

Adrijana Martinović

The Schengen Area, the Eurozone and the free movement of workers: The case of cross-border work between Croatia and Italy

Contents: **1.** Introductory remarks. **2.** Traditional migration patterns between Croatia and Italy and labour market trends. **3.** Free movement of workers – regulatory framework. **4.** The relevance of the Schengen Area. **5.** The relevance of the Eurozone (common currency). **6.** Issues arising in practice. **7.** Concluding remarks.

1. Introductory remarks

The free movement of workers is one of the success stories of the European Union. Throughout the internal market millions of migrant EU citizens pursue their careers and seek livelihood in other Member States¹. This was one of the objectives of the European Economic Community from its inception². The primary EU law, notably the Treaty on European Union (TEU), the Treaty on the Functioning of the European Union (TFEU) and the Charter of Fundamental Rights of the European Union (CFREU) guarantee every EU citizen the right to move and reside freely within the territory of the Member States³. Article 45(2) TFEU prohibits any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment. Numerous secondary sources of EU law guarantee freedom to move, reside

¹ See EUROPEAN COMMISSION, *Annual Report on Intra-EU Labour Mobility 2022*, Publications Office of the European Union, 2023.

² Treaty on Establishing the European Economic Community (1957), Article 3(1)(c).

³ See Article 3(2) TEU; Article 20(2)(a) TFEU; Article 45(1) CFREU – (consolidated versions 2016), OJ C 202, 7.6.2016.

and work in other Member States under equal conditions as nationals of that Member State, subject to justified limitations in accordance with the principle of proportionality. Social security coordination rules are in place to ensure that free movement does not cause the loss of social security rights, and to support the freedom of movement of all EU citizens and their dependants, not just workers or self-employed persons. However, the full potential of the freedom of movement is realised only through combined effect of all factors that could facilitate, or conversely, hinder the EU-wide mobility of workers, including their family members. Different economic, legal and social considerations, such as labour market demand and shortages, geographical proximity, administrative and language barriers, traditional, cultural and family ties, and access to social entitlements play an important role in the shaping of mobility patterns⁴. Border controls and different currencies are certainly liable to impede, or make it more difficult to work in another Member State, particularly in case of neighbouring Member States with the potential for daily commuting and cross-border work. After Croatia joined the EU on 1 July 2013 it became part of the internal market, which gave the Croatian workforce free access to the labour markets of all Member States, with certain temporary limitations. However, border crossing regime continued to apply, and the Croatian *kuna* remained a national currency. It took another decade for Croatia to fulfil all the requirements to join the Schengen Area and the Eurozone. This paper aims to identify and critically evaluate the legal effects that the abolition of physical borders and introduction of common currency have on the free movement of workers, in light of the Croatian accession to the Schengen Area and Eurozone on 1 January 2023. The accent is particularly on cross-border work between Croatia and Italy, as there are strong historical, geographical and cultural bonds between the inhabitants of these two Member States.

2. *Traditional migration patterns between Croatia and Italy and labour market trends*

According to unofficial estimates, around 25 000 to 30 000 Croatian workers work in Italy, primarily in the regions Friuli Venezia Giulia and

⁴ AMELINA, HORVATH, MEEUS, *Migration and social integration: Interdisciplinary Insights and European perspectives*, in AMELINA, HORVATH, MEEUS (EDS.), *An Anthology of Migration and Social Transformation. European perspectives*, Springer International Publishing, 2016, p. 12.

Veneto, and many of them commute either each day or at least once a week⁵. The official data shows that there are 30 000 – 35 000 Croatian cross-border workers in all EU/EFTA countries⁶. This indicates substantial cross-border labour movements, despite the relatively low magnitude considering the overall Croatian labour force⁷.

Italy and Croatia share a common historical and traditional heritage, sometimes marked by turbulent events and frictions, particularly in the first half of the 20th century⁸. The Croatian and Italian citizens have nevertheless long nurtured the culture of mutual respect and cooperation, given the geographical vicinity and close economic and social ties.⁹

The most salient feature of labour market movement between Italy and Croatia is that it is almost entirely unidirectional: from Croatia to Italy¹⁰. Asymmetrical movement is characteristic for countries with a differing degree of economic development¹¹. In 2013, around 5% of Croatian working age movers lived in Italy¹². In the decade after accession, the moving pattern

⁵ See net.hr, 26 February 2020 (<https://net.hr/danas/hrvatska/situacija-je-neizvjesna-i-kompleksna-u-italiji-radi-oko-30-000-hrvata-jedni-svaki-dan-putuju-dok-se-drugi-vracaju-kuci-vikendima-3c433fbe-b1c5-11eb-801d-0242ac130050>).

⁶ EUROPEAN COMMISSION, *cit.*, p. 188. The term cross-border worker in the Commission's publication comprises frontier workers, posted workers and seasonal workers.

⁷ Labour force in Croatia is around 1.85 million. See CROATIAN BUREAU OF STATISTICS, *Employment – Active population (Labour Force)* (<https://podaci.dzs.hr/2023/hr/58049>).

