



EEPOW

POSTING OF WORKERS
IN EASTERN EUROPE



INSTITUTIONAL CAPACITIES FOR IMPLEMENTING THE POSTING OF WORKERS DIRECTIVE IN THE **WESTERN BALKANS:** **A NEEDS ASSESSMENT**

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List of Abbreviations

AL - Albania
EU - European Union
EU MS - European Union Member States
ME - Montenegro
MK - North Macedonia
PWD - Posting of Workers Directive (96/71/EC)
RS - Serbia
WB - Western Balkans

EXECUTIVE SUMMARY

The needs assessment provides a review of the capacities of the four candidate countries of the Western Balkans, namely Albania, Montenegro, North Macedonia and Serbia, to implement the Posting of Workers Directive (96/71/EC).

The needs assessment is done through the incremental approach of identifying existing capacities in all four countries and making best use of them for moving forward in achieving the developmental goal. The capacities are assessed in the context of the policy process cycle and in terms of six interdependent institutional capacity domains: legal framework, institutional arrangement, inter-agency cooperation, human resources, stakeholder engagement, and public governance.

The needs assessment is based on the four country reports prepared by country teams in Albania, Montenegro, North Macedonia and Serbia during the period April to September 2018. The empirical data was collected through the review of the existing academic and grey literature on migration and labour mobility, the review of each country's legislative and institutional framework, as well as by 44 semi-structured interviews with representatives of policymakers, implementing and enforcement state agencies, social partners and other relevant experts.

The findings indicate that the Directive has been only partially transposed in each of the four countries and the existing legislation does not include all the elements of the Directive and the Enforcement Directive, while other relevant measures such as bilateral agreements on social security coordination and health care are also incomplete.

As the legal framework is still not complete, the assessment of the institutional arrangement indicated that a number of institutions responsible specifically for the implementation of the Directive are either not in place or just partially established.

Liaison offices that would facilitate inter-agency cooperation and information dissemination mechanisms are also not established, which means that cooperation is partially under the control of various existing agencies, without a proper mandate for or knowledge of posting.

Assessment of the existing human resources and their capacities shows that enforcement agencies lack the resources to monitor and control posting. Furthermore, knowledge of the Directive as well as trainings for language and inter-cultural communication skills are limited, therefore highlighting the need for improvement and for further policy action and training in these areas.

Other stakeholders, such as trade unions, employer organisations, Chambers of Commerce and NGOs, have not been actively involved in the process across the four countries, and when they were, their involvement has been partial and in the form of consultation meetings.

To address the needs identified, all four candidate countries need to complete the legal framework and establish protocols of intra-agency cooperation, mandate public authorities and build their capacities on posting, as well as include social partners more actively in the process.

1. INTRODUCTION

Albania, Montenegro, North Macedonia and Serbia are four countries of the Western Balkans (WB) that have a long history of cross-border labour migration with European Union Member States (EU MS) as well as in the region. They have aspired to become European Union (EU) members since the start of the democratization processes, and in recent years have come closer to EU membership with Montenegro and Serbia already in the process of accession negotiations and Albania and North Macedonia hoping to do so later in 2019. In their process of EU integration, the countries have been working on their legal framework approximating their national legislations to the *Acquis Communautaire*. Part of these legal reforms have also been the regulations on labour mobility within the European single market, among which stands also the transposition of the Posting of Workers Directive (96/71/EC), which regulates temporary cross-border movement of services. However, transposition is only the first step towards implementation.

In this report, the needs of the four candidate countries of the Western Balkans to implement the Posting of Workers Directive (herewith PWD or the Directive) are assessed. The needs assessment is done through the incremental approach of identifying existing capacities in all four countries and using them as the foundation for moving forward in achieving the developmental goal. The capacities are assessed in the context of the policy process cycle (assessment and design, implementation, and monitoring and review) and in terms of six interdependent institutional capacity domains: legal framework, institutional arrangement, inter-agency cooperation, human resources, stakeholder engagement, and public governance (UNDP 2008; EuropeAid 2010). The research questions formulated in line with this approach are: What are the current national institutional capacities for implementing the Posting of Workers Directive? What institutional needs should be addressed in order to support the implementation of the Directive? How should these needs be addressed?

The needs assessment is based on the four country reports prepared by country teams in Albania, Montenegro, North Macedonia and Serbia during the period April to September 2018 (see Agolli & Deliu 2018; Cukut Krilić & Vah Jevšnik 2018; Djuric & Todorovic 2018; Ilijevski & Iloska 2018). The empirical data were collected through the review of the existing academic and grey literature on migration and labour mobility, the review of each country's legislative and institutional framework, as well as by a total of 44 semi-structured interviews with representatives of policymakers, implementing and enforcement state agencies, social partners and other relevant experts in all four countries.

The fieldwork indicated that the policy cycle for this particular policy is not complete, and that only the design and partly the implementation stages could be observed and assessed. The findings indicate that the countries have made some progress in the process of the transposition and implementation of the Directive, but more needs to be done. The Directive has been only partially transposed in each of the four countries and the existing legislation does not include all the elements of the Directive and the Enforcement Directive, while other relevant measures such as bilateral agreements on social security coordination and health care are also incomplete. As the legal framework is still not completed, the assessment of the institutional arrangement indicated that a number of institutions responsible specifically for the implementation of the Directive are either not in place or just partially established. Liaison offices that would facilitate inter-agency cooperation and information dissemination mechanisms are also not established, which means that cooperation is partially under the control of various existing agencies, without a proper mandate for or knowledge of posting. Assessment of existing human resources

and their capacities shows that there is a clear need for improvement and for further policy action and training in this area. Other stakeholders, such as trade unions, employer organisations, Chambers of Commerce and NGOs were not actively involved in the process, and when they were, their involvement was partial and in the form of consultation meetings. To address the needs identified, all four candidate countries need to complete the legal framework and establish protocols of intra-agency cooperation, mandate public authorities and build their capacities on posting, as well as include social partners more actively in the process.

The needs assessment is structured in the following sections. It firstly gives a concise overview of posting in the European Union. Secondly, it presents the context through a socio-economic overview of the four candidate countries and their EU integration process, followed by a detailed account of the methodology used. The results are presented according to the six main domains, namely the legal framework, institutional arrangement, inter-agency cooperation, human resources, stakeholder engagement, and public governance. Then, in the concluding chapter results are synthesised followed by policy implications of the needs assessment, general recommendations for future action, as well as priority areas of intervention for each country.

2. POSTING OF WORKERS IN THE EUROPEAN UNION

Posting has become the fastest-growing form of temporary cross-border labour mobility over the latest years. Although there are no exact numbers for postings, estimates drawn from the portable documents A1 forms submitted by companies for their workers posted to another EU Member State reached 2.8 million in 2017, which amounts to 0.8% of total EU employment (De Wispelaere & Pacolet 2018). Posting is triggered either by labour cost differentials or skills shortages. Cost differentials encourage some companies in higher-income countries to subcontract parts of the job to companies in lower-income countries in low-value chain sectors that cannot be delocalized such as construction, services and agriculture. As a result, there has been substantial use of posting in these sectors with construction accounting for nearly half of the overall number of incoming and outgoing postings in the whole European Single Market. Skills shortages, on the other hand, have triggered high-skill workers' mobility, in particular in sectors such as engineering, specialised construction professions, or financial services, which is estimated to account for 36 percent of all postings (European Parliament 2016). In the case of high-skilled posting, the salaries of posted workers are usually the ones which are highest (whether at home or in the host country). European Commission data (2016) suggest most high-skill posting is done from older member states towards other old or new member states. More than half of posting is done to the neighbouring countries, and there is some posting of third country nationals, mainly through one of the existing member states, such as in the case of Slovenia, from where workers from Western Balkan countries like North Macedonia, Bosnia and Herzegovina, and Serbia are posted to the rest of the EU Member States.

The Posting of Workers Directive (96/71/EC) was adopted in 1996 in order to regulate temporary labour mobility across the member states in the single market of the European Union. Employees are sent from their country of residence and employment to another EU country by their employer or an employment agency that acts as their employer to perform a job assignment for a definite temporary period of time and then return. Posting is therefore the way EU-based companies provide a service to a client or company based in other EU countries.

The EU law defines a set of mandatory rules regarding the terms and conditions of employment to be applied to posted workers. These rules establish that, even though workers posted to a Member State are still employed by the sending company and subject to the law of that Member State, they are entitled to a set of core rights in force in the host Member State:

- minimum rates of pay;
- maximum work periods and minimum rest periods;
- minimum paid annual leave;
- the conditions of hiring out workers through temporary work agencies;
- health, safety and hygiene at work;
- equal treatment between men and women (Article 3/1).

Nevertheless, the interpretation of the Directive by employers eventually led to cases of social dumping reported by social partners and member states who considered the Directive as a way for certain companies to undermine their national labour standards (Cremers 2011). In response, an Enforcement Directive (Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 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’]) was passed in 2014, in which the issue of access to information and cross-border cooperation among enforcement agencies as ways to guarantee genuine posting and prevent fraud was outlined. A number of decisions of the European Court of Justice also offered interpretations on the Directive (e.g. Case C-341/05, *Laval un Partneri Ltd*, ECR 2007, I-11767, Case C-438/05 *Viking*, ECR 2007, I-10779, Case C-346/06 *Rüffert*, ECR 2008, I-1989, Case C-319/06, *Commission v. Luxembourg*, ECR 2008, I-4323). Despite these efforts, criticism for unfair competition and social dumping practices persisted (ETUC 2014; Cremers 2016), eventually leading to the revision of the Directive in 2018 to include the principle of equal pay between posted and locally-hired workers as well as the further reduction of the posting period from two years to one year (see 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). With the revision of the Directive, posted workers in all economic sectors are guaranteed equal pay as locally hired workers based on rules set by law or universally applicable collective agreements. However, if sending country working conditions are more favourable, they become applicable to posted workers (European Commission 2019).

3. SOCIO-ECONOMIC OVERVIEW OF THE 4 WESTERN BALKAN COUNTRIES

All four countries experienced robust economic growth in the last few years (see Table 1). Between 2016 and 2017 GDP growth increased the most in Montenegro from 2.6% to 4.7%. Employment levels also continued to grow, especially in Montenegro and Albania (both 3.3%) while North Macedonia and Serbia recorded modest increases (2.1% and 0.2% respectively). Despite a general fall in unemployment, it is still considerably higher than in EU countries. In 2017, the unemployment rate ranged from 13.5% in Serbia to 22.4% in North Macedonia. High youth unemployment and informal employment remain among the key labour market challenges in the four countries.

Table 1 Key labour market indicators in the four candidate countries, 2017

	AL	ME	MK	RS
GDP real (annual growth in %)	3.8	4.7	0.2	2.0
Employment rate, population aged 15+ (%)	50.3	45.9	44.1	46.7
Unemployment rate, population aged 15+ (%) 2017	13.7	16.1	22.4	13.5
Long-term unemployment, population aged 15+ (%)	8.9	12.4	17.4	8.1
Youth unemployment, population aged 15-24 (%)	31.9	31.7	46.7	31.9
Informal employment as share of total employment (%)	36.2	n.a.	18.1	20.7
Temporary employment, share of employees aged 15+ (%)	12.3	30.3	14.0	22.8
Average monthly gross wage (in EUR)	371.5	765	547.1	543.7
Monthly gross minimum wage (in EUR)	162.7	288.1	239.7	247.9
Average usual weekly working hours*	n.a.	44.1	42.3	42.8
Total hourly labour costs (EUR)**	2.41	5.84	3.55	5.26
Of which: Wages and salaries (EUR)	2.02	4.66	3.50	4.48

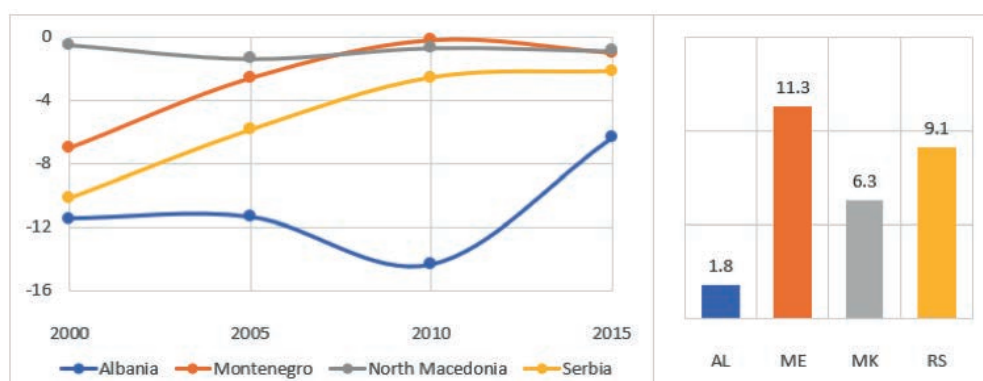
Source: SEE Jobs Gateway database, Eurostat Database

Notes: *Data refer to 2018. **Data refer to 2016.

High unemployment and lack of job opportunities in the region have been the main drivers for out-migration, especially among the young and highly educated resulting in significant brain-drain for instance in Albania and North Macedonia. As shown in Figure 1, the net migration rate became more balanced in the four countries over the period 2000-2015, although it is still in the negative (i.e. more people leaving than entering the countries). According to a recent survey (Gallup 2018), 60% of adults in Albania expressed their desire to move permanently to another country if they could, while available statistical data in North Macedonia show an increasing number of its citizens emigrating for temporary employment reasons; most of them, however, do not return but continue their stay abroad.

The size of the immigrant population relative to the total population is highest in Montenegro with 11% and lowest in Albania (around 2%) (Figure 1). Serbia is the leading country in terms of the absolute number of immigrants (801,000).

Figure 1 Trend in net migration rate (%) 2000-2015 (left) and share of immigrants in total population (%) 2017 (right)



Source: Migration Data Portal (IOM, GMDAC).

Despite recent improvements in data collection and statistics, partly a result of the EU accession process that emphasizes the importance of harmonized national data collection systems, data on labour migration is still patchy in the four countries. Even where data exists, comparability across countries remains a major challenge due to the variety of collection methods and data sources utilised. Cross-country comparability is further compounded by the fact that countries use different definitions.

Available data on work permits show that in 2017, 7,405 foreigners have been issued a temporary working permit and 240 a permanent working permit in Serbia. In 2016, the number of Serbian citizens that were employed abroad by foreign employers was 5,057. Most of these employees were sent to work in Germany, the Russian Federation and Romania. Out of the total number of work permits issued in the region in 2013, 62% were issued in Montenegro (IOM & RCC, 2015), which highlights the importance of Montenegro as a receiving country for migrant labour within the region.

