

REPORT
on the Free Movement of Workers
in Slovakia in 2010-2011

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October 2011

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Introduction

During the reference period three important acts have been replaced by the new ones:

Labour Market Regulation Act from 28 September 2010 has replaced the Employment and Unemployment Insurance Act and Employment and Work of Aliens Act from 29 March 2011 and Aliens Act from 15 June 2011 have replaced the acts of the same name. The new legislation has to great extent removed deficiencies in the regulation of the EU citizens and their family members who wish to be employed or to work in the RS.

It is also worth to mention that in November 2010 the Government in accordance with Article 2/3 of the Employment and Work of Aliens Act adopted The Strategy of Economic Migrations for the Period 2010-2020. Migration issues were not paid special attention in political discussions in the past years. For this reason this strategic document is important. It does not deal with the mobility/migrations within the internal market of the EU, but it is nevertheless linked to them. It is indicating that the RS is in favour of the proactive migration policy, which should not be formulated in an isolated way but within the framework of the EU.

Chapter I: The Worker: Entry, residence, departure and remedies

1. TRANSPOSITION OF PROVISIONS SPECIFIC FOR WORKERS

Article 7(1a)

The provision has been transposed by Article 119 of the new *Aliens Act* (Official Gazette, No. 50/2011- ZTuj-2). A worker or self-employed person - the EU citizen, who enters RS with a valid identity card or a valid passport and wishes to reside in RS for a period of longer than three months, has to register his/her residence.

Article 7/3 (a-d)

Provisions have been transposed in a way that does not expressly maintain the status of worker or self-employed person but the right to reside and/or to remain in the RS. According to Article 120/2 of the *Aliens Act* the registration for the employment or work shall not expire:

- if he/she is temporarily incapable to work because of the illness or an accident,
- if he/she became unemployed without his/her fault, after having been employed for more than one year and has registered as a jobseeker with the relevant employment office,
- if he/she embarks on vocational training.

One can state that 7/3 (c) has not been included in the said provision of the Act.

Article 8/3 first indent

The registration certification may be issued to the EU citizen, who wishes to be employed or to work in the RS or to the EU citizen who is already employed or who work in the RS under the condition that he/she is in the possession of:

- the valid identity card or valid passport,
- of the confirmation of engagement from the employer or a certificate of employment or work (proof of self-employment),
- valid work permit, when due to the measure adopted by the Government or the international treaty he/she does not have free access to labour market.

The conditions provided for in Article 8/3 are formulated as alternatives. The *Aliens Act* is imprecise and does list them cumulatively.

Article 14/4 (a-b)

Nothing new to report

Article 17

Nothing new to report

Article 24/2

Nothing new to report

2. SITUATION OF JOBSEEKERS

New legislation adopted during the reference period has to be taken into consideration. The Employment and Unemployment Insurance Act from 1991 and several times amended from that time has been replaced by the *Labour Market Regulation Act* (Official Gazette, No. 80/2010 – ZUTD). In addition, at its session on 29 March 2011 the National Assembly adopted the *new Employment and Work of Aliens Act* (Official Gazette, No. 26/2011 – ZZDT-1). General characteristic of both acts is that in comparison the past legislation they contain more provisions referring explicitly to the EU citizens.

The Labour Market Regulation Act shall regulate among others the government measures in the labour market with which the performance of public services in the field of employment and active employment policy measures as well as the functioning of the unemployment insurance system are provided. The Act transposes Directive 2008/104/EC and Directive 2006/123/EC into the Slovenian legal order. In the framework of general provisions it is pointed out that the RS ensures the implementation of the employment policy based on the guidelines for the implementation of active employment policy measures and other strategic documents of the RS and EU in this area. Citizens of EU member states, the EEA and the Swiss Confederation have equivalent rights and obligations determined by the Act to Slovenian citizens. (Article 6) The provision is not a novelty in our legislation if we compare it with the past legislation. EU citizens may be entered in the register of unemployed persons if they fulfil conditions laid down by the Act. Namely, an unemployed person under the Act is a jobseeker, capable of work, registered with the Employment Service who actively seeks employment and is prepared to accept any appropriate or suitable employment offered by the Employment Service or other providers of employment brokerage services¹ and is not in employment relationship, is not self-employed, is not a member of the management body in a partnership, single-member private limited liability company and institutes, is not a farmer, is not a pensioner or does not hold the status of a secondary-school student, apprentice, university student or a person taking part in adult education of less than 26 years of age. (Article 8)