⁸ For a historical overview of the Croatian – Italian relations see VUKAS, *The Role of Provisions on Human Rights Protection in Constructing the Croatian-Italian (formerly Yugoslav- Italian) Relations*, in RÜDIGER, SERŠI, ŠOŠI (EDS.), *Contemporary Developments in International Law*, Brill, 2016, pp. 636–651.

⁹ The Italian minority in Croatia represents around 0.36 % of the population, with a constitutionally guaranteed status and right to equality, including the use of minority language in education and public administration, as well as political representation at local, regional and national level. See *Ured za ljudska prava i prava nacionalnih manjina*, *Nacionalne manjine u Republici Hrvatskoj* (<https://ljudskaprava.gov.hr/nacionalne-manjine-u-republici-hrvatskoj/352>).

¹⁰ CONSIGLIO SINDACALE INTERREGIONALE ITALO-CROATO ALTO ADRIATICO (C.S.IR./MR.S.O.), *Pograni ni rad izme u Italije i Hrvatske. Orijentacijski vodi o pravima i o pristupanju problemu prepreka u mobilnosti radnika*, 2016 (<https://upperadriatic.irtuc.org/wp-content/uploads/Guida-CSIR-su-frontalierato-HR.pdf>), p. 4.

¹¹ See also WIESBÖCK *et al.*, *Cross-Border Commuting and Transformational Dynamics in Europe: What Is the Link?*, in AMELINA, HORVATH, MEEUS (EDS.), *cit.*, p. 192; PARENTI, TEALDI, *Cross-Border Labour Mobility in Europe: Migration Versus Commuting*, in KOURTIT *et al.* (EDS.), *The Economic Geography of Cross-Border Migration*, Springer, 2021, p. 209.

¹² VIDOVIC, MARA, *Free movement of workers, transitional arrangements and potential mobility from Croatia*, The Vienna Institute of International Economic Studies, 2015, p. 6.

of Croatian nationals to Italy has remained the same, with around 2–3% of the total number of Croatian movers each year transferring their residence to Italy¹³. The projected increase of Croatian nationals living in Italy did not occur: in 2013, around 17 100 of working age Croatians lived in Italy, and in 2015 it was expected that this number might rise to 31 000 in 2019.¹⁴ However, 15 754 Croatian citizens resided in Italy on 1 January 2022, meaning that their number remains roughly at the same level in the last decade¹⁵. The most problematic part of this statistic are the “invisible” numbers of persons performing domestic work (i.e. as household assistance), an area which is prone to undeclared work and residence¹⁶.

Reliable data on the number of daily commuters, i.e. those that benefit the most from the open borders is lacking¹⁷. A conservative estimate is that around 10 000 workers commute daily from Croatia and Slovenia to Italy¹⁸.

Interestingly, a significant number of Croatian workers in Italy are posted workers, sent by their employers to perform work in Italy. Their status is not regulated under the rules for the free movement of workers, but the volume of posted work indicates important labour market trends. For example, in the first half of 2021 90% of posted workers in Italy were from other EU countries, mostly from Romania, followed by Germany and Croatia¹⁹. The share of Croatian posted workers in Italy is around 4%. Posting has been on the rise in Croatia and Italy in the last decade. Similar characteristics between the two countries can be observed, despite a significant difference

¹³ In numbers, 400 – 600 persons. See CROATIAN BUREAU OF STATISTICS, *Migration of population of Republic of Croatia in 2022* (<https://podaci.dzs.hr/2023/en/58062>); see also ISTAT, *Migrazioni (Trasferimenti di residenza, Immigrati - cittadinanza)* (<http://dati.istat.it/Index.aspx?QueryId=9440#>).

¹⁴ VIDOVIC, MARA, *cit.*, pp. 25 and 26.

¹⁵ See ISTAT, *Stranieri residenti al 1° gennaio - Cittadinanza*, <http://dati.istat.it/Index.aspx?QueryId=9440#>.

¹⁶ CONSIGLIO SINDACALE INTERREGIONALE ITALO-CROATO ALTO ADRIATICO (C.S.IR./MR.S.O.), *Rad u kucanstvu u Italiji*, 2017 (<https://uilfv.org/wp-content/uploads/2018/03/Guida-lavoro-domestico-lavoratori-Croazia-19.2.2018-CRO.pdf>), p. 3.

¹⁷ EUROPEAN COMMISSION, 2023, *cit.* There is no data for Croatia in the Eurostat’s statistics on the mobility in the EU “*People on the Move 2020 edition*”, Commuting between the regions section (<https://ec.europa.eu/eurostat/cache/digipub/eumove/bloc-2d.html?lang=en>).

¹⁸ C.S.IR./MR.S.O., *Rad u ku anstvu u Italiji*, *cit.*, p. 7.