Regarding the number of postings, there were 75 cases of foreign workers employed in Albania under posting arrangements. The number of Albanians posted abroad is unknown. According to the register from the Ministry of Labour and Social Policies in North Macedonia, during 2017 570 workers have been posted to Germany, mostly for works in the construction industry. For the year 2016/2017, the number of detached workers from Serbia was 2,156 and the percentage of quota utilisation was 77.8%. In the first 7 months of 2018, there were 2,391 detached workers with a quota utilisation of 86.3%. The Ministry of the Interior of Montenegro has recently reported that the number of workers posted to Montenegro (defined as providing contracted services and movement of individuals within a foreign company) has been: 1,616 in 2016, 3,029 in 2017, 4,371 in 2018 and 2,393 in 2019, while no official data were made available on the number of posted workers from Montenegro.

4. EU INTEGRATION PROCESS

All four countries, Albania, Montenegro, North Macedonia and Serbia aspire to become EU Member States. All four have already signed the Stability Association Agreement, and all four have become candidate countries (Albania in 2014, Montenegro in 2012, North Macedonia in 2005, and Serbia in 2012). Two of the countries have already started the accession process: Montenegro (in 2012) with 30 Chapters opened, and Serbia (in 2014) with 17 Chapters opened. Meanwhile, in 2018 the Commission already recommended the opening of the accession negotiations with Albania and North Macedonia. However, in order to open accession negotiations as recommended in 2019, both countries should show commitment to reforms and progress in the achievement of the key priorities set by the Council of the European Union.

Currently, the Stabilization Association Agreements (SAA) signed between all four candidate countries and the EU are the main legal documents regulating labour mobility and defining the areas of labour legislation that have to be approximated to EU legislation for three of the countries, while for Montenegro Chapter 2 on the Freedom of Movement for Workers, Chapter 3 on the Right to Establishment and the Freedom to Provide Services, and Chapter 19 on Social Policy and Employment have already been opened. Although the European Commission concluded its screening on Chapter 2 and recommended opening the negotiations on this Chapter with Serbia in 2015, this Chapter is still not opened. The progress reports for all four countries in the area of labour mobility indicate that although there has been some progress in EU legislation approximation, more needs to be done. At the same time, countries have to build the capacities for implementing new legislation (European Commission 2018a,b,c,d).

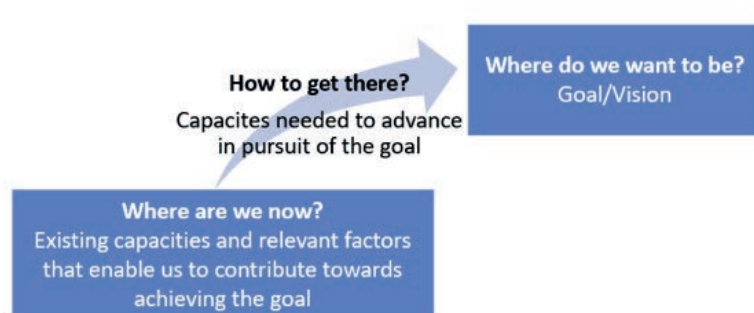
In addition, the WB candidate countries also have to make further steps to coordinate their social security systems with the EU Member States and introduce the use of the European Health Insurance Card (EHIC). A number of agreements have already been signed or are in the process of negotiation with the EU Member States, however, the process is far from complete (for more details on these agreements for each country please see Tables A1, A6, A11, A16 in the Annex). The last Berlin Process Summit, which took place in 2018 in London, introduced concrete further actions under the Berlin Process, in order to push forward the implementation and strengthening of the Regional Economic Area, which should create jobs, investment, trade, digital integration and increase mobility in the Western Balkans.

The prospect of actual membership is still under question. In the Commission's document titled *A credible enlargement perspective for and enhanced EU engagement with the Western Balkans* issued in 2018, also known as the Western Balkan Strategy, 2025 was indicated as the earliest year any further enlargement could happen. This document also highlighted six flagship initiatives to be undertaken by the countries of the region in order to make their enlargement perspective 'credible', namely: to strengthen the rule of law; to enhance support for socio-economic development; to increase transport and energy connectivity; to develop a Digital Agenda for the Western Balkans, and to support reconciliation and good neighbourly relations.

5. METHODOLOGY

The approach chosen for the assessment is the incremental approach of identifying existing capacities and using them as the foundation for moving forward in achieving the developmental goal. This approach starts by asking: What capacity is already in place? What are the relevant factors that enable stakeholders to contribute towards achieving the goal? After examining the existing capacities and factors, the next step is to ask: What capacities would enable us to advance in pursuit of the developmental goal? (See Figure 2).

Figure 2 Incremental approach to capacity needs assessment from the stakeholders' perspective



Source: Own visualisation drawing on FAO, 2012: 24; UNDP, 1998: 26.

The incremental approach was chosen for its affirmative starting point, which makes it very helpful in involving targeted stakeholders in a process of participatory self-assessment. It also defines needs as realistic starting points and first steps that will help the organisation move forward in the desired direction, rather than aiming for ambitious, high-level capacity targets. The approach is also more flexible than other models, such as gap analysis, for example, because it allows key stakeholders to define what they consider to be important for the context, including soft capacities and their role and importance in the overall analysis. Flexibility could also be a challenge, however, in particular in cases where the stakeholders may not necessarily have the appropriate technical knowledge or other information necessary to frame their next capacity steps in a meaningful way. However, this challenge was ameliorated by selecting the appropriate stakeholders who are more likely to possess the required knowledge.

The capacities were assessed in the context of the policy process cycle, which includes three stages (OECD 2010), i.e. assessment and design, implementation, and monitoring and review. This policy process cycle can be applied to various institutional capacity domains, including the following six interdependent institutional capacity domains: legal framework, institutional arrangement, inter-agency cooperation, human resources, stakeholder engagement, and public governance (see for example UNDP 2008; EuropeAid 2010). In this understanding, the policy cycle is perpetually transformative and interdependent, therefore, in order to assess institutional capacities for implementing a particular policy, the six different domains need to be examined at all three stages of the policy

process, i.e. not only aiming to identify the implementation capacities/needs, but also those related to planning and design, and monitoring, evaluation and enforcement. In applying this approach, particular attention is also paid to the interdependence among the six domains, and how existing capacities in every domain influence, and are influenced by, the performance in the others (See Figure 3).

The research concentrated on the identification of capacity needs that are specific and relevant for the implementation of a single policy, the Posting of Workers Directive. At the same time, it took into consideration the wider context in each of the four candidate countries in which the policy process will develop (cf. Yin 2003). Therefore, it recognized capacity development as an inherently home-grown process and highlights the importance of country-specific capacities and needs (UNDP 2009; OECD 2003). This means that issue-specific, issue-relevant and country-specific developments were examined. By issue-specific it is meant anything that has to do with the Posting of Workers Directive, such as steps towards the transposition of the Directive.

Figure 3 The Policy Cycle



Source: Own visualisation drawing on OECD, 2010; UNDP, 2008; EuropeAid, 2010.

By issue-relevant it is meant other developments that are interconnected to the implementation of the Directive, such as labour market regulations or inter-agency cooperation and information exchange protocols. And by country-specific it is meant national developments that are particular to the country that is being studied and which are seen as affecting the implementation of the Posting of Workers Directive.

The research process was built in two stages. In the first stage the individual case-studies were conducted. In the second stage, the needs assessment at hand brings together the four case-studies. In this stage, the cross-national case-study research gives us the opportunity to compare and contrast the policy cycle of the same Directive in different national contexts (Hantrais and Mangen, 1996; Yin 2003). Both the individual case-studies and the needs assessment were based on the analytical framework and the indicators explained in the following sessions.

The four country case-studies, i.e. Albania, North Macedonia, Montenegro and Serbia, were selected based on the fact that they are candidate countries of the European Union that are going through the phase of preparing for accession. This means meeting the criteria for membership, including the approximation of the national legislation to the EU legal and policy framework. The Posting of Workers Directive is still not fully in force in these countries, which makes the research on the institutional capacities and the needs assessment a timely intervention.

The research questions formulated in line with this approach are:

- *What are the current national institutional capacities for implementing the Posting of Workers Directive? (descriptive question)*
- *What institutional needs should be addressed in order to support the implementation of the Directive? (normative question)*
- *How should these needs be addressed? (instrumental question)*

5.1 Data collection

The empirical basis for this study is comprised of:

- a. A literature review of existing publications on migration and labour mobility from the country of study towards the EU and the integration process.
- b. A careful review and analysis of labour and mobility legislation and regulation at the EU, national, industry, and workplace (if applicable) level.
- c. A careful review of grey literature on the topics related to the study.
- d. Semi-structured interviews with national policymakers and/or experts at the ministerial level; representatives of the state agencies that monitor and control employment and labour migration and potentially posting in the future; representatives of national worker and employer organizations; national health insurance agencies; and labour market intermediaries.
- e. Semi-structured interviews with (research or CSO) experts on the intersection between the EU integration process, employment and labour mobility at the national level.

The fieldwork was conducted in the period April to September 2018 (Table 2). During the fieldwork, twelve (12) interviews were conducted in Albania, fourteen (14) in Montenegro, seven (7) in North Macedonia, and eleven (11) in Serbia, making for a total of 44 interviews in the four countries.

Table 2 Detailed account of the primary data collection in the four countries

Country	No. of interviews	Background of respondents
Albania	12	Ministry of Finance and Economy/ Directory on Migration and Employment; State Inspectorate of Albania; National Employment Service; Ministry of the Interior/ Border Control and Management Directory/ Social partners; Private firms (Deloitte in Albania & Kosovo, Vodafone Albania and Trans Adriatic Pipeline Albania); Experts and scholars in labour market and migration.
Montenegro	14	Ministry of Labour and Social Welfare, (3, joint interview); Employment Agency of Montenegro (2); Non-governmental organisation (2, joint interview); Representatives of national employer organisations (2, joint interview); Private employment agencies (4) Agency for professional rehabilitation (1).
North Macedonia	7	Representatives from national policymakers (3); Trade Unions (2); Labour market intermediaries (2).
Serbia	11	Ministry of Labour, Employment, Veterans and Social Affairs/Employment Department (1); Labour Inspectorate/Directorate for Health and Safety at Work (2); Ministry of Trade, Tourism and Telecommunications – Market Inspection (1); Chamber of Commerce and Industry of Serbia (1); Serbian Association of Employers (1); Confederation of Autonomous Trade Unions (1); Health Insurance Fund (1); National Employment Service (1); Infostud (1); Non-Governmental Organization with expertise on the intersection between the EU integration process, employment and labour mobility at the national level (Astra Anti Trafficking Centre) (1).

The group discussion at each of the national workshops held in Podgorica (7 May 2018), Tirana (26 June 2018), Belgrade (26 September 2018), and Skopje (6 November 2018) served as an additional source of information for the assessment of needs in each candidate country.

5.2 Research Indicators and Analytical Framework

For the study of the six domains identified above, a set of issue-specific, issue-relevant, and country-specific indicators has been developed (see Figure 4) and will be explained below.

Figure 4 Policy Indicators according to the 6 Policy Domains

Legal framework	• Issue-specific • Issue-relevant • Country-specific	-Transposition of the Directive & EU legislation approximation -Labour market regulation, social security, health insurance, tax system -National Labour Code and Subcontracting Liability Regulation
Institutional arrangement	• Issue-specific • Issue-relevant • Country-specific	-State agencies responsible -Designated agencies/offices to deal with the Directive/EU labour market issues -Inspection structures & Grievance Procedures
Inter-agency cooperation	• Issue-specific • Issue-relevant • Country-specific	-National inter-agency cooperation structures & protocols -Transnational inter-agency cooperation structures & protocols -Liaison Offices & Information dissemination practices
Human resources	• Issue-specific • Issue-relevant • Country-specific	-Designated personnel to deal with the Directive/EU labour market issues -Training/knowledge of the Directive and of the EU labour market legislation & regulation -Language Skills
Stakeholder engagement	• Issue-specific • Issue-relevant • Country-specific	-Trade Unions Engagement -Employers Associations Engagement -Tripartite Social Dialogue & Collective Bargaining
Public governance	• Issue-specific • Issue-relevant • Country-specific	-Efficiency -Transparency -Participation

Source: Own visualisation drawing on OECD, 2010; UNDP, 2008; EuropeAid, 2010.

The **legal framework** analysis comprised the examination of the current legislative status, the exploration of whether the Directive has already been discussed in the national context and whether any steps have been taken for its transposition, such as adoption of laws, regulations and administrative provisions necessary to comply with the Directive (Article 7) (issue-specific). At the same time, national labour laws, labour market regulation, subcontracting liability regulations, the social security system, health insurance and the tax system were examined as a way to assess the legal mechanisms of each candidate country to monitor and control employers that might want to post their workers into EU Member States (issue-relevant/country-specific).

For the **institutional arrangement**, the existing agencies responsible for monitoring and controlling labour mobility between each country and the EU were examined to see if there are any designated agencies/offices that deal with/would be responsible for the implementation of the Directive and/or EU labour market-related issues (issue-specific/country-specific). The designated competent authorities are a requirement in both the Directive (Article 4/1) and the Enforcement Directive (Article 3), therefore mapping the institutional arrangement was necessary for the capacities' assessment. Furthermore, the identification of the inspection structures for the monitoring and enforcement of the Directive (issue-specific) and the grievance procedures (issue-relevant/country-specific) in place for workers and companies completed the analysis of this domain of the policy cycle.

Once the institutional arrangement was mapped, **inter-agency cooperation** was examined, specifically the structures and the protocols of cooperation which might have been established for the purpose of implementing the Posting of Workers Directive (issue-specific) or more broadly to monitor and control labour practices and cross-border mobility (issue-relevant). The Directive and the Enforcement Directive stipulate the use of liaison offices (Article 4 on Cooperation on Information of the Posting of Workers Directive and Article 3 of the Enforcement Directive) making their existence issue-specific. Candidate countries might not have liaison offices specifically for the Posting of Workers, but they might nevertheless have inter-agency liaison offices and protocols in the areas of employment and migration/cross-border mobility at the national and international level (issue-relevant). The existing cooperation channels and information exchange and sharing practices (country-specific) as well as the measures taken 'to ensure data protection of exchanged information and the legal rights of natural and legal persons that may be affected' (Directive 2014/67/EU, Article 3) in each candidate country, were identified and examined.

The study of the **human resources** entailed finding out whether any personnel in the state agencies has received any specific training on the posting of workers (issue-specific) or cross-border labour mobility in the EU and the common European labour market (issue-relevant). The scope and content of these trainings could reveal the extent of expertise and knowledge people in the competent authorities have on the issues specific and relevant to the implementation of the Posting of Workers Directive. Other elements to be taken into consideration were language skills and intercultural communication skills (issue-specific/country-specific).

