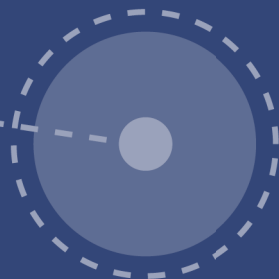




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TEMPORARY AND CIRCULAR MIGRATION IN THE SLOVAK REPUBLIC



Temporary and Circular Migration in the Slovak Republic

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Preface

This study was compiled by the IOM International Organization for Migration Bratislava in its function as the National Contact Point (NCP) of the Slovak Republic in the European Migration Network (EMN). This national study follows the common specifications and methodology prepared by the European Migration Network. The study was compiled by external experts contracted by IOM in 2010 and covers the period from 2004 to 2009.

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List of Abbreviations

CoLSAF – Central Office of Labour, Social Affairs and Family (Ústredie práce, sociálnych vecí a rodiny)

EEA – European Economic Area

EMN – European Migration Network

EU – European Union

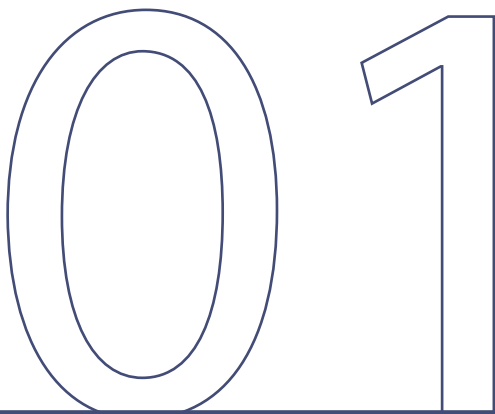
IOM – International Organization for Migration

MoI – Ministry of Interior of the Slovak Republic (Ministerstvo vnútra SR)

MoLSAF – Ministry of Labour, Social Affairs and Family of the SR (Ministerstvo práce, sociálnych vecí a rodiny SR)

SR – Slovak Republic

BBAP – Bureau of the Border and Aliens Police of the Ministry of Interior of the Slovak Republic (Úrad hraničnej a cudzineckej polície MV SR)



Introduction: Purpose and the Methodology Followed

The development of the present study, entitled 'Temporary and Circular Migration in the Slovak Republic', was approved by the EMN Steering Board within the framework of the 2010 Work Programme. It represents a part of the comprehensive study of the same focus at the EU level, which summarises the results of national studies elaborated by individual EU Member States. The main objective of the study is to provide information about the characteristics of migration policy in the area of temporary and circular migration. The study includes information on the strategies and policies of the Slovak Republic in this field and the relevant legislative framework which can be used by national ministries and European institutions dealing with the issue of temporary and circular migration. It might also become a source of information for NGOs, researchers and the general public and may represent an impetus for preparation of primary research on this topic in the Slovak Republic.

1.1 Methodology

The methodology of the study preparation is based on the analysis of legislation, relevant literature, conference materials and presentations, as well as statistical data and other relevant resources available on the websites of domestic and foreign institutions dealing with the issues of migration and labour market. The materials used were, for example, the Concept of Migration Policy of the Slovak Republic of the Ministry of Interior of the SR (approved by the Resolution of the Government of the Slovak Republic No. 11/2005), the Concept of Foreigner Integration in the Slovak Republic prepared by the Ministry of Labour, Social Affairs and Family of the Slovak Republic (approved by the Resolution of the Government of the Slovak Republic No. 338/2009), the Comprehensive Report on the Fulfillment of Tasks Arising from the Concept of Migration Policy of the Slovak Republic for particular ministries in the year 2007, 2008 and 2009, the Annual Report on Asylum and Migration Statistics in the Slovak Republic for the

year 2007, or the Annual Migration and Asylum Policy Reports for the year 2008 and 2009 issued by the International Organization for Migration (IOM) within the framework of the activities of the European Migration Network (EMN). Materials published by the IOM, such as the publication *Migračné trendy v Slovenskej republike po vstupe krajiny do EÚ*¹ (*Migration Trends in the Slovak Republic after EU accession*) or *Permanent and Circular Migration?* also served as valuable sources of information.

Information collected during personal interviews and consultations, and information provided by e-mail by the experts of the Central Office of Labour, Social Affairs and Family (hereinafter CoLSAF), the Ministry of Labour, Social Affairs and Family (hereinafter MoLSAF) and the IOM is also used in the present study. Statistical data on labour migration has been drawn mainly from the CoLSAF, the Statistical Office of the SR and Eurostat.

One of the problems we encountered in the development of this study was that on part of the research institutions in the Slovak Republic, minimal attention has been paid to the issue of temporary and circular migration. Therefore, the body of academic work devoted to this subject is also minimal. Given the overall proportion of migrants to the population of Slovakia and their negligible share of the labour market, government conceptions have dealt with this issue only to a marginal extent. One of the reasons behind this fact is that the Slovak Republic is less attractive for third country nationals and the EU nationals than other, economically stronger EU Member States.

In addition to the aforementioned complications, we also encountered problems relating to the availability of statistical data on temporary and circular migration. The data is either

unavailable, or is a part of other documents and not accessible in electronic form, which complicates its processing for the purposes of further analysis. For this reason, it is recommended that these types of data be processed with higher accuracy also in the Slovak Republic, most likely on the level of Ministries (within the framework of the administrative resources at the level government departments). A closer cooperation between the CoLSAF and the Bureau of the Border and Aliens Police of the Ministry of Interior of the Slovak Republic (hereinafter BBAP) would be welcome. However, we find it important to note that every organisation and institution we contacted provided us with all the data and information, to the extent it was being processed by these institutions, in the shortest time possible.

1.2 Definitions

This part of the study includes the definitions of the key terms related to circular and temporary migration. These definitions are in accordance with the glossary of the European Migration Network².

Circular migration is a phenomenon which is hard to identify and quantify. Just like in the Slovak Republic, there is also no comprehensive overview of existing proposals and legislation on this subject in most European countries. Circular migration allows foreigners to spend time abroad and work without contributing to permanent migration. Circular migration is related to several positive economic and social phenomena. The host country may fill the gaps in the labour market, increase tax revenues and reduce social tensions related to undocumented and uncoordinated migration; countries of origin may accumulate human capital, which they would have lost under other circumstances; and migrants may increase their income, build human capital, create financial savings, maintain

1 Divinský, B.: *Migračné trendy v Slovenskej republike po vstupe krajiny do EÚ (2004 – 2008)*. Bratislava. 2009. International Organization for Migration. Accessible through: <http://www.iom.sk/en/about-iom/news/24-migracne-trendy-v-slovenskej-republike-po-vstupe-krajiny-do-eu-2004-2008>, [accessed on 2010-10-10].

