

INTRA-EU CROSS-BORDER WORKERS IN THE TIME OF COVID-19 MOVEMENT RESTRICTIONS: CROSS-BORDER AND POSTED WORKERS FROM SLOVENIA

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INTRODUCTION

The intra-EU free movement of workers is one of the founding principles of the European Union and, as such, a fundamental right of EU citizens. It is a political process defined and protected by the Treaty on the Functioning of the European Union. It entails that workers have the right to move and reside in another EU Member State (hereafter, Member States), they have the right to be accompanied by their family members and have the right to work in another EU MS. Moreover, they have the right to be treated equally as other nationals of that Member State. From the beginning of 2023, the border-free Schengen area comprises 27 European countries and guarantees free movement to all EU workers. However, the last pandemic crisis and even the most recent political decisions in the EU show how fragile and arbitrary this ideal of workers' rights can be.¹

In the first decades of the new millennia, shortly after full rights to movement and work were implemented for most of Member States, the restrictions of movement and/or work occurred in an unprecedented scope and magnitude. In 2015/2016, many Member States introduced restrictions on freedom of movement at the EU's internal borders due to large numbers of refugees from Syria and other conflict zones. Intra-EU mobile workers who already faced various obstacles to mobility due to social, political, economic, or cultural constraints (Cresswell 2006; Blitz 2014; Salazar 2017) were affected by the so-called safety measures applied at the borders. Only five years later, in 2020, the health constraints related to the COVID-19 outbreak were added to the list. On 11 March 2020,

1 The European Commission announced formal consultations with several Member States on the Schengen internal border controls. Austria, Denmark, Germany, France, and others Member States are trying to enforce their national interests at the border, insisting on controls that are dating back to 2015 (G. K. 2023, in Slovenian).

the World Health Organisation declared the COVID-19 pandemic. Many countries around the world took previously unthinkable measures to curb the spread of COVID-19. One of the key measures was to restrict movement, as the virus was supposedly spreading physically with moving, travelling people. With the pandemic, the scope of global mobility became limited, and the extent of restriction of movement worldwide was so vast that IOM (2020a) labelled the COVID-19 pandemic not only a health, political, and socioeconomic crisis but also a mobility crisis.

This article presents the results of a study on the impact of government policies and measures to prevent the spread of COVID-19 in Slovenia. Specifically, I analyse the effects of measures on the intra-EU mobility of workers, specifically cross-border workers² (also referred to as frontier workers or commuters) and posted workers³ from Slovenia. In the first part of the article, I discuss the measures adopted by the Slovenian government and certain neighbouring countries in the first half of 2020. The restrictions due to the COVID-19 outbreak also affected the working environment and work itself. Therefore, the second part presents and discusses the analysis of interviews conducted with cross-border workers and professionals working in the field of labour mobility, focusing on the economic and social risks that workers faced after returning to Slovenia or while working in neighbouring or other EU countries.

RESEARCH APPROACHES

Consideration of various aspects of international labour mobility in the form of cross-border (daily, weekly), seasonal, or posted work in the COVID-19

2 *Cross-border worker*, also frontier worker (*frontaliero* in Italian) or commuter (*Pendler* in German), means any person who pursues an activity as an employed or self-employed person in one Member State and is permanently resident in another Member State, to which he/she normally returns on a daily or at least weekly basis (Article 1.f of Regulation 883/2004/EC). Slovenian residents commute daily or weekly to neighbouring Italy, Austria and, to a lesser extent, Croatia and Hungary, but also to more distant Switzerland and Germany (weekly or even monthly). In Slovenia, cross-border workers tend to be identified with the term migrant workers (for example, Sindikat delavcev migrantov Slovenije (SDMS) – Trade Union of Migrant Workers), which is otherwise used in professional and academic literature to refer to foreign workers in Slovenia.

3 *Posted workers* are workers who, for a limited period, carry out their work in the territory of an EU Member State other than the state in which they normally work (Directive 96/71/EC). Posted workers are employed by an employer established in one EU country and, for a limited time, carry out work in another EU country while remaining covered by the relevant social security scheme in the country where the employer is established.

period has stimulated discussion in various academic fields about the increased vulnerability of international mobile workers and migrants and the potential consequences of COVID-19 for them (Fasani & Mazza 2020a; Geyer et al. 2020; Karaleka 2021; Perocco 2021; Jurčević et al. 2023). To add to the existing literature on mobility and migration during the pandemic, we conducted research on the impact of government measures aimed at preventing the spread of COVID-19 on international mobile workers in Slovenia (and neighboring countries) during the initial phase of the pandemic (12 March–31 May 2020).