¹⁹ EUROPEAN COMMISSION, *cit.*, p. 44; DORIGATTI, PALLINI, PEDERSINI, *Posted workers to and from Italy. Facts and figures*, POSTING.STAT project VS/2020/0499, Leuven, 2022, p. 5.

in the overall size of the labour market and the volume of posting²⁰. Both Croatia and Italy are net senders, meaning that they send more posted workers to other countries, than they receive them. Around two thirds of all PD A1 forms is issued in both countries for posting under Article 12 of the Regulation 883/2004²¹, and more than 90% of PD A1 forms are issued to employed persons²². In the period between 2013 and 2021 the number of issued PD A1 forms has risen by 84% in Croatia, and by 70 % in Italy. Posted workers from Croatia are mostly active in the construction sector, whereas there is no data available for Italy. One outstanding difference in posting between Croatia and Italy is that Italy is the third receiving state for the Croatian posted workers, whereas Croatia is not even among the top ten receiving states for the Italian posted workers²³. This is another example of asymmetrical movement, as wages, and consequently, the labour costs in Croatia are lower than in Italy, which generally fosters posted work.

Having in mind the described labour market trends and migration patterns, the existing regulatory framework, coupled with the recent developments, fosters further permeability of national borders and labour markets.

3. Free movement of workers – regulatory framework

Any discrimination based on nationality between workers from dif-

²⁰ The Italian labour market is 13 times bigger than the Croatian. The volume of posting (under Article 12 of Regulation 883/2004), i.e. the share of posted employed workers in the total number of employed persons in the period between 2013 to 2021 in Italy remains steady and well below 1% (around 0.2% – 0.6%), whereas in Croatia it is around 2% of employed persons (it has grown from 1.2% in 2014 to 2.2% in 2018, and dropped again to 2.0% in 2021). See HIVA, KU LEUVEN, *Reports on social security coordination and intra-EU labour mobility* (<https://hiva.kuleuven.be/en/news/newsitems/Reports-on-social-security-coordination-and-intra-EU-labour-mobility-20171212>).

²¹ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, OJ L 166, 30.4.2004. Article 12 of the Regulation 883/2004 determines the rules on applicable social security legislation for posted employed and self-employed persons.

²² DE WISPELAERE, DE SMEDT, PACOLET, *Posting of workers. Report on A1 Portable Documents issued in 2021*, European Commission, Publications Office of the European Union, 2023 (<https://op.europa.eu/en/publication-detail/-/publication/75ad4242-b97e-11ed-8912-01aa75ed71a1>).

²³ DE WISPELAERE, DE SMEDT, PACOLET, *cit.*, pp. 34 and 54.

ferent Member States, whether direct or indirect, is prohibited under Article 45 TFEU and secondary EU legislation, primarily in relation to free movement and stay²⁴, taking up and pursuit of activities of employed persons²⁵, or recognition of professional qualifications²⁶, including institutional arrangements for effective exercise of rights for workers and their family members²⁷. The Regulation 883/2004²⁸ and its implementing Regulation 987/2009²⁹ lay down common rules for the protection of social security rights of mobile EU citizens and application of the principle of equal treatment regardless of nationality. Any number of national rules and practices, even if they apply indistinctly to nationals and migrant workers³⁰, might impede free movement of workers in practice. They may include, for example, problems in recognising professional qualifications and/or work experience, recruitment practices, working conditions, conditions for granting tax and/or social advantages, nationality and/or language requirements for certain posts, conditions for accessing social benefits, including healthcare, problems/additional requirements for opening a bank account in the local currency, accessing loans or housing, etc. The Court of Justice has interpreted and shaped the application of the provisions on free movement of workers and social rights, taking mostly dynamic and pro-integration approach³¹.

²⁴ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (...), OJ L 158, 30.4.2004.

²⁵ Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union, OJ L 141, 27.5.2011.

²⁶ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, OJ L 255, 30.9.2005.

²⁷ Directive 2014/54/EU of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers, OJ L 128, 30.4.2014.

²⁸ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, OJ L 166, 30.4.2004.

²⁹ Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, OJ L 284, 30.10.2009.

³⁰ See, e.g. Court of Justice March 10th 2010, *Olympique Lyonnais SASP v Olivier Bernard and Newcastle UFC*, Case C-325/08.

³¹ See e.g. MONDA, *The notion of the worker in EU Labour Law: "expansive tendencies" and harmonisation techniques*, in in this journal, 2022, 2, pp. 93-123; MENEGATTI, *Taking EU labour law beyond the employment contract: The role played by the European Court of Justice*, in ELLJ, 2020, Vol.

The Croatian labour force was subject to transitional arrangements after accession. The transitional arrangements are temporary derogations from the free movement of workers, agreed in the accession treaties for new Member States and applicable for a limited period (maximum seven years) from the date of accession. The terms of transitional arrangements for Croatian workers have been set in Annex V to the Treaty of Accession³², involving temporary suspension of Articles 1 to 6 of Regulation (EU) No. 492/2011 and of the relevant provisions of Directive 2004/38/EC, to the extent necessary to implement this suspension. During the transitional period, any Member State was allowed to continue to apply the existing national measures concerning access to their labour markets for Croatian nationals, in particular, the requirement of obtaining a work permit. These restrictions applied only to workers, and not to self-employed or posted workers³³. The seven-year period was implemented in three phases (2 + 3 + 2 years). In the first two-year phase, the national rules regulating access to the labour market continued to apply; the transition to the next three-year phase was contingent on a prior notification to the European Commission; and in the last two-year phase, a Member State was allowed to maintain restrictions only in the event of serious disturbances or a threat of serious disturbances of its labour market, with prior notification to the European Commission. A Member State could have decided to open up its labour market at any phase, but at the latest upon expiry of the seven-year period (i.e. on 30 June 2020). Croatia was also allowed to keep reciprocal restrictions for nationals of Member States that imposed temporary restrictions, with the so-called “standstill” clause which prohibited the imposition of stricter requirements for access to the labour market than those that existed at the time the Treaty of Accession was signed³⁴. Italy was among the thirteen EU Member States (including Slovenia, Germany and Austria, as traditional destination countries) that im-

