between the European Union and the Member States, as well as the candidate countries.

Keywords: posted workers, Directive 96/71/EC, case law, European Court of Justice.

I. THE CONCEPT OF THE POSTED WORKERS

The European Union[1] basically contains the principle of free movement of citizens as one of the four basic economic freedoms, together with the free movement of goods, services and capital. The free movement of workers is a narrower concept that is part of the principle of free movement of people and citizens.

The idea of the European Union from its very beginning with the Treaty of Rome contains the basic principles of the right of workers to seek work and to work in another Member State, the right of the worker to live there and for that purpose to stay there, as well as the right to equal treatment with regard to access to employment, working conditions and any advantages which might help to facilitate the integration of the worker into the host Member State The principle of free movement of workers as a basic paradigm of the common market, and later of the free

*Lazar Jovevski, PhD, Associate Professor, Labour and Social law, Ss. Cyril and Methodius University in Skopje, Iustinianus Prmus Faculty of Law, e-mail: l.jovevski@pf.ukim.edu.mk

[1] Here we understood the Union in terms of a community of free movement of labour and a common labour market.

movement of people without the need for economic justification on the one hand is seen as an economic concept, but in its essence has great labour and social significance. It raises a number of social issues such as the transfer of pensions and social benefits, the rights of migrant workers in case of unemployment, social security and other social benefits, family issues, education, housing, etc. But the free labour market fluctuates and has changed over the decades. In the last two decades, the process of flexibility of labour relations on the one hand and maintaining security on the other hand as a counterweight in a balanced labour law system has been noticeable. Hence, the binary model of labour relations has become increasingly important, and this has become especially visible in recent years, where we have a radical change in relations and in general on the Union member states labour markets, in terms of employees, as well as in terms of national legislations. The European Union has opened up significantly to new workers in the last three decades, and with its expansion the migration of citizens from one country to another for employment has reached its peak. This tendency of general mobility and flexibility has affected the referred workers, who are still atypical "migrants" because they have a different legal status from other employees in the European Union.

On the other hand, under the influence of the Sars-Cov-2 pandemic, telewokring, work from home and relocation of workers are becoming more and more important, as special flexible forms of work in which reference elements can be found. That is why it is extremely important to regulate the status of posted (posted) workers as workers sent by their employer to perform service in another EU Member State on a temporary basis. However, during the pandemic we have a significant drop in workers sent to EU countries, which was expected. In 2017, the number of posted workers was 2.8 million[2], while during 2020, due to the corona crisis, temporary labour migration also decreased dramatically: The number of tourist workers decreased on average by 58%, while transfers between companies decreased by 53%, in relation to the flow of seasonal agricultural workers, it decreased by only 9%, and even a slight increase was observed in the main destinations for such workers, such as the United States and Poland[3] However, in 2022 this number is expected to increase again. This is directly related to the needs of the business sector and the companies that are under great financial pressure due to the lack of opportunity to post employees.

In fact, when we speak of posted, or so-called posted workers, we are speak of a special kind of mobility of employees within the business sector. This is not a typical migration of people seeking employment from one EU member state to another, but of already employed people working in another company that cooperates with the company in which they are employed. Hence, this is an extremely important segment of the dynamics of business cooperation at the European level and the process of development of company business relations. It can also be about posting employees within a certain concern, or a multinational company, and here the posting refers to professionals from one country to another, where the company has its own subsidiaries or separate companies that are in direct relation with the company where the experts are employed.

That is why the European normative set of rules has proven to be important and essential for the smooth development of cooperation between companies at European level, but also for the establishment of rules of equality, competitiveness and protection of the rights of employees who are posted.

The European normative framework that began to be formed with the adoption of the first European Directive on unemployed workers in the European Union No. 71 of 1996[4], we believe that it provides certain strict rules and conditions of employment that must be observed in accordance with the principle of the host country. For the rest of the employment elements, the labour law rules of the sending country continue to apply.