The study aimed to identify the measures and strategies to curb the spread of COVID-19 connected to persons' physical movement. Further, we wanted to analyse those measures that affected cross-border and posted workers most negatively and establish how they impacted their lives and work. Therefore, this article focuses on the measures that restricted mobility (e.g., closing borders or reintroducing border checks, limiting free movement to the municipality of permanent residence) and the effect of economic and societal lockdowns on mobile community. Identified are the risks workers faced when they returned from abroad or were engaged in cross-border labour during the first phase of the pandemic restrictions. The restrictive measures adopted in the same period by the governments of neighbouring countries, particularly Austria and Italy, were also studied.⁴ Especially useful in this respect were the official publications of decrees from the Official Gazette of the Republic of Slovenia (Uradni list – UL) and information on other countries' decrees posted on the Slovenian government website (gov.si). Analysed material includes media coverage of movement restrictions in all major Slovenian printed and online media, information on the Slovenian Union of Migrant Workers (SDMS) website, and comments by workers on social media (Facebook). To verify the impact and consequences of measures in practice, I conducted semi-structured interviews with posted workers and their families (fourteen interviews) and cross-border workers (two interviews) who work in Austria, Switzerland, Germany, Italy, and elsewhere. All are Slovenian citizens.⁵ The interviewees describe their everyday life as cross-border or posted workers and their itineraries. Workers speak about changes due to the pandemic that they noticed on the way to work, in the workplace, and at

4 Most daily cross-border and posted workers living in Slovenia cross the borders between Slovenia and Austria or Slovenia and Italy (SDMS Union 2020; De Wispelaere et al. 2021), so I decided to focus on them and not on the less widespread movement of workers between Slovenia and Hungary or Slovenia and Croatia. Also, cross-border workers from neighbouring countries employed in Slovenia or posted workers to Slovenia are not included in the study.

5 The interviews were conducted in the Slovenian language. For the purpose of this article, parts have been translated into English.

home. They describe how they perceived the measures that affected them and define the obstacles in connection with the pandemic and their mobility. The interviews have been rendered anonymous and are not representative in any aspect. As workers, for the most part, relied on information and support from trade unions, NGOs and public services, I carried out further discussions with representatives of trade unions/NGOs who assisted workers (five interviews), with the representative of the INAS – institute for assistance and consultation from Nova Gorica (covering border region Slovenia-Italy), and with an EURES network consultant at the Employment Service of Slovenia (ZRSZ).

THE BACKGROUND OF THE PHENOMENON: CHARACTERISTICS OF CROSS-BORDER AND POSTED WORKERS OF SLOVENIA BEFORE THE PANDEMIC

International labour mobility results from economic, legal, and social circumstances that encourage individuals to leave their home countries for employment. In this respect, they affect their choice of future work and destination (Bastos et al. 2021: 157). In 2019 – before the pandemic – there were 1.5 million cross-border workers (Fries-Tersch et al. 2021) and 1.9 million posted workers (De Wispelaere et al. 2021) in the EU. In the case of posted and cross-border workers, we often deal with temporariness and flexibility of work, language barriers, and the different social, health, and tax systems to which cross-border workers need to adapt. Thus, in addition to opportunities, mobility can be full of uncertainties, and the COVID-19 pandemic restrictions only added new challenges to the existing obstacles (see Fasani & Mazza 2020a; Rasnača 2020).

According to EU legislation, workers from one Member State who work in another Member State have the same labour rights as domestic workers (European Union 2020), but studies show (Toplak 2017; Fasani & Mazza 2020a, 2020b; Rasnača 2020; Perocco 2021) that mobile and migrant workers, even if they are citizens of Member State, are exposed to economic and social vulnerability due to the generally short-term nature and limited duration of their work contracts; they may be paid less than local workers and are more likely to have to accept informal agreements about working conditions. In a crisis, foreign workers are the first to lose their employment, as was the case at the pandemic's start (Geyer et al. 2020). The language barrier is another obstacle that can hinder workers from taking on a better-paid job outside the construction, food, textile, and auto-moto industries in another country. Long commuting might also negatively impact workers' well-being (Chatterjee et al. 2020).

To better understand the impact of the pandemic on the mobility and work of selected groups of workers, this chapter considers the basic characteristics of cross-border and posted workers that predominate in the category of international mobile workers in Slovenia.

Cross-border workers

According to Eurostat, there were around 23,700 cross-border workers from Slovenia in 2020 (Eurostat 2022a), representing almost 2.5% of the total employed population in the same year (Eurostat 2022b). This share places Slovenia in the top half of EU countries regarding the share of cross-border workers in the employed population in the same year (own calculations).

In April 2020, there were 13,503 workers (not including posted workers) with registered residences in Slovenia working in Austria (unpublished statistics from the AMS—the Austrian Public Employment Service, in the authors' archives). I was unable to obtain official data on the number of Slovenian residents working in neighbouring Italy from the Italian employment service, but it is estimated that there are around 10,000 permanent, temporary, and informal workers (INAS representative, interview; Repovž 2015), while Eurostat at the NUTS 2 level of Western Slovenia lists 5,500 formally employed cross-border workers (Eurostat 2022a). Informal and undeclared work in neighbouring countries, which our interlocutors say is not uncommon among Slovenian workers, is estimated to represent an additional 1,000 workers, especially among workers crossing the Slovenian-Italian border. Most of the workers commuting daily to Austria come from border regions of Slovenia, such as Mura, Drava, and Carinthia, and partly also Upper Carniola, and are employed in all sectors of the Austrian economy, usually in the border zone of Styria and Carinthia federal states, but also in other regions in the interior. Workers from the Coastal-Karst and Gorizia regions commute to Italy, and most of them are employed in the border region of Friuli-Venezia Giulia, in the metal and electrical industries and mechanical engineering (Repovž 2015) but also in the agriculture and care sectors. The latter are often undeclared workers (INAS representative, interview). The primary motivation for cross-border working is the lack of suitable work or work in general in Slovenia, the changed working conditions in the previous job (especially in the healthcare sector, cf. Vah Jevšnik & Cukut Krilić, this volume), the loss of a job in Slovenia, and better conditions in Austria and Italy (higher salary, better working conditions, clear conditions of employment, and the regularity of the workplaces) (Cross-border workers, interviews; INAS representative, interview).