Stakeholder engagement was examined in terms of the involvement of the national worker organizations and employer organizations in the process of EU integration focusing on the chapters that cover employment and labour mobility in the European labour market (issue-relevant) and in case they have been involved in the process of adopting the Posting of Workers Directive (issue-specific). The collective bargaining system and the social dialogue were also examined in order to understand the position of the trade unions and employer associations in each candidate country and the role they (could) play in the implementation of the Directive (country-specific).

The sixth domain, i.e. **public governance**, was analysed in terms of the World Bank Governance Index (WGI) which provides indicators and data that are comparable across the countries. According to this method, governance is defined as “the traditions and institutions by which authority in a country is exercised. This includes (a) the process by which governments are selected, monitored and replaced; (b) the capacity of the government to effectively formulate and implement sound policies; and (c) the respect of citizens and the state for the institutions that govern economic and social interactions among them.” (Kaufmann et al. 2010: 3). For each of these areas there are two measures of governance for a total of six indicators, defined below:

(a) The process by which governments are selected, monitored, and replaced:

1. Voice and Accountability (VA) - capturing perceptions of the extent to which a country's citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association, and a free media.
2. Political Stability and Absence of Violence/Terrorism (PV) - capturing perceptions of the likelihood that the government will be destabilized or overthrown by unconstitutional or violent means, including politically-motivated violence and terrorism.

(b) The capacity of the government to effectively formulate and implement sound policies:

3. Government Effectiveness (GE). capturing perceptions of the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies.
4. Regulatory Quality (RQ) - capturing perceptions of the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development.

(c) The respect of citizens and the state for the institutions that govern economic and social interactions among them:

5. Rule of Law (RL) - capturing perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence.
6. Control of Corruption (CC) - capturing perceptions of the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as “capture” of the state by elites and private interests.

Differently from the other domains, public governance is predominantly country-specific, therefore the analysis was complemented with other literature and inference drawn from the fieldwork. To assess public governance, researchers reflected on the systemic level and discussed how the country specifics will influence the implementation of the Posting of Workers Directive in the candidate countries of the Western Balkans.

5.3 Challenges and limitations

There were no major challenges and obstacles reported by the researchers in Albania and Montenegro on the desk review and fieldwork. In the case of Montenegro, contact to the interviewees was facilitated by the Employment Agency of Montenegro, which is a partner in the EEPOW project.

Researchers encountered some difficulty in accessing interview participants in North Macedonia and Serbia, which was caused partially because of the lack of understanding of the Posting of Workers Directive and the posting of workers as an issue, and partially because the Directive has not come into force, despite the fact that posting from MK and RS is already happening and some representatives of public authorities do not consider themselves in the position to share knowledge and opinion on the implementation of the Directive.

Limitations to this research stand on the level of detail for some of the indicators, such as inter-agency cooperation and human resources. The relevant respondents did not provide extensive details, which could be because these are not available, or they are not willing to share them with the public.

6. RESULTS

The fieldwork indicated that the policy cycle for this particular policy is not complete, and that only the design and partly the implementation stages could be observed and assessed. The findings for each of the six domains, i.e. legal framework, institutional arrangement, inter-agency cooperation, human resources, stakeholder engagement and public governance, are presented in detail below.

6.1 Legal Framework

The analysis of the legal framework focused on identifying whether the Posting of Workers Directive and the Enforcement Directive have been transposed and whether other relevant measures have been taken in each of the candidate countries. The findings indicate that the Directive has been partially transposed in each of the four countries (Table 3). The existing issue-specific legislation does not include all the elements of the Directive and the Enforcement Directive, while the issue-relevant measures are also incomplete.

Table 3 Detailed account of the transposition of the posting legal framework in the candidate countries

Indicator		AL	ME	MK	RS
I. The Posting of Workers Directive has been transposed		Partially	Partially	Partially	Partially
II. The following are included in national law or regulation or administrative provision/s	Definition used in national law	Yes	Partially	Partially	Yes
	Terms and Conditions (Article 3)	Yes	Partially	Yes	Yes
	Length of posting	Yes	Partially	Partially	Yes
	Pay	Yes	No	Partially	Yes
	Travel, board, and lodging	No	Partially	No	Yes
	Allowances	Yes	No	Yes	No
	Liaison office	No	No	No	No
	Information available to posting companies/workers	No	No	No	Partially
	National website on posting	No	No	No	No
	Reference to the Directive contained in the national law/regulation/administrative provision or in its official publication	Partially	No	No	No
III. The 2018 revisions of the PWD have been introduced in national law		No	In Process	No	No
IV. Measures in the event of failure to comply with the PWD in place		No	No	Partially	Partially
V. Multilateral/Bilateral Social Security Agreements with EU/EU Member States		Partially	Partially	Partially	Partially
VI. Multilateral/Bilateral health care coverage/insurance agreements with EU/EU Member States		NA	Partially	Partially	Partially

The Directive is transposed in two parts: posting EU workers to each of these countries is regulated through a Law on Foreigners and the related regulation on the employment of foreign workers, including EU workers, to these countries, whereas the posting of nationals to other countries is regulated through the Labour Code. Albania and Serbia have reformed their labour codes in order to approximate their legislation to the *Acquis*, including the posting of their nationals abroad, whereas Montenegro is still in the process with the draft law prepared and sent for review to the EU. North Macedonia, on the other hand, has a law on posting that entered in force in 2012; however, the law is drafted only for the construction sector. In all four countries, the laws on foreigners have already been revised to include, among other amendments, the posting of EU workers to these countries. In North Macedonia and Serbia, the process also includes mainstreaming the issuing of permits in one-stop shops, which means that the working and residence permits are combined in one single document.

A detailed analysis of the legislation already in force indicates that the definition of posting is fully included in the Albanian and Serbian legislation, but only partially in the other two countries. Article 3 of the Directive where the terms and conditions for posted workers are stipulated is part of the legislation in three of the countries, but only partially in Montenegrin legislation. Length of stay and pay are regulated in the Albanian and Serbian legislation, but only partially in North Macedonia. In Montenegrin legislation pay is not regulated and length of stay only partially. Travel, board and lodging are not included in the Albanian and Macedonian legislation, but they are in the Serbian one and only partially in the Montenegrin one. Allowances are included in the Albanian and Macedonian legislation but not in the Montenegrin and Serbian one.

The liaison office, the provision of information to posted workers, and the national website on posting stipulated in the Enforcement Directive have not been included in the current legislation in any of the countries, except for a partial mention of the provision of information in the Serbian law. Reference to the Directive is also not included in any of the countries, apart from mentioning it in the Albanian Law on Foreigners.

Furthermore, these countries have not yet incorporated any of the changes that are part of the Revised Directive of 2018, except for Montenegro where the actual passing of the law is in process and it might as well include the revisions in its final form. There are currently no measures in place in the event of failure to comply with the Directive in Albania and Montenegro and only partial ones in North Macedonia and Serbia.

The input from the national policymakers suggests that the process of the transposition in all four countries is not complete. While the laws have been reformed, the by-laws and other accompanying regulation and administrative provisions are still not in place. The assessment indicates that what is still missing in the legal framework of each country needs to be included in the by-laws and other national legal mechanisms such as administrative provisions. The process is also influenced by the fact that the Directive should enter in force once the countries become member states, and while this is still not happening, there is time to address what is missing in the legal framework.

In terms of issue-relevant matters, such as the coordination of the social security systems, all countries have already signed agreements with several EU Member States and neighbouring countries (as well as other countries where a considerable number of nationals have migrated to), but not with all. As a result of these agreements, Serbia and North Macedonia have also been posting their nationals to various EU countries. Agreements on health insurance have not been pursued in Albania, whereas the other three countries have already signed agreements and are in the process of negotiating others. Nonetheless, there has been no progress in the use of the European Health Insurance Card in any of these countries (European Commission 2018a, b, c, d). Furthermore, the issue of double taxation is a strong deterrent factor in the case of Albania, where lack of agreements to avoid double taxation and/or the complicated procedures to achieve that, has resulted in companies not using posting as a form of cross-border labour mobility.

6.2 Institutional Arrangement

As the legal framework is still not complete, the assessment of the institutional arrangement indicated that a number of institutions responsible specifically for the implementation of the Directive are either not in place or just partially established (Table 4). So, there are no liaison offices established in any of the four candidate countries. The public authorities responsible exist, in the sense that they are institutions already responsible for employment and migration, and in the case of Albania and North Macedonia also specifically tasked with overseeing posting.

Table 4 Institutional arrangement on posting in the four candidate countries

Indicator	AL	ME	MK	RS
Liaison Office established	No	No	No	No
Public authority/ies responsible for the implementation of the PWD (competent authorities) assigned	Yes	Partially	Yes	Partially
State agency/ies responsible for monitoring, control and enforcement of the PWD assigned/established	Yes	No	Partially	No
Grievance procedure and authorities for posting to and from the country assigned/established	Partially	Partially	Partially	Partially
National website on posting set up	No	No	No	No
State agencies responsible for ingoing and outgoing labour migration	Yes	Partially	Partially	Partially
Grievance procedure and authorities for labour migration to and from the country assigned/established	Yes	Partially	Partially	Partially
Employment mediators for labour disputes are available	Partially	Partially	Partially	Partially
Other information dissemination structures/platforms on migration and employment	Yes	Partially	Partially	Partially

When it comes to monitoring, control and enforcement of the Directive, however, only Albania has already assigned a focal state agency with the task of implementing the Directive: The Directorate of Labour and Migration, Ministry of Finance and Economy. Others are responsible for the issuing of permits and registering posted workers to Albania (Directorate of Border Control and Migration, State Police, The Ministry of Interior Affairs) and from Albania (Consular Services, The Ministry of Foreign Affairs). In North Macedonia, the State Labour Inspectorate has a partial responsibility for posting, as it has to inspect posting companies once a year, but no state agency has been assigned these tasks in Montenegro or Serbia. As a result, grievance procedures are also partially in place, as posted workers can follow the same procedures as locally hired migrant workers in three of the countries, whereas in Montenegro they are still pending the passing of the law on posting. There is also no national website set up in any of the countries, which can be explained by the lack of the legal framework for their establishment in each of the four candidate countries.

While the institutions specific to posting have not been fully established yet, there are other relevant institutions that could take over posting. So, there are already existing state agencies exclusively or partially responsible for ingoing and outgoing migration in all four countries. Existing grievance procedures, dispute resolution mechanisms and information channels could also extend their mandate to include posted workers. However, these existing institutions would need to have a clear mandate on posting as well as receive training on the specificities of posting in order to be able to transform themselves into implementation and enforcement authorities for the Posting of Workers Directive.

6.3 Inter-Agency Cooperation

The Directive and the Enforcement Directive stipulate the establishment of designated liaison offices or a competent national authority (Article 4 on Cooperation on Information of the Posting of Workers Directive and Article 3 of the Enforcement Directive) to cooperate with authorities in other countries on posting-related issues.

Table 5 Inter-agency cooperation on posting in the four candidate countries

Indicator	AL	ME	MK	RS
IMI system is implemented	No	No	No	No
Designated liaison office(s) or competent national authority established for inter-agency cooperation with external authorities	Partially	No	No	No
Designated liaison office(s) or competent national authority established for inter-agency cooperation with other national authorities	Partially	No	No	No
Contact person(s) at liaison office or at competent authority in charge of dealing with external information requests/exchange established	Partially	No	No	No
Contact person(s) at liaison office or at competent authority in charge of dealing with information exchange with national authorities/stakeholders established	Partially	No	No	No
Communication and Information exchange protocols are in place for external cooperation	No	No	No	Partially
Communication and Information exchange protocols are in place for internal cooperation	No	No	No	Partially
Bilateral or multilateral agreements or arrangements with external authorities	Partially	Partially	Partially	Partially
National registers/databases for data/information exchange are established	Partially	No	Partially	Yes
Legislation ensuring data protection of exchanged information, safeguarding legal rights of affected persons, is in place	Yes	No	Partially	Yes

In Albania, this has been only partially realised as the by-laws that would explicitly state the roles and responsibilities of the body assigned to deal with posting (i.e. the Directorate of Labour and Migration) - and thus would make it in line with the liaison office as described in the above Directives - are still missing. In the cases of Montenegro, North Macedonia and Serbia, labour mobility is generally monitored and controlled by different government institutions. Establishing a separate unit for the purpose of inter-agency cooperation on labour migration or delegating responsibilities to an already existing unit under the Ministry in charge of employment or migration would allow to build up the capacity necessary for an effective implementation of a liaison office on posting. For instance, in North Macedonia, posting-related policies are planned to be delegated to the department responsible for bilateral agreements on social security coordination at the Ministry of Labour and Social Policy.

Protocols for communication and information exchange with respect to posting are not yet in place in Albania, Montenegro and North Macedonia and only partially exist in Serbia. The need for clear protocols that provide guidelines on administrative procedures both for external and internal cooperation purposes was emphasised in all four countries by representatives from the national agencies involved in the implementation of the Directive. As reported in Albania and Montenegro, there is a general lack of knowledge and awareness among responsible agencies of procedures pertaining to cooperation and coordination with partner authorities in other countries.

Although not specific to posting, a related issue concerns the available infrastructure for data and information sharing between local authorities. Serbia created a single database, the Central Register of Obligatory Social Insurance (CROSI), which is used for information exchange between different national agencies involved in the implementation of PWD. It also recently introduced an online platform (E-inspector) which, if further developed,

could contribute to more efficient information sharing between various inspectorates and other enforcement authorities. In Albania and North Macedonia, different institutions have established their own databases or registers. While they are not linked, information is regularly shared with other agencies that have access to these registers. However, Albania is already working on this by integrating all various datasets into a national portal, e-Albania, where documents and information become available to businesses and individuals on different matters, such as social and health insurance, pensions and so on. There appears to be no systematic and regular data and information sharing/exchange between authorities in Montenegro.

Legislation that ensures protection of exchanged data and information and safeguards the rights of affected persons is in effect in Albania and Serbia. It is only partially enacted in North Macedonia while Montenegro has no legislation on this.

All countries have bilateral or multilateral agreements or arrangements with respective authorities in EU countries. In Albania, bilateral agreements on social insurance exist with 7 EU MS. Montenegro has signed bilateral agreements on social security with 17 EU MS. North Macedonia signed bilateral agreements on posting with Germany and on social security with 11 EU MS. Serbia has several bilateral agreements with respect to social security (with 19 EU MS), temporary work for its citizens abroad (with Slovakia and Slovenia), and on posting (with Germany). In addition, it also has agreements on the European Social Insurance Card signed with 9 EU MS, while agreements of electronic data exchange on pension and disability insurance are currently being implemented with other Western Balkan countries.