---

[2] https://www.equusoft.com/blog/protect-your-brand-with-posted-worker-compliance

[3] https://www.oecd-ilibrary.org/sites/29f23e9d-en/index.html?itemId=/content/publication/29f23e9d-en

[4] Directive 96/71/EC of The European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services

At the time of the adoption of Directive 96/71/EC, the dilemma arose as to whether this directive could meet the challenges faced by these workers, in an attempt to reform the solutions offered by this Directive, as well as to strengthen the implementation, the European Commission has implemented two main reform proposals, namely: Implementing Directive 2014/67/EU[5] and the Revision of Posted Workers' Directive which was proposed in 2016 but was accepted in June 2018[6]. The amendments were transposed by July 2020 into the legislation of the member states. In addition to these directives, in 2018, the revision of Directive 96/71/EC was initiated and Directive 2018/957/EC was adopted, which made a significant shift in the regulation of the rights of posted workers.
Also in the corpus of acts that refer to the posted workers is the Regulation no. 883/2004 on social security of posted workers[7], which refers to the coordination of the social systems of the member states in relation to the social security of these employees[8]. But what specifically regulate these acts and what are the standards that exist in this legal field in the EU?

II. NORMATIVE CONTENT AND REGULATION

The dynamic changes that are constantly going, especially in the area of the labour legislation, necessarily require constant intervention in this area as well. The implementation, legal interpretation and application of Directive 96/71/EC in a specific case has led to some challenges from which we single out the following:
a. there was an increase in the gap between the level of wages and labour costs, which made it more attractive for businesses to engage posted workers (in the period from 2010 to 2014 the number of posted workers increased by 44.4%);
b. create an environment conducive to illegal practices, such as the rotating sending of workers or the practices of the so-called "Letter-box" companies, which by exploiting the "gaps" in the directive evade labour legislation and social security in the performance of services in other Member States;
c. There is a lack of clearly defined standards and weaknesses in the cooperation between the authorities of the Member States, and cross-border cooperation, creating problems for the bodies responsible for implementation of the Directive.
We can say that the Directive was aimed at regulating the working conditions of the posted workers and to avoid the risk of their labour abuse, exploitation, and social damping.[9] The question remains as an opportunity to discuss whether the Directive on posted workers is an appropriate legal instrument for the provision of cross-border services and adequate protection of workers' social rights. We do not consider the Directive to be a rigid and detailed regulation for posted workers, partly because it gives Member States a great deal of freedom in the implementation and application of minimum standards of employment, which rely heavily on rulings of the European Court of Justice. However, the case law of the European Court, although relatively modest, does not give a clear picture of how the terminology of the directive should be interpreted. Inconsistent application of the directive by the European Court creates difficulties for the bodies responsible for the application of labour legislation in the host country, furthermore, for the service provider

[5] Directive 2014/67/EU of The European Parliament and of the Council, on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation') http://data.europa.eu/eli/dir/2014/67/oj
[6] Directive 2018958/EU of The European Parliament and of the Council, amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services; https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L0957&from=EN
[7] Regulation (EC) No. 883/204 of the European Parliament and the Council , on the coordination of social security systems; http://data.europa.eu/eli/reg/2004/883/oj
[8] If employees from non-member countries are posted, as well as between two non-EU countries, the rules of coordination contained in the acts of the Council of Europe, and above all the European Social Charter, are applied.
[9] C. Barnard, *EC Employment Law*,Akademski pecat, Skopje, 2010, 2010, pg. 281.