Under European law, cross-border workers between Italy, Austria, and Slovenia do not need work permits and have the same rights as workers who are residents of the country where they work. National legislation protects pension rights and all other rights provided by social security systems that are not strictly linked to permanent residence in a particular country. However, even before the pandemic, some basic rights of cross-border workers were already being violated, as the Slovenian Migrant Workers' Trade Union and INAS point out in the interviews. The breaches are due to inconsistencies in national legislation, breaches of EU rules on social entitlements, notably Regulation 883/2004/EC (recognition of disability, problems with the recognition of sickness benefits and social transfers, delays in unemployment benefits and the level of unemployment benefits compared to payments) and taxation (problems with the treatment of income in the income tax return), and the lack of monitoring of these breaches.

Posted workers

In 2020, 60,503 workers were posted abroad from Slovenia (Vah Jevšnik et al. 2022: 19), compared to 22,590 during the first wave of the pandemic alone (data available for April-June 2020). In 2020, more than one-third of posted workers worked in construction, assembly/service, and industry (almost one-fifth in each), followed by international road transport (14%). In 2020, 59% of all posted workers were third-country nationals who had temporary or permanent residence in Slovenia and worked abroad for a Slovenian employer. The majority were citizens of Bosnia and Herzegovina, Serbia, and Kosovo (Vah Jevšnik et al. 2022).⁶ Posted workers from Slovenia cross the border several times a year, depending on their work schedule. Posting can last from 14 days to several months, and workers usually return to Slovenia after completing work on a specific project. Most of the posted workers are men, more than 95% (Vah Jevšnik et al. 2022: 24), and they usually take this form of work because they can earn better than they would in Slovenia for similar work (Posted workers, interviews).

As in the case of cross-border work, this form of work is also plagued by persistent problems, the extent of which was difficult to determine before the pandemic. Various studies have identified the main problems as violations of workers' rights, non-compliance with the law, and the lack of monitoring of

6 Although the free movement principle applies only to EU citizens, the EU legal framework on posting of workers applies equally to EU and third-country nationals, "as the legislation does not distinguish on the ground of the posted workers' nationality" (ELA 2023). Third-country national posted workers were not surveyed in this study but are nevertheless discussed in the paper because their numbers in Slovenia are high, they are more vulnerable than posted workers from the EU for various reasons, and they were also affected by restrictions on free movement.

violations. The most common violations of workers' rights include non-compliance with working hours, non-compliance with the legal rate of pay, non-payment or withholding of part or all of monthly income, non-payment of recourse, non-payment of social contributions and health insurance, improperly drafted employment contracts, avoidance of liability in the event of work accidents, poor information on occupational health and safety, and others (Rogelja et al. 2016; Danaj & Geyer 2020; Vah Jevšnik et al. 2022).

THE PANDEMIC STRIKES

With the onset of the COVID-19 pandemic, travel restrictions were adopted at external and internal EU borders in early 2020. Early studies of the impact of the pandemic show that such measures drastically impacted people's lives (Meier et al. 2020: 1436; Heller 2021), especially those economically dependent on intra-EU mobility. As soon as the pandemic was declared, international mobile workers, such as posted, cross-border, seasonal, and other mobile workers (Rasnača 2020; Jurčević et al. 2023), found themselves restricted by the measures of the countries in which they were located and were forced to decide whether they would stay or return home. However, as many countries restricted movement and, with it, public transport, returning home was not always possible. In 2020, almost 3 million people worldwide were stranded abroad. In the European Economic Area alone, around 202,000 could not return home, among them many business travellers and foreign workers (IOM 2020b). Restrictions or shut-downs of the EU economy accompanied restrictions of movement. Thus, posted workers, as well as many cross-border workers, suddenly found themselves without work.⁷

However, a unique paradox arose soon after the COVID-19 pandemic was declared. To prevent the spread of COVID-19, the Member States restricted freedom of movement with established checkpoints at their borders. At the same time, they declared the so-called critical infrastructures – activities that served and sustained the population uninterrupted during the pandemic (road transport, health care, agriculture, food, and other industries). Foreign workers who were mainly employed in these sectors suddenly became “key workers” (Fasani & Mazza 2020a). International mobile workers who regularly travel within the EU (and also enter and leave from third countries) were indispensable yet restricted in their mobility.