The Employment and Work of Aliens Act shall set out the conditions under which aliens may be employed or work and related tasks of the RS for the regulation and protection of the labour market. By the Act the Directive 2009/52/EC and the Directive 2009/50/EC have been transposed into the Slovenian legal order in the addition to the directives already transposed into legislation of the RS (Directive 2004/38/EC, Directive 2003/86/EC, Directive 2003/109/EC, Directive 2004/81/EC, Directive 2004/114/EC, Directive 2005/71/EC, Directive 2001/55/EC, Directive 2003/9/EC, Directive 2004/83/EC). It may be considered that the Employment and Work of Aliens Act complements the Labour Market Regulation Act and its provisions covering the rights of unemployed persons/jobseekers by the following provisions:

In addition to aliens who are determined to be unemployed persons by the act regulating labour market, aliens fulfilling the conditions that the act regulating labour market stipulates

1 E.g.: AEP programme activities may be performed by external providers classified within the register of external providers of AEP. (Article 38 of ZUTD) A legal person registered for an activity in the RS or other state of the EU, EEA or Swiss Confederation which demonstrates interest to perform AEP programme activities and fulfils other conditions provided for by the Act may be entered in the register of external providers (Article 40 of the ZUTD).

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are also considered to be unemployed persons. These conditions are as follows: 1. having free access to the Slovenian labour market², 2. being victims of trafficking in human beings or of illegal employment, 3. being persons with subsidiary protection or 4. having the EU Blue Card. All the aliens who fulfil these conditions according to the act regulating labour market and to international treaties binding RS are entitled to unemployment allowance. (Article 8)

3. OTHER ISSUES OF CONCERN

Nothing to report

4. FREE MOVEMENT OF ROMA WORKERS

In the past some problems existed as RS is estimated to be the country of transition, but no specific problems have been traced during the reference period

2 According to Article 9 of the ZZDT the following persons are listed among persons having free access to the Slovenian labour market: citizens of the Member State of the EU, EEA and Swiss Confederation who prove their right with the said citizenship; family members of the citizens of the EU, EEA and Swiss Confederation, who are third-country citizens but do have a permit for temporary residence as family members or a visa for long-term residence with which they also prove the right to free access to the labour market; aliens who have status of long-term resident in another Member State of the EU, after residing in the RS for one year, as long as they have a valid temporary residence permit in the RS with which they also prove the right to free access to the labour market.

Chapter II: Members of the family

1. DEFINITION OF THE FAMILY MEMBERS AND THE ISSUE OF REVERSE DISCRIMINATION

The definition of family member of the EU citizen and of the Slovenian citizen that has been incorporated in the Aliens Act in 2005 has been changed/enlarged by the *new Aliens Act* laid down by the Parliament on 15 June 2011 (Official Gazette, No.50/2011 – Ztuj-2). For the purpose of this act, family member shall mean:

- the spouse or the registered partner
- descendants under the age of 21
- descendants of the spouse, a registered partner or the partner who for a longer period of time lives with the EU citizen or the Slovenian citizen as non- married couple, under their age of 21
- descendants above the age of 21 and the predecessors, who have the right to be maintained or are in fact maintained by the EU or the Slovenian citizens
- descendants above the age of 21 and the predecessors of the spouse, the registered partner or the partner with whom the EU citizen or the Slovenian citizen is living in longer cohabitation, who have the right to be maintained by the spouse, the registered partner or the partner according to the legislation of the state of his citizenship
- predecessors of the EU or Slovenian citizen under his age of 21.(Article 127)

A registered partner and partner in cohabitation are now covered by the definition, the term ‘un married children’ has been replaced by the term ‘descendants’ and the term ‘parents’ has been replaced by the term ‘predecessors’.

