Aligning Serbia's labour migration legislation with EU law

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KEY MESSAGES

Serbia should strengthen the protection of foreign workers by aligning its labour migration legislation and practice with EU law.

Single permit holders should be able to change employer and be protected against permit withdrawal solely because of short-term unemployment.

Foreign workers should be able to report violations, recover unpaid wages and obtain support through accessible procedures and effective protection against retaliation.

Why it matters

Serbia is increasingly a destination for labour migration. Employment accounted for 67 % of first-time temporary residence approvals in 2025, and 64 672 foreign nationals were residing in Serbia on employment grounds at year-end, up from 49 147 in 2024 (Migration Profile 2025, pp. 14 and 20). The European Commission reports that the Council of Europe's recommendations for proactive and thorough investigations of alleged trafficking in human beings for the purpose of labour exploitation involving foreign workers remain unaddressed (Serbia 2025 Report, p. 84). Serbia's National Rapporteur on Trafficking in Human Beings also reports that, in cases where trafficking is not established, foreign workers often receive no compensation and employers face no sanctions for unpaid wages or other violations of labour rights (Third Report for 2025, p. 99). The European Commission also calls on Serbia to ensure that legal migration pathways do not lead to secondary movements towards the EU (Serbia 2025 Report, p. 54).

Serbia's EU accession process provides an opportunity to strengthen foreign workers' rights and the governance of labour migration through alignment with the EU acquis. The priorities below identify legislative and implementation requirements arising from EU directives relevant to labour migration.

Priorities for alignment

Alignment concerns the Law on Employment of Foreigners (LEF), the Law on Foreigners (LF) and related legislation: the Labour Law (LL), the Law on Agency Employment (LAE), the Law on Inspection Oversight (LIO) and the Law on Free Legal Aid (LFLA). The Rulebook on Issuing a Single Permit for Temporary Residence and Work of a Foreigner (Single Permit Rulebook) and the Rulebook on Granting Temporary Residence (Residence Rulebook) govern permit procedures and residence requirements.

The Criminal Procedure Code (CPC), the Law on General Administrative Procedure (LGAP) and the Law on Civil Procedure (LCP) also govern reporting, legal assistance, representation and procedural safeguards. The Law on Bankruptcy (LB) is relevant to wage guarantees. Identification and referral of trafficking victims are addressed by the non-binding 2019 standard operating procedures (SOPs) and the Law on Prevention and Suppression of Trafficking in Human Beings and Protection of Victims (LTHB), applicable from 1 January 2027.

The relevant EU directives are:

- Directive (EU) 2024/1233 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State (recast).
- Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.
- Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, as amended by Directive (EU) 2026/1472.
- Directive 2008/94/EC on the protection of employees in the event of the insolvency of their employer (codified version).
- Directive 2008/104/EC on temporary agency work.
- Directive (EU) 2024/2831 on improving working conditions in platform work.
- Council Directive 2003/86/EC on the right to family reunification.
- Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, as amended by Directive (EU) 2024/1712.

The table identifies legislative changes and implementation requirements within each directive's scope. These are accession-alignment benchmarks for Serbia. EU Member State transposition deadlines include 2 December 2026 for Directive (EU) 2024/2831 and 2 July 2028 for the provisions of Directive (EU) 2026/1472 cited below.