⁷ Also, in the later stages of the declared pandemic, both groups encountered increasingly significant obstacles hindering or even preventing them from crossing borders on the way to work in another Member State, as various degrees of restrictions on movement between Member States were in place (Jurčević et al. 2023: 59).

THE PANDEMIC AND THE MEASURES TO PREVENT THE SPREAD OF THE VIRUS IN SLOVENIA

On 11 March 2020, the government restricted crossings of the national border with Italy, which was then experiencing an extraordinary increase in infections. Restrictions on national border crossings with other neighbouring countries followed shortly. On 30 March, the government restricted movement to within the borders of the country's municipalities (UL RS 38/2020).

Although the European Commission opposed the introduction of border controls or the abolition of the internal Schengen area as late as 25 February 2020, and the Italian Prime Minister equated the proposal to close Italy's borders with turning Italy into a lazaretto (Schengenvisa 2020), it soon became clear that restricting movement would be a strategy to tackle the health crisis at least in some Member States. In March 2020, 12 EU countries, including Slovenia and all its neighbours, adopted stricter measures to control the crossing of their borders (Alemanno 2020: 311), thus renouncing the free movement of people. The European Commission did not adopt a unified strategy in this area and, in mid-March 2020, published "only" guidelines on border management in the COVID-19 era, identifying important features of temporary border controls, including at internal borders. Point 21 commands compliance with the Free Movement of Persons Directive and calls on Member States not to discriminate between their own nationals and other residents, and in particular, not to refuse entry to their territory to EU citizens or third-country nationals residing on EU territory (European Commission 2020). At the same time, the guidelines dictate the use of appropriate safeguards, such as self-isolation and the like, but only if the measures are applied to both nationals and non-citizens. The guidelines also dictate in Section 23 that Member States must allow border crossings for border workers (European Commission 2020: 4–5). While the European Commission has thus set out some principles of non-discrimination in the undoubtedly changed Schengen regime, they have been followed by the Member States in a very loose, arbitrary, and mostly internationally inconsistent manner (Opilowska 2020; Böhm 2021; Novotný 2021; Toplak & Lukšič Hacin 2022).

Concurrent measures taken in Slovenia led to a partial closure of the economy and the introduction of homeworking. On 1 April, the first lockdown was introduced in Slovenia (most of the above measures were based on the Law on Communicable Diseases (ZNB, OJ 33/06). The measures taken aimed, on the one hand, at limiting the spread of the pandemic, thereby protecting lives and reducing treatment costs. On the other hand, the measures to mitigate the consequences of the pandemic, the so-called pandemic mitigation packages

(also popularly referred to as the anti-corona laws; the first one was adopted on 11 April 2020; UL RS 49/2020), were intended to prevent or mitigate the consequences not only of the pandemic but also of the measures taken to contain it, but they were mainly targeted at the Slovenian economy.

Table 1: Measures to prevent the spread of COVID-19 adopted in Slovenia from March to May 2020 (Source: The Slovenian government website gov.si; UL RS – Official Gazette of the Republic of Slovenia, 2020).

	First phase of the pandemic
Duration	12 March–31 May 2020
Measures taken in SI ⁸ : Restriction of movement: - state border	11 March: controls imposed at the border with IT, entry into the SI from IT only at 6 checkpoints under special conditions; only 4 checkpoints remain on the road links with IT; 16 March: all public passenger transport is banned (until 13 June); 24 March: conditions set for entry from the AT and checkpoints set up, including with limited hours of operation; 11 April: adoption of an umbrella decree on border crossing, amended and extended several times until 31 May
- internal borders (municipality, regional)	30 March–30 April: restriction of movement to municipalities with a few exceptions
- preventive (health) measures	Closing down society and part of the economy, masks, physical distance, hand sanitisation, COVID-19 testing
Measures taken in AT, IT	11 March: AT restricts border crossings with neighbouring countries; 18 March: AT closes 51 small border crossing points with SI, and on 2 April, a further 4 crossing points, leaving only 9 checkpoints open; 20 March: AT further tightens border crossing conditions. March: closure of society and part of the economy, restrictions on movement within the country (IT).
Implications of the measures for internationally mobile workers	loss of job; stopping work, returning to the country of residence; special conditions for financial and other benefits in the SI; longer commuting, document checks and waiting at borders – both causing higher costs; restriction to individual commuting imposed by employers; higher tax in case of homeworking; frequent testing and associated costs; fear and consequent stress due to sudden changes in rules; unavailability of reliable information; discrimination of mobile workers compared to other (non-mobile) workers and residents.

8 SI – Slovenia, IT – Italy, AT – Austria.

The Slovenian government has adopted national measures quickly, with short notice, without coordination with neighbouring countries, and with decrees that did not need the majority support of the National Assembly. In the first month of the pandemic alone, it adopted six decrees prohibiting movement or defining the conditions for border crossing and movement within the country (see Table 1), amended several times in the following two months (several UL RS 2020).

