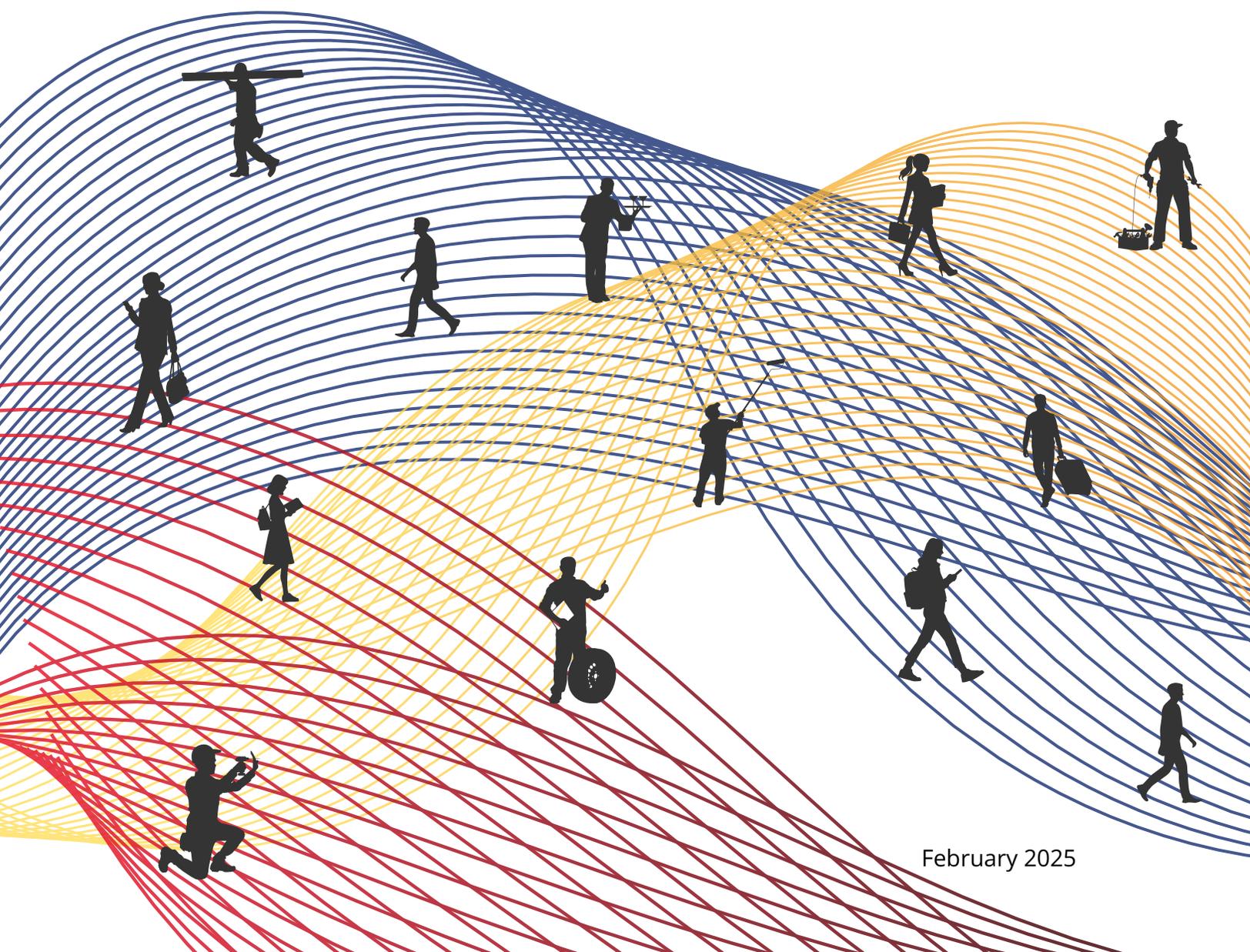


THE BERLIN PROCESS AND OPEN BALKANS INITIATIVE:

on free movement of citizens



February 2025

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This document is produced in the frame of "Channeling SEE6 Civil Society contribution to the Common Regional Market and Berlin Process" initiative, implemented by Cooperation and Development Institute (CDI) in partnership with the German Federal Foreign Office.

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EXECUTIVE SUMMARY

Starting with CEFTA in 2006, people's mobility in SEE6 emerged as by-product of the service dimension. The lack of recognition of qualifications was seen as a barrier for the free movement of natural persons, having a direct negative impact on intra-trade in services between CEFTA parties.

RCC brought citizen mobility within the region at the policy-making layer by including it in the South East Europe Strategy 2020.

Berlin Process (BP) provided the missing political will in regional cooperation resulting in the Multi-Annual Action Plan for a Regional Economic Area, where labour mobility was considered an important component. Adopting an inclusive approach, BP made possible the signature by the six Western Balkans countries of five regional mobility agreements. Open Balkans initiative (OBI) also contributed in adding layers of regulation to the labour mobility context for the three signatory countries. But there is a fragmentation of the mobility agreements at both the normative, governance and implementation level.