For the purpose of the Act ‘family member’ means also: 1. another person who has lived with the EU citizen in another Member State as a member of the household, 2. the person who was fed or must be fed by the EU citizen, 3. person for whom the EU citizen has to take care due to his/her health situation, 4. person with whom the EU citizen lives in cohabitation.

2. ENTRY AND RESIDENCE RIGHTS

Issues of the entry and residence of the citizens of the EU Member States and their family members and the family members of the Slovenian citizens are covered by Articles 117 – 131 of the XIII. Chapter of the new Aliens Act from 15 June 2011. Some deficiencies in the transposition of the Directive 2004/38/EC have been removed. The distribution of the regulation of respective issues related to the family members in individual articles and some new provisions in comparison to the up-till now regulation make the regulation of the position of EU citizens and their family members more systematic and transparent.

As regards the third-country family members the following might be important to resume from the respective provisions of the new Act:

The family member who is not the EU citizen may enter the RS with the purpose to the reunification of the family with the EU or Slovenian citizen if he/she is in the possession of a valid passport containing a visa, issued by the competent Slovenian body or by another State

party to the Convention on implementation of the Schengen Agreement from 14 June 1985, or a valid passport and the residence permit issued by another EU Member State as required by international treaty. The visa is not required if he/she is the citizen of the state for which RS does not require the visa (see Article 127/3). The family member may stay in RS without a residence permit not more than three months.

If the family member wants to stay in the RS for longer than three months he/she needs a *temporary residence permit*³ for the family member of the EU citizen (Article 127/8). Temporary residence permit, issued to the family member, remains in force in the case of the EU or Slovenian citizen's death, if the family member has sufficient financial resources and a health insurance or if he/she is employed or self-employer in the RS (Article 129/1). A new provision has been adopted according to which the temporary residence permit, issued to the EU citizen's child or the child's parent who is taking care for his/her education and protection, remains in force when the EU citizen dies or leaves the RS and the child goes to school in the RS (Article 129/2).

Nothing has changed as regards the permanent residence permit issued to third-country family members. It is as a rule issued upon the complement of 5 years residence in the RS on the basis of the temporary residence permit or the valid identity card and/or passport and under condition that there is no founded suspicion that his/her staying in the country would seriously endanger public order, security or international relations of the RS, or that there is no suspicion that his/her staying in the country would be linked to the execution of terrorist or other violent activities, illegal intelligence activities, drug trafficking or the performance of other criminal activities (Article 130/1). There are some exceptional cases provided for by the Act when third-country family member may be issued the permanent residence permit upon the competition a shorter period of residence (than 5 years) in the RS.

3. IMPLICATIONS OF THE *METOCK* JUDGEMENT

As already referred to the judgement did not have impact on Slovenian law and practice.

4. ABUSE OF RIGHTS, I.E. MARRIAGES OF CONVENIENCE AND FRAUD

Already in the past it has been provided for that the establishment of a marriage of convenience is one of the grounds on which temporary residence permit may not be issued to the third-country family member. The new Aliens Act has laid down the additional ground, namely the *partnership* (Article 128).

According to the information available there is no case-law regarding possible breaches in this regard.