According to my estimates, the measures taken by the Slovenian Government (and governments of neighbouring countries) concerning COVID-19 in March–May 2020 impacted more than 50,000 mobile workers. To this number, we need to add tens of thousands of their family members, who largely depend on the income they receive abroad or on Slovenian employers providing services abroad. A comparison of the number of Slovenian citizens employed in Austria between April 2019 and April 2020 showed that this fell by 6.8% (this includes cross-border workers with residence in Slovenia and Slovenian nationals with residence in Austria; unpublished statistics from the AMS in the authors' archives). For 2020, the statistics of the Health Insurance Institute of Slovenia (ZZZZ internal report, in the authors' archives) show that the posting of workers also declined: in the second quarter (April–June)⁹ the drop of issued Portable Document A1 was 8.1% for posting of workers under article 12 of the Basic regulation (for posting under other articles even more: 16.6%) in comparison with the previous quarter, or 5.8% decline compared to second quarter of 2019.¹⁰ We may assume that these shifts were decisively affected by the COVID-19 pandemic and resulted from restrictions determined by government measures in Slovenia and in the countries of employment or posting in the first half of 2020.

THE MEASURES AND THEIR IMPACT: WORKERS' PERCEPTIONS OF RESTRICTIONS

The uncoordinated measures adopted by the Slovenian, Austrian, and Italian governments since March 2020, such as tightening the border controls, strict monitoring of the mobility of populations (also by closing down economic and

9 The second quarter of 2020 fairly coincides with the movement restrictions due to the COVID-19 breakout and the first lockdown in Slovenia and neighbouring countries.

10 A "portable document A1" or PD A1 is a certificate showing in which Member State a worker's social security is paid. PD A1 may be issued under Articles 12, 13 or other articles of Regulation (EC) No. 883/2004 on the coordination of social security systems, which certifies that specific social security rules are coordinated in the EU.

social activities, with several lockdowns in different periods), termination of all public transport, surveillance of the health status of each individual crossing the border etc., were generally received with negativity, anger, frustration and distress. Slovenian mobile workers speak about discrimination and systematic suppression and report on increasing vulnerability resulting from these measures.

In this chapter, I will focus on two sets of measures which, after analysing the material from the field, have emerged as key in affecting mobile workers. First are restrictions on movement that directly affected workers' right to free movement in the EU, and second are restrictions on the functioning of the economy and society as a whole that affected workers right to work in another Member state. Another set – measures to mitigate the effects of the pandemic and the effects of the prevention measures – was already discussed elsewhere (Toplak & Vah Jevšnik 2022). The analytical focus here is on the effects of the measures in the economic and social spheres.

Restrictions on border-crossing and other movement restrictions

Since the beginning of March 2020, when the first information about the possible closure of the border with neighbouring countries appeared in the media, cross-border workers were very concerned about how they would carry out their work. They immediately began to develop personal strategies to avoid losing their jobs. Some were even willing to move to another country temporarily and set out to find a temporary place to stay for a few days or weeks, if necessary. One of them was Nurse B., who was employed in a nursing home in Austria. She travelled to work with a suitcase during the first two weeks of the pandemic, always prepared to stay in Austria if needed (Nurse B., interview).

Slovenia and neighbouring countries did not close their national borders permanently. However, they accepted a limited number of border crossing points, introduced checkpoints at the borders, and constantly changed the rules on who could cross the border.¹¹ Despite several sources of official information about the measures in force, workers perceive that it was difficult to follow the changes and admit that they were very confused due to the amount of information. According to the interviewees, the biggest problem was the lack of reliable information about the border crossing. Such a situation was also reflected in the publications and comments on the FB page connecting migrant workers and

11 On 20 March 2020, the Austrian government for example, decided that entry into the country is possible by submitting a negative COVID-19 test, which must not be older than four days. The exceptions were Austrian citizens or persons with permanent or temporary residence, transit passengers, commuters, and other emergency commuters (gov.si).

supporters, where members of the group often asked whether a particular border crossing was open, whether the measure adopted also applies, or what to do if they could not or did not want to respect the measure (FB group *Povezovanje delavcev migrantov in podpornikov*).