in determining the wage of the posted worker, as well as in the awareness of the posted workers about their rights.
The need to improve the normative framework governing the rights of posted workers was more than obvious. In this context, the Commission reacted with two new reform rules that will provide greater protection for posted workers.
The first such reform solution is Implementing Directive 2014/67/EU, which was supposed to ensure better implementation of the existing Directive. The purpose of the implementation of Directive 96/71/EC was in favour of harmonisation and balance between the freedom to provide cross-border services under Article 56 of the Treaty of Rome, with due regard for the protection of the rights of workers temporarily posted abroad for that purpose.
By setting higher standards for informing workers and companies about their rights and obligations and establishing clear rules for cooperation between national authorities in charge of detachment, Directive 2014/67/EU should have filled the gaps that had arisen in relation to the previous one. With this Directive the Commission tried to find a solution to the problem with the so-called "letter-box" companies, i.e. by providing elements to improve the implementation and monitoring of the concept of posting workers to prevent the increase of such companies that use posting as a way to circumvent the rules of employment.
The provisions regarding the relevant national authorities, which provided a legal framework which defined the scope of their supervision and responsibilities in relation to posted workers, also had a major impact. Of course, the provisions for protection of workers' rights have found their place in the Implementing Directive 2014/67/EU, especially regarding the handling of complaints when violations of the rights of posted workers occur.
Directive 2014/67/EU was finally adopted by the Members of Parliament on 15 May 2014, with a deadline for implementation for the Member States by 18 July 2016. This Directive defines the responsibilities which the Member States assume in order to comply with the previous Directive, supplementing its shortcomings, especially in the risk sectors. The construction sector and road transport remain one of the riskiest areas where a number of illegal practices are always observed, which directly violate the rights of posted workers.
On the other hand, the Directive itself regulates the need for better cooperation between national authorities in charge of posting workers, through the implementation of the obligation to respond to requests for assistance and setting time limits for responding to requests for information.
However, despite the adoption of Implementing Directive 2014/67/EU, the Commission was not convinced that a solution had been found to all the unanswered questions in Directive 96/71/EC. Due to this attitude, a revision of the 1996 Directive was proposed, specifically introducing changes in three areas, of which the following were listed: wage benefits for posted workers, including in situations of subcontracting; rules for posted workers through Temporary Employment Agencies; and long-term detachment[10].
The revised Directive 96/71/EC was adopted by the Council on 21 June 2018 following a series of long and intensive negotiations between the Commission, the Council and the European Parliament. It incorporated a significant number of changes in relation to the three main pillars of the reform, while supplementing them in terms of content and envisaging a number of solutions that should help to overcome the previously identified weaknesses[11].
The issue regarding the amount of salary is guaranteed by the principle of "same salary for the same work in the same job". This means that the amount of salary received by the posted worker must be at the level of the salary established in the host country. Furthermore, there is an additional provision in the revised version which stipulates that reimbursements of work-related expenses may not be included in the salary itself. Member States are also obliged to make information on the mandatory elements that compose a salary in the Member State available on the official national website. A provision has been introduced according to which the expenses made for

[10] EUROFOUND: https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/posted-workers? fbclid= IwAR2IBcK9yH8P_6fZrTiGBylwvbuZECdrotU-bmcqnjTuf1qtb5URIGW03II
[11] Fact Sheets on the European Union – 2019; www.europarl.europa.eu/factsheets/en

travel, vacation and accommodation should be considered separately from the salary compensation, and they are paid by the employer, while not being deducted from the workers' salaries. In addition, it is envisaged that different compensation regimes should be specified, with specific provisions on what should be paid according to the rules in the host country. Also, if the legislation of the host country provides for a separate subsistence allowance for a local worker, then these provisions also apply to posted workers.

The duration of work of the posted worker, before all the provisions of the labour legislation of the host country come into force is 12 months, with a possibility of extension for 6 more months, for which it is necessary to submit a notification from the company to the competent authority in the host country. Member States must ensure the protection of posted workers, at least with the minimum rights and working conditions provided for in the Directive in the event of false posting for example by the so-called "letter - box" companies.