2 EMN Glossary. Accessible through <http://emn.sarenet.es/Downloads/prepareShowFiles.do;jsessionid=1623A2E22F0D9111443EAE-63036B8DEA?directoryID=117> [accessed on 2010-07-28].

links with their family, pay lower costs related to remittances and create trade and investment links between countries³.

The concept of circular migration is frequently seen as a flow of migrants from the country of origin to the country of destination and back⁴, usually of repetitive nature. In its glossary, the EMN defines two main types of circular migration, based upon the Communication from the Commission to the European Parliament, the Economic and Social Committee and the Committee of the Regions on circular migration and mobility partnerships between the European Union and third countries COM (2007) 248⁵:

1. Circular migration of third-country nationals settled in the EU.

This category of circular migration gives people the opportunity to engage in an activity (business, professional, voluntary etc.) in their country of origin while retaining their main residence in one of the Member States. This form covers various groups, for example:

- entrepreneurs who work in the EU and want to start business in their country of origin (or another third country) and
- doctors, professors or other professionals who are willing to support their country of origin by pursuing some of their professional activities there.

2. Circular migration of persons residing in third countries

Circular migration could create an opportunity for persons residing in third countries to come to the EU temporarily for work, study, training, or a combination of these, provided that at the

end of the period for which they were granted entry, they re-establish their main residence and their main activity in their country of origin. Circularity can be enhanced by giving migrants the possibility to retain some form of privileged mobility within the Member States and Member States in which they previously resided even after their return to the country of origin. This could take the form of simplified admission/re-entry procedures.

This category covers a wide array of situations, spanning the whole spectrum of migrants, including:

- third country nationals wishing to work temporarily in the EU, for example, in seasonal employment;
- third country nationals wishing to study or participate in training programmes in Europe before returning to their country;
- third country nationals who wish to study after returning from employment in the EU (such as workers without work experience) to gain the expertise that is difficult to obtain in their country of origin;
- researchers from third countries who wish to carry out research projects in the EU;
- third country nationals wishing to participate in intercultural exchanges and people-to-people exchanges or other activities in the field of culture, citizenship, education and youth (such as training courses, seminars, events, study visits);
- third country nationals wishing to take unpaid voluntary service pursuing objectives of general interest in the EU.

Another term to define is 'temporary migration'. The EMN defines this type of migration as migration with a particular motivation and/or intent to later return to the country of origin.

Based on available resources, it can be concluded that Slovak legislation does not define the concept of circular and temporary migration. While seasonal work can be considered a form of temporary migration in the conditions of the

3 <http://zpravodajstvi.ecn.cz/index.stm?apc=zzsx3--&x=1959868> [accessed on 2010-08-01].

4 EMN Glossary. Accessible through <http://emn.sarenet.es/Downloads/prepareShowFiles.do?jsessionid=1623A2E22F0D9111443EAE-63036B8DEA?directoryID=117> [accessed on 2010-07-28].

5 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0248:FIN:EN:PDF> [accessed on 2010-09-29].

Slovak Republic, it does not contain any elements that would support circular migration. According to the Act No. 48/2002 Coll. On the Stay of Aliens and on Amendments and Modifications to Some Other Acts, as Amended (hereinafter referred to as Act on the Stay of Aliens), a third-country national may obtain a temporary residence permit granted by the local police department for the purpose of seasonal employment, if the foreign national has a valid work permit⁶ for not more than 180 days in a calendar year.

Generally speaking, there is currently no legislation in Slovakia that would facilitate or favour migrant workers returning back to the SR. In terms of education and the nature of work according to economic sectors, the Act on the Stay of Aliens stipulates that security aspects, the situation in the labour market, public health and the economic needs of the Slovak Republic be considered before a residence permit is granted to a foreign national. Since unemployment is one of the main problems of the SR, the entry of third-country nationals for employment purposes is usually initiated by the entering party.

The issue of returns is treated sufficiently in the Slovak legislation, while the term 'return' is generally understood as a transfer to the individual's country of origin after a time spent abroad. This return may be voluntary or involuntary. In the context of the Return Directive (2008/115/EC)⁷, it signifies the process of return, regardless of whether it is a voluntary or an involuntary act.

⁶ Act No. 5/2004 Coll. On Employment Services and on Amendment of Certain Acts, as Amended.

⁷ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.



The Approach to Circular and Temporary Migration in the Slovak Republic

The aim of this part of the study is to provide an overview of the approach to circular and temporary migration in the SR in the present as well as in the future, and provide information on related legislation. Circular migration is a relatively new phenomenon, particularly in Slovakia.⁸ The number of citizens of Slovakia going abroad to work is significantly higher than the number of foreigners coming to work to Slovakia. This is mainly due to the low level of wages in low-skilled sectors in comparison to the EU average. High unemployment rate also has a role to play, which means that in most cases, domestic supply in the labour market is capable of meeting the demand for labour.

2.1 National Vision, Policy, and Programmes

The Concept of Migration Policy of the SR is the key document in the field of migration policy. This document, approved by the Government Resolution No. 11/2005 in 2005, does not contain provisions related to temporary and circular migration. In accordance with the Manifesto of the Government of the SR for the period 2010 – 2014, a new concept of migration policy of the SR for the years 2011 to 2015 should be announced in the year 2010. The aforementioned manifesto could, to some extent, deal with these issues. The basic principle of the migration policy of the SR in relation to third-country nationals is the principle of regulation of legal migration. The regulation of legal migration creates a possibility for the introduction of legal procedures for the regulation of migration in the interests of the Slovak Republic, especially with regard to the economic, political and cultural stability of society, as well as the situation in the labour market and the employment structure. All this is done through state migration policy by means of managed and regulated immigration⁹.

⁸ A number of of citizens of the Slovak Republic migrating for work can be considered to be circular migrants.