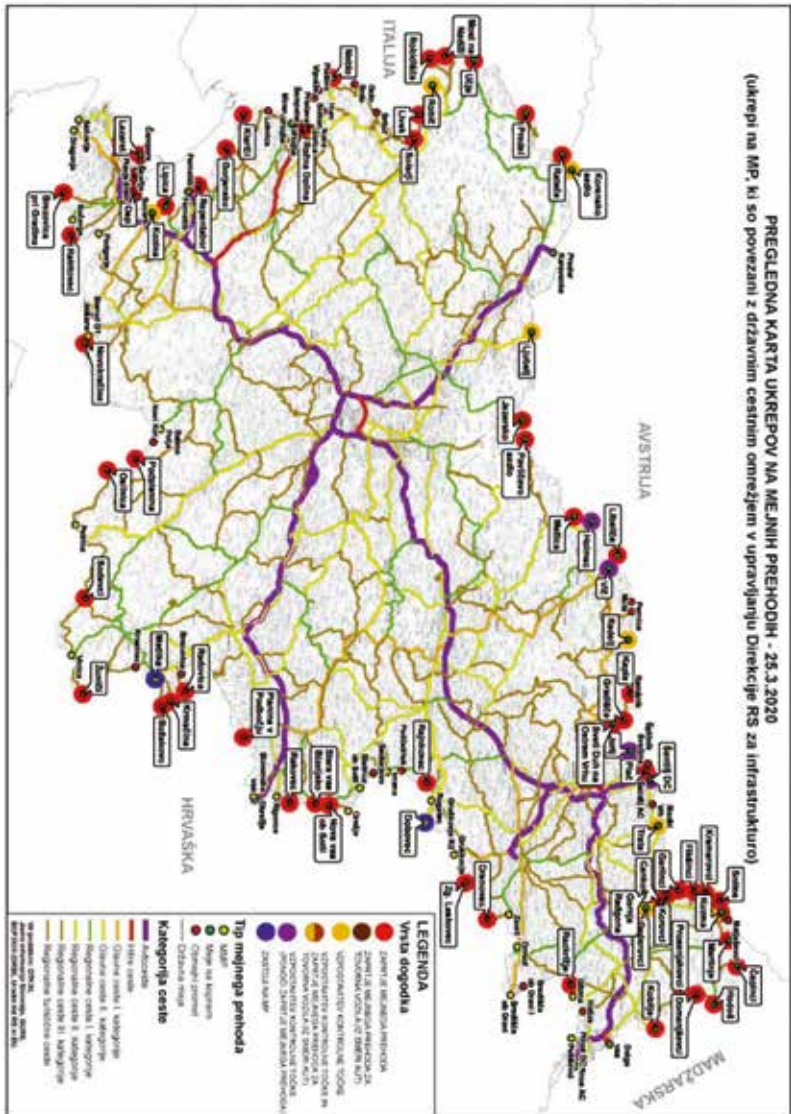
Cross-border workers who commute daily to work in neighbouring Austria and Italy had the most problems with the closure of small border crossings, as they travelled up to twice as long to and from work.¹² Waiting at checkpoints to check several documents¹³ and limiting the opening hours of some key crossing points, with longer queues at unrestricted crossing points, further increased the time spent travelling to and from work. Our interviewees were critical of decision-makers' lack of understanding of the importance of border crossings for mobile workers: "What bothers me more in Slovenia is that they closed the border crossings. That was wrong. They should not have allowed that to happen. I think that those who make such decisions in Ljubljana obviously have no idea what is happening on the periphery. This is wrong" (Cross-border worker Ma., interview). As a result, workers were late for work, and their working hours and absence from home increased. Additionally, they incurred higher commuting costs. According to the interviewees, employers were "mostly understanding as long as there were no major delays". However, some Austrian employers accepted their own safety measures. Fearing the spread of infections among employees, they banned carpooling to work, which meant additional costs for mobile workers and more cars on the road.

The journey took longer because, in addition to the checks in place for refugees or migrants, they started to introduce temperature monitoring at the borders, and they were no longer allowed to share cars, so there were more cars on the road. There were some of these things, and there was also a tightening up of everything. I think they also closed some [small border crossings and smaller international] border crossings. Those who don't go to these international crossing points have had great difficulties getting to work. (Cross-border worker M., interview)

12 Even before the pandemic, arrivals and departures from work were already shaped by road and border crossing conditions, which workers cross several times a day or week. According to the EURES consultant's estimate, workers commuted up to one hour and ten minutes to work in Austria and up to 70 km from home in Italy before the pandemic (EURES consultant, interview).

13 From the beginning of the established border controls, workers had to present to the border officials their ID or passport, the confirmation of employment by the employer, and the statement on the reasons for crossing municipal borders in Slovenia.

Map 1: Border between Slovenia and neighbouring countries, map of measures at border crossings, 25 March 2020.



(Source: schengenvisa.info.com)

Legend: red dots = closed border crossings; light brown dots = established checkpoints; violet dots = established checkpoints (with limited working hours).

Countries put part of their economies on hold with the declaration of the pandemic and restricted movement. It affected posted workers, in particular, who had to return to their countries of origin or return to their home countries due to lack of livelihoods. When companies started operating again, and construction sites opened up, a new problem arose for posted workers at the border. Unlike cross-border workers, posted workers were not among the exceptions provided for by the measures and always had to prove their reasons for crossing the border or were quarantined at the border. This happened twice to our interlocutor. The workers were subjected to frequent border crossing tests, threatened with quarantine if they failed to comply, and for a long time paid for the PCR and HAG tests themselves, some of whom were not reimbursed by their employers (Posted worker G., interview). Frequent testing was time-consuming, certificates in a foreign language were not issued at all test sites, and a quarantine decision could lead to termination of the employment contract. Additional precautions to prevent the spread of COVID-19, such as masks, disinfectants, physical distance, separate accommodation and commuting, and testing, were well implemented and accepted in the Austrian construction sector (Geyer et al. 2020), for example, as confirmed by some of our interlocutors. However, during the pandemic, precarious working conditions and a lack of safety measures for cross-border, posted, and seasonal workers existed in other sectors, such as the meat processing industry and healthcare (European Parliament 2020). An interviewee working for a large manufacturing company in Austria told us that the safety measures did not apply to all workers equally. To cross the border, workers needed a valid COVID-19 test. However, throughout the first phase of the pandemic, he worked alongside domestic workers who had not been tested and used safety equipment in a perfunctory manner. He felt exposed (Cross-border worker Ma., interview). Another crucial feature of mobile work needs to be highlighted: cross-border and posted workers from Slovenia were less able to work from home because they are mostly employed in sectors that did not allow it: critical infrastructure,¹⁴ construction, and manufacturing (AMS statistics).