6.4 Human Resources

Specific knowledge on posting is necessary for the design and effective implementation and monitoring of policies on posted workers. Assessment of existing capacities in the countries with available information shows that there is a clear need for improvement and for further policy action in this area (Table 6).

Table 6 Human resources on posting in the four candidate countries

Indicator	AL	ME	MK	RS
Enforcement agencies are responsible for employment issues including posting	Yes	Partially	Yes	Yes
Policy makers have received information/training on the Posting of Workers Directive	NA	No	Yes	Partially
Labour inspectors have received training or information on the Posting of Workers Directive and its implementation	NA	No	No	Partially
Health/disability/pension insurance fund personnel have received training or information on the PWD and its implementation	NA	NA	Yes	Partially
Employment mediators have received information on the Posting of Workers Directive and its implementation	NA	NA	No	Partially
Enforcement agencies are responsible for OSH	Yes	Yes	Yes	Yes
Labour inspectors have received training in intercultural communication	Partially	NA	No	Partially
Labour inspectors have received training in EU-labour and mobility-related topics	Partially	Partially	No	Partially
Labour inspectors responsible for field inspections are required to speak English and/or another foreign language (EU or neighbouring countries' language)	No	NA	No	Yes
Communication with non-local workers is facilitated by interpretation services provided by the Enforcement Agency	No	NA	No	No
Public authority officers responsible for international inter-agency cooperation are required to speak English and/or another foreign language (EU or neighbouring countries' language)	Partially	NA	No	Yes
Enforcement agencies' personnel are provided language courses	NA	NA	No	Yes

In terms of training on posting, only in North Macedonia, and partially in Serbia, policymakers reported to have received training and information on the PWD and its implementation. No such specific training has been reported for labour inspectorates and employment mediators in Montenegro and North Macedonia. Health/disability/pension insurance fund personnel have participated in training on posting in North Macedonia and Serbia. However, in the latter, training on posting tends to be offered sporadically, mainly in coordination with other institutions. No information was available on training received by personnel in the above-mentioned institutions in Albania. Unfortunately, information on the scope and content of these trainings that could reveal the degree of expertise and knowledge people in the competent authorities have on the PWD, could not be attained.

The assessment also considered the relevance of additional skills, such as inter-cultural communication skills or language skills and if training on these aspects was organised for public authorities and enforcement agencies dealing with labour migration and posting. In Serbia, knowledge of English or another foreign language is a requirement for civil servants including labour inspectors who carry out field inspections, and for public authority officials in charge of inter-agency cooperation. In North Macedonia and Albania, this is not a requirement and neither provide language training for labour inspectors (although some training is available for public officials in Albania). Interpretation services to facilitate communication with non-local workers are lacking in both Serbia and Albania. No information on this is available for the other two countries. Training to enhance the inter-cultural communication skills and expertise of labour inspectors on EU labour and mobility-related topics is available on a limited basis in Albania and Serbia.

An obvious aspect related to human resources is sufficient administrative capacity. Lack of human resources at labour inspectorates was mentioned both in the Serbian and Montenegrin context as a persisting challenge. While data was reported in the country cases on the ratio of labour inspectors per number of workers, these are not comparable due to the different administrative sources and methods used and are therefore not presented in the table above.

6.5 Stakeholder Engagement

The fifth domain of the Needs Assessment was the level of engagement of the other stakeholders in the process of the transposition of the Posting of Workers Directive. The assessment indicates that social partners, i.e. trade unions and the employer organisations, were not involved in the process in Albania and North Macedonia, whereas in Montenegro and Serbia they were partially involved in the form of consultation meetings (Table 7). Differently from the social partners, Chambers of Commerce were involved in a consultative role in Albania, North Macedonia and Serbia, but not in Montenegro. NGOs that specialize on labour rights and violations were involved in consultation rounds in all four countries.

The limited engagement of the stakeholders in the process of the transposition of the Directive can be explained by the industrial relations systems that have developed in all four candidate countries. Although the details differ, the consultative nature of the tripartite social dialogue at the national level is similar in all and puts social partners in a rather weak position. Social partners are to some extent involved in the overall process of EU integration, but their role is limited to that of consultation. The specific issue of posting is seemingly perceived as not too important compared to other areas of employment and labour mobility policies. Differently from the other three countries, trade unions in North Macedonia have also been involved in some projects on posting aiming to increase awareness and build capacities on the topic.

Other mechanisms that could protect posted workers, such as collective bargaining agreements and NGOs specialized on labour rights and violations exist, but their impact is considered modest. National collective bargaining

agreements in the whole private sector exist in three of the countries (Montenegro, North Macedonia, Serbia) and there are some industry-level collective agreements in all four countries, although they have not been recently renewed and their implementation is questioned in the small and medium enterprises (Friedrich Ebert Stiftung 2019a, b, c, d).

Table 7 The engagement of the other stakeholders in the Transposition of the Directive in the candidate countries

Indicator	AL	ME	MK	RS
Trade Unions are involved in the process of the transposition of the PWD	No	Partially	No	Partially
Employer Associations are involved in the process of the transposition of the PWD	No	Partially	No	Partially
Chambers of Commerce are involved in the process of the transposition of the PWD	Partially	No	Partially	Partially
NGOs specialized on labour rights and violations are involved in the process of the transposition of the PWD	Partially	Partially	Partially	Partially
Type of social dialogue	Tripartite	Tripartite	Tripartite	Tripartite
Role of social partners in policymaking	Consultative	Consultative	Consultative	Consultative
Role of social partners in EU integration process	Consultative	Consultative	Consultative	Consultative
A cross-sectoral collective bargaining agreement exists	No	Yes	No	Partially
Sectoral collective bargaining agreements exist	Yes	Yes	Yes	Partially
NGOs are a central contact for labour rights and violations.	Yes	Partially	No	Partially

6.6 Public Governance

The sixth domain assessed is public governance. This domain is considered as fundamental for the overall policy practices in the candidate countries of the Western Balkans, and the implementation of individual policies such as the Posting of Workers Directive, on which this assessment is focused. As described in the methodology section, to assess public governance we use The Worldwide Governance Index (WGI), which provides information on governance indicators for over 200 countries across the following dimensions of governance: voice and accountability; political stability and absence of violence; government effectiveness; regulatory quality; rule of law; and control of corruption. The table below presents data on these six dimensions for the four WB countries for the latest year available, 2017.

Table 8 The relative positions of the four candidate countries in the six WGI dimensions, 2017

Indicator	AL	ME	MK	RS
Voice & Accountability	54.2	50.2	41.9	49.8
Political Stability & Absence of Violence	61.9	44.8	37.1	50.0
Government Effectiveness	55.8	58.7	58.2	60.6
Regulatory Quality	62.0	64.9	71.2	55.3
Rule of Law	39.4	53.8	46.6	48.1
Control of Corruption	42.3	54.3	45.2	43.3

Source: The World Bank, Worldwide Governance Index (2018 update)

Note: The figures are reported in percentile rank terms ranging from 0 (lowest) to 100 (highest) among all countries worldwide.

Albania ranks relatively high in terms of regulatory quality and political stability but performs worse on rule of law and control of corruption. Despite some good progress in the fight against corruption in recent years (e.g. adoption of a new “Action Plan 2018-2020 against Corruption”, establishment of an Anti-corruption Task Force, and strengthening the capacity of public authorities to investigate and prosecute cases of corruption), this area remains an issue of concern (European Commission 2019a). Of the four countries, Albania ranked highest in 2017 on voice and accountability, which shows how confident citizens are in their ability to participate in elections, and the level of freedom of expression and free media. Albania has made improvements especially regarding regulatory quality, law enforcement as well as government effectiveness, resulting in more transparency and effectiveness of its public administration – here, the adoption of the Law on Public Procurement or enhancing the regulatory framework on impact assessment of policies can be mentioned (European Commission 2019a). Nonetheless, the student protests of December 2018 and the boycott of the local elections of June 2019 by the opposition indicate that the political situation might not be as stable as reported in 2017. This means that the stability and sustainability of the achievements in various areas of public governance should be guaranteed and further enhanced. In particular, more effort is needed for consistent and efficient implementation of policies and instruments.

Of the six dimensions, Montenegro stands out when it comes to regulatory quality and government effectiveness, e.g. quality of policy design and implementation, and the credibility of the government’s commitment to such policies. It performs less well on control of corruption, rule of law and voice and accountability, and its relative position is lowest in the domain of political stability. The fragmented political situation, marked by street protests in early 2019, and the absence of constructive political dialogue, were highlighted in the latest country report by the Commission (2019b) as factors contributing to reduced parliamentary accountability and limiting the government’s capacity to implement reforms. According to the report, also more needs to be done to ensure that the involvement of civil society organisations in the policymaking process becomes a genuine practice.

While North Macedonia has a relatively low ranking on most governance dimensions, it is particularly strong regarding regulatory quality, a domain that captures perceptions of the government’s ability to formulate and implement sound policies and regulations. The domain with the greatest need for improvement concerns political stability. During the past year, North Macedonia has taken steps to strengthen the rule of law, address corruption, improve consultations with all stakeholders, including civil society organisations, and made good progress on implementing its public administration reform (European Commission 2019c). However, additional steps are required concerning the accountability and transparency of the administration and making the fight against corruption a national priority at all levels.

WGI scores for Serbia indicate a relatively strong performance in the domains of government effectiveness and regulatory quality, but it lags in the domain on corruption (this is a domain where all four countries generally rank low). The 2019 country report (European Commission 2019d) mentions a number of issues pertaining to public governance that require attention, including measures aimed at restoring public trust in the government and parliament following anti-government protests in late 2018/early 2019; coordinated monitoring of the public administration reform strategy; maintaining sufficient public administration staff; and preventing corruption (e.g. a revised Law on the Anti-Corruption Agency was adopted in May 2019).

7. CONCLUSIONS AND POLICY RECOMMENDATIONS

The needs assessment of the institutional capacities to implement the Posting of Workers Directive in the four candidate countries of the Western Balkans, namely Albania, Montenegro, North Macedonia and Serbia, indicates that the countries have made some progress in the process of the transposition and implementation of the Directive, but much more needs to be done. The incremental approach used for this assessment required the identification of the current national capacities for implementing the directive, the identification of the needs that should be addressed in order to support the implementation of the Directive, as well as the identification of potential ways to address these needs. The identification of the current capacities and needs was assessed in the context of the policy process cycle and in terms of six interdependent institutional capacity domains: legal framework, institutional arrangement, inter-agency cooperation, human resources, stakeholder engagement, and public governance (UNDP 2008; EuropeAid 2010). However, as the fieldwork indicated, the policy cycle for this particular policy is not complete, the research focused on the design and the implementation stages of the cycle.

The assessment of the legal framework shows that this is the most advanced domain as each country has been in the process of transposing the Directive into national law. However, the posting of own nationals is regulated separately from the posting of EU citizens to each of the four countries. This has meant that while the laws on foreigners, where the Directive has also been included, have already been reformed in all countries, the Labour Code, where the posting of own nationals is placed, has passed in Albania and Serbia, is in process in Montenegro, while North Macedonia has confined posting to the construction sector and might need another law where all the economic sectors are included. A detailed analysis of the content of the national laws shows that the transposition has been partial and that the revisions of 2018 have not been addressed in any of the four countries yet. In terms of laws and regulations, there is a need to complete the legal framework, which can be done through by-laws, other accompanying regulations, and/or administrative provisions.

The assessment of the institutional arrangement indicated that a number of institutions responsible specifically for the implementation of the Directive are either not in place or just partially established. There are no liaison offices established in any of the four candidate countries and the national websites on posting are not (yet) set up. The need identified is, again, the completion of the legal framework, where responsibilities would be defined for each public authority to be involved. The small size of these countries might influence the way responsibilities are distributed. Existing institutions could take over specific responsibilities, for which they would need to have a clear mandate on posting as well as receive training on the specificities of posting in order to be able to transform themselves into implementation and enforcement authorities for the Posting of Workers Directive.

Similarly, the assessment of the inter-agency cooperation indicated that while some cooperation protocols might exist with other countries, there is no mechanism of inter-agency cooperation within each country and internationally specific to posted workers. The existence of the liaison offices and contact persons would also be fundamental for providing information to all interested parties, including posted workers and posting employers. The establishment of the designated offices and/or staff and the definition of the protocols of cooperation in the by-laws and the administrative provisions would therefore be necessary.

The assessment of the human resources indicated that there is not a lot of information available. However, the assessment on existing capacities in the countries with available information shows that there is a clear need for improvement and for further policy action in this area. Training on posting has been received by civil servants in

North Macedonia and Serbia. However, information on the scope and content of these trainings that could reveal the degree of expertise and knowledge people in the competent authorities have on the Directive, could not be attained. The need for further training on the topic of posting as well as other relevant skills such as language and inter-cultural skills, was nonetheless highlighted.

The assessment of the stakeholders' engagement revealed that involvement of social partners and other stakeholders such as Chambers of Commerce and NGOs was modest and predominantly in a consultative stance. Considering the role social partners have played elsewhere in terms of monitoring and control of the implementation of the Directive as well as its interpretation in the European Court of Justice (Barnard 2009; Danaj and Sippola 2015; Kall and Lillie 2017; Kilpatrick 2009; Lillie and Sippola 2011), measures should be taken to increase their role in this policy area in the Western Balkans.

Each of the countries can prioritize the development of this policy area in order to be able to fully transpose the Directive and implement it accordingly. More specifically:

Albania has already introduced the main elements of the Directive in national legislation. The next step would be to complete the regulatory framework with the necessary by-laws and administrative instructions, which would specify which public authority is responsible for what, which office is going to act as the liaison office, as well as establish formal protocols of cooperation and information exchange among national institutions, among public authorities and social partners, as well as transnationally. Travel, board and lodging should also be regularized as it is currently missing. Another priority is providing information on terms and conditions of posting to public authorities, posting employers and posted workers, which is currently missing. Implementing and enforcement agencies' personnel would also need to be trained on posting and the related policy areas.

Montenegro needs to finalize the legislative framework and pass a law on posting in order to transpose the Directive into national law. The country is also in the position to incorporate the elements of the revised Directive of 2018 into the current bill. Setting up the institutional structures responsible for posting should then follow. The fieldwork suggests that some form of posting is already happening to and from Montenegro, but there are no official data to rely on, which makes data collection a priority for the country. As in the case of Albania, access to information and training of public officials on the specificities of posting is also a priority.

North Macedonia also needs to prioritize the legal framework. Currently, posting from North Macedonia is regularized only for the construction sector with the 2012 law; hence, a law that covers all economic sectors is necessary. As the country has already recorded hundreds of worker postings, monitoring and control mechanisms as well as better information exchange and cooperation among state agencies are a priority in order to prevent abuse and exploitation. There has been some training on posting; however, further training of public officials of different state agencies and social partners is necessary. Finally, updated easily accessible information on posting for workers and employers is necessary.