3 Conditions to be fulfilled by the family member are provided for in Article 128 of the Aliens Act.

5. ACCESS TO WORK

The employment of citizens of Member States of the EU, EEA and the Swiss Confederation and the provision of service is now covered by Chapter II of the new *Employment and Work of Aliens Act* of 29 March 2011 (Official Gazette, No. 26/2011, ZZDT-1).⁴

According to the paragraph 2 of Article 15 family members (now explicitly mentioned) of citizens of Member States of the EU, EEA or the Swiss Confederation have free access to the labour market if they hold a temporary residence permit for a family member or a visa for long-term residence, unless an international treaty binding in the RS determines otherwise or the National Assembly adopts measures referred to in the third paragraph of Article 2 of the Act.⁵

5. THE SITUATION OF FAMILY MEMBERS OF JOBSEEKERS

There is no explicit provision regarding the family members of job-seekers. Paragraph 2 of Article 15 of the Employment and Work of Aliens Act, 2011, may be taken into account.⁶

4 The old act has dealt with these issues in the Chapter XV A.

5 According to paragraph 3 of the Article 2 the Government may propose to the National Assembly to introduce or eliminate measures provided for by the international treaties (transitional period or protection clause).

6 Para.2 of Art. 15 reads:

»Family members of citizens referred to in the preceding paragraph have free access to the labour market if they hold a temporary residence permit for a family member or a visa for long-term residence, unless and international treaty binding in the Republic of Slovenia determines otherwise or the National Assembly adopts measures referred to in the third paragraph of Article 2 of this Act.«

Chapter III: Access to employment

Despite the fact that all three Acts referred upon in previous reports have been replaced by the new acts, the basic rules have not been changed from the substantial point of view. Some improvements can be traced in the new legislation.

According to Article 119 of the *Aliens Act* the EU citizen who has entered RS with a valid identity card or valid passport and wishes to reside on the territory of RS for longer than three months has to register his residence with a competent authority. A registration certification is issued to him/her for one of the following reasons: the employment or work, self-employment, performance of services, studies or other forms of schooling, reunification of the family and other reasons.

The right of citizens of Member States of the EU, EEA or Swiss Confederation and their family members to the free access to the labour market has been laid down by Article 15/1 of the *Employment and Work of Aliens Act*.

1. ACCESS TO EMPLOYMENT IN THE PRIVATE SECTOR

1.1 *Equal treatment in access to employment (e.g. assistance of employment agencies)*

The performance of public services in the field of employment and active employment policy as well as the functioning of the unemployment insurance system is governed by the new *Labour Market Regulation Act*. The Act transposes Directive 2008/104/EC and Directive 2006/123/EC into the legal order of the RS.

It can generally be assessed that in comparison to the past legislation this Act pays more attention to the issues related to the EU and its citizens.⁷ E.g. as regards the tasks of RS in the labour market it has been laid down that the RS ensures the implementation of the employment policy based on the guidelines for the implementation of active employment policy measures and other strategic documents of RS and EU in this area (Article 4/1). There is no change in the approach to the EU citizens. Citizens of the EU Member States, the EEA and the Swiss Confederation have equivalent rights and obligations determined by the Act to Slovenian citizens (Article 6).

According to the Act, different types of labour market services (lifelong career orientation, employment brokerage,⁸ active employment policy measures, unemployment insurance- compulsory and voluntary) are performed by the following providers: Employment Service of the RS, domestic or foreign entities with a registered office in the RS which obtain concession according to the provisions of the Labour Market regulation Act, and Slovenian Human Resources Development and Scholarship Fund (Article 72).

7 The Act also contains provisions on the posting of workers to user undertakings to work there. (articles 163-174.

8 In relation to the two labour market services Article 19 has set forth that the provision of information on the labour market shall include various types of information on the opportunities regarding employment, education, training, financial aid and other labour market topics in Slovenia and other states of the EU, EEA and Swiss Confederation (public employment services network-EURES services)

Within the provisions on the employment brokerage it is explicitly provided for by the Act that the employment brokerage shall be carried out to balance the demand against supply of workers on the labour market in Slovenia and in other states of the EU, EEA and the Swiss Confederation. (Article 25/1) Employment brokerage on the territory of Slovenia is provided to unemployed persons and registered job-seekers and also to other job-seekers for the states of the EU, EEA and Swiss Confederation.

Due to the short application period (1 January 2011) it is not possible to assess its impact on the every day's practice.