14 Throughout the pandemic, foreign workers in neighbouring countries who are employed in critical infrastructure (health, transport, food supply, drinking water supply, energy, etc.) had to cross the state border and the borders of municipalities due to their departure for work. All the time they worked, they were exposed to infection, while at the same time, they had to take care of their dependents, especially children, who remained at home when educational institutions were closed. Cross-border workers received compensation and allowances for exposure under the legislation of the country of work but not compensation and relief in the country of residence, which was particularly problematic in the case of long-term closed educational institutions.

Informal and undeclared work in neighbouring countries, which, according to several of our interlocutors, is not uncommon among Slovenian workers, was completely prevented due to strict border controls. For example, workers who wanted to go to Austria had to show their employer's certificate, the so-called *Bescheinigung für Berufspendler*, or an employment contract, to prove they work critical infrastructure (SDMS Union 2020). Workers crossing the border between Slovenia and Italy for work were also required to show proof of employment in Italy. According to the INAS representative, the most difficult situation was faced by younger pensioners and other women who traditionally worked in Italy as carers of the elderly, domestic helpers, and other care workers, mostly undeclared. Suddenly, they were left without a supplementary or sole income, while families in Italy were left without carers and helpers.¹⁵

To mobile workers, the measures taken by the Slovenian government appeared to be vague in time and content, changed too quickly, some were adopted in a very short time or were unadjusted to the reality, for example, the working time of border crossings, where the working hours of shifts in companies were not taken into account (SDMS Union 2020), or the frequency of testing, which applied to workers when returning to Slovenia, a measure that had entered into force while they were still working in the neighbouring country (Cross-border worker Ma. interview). International mobile workers had to follow the government's measures in two or more states to be able to comply with the changing rules, and they perceived the measures on the Austrian, Swiss, or German side as clearly defined in terms of content and time.

You were free to move up there [in Switzerland] where you wanted, all the time, you could go out of the country, you could come back to the country [...] If you went out, you knew you had a 10-day quarantine, that was all clear, there were no such options, as they were here [in Slovenia]. There were curfews here, but never in Switzerland. (Mobile worker Mi., interview)

That was a constant theme at the time, keeping track of all measures and comparing ours and theirs. We found out that our measures in Slovenia are coming one week after theirs. And even now, I think that our government quite nicely copies their measures so that they can then have as an excuse that they accepted the same in Austria. I have that feeling. (Cross-border worker Ma., interview)

15 Later, according to the INAS representative, a decree was passed in Italy that these people had to be employed by the families where they were working, but most of them were only employed for 12 hours a week and continued to work 40 hours a week (INAS representative, interview).

Economy restrictions and society lockdowns

Posted workers were specifically affected by the restrictions on the functioning of the economy in the EU countries. During the closure of a large part of the economic activities, the provision of services by posted workers was prevented for a limited time. In most cases, posted workers who had worked in other Member States through Slovenian companies had to return to Slovenia. As in Austria, businesses and workplaces were closed, and work stoppages lasted several weeks (Geyer et al. 2020). Many third-country nationals working for Slovenian employers as posted workers found themselves in a particularly difficult situation, as they had to return to Slovenia during the partial economic closure of European countries, where they were left without work and without means of subsistence. One of them was Stojan Mirić, a Serbian national who had to return to Slovenia due to the closure of a construction site in Ingolstadt, Germany. Although he had a permanent residence here, he was without means to support himself (S.R./J.P./STA 2020). He decided to return to Serbia, but Serbia had closed its borders to its own citizens. According to a representative of the Counselling Office for Workers, many employers put posted workers on hold, which meant sending them “home” to Serbia, Bosnia and Herzegovina, and elsewhere. In Slovenia, some posted workers also had to deal with their employers not paying their contributions or checking them out of the social security system as of April 2020. Some sought help from trade unions, and many have returned to their home countries (Representative of the Counselling Office for Workers, interview).

Representatives of the Slovenian Migrant Workers’ Syndicate (SDMS) stated in the interview that many Slovenian cross-border workers lost their jobs in the spring of 2020 due to the partial closure of economic activities in neighbouring countries. In Austria, for which we could obtain (unpublished) AMS data, 1,726 fewer Slovenian nationals were employed in April 2020 than in April 2019. It would be wrong to assume this is also the number of workers who lost their jobs. However, according to the EURES consultant, about 10% of Slovenian nationals employed in Austria lost their jobs in the first phase of the pandemic (EURES consultant, interview), which corresponds to about 2,360 workers (unpublished AMS data, in the authors’ archive). The number of dismissals was undoubtedly even higher for contract work and varied according to the sector of activity. Tourism, catering, trade, personal services, and other non-essential activities lost significantly more workers than other activities (EURES consultant, interview).

