



Gaps in the regulation of private employment agencies in Serbia

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Workers employed by private employment agencies in Serbia are liable to potential discrimination and precarious work conditions, as this type of employment is not adequately regulated. National trade unions have raised this issue requesting improvements in this area. Currently new amendments are being drafted to address the gaps.

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Description

In the last ten years, non-standard forms of employment have become more present in Serbia's labour market. The standard type of employment (full time, indefinite work) is still dominant but this trend is now decreasing; it decreased by 11 percentage points between 2009 and 2015 (from 89% down to 78%). The national labour legislation has been adapted for some of the new types of employment, while the least regulated area is the employment operated by private employment agencies. The first agencies were registered in 2009; by the end of 2016 their number reached 90. There are significant gaps in the regulation of this type of work.

The major drawback in the regulation is inconsistency between the main normative acts: the Labour Law, the Law on Employment and Unemployment Insurance and the national Statistical Classification of Economic Activities (NACE). The provisions of the Labour law do not refer to this type of employment relationship, even though the operation of employment agencies is defined in the other two normative acts.

The main argument raised by trade unions and civil society organisations is that the determination of the responsibilities of private employment agencies is left out of legislation, and the evidenced practice shows that workers' rights are violated in this unregulated environment. Evidence has been

recorded by the national trade unions, while some examples, the most common, were quoted in the 2016 report "Regulation of 'the work force leasing' in Serbia" prepared by the local NGO "Foundation Centre for Democracy". The complaints reveal that some workers are not adequately paid for overtime work and night shifts, and very often they do not receive maternity and sick-leave benefits, or compensation in case of occupational accidents or diseases.

These issues have come into focus more intensely during the last three years. Several of the largest trade unions have pointed to inconsistency in the legal acts and requested a change in the legislation. In May 2015, the "Confederation of Autonomous Trade Unions" (Savez Samostalnih Sindikata Srbije) adopted the "Resolution on chartering labour force and employment agencies", and in November 2016 the "United Trade Unions" (Sloga) appealed to the Constitutional Court for a ruling on the legality of the classification of "temporary employment agencies activities" which was adopted in the latest revision of NACE in 2010 (under section N, division 78, group 78.2, class 78.20). A number of round table discussions and seminars was organised on this subject with the participation of all stakeholders; the joint conclusion is that urgent legislative changes are required in order to better regulate the activities of employment agencies. The

Ministry of Employment, Labour, Veterans and Social Policy formed a Working Group whose task is to draft amendments to the Labour Law. The ministry expects that the draft document will be ready for public discussion in the first half of 2017.

Outlook & Commentary

In view of the specific environment in which they operate, the International Labour Organisation adopted in 1997 the "Private Employment Agencies" Convention (Convention C181) which Serbia ratified in 2013. The lack of awareness of the complexity of this type of

employment relationship has resulted in inadequate national legislation. At the same time, workers are reluctant to demand their rights, since unemployment rates have been high for more than a decade.

It is obvious that the current situation negatively affects all stakeholders and that a new regulation needs the consensus of all interested parties. There were positive changes in this direction in January 2017, when the public company "Nikola Tesla airport" decided to employ, with standard employment contracts, 200 workers who have been working for several years with employment agencies' contracts.

Further reading

Foundation Centre for democracy, "Regulation of work force leasing in Serbia": <http://eukonvent.org/wp-content/uploads/2017/01/FCD-100-DANA-Regulacija-lizinga-radne-snage-u-Republici-Srbiji.pdf>

Confederation of Autonomous Trade Unions (Savez Samostalnih Sindikata Srbije), "Resolution on chartering labour force and employment agencies":

http://sindikats.rs/aktuelno_files/vesti_pdf/15kongres/rezolucija_privremeno%20zaposljavanje.pdf

ILO (1997), "C181 - Private Employment Agencies Convention":

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312326

United Trade Unions (Sloga) appeal to the Constitutional Court:

<http://sloga.org.rs/sloga-trazi-od-ustavnog-suda-da-ukine-lizing-radnika/>

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