1.2 Language requirements

Nothing new to report

2. ACCESS TO EMPLOYMENT IN THE PUBLIC SECTOR

2.1 Nationality conditions for access to positions in the public sector

The list of posts reserved for Slovenian citizens has not changed during the reference period.

2.2 Language requirements

Prof. Ziller underlined in his report for the European Commission »Free Movement of European Union Citizens and Employment in the Public Sector« (Part II- Slovenia) the absence of a comprehensive list of functions reserved to Slovenian nationals. It might be useful to point out the following principle which applies in the country when employment relationships are in question: if so-called special legislation (e.g. Civil servants Act and other special acts in the field of public sector) does not contain an explicit provision regarding a specific issue (e.g. language requirement) then the Employment Relationships Act applies. Non-discrimination on the ground of nationality is provided for by this Act. (Article 6) The definitions of direct and indirect discrimination are given by the said article.

2.3 Recognition of professional experience for access in the public sector

As regards the named report of prof. Ziller it seems that the following clarification of the terminological nature might be useful:

In the Slovenian labour law we differ in principle the 'years of service' and so-called 'working experiences' (professional experiences). 'Seniority' is not known as a legal term. We differ years of service with the employer and years of service that may be spent with different employers. Years of service mean simply the period spent in employment. No attention is spent to the nature/content of the work spent within the years of service.

'Working experiences' or 'professional experiences' mean certain period of employment/work at (at least similar) work posts demanding same level of education.

3. OTHER ASPECTS OF ACCESS TO EMPLOYMENT

Nothing new to report

Chapter IV: Equality of treatment on the basis of nationality

1. WORKING CONDITIONS – DIRECT AND INDIRECT DISCRIMINATION

Specific issue: Working conditions in the public sector

In principle, there are no specific issues of compliance with the EU law in Slovenian legislation relating to public sector. This general assessment might be complemented with the assessment of the Slovenian Government, expressed in its document The Strategy of Economic Migrations for the period 2010-2020, adopted in November 2010. Being aware of the importance of the knowledge for the migrants, the Government drew the attention to the fact that in Slovenia the access to professions and activities is too much limited by the requirements related to professional education.

2. SOCIAL AND TAX ADVANTAGES

2.1 General situation as laid down in Art 7(2) Regulation 1612/68

As regards social advantages, we shall primarily focus on advantages deriving from article 7 of the Regulation 1612/68 EC. In other words, we shall limit our findings to issues that do not deal with rights legally based on social insurances as covered by Regulation 883/04 EC.

The right to social assistance is regulated by the Social Assistance Act (Official Gazette of the RS, no. 3/07-officially revised text no.2) and Financial Social Assistance Act (Official Gazette of the RS, no.61/2010, 40/2011).⁹ This right includes social welfare services and social assistance benefits in cash as means-tested benefits. The Social Assistance Act regulates social, personal and family counselling, institutional care and similar services. The Financial Social Assistance Act regulates social assistance benefits in cash. These are Social assistance in cash and Supplementary allowance. According to those two Acts, aliens have the right to services and to financial assistance if they either fulfil the condition of nationality, or they are in possession of a permanent residence permit. System of social assistance does not cover special benefits for job-seekers. EU nationals are entitled to social assistance in cash if they fulfil the same general conditions as those applied for Slovene nationals. The persons, entitled to social assistance in cash, either have no income at all, or their monthly income is below the level of the basic minimum income (approximately 229 EUR). In case they have no income, the entitled persons receive the full stated amount; in other case, they are entitled to receive amounts representing the difference between own income and the above stated amount. When assessing the eligibility, both the already mentioned ceiling, as well as actual facts are taken into consideration: i) an individual or family has assets enabling subsistence, ii) all other rights have been exhausted (social assistance is the last of the rights within the system, eligible when all other subsistence options are exhausted) and iii) the per-

⁹ This Act has already entered into force, but shall begin to apply on January 1st, 2012. Till then only Social Assistance Act applies, meaning that Supplementary allowance is still part of the special Act. See also chapter VIII.

son concerned is actively seeking opportunities to solve his/her situation. The latter is of particular importance to all those with the ability to work; they have to be registered with the Employment Service of Slovenia, participate in offered programmes of active employment policy and actively seek employment.