If they met the conditions, posted workers who lost their jobs could register with the Employment Service in Slovenia, which applied also to cross-border workers. However, under the legislation in force, cross-border workers, regardless of the changed situation, received a cash allowance, which was lower in relation to the contributions paid in the countries of work.¹⁶ If cross-border workers accepted to resign by mutual agreement or worked abroad for less than nine months (often in seasonally defined sectors such as agriculture, construction, etc.), they were not entitled to cash benefits in Slovenia. Workers who worked from home during the pandemic were at risk of double taxation of their employment income, as there were no travel expenses to be recognised as a deduction. The dismissed workers were further economically threatened by the procedure for the recovery of underpaid income tax by the Tax Administration of the Republic of Slovenia, which had recovered payment going back several years. Some temporarily found themselves in very difficult economic circumstances (Cross-border worker Ma., interview).

There would probably have been many more redundancies if the Austrian and Italian governments had not adopted several packages of measures to help the national economies. At the same time, the Austrian government urged employers not to make redundancies but rather to resort to short-term work and benefits (SDMS Union 2020). According to the EURES consultant, the flexibility of the labour market and the restart of the closed economy in the neighbouring country meant that most of the Slovenian workers made redundant in Austria found new jobs relatively quickly (EURES consultant, interview). It was also the greater flexibility of the labour market, reflected in the legal framework under which employers do not need to justify the reasons for dismissals (AMS 2022), that made most of our interviewees working in this country doubt their job security, especially at the beginning of the pandemic, when it was not yet clear how the governments would deal with the economic downturn and how employers would react (Cross-border workers in Austria, interviews).

The disparities resulting from the internationally uncoordinated measures Slovenia and neighbouring countries took to mitigate the economic and social consequences of the pandemic and the partial closure of the economy further impacted the daily lives of most cross-border workers. The measures were based on existing EU labour legislation. However, in the completely changed context,

16 At the initiative of SDMS, the Slovenian government finally solved the long-standing problem in March 2021 and raised the compensation amount from 892.50 euros to 1,785 euros (UL RS 54/2021).

national nuances surfaced and further increased the vulnerability of cross-border workers and the inequalities between them and non-mobile workers.

CONCLUSION

The COVID-19 pandemic caused a unique paradox in terms of mobility. On the one hand, the global community sought to solve the problems posed by the virus, which, in the words of Etienne Balibar, overcame all national and social barriers (2020), while at the same time, each country took its own measures to restrict the freedom of movement, excluding “the others” and including “us” to stop the spread of the pandemic. The limited number of border crossing points, the checkpoints at the borders, and the ever-changing rules on who could cross the border constituted a major departure from the provisions of the Schengen Agreement on the internal borders of the EU. In the same month that marked the 25th anniversary of the signing of the Schengen Agreement, many Member States restricted the movement across the internal borders of the Schengen area to stop the spread of the virus. The restriction of freedom of movement attests to a late and, above all, nationalistic reaction, which, in this case, triggered new forms of control (Heller 2021).

The pandemic, above all, highlighted the enormous differences in the vulnerability of our societies and groups of individuals during the health and economic crises that hit the EU, including Slovenia (IOM 2020a). As our study has shown, the health crisis immediately put many administrative obstacles in the way of Slovenian residents working in other Member States, creating certain economic, social, and even health risks. International mobile workers, who were often already in precarious situations before the pandemic, became even more vulnerable and at risk due to movement restrictions and other measures to prevent the spread of COVID-19. They were exposed to risks such as layoffs, increased costs associated with commuting, infections due to the lack of or inconsistent application of protective measures, unequal treatment, and most of their jobs could not be performed from home, meaning that they were constantly exposed to sources of infection and restrictions when crossing state borders (see Rasnača 2020). This study’s main finding is that the measures to prevent the spread of COVID-19, which were not internationally coordinated during the period in question and changed very quickly, were restrictive and even harmful to the cross-border mobile workforce. As their economic interest is in the countries of work, mobile workers had to rely on those countries, which was not always without administrative obstacles. International mobile workers who lost their

work due to restrictive health measures abroad or those who worked in the so-called critical infrastructure found themselves in a challenging situation and often without sufficient social and healthcare protection. The measures to limit the spread of COVID-19 created new inequalities and disparities and contributed to a deterioration in mobile workers' economic and social status.

The pandemic and the measures taken to prevent its spread physically and, above all, symbolically restricted the fundamental freedom of EU citizens – the right to free movement. Although the COVID-19 pandemic and the measures taken to prevent it did not discourage EU citizens Europeans from exercising their right to move freely around the EU and work outside their own country (cf. Eurobarometer, 2022), we need to consider the “more than likely” possibility of future mobility crises for economic, safety, or health reasons and what their impact on the free movement of people will be. It is a challenge not only for cross-border and posted workers but also for nation-states and current and especially future policymakers in the EU.

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