Serbia is the country that has the highest number of posted workers of all four, reaching more than ten thousand in 2018. This makes posting of workers a priority policy area for the country. While the legal framework is in place, further alignment with the Directive is necessary, in particular in terms of the allowances and the establishment of the liaison office that would facilitate the coordination of information exchange and cooperation among the national agencies and their European counterparts in order to be able to better monitor and control posting companies and prevent abuse. Further training of public officials of different state agencies and social partners on posting should also be a priority.

In parallel, other relevant policy interventions are necessary in all four countries. For example, the bilateral agreements with EU Member States on the coordination of social security systems should be completed. Likewise, grievance procedures and mechanisms for workers should be strengthened and extended to include posted

workers. Better data and data infrastructure are also necessary for inter-agency cooperation. However, for all the relevant mechanisms to be able to support the implementation of the Directive, an overall better public governance is necessary. The assessment of the World Bank's Global Governance Index suggests the countries still need to work on their rule of law, control of corruption and voice mechanisms, in particular.

These conditions were also posed by the European Union as prerequisites for these candidate countries' advancement in the integration and membership process. The assessment of needs suggests that policy-specific and policy-relevant aspects are equally important for the institutional capacities of these countries to implement the Posting of Workers Directive, as a single policy. While in theory the Directive should enter fully into force when the countries become member states, the practice of three of the four countries (Albania, North Macedonia and Serbia) suggests that there is some outgoing posting happening already, in particular from Serbia, where the numbers in the last two years have reached thousands. These experiences underline the importance of addressing the needs outlined in this assessment as soon as possible, rather than waiting for the countries to join the EU.

The EU institutions should also be more involved in the process. As the candidate countries transpose and prepare to implement the Directive, their citizens are already being posted to various EU Member States. Some member states have already responded to these developments through bilateral agreements in the area of posting (Germany with North Macedonia and Serbia) or in the area of social security (various member states, see Annex, Tables A1, A6, A11, and A16). However, the candidate countries are not eligible to participate in the networks and tools established at EU level for information sharing and cooperation in the field of employment and social security, such as the Internal Market Information System (IMI), the Senior Labour Inspectors' Committee (SLIC), the European Platform tackling undeclared work, the Administrative Commission for the Coordination of Social Security Systems (CACSSS), or the Electronic Exchange of Social Security Information (EESSI) (see Annex, Tables A3, A8, A13, and A18). Only member states are eligible for participation, which means that while candidate countries need to cooperate with their colleagues in the EU Member States, they cannot make use of the existing mechanisms prior to their countries' EU membership. The imbalance between the preparation required from candidate countries in their pre-accession phase and their limited access to the mechanisms that would facilitate the implementation of the Directive could also hinder efforts to fight social dumping and the exploitation of workers posted from these countries towards the EU Member States. Measures could be taken to support these countries in building and improving their capacities to implement the Directive by also including them in the existing mechanisms used to prevent social dumping through posting within the European Union.

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9. ANNEX: NEEDS ASSESSMENT INDICATORS

Table A1 Legal Framework in Albania

	Indicator		Target value	Actual value (y/n/partially)	* Please provide details here
Issue-specific	I. The Posting of Workers Directive has been transposed		y	partially	Article 3/1 of the Labour Code and Law on Foreigners of Albania No. 108/2013 amended in 2016 for posting to Albania There is a lack of proper regulation for posting workers from Albania to the EU
	II. Are the following included in national law or regulation or administrative provision/s?	Definition used in national law	y	y	Article 3/1 of the Labour Code
		Terms and Conditions (Article 3)	y	y	Article 3/1 of the Labour Code
		Length of posting	y	y	Article 3/1 of the Labour Code
		Pay	y	y	Article 3/1 of the Labour Code/c. the minimum wage level
		Travel, board, and lodging	y	n	It is not clearly stipulated in the law or by-laws/ rather hindered under the equal treatment clause.
		Allowances	y	y	Allowances are considered part of the minimum wage
		Liaison office	y	n	Not applicable in explicit way, similar to PWD
		Information available to posting companies/ workers	y	n	Not applicable from any public source as employment offices or labour inspectorate.
		National website on posting	y	n	There is not yet a dedicated website to support employers or employees' information on posting.
		Reference to the Directive contained in the national law/ regulation/administrative provision or in its official publication	y	partially	It is not mentioned in the Labour Code, but there is a footnote in the amended Law on Foreigners
	III. The 2018 revisions of the PWD have been introduced in national law		y	n	
	IV. Measures in the event of failure to comply with the PWD in place		y	n	
Issue-relevant	V. Multilateral/Bilateral Social Security Agreements with EU/EU Member States		y	partially	Currently Albania has agreements on social insurance with Belgium, Czechia, Germany, Luxembourg, Hungary, Austria, Romania, the Former Yugoslav Republic of Macedonia and Turkey. Negotiations with Kosovo and Switzerland are ongoing while initial meetings with other countries such as Bulgaria, Spain, France and Croatia have been conducted. Agreements with Italy and Greece are in the planning phase.
	VI. Multilateral/Bilateral health care coverage/ insurance agreements with EU/EU Member States		y	-	Not Applicable

* In the Annex Table the abbreviations mean y = yes, n = no, NA = not available.

Table A2 Institutional Arrangement in Albania

	Indicator	Target value	Actual value	Name of Entity/ Institution(s)/Supervising Authority(ies) and Function	* Please provide details here
Issue-specific	Liaison Office established	y	n		Posting is a recent legal concept and only few cases of posting have been recorded so far, hence the process of transferring the labour code changes into institutional routine through by-laws and administrative procedures has not yet taken place fully.
	Public authority/ies responsible for the implementation of the PWD (competent authorities) assigned	y	y	Directorate of Labour and Migration, Ministry of Finance and Economy	The directorate is responsible to develop a strategic and legal framework regarding labour, including posting of workers.
	State agency/ies responsible for monitoring, control and enforcement of the PWD assigned/established	y	y	Directorate of Labour and Migration, Ministry of Finance and Economy, Directorate of Border Control and Migration, State Police, The Ministry of Interior Affairs Consular Services, The Ministry of Foreign Affairs Public Employment Offices The State Inspectorate of Labour and Social Services	The directorate is the key institution for inter-institutional coordination, monitoring of development of the labour market and exchange of information. The DBCM is responsible for implementing the Law on Foreigners through issuing permits of stay for foreign citizens working in Albania, even those under posting arrangements. CS offices are involved in registering Albanian citizens working abroad, including those under posting arrangements. CS of other countries are responsible for keeping records/documentation of their citizens living and working in Albania, including those under posting arrangements. Employment Offices, regional and national, are responsible for monitoring the labour market. They are the national authority issuing the work permits for foreigners, including work permits for posting assignments. The National Employment Offices (NES) have the responsibility to maintain and update the national register of employees, for all types of employment arrangements, including posting. The State Inspectorate of Labour and Social Services is the national authority responsible for inspecting and monitoring the compliance of work with labour legislation and labour standards regarding health and safety at work.
	Grievance procedure and authorities for posting to and from the country assigned/established	y	partially		An Albanian posted worker facing a problem or disagreement with a hosting firm in the EU area cannot sue the company and follow the case from Albania. Daily problems and misunderstandings between employees and employers are treated by the Human Resources department of the hosting company, while cases of accidents at the workplace or health issues related to work, are treated based on the contractual agreement. There is no specific grievance procedure and authority for workers posted to Albania. National regulations on labour disputes apply.
	National website on posting set up	y	n		

Issue-relevant	State agencies responsible for ingoing and outgoing labour migration	y	y	Directorate of Labour and Migration, Ministry of Finance and Economy Directorate of Border Control and Migration, State Police, The Ministry of Interior Affairs Consular Services, The Ministry of Foreign Affairs Public Employment Offices	The directorate is the key institution for inter-institutional coordination, monitoring of development of the labour market and exchange of information. The DBCM is responsible for implementing the Law on Foreigners through issuing permits of stay for foreign citizens working in Albania, even those under posting arrangements. CS offices are involved in registering Albanian citizens working abroad, including those under posting arrangements. CS of other countries are responsible for keeping records/documentation of their citizens living and working in Albania, including those under posting arrangements. Employment Offices, regional and national, are responsible for monitoring the labour market. They are the national authority issuing the work permits for foreigners, including work permits for posting assignments. The National Employment Offices (NES) have the responsibility to maintain and update the national register of employees, for all types of employment arrangements, including posting.
	Grievance procedure and authorities for labour migration to and from the country assigned/established	y	y		The institutions responsible for migration governance are the authorities responsible to design grievance procedures. The national legislation on labour and foreigners, as well as international conventions on migration are used to settle disputes.
	Employment mediators for labour disputes are available	y	partially	The National Reconciliation Office The Regional Reconciliation Offices	The National Reconciliation Office and the Regional Reconciliation Offices are offices composed of two representatives of the employee organizations and two representatives of employer organizations that aim to settle <i>collective disputes</i> between employers and employees, or between their representative organizations. The dispute resolution mechanisms have worked very well until the dissolution of the Ministry of Welfare and Youth in autumn 2017. The process of restructuring has had a deterring influence on these practices. District Court decides on contractual disputes between employees and employers, with the exception of civil servants whose cases are tried by the Administrative Court.
	Other information dissemination structures/platforms on migration and employment	y	y	Migration Centres	Migration Centres provide information on regular migration and labour law and social rights in EU countries

Table A3 Inter-agency cooperation in Albania

	Indicator	Target value	Actual value	Please provide details here
Issue-specific	IMI system is implemented	y	n	
	Designated liaison office(s) or competent national authority established for inter-agency cooperation with external authorities	y	partially	The main body responsible for inter-institutional coordination, monitoring development related to labour migration, incl. posting, and for exchange of information is the Directorate of Labour and Migration at the Ministry of Finance and Economy. Although the Labour Code implies that the responsibility to follow up issues with regard to the posting of workers falls within the Directorate of Labour and Migration at the Ministry of Finance and Economy, the by-laws that would explicitly state what its role and responsibilities are in this regard, and thus making it in line with the liaison office described in the PWD, are currently missing.
	Designated liaison office(s) or competent national authority established for inter-agency cooperation with other national authorities	y	partially	See above.
	Contact person(s) at liaison office or at competent authority in charge of dealing with external information requests/exchange established	y	partially	Currently the person responsible for labour issues, at the Directorate of Labour and Migration at the Ministry of Finance and Economy.
	Contact person(s) at liaison office or at competent authority in charge of dealing with information exchange with national authorities/ stakeholders established	y	partially	Currently the person responsible for labour issues, at the Directorate of Labour and Migration at the Ministry of Finance and Economy.
	Communication and information exchange protocols are in place for external cooperation	y	n	With respect to posting, such protocols appear to be lacking: By-laws that would prescribe administrative procedures and protocols as well as guidelines supporting implementation of posting of workers would need to be prepared by the responsible national authority (i.e. Directorate of Labour and Migration at the Ministry of Finance and Economy). National agencies involved in implementation (e.g. Labour inspectorate, Employment services) lack knowledge and awareness of protocols of cooperation/ coordination related to posting with partner institutions in other countries.
	Communication and information exchange protocols are in place for internal cooperation ¹	y	n	See above. In terms of hosting, companies are obliged to report any new hires, incl. hires under posting arrangements, within a month of employment, to Tax Authorities and Employment Offices. The Labour Inspectorate uses information from these registers to check compliance with the labour code and carry out inspections. However, posted workers cannot be identified as their status as posted workers is not registered under a separate category. In terms of sending, companies have no obligation to report employees as posted workers abroad and no official statistics are available on this.

Issue-relevant	Participation in the following networks and tools established at EU level for information sharing and cooperation in the field of employment and social security:			
	Senior Labour Inspectors' Committee (SLIC)	y	n	Not represented (see https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016D0401(01)&from=EN)
	European Platform tackling undeclared work	y	n	Not represented (as per Members and Observers of the European Platform tackling undeclared work until 03/2019)
	Administrative Commission for the Coordination of Social Security Systems (CACSSS)	y	n	Not represented (http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupId=1783)
	Electronic Exchange of Social Security Information (EESSI)	y	n	Not represented (https://ec.europa.eu/social/main.jsp?catId=1028&langId=en)
	Bilateral or multilateral agreements or arrangements with external authorities	y	partially	Bilateral agreements on social insurance exist with 7 EU MS as well as with North Macedonia and Turkey. There are ongoing negotiations with Kosovo and Switzerland. Planned agreements with Italy and Greece.
	National registers/databases for data/information exchange are established ²	y	partially	The Directorate of Labour and Migration is the main national body responsible for inter-institutional coordination and exchange of information. The National Employment Offices (NES) have the responsibility to maintain and update the national register of employees, for all types of employment arrangements, including posting (i.e. granting work permits). Persons that get a job abroad and migrate for employment purposes are not registered and followed by the employment services (only returnees are registered and followed up on their re-integration). The Ministry of Interior Affairs/ State Police/ Directorate of Border Control and Migration are the responsible institutions to implement the Law on Foreigners through issuing permits of stay for foreign citizens working in Albania, even those under posting arrangements. Consular Services of other states in Albania are responsible for keeping records/documentation of their citizens living and working in Albania, including those under posting arrangements. The National Social Insurance Institute and the Health Institute keep registration of social security and health contributions. The Ministry of Foreign Affairs/ Consular Services is involved in registering Albanian citizens working abroad, including those under posting arrangements. Also, see above information about data exchange with the Labour inspectorate.
	Legislation ensuring data protection of exchanged information, safeguarding legal rights of affected persons, is in place	y	y	Law No. 9887, dt 10.03.2008, amended by Law No. 48/2012, amended by Law no.120/2014 "On personal data protection"

Table A4 Human Resources Indicators in Albania

	Indicator	Target value	Actual value	* Please provide details here
Issue-specific	Enforcement agencies are responsible for employment issues including posting	y	y	The Labour inspectorate monitors compliance with the labour code and standards incl. posted workers.
	Policymakers have received information/training on the Posting of Workers Directive	y	n	No information or training on posting of workers was reported.
	Labour inspectors have received training or information on the Posting of Workers Directive and its implementation	y	n	No information or training on posting of workers was reported.
	Health/disability/pension insurance fund personnel have received training or information on the PWD and its implementation	y	n	No information or training on posting of workers was reported.
	Employment mediators have received information on the Posting of Workers Directive and its implementation	y	n	No information or training on posting of workers was reported.
Issue-relevant	Enforcement agencies are responsible for OSH	y	y	The Labour inspectorate also monitors compliance with the labour legislation and standards related to health and safety.
	Ratio of labour inspectors compared to number of workers	1 labour inspector per xxx workers	1 labour inspector per 8,912 workers (in 2017)	Number of inspectors per workers (under paid contract, self-employed individuals were not included, data are from the 2017 Annual report of the state inspectorate and National Institute of Statistics)
	Labour inspectors have received training in intercultural communication	y	partially	Trainings as provided by donor funding
	Labour inspectors have received training in EU labour- and mobility-related topics		partially	Trainings as provided by donor funding
	Labour inspectors responsible for field inspections are required to speak English and/or another foreign language (EU or neighbouring countries language)	y	n	English is a requirement, but it is not a must-have condition for employment in the public sector.
	Communication with non-local workers is facilitated by interpretation services provided by the Enforcement Agency	y	n	Not always, workers and businesses have the obligation to prepare all documents and communication for the offices in Albanian.
	Public authority officers responsible for international inter-agency cooperation are required to speak English and/or another foreign language (EU or neighbouring countries language)	y	partially	English is a requirement, but it is not a must-have condition for employment in the public sector.
	Enforcement agencies' personnel are provided language courses	y	n	Not reported by agencies.