Family benefits are regulated by Parental Protection and Family Benefits Act (Official Gazette of the RS, no. 110/06-officially revised text no.2, 10/08). They comprise two groups of rights, one dealing with social insurance for parental protection and therefore based on paid contributions, the other based exclusively on state funds and therefore not connected with employment. Within the scope of the latter, there are three types of benefits, where permanent residence is not condition for entitlement: Parental allowance, child benefit and partial payment for lost income.

Tax status of workers coming from EU Member States depends on their residency status according to the national tax legislation. Residents are liable to an income tax on their worldwide income (i.e. income derived in Slovenia as well as abroad); non-residents are liable to pay the tax on income received in Slovenia. According to Personal Income Tax Act (Official Gazette of the RS, No. 13/2011- officially revised text no. 7), an individual, irrespective of his/her nationality, is a resident in Slovenia for personal income tax purposes if he has a formal residential tie with Slovenia or actual residential tie with Slovenia (has a habitual abode or centre of personal or economic interests or is present in Slovenia for more than 183 days in a taxable year).

Personal Income tax Act treats EU workers, resident according to tax legislation, in the same way as Slovenian workers, special treatment is provided for non-residents. This special treatment applies to tax exemptions and tax allowances. Non-residents are not obliged to pay an income tax out of capital profits and savings profits generated in Slovenia.

Non-residents can claim general allowance, seniority allowance and family allowance if an individual can attest that the taxable income gained in Slovenia amounts to at least 90% of his entire taxable income for the tax year. A non-resident claiming such allowances is obliged to file the same annual active income tax return that applies to residents.

2.1 Specific issue: the situation of jobseekers

The jobseekers of the EU Member States enjoy the same rights and obligations as Slovenian jobseeker. The Labour Market Regulation Act (Official Gazette of the RS, no. 80/2010) that among others regulates the entire field of work and employment brokerage and the active employment policy applies for EU job seekers as well. Article 6 of this Act states, that Citizens of EU member states, the European Economic Area (hereinafter EEA) and the Swiss Confederation have equivalent rights and obligations determined herein to Slovenian citizens.

Financial benefits equivalent to the one which was in question in the Collins and Vatsouras cases do not exist in Slovenia.

Chapter V: Other obstacles to free movement of workers

New legislation referred upon in other chapters is intended to remove obstacles to free movement. It is not possible yet to assess its implementation and impact in practice. For this reason there is nothing to report under this chapter.

Chapter VI: Specific Issues

1. FRONTIER WORKERS (OTHER THAN SOCIAL SECURITY ISSUES)

The Slovene legal system has no specific administrative or legal schemes for frontier workers, in addition to the EU rules. Article 9 of the new Employment and Work of Aliens Act (the right to free access to the labour market) applies to frontier workers, too. The third-countries family members need a permit for temporary residence as family members or a visa for long-term residence in order to get employed or self-employed.

Slovenia has not signed any bilateral agreements in order to facilitate frontier mobility.

As far as the outcome of the Hartmann case is concerned, we already mentioned that entitlement to family benefits is not conditioned with permanent residence (see chapter IV).