⁹ MoLSAF. Koncepcia integrácie cudzincov v SR. Bratislava. 2009. Accessible through https://lt.justice.gov.sk/Attachment/KlCttext-poMPKf7_doc.pdf?instEID=160&attEID=8712&docEID=47907&matEID=1239&langEID=1&tStamp=20090416153031513, [accessed on

The SR has not yet produced a vision or defined an approach to circular and temporary migration, given the low need for migrants, including the seasonal work, which is regarded as temporary labour, but may also be understood as a form of circular migration¹⁰. It should also be added that, for the time being, the Government of the SR does not perceive migration as a significant source of labour. According to the MoLSAF, the developments in the employment and the unemployment rates, as well as in the demography of the SR in the recent period, did not justify specific actions with the aim to attract workforce through migration, which occurred at the onset of economic crisis.

However, in *The Vision of a Long-Term Development of the Slovak Society up to the year 2030*, migration is mentioned as one of the sources of additional labour force, which could cover the deficit arising in the workforce up to the year 2025¹¹. These issues are treated in a study entitled *Satisfying Labour Demand Through Migration*¹² prepared by IOM within the EMN activities.

Brain drain represents a significant problem in Slovakia. This is particularly true for the outflow of highly skilled workers from Slovakia. For the time being, the measurement and monitoring of this phenomenon represents a relatively cumbersome procedure. One of the reasons for this is the lack of comprehensive research addressing the issue. Immigrants with university education contribute significantly to the total number of emigrants from Slovakia. It is estimated that their number is between 7,000 and 10,000 annually, which represents about one quarter to one third of university graduates annually¹³. On the other hand, the Slovak

Republic does not implement policies that would encourage 'brain drain' from third countries (given the small number of migrants from third countries in the SR). Therefore, there is no available information on the measures to prevent this phenomenon. Neither are there lists of countries which experience the highest rates of brain drain, nor of professions representing brain drain from the countries of origin¹⁴.

In recent years, a number of materials dealing with circular and temporary migration has been prepared at the European level. In most cases, Slovakia, as an EU Member State, accepts the views and recommendations expressed in these documents. Examples of such documents are:

- Justice and Home Affairs Council Conclusion, adopted on November 30th 2009 and December 1st 2009, calls for cohesion in the development of migration policies. At the same time, the Commission calls for a thorough qualitative and quantitative analysis to explore different concepts of temporary and circular migration, together with an analysis of their development potential and the impact in the political field. It is important to mention that the European Pact on Immigration and Asylum also includes certain provisions on circular and temporary migration, in connection to which it also adopts certain obligations. The emphasis is put on unification policies to prevent or at least mitigate the effects of 'brain drain'.
- In its Communication of June 2008 on 'A Common Immigration Policy for Europe', the European Commission stresses the need for efficient management of migration flows through cooperation with third countries, including legal circular migration. In addition, the Communication points to the need for studying the links between various types of circular migration and integration in the host Member State. The European Parliament stresses the importance of attracting highly

2010-04-01].

10 According to the information received from the MoLSAF on September 13th 2010, these issues will be dealt with in more detail once the EU Directive on the conditions of accession and residence of third-country nationals for the purpose of seasonal work is adopted, which will most likely happen in 2013.

11 Dlhodobá vízia rozvoja slovenskej spoločnosti. Bratislava. 2008. Ekonomický ústav Slovenskej akadémie vied. Accessible through <http://www.government.gov.sk/data/files/4180.pdf>, [accessed on 2010-07-10].

12 Satisfying Labor Demand Through Migration. IOM International Organization for Migration, Bratislava. 2010.

13 Permanent or Circular Migration? Policy Choices to address De-

mographic Decline and Labour Shortages in Europe. IOM a Regional Mission for Central and South Eastern Europe, 2008, Budapest, ISBN 978- 92- 9068- 444-2, 338 pp.

14 Potočková, I. Výročná správa o politikách v oblasti migrácie a azylu 2009, IOM Bratislava, 2010.

skilled workers to the EU and highlights the possibility of mitigating the effects of 'brain drain' by temporary or circular migration, together with other development-oriented measures.

- Council Conclusions of December 2007 state that circular migration can be useful in supporting the development of countries of origin and simultaneously reduce the adverse effects of 'brain drain'. The Conclusions stress that, in future, the EU will need to launch an initiative to promote the perception of circular migration as a temporary and legal type of labour force mobility between one or more EU Member States and third countries.
- The Communication on Circular Migration and Mobility between the EU and third countries from May 16th 2007 discusses the need for further development of circular migration as a potential tool to assist Member States in addressing the problems of insufficient workforce. It also deals with the needs of countries of origin and the mitigation of the effects of 'brain drain'.

After the accession of the SR to the EU, a number of significant changes occurred in the field of migration and migration policy that affected the direction of the SR in the area of migration and asylum. One of the goals of Slovak migration policy is to create conditions in the human, material and financial resources and coordinate the competent institutions in this field. The MoLSAF declared: "In the last two decades, migration is influenced by socio-economic development in Slovakia, especially after its accession to the EU¹⁵.

The Slovak Republic has not clearly defined implementation strategy for programmes related to circular and temporary migration, but has concluded several bilateral agreements with EU countries and third countries in the field of labour migration. More information on bilateral agreements can be found in chapter 2.3. The issue of circular and temporary migration has not been a frequent topic in public debate or an area of interest to non-governmental organisa-

tions and governmental research institutions. The issue of temporary and circular migration is discussed in several publications issued under the auspices of the IOM¹⁶.

For example, in the publication *World Migration 2005*, IOM states that circular migration may, on the one hand, produce 'brain drain', but also positive aspects such as the development of countries of origin of emigrants returning back with their new experiences and skills. IOM holds the opinion that countries of destination should establish schemes of regular, repeated temporary migration and motivate the migrants by offering the possibility of returning to the same job. The introduction of the possibility of dual citizenship or residence for certain groups of migrants and a more flexible visa system will lead to the free movement of people between countries¹⁷.

The publication *Permanent or Circular Migration?* highlights an active immigration policy in all European countries, mobilizes domestic workforce and develops a coordinated European migration policy¹⁸.