11, 1, pp. 26–47; GRAMANO, *On the notion of “worker” under EU law: new insights*, in *ELLJ*, 2021, Vol. 12, 1, pp. 98–101; ALES, “Worker” (and) “Mobility” in the Case Law of the Court of Justice EU on Free Movement: A Critical Appraisal, in MÜLLER *et al.* (EDS.), *Festschrift für Wolfgang Portmann*, Schulthess, 2020, pp. 31–50.

³² Treaty of Accession of Croatia (2012), OJ L 112, 24.4.2012.

³³ Apart from the restrictions on posting agreed specifically for Austria and Germany, see Annex V, 2.12 to the Treaty of Accession.

³⁴ The “old” Member States were subject to the same obligation, see VUKOREPA, *Migracije i pravo na rad u Europskoj uniji*, in *ZPFZ*, 2018, Vol. 68, 1, pp. 85–120 and pp. 111–112.

posed transitional arrangements for the Croatian workers³⁵, but they were lifted already at the end of the first phase (after 30 June 2015)³⁶. Evidence showed only a marginal increase in mobility and employment of Croatian nationals upon accession in countries with transitional arrangements. For example, in the first year upon accession the employment of Croatian nationals in Italy and Slovenia has not increased, while in Germany and Austria a somewhat more significant rise (+ 10%) was recorded³⁷. In 2015, it was anticipated that about one tenth of the total of mobility of the Croatian workforce will be directed to Italy within the next five years³⁸. However, this prediction did not prove correct. The number of Croatian citizens of working age who usually reside in another EU/EFTA country has been steadily rising since accession³⁹. The majority of mobility is directed to Germany and Austria, followed by non-EU countries Bosnia and Herzegovina, Serbia, and Switzerland⁴⁰. The migration patterns between Croatia and Italy in the decade following the Croatian accession to the EU also show a rising migration flow. More people emigrate to Italy from Croatia than those who immigrate to Croatia from Italy. However, whereas in the period between 2013 to 2015 the share of immigrants in the number of emigrants was below 50%, there is a noticeable increase since 2016, ranging from 67% in 2016, to 97% and 89% in the pandemic years of 2020 and 2021⁴¹. In 2022, the share

³⁵ With exemptions for certain categories of workers, see *Circolare congiunta n. 4175 del Ministero dell'Interno e Ministero del Lavoro e delle Politiche Sociali*, 2 luglio 2013 (https://sitiarcheologici.lavoro.gov.it/Strumenti/Normativa/Documents/2013/20130702_Circ.pdf).

³⁶ See *Circolare congiunta del Ministero dell'Interno e del Lavoro e delle Politiche Sociali* del 3 luglio 2015 (http://www.trevisolavora.it/guidastranieri/documenti/circocroazia6luglio2015.pdf?id_contenuto=1842&id_categoria=414). Croatia did the same in relation to the Italian workers.

³⁷ These four countries, together with the UK, covered approximately 95% of all mobile Croatian citizens in the EU. See EUROPEAN COMMISSION, *Report from the Commission to the Council on the Functioning of the Transitional Arrangements on Free Movement of Workers from Croatia (First phase: 1 July 2013 - 30 June 2015)*, COM(2015) 233 final.

³⁸ VIDOVIC, MARA, *cit.*, p. 2.

³⁹ The increase between 2013 and 2022 is 61%. EUROSTAT, *LFS series – labour mobility, EU/EFTA citizens of working age who usually reside in another EU/EFTA country by citizenship and age* (https://ec.europa.eu/eurostat/databrowser/view/LFST_LMBPCITA/default/table?lang=en).

⁴⁰ More than half of outgoing Croatian movers in 2022 moved to Germany (43.3%) and Austria (15%). See CROATIAN BUREAU OF STATISTICS, 2022, *cit.* See also DRAŽENOV, KUNOVAC, PRIPUŽI, *Dynamics and determinants of emigration: the case of Croatia and the experience of new EU member states*, in *PSE*, 2018, Vol. 42, 4, 2018, p. 437.

⁴¹ CROATIAN BUREAU OF STATISTICS, *Statistics in line, Immigrant and Emigrant Population*

of immigrants dropped again to 63%, and it remains to be seen whether this trend will continue⁴².

True European integration and free movement collide with the border crossing regimes. It is therefore not surprising that the Croatian accession to the Schengen Area and the Eurozone in 2023 are regarded as crucial events with a positive impact on the mobility of labour force and population in general, as they both symbolically and practically mark a final stage of the integration process, which started in 2013 when Croatia became the EU Member State.