TABLE 1

Requirements for alignment with EU directives

Issue and provision	Current framework	Requirement for alignment	Relevant EU provisions
Change of employer under a single permit LEF, Article 11	Single permit holders generally need prior consent from the National Employment Service. A decision is due within 10 days of a complete request. Work for the new employer may start after consent.	Ensure that single permit holders can change employer, subject only to the conditions permitted by Article 11(3). Any suspension following notification must not exceed 45 days from notification, extendable by 15 days only in exceptional, duly justified circumstances. Any minimum period with the first employer must not exceed the employment contract or permit duration, or six months. Permit an earlier change in duly justified cases of serious employer breach.	Directive (EU) 2024/1233, Articles 8(4), 11(2) and 11(3).
Change of employer under a D visa LEF, Article 11 LF, Articles 22(3) and 46b(2)	The cited provisions provide an employer-change procedure for single permit holders but no express equivalent route for employment D-visa holders before their first single permit.	Additional protection beyond Chapter II of Directive (EU) 2024/1233: provide an in-country route for employment D-visa holders to move to a new employer, including when applying for their first single permit, without first requiring a permit for the initial employer.	Directive (EU) 2024/1233, Article 3(4).
Time to find new work after job loss LEF, Article 9(5) Single Permit Rulebook, Article 20(3)	The LEF requires a new employment or other work contract within 30 days after the previous contract ends. The Single Permit Rulebook also allows, exceptionally, a consent request within 20 days after that contract ends. Neither provision expressly extends residence.	Align both deadlines with protection against withdrawal solely because of unemployment during a valid permit. Allow three months of unemployment in total, or six months where the worker has held a single permit for more than two years, subject to notification of its beginning and, where applicable, end. Count unemployment cumulatively during permit validity. Add three months where the competent authority has reasonable grounds to believe that the worker has experienced particularly exploitative working conditions.	Directive (EU) 2024/1233, Article 11(4) and (6).
Status during pending applications and renewals LEF, Article 9(3) LF, Article 46b(6)	A timely single permit application preserves residence and work until the administrative procedure ends. The LEF's rule on termination of employment at permit expiry does not expressly reflect that protection.	Clarify that the LEF's permit-expiry rule is subject to the LF's protection of residence and work during pending renewal. Preserve residence until the renewal decision. Where a worker finds a new employer within the allowed unemployment period, preserve residence until any checks permitted under Article 11(3) are complete, even if that unemployment period has ended.	Directive (EU) 2024/1233, Article 11(4) and (5).

Issue and provision	Current framework	Requirement for alignment	Relevant EU provisions
Definition of particularly exploitative working conditions LEF, Article 2 LF, Article 3	Neither act defines particularly exploitative working conditions.	Define particularly exploitative working conditions as conditions, including those resulting from gender-based or other discrimination, that are strikingly disproportionate to the terms of employment of legally employed workers and offend against human dignity, including, for example, by affecting health and safety. Apply this definition to the additional unemployment protection under Article 11(6) of Directive (EU) 2024/1233.	Directive 2009/52/EC, Article 2(i); Directive (EU) 2024/1233, Article 11(6).
Support for complaints and legal proceedings LIO, Article 18 LGAP, Articles 44, 49 and 54 LCP, Article 85 LL, Articles 183, 188 and 195	Inspection complaints do not automatically confer party status. Administrative law permits representation, expert assistance and specified participation by organised interest representatives. Qualified trade-union representatives may represent members in employment disputes. Labour law protects employees against dismissal for approaching unions or competent employment-rights authorities.	Ensure effective complaints mechanisms and participation by third parties with a legitimate interest under national law, with workers' consent, in administrative or civil proceedings enforcing the relevant directive. Give workers covered by Directive (EU) 2024/1233 the same access as nationals to legal proceedings and protection against dismissal or other adverse treatment following workplace complaints. Assistance with complaints under Directive 2009/52/EC must not be treated as facilitation of unauthorised residence.	Directive 2009/52/EC, Article 13(1) to (3); Directive (EU) 2024/1233, Article 14.
Reporting crime irrespective of residence status CPC, Articles 50 and 280–281 LF, Article 8	Crime reporting and injured-party rights do not depend on lawful residence. LF Article 8 nevertheless requires reporting irregular residence, without an express general exception for victims reporting crime.	Ensure that foreign victims are not deterred from reporting crime and can exercise victims' rights without discrimination, irrespective of residence status, including being heard and receiving an individual assessment. Establish safeguards so immigration-reporting duties do not deter reporting or obstruct those rights.	Directive 2012/29/EU, Article 5a(7), as amended by Directive (EU) 2026/1472.
Access to legal aid LFLA, Articles 4 and 7 CPC, Articles 59, 103 and 266	Free legal aid depends on statutory or treaty eligibility, with means-based and specified-category routes. Temporary residence alone is insufficient. The CPC also allows appointed counsel for qualifying injured parties acting as prosecutors and particularly vulnerable witnesses, subject to distinct appointment and cost rules.	Ensure legal aid for victims entitled to become parties to criminal proceedings who lack sufficient means to pay for a lawyer, including for compensation claims where applicable. Apply Article 13's safeguards to any means or merits tests and guarantee aid for nationally designated victim categories entitled to become parties and lacking sufficient means.	Directive 2012/29/EU, Article 13, as amended by Directive (EU) 2026/1472.