On 09 July 2018, Directive EU 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services was published.[12]

The new Directive is aimed at protecting and strengthening the guarantees of posted workers sent to work throughout the European Union. Companies have an obligation to provide favourable conditions for these workers, some of which are remuneration and allowances or reimbursements for subsistence, travel or accommodation costs caused by occupational reasons. Pursuant to this Directive, employees who have been posted elsewhere for more than 12 months are required to provide all the conditions enjoyed by the workers in the country where the seconded worker is sent, thus excluding all formalities and conditions for the conclusion and termination of contracts, including non-compete clauses and supplementary pension schemes [13]

A disadvantage of this directive is the fact that workers from the international road transport services sector are excluded from its application. [14]

The European Union in its founding treaties refers to the principle of equal treatment and the prohibition of any kind of discrimination on the grounds of nationality. While the principle of equal pay does not apply only to gender equality, i.e. equal pay between men and women, this principle applies to both part-time workers and full-time workers. These principles include the prohibition of any measures that would directly or indirectly cause discrimination on grounds of nationality. However, in applying these principles, particular account should be taken of the relevant case law of the European Court of Justice.[15]

III. THE CASE LAW AND THE NEED TO REGULATE THE SUBJECT AREA

The influence of the European Court of Justice on the development of the European Union legislation in relation to posted workers is indisputable. But the rulings themselves have sparked much controversy, with the court facing extremely harsh criticism when it ruled in favour of the posted workers. Among the most criticized are the rulings in the *Rush Portugesa, Laval* and *Rüffert* cases, which are based on the Directive on posted workers, which the member states themselves have chosen to adopt it together with the European Parliament.

The dilemmas regarding the posted workers appear quite early, back in the 80s of the last century. One of the most significant rulings rendered by the European Court of Justice, which directly prompted the adoption of legislation regulating the rights of workers in the Member State where they are sent, is the Rush Portuguesa ruling[16].

---

[12] https://www.simmons-simmons.com/en/publications/ck0agvm41d9xg0b59xz8maskv/120718-employment-alert-directive-eu-2018-957

[13] Ibidem

[14] Ibid.

[15] Directive (EU) 2018/957 of the European Parlament and of the Council of 28 June 2018; https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018L0957

[16] Случај C-113/89 [1990] ECR I-1417

This case is a continuation of the clarification given in previous cases[17]. It is a Portuguese company specialized in construction and public works, which had a subcontract with a French company for the construction of a railway, and which brought its employees from Portugal[18].
Given that in this way the company violated the provisions of the French Labor Code, it was forced to pay a special contribution. Due to this decision, the company Rush Portuguesa decided to initiate a procedure for annulment of the given decision to the Administrative Tribunal in Versailles, which then appealed to the ECJ[19].
The court ruled in favor of Rush Portuguesa, saying the ruling was contrary to Articles 49 and 50 of the EC, which prevent member states from barring each other from moving freely within their territories. The imposition of any conditions on a worker from another Member State who provides services, and who is discriminated against in relation to other entities on the market in the country where the worker is sent, because no additional conditions are provided for domestic workers, affects the ability of the posted worker to perform his/. her work tasks.
With regard to the conditions of employment which may be further imposed, the Court has held that the law of the Community does not prevent Member States from extending their legislation and collective agreements to this category of employees.
The ruling in the Rush Portuguesa case refers to legislation and collective agreements in the general sense and implies compliance with a wider choice of employment conditions by the service provider in relation to workers employed in another country and in that context is a more comprehensive decision in relation to previous judgments.
In the cases, the Court appears to be in a constant attempt to balance the two conflicting interests: protection of workers on the one hand and promotion of the internal market on the other. But the question arises as to whether the Court exercised its powers under Community legal instruments or went a step further by creating a new law based on an extensive interpretation of the Treaty.[20]
The Courts' case law began to develop at a time when the dynamic environment within the EU single market was the catalyst for a number of companies to start transnational operations. In its case-law, prior to the adoption of the Directive on part-time workers, the Court held that Community law does not prevent Member States from enforcing their legislation or collective agreements concluded at national level by the social partners of any person employed, even temporarily, within their territory, no matter in which country the employer is established, nor does Community law prohibits Member States from enforcing these rules by appropriate means.
Prior to the adoption of the Directive on posted workers, and even after its adoption, the Court's practice shows that it is necessary to ask Member States to restrict the application of their national legislation much more than is provided for in the basis of the Directive itself. The Court in several judgements, as in the case of *Laval*[21], has pointed out that the host country's inspection measures must comply with the principle of proportionality, that is, they must be suitable for achieving the objectives pursued, without restricting the freedom of services to service providers more than necessary.