4. *The relevance of the Schengen Area*

In 2014, almost 1.7 million Schengen residents were cross-border commuters, and 0.93% of employed citizens living in Schengen countries worked across border⁴³. The importance of the Schengen Agreement for daily lives and travel of all EU citizens cannot be overestimated, and it remains one of the most “visible and powerful symbol[s] of European integration”⁴⁴.

Croatia has joined the EU on 1 July 2013. Under the Treaty of Accession, the provisions of the Schengen *acquis* and the acts building upon it or otherwise related to it, listed in Annex II, were binding on, and applicable in, Croatia from the date of accession, while full application was made subject to Schengen evaluation procedures and fulfilment of all necessary conditions⁴⁵. This required the adoption of the unanimous decision by the Council, after consulting the European Parliament and taking into account the European Commission’s report confirming that Croatia continues to fulfil all relevant commitments⁴⁶. The comprehensive evaluation procedures started in 2016⁴⁷, and were subject to rigorous scrutiny having in mind that the *to/from Republic of Croatia by Country of Origin/Destination, 2023* (<https://podaci.dzs.hr/en/statistics/population/>).

⁴² This statistic does not show the nationality of the immigrant/emigrant population, nor the reason for movement, so it cannot serve as a basis for any wide-ranging conclusions on the labour market trends.

⁴³ WOLFF, BOOT, *Cross-border commuters and trips: The relevance of Schengen*, Bruegel, 2015 (<https://www.bruegel.org/blog-post/cross-border-commuters-and-trips-relevance-schengen>).

⁴⁴ WOLFF, BOOT, *cit.*

⁴⁵ Article 4 (1) and (2), and Annex II, Treaty of Accession.

⁴⁶ Article 4 (2) and (3), Treaty of Accession.

⁴⁷ GOVERNMENT OF THE REPUBLIC OF CROATIA, *Zaključak o prihvatanju izvješća o spremnosti*

Croatian borders with Bosnia and Herzegovina, Serbia and Montenegro are external borders of the EU and represent an important “gateway” to the EU from the Western Balkans migration route⁴⁸. The process occurred practically simultaneously with the biggest refugee and migration crisis in the EU, beginning in the second half of 2015⁴⁹. In October 2019, the European Commission issued its positive finding based on the analysis of evaluations, reports, implementation of action plans and recommendations aiming to eliminate the observed inconsistencies⁵⁰. Management of external borders, especially those with Bosnia and Herzegovina, with repeated allegations of violation of human rights and illegal “pushbacks”, represented the most controversial aspect of the Croatian accession to the Schengen Area⁵¹. The Council adopted the formal conclusions on the fulfilment of the necessary conditions for the full application of the Schengen *acquis* in Croatia on 9 December 2021⁵². One year later, the Council reached a unanimous Decision on the full application of the Schengen *acquis* in Croatia⁵³. With effect from 1 January 2023, all checks on persons at internal land and sea borders with Croatia were lifted, and from 26 March 2023 the same goes for internal air borders.

One of the most obvious advantages of the lifting of internal borders includes facilitation of free movement of goods and persons, without delays and waiting at the borders⁵⁴. This is particularly important for Croatia, given

za po etak postupka Schengenske evaluacije, (<https://vlada.gov.hr/UserDocsImages/2016/Sjednice/2015/216%20sjednica%20Vlade/216%20-%203.pdf>).

⁴⁸ COUNCIL OF THE EU, *Western Balkans Route* (<https://www.consilium.europa.eu/en/policies/eu-migration-policy/western-balkans-route/#frontex>).

⁴⁹ EUROPEAN PARLIAMENT, *The state of play of Schengen Governance - An assessment of the Schengen evaluation and monitoring mechanism in its first multiannual programme*, Policy Department for Citizens’ Rights and Constitutional Affairs, 2020, p. 10.

⁵⁰ EUROPEAN COMMISSION, *Communication from the Commission to the European Parliament and the Council on the verification of the full application of the Schengen acquis by Croatia*, COM(2019) 497 final.

⁵¹ ZEKO, VRBANEC, *Implementation of the Schengen acquis and the role of the Republic of Croatia in the protection of EU external borders*, in *PIS*, 2022, Vol. 31, 3, 2022.

⁵² Council conclusions on the fulfilment of the necessary conditions for the full application of the Schengen *acquis* in Croatia, 14883/21, 9 December 2021.

⁵³ Council Decision (EU) 2022/2451 of 8 December 2022 on the full application of the provisions of the Schengen *acquis* in the Republic of Croatia, OJ L 320, 14.12.2022.