16 A number of publications and studies issued under the auspices of IOM are devoted to the topic of circular migration. Examples of such documents are:

- Omelaniuk, I. (ed.) (2005). *World Migration 2005. Cost and Benefits of International Migration*. Geneva : International Organization for Migration.
- Farrant, M., MacDonald, A., Sriskandarajah, D. (2006). *Migration and Development: Opportunities and Challenges for Policymakers*. IOM Migration Research Series N°22. Geneva : International Organization for Migration.
- Hönekopp, E., Mattila, H. (2008). *Permanent or Circular Migration? Policy Choices to Address Demographic Decline and Labour Shortages in Europe*. Budapest : International Organization for Migration, Regional Mission for Central and South Eastern Europe.
- Inter-Governmental Consultations on Migration, Asylum and Refugees (IGC). Accessible through <http://www.iom.int/jahia/Jahia/pid/856>, [accessed on 2010-09-17].
- *Migration Management in the Evolving Global Economy*. Accessible through http://www.iom.int/jahia/webdav/shared/shared/mainsite/about_iom/en/council/94/MC_INF_289.pdf, [accessed on 2010-09-17].
- *Migration & Trade*. Accessible through <http://www.iom.int/jahia/Jahia/about-migration/developing-migration-policy/migration-trade>, [accessed on 2010-09-17].

17 Vertovec, S. (2007). *Circular Migration: The Way Forward in Global Policy?* Oxford : International Migration Institute, University of Oxford. Accessible through <http://www.imi.ox.ac.uk/pdfs/wp4-circular-migration-policy.pdf> [accessed on 2010-09-17].

18 Hönekopp, E., Mattila, H. (2008). *Permanent or Circular Migration? Policy Choices to Address Demographic Decline and Labour Shortages in Europe*. Budapest : International Organization for Migration, Regional Mission for Central and South Eastern Europe.

15 MoLSAF of the SR.

2.2 National Legislation, Conditions, Criteria, and Enforcement

Migration and the legal status of third-country¹⁹ nationals in the Slovak Republic is governed by the Act on the Stay of Aliens. The Act No. 5/2005 Coll. On Employment Services and on Amendments of Certain Acts, As amended (hereinafter referred to as 'the Act on Employment Services') specifies the conditions under which migrants are allowed to enter into employment relationships. In addition to these laws, there are many Acts governing health²⁰ and social security²¹, or the rights and obligations of employees²², which apply equally to foreigners employed in Slovakia and Slovak citizens.

The aforementioned legislation, however, does not specify any definition of circular migration. The same applies in the case of temporary migration. The lack of an explicit definition of such terms does not mean that the Slovak legislation does not include provisions promoting short stays of economic migrants in Slovakia. In this context, the Slovak legislation provides for the institution of seasonal migration, which implies a short stay of the foreign national (usually up to six months) for the purpose of carrying out work which is not explicitly contingent on the season. A stay organized on the basis of this type of permits is only temporary and often repeated each year. The Slovak legal system distinguishes between a residence permit for the purpose of employment and a residence permit for the purpose of seasonal employment. Residence permits for the purpose of seasonal employment are granted for a period not exceeding 180 days. In both cases a work permit is required from the regional Offices of Labour, Social Affairs and the Family. Therefore, it can be concluded that the administrative procedures in the case of seasonal workers are not less demanding than for individuals interested in a longer employment relationship in Slovakia. In

terms of circular and temporary migration, the specific rules laid down in Article 20, Clause 3 of the Act on the Stay of Aliens may have considerable importance, as they stipulate that temporary residence permits for employment purposes are not required within 90 days from the crossing of external borders, if the alien is

- a) working for a major foreign investor in the Slovak Republic;
- b) posted by an employer established in another Member State of the European Union to the territory of the Slovak Republic in order to provide services offered by the employer;
- c) employed in international public transport, provided that the foreigner is posted to work on the territory of the Slovak Republic by his or her foreign employer; or
- d) employed by an employer which has its registered office or a branch office outside of the Slovak Republic, and posted the worker under contract with another person to the territory of the Slovak Republic to carry out work.

Although the residence permit in the above cases is not required, the same does not apply to the work permit. The only exception is for persons employed in international public transport if they are posted by their foreign employer to work in the Slovak Republic, and persons sent to work on the territory of the Slovak Republic by an employer established in another EU Member State in order to provide services offered by the employer (Article 22, number 7 of the Act on Employment Services).

A third-country national who has obtained a permit for permanent or temporary residence has the right to leave the territory of the Slovak Republic, while this does not affect their permanent or temporary residence permit. If third-country nationals choose to stay outside of the SR for longer than 180 days, they are obliged to notify their local police department. If that obligation is not met by the foreign national, their residence permit is repealed, as stipulated in Article 41 of the Act on the Stay of Aliens. From this it follows that third-country nationals with permanent or temporary residence are not re-

¹⁹ Non-EU Member States.

²⁰ Act No. 580/2004 On Health Insurance, as Amended.

²¹ Act No. 461/2003 Coll. On Social Insurance, as Amended.

²² Act No. 311/2001 Coll. The Labour Code of the SR, as Amended.

quired to stay continuously on the territory of the Slovak Republic during the validity of their residence permit. A foreigner who has completed their temporary residence, for example by fulfilling of the purpose of stay in Slovakia, will not enjoy preferential treatment in case of future applications for a temporary or permanent residence.

In the case of temporary migration, certain bilateral programs fostering short-term migration are worth mentioning. One of them is the Agreement between Canada and the Slovak Republic on Youth Mobility. The purpose of this agreement is to simplify administrative procedures for citizens of Canada who are between 18 and 35 years old and want to extend their education by a traineeship in Slovakia. Further information can be found in chapter 2.3.

Circular and temporary migration may, in the case of the SR, be significantly discouraged by the social security system and in particular the rules on pension entitlements. Under current law, individuals wishing to receive a retirement pension from the Slovak social security system must have a pension insurance in Slovakia for at least 15 years²³. If the foreign national does not meet this criterion, they shall not be entitled to pension funds from the Social Insurance Agency, with the exception of those foreigners who are nationals of countries with which Slovakia has concluded a bilateral social security agreement²⁴. In these cases, the assessment of

entitlement to various benefits of social insurance is determined by the particular contract, which usually provides for the accumulation of periods of social insurance both in the Slovak Republic and the country of origin.

Given that in Slovakia there is no specific legislation on circular and temporary migration, there are no specific sanction mechanisms for the enforcement of the rules of circular and temporary migration either. Therefore, third-country nationals whose residence in Slovakia could be classified as similar to circular or temporary risk being punished with the same sanctions as other third-country nationals residing on the territory of the SR.