2. SPORTSMEN/SPORTSWOMEN

Nothing new to report

3. THE MARITIME SECTOR

Nothing new to report

4. RESEARCHERS/ARTISTS

Citizens of Member States of the EU, EEA and Swiss Confederation have free access to the labour market. The provision of Article 15/1 of the Employment and Work of Aliens Act applies also to researchers and artists. There are no explicit provisions regarding the two categories of workers but the Government has underlined in its Strategy of Economic Migrations in the period 2010-2020 that it shall endeavour to promote the arrival of researchers, the EU citizens and third-countries citizens, and students to the country. This standpoint has been confirmed by the following provision of the Employment and Work of Aliens Act:

‘The minister responsible for labour shall lay down cases in which the employment of aliens shall not depend on the labour market because of the nature of the work involved (aliens with professions in demand on the Slovenian labour market, aliens with professions that cannot be pursued through education or training in the Republic of Slovenia, *scientists, lecturers*, aliens with higher education, staff at diplomatic representative offices who do not have privileged status and similar) and in which permits for employment shall be issued regardless of the conditions referred to in the first paragraph of Art. 27 of this Act.’ (Article 29/1)

5. ACCESS TO STUDY GRANTS

In a special report issued in 2010 we described Slovene system of study grants in details. Therefore we should in this report mention that Slovene Government prepared a draft of the new Scholarships Act. This act is in a parliamentary procedure. The coming system of study grants will keep the same sorts of study grants, some changes are foreseen among beneficiaries. For a state grant will be able to apply just full age scholars.

6. YOUNG WORKERS

Nothing to report

Chapter VII: Application of transitional measures

1. TRANSITIONAL MEASURES IMPOSED ON EU-8 MEMBER STATES BY THE EU-15 MEMBER STATES AND SITUATION IN MALTA AND CYPRUS

There are no transitional measures being applied.

2. TRANSITIONAL MEASURES IMPOSED ON WORKERS FROM BULGARIA AND ROMANIA

There are no transitional measures being applied.

Chapter VIII: Miscellaneous

1. RELATIONSHIP BETWEEN REGULATION 1408/71-883/04 AND ARTICLE 45 TFEU AND REGULATION 1612/68

There is no case-law regarding the above mentioned legal norms and/or the relationship between them. Nevertheless, we are aware that they share a common legal dimension. The fact is that Regulation 1408/71 (883/04) in principle takes precedence, as *lex specialis*, over the provisions of Regulation 1612/68. This means that whenever such a particular situation occurs, one has initially to examine whether a particular problem falls within the scope of Regulation 883/04, or not. Despite a rather broad scope of Regulation 883/04, the article 7 of Regulation 1612/68 must be taken into account. A worker who is a national of a Member State shall enjoy the same social and tax advantages as national workers. Advantages related to employment are not the only ones relevant; the same applies to those having a direct connection with the worker him/herself. Disability allowance for worker's children, different advantages for large families, and the like, might for instance be considered social advantages.

According to some decisions of the Court (e.g. *Hendrix*), the Regulation 1612/68 might also have prevailing role in cases where the Regulation 883/04 ought to apply. In *Hendrix* case a particular benefit (incapacity benefit for disabled young people) goes to those enumerated in annex X of Regulation 883/04 (ex IIa of Regulation 1408/71), for which the principle *lex loci domicilii* should apply. The court in *Hendrix* has ruled that this benefit for a disabled young people must be regarded as special non-contributory benefit, which may validly be reserved to persons who reside in a member state which provides that benefit, but has also emphasised that such legal solution must not entail an infringement of the rights of a particular person. National legislation should be interpreted in conformity with the Community law respecting the economic and social links of a person with the member state of origin.

In the Slovenian legal system there are three benefits belonging to the list of special non-contributory cash benefits from annex X of Regulation 883/04: State pension, Income Support for pensioners¹⁰ and Maintenance allowance. All these benefits originate from Slovene pension system. These benefits are similar nature to the incapacity benefit to disabled young people from the *Hendrix* case, a nature of social corrective and are therefore compatible with the *Hendrix* ruling.

State pension is a special pension, intended for a person with permanent residence in the Republic of Slovenia who is not entitled to pension according to the Pension and Invalidity insurance Act, under a foreign public pension insurance scheme or according to other regulations, and whose own income does not exceed the income ceiling specified for the entitlement to pension support, has completed 65 years of age and was residing in the Republic of Slovenia for at least 30 years between the age of 15 and 65 (Art. 59). The state pension currently amounts to approximately 180 EUR.