Table A5 Stakeholder Engagement in Albania

	Indicator	Desired value	Actual value	*Please provide details here
Issue-specific	Trade Unions are involved in the process of the transposition of the PWD	y	n	The institutional and legal arrangement of labour involves the setting-up of tripartite consultative bodies that help engage stakeholders in labour issues. However, this does not translate into consultations for every specific policy.
	Employer Associations are involved in the process of the transposition of the PWD	y	n	The institutional and legal arrangement of labour involves the setting-up of tripartite consultative bodies that help engage stakeholders in labour issues. However, this does not translate into consultations for every specific policy.
	The Chamber of Commerce is involved in the process of the transposition of the PWD	y	partially	The Chamber of Commerce has been part of the consultative processes during the adoption of the labour code changes.
	NGOs specialized on labour rights and violations are involved in the process of the transposition of the PWD	y	partially	They have been part of the consultative processes regarding all changes introduced in the Labour Code changes.
Issue-relevant	Type of social dialogue	-	tripartite	The National Council of Labour The Regional Councils of Labour
	Role of social partners in policymaking	Decision making	consultative	The Labour Code dictates the establishment of the NCL and the RCL but their mandate is consultative only. The NCL exists since 1997 but it did not become fully and regularly operational until 2014. The RCLs were introduced in the Labour Code in 2016 and their status is consultative as well.
	Role of social partners in the EU integration process	Decision making	consultative	Social partners play a crucial role in the EU integration process, as they are being consulted regularly on the progress
	A cross-sectoral collective bargaining agreement exists	y	n	Not Applicable/Not reported
	Sectoral collective bargaining agreements exist	y	partially	Mining, education (public sector).
	NGOs are a central contact for labour rights and violations.	y	y	Given the lack of capacities and lack of awareness of public institutions, as well as weak labour unions, NGOs focusing on human rights have been active and supportive with respect to labour rights. In recent years, the Centre for Labour Rights has also been operating as an NGO with a specific focus on labour rights.

Table A6 Legal Framework in Montenegro

	Indicator		Target value	Actual value	* Please provide details here
(y/n/partially)	I. The Posting of Workers Directive has been transposed		y	partially	The PWD has not been transposed yet. The posting law (On the Protection of Posted Citizens of Montenegro working abroad) is still a draft, has been sent to the European Commission for comments. The Law on Foreigners from 2018 defines a posted worker as a foreigner who performs work in Montenegro which is not a country where he/she usually lives within a limited time period. The Law also mentions the provision of contracted services of a foreigner on the basis of a contract between a foreign enterprise and an enterprise located in Montenegro. Contracted services can also be provided by an individual that is registered to provide a service in a foreign country (referred to in the Law as an independent expert).
	II. Are the following included in national law or regulation or administrative provision/s?	Definition used in national law	y	partially	The PWD has not been transposed yet. The posting law is still a draft, but the Law on Foreigners defines posted foreigners as individuals in an employment relation with the employer outside the territory of Montenegro who perform certain services on the territory of Montenegro.
		Terms and Conditions (Article 3)	y	partially	The PWD has not been transposed yet. The Law on Foreigners does not contain specific provisions regarding the terms and conditions of employment (Article 3). It does, however, stipulate, among other conditions, that a foreigner, including posted foreigners, must have adequate subsistence means, is provided with accommodation, has health insurance and a valid travel document.
		Length of posting	y	partially	The PWD has not been transposed yet. The Law on Foreigners stipulates posted foreigners can be issued a number of work permits but altogether not for longer than three months per calendar year. In exceptional cases, this period can be prolonged for objective reasons or if the performed services are of special interest for Montenegro.
		Pay	y	n	The PWD has not been transposed yet.
		Travel, board, and lodging	y	partially	The Law on foreigners stipulated that a foreigner must be provided with accommodation in order to be issued with a residence and employment permit.
		Allowances	y	n	
		Liaison office	y	n	
		Information available to posting companies/workers	y	n	
		National website on posting	y	n	
		Reference to the Directive contained in the national law/regulation/administrative provision or in its official publication	y	n	No reference to the Directive in the existing Law on Foreigners.
	III. The 2018 revisions of the PWD have been introduced in national law		y	in process	As the Law on the Protection of posted citizens of Montenegro working abroad is still a draft, it is unclear which acts are to be included in the final version adopted by the Government. The existing Law on foreigners contains no such provisions.

Table A7 Institutional Arrangement in Montenegro

	Indicator	Target value	Actual value	Name of Entity/ Institution(s)/Supervising Authority(ies) and Function	* Please provide details here
Issue-specific	Liaison Office established	y	n	Not yet established. The Ministry of Labour and Social Welfare responsible for the preparation of the Law on the protection of posted citizens of Montenegro working abroad.	The PWD has not been transposed yet.
	Public authority/ies responsible for the implementation of the PWD (competent authorities) assigned	y	partially	Ministry of the Interior Tax Administration	The Ministry of the Interior is in charge of issuing the unified work and residence permits. The tax administration is where a foreign worker applies for compulsory insurance.
	State agency/ies responsible for monitoring, control and enforcement of the PWD assigned/established	y	n		The PWD has not been transposed yet. The Law on Foreigners does not contain any specific provisions on the enforcement of the PWD, besides the provisions on keeping administrative records and the general provision that the Administration for Labour Affairs and other competent institutions are responsible for the monitoring of the state of affairs in the field of labour relations.
	Grievance procedure and authorities for posting to and from the country assigned/established	y	partially		The PWD has not been transposed yet. The Law on Foreigners does not contain any specific provisions on this issue. According to the findings of the national report, grievance procedures are established more on a case-to-case basis rather than systematically. Authorities for grievances are established.
	National website on posting set up	y	n		The PWD has not been transposed yet.

Issue-relevant	State agencies responsible for ingoing and outgoing labour migration	y	partially	Ministry of Labour and Social Welfare The Employment Agency of Montenegro Administration for Inspection Affairs Ministry of the Interior	The Ministry of Labour and Social Welfare is responsible for the overall coordination of the implementation of the National Strategies for Employment and Human Resources Development. It is also in charge of the transposition of the PWD Directive into national legislation. The Employment Agency of Montenegro is responsible for the planning and implementation of the strategies at the national level. It also provides information of employment abroad on its website for its users. Monitoring mechanisms in cases of emigration are generally missing. The AIA is responsible for all types of inspections, but in terms of work relations and workers' protection, it focuses mostly on the construction sector, the control of employment of foreigners and the legality of employment and work relations. The Ministry of the Interior is in charge of issuing unified work and residence permits.
	Grievance procedure and authorities for labour migration to and from the country assigned/established	y	partially		See response above on the grievance procedures.
	Employment mediators for labour disputes are available	y	partially		The Law on the Peaceful Resolution of Labour Disputes (Zakon o mirnom rješavanju radnih sporova), adopted in 2007 and last amended in 2015, stipulates that mediators are responsible for the resolution of collective labour disputes and arbiters for the resolution of individual labour disputes. The Agency for the peaceful resolution of labour disputes (Agencija za mirno rješavanje radnih sporova) has been set up by the Government of Montenegro for professional and administrative purposes, for keeping records of mediators and arbiters, selecting them as well as keeping records of peaceful resolution of working disputes. The Agency is also responsible for their training.
	Other information dissemination structures/platforms on migration and employment	y	partially		Besides the websites of the competent public authorities, some NGO organisations provide information on mobility issues, with regard to volunteering and entrepreneurship for young people (e.g. NGO Zid).

Table A8 Inter-agency cooperation in Montenegro

	Indicator	Target value	Actual value	Please provide details here
Issue-specific	IMI system is implemented	y	n	The PWD has not been transposed yet
	Designated liaison office(s) or competent national authority established for inter-agency cooperation with external authorities	y	n	The PWD has not been transposed yet
	Designated liaison office(s) or competent national authority established for inter-agency cooperation with other national authorities	y	n	The PWD has not been transposed yet
	Contact person(s) at liaison office or at competent authority in charge of dealing with external information requests/exchange established	y	n	The PWD has not been transposed yet
	Contact person(s) at liaison office or at competent authority in charge of dealing with information exchange with national authorities/stakeholders established	y	n	The PWD has not been transposed yet
	Communication and information exchange protocols are in place for external cooperation	y	n	The PWD has not been transposed yet
	Communication and information exchange protocols are in place for internal cooperation ¹	y	n	The PWD has not been transposed yet
Issue-relevant	Participation in the following networks and tools established at EU level for information sharing and cooperation in the field of employment and social security:			
	Senior Labour Inspectors' Committee (SLIC)	y	n	The official website of the EC Eur Lex provides no information on any forms of participation of non-EU Member States.
	European Platform tackling undeclared work	y	n	Non-EU Member State representatives are not among the members nor observers in the platform. EUROFOUND publishes reports on the state of the art in the area of undeclared work in Montenegro.
	Administrative Commission for the Coordination of Social Security Systems (CACSSS)	y	n	
	Electronic Exchange of Social Security Information (EESSI)	y	n	
	Bilateral or multilateral agreements or arrangements with external authorities	y	partially	Social security bilateral agreements have been signed with Austria (2010), Belgium (2010), Slovakia (2016), Czech Republic (2002), Denmark (1977), France (1950), Netherlands (1956), Croatia (2014), Italy (1957), Luxembourg (2008), Hungary (2008), Germany (1974), Poland (1958), Slovenia (2011), Great Britain (1958), Bulgaria (2016), Sweden (1978). And with non-EU countries, such as Bosnia and Herzegovina (2002), Egypt (1987), Libya (1987), Macedonia (2011), Norway (1974), Serbia (2007), Switzerland (1962).
	National registers/databases for data/information exchange are established ²	y	n	*It appears that systemic and regular data and information sharing/exchange between authorities in Montenegro is lacking. Administrative records are generally not well connected.
	Legislation ensuring data protection of exchanged information, safeguarding legal rights of affected persons, is in place	y	n	Not possible to find any legal provisions in this area.

Table A9 Human Resources Indicators in Montenegro

	Indicator	Target value	Actual value	* Please provide details here
Issue-specific	Enforcement agencies are responsible for employment issues including posting	y	partially	The Administration of Inspection Affairs is responsible for all types of inspections, but in terms of work relations and workers' protection, it focuses mostly on the construction sector, the control of employment of foreigners and the legality of employment and work relations. In this regard, it is also responsible for posted individuals.
	Policymakers have received information/training on the Posting of Workers Directive	y	n	The national report, based also on the interviews with stakeholders, has corroborated that public authorities and to a greater extent private employment agencies are largely unaware of the specifics of the posting procedure. However, they are aware of the violations in this field. The representatives of the Ministry of Labour and Social Welfare, responsible for the implementation of the Directive into national law, have stressed the need for more information-sharing and trainings.
	Labour inspectors have received training or information on the Posting of Workers Directive and its implementation	y	partially	This information needs to be verified with the Agency for inspection affairs, but no indications of such trainings could be found.
	Health/disability/pension insurance fund personnel have received training or information on the PWD and its implementation	y	n	This information needs to be verified, but no indications of such trainings could be found.
	Employment mediators have received information on the Posting of Workers Directive and its implementation	y	n	This information needs to be verified, but no indications of such trainings could be found.
Issue-relevant	Enforcement agencies are responsible for OSH	y	y	Implementation of OSH monitored by the Labour inspection, through the Labour inspectors for the occupational safety and health at work, if the law does not establish that the supervision of the implementation of such regulations in specific activities is performed by other authorities. The Department of Labour inspection is a constituent part of the Administration for Inspection Affairs of Montenegro. The officials in the Department are Labour inspectors for labour relations and employment and Labour inspectors for occupational safety and health at work.
	Ratio of labour inspectors compared to number of workers	1 labour inspector per xxx workers	1 labour inspector per xx workers	In the field of working relations and employment, the number in Montenegro is one inspector per 6,079 employed people, but in the field of health and safety at work, the number is significantly lower - one inspector per 18,237 employed persons.
	Labour inspectors have received training in intercultural communication	y	n/a	
	Labour inspectors have received training in EU-labour- and mobility-related topics		partially	
	Labour inspectors responsible for field inspections are required to speak English and/or another foreign language (EU or neighbouring countries language)	y	n/a	
	Communication with non-local workers is facilitated by interpretation services provided by the Enforcement Agency	y	n/a	
	Public authority officers responsible for international inter-agency cooperation are required to speak English and/or another foreign language (EU or neighbouring countries language)	y	n/a	
	Enforcement agencies' personnel are provided language courses	y	n/a	

Table A10 Stakeholder Engagement in Montenegro

	Indicator	Desired value	Actual value	*Please provide details here
Issue-specific	Trade Unions are involved in the process of the transposition of the PWD	y	partially	In late 2018 consultations (public roundtables) were taking place with relevant stakeholders, including trade unions; among these, the Association of Free Trade Unions of Montenegro and the Association of Trade Unions of Montenegro. However, it is yet unknown to what extent their suggestions will be taken into account. The comments of the trade unions pertained to the clearer definition of the conditions for posting, to the need to better define the conditions of consent of the worker posted abroad, the need to define possibly more favourable conditions (e.g. in collective agreements) for workers posted abroad.
	Employer Associations are involved in the process of the transposition of the PWD	y	partially	In late 2018 consultations were taking place with relevant stakeholders, including employers. However, it is yet unknown to what extent their suggestions will be taken into account and the interviewed representative reported that their involvement in policymaking is insufficient. The comments of the employers addressed especially the need to inform the Ministry of Labour and Social Welfare about the posting, which they viewed as detrimental in terms of the need to facilitate employment procedures.
	The Chamber of Commerce is involved in the process of the transposition of the PWD	y	n	No public reports that the Chamber of Commerce was involved in the process could be found.
	NGOs specialized on labour rights and violations are involved in the process of the transposition of the PWD	y	partially	In late 2018 consultations were taking place with relevant stakeholders, including NGOs. NGO representatives were not present, however, at any of the consultation events, although in their words, they are periodically consulted on the issues pertaining to labour mobility.
Issue-relevant	Type of social dialogue	-	Tripartite	The Social Council as a tripartite independent body Bipartite collective bargaining in the private sector
	Role of social partners in policymaking	Decision-making	consultative	The role of social partners remains predominantly consultative, therefore social dialogue is weak.
	Role of social partners in EU integration process	Decision-making	consultative	Consultations are held with the relevant stakeholders; however, it is unclear to what extent their suggestions are taken into account. NGOs especially report weak and insufficient involvement.
	A cross-sectoral collective bargaining agreement exists	y	y	General collective agreement (Opšti kolektivni ugovor, 2014), also applicable to individuals posted to work abroad.
	Sectoral collective bargaining agreements exist	y	y	Tourism and catering, chemical, pharmaceutical and textile industries, telecommunication, energetics and construction and construction materials industries, administration and judiciary, education, health
	NGOs are a central contact for labour rights and violations.	y	partially	There are no NGOs directly involved in the area of labour mobility abroad, but some are working in the area of workers' rights, volunteering abroad and youth un/employment and are thus able to refer to these issues in their work as well.