Those individuals who violate the provisions of the Act on the Stay of Aliens may be deported under Article 56 of this Act. Administrative expulsion is a decision of the police department to terminate the alien's stay by setting a deadline for their departure to the country of origin, transit or to any third country which receives the foreigner, while also determining the time of the entry ban. Under the above article, an alien who engages in activities other than those for which their temporary residence permit or visa were granted will be expelled for five years. Expulsion for a period of one to five years is to be used in the case of individuals who entered the territory of the Slovak Republic without authorisation, or reside in the territory of the Slovak Republic without authorisation, or stay in the Slovak Republic in accordance with the provisions of an international treaty or the decision of the Government of the Slovak Republic and act contrary to this international treaty or the decision of the Government of the Slovak Republic, or fail to notify police of the termination of activity for which they were granted temporary residence (e.g., termination of employment relationship). In addition to expulsion, there is the possibility of fines of up to 1,659 EUR for each violation of the obligations imposed by the Act on

en the SR and Israel and on 21st September 2010 a similar agreement was concluded between the SR and Australia. Neither of the aforementioned agreements is in force for the time being.

23 Relevant European legislation includes:

- Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:166:0001:0123:en:PDF>, [accessed on 2010-10-05];
- Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16th September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:284:0001:0042:EN:PDF>, [accessed on 2010-10-05];
- Decisions of the Administrative Commission for the Coordination of Social Security Systems (<http://www.employment.gov.sk/index.php?SMC=1&id=18842>, [accessed on 2010-10-05].

24 At the moment, the list of agreements effectively observed includes those concluded between the SR and Croatia, Yugoslavia (later successor states, at first Serbia and Montenegro; then Serbia only) Canada, Quebec, the Russian Federation, Ukraine and the Republic of Korea. On 15th June 2010 an agreement on social security was concluded between

the Stay of Aliens. Furthermore, a third-country national who is illegally employed in Slovakia can be fined up to 331.93 EUR on the basis of Act No. 82/2005, while the legal entity which recruited the foreigner for illegal work risks a fine from 2,000 to 200,000 EUR.

The monitoring of compliance with the rules regulating migration, in this case the verification of the legality of residence, is executed by the police. The verification of the legality of employment (in collaboration with the Border and Aliens Police and its verification of the legality of residence) falls within the competence of the regional Labour Inspectorates, the Departments of Inspection of the regional Offices of Labour, Social Affairs and the Family, the Central Office of Labour, Social Affairs and the Family, as well as the tax authorities. In recent years, there have been no significant changes in the sanctions for illegal presence or illegal labour of migrants in Slovakia. From March 1st 2010, however, there has been a change in the amount of money a corporation or entrepreneur may be fined if employing workforce illegally. Under the original wording of the Article 68a of the Employment Services Act effective prior to 1 March 2010, such an employer could be fined up to 1 million SK (33 193.92 EUR), without the minimum amount being specified. After the amendment, the amount of the fine is at least 2 000 EUR and 200 000 EUR at most.

In general, the Slovak Republic allows naturalisation without the immigrant having to give up the citizenship of another country²⁵. Citizenship may be acquired only after eight years of continuous residence on the territory of the SR, with the exception of statutory cases. Citizenship may be granted without regard to this condition if, for example, the foreigner:

- is married to a citizen of the SR and the couple has lived together in Slovakia for at least five years;
- had continuous residence on the territory of

the Slovak Republic for at least three years before reaching 18 years of age;

- is a person to whom asylum was granted at least four years immediately preceding the date of application for citizenship of the Slovak Republic; was born in the Slovak Republic and had permanent residence there for at least three years immediately preceding the application for citizenship;
- is stateless and had permanent residence in the Slovak Republic for at least three years immediately preceding the application for citizenship;
- holds a Slovak Living Abroad Certificate and had permanent residence in Slovakia for three years immediately preceding the filing of the application for citizenship.

2.3 Co-operation with Third Countries

The Slovak government has concluded several bilateral agreements with EU countries and third countries on the employment of citizens and trainees. Most of these agreements are concluded with EU Member States. These include Belgium, the Czech Republic, France, Germany, Luxembourg, Poland, Finland and Hungary. In addition, Switzerland also belongs into this group. Regarding third countries, the SR has a bilateral agreement on employment of citizens with the Russian Federation. However, this agreement has not been observed for a long time due to the lack of co-operation of the Russian Federation, and its cancellation is being considered. Most bilateral agreements on the employment of citizens of EU Member States have not been observed from 1 May 2004 because of the free movement of labour, in accordance with Council Regulation 1612/68/EEC on the freedom of movement of workers within the Community. Currently, only the agreements with Germany and Switzerland are being observed unilaterally by Germany and Switzerland because of the transitional period for the free movement for labour.

²⁵ The possibility of having a double citizenship also depends on the relevant legislation of the other party, or in other words the state of which the applicant is a national of prior to naturalisation in Slovakia.

The Agreement between the Government of the Slovak Republic and the Swiss Federal Government on the Exchange of Trainees²⁶ was concluded on 8th December 1995. It entered into force on 14th June 1996. The agreement has been observed continuously and the annual quota of 100 persons who can participate in programmes based upon the agreement has been filled by the SR. Slovakia has concluded a cooperation agreement with the Federal Republic of Germany on the employment of workers to enhance their professional and language skills²⁷ on 18th March 1996. According to the MoLSAF, the agreement is currently the only existing treaty of this sort with the EU countries that is actually observed. The annual quota of workers in the agreement was set to 700 people. On 7th September 2001, the entry into force of an amendment to this Agreement increased the annual number of persons to one thousand²⁸. Currently, there are 29 Slovak citizens employed under this bilateral agreement.

In the aforementioned bilateral agreements, there is no explicit reference to the support for circular or temporary migration, or to the parties' commitment to promote these forms of migration. In other words, the agreements do not mention any principles of circular and temporary migration; their goal is to create conditions for easier cooperation in the field of employment of foreigners. The Slovak Republic has not presented any framework programme describing the steps and the future direction of SR in motivating the migrants to return back to the SR. On the other hand, the return of third-country nationals to their country of origin from the SR is regulated by the Act on the Stay of Aliens, which inter alia provides for the period for which residence permits for employment purposes are to be granted, but also contains provisions related to the voluntary and forced return of foreigners etc.