⁵⁴ ŠEGVIĆ, *Šengenski režim upravljanja vanjskim granicama EU*, in *ZPFS*, 2011, Vol. 48, 1, 2011, p. 11.

that tourism represents a large share of its GDP⁵⁵. Before joining the Schengen Area, daily or weekly commuters at land borders between Croatia and Slovenia (as the main point of entry on the journey from Croatia to Italy) experienced considerable difficulties with the coming of each tourist season, with border crossing waiting times rising up to several hours, in each direction⁵⁶. The same was also true during the COVID-19 pandemic, when border controls intensified all around Europe in an efforts to contain the spread of the virus⁵⁷. The expected benefit from elimination of border controls is particularly evident in view of the border crossing statistics. In 2022, 64 211 625 passengers crossed the land border between Croatia and Slovenia, whereas border crossings Kaštel and Plovanija, were the second and the fifth most frequent border crossings according to the number of passengers, closely followed by Rupa and Pasjak, which are all on the quickest road routes from Croatia to Italy⁵⁸. Given such passenger inflows, even a couple of minutes for the control of documents at the border causes significant delays. The positive effect of the Schengen Area on the development of border areas through the facilitation of the labour force fluctuation and daily migrations between the Member States has been observed in literature⁵⁹. Cross-border commuters benefit in particular from the absence of border controls, as commuting time is significantly reduced⁶⁰. For example, evidence from

⁵⁵ See RAŠIĆ, *Turizam, Sektorske analize* n. 99, y. 11, Ekonomski institut, 2022, p. 25.

⁵⁶ See e.g. Dnevnik.hr, 26 May 2021 (<https://dnevnik.hr/vijesti/hrvatska/radnici-uz-granicu-ljuti-jer-zbog-velikih-kolona-ne-mogu-svakodneвно-na-posao---653259.html>).

⁵⁷ See also: GOLDNER LANG, *Obveze Republike Hrvatske na temelju europskog prava pri donošenju zaštitnih mjera protiv pandemije COVID-19*, in BARBIĆ (ED.) *Primjena prava za vrijeme pandemije COVID-19*, HAZU, 2021; SCHUMACKER, *Proportionality of internal border controls: From the Covid-19 pandemic to the 2021 Proposal*, in CYELP, 2022, Vol. 18. On the erosion of trust and tightening of border controls during and post-pandemic see: BEREINS, FRATZKE, KAINZ, *When Emergency Measures Become the Norm: Post-Coronavirus Prospects for the Schengen Zone*, MPI, 2020 (<https://www.migrationpolicy.org/news/post-covid-prospects-border-free-schengen-zone>). On the impact of border closures on highly mobile workers see: RASNA A, *Essential but Unprotected: Highly Mobile Workers in the EU during the COVID-19 Pandemic*, ETUI Research Paper - Policy Brief 9/2020.

⁵⁸ MINISTRY OF INTERIOR, *Statisti ki pregled temeljnih sigurnosnih pokazatelja i rezultata rada u 2022. godini* (<https://mup.gov.hr/pristup-informacijama-16/statistika-228/statistika-mup-a-i-bilteni-o-sigurnosti-cestovnog-prometa/283233>).

⁵⁹ BRITVEC, *Ekonomsko-politi ki aspekti pristupanja schengenskom prostoru*, in 3 *Zbornik sveu ilišta Libertas* 3, 2018, p. 245; NERB et al., *Scientific Report on the Mobility of Cross-Border Workers within the EU-27/EEA/EFTA Countries*, MKW&Empirica, 2009, pp. 59-60.

⁶⁰ PARENTI, TEALDI, *Cross-Border Labour Mobility*, cit., p. 189. Other studies find that lan-

Switzerland shows that individual probability to cross-border commute in response to the abolition of internal borders has increased among inter-regional commuters between 3 and 6 percentage points⁶¹.

Another potential benefit includes the pull effect for the labour force from the neighbouring countries to Croatia⁶². However, it is probably too bold to expect any significant impact in reversing the patterns of mobility. In this sense, the economic developments and labour market conditions in the border regions would likely play a more important role, than the abolition of border checks.

5. *The relevance of the Eurozone (common currency)*

Similarly to the above described situation in relation to the Schengen Area, Croatia has not become part of the Eurozone immediately upon joining the European Union. However, Article 5 of the Treaty of Accession from the outset prescribed a clear obligation to join the Eurozone and to introduce the common currency. From the date of accession, Croatia participated in the Economic and Monetary Union as a Member State with derogation within the meaning of Article 139 TFEU, i.e. a state “in respect of which the Council has not decided that [it] fulfil[s] the necessary conditions for the adoption of the euro”⁶³. The following decade was dedicated to the fulfilment of all necessary legal, economic and political conditions and convergence criteria for joining the Eurozone⁶⁴. In 2018, the Strategy for the adoption of euro as official currency in the Republic of Croatia was adopted, containing a cost-benefit analysis, procedures and activities for the introduction of euro⁶⁵. An

guage borders play a more significant role than country borders in explaining the lack of labour market integration across borders. See BARTZ, FUCHS-SCHUNDELN, *The role of borders, languages, and currencies as obstacles to labor market integration*, in *EER*, 2012, Vol. 56, 6.

⁶¹ PARENTI, TEALDI, *Does the Implementation of the Schengen Agreement Boost Cross-Border Commuting? Evidence from Switzerland*, IZA DP, 2019, no. 12754. See also PARENTI, TEALDI, *Don't Stop Me Now: Cross-Border Commuting in the Aftermath of Schengen*, in *BEJEA*, 2023, Vol. 23, 3.

⁶² EDZES, VAN DIJK, BROERSMA, *Does cross-border commuting between EU-countries reduce inequality?*; in *AG*, 2022, 139, p. 2; BRITVEC, *cit.*, p. 245.

⁶³ See Article 139 (1) TFEU.