Table A11 Legal Framework in North Macedonia

	Indicator	Target value	Actual value (y/n/partially)	* Please provide details here
Issue-specific	I. The Posting of Workers Directive has been transposed	y	partially	The 2012 Law on posting of workers from the Republic of North Macedonia in other countries for carrying out construction works through project contracts and other seasonal works was adopted. The Law is applicable only to countries with which North Macedonia has established bilateral agreements for posting. The Law on Working Relations regulates the conditions for posting of workers from North Macedonia.
	II. Are the following included in national law or regulations or administrative provision/s?	Definition used in national law	y	
		Terms and Conditions (Article 3)	y	
		Length of posting	y	
		Pay	y	
		Travel, board, and lodging	y	
		Allowances	y	
		Liaison office	y	
		Information available to posting companies/workers	y	
		National website on posting	y	
		Reference to the Directive contained in the national law/regulation/administrative provision or in its official publication	y	
Issue-relevant	III. The 2018 revisions of the PWD have been introduced in national law	y	n	
	IV. Measures in the event of failure to comply with the PWD in place	y	partially	The available national regulatory framework does not integrate any reference to the Posting of Workers Directive. Therefore, the national regulation does not foresee measures in the event of failure to comply with the Directive. However, the Law on working relations (Article 265) foresees a fee in the amount of 2,000-3,000 EUR in cases when the employer is posting a worker abroad under different terms and conditions than the ones stipulated by the Law.
	V. Multilateral/Bilateral Social Security Agreements with EU/EU Member States	y	partially	There are 22 bilateral agreements on coordinating social security systems, 14 of which are with EU Member States 1) Austria; 2) Croatia; 3) Slovenia; 4) Bulgaria; 5) Germany; 6) Czech Republic; 7) Netherlands; 8) Romania; 9) Poland; 10) Luxembourg; 11) Belgium; 12) Slovakia; 13) Italy, 14) Hungary and 15) Switzerland.
	VI. Multilateral/Bilateral health care coverage/ insurance agreements with EU/EU Member States	y	partially	There are nine agreements on the use of the European Health Insurance Card between the country and Member States.

Table A12 Institutional Arrangement in North Macedonia

	Indicator	Target value	Actual value	Name of Entity/ Institution(s)/Supervising Authority(ies) and Function	* Please provide details here
Issue-specific	Liaison Office established	y	n	N/A	N/A
	Public authority/ies responsible for the implementation of the PWD (competent authorities) assigned	y	y	Ministry of Labour and Social Policies The Department for the Labour Market, MLSP	MLSP covers the entire spectrum of labour and employment issues. The Department for the Labour Market is responsible for the development and implementation of employment policies with regard to posted workers and the introduction and implementation of bilateral agreements on the coordination of social security systems.
	State agency/ies responsible for monitoring, control and enforcement of the PWD assigned/established	y	partially	State Labour Inspectorate National Employment Agency Commission for Posting Workers Health Insurance Fund Ministry of Interior Affairs	The existing Law on posting stipulates that monitoring and control over companies that have the right to post workers is carried out by the State Labour Inspectorate, at least once a year. The NEA is responsible for information on working conditions and the issuing of work permits for migrants, but not specifically for posted workers. The Commission defines the yearly quota of workers that will be posted for carrying out project contracts. The Commission is appointed by the Ministry of Labour and Social Policies and consists of 5 members, one from each of the following ministries: The Ministry of Labour and Social Policies itself, the Ministry of Economy, the Ministry of Finance, the Ministry of Transport and Communications and the Chamber of Commerce of Macedonia. HIF is responsible for the insurance of posted workers. MIA is responsible for monitoring foreign workers in MK.
	Grievance procedure and authorities for posting to and from the country assigned/established	y	partially		Despite the existence of legal mechanisms until now there have not been any formal complaints directly from a posted worker, nor from the State Labour Inspectorate or labour unions. Still, labour unions confirmed that in practice there are numerous abuses of cheap labour from MK engaged in seasonal work.
	National website on posting set up	y	n	N/A	N/A
Issue-relevant	State agencies responsible for ingoing and outgoing labour migration	y	partially	NEA State Labour Inspectorate	NEA issues work permits for foreign workers. The Labour Inspectorate is not involved in the specific monitoring of labour migration both from and into the country. The responsibilities delegated to the Labour Inspectorate are to monitor the implementation of the existing regulatory frameworks and related by-laws with regard to labour relations, employment, health and safety at work, collective agreements, employment contracts and other acts that regulate the rights and obligations of both employers and employees.
	Grievance procedure and authorities for labour migration to and from the country assigned/established	y	partially	The Law on Peaceful Settlement of labour disputes	The Law regulates the manner and procedure for peaceful settlement of the collective and individual labour disputes, the choice, rights and obligations of conciliators and arbitrators and other issues of importance for the peaceful resolution of labour disputes. However, the law does not provide any specific obligations related to migrants, including posted workers.
	Employment mediators for labour disputes are available	y	partially	The Law on Peaceful Settlement of labour disputes	Same mechanism as above.
	Other information dissemination structures/ platforms on migration and employment	y	partially	Migration Centres, NEA	The migration centres have the competency to provide training, counselling on certain topics, information and advice to migrants (Macedonian citizens) on employment and living conditions in a specific country, visa, work permits and residency procedures, immigration programmes, support and rights of migrants, reintegration programmes, and family reunification. Posting has not been explicitly targeted by the migration service centres. However, it remains unclear whether these centres are operational and in what capacity.

Table A13 Inter-agency cooperation in North Macedonia

	Indicator	Target value	Actual value	Please provide details here
Issue-specific	IMI system is implemented	y	n	The IMI system has not been implemented in North Macedonia yet.
	Designated liaison office(s) or competent national authority established for inter-agency cooperation with external authorities	y	n	There is no separate agency responsible for posting and for monitoring and controlling labour migration between the country and the EU. It is foreseen that the development and implementation of employment policies with respect to posted workers are to be delegated to a specific department at the Ministry of Labour and Social Policy (the same department that is responsible for the introduction and implementation of bilateral agreements on the coordination of social security systems).
	Designated liaison office(s) or competent national authority established for inter-agency cooperation with other national authorities	y	n	There are no clearly established structures and protocols for cooperation on questions that reflect different aspects of labour migration.
	Contact person(s) at liaison office or at competent authority in charge of dealing with external information requests/exchange established	y	n	N/A
	Contact person(s) at liaison office or at competent authority in charge of dealing with information exchange with national authorities/stakeholders established	y	n	N/A
	Communication and information exchange protocols are in place for external cooperation	y	n	No clearly established protocols for cooperation, information sharing and exchange between national institutions and EU Member States and EU-level institutions.
	Communication and information exchange protocols are in place for internal cooperation ¹	y	n	No clearly established protocols for internal cooperation, and regular information sharing and exchange between institutions.
Issue-relevant	Participation in the following networks and tools established at EU level for information sharing and cooperation in the field of employment and social security:			
	Senior Labour Inspectors' Committee (SLIC)	y	n	According to the latest updated list of members published, North Macedonia is not a member in the Senior Labour Inspector's Committee. Participation is only open to EU Member States.
	European Platform tackling undeclared work	y	n	According to the latest updated list of members and observers in the platform, North Macedonia is neither a member nor an observer in the platform. Participation is only open to EU Member States.
	Administrative Commission for the Coordination of Social Security Systems (CACSSS)	y	n	According to the REGULATION (EC) No 883/2004 members of the Administrative Commission can only be members of EU/EEA
	Electronic Exchange of Social Security Information (EESSI)	y	n	Only member states are integrated in the system.
	Bilateral or multilateral agreements or arrangements with external authorities	y	y	Bilateral agreement on posting workers from North Macedonia signed with Germany. Bilateral agreements on social security signed with 15 EU MS.
	National registers/databases for data/information exchange are established ²	y	partially	No joint database for monitoring labour mobility. Different institutions have their separate database, e.g. records of workers posted abroad and of foreign nationals working in North Macedonia kept by the employment agency; records on insured persons from the health insurance are managed by the Health Insurance Fund; records for pension and disability insurance are managed by the Pension and Disability Insurance Fund etc. The Law on records in the field of labour regulates the establishment of the records in the field of labour and the manner of their management.
	Legislation ensuring data protection of exchanged information, safeguarding legal rights of affected persons, is in place	y	partially	Signer of bilateral agreements on social security foresees explicit measures to ensure the protection of data during the information exchange.

Table A14 Human Resources Indicators in North Macedonia

	Indicator	Target value	Actual value	* Please provide details here
Issue-specific	Enforcement agencies are responsible for employment issues including posting	y	y	Labour Inspectorate monitors the implementation of the existing regulatory frameworks and related by-laws with regard to labour relations, employment, health and safety at work, collective agreements, employment contracts and other acts that regulate the rights and obligations of both employers and employees. It is also the body in charge of grievance procedures for posted workers.
	Policymakers have received information/training on the Posting of Workers Directive	y	y	Policymakers and other social partners have received training and information on the PWD within the framework of different EU-funded projects. However, there are no exact data which representatives from which institutions have received what kind of capacity building so far. All relevant policymakers were involved in the national workshop implemented within the EEPOW project.
	Labour inspectors have received training or information on the Posting of Workers Directive and its implementation	y	n	No exact information is available. According to the inputs of different stakeholders the capacity building so far has been focused on policymakers, labour unions etc. Representatives from Labour Inspectorates did not attend the workshop organized in North Macedonia within the EEPOW project.
	Health/disability/pension insurance fund personnel have received training or information on the PWD and its implementation	y	y	<i>Representatives from the health insurance fund attended the workshop implemented within the EEPOW project.</i>
	Employment mediators have received information on the Posting of Workers Directive and its implementation	y	n	Employment mediators are not familiar with the Directive.
Issue-relevant	Enforcement agencies are responsible for OSH	y	y	The Labour Inspectorate monitors compliance with the labour legislation and standards, also related to health and safety.
	Ratio of labour inspectors compared to number of workers	1 labour inspector per xxx workers	1 labour inspector per xx workers	N/A
	Labour inspectors have received training in intercultural communication	y	n	N/A
	Labour inspectors have received training in EU-labour and mobility related topics		n	N/A
	Labour inspectors responsible for field inspections are required to speak English and/or another foreign language (EU or neighbouring countries language)	y	n	N/A
	Communication with non-local workers is facilitated by interpretation services provided by the Enforcement Agency	y	n	N/A
	Public authority officers responsible for international inter-agency cooperation are required to speak English and/or another foreign language (EU or neighbouring countries language)	y	n	N/A
	Enforcement agencies' personnel are provided language courses	y	n	N/A

Table A15 Stakeholder Engagement in North Macedonia

	Indicator	Desired value	Actual value	*Please provide details here
Issue-specific	Trade Unions are involved in the process of the transposition of the PWD	y	n	Although labour unions have been involved in a number of posting projects, they are not formally involved in the process of the transposition of the Directive. The field research implemented within the frames of the EEPOW project confirmed that there is no clear leadership in this specific field.
	Employer Associations are involved in the process of the transposition of the PWD	y	n	The field research confirmed that Employer Associations are not familiar with the PWD.
	The Chamber of Commerce is involved in the process of the transposition of the PWD	y	partially	The Chamber of Commerce of Macedonia is the only non-ministerial body represented in the Commission for posting workers
	NGOs specialized on labour rights and violations are involved in the process of the transposition of the PWD	y	partially	NGOs specialized on labour rights and violations are involved in the Economic and Social Council. Although these stakeholders recognize the trends and issues in the field of labour mobility, they do have a lack of capacity to recognize when posting of workers is explicitly taking place.
Issue-relevant	Type of social dialogue	-	Tripartite	The Economic and Social Council
	Role of social partners in policymaking	Decision-making	consultative	Although improved in the last few years, the process of policymaking in the North of Macedonia remains closed. The transparency of the policymaking process itself depends mainly on the Ministry that leads the process. As any other relevant stakeholder, social partners are invited to provide recommendations in the process of policymaking and participate in consultative processes. Each draft law is placed online on the electronic register of regulatory frameworks for consultations, where each stakeholder can provide comments and recommendations. Although the regulatory impact assessment represents a developing practice in the country, an increasing number of Ministries are publishing their annual RIA plans on the electronic register, which increases the opportunities for more participatory policymaking.
	Role of social partners in the EU integration process	Decision-making	consultative	The capacities and developed networks of social partners in the EU integration processes are not fully used.
	A cross-sectoral collective bargaining agreement exists	y	n	N/A
	Sectoral collective bargaining agreements exist	y	partially	According to the official register of the Ministry of labour and social policy, there are in total 43 registered unions active in the following sectors: energy and mining; trade; construction; transport; textile, leather and shoe industry; health, pharmacy and social protection; police; graphics, film-making and paper production industries; health organizations; metals and non-metals; agriculture, education; forestry; court and associations; finance-related activities; post and telecommunications; defence and safety; tourism; diplomacy; firefighters.
	NGOs are a central contact for labour rights and violations.	y	n	The Macedonian context is still very fragile in terms of labour rights and violations, due to the various challenges associated with the labour market, such as low wages, informal economy; labour shortages in certain industries and the intensifying brain-drain.