26 <http://www.employment.gov.sk/index.php?SMC=1&id=335>

27 <http://www.employment.gov.sk/index.php?SMC=1&id=332>

28 Bilaterálne zmluvy o vzájomnom zamestnávaní. Accessible through http://hnonline.sk/c3-21698245-k00000_detail-bilateralne-zmluvy-o-vzajomnom-zamestnavani. [accessed on 2010-05-12]

The Agreement between Canada and the Slovak Republic on Youth Mobility might be mentioned as an example of a programme of temporary migration. The purpose of this agreement is to simplify administrative procedures for Canadian citizens between 18 and 35 years of age willing to extend their education by a traineeship in Slovakia. Based on the aforementioned bilateral agreement, those citizens of Canada who meet certain conditions²⁹ may obtain a visa, valid for a maximum period of 12 months, during which period they are authorised to be employed throughout the SR without a work permit. Those Canadian nationals eligible for receiving a residence permit based upon this agreement are

- university graduates wishing to obtain further training in Slovakia;
- students enrolled in universities in their home country who want to extend their academic study plan by means of professional training or work placement;
- Canadian citizens wishing to obtain further training in Slovakia on the basis of previously agreed employment contract;
- students enrolled in educational institutions in Canada wishing to travel to Slovakia during their holidays and planning to engage in casual employment during their visit to the SR;
- citizens of Canada who want to go to Slovakia and want to engage in casual employment.

29 The conditions set by the Agreement limit the category of eligible Canadian citizens to those who meet the following criteria:

- a) On the day of submitting their request, they are aged between 18 and 35 years or age,
- b) They are Canadian citizens with permanent residence in Canada and hold a valid Canadian passport,
- c) They have a return airplane ticket or sufficient funding for buying a return airplane ticket and are able to show proof of holding sufficient funding for covering their expenditures at the beginning of their stay in the host country,
- d) They have health care insurance covering costs of medical treatment or repatriation,
- e) They meet other requirements arising from Slovak legislation on the entry and the stay of foreigners
- f) according to the specificities of each case:
 - 1) They prove that they have a preliminary agreement upon a labour contract or a traineeship
 - 2) They present a document proving their enrolment in a university in their country of origin
 - 3) They confirm their intention to travel in the host country with the possibility of being casually employed

Eligible citizens may use the provisions of the agreement twice at most, provided that it will be under two different categories, while their trips cannot be directly linked to each other. None of the stay may exceed 12 months. The same applies for the citizens of Slovakia in Canada.

The conclusion of a similar agreement (on Working Holidays) with New Zealand and Australia is currently under preparation.

2.4 Other Aspects

The Slovak Republic was experiencing a continuous increase in the number of migrants until 2008. This trend was typical both for migration within the EU, as well as for migration from third countries. The situation changed significantly between 2008 and 2009, when, for the first time since 2000, the SR saw a decline in the number of labour migrants from third countries in Slovakia. Based on statistical data presented in the 2010 IOM paper entitled 'Satisfying Labour Demand Through Migration in the Slovak Republic'³⁰, a slight decrease can be seen in the number of labour migrants from abroad, from 4,850 to 4,150 persons. A similar trend has been detected in the case of migrants from Romania and Bulgaria, whose number fell on a year-on-year basis from 3,000 to the 2,750.

Currently, the statistics of the CoLSAF only covers the departures of migrants, while the causes of leaving the territory of the SR and the final destinations of migrants are not investigated in detail. This fact impedes further analysis of migration flows. The above statistics on the declining number of citizens of third countries in the Slovak labour market cannot therefore be interpreted as clear evidence of a growing tendency to return to their country of origin, as the migrants' future country of residence does not constitute an object of interest of the official institutions of the SR.

Eurostat does follow the flows of migrants from Slovakia in the direction of other Member States. Its statistics, however, is not detailed enough for the purposes of this study, as it does not distinguish between the flows of third-country nationals and EU-citizens from the territory of the SR to other EU Member States. Furthermore, it is necessary to note that the lack of statistical data about the motivation and future plans of temporary and circular migrants makes it impossible to assess the migrants' preferences for settling down on the territory of the SR.

Migration from third countries to the territory of the Slovak Republic is characterised by a large share of qualified foreigners in the total number of migrants, despite the relative passivity of the Slovak government in attracting highly qualified labour force. This might lead to the conclusion that Slovakia is involved in the undesirable phenomenon of 'brain drain' from the developing countries as a recipient country. However, it is important to add that the majority of migrants with tertiary education do not come from developing countries, but from the U.S.A., Japan, Korea and the Russian Federation³¹. The overwhelming majority of these persons is employed in the branch offices of transnational corporations. Given the small number of labour migrants from third countries into the SR, the prevention of brain drain from the developing countries does not constitute a core area of interest of the Government or the Slovak legislature. A change in this approach will probably occur in 2011, when the implementation of Directive 2009/50/EC on the conditions of entry and residence of third country nationals for highly qualified employment will have to be implemented. After the transposition of the Directive, Slovakia will issue to persons meeting certain requirements a so-called EU Blue Card. The directive mentioned gives considerable autonomy to Member States over the so-called wage threshold, i.e. the minimum wage level the applicant for the Blue Card is required to reach in

30 Domonkos, T. – Páleník, M. – Radvanský, M.: Satisfying Labour Demand Through Migration in the Slovak Republic. Bratislava: IOM – International Organization for Migration, 2010. 48 pp.

31 In the case of the USA, the number of migrants with university education reaches 97%, in the case of Korea, Japan and the Russian Federation it is 97%, 85% and 77% respectively.

order to become eligible. Article 6 allows the introduction of quotas in the number of cards issued by the Member States, determined by the Member States themselves. Currently, we have no knowledge of concrete legislative proposals related to the transposition of the Directive into the Slovak legal system.



Data on Circular and Temporary Migration

The Slovak Republic does not have specific legislation or special programs and schemes relating to circular migration. Therefore, statistics on circular migration is not being recorded. Furthermore, the number of migrants in Slovakia, compared to some other EU countries, is very low. The Slovak Republic has been and partly still remains a transit country. For these reasons, it can be assumed that circular migration in Slovakia is close to zero. As the phenomenon has not been tracked statistically, there is no information on foreigners who had worked in Slovakia and then, after a longer time period of residence outside the SR, came back. Each residence permit and work permit after the expiration of the first is considered as a new permit without any relation to the previous one.

Temporary migration is not clearly defined in Slovak legislation either. Work permits are granted for a limited period of time of up to two years. These permits may be extended on the basis of statutory conditions. The Employment Services Act also includes the concept of seasonal employment, but the conditions to obtain a work permit for seasonal employment are the same as for other types of work permit. Citizens of EU or EEA Member States and Switzerland, as well as third country nationals who fulfil the conditions laid down in Art. 22 clause 7 of the Employment Services Act, may work without a work permit.