⁶⁴ See e.g., ŠABIĆ, *Prakti ne pripreme za uvo enje eura: nacionalni plan zamjene hrvatske kune eurom*, in *PiP*, 2022, 1, p. 14.

⁶⁵ GOVERNMENT OF THE REPUBLIC OF CROATIA, CROATIAN NATIONAL BANK, *Strategija*

important prerequisite for joining the Eurozone was the participation in the Exchange Rate Mechanism (ERM) II for two years. In the period between 2020 and 2022, Croatia has participated in ERM II, during which time it implemented reforms in relation to the strengthening of the banking system, development of the legal framework for combatting money laundering and statistical data processing, improvement of public sector administration, and decrease of administrative and financial burdens in the economic sector⁶⁶. The height of preparatory activities took place simultaneously with the outbreak and duration of the global pandemic of Covid-19, which had a severe impact on economies around the world, including the EU and Croatia. However, despite the unfortunate timing, Croatia has managed to complete the accession process, which was closely scrutinized by the European Commission⁶⁷ and the European Central Bank⁶⁸. The National plan for the exchange of *kuna* for euro⁶⁹ was adopted in 2020, whereas the Act on introduction of the euro as a currency in the Republic of Croatia was adopted and entered into force in 2022⁷⁰. On 12 July 2022, the Council decided that Croatia has fulfilled the necessary conditions for the adoption of euro and its derogation from participating in the single currency was to end with effect from 1 January 2023⁷¹, when Croatia officially became the 20th country that introduced the common currency. The so-called “big-bang” changeover scenario was applied: euro banknotes and coins acquired legal

za uvo enje eura kao službene valute u Republici Hrvatskoj (<https://www.mingo.hr/public/documents/Eurostrategija%20-%20FINAL.pdf>).

⁶⁶ MINISTRY OF FINANCES, *Uvo enje eura kao službene valute u Republici Hrvatskoj*, 27 January 2022, p. 2, (<https://mfin.gov.hr/UserDocsImages/dokumenti/Uvo%C4%91enje%20eura%20kao%20slu%C5%BBene%20u%20rh.pdf>).

⁶⁷ See, EUROPEAN COMMISSION, *Convergence report 2020* (https://economy-finance.ec.europa.eu/system/files/2020-06/ip129_en.pdf); EUROPEAN COMMISSION, *Convergence report 2022* (https://economy-finance.ec.europa.eu/system/files/2022-06/ip179_en.pdf).

⁶⁸ EUROPEAN CENTRAL BANK, *Convergence Report* (<https://www.ecb.europa.eu/pub/convergence/html/index.en.html>).

⁶⁹ GOVERNMENT OF THE REPUBLIC OF CROATIA, CROATIAN NATIONAL BANK, *Nacionalni plan zamjene hrvatske kune eurom* (https://mfin.gov.hr/UserDocsImages/dokumenti/hr_i_eu/Nacionalni%20plan%20zamjene%20hrvatske%20kune%20eurom%20-%20odonesen%20na%20sjednici%20Vlade%20RH%20održanoj%2023.12.2020..pdf).

⁷⁰ *Zakon o uvo enju eura kao službene valute u Republici Hrvatskoj*, Official Gazette *Narodne novine* nos. 57/2022 and 88/2022.

⁷¹ Council Decision (EU) 2022/1211 of 12 July 2022 on the adoption by Croatia of the euro on 1 January 2023, OJ L 187, 14.7.2022.

tender status on the day of euro adoption⁷². A two-week dual circulation period of both euro and *kuna* banknotes and coins allowed for a gradual withdrawal of *kuna* cash money. A recent Eurobarometer report shows that more Croatians tend to believe that having the euro is better for the EU (82%), than for Croatia (54%), with a slightly better perception concerning the positive consequences of joining the euro area for Croatia. On the other hand, almost four in ten respondents do not believe that euro is good for Croatia (38%)⁷³. A rather high level of negative attitude towards the euro is more likely associated with the fear of rising inflation and prices, which is liable to overshadow the positive effects.

Although it is hard to measure the exact effects of the introduction of common currency on the free movement of workers⁷⁴, the benefits in daily lives of EU citizens and mobile workers are evident. For example, employers cannot require employees working in one, and residing in another country in the Eurozone to open up bank accounts in the country of work for the transfer of salary payments, as there are no additional banking fees for such transfers. Otherwise, for countries outside the Eurozone, this might be the case. Moreover, the obvious advantage of common currency is that there are no currency exchange rates that might affect the amount of workers' income, contributions and taxes received or paid in different currencies.

⁷² EUROPEAN COMMISSION, *Report from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions. The introduction of the euro in Croatia*, COM(2023) 341.

⁷³ *Croatia after the euro changeover 2023*, Flash Eurobarometer 518 (<https://europa.eu/eurobarometer/surveys/detail/3013>).