IV. OBSTACLES IN DETERMINING THE STATUS OF POSTED WORKERS

We can say that posted workers in many countries do not receive enough attention and generally it does not attract the public opinion on this topic, and it is even less a topic in public debates. Therefore, we believe that it is very important for the social partners to address this issue

[17]Станува збор за случаите Seco, Desquenne & Giral, кој се појавија во раните 1980-ти.
[18] Ph. Watson, *EU Social and Emplyment Law Policy and Practice in an Enlarged Europe*, (прев. на мак.), Prosvetno delo, 2009, pg. .334.
[19] Ibidem.
[20] J. Jacobsson, *Posted Workers and Free Movement of Services in the European Union – the Impact on National Employment and Immigration Law*, University of Helsinki, Faculty of Law, 2008, pg. 32.
[21] https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/laval-case

appropriately and not to consider it as a marginal issue, but to put it on the agenda of their activities, especially because we believe that in the future it will gain more importance and relevance.
We conclude that there is a lack of official figures in relation to the total number, as well as the characteristics of the posted workers throughout the European Union. Schemes and analyses related to the work of posted workers, their exercised rights, as well as their observation at work are very rare.
An additional problem with posted workers is that they are not evenly distributed, i.e. certain countries tend to be "recipients" of workers, while others are generally "posting" countries, there are undoubtedly those that have significant numbers of received workers, as well as of sent workers. Posting workers, especially in the European Union, has been increasing in recent years, even in certain sectors such as construction and in some EU member states posted workers represent a significant part of the local workforce.[22]
The availability of reliable information regarding posted workers is an extremely important precondition for creating policies and strategies for protection and promotion of the rights of these workers. Undoubtedly, it is necessary to create a joint monitoring system at EU level as soon as possible, which would collect data on the number of outsourced workers and their conditions of employment and work, by integrating the already available sources and filling the existing gaps.
One basic element of necessary "extra" protection for posted workers, which is not needed for workers working close to their home, is the coverage of travel, board and lodging costs. While one could imagine an array of other benefits and bonuses that could help to compensate being away from home for posted.[23]
On the other hand, creating space for representation and collective bargaining in the host country can significantly contribute to limiting possible abuses and to creating a fair environment for employment and competition, especially in terms of recognizing the status of posted worker in EU member states. This can be achieved in a variety of ways, such as by increasing data disclosure rights and advising on posting workers in the hiring company, providing specific contracts that would cover outsourced workers and raising the awareness of posted workers by informing on their rights through social partner organizations and/or social security bodies. The cooperation between the social partners of the countries that "post" and the countries that "receive" workers could be a good basis for gathering information and avoiding abuse. Trade unions, and in some cases employers, have already developed initiatives and guidelines to address the issue of posted workers, more at the cross-border level. Strengthening the role of the social partners at the national level, and possibly at the level of the Union, in order to establish a system of supervision and to create space for regulating the working conditions and employment of posted workers will contribute to a different approach to the situation, in which which at the moment seems to be dominated by economic considerations and normative solutions that go in that direction.