The Offices of Labour, Social Affairs and the Family grant work permits for citizens of third countries, while data regarding the person (e.g. age and gender, country of origin and citizenship), the information on the worker's employment (sector of the employer, position) and data regarding the time periods (date of work permit and the time period to which it was granted) is being recorded in the local database and sent monthly to the central database of the CoLSAF. Data presented below comes from the aforementioned CoLSAF database.

If we take a look at the figures, we can see that the majority of the work permits have a dura-

tion of one year or longer. Until April 2008, permits were being granted for a time period of one year. On 1 May 2008, the Act No. 139/2008 Amending the Employment Services Act entered into force, which allowed the granting of work permits for a maximum of two years from May 2008. From May to December 2008, 64 % of all permissions were issued for a period of 2 years; in 2009 their share decreased to 53 %. In 2008, one-year permits constituted 25% of the total number of permits issued, while in 2009 their share was 29%. The rest were permits issued for a time period shorter than 12 months³².

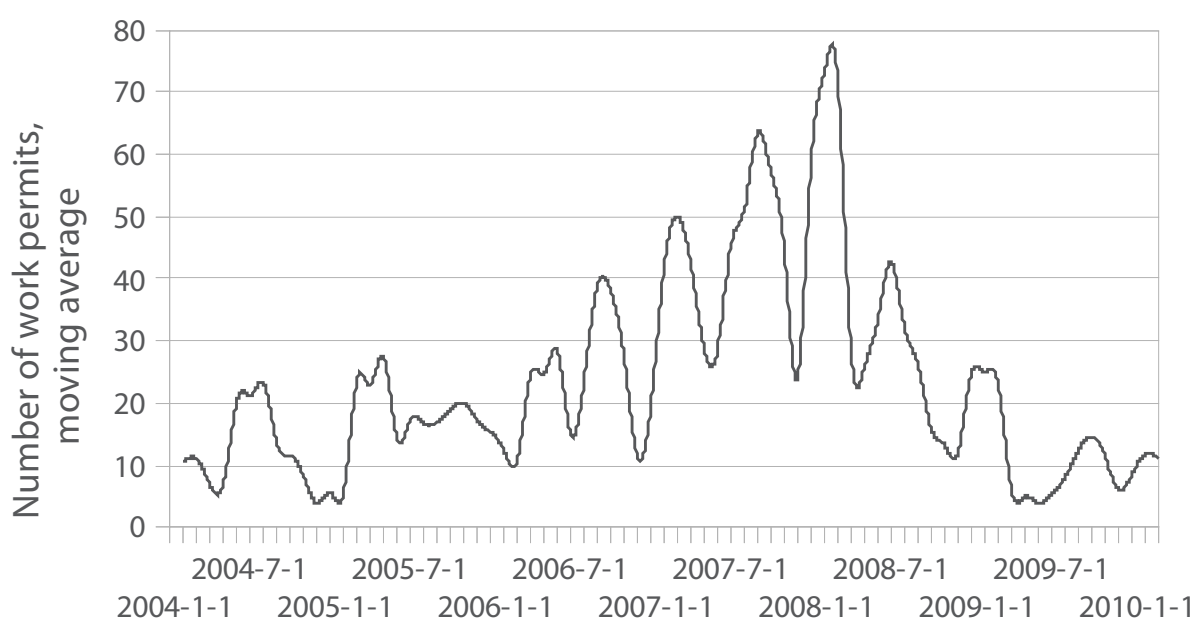
Figure 1 describes short-term migration by the length for which the work permits were granted. The overall number of permits issued for less than one year has remained in double digit figures (in the three-month moving average). During the period studied, only once did the number of permits rise above 100, in February 2008, when the number of work permits granted reached 143 permits issued (almost all were valid for five months).

32 Source: CoLSAF.

Another source of data on seasonal migration is the BBAP, which grants temporary residence permits. As of 15 July 2009, the BBAP is in charge of recording the residence permits for the purpose of seasonal employment. Between 15 July 2009 and 31 December 2009, only one such permit was issued, while in 2010 this number has risen to 20 permits (19 of them were granted to Ukrainian nationals). Until 31 August 2010, the BBAP recorded 16 Ukrainian nationals with valid temporary residence in Slovakia for the purpose of seasonal employment on the territory of SR.

Data on the number of work permits according to the period for which they were issued shows no signs of seasonality. The trend in the first three quarters of the years 2008 and 2009 shows signs of similarity, the largest number of permits was issued in the first quarter, in other quarters the number of permits declined. We can, however, identify a significant difference in the number of work permits granted between the two years. While in 2008 the number of authorisations granted was more than 130, in the following year it did not reach even a half of

Figure 1 – The Number of Work Permits Valid for Less Than a Year



Source: CoLSAF

this number, since in 2009, only 50 permissions were awarded. This was mainly due to the economic recession caused by the global financial crisis, which had a negative impact on the development of the labour market of the SR. This resulted in a subsequent increase in the number of unemployed workers and a decrease in the number of job vacancies. The quarters of 2007 were relatively similar (only the second quarter was significantly lower in comparison to the others). In 2005 and 2006, the first quarter

was the lowest in comparison to the other three quarters. In 2004, the third quarter was higher than the others. The aforementioned findings are summarized in Table 1.

If we take into account other permits issued, fluctuations in the number of short-term permits is reduced. This is due to the rapid increase in the number of permits issued in 2007 and especially in 2008. In 2004, the number of permits issued was around 1, 000; in 2005 and 2006, around

Table 1 – Work Permits by Length of Validity in Various Quarters (Short-Term Permits)

Year	2004	2004	2004	2004	2005	2005	2005	2005
Quarter	1	2	3	4	1	2	3	4
Month	11	8	23	8	6	27	17	20
Year	2006	2006	2006	2006	2007	2007	2007	2007
Quarter	1	2	3	4	1	2	3	4
Month	12	25	24	27	42	29	51	45
Year	2008	2008	2008	2008	2009	2009	2009	2009
Quarter	1	2	3	4	1	2	3	4
Month	73	26	23	12	25	5	8	12

Source: CoLSAF

Table 2 – The Number of Work Permits Issued by Their Length³³

Year	Until 1 year	More than 1 year	% until 1 year	Together
2004	148	899	14,1	1 047
2005	210	1 343	13,5	1 553
2006	264	1 151	18,7	1 415
2007	501	1 697	22,8	2 198
2008	433	4 116	9,5	4 549
2009	149	1 099	11,9	1 248
2010 *	67	580	10,4	647

* Data for the first half of 2010.