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Identification and referral of trafficking victims 2019 SOPs LTHB, Articles 11, 15 and 63	The non-binding 2019 SOPs provide for identification and referral through the Centre for Human Trafficking Victims' Protection, including asylum referrals. The 2026 law provides for government cooperation procedures and a focal point for international information exchange. It applies from 1 January 2027.	Formalise existing referral arrangements and align implementing procedures with minimum standards for early detection and identification across forms of exploitation. Cover assistance and referrals for identified and presumed victims, cooperation arrangements or protocols with asylum authorities and an expressly designated focal point for cross-border victim referrals, involving relevant support organisations.	Directive 2011/36/EU, Article 11(4), as amended by Directive (EU) 2024/1712.
Information on wage claims before return LF, Article 75(5) and (6)	The LF provides for interpretation where necessary during return procedures and, on request, written translation of key elements of a return decision. These provisions do not expressly require systematic information on wage-recovery and complaint rights before enforcement.	Systematically and objectively inform workers covered by Directive 2009/52/EC about their rights to recover unpaid wages and lodge complaints before enforcing a return decision.	Directive 2009/52/EC, Article 6(2).
Recovery of unpaid wages LEF, Article 15 LL, Articles 121 and 124 LB, Article 13	In specified cases of unauthorised employment, the LEF presumes at least three months of employment, unless proved otherwise, but not the agreed level of remuneration. Solidarity Fund protection requires opened insolvency proceedings and claims established under insolvency law. Proceedings may be concluded immediately where assets cannot cover their costs.	For workers covered by Directive 2009/52/EC, presume that agreed pay was at least the statutory minimum, the applicable collective-agreement rate or the rate established in the sector, unless the employer or worker proves otherwise, subject to mandatory wage rules. Ensure effective wage claims and receipt of recovered pay after return. Ensure guarantee coverage under Directive 2008/94/EC also where, following an application for collective insolvency proceedings, the competent authority establishes definitive closure and insufficient assets to warrant opening those proceedings.	Directive 2009/52/EC, Article 6; Directive 2008/94/EC, Articles 2 and 3.
Protection in subcontracting, agency and platform work LEF, Article 15 LAE, Articles 17, 18 and 26	The LAE provides equal working conditions and makes user undertakings jointly and severally liable for wages and related payments owed by the temporary-work agency. The LEF does not establish equivalent liability along subcontracting chains.	Provide for direct-contractor liability for Article 8 payments under Directive 2009/52/EC, and liability of main and intermediate contractors that knew of the illegal employment, subject to the prescribed due-diligence exemption. Enforce equal treatment and other agency-work safeguards. Give persons working through platform intermediaries the same protection as those contracting directly with the platform. Ensure correct employment-status determination and a rebuttable presumption in relevant employment-status proceedings where facts indicate direction and control, in accordance with national law and EU case-law. Place the burden of rebuttal on the platform.	Directive 2009/52/EC, Article 8; Directive 2008/104/EC, Articles 3, 5 and 6; Directive (EU) 2024/2831, Articles 3 to 5.

Issue and provision	Current framework	Requirement for alignment	Relevant EU provisions
Autonomous residence in particularly difficult circumstances LF, Article 59(3) Residence Rulebook, Article 18	The LF permits persons residing on family reunification grounds to obtain autonomous residence in cases of domestic violence or other particularly difficult circumstances, even where general residence conditions are unmet. The rulebook still requires general-condition documents and specifies criminal proceedings or a final conviction, while allowing social-work-centre or shelter evidence under conditions. Repeated reporting is required for the shelter-evidence route.	Ensure that persons admitted for family reunification can obtain an autonomous residence permit in particularly difficult circumstances. Align documentation requirements with the statutory exception to general residence conditions and clarify evidence of other particularly difficult circumstances. National conditions on granting and duration must give effect to that entitlement.	Directive 2003/86/EC, Article 15(3) and (4).