V. TYPES OF REGULATION OF POSTED WORKERS

Regulating the rights of posted workers is a challenge mostly due to the unequal approach to regulation which leads to a number of legal gaps. In a background analysis by the European trade union institute, called Reimbursement rules for posted workers: mapping national law in the EU28 [24] the comparative structure of the different ways of regulating posted workers at the European Union level is explained.
In the European Union posted workers are organized in 3 different ways. One group refers to countries that regulate the rights of posted workers, both those who have been posted and those who have arrived. The other group includes those member states that regulate the matter for workers posted abroad but do not have rules for workers posted to their own territory. In the last group we have those countries that do not regulate the rights of posted workers, the reimbursement

[22] Z. Rasnača, *Reimbursement rules for posted workers: mapping national law in the EU28*, Brussels, 2009, pg 6
[23] Ibidem, pg. 6 - 7
[24] Ibid.

of travel, board and lodging costs, neither for the sent nor for the arrived workers. However, it is important to note that there are no countries that regulate the rights of only those workers who come without regulating the rights of those who are posted.[25]

France, Greece and Italy are the three countries that belong to the group of countries that regulate the reimbursement for both incoming and outgoing workers, i.e. for workers who are posted abroad, but also those who are posted in their countries. [26]

These countries generally have a large percentage of the workforce in transit, i.e. a huge number of seasonal workers who circulate throughout the year. That is why their legislation contains provisions regarding workers who come to work in these countries, but also to those who are sent to work in another country.

In Greece, as we said, the same rules apply to posted workers and to those who come. When an employee is sent to work in a job other than his or her usual place of work, he or she is entitled to travel expenses and a daily allowance amounting to 1/25 of their minimum wage. This allowance can be reduced if the employer provides accommodation and lodging. These same rules apply for all posted workers: posted into, outside or within the country.[27]

Italian law, on the other hand, requires employers who posd workers to Italy to apply the same minimum standards that apply to local workers doing similar work in the posting location.

In order to guarantee adequate economic protection to workers posted to Italy, their minimum wage must also include a so-called 'secondment' allowance (compensating for the inconvenience of moving away from their usual place of work) and travel allowance. [28]

This allowance is intended to cover accommodation costs. Posted workers "sent" to Italy have the full right to this allowance just like any local worker.

In France the situation is different, where although there are no explicit provisions that would indicate that foreign employers are in fact the ones who cover the costs of accommodation and travel, there are certain provisions that indicate that this obligation belongs to foreign employers. Based on this we can say that posted workers, those who have been sent, as well as those who have come to work in France are entitled to compensation for their additional costs such as food and accommodation, even the right to travel compensation.[29]

In the next group there are 10 member states- Belgium, Czechia, Germany, Hungary, Latvia, Lithuania, Romania, Slovakia, Slovenia, and Spain, the countries in this group do not regulate the reimbursement of travel, board and lodging costs for incoming posted workers, but that do regulate the issue for outgoing posted workers, at least to some extent.[30]

The fact that these 10 countries are placed in the same group refers only to the fact that in each of them it regulates the compensation (reimbursement) for the workers who are sent, while it does not provide the same for the workers who are coming to them. Regarding other similarities, we can say that there are no such among the aforementioned countries, each of them has special rules that refer to this issue. Depending on the country in which the workers' are sent, their rights may vary, so in some countries, in addition to the right to reimbursement of travel, board and lodging costs, they are entitled to other benefits such as daily allowances, insurance benefits, vaccination and the like.[31]

The last, third group of member states which is the largest in number and which includes countries such as Austria, Bulgaria, Croatia, Cyprus, Denmark, Estonia, Finland, Ireland, Luxembourg, Malta, the Netherlands, Poland, Portugal, Sweden and until recently the United Kingdom refers to those countries that do not have any provisions regarding covering or reimbursing the costs of travel, board and lodging for either incoming or outgoing posted workers. The results of the

[25] Ibid., pg 10
[26] Ibid.
[27] Ibid.
[28] Ibidem, pg 11.
[29] Ibid., pg. 10.
[30] Ibid., pg. 11.
[31] Ibid., pg. 12.

individual national case studies reveal that in more than half of the Member States there are therefore no statutory rights for posted workers on the reimbursement of travel, board and lodging expenses.[32]