¹⁰ Correct translation of the benefit called Income support for pensioners is Supplementary allowance. See also chapter IV.

Maintenance allowance is a benefit intended for a widow or a widower after the cessation of transitional allowance,¹¹ provided he/she has registered with the Employment Office within 30 days after the date of exhaustion of the right to transitional allowance, and provided he/she fulfils the conditions for acquisition of the right to pension support with respect to his/her means (Art.129/1). The right to maintenance allowance shall also apply to a widow or a widower who has lost the right to widow/widower's pension because he/she has not fulfilled 53 years of age, provided he/she has registered with the Employment Office within 30 days after the date of the loss of the right to widow/widower's pension (Art.129/2). A widow or widower may acquire widow/widower's pension before the age of 53, if he/she was, after the death of the insured person, left with a child or several children entitled to survivor's pension by virtue of the deceased insured person and whom the widow/widower is liable to maintain (Art. 110/1). Maintenance allowance shall equal the amount of widow/widower's pension, but shall not exceed the amount of the rating base of a minimum pension (Art.130/1), that is 551, 16 EUR. A widow or a widower shall be entitled to maintenance allowance for up to 24months after the cessation of payments of transitional allowance or widow/widower's pension (Art.130/2).

Supplementary allowance (Income support for pensioners) is still part of a special law, Supplementary Allowance Act (Official Gazette of the RS. No.10/2008).¹² In principle, it is dedicated to recipients of old-age, invalidity, widow/widower's and survivor's pension with permanent residence in the Republic of Slovenia (Artc.4/1), whose pension does not attain the amount of 81, 6% of the rating base of the minimum pension (449, 75 EUR) and who along with his/her family member does not have other income and means that would enable subsistence (Art.5). The pension support shall not exceed the difference between the particular pension and the sum of 449 EUR.

2. RELATIONSHIP BETWEEN THE RULES OF DIRECTIVE 2004/38 AND REGULATION 1612/68 FOR FRONTIER WORKERS

Since The Slovenian legal system has not introduced specific administrative or legal schemes for frontier workers, in addition to the EU rules, there is nothing to report on issue concerning relationship between Directive 2004/38 and Regulation 1612/68 for frontier workers.

11 Transitional allowance is another benefit, regulated by Pension and Invalidity Insurance Act, but is not part of the list in Anex X a of Regulation 883/04.

12 As mentioned in chapter IV a Supplementary allowance has been already regulated with a Financial Social Assistance Act, which will begin to apply on January 1st, 2012. Till then Supplementary Allowance Act applies.

3. EXISTING POLICIES, LEGISLATION AND PRACTICES OF A GENERAL NATURE THAT HAVE A CLEAR IMPACT ON FREE MOVEMENT OF EU WORKERS

3.1. Integration measures

According to the information obtained from the Ministry of Labour, Family and Social affairs there are no special measures foreseen. Nevertheless it should be mentioned that since 2010 there has been active a special »information point« for third country nationals. Its services can be used by EU nationals as well, especially about employment, labour market and residence issues.

3.2 Immigration policies for third country nationals and the Union preference principle

Slovenian Government adopted Strategy of economic migration for the period 2010-2020. It is primarily dedicated to third country nationals. Strategy consists of ten guidelines: i) encouraging immigration for the purpose of employment or work and diminishing non-conformities within labour market, ii) promotion of entrepreneurship of immigrants, iii) recognition and evaluation of qualifications obtained abroad, iv) encouraging mobility and immigration of researchers and students, v) diminishing the risk of brain-drain etc.

3.3 Return of nationals to new EU Member States

Nothing to report

4. NATIONAL ORGANIZATIONS OR NON-JUDICIAL BODIES TO WHICH COMPLAINTS FOR VIOLATION OF COMMUNITY LAW CAN BE LODGED

Nothing new to report

5. SEMINARS, REPORTS AND ARTICLES

Nothing to report