⁷⁴ The effect of EMU on growth and employment is regularly monitored within the framework of the European Semester and other instruments of economic governance, see EUROPEAN COMMISSION, *The European Semester* (https://commission.europa.eu/business-economy-euro/economic-and-fiscal-policy-coordination/european-semester_en). Furthermore, annual publications, such as *The labour market and wage developments in Europe* (LME) and the *Employment and Social Developments* (ESDE) provide insight into the effects that the euro and EMU might have on the labour markets in Member States, which is used to shape policy priorities under the European Semester, European Employment Strategy and Social protection and social inclusion strategy. See EUROPEAN COMMISSION, *Employment and social analysis* (<https://ec.europa.eu/social/main.jsp?catId=113&langId=en#LMD>).

6. *Issues arising in practice*

It is important to take a look at the issues observed so far in practice, as they may substantially impede the mobility of workers. The examples mentioned here are drawn from a survey published in 2016 by the Italian-Croatian Interregional Trade Union Committee Northern Adriatic (MR.S.O./C.S.IR.). Since a more recent research is not available, these examples are without prejudice to any advancements that may have occurred in the meantime. The survey has revealed numerous deficiencies in practice which cause discrimination (particularly applying the residence criterion) and consequently foster preference for undeclared work arrangements⁷⁵. The three most important areas where irregularities in practice exist include social security, taxation, and work conditions, including access to employment. In the area of social security and social benefits, residence is the most common criterion used to deprive the cross-border workers of entitlements, despite the formal guarantees of equality under the EU law⁷⁶. This is found to occur due to uncertainties in the application of Regulation 883/2004. Even where such situations can be rectified by appeal to higher instances, the difficulties associated with such procedures (i.e. low awareness of the existing rights, language barriers, costs and duration of the proceedings, etc.) might have a dissuasive effect on the mobility. In the field of income taxation, there is a risk of double taxation⁷⁷, or incorrect implementation of tax deductions based on the worker's residence⁷⁸. In the area of employment and working conditions, access to unemployment services for wholly unemployed cross-border workers⁷⁹ or access to supplement work might be more difficult for

⁷⁵ C.S.IR./MR.S.O., *Pograni ni rad izme u Italije i Hrvatske*, cit., pp. 4, 9-10. See also information on undeclared work between Italy and Slovenia analysed within the cross-border project Euradria (<https://euradria.eu/informazioni/contrasto-al-lavoro-sommerso/>).

⁷⁶ One example mentioned includes the administrative practice of the regional authorities to require a person to state the address of residence in Italy for the issuing of S1 certificate, disregarding the fact that cross-border workers will not be able to fulfil this requirement. See C.S.IR./MR.S.O., *Pograni ni rad izme u Italije i Hrvatske*, cit., pp. 12-13.

⁷⁷ Despite the application of the Agreement on avoidance of double taxation on income between Croatia and Italy, which is in force since 1 January 2010, Official Gazette *Narodne novine* – International Agreements no. 10/2000.

⁷⁸ See Court of Justice February 14th 1995, *Finanzamt Köln-Altstadt v Roland Schumacker*, Case C-279/93.

⁷⁹ See Article 65(2), Regulation 883/2004.

unemployed cross-border workers⁸⁰. All these examples show the importance of cross-border cooperation between trade unions and other associations, as well as between the competent institutions in revealing the problematic areas and working to find solutions for the observed deficiencies. The identified issues might intensify in light of transformation of labour markets and the rise of teleworking, digital and platform work, which transcend and challenge traditional regulation patterns. National laws may accord different statuses to such workers, which has an important impact on their labour law protections and ensuing social security entitlements⁸¹.

7. Concluding remarks

Further empirical research targeting the wider cross-border region between Italy, Slovenia and Croatia is necessary to provide a more detailed insight on the impact of the Schengen Area and the Eurozone on the free movement of workers across this area. However, it can be concluded that the majority of issues observed so far in practice mostly concern administrative barriers that hamper the practical implementation of the formal guarantees under EU law. Many issues surrounding the world of work and labour market transformation, such as the rise of the atypical labour force in the digital economy far surpass the ambit of this paper, but are bound to affect the workers' mobility and merit further inspection. Generally speaking, the existing evidence shows that the importance of joining the Schengen Area and the Eurozone for everyday life of citizens, in particular cross-border commuters cannot be denied. Whether their potential for the economic development of cross-border areas and well-being of mobile workers will be fully realised is a matter for future analysis.

⁸⁰ C.S.IR./MR.S.O., *Pograni ni rad izme u Italije i Hrvatske*, cit., p. 21.

⁸¹ For an overview of issues in relation to the free movement of workers and social security coordination see VUKOREPA, *Cross-border platform work: Riddles for free movement of workers and social security coordination*, in ZPFZ, 2020, Vol. 70, 4, pp. 481–51. See also HIESSL, *Jurisprudence of national courts confronted with cases of alleged misclassification of platform workers: Comparative analysis and tentative conclusions* (Updated to 31 August 2022), European Centre of Expertise in the field of labour law, employment and labour market policies (ECE), 2022.

Abstract

The Croatian accession to the Schengen Area and the Eurozone in 2023 are regarded as crucial events which, both symbolically and practically, mark a final stage of the integration process, that started in 2013 when Croatia became the EU Member State. This paper explores their impact on the mobility of labour force and population in general, concentrating in particular on cross-border work between Croatia and Italy.

Keywords

Free movement of workers, cross-border work, Schengen Area, Eurozone.