Source: CoLSAF

³³ According to the Act on Employment Services (Act. No. 139/2008 Coll.), the length of the validity of work permits is extended from one year to two years. In Table 2, a cumulative number for the years 2008 and 2009 is listed.

1,500. In 2007, the number of permits rose to 2,200, while in 2008 it reached 4,550. In 2009, this number decreased to the level of 1,250, and in the first half of 2010, to the level of 650. Table 2 gives a more detailed description of this development. Overall, the data does not make it possible to identify an upward or downward trend in the number of temporary migrants.

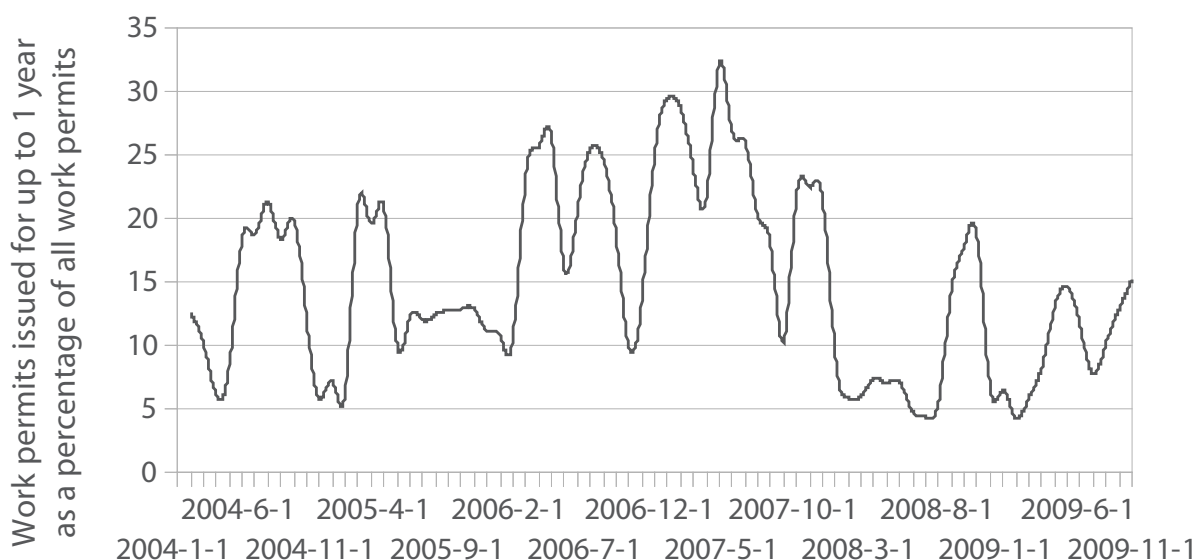
Statistical monitoring of short-term, temporary and circular migration in Slovakia is at a relatively low level. In order to improve monitoring, it would be necessary to amend legislation to allow the tracking of different types of migration described in this study, circular migration in particular. For the purposes of monitoring temporary migration, it would be necessary to link various actors, in particular the CoLSAF and the BBAP.

A link between the databases would enable a clear identification of short-term migrants and to render the database of the CoLSAF more accurate and up-to-date by sorting out those persons who have not been granted a residence permit, by which it would be possible to gain

information of higher descriptive value. Furthermore, it is necessary to intensify the cooperation between the CoLSAF and the Social Insurance Authority, mainly for the purposes of database accuracy. By doing this, it would be possible to get a more nuanced view of migration.

Overall, migration from third countries is very low in Slovakia, reaching only several thousand people. Temporary migration, in terms of permits issued for less than a year, is at most five hundred people per year. Seasonal migration has not been specifically monitored. Given the absence of legislation on temporary and circular migration, statistics is very limited and does not provide a sufficiently detailed picture of the problem.

Figure 2 – Work Permits Issued for up to 1 Year as a Percentage of All Work Permits



Source: CoLSAF



Conclusions

After its accession to the EU, the Slovak Republic adopted the existing commitments and obligations in the field of migration and is gradually adjusting its legislation in accordance with the relevant legal instruments existing at the EU level. In this context, the SR accepts and applies a number of fundamental freedoms, including the free movement of workers within EU Member States. The liberalisation of the labour market has affected the prevailing trends in migration in Slovakia, even though some EU Member States have adopted a number of transitional periods concerning the provisions on the free movement of labour. However, from the point of view of economic migration, Slovakia has remained a source of migration, rather than a target country. The real impact of internal and external migration on the Slovak economy is very low. In Slovakia, there were around 15 thousand labour migrants in 2009, accounting for only 0.7% of the working population, mostly with university and secondary education. Therefore, migration policy does not constitute a carefully observed element of the labour market.

As mentioned in previous chapters, it is very difficult to determine the length of the stay of migrants in Slovakia as well as to track the returns of migrants using available data. It should be noted that the CoLSAF administers a central registry of work permits issued for foreigners, as well as information on those who have been granted a work permit, but have not started to work, or their employment was terminated before the expiry of the period specified in the work permit. This registry may provide useful information on the issue. Since the residence permit is issued repeatedly and for a shorter period, it is not possible to specify the net migration flow, or the level of circular migration.

Despite the relatively low rate of migration in Slovakia, this issue is getting into the forefront when considering structural unemployment and the need for specifically skilled labour forces. The study of the European Centre for the Development of Vocational Training (CE-

DEFOP) *Skills, Supply and Demand in Europe*³⁴ is worth mentioning. It predicts that in the coming years, the need for a highly skilled workforce will increase, along with its overall shortage in EU-countries. For this reason, it will be necessary to supplement a part of the workforce by immigration or temporary migration from third countries. Thus, the migration policy of the EU is to be adjusted to the specific needs of the Union. In terms of sustainability and stability, the possibility of simplifying circular or temporary migration and the entire legal procedure related to multiple entries into the European job market comes to the forefront. Slovakia will follow the direction taken by the EU in this field. In order to identify behavioural patterns of economic migrants in the Slovak labour market and their motivations, a more detailed collection of statistical data will be needed. This information will enable a better adaptation of migration policy to the changing environment, e.g. the aging of the population and the decrease in the level of economically active population expected to occur in the near future.

³⁴ CEDEFOP, *Skills Supply and Demand in Europe*, Luxembourg, 2010

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