Table A16 Legal Framework in Serbia

	Indicator	Target value	Actual value (y/n/partially)	* Please provide details here
Issue-specific	I. The Posting of Workers Directive has been transposed	y	partially	The Law on conditions for posting employees to temporary work abroad and their protection, entered into force in 2016. The PWD is still not in force in Serbia.
	Definition used in national law	y	y	The law regulates the rights of employees, conditions, procedures and obligations of the employers, cooperation of public institutions and organizations that perform activities related to the protection of the rights of employees, and supervision of the implementation of this law.
	Terms and Conditions (Article 3)	y	y	Yes, the Law applies to a) implementation of investments and other works; b) the provision of services (based on the contract of business cooperation); and c) workers' vocational training and trainings in the framework of inter-company movement.
	Length of posting	y	y	Yes, employer may send an employee to temporary work abroad for up to 12 months with the possibility of extension, unless otherwise provided by law or by international agreement. (Article 7)
	Pay	y	y	Yes, Article 11 of the Law from 2016 clearly stipulates that the employer is obliged to conclude an annex of the employment contract, before obliging him to apply for temporary work abroad with his / her employees which must include the amount of the basic salary (earnings) and the currency in which the salary will be paid. Article 18 also defines that the employer is obliged to provide the employee with earnings in accordance with the regulations of the Republic of Serbia, which cannot be lower than the guaranteed minimum wage according to the regulations of the country to which the employee is sent for temporary work.
	Travel, board, and lodging	y	y	Yes, the 2016 Law, in Article 18 clearly stipulates that the employer is to provide transportation to the place of work abroad and return to the Republic of Serbia and to secure the issuance of a work permit. Also, the employer needs to state in an annex to the contract the conditions of accommodation and food provided to the employee during the stay and work abroad, the distance from the place of residence to the place of work, and to provide him with a contact person at the place of work abroad.
	Allowances	y	n	No allowances, just the rights stated in the previous answer.
	Liaison office	y	n	No, Liaison office is not established
	Information available to posting companies/ workers	y	partially	Partially, in line with the Law on conditions for posting employees to temporary work abroad and their protection, that enters into force in 2016, information was available on the website of the line Ministry, i.e. the Ministry of Labour, Employment, Veterans and Social Affairs.
	National website on posting	y	n	No, no national website on posting is available.
	Reference to the Directive contained in the national law/ regulation/administrative provision or in its official publication	y	n	No, there is no reference to the Directive.

Issue-relevant	III. The 2018 revisions of the PWD have been introduced in national law	y	n	In explanation of reasons for proposing the adoption of the Amendments to the Law on conditions for posting employees to temporary work abroad and their protection, in 2018 it is stipulated that no additional harmonization of this law with EU regulations was carried out. Therefore, the proposal for an annex to the Law was not sent to the European Commission before adoption. The PWD and its revisions are not included in National Law.
	IV. Measures in the event of failure to comply with the PWD in place	y	partially	The Labour Law contains general provisions imposing penalties for illegal employment and prohibition of an employer's business activities for a certain period is another option. However, the criminal offence is not foreseen for employment of irregular migrants. MOLEVSA can revoke or suspend for a period of time the employment license to private agencies due to irregularities on their job offers.
	V. Multilateral/Bilateral Social Security Agreements with EU/EU Member States	y	partially	Bilateral agreements are signed between Serbia and other countries on comprehensive international insurance that covers the entire area of social security or incomplete social security that includes only specific segments of social security. The Republic of Serbia applies the Agreements on Social Security with numerous countries out of which 19 agreements were signed with countries of the European Union (Austria, Cyprus, Slovakia, Great Britain, Luxembourg, France, Hungary, Denmark, Bulgaria, Czech Republic, Italy, Germany, Sweden, Slovenia, Netherlands, Poland, Belgium, Romania and Croatia), as well as with Norway and Switzerland. Those bilateral agreements will be in force until Serbia's accession to the EU. Currently, Serbia is implementing the agreements on electronic exchange of data on pension and disability insurance with countries of former Yugoslavia.
	VI. Multilateral/Bilateral health care coverage/ insurance agreements with EU/EU Member States	y	partially	Serbia has signed agreements on the European Social Insurance Card with 9 countries (Austria, Germany, Bulgaria, Croatia, Luxembourg, Hungary, Slovenia, Slovakia and Czech Republic). There has been no progress on the European Health Insurance Card implementation.

Table A17 Institutional Arrangement in Serbia

	Indicator	Target value	Actual value	Name of Entity/ Institution(s)/Supervising Authority(ies) and Function	* Please provide details here
Issue-specific	Liaison Office established	y	n	N/A	The Office on posting of workers is not yet established. Government institutions which control and monitor labour mobility including posting, exist. In general, labour mobility and employment are under the authority of MOLEVSA.
	Public authority/ies responsible for the implementation of the PWD (competent authorities) assigned	y	partially	MOLEVSA	MOLEVSA is the responsible ministry for the implementation of labour and employment policies. There is a designated working group for normative, study and analytical work that is responsible for protection of Serbian employees temporarily posted abroad, monitoring of implementation of strategies, legislation in the field of labour, participation in drafting international agreements on posting, etc.
	State agency/ies responsible for monitoring, control and enforcement of the PWD assigned/established	y	n	N/A	No agency established.
	Grievance procedure and authorities for posting to and from the country assigned/ established	y	partially	LI	The LI is a second-instance complaints authority within MOLEVSA that has rights to review employers' general and individual acts, records, to interrogate and take statements from responsible persons, to examine business premises and facilities.
	National website on posting set up	y	n	N/A	No national website on posting
Issue-relevant	State agencies responsible for ingoing and outgoing labour migration	y	partially	National Employment Service Ministry of the Interior Directorate for Safety and Health at Work, MOLEVSA Labour Inspectorate Central Register of Obligatory Social Insurance Health Insurance Fund Market Inspection	There is no state agency. The responsible institutions for labour migrations are the same as for posting. Besides MOLEVSA, there are: The NES as the national employment office is acting as a mediator in employment of Serbian citizens abroad on foreign employers' request and for issuing working permits to foreigners and conducting market tests in advance. The Ministry of the Interior is responsible for issuing residence permits. The DSHW is the authority within the MOLEVSA in charge of: harmonization of legislation with EU and ILO, collection and analysis of information on injuries at work, occupational diseases, work-related illnesses and situations affecting the health of employees, supervision of work of legal entities and entrepreneurs on health and safety at work and posting abroad in accordance with the domestic or foreign legislation (if it is more favourable for the employee). LI determines whether there are elements of violation of the posting procedure. CROSI is the responsible institution for maintaining the register of obligatory social insurance of workers. HIF is responsible for the implementation of international agreements on social insurance, development of agreements on reimbursement of health care expenses, creation of bilingual forms for implementation of international agreements on social insurance, the calculation of health care costs, including those of posted workers. MI is responsible for the control of performance of business operations and entrepreneurs in employment as well as the suppression of informal work

Grievance procedure and authorities for labour migration to and from the country assigned/established	y	partially	LI	LI determines whether there are elements of violation of the posting procedure.
Employment mediators for labour disputes are available	y	partially	TU (Trade Unions)	Employees' organizations, i.e. trade unions, are still weak in Serbia. Cases on labour disputes adjudicated through the judicial system last extremely long. The social dialogue is still purely following the improvement of labour policy.
Other information dissemination structures/platforms on migration and employment	y	partially	NES	Seven migration service centres were established. Their main task is to provide working migrants with information on the risks of irregular migration, procedures for obtaining working and residence permits, possibilities for employment and study abroad, access to health care and education abroad, etc.

Table A18 Inter-agency cooperation in Serbia

	Indicator	Target value	Actual value	Please provide details here
Issue-specific	The IMI system is implemented	y	n	There is no IMI system established.
	Designated liaison office(s) or competent national authority established for inter-agency cooperation with external authorities	y	n	The office for posting of workers is not yet established, but government institutions which control and monitor labour mobility including posting, exist. In general, labour mobility and employment are under the authority of MOLEVSA.
	Designated liaison office(s) or competent national authority established for inter-agency cooperation with other national authorities	y	n	See above.
	Contact person(s) at liaison office or at competent authority in charge of dealing with external information requests/exchange established	y	n	See above.
	Contact person(s) at liaison office or at competent authority in charge of dealing with information exchange with national authorities/stakeholders established	y	n	See above.
	Communication and information exchange protocols are in place for external cooperation	y	partially	Electronic exchange of social security data is available with most of the Western Balkan countries.
	Communication and information exchange protocols are in place for internal cooperation ¹	y	partially	Serbia is implementing the agreements on electronic exchange of data on pension and disability insurance with countries of former Yugoslavia.
	Participation in the following networks and tools established at EU level for information sharing and cooperation in the field of employment and social security:			
	Senior Labour Inspectors' Committee (SLIC)	y	n	No information received from MOLEVSA or LI
	European Platform tackling undeclared work	y	n	No information received from MOLEVSA, MI, etc.
	Administrative Commission for the Coordination of Social Security Systems (CACSSS)	y	n	No information received from MOLEVSA and HIF
	Electronic Exchange of Social Security Information (EESSI)	y	y	Only partially. Electronic exchange of social security data is available with most of the Western Balkan countries. Serbia is in the process of negotiation of agreements with several EU states.
	Bilateral or multilateral agreements or arrangements with external authorities	y	y	A bilateral agreement on posting of Serbian workers has been signed with Germany. Bilateral agreements on temporary work of Serbian citizens abroad have been signed with Slovakia, Slovenia as well as with Bosnia and Herzegovina and Belarus (negotiations ongoing with 2 EU MS: Hungary and Malta). Bilateral agreements on social security coordination have been signed with 19 EU MS, plus Norway and Switzerland. Agreements on electronic data exchange on pension and disability insurance are being implemented with former Yugoslavian countries. Agreements on the European Social Insurance Card signed with 9 EU MS.
	National registers/databases for data/information exchange are established ²	y	y	The Central Register of Obligatory Social Insurance (CROSI) is a single database established and used for information exchange between different national agencies involved in the implementation of PWD. CROSI is responsible for the security, protection and secrecy of data. E-inspector, an online platform, was introduced a few years ago (there is potential for this instrument to assist exchange of information between various inspectorates and other enforcement authorities, and to serve as a supporting tool for joint activities). It is available at the moment to the Labour and Market Inspection.
	Legislation ensuring data protection of exchanged information, safeguarding legal rights of affected persons, is in place	y	y	Data protection is regulated by legislation - Law on protection of personal data and Regulation governing the protection of electronic documents etc.

Table 19 Human Resources Indicators in Serbia

	Indicator	Target value	Actual value	* Please provide details here
Issue-specific	Enforcement agencies are responsible for employment issues including posting	y	y	MOLEVSA: Group for normative, study and analytical work Directorate for Safety and Health at Work (DSHW) at MOLEVSA: supervises legal entities and entrepreneurs on OSH and posting abroad Labour Inspectorate (LI): violation of the posting procedure National Employment Service (NES): protects Serbian citizens working abroad, issues working permits Market Inspection (MI): controls operations of companies, informal and illegal work.
	Polymakers have received information/training on the Posting of Workers Directive	y	y	<i>Only partially.</i> Education of experts on posting of workers is segmented, usually covers only fragments of mobility, and is performed occasionally mainly in coordination with other institutions.
	Labour inspectors have received training or information on the Posting of Workers Directive and its implementation	y	y	See above
	Health/disability/pension insurance fund personnel have received training or information on the PWD and its implementation	y	y	See above
	Employment mediators have received information on the Posting of Workers Directive and its implementation	y	y	See above
Issue-relevant	Enforcement agencies are responsible for OSH	y	y	DSHW at MOLEVSA
	Ratio of labour inspectors compared to number of workers	1 labour inspector per xxx workers	1 labour inspector per xx workers	In 2017, there were altogether 263 persons working at the LI, of which 247 were labour inspectors, lawyers and engineers. No additional information on labour inspector's number per workers numbers are available.
	Labour inspectors have received training in intercultural communication	y	y	Only partially, See above
	Labour inspectors have received training in EU labour- and mobility-related topics		partially	Only partially, See above
	Labour inspectors responsible for field inspections are required to speak English and/or another foreign language (EU or neighbouring countries language)	y	y	Yes, it is regulated by legislation
	Communication with non-local workers is facilitated by interpretation services provided by the Enforcement Agency	y	n	No, there is no such services.
	Public authority officers responsible for international inter-agency cooperation are required to speak English and/or another foreign language (EU or neighbouring countries language)	y	y	Yes, it is regulated by legislation
	Enforcement agencies' personnel are provided language courses	y	y	The language courses are provided to civil servants.

Table A20 Stakeholder Engagement in Serbia

	Indicator	Desired value	Actual value	*Please provide details here
Issue-specific	Trade Unions are involved in the process of the transposition of the PWD	y	partially	CATU has two ongoing projects related to posting which are implemented in cooperation between MOLEVSA, the employers' organization, trade unions and chambers. However, frequent modifications in legislation during the last years means that stakeholders, employees, employers and their organizations are not adequately consulted or are not motivated to be engaged in the process.
	Employer Associations are involved in the process of the transposition of the PWD	y	partially	SAE is an institution that provides assistance to those employers willing to post employees that request interpretation of regulation procedures. Also, it was involved in changing legislation on posting of workers, mainly through its participation in the work of the Social and Economic Council as a tripartite dialogue body. However, frequent modifications in legislation during the last years means that stakeholders, employees, employers and their organizations are not adequately consulted or are not always motivated to be engaged in the process.
	The Chamber of Commerce is involved in the process of the transposition of the PWD	y	partially	The Chamber of Commerce and Industry of Serbia is the institution responsible for the appropriate allocation of the assigned contingent of workers, management of records and control in line with the bilateral agreement signed between Serbia and Germany. CCIS has also requested the improvement of the Law on Employment of Foreigners and participated in drafting the Law on Employment by Employment Agencies and submitted comments and suggestions of its members to the line Ministry. At the moment CCIS is not consulted by state authorities on PWD.
	NGOs specialized on labour rights and violations are involved in the process of the transposition of the PWD	y	partially	Frequent modifications in legislation during the last years means that stakeholders, employees, employers and their organizations are not adequately consulted or are not motivated to be engaged in the process.
Issue-relevant	Type of social dialogue	-	Tripartite	The Socio-Economic Council
	Role of social partners in policymaking	Decision-making	consultative	The SEC decides on the minimum wage, otherwise its role is consultative in policy making.
	Role of social partners in the EU integration process	Decision-making	consultative	CATU and CCIS have representatives in negotiation Chapters 2 and 19
	A cross-sectoral collective bargaining agreement exists	y	partially	General Collective Bargaining Agreement and for civil servants
	Sectoral collective bargaining agreements exist	y	partially	Sectoral collective bargaining agreements exist for Construction, Agriculture, Traffic, Health, Culture, Education, Social Protection, etc.
	NGOs are a central contact for labour rights and violations.	y	partially	The NGO AATC provides psychological, medical, legal and other assistance to victims of trafficking that will in the long term contribute to their recovery and reintegration process. Workers can be informed on conditions of safe departure and working abroad, including posting.



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