VI. CONCLUSION

Posted workers as a relative numerical category of workers remain marginalized in the exercise of their rights. Detachment is by nature limited in time, but whether it is a period of 3 months or a period of 12 months, the position of workers in case of work in another country must be equal.
Directive 2018/957 itself does not indicate where it stipulates that ensuring greater protection for workers is necessary to safeguard the freedom to provide, in both the short and the long term, services on a fair basis, in particular by preventing abuse of the rights guaranteed by the Treaties. However, the rules ensuring such protection for workers cannot affect the right of undertakings posting workers to the territory of another Member State to invoke the freedom to provide services, including in cases where a posting exceeds 12 or, where applicable, 18 months.[33]
We would like to point out that the main dilemmas regarding the status of posted workers is the fact that the guaranteed rights that a country provides for the posted workers who come to work on its territory, do not necessarily mean that they will reciprocally apply to its citizen-workers when would be posted in another country, even in the case of European Union member states.
The normative framework that currently provides protection for these workers has been greatly improved compared to the original directive from 1996, but despite all the changes, harmonized implementation has not yet been achieved. At a time when the transit of people, goods and capital is the most important for economic survival, the constant circulation of labour between countries and the concept of a large, integrated market for all can not afford a gross violation of labour rights. The Sars Cov 2 virus pandemic may seem like it has partially stopped the labour movement, however it has raised a number of questions for those workers who find themselves trapped in another country performing work tasks. The borders of some countries were closed for months, which directly put those workers who were not adequately secured in terms of wages, accommodation, expenses and social security at risk.
Seen from a future perspective, it is necessary to have equal transposition of the relevant directives and regulations by all countries in order to have equal access in the same situations. Stronger mechanisms of control of enterprises by national systems and uniform jurisprudence will contribute to the promotion of rights and the achievement of a dignified status for posted workers.

Bibliography

1. Barnard C., *EC Employment Law*,Akademski pecat, Skopje, 2010.
2. Jacobsson J., *Posted Workers and Free Movement of Services in the European Union – the Impact on National Employment and Immigration Law*, University of Helsinki, Faculty of Law, 2008.
3. Rasnača Z., *Reimbursement rules for posted workers: mapping national law in the EU28*, Brussels, 2009.
4. Watson Ph., *EU Social and Emplyment Law Policy and Practice in an Enlarged Europe*, (прев. на мак.), Prosvetno delo, 2009.
5. https://www.equusoft.com/blog/protect-your-brand-with-posted-worker-compliance
6. https://www.oecd-ilibrary.org/sites/29f23e9d-en/index.html?itemId=/content/publication/29f23e9d-en
7. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L0957&from=EN
8. http://data.europa.eu/eli/reg/2004/883/oj
9. https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/posted-workers?fbclid= IwAR2IBcK9yH8P_6fZrTiGBylwvbuZECdrotU-bmcqnjTuf1qtb5URIGW03II
10. Fact Sheets on the European Union – 2019;
11. www.europarl.europa.eu/factsheets/en

[32] Ibid., pg. 13.
[33] Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services

12. https://www.simmons-simmons.com/en/publications/ck0agvm41d9xg0b59xz8maskv/120718-employment-alert-directive-eu-2018-957
13. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018L0957
14. https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/laval-case
15. Directive 96/71/EC of The European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services
16. Directive 2014/67/EU of The European Parliament and of the Council, on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services;
17. Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation') http://data.europa.eu/eli/dir/2014/67/oj
18. Directive 2018958/EU of The European Parliament and of the Council,
19. Regulation (EC) No. 883/204 of the European Parliament and the Council , on the coordination of social security systems;
20. European Social Charter, (COE)
21. Directive (EU) 2018/957 of the European Parlament and of the Council of 28 June 2018;
22. Case C-113/89 [1990] ECR I-1417
23. Case: Seco, Desquenne & Giral,