OBI and BP share the same goal and similar provisions on labour mobility, but are governed by different institutional bodies and implemented through different procedures. This leads to confusion regarding the obligations, the enforcement mechanisms, and the hierarchy between both agreements in case of conflicts on their scope and during their implementation stage. Their overlap complicates their implementation, creates jurisdictional insecurity and complicates SEE6 citizen demarches to seek redress.

On governance level, both OBI and BP agreements describe and set up their own responsible bodies, and entrust them with specific duties necessary for the implementation. But only BP agreements have a regular 2 tier structure (regional and national), while in some OBI ones the regional coordination layer is missing.

Further on, BP agreements incorporate the EU *acquis* when OBI ones recommend for the *acquis* to be respected, without guaranteeing it. Moreover, BP agreements contain a very clear regional cooperation component during its implementation.

Neither OBI nor BP agreements provide any specification on the publishing of relevant bylaws, meetings or decisions related to or produced BP or OBI technical bodies.

OBI or BP agreements do not provide direct application effect on Western Balkans citizens' mobility. Furthermore there is no unifying normative body that ensures the uniform application and interpretation of regional agreements across the region. Finally, neither OBI nor BP normative frameworks deal with indirect barriers to free movement within the region.

The Berlin Process has been crucial in deblocking regional cooperation by mustering the political will of participating countries, and grounding the four freedoms normative

framework into the *acquis*. It has made possible the signature of five mobility agreements as well as the deblocking CEFTA internal squabbles and achieving the signature of nine agreements. But without direct applicability of regional agreements, and in a yet fragmented regional context, to keep its relevance Berlin Process should evolve to also include under its scope monitoring and implementation stages.

This publication is the first part of a larger analysis that covers regional cooperation in the SEE6 region with a specific focus on OBI signatory countries. In subsequent parts country-specific findings and assessments on the implementation of OBI in Albania, North Macedonia and Serbia and how they impact the citizen mobility, will be presented.

I. LEGAL FRAMEWORK AND GOVERNANCE REGULATING FREE MOVEMENT OF PERSONS IN WESTERN BALKANS

I.1. The emergence of a regional legal framework that enables citizens mobility

Since the 1990s, the Southeast Europe 6 (SEE6)¹ region has experienced multiple waves of migration driven by factors such as economic instability, political transitions and/or the possibility for better employment opportunities. Today, about five million people born in the SEE region live abroad, mainly in European countries².

But mobility within the region remains relatively low. Various regional initiatives aiming to remove key barriers to citizens' mobility have been launched, with focus on encouraging free movement of workers. Enabling citizens to work, provide services, and establish businesses more easily across SEE6 countries are their main features.

i) CEFTA: peoples' mobility as a by-product

The first regional initiative aiming to establish a free trade area among the Western Balkan countries (plus Croatia, Moldova, Bulgaria and Rumania) was the CEFTA agreement in 2006. CEFTA 2006 aimed to expand trade in goods and services in the region; eliminate trade barriers; improve competition and encourage foreign investments³.

Although with no direct reference to free movement of citizens, CEFTA has contributed to the free movement of persons in SEE6 through the service dimension of the Agreement. To strengthen and deepen the intra-regional cooperation in the field of trade in services among the contracting parties⁴, a CEFTA sub-committee was established in 2014. But achieving a gradual opening of service markets across the CEFTA region, requires a reduction of barriers affecting temporary movement of natural persons, especially of those that provide cross-border services.

The lack of recognition of qualifications was seen as a barrier for the free movement of natural persons, having a direct negative impact on intra-trade in services between CEFTA parties⁵. To progress with this objective CEFTA joined forces with other existing regional initiatives, namely the Regional Cooperation Council (RCC) and Education Reform Initiative

¹ In the following text, we will refer as South East Europe 6 (or SEE6) to Albania Bosnia & Herzegovina, Kosovo, Montenegro, North Macedonia and Serbia

² Rossi, Isolina, Richard James Lowden Record, and Maryna Sidarenka. "Western Balkans Regular Economic Report: Retaining the Growth Momentum." (2024). Pg. 68.

³ CEFTA 2006 Agreement, Article 1.2., accessed at: <https://cefta.int/wp-content/uploads/2016/05/ANN1CEFTA-2006-Final-Text.pdf>

⁴ Decision of Joint Committee of CEFTA, No.5/2014. Accessed: https://cefta.int/wp-content/uploads/2021/07/Decision-No-5_2014-on-Establishment-of-SC-on-Trade-in-Services_0.pdf

⁵ Decision of Joint Committee of CEFTA No.2/2015, pg. 7. Accessed at: <https://cefta.int/wp-content/uploads/2021/07/Decision-No-2-2015-on-the-Amendment-to-Decision-No-5-2014-2.pdf>

of South Eastern Europe (ERI SEE)⁶. In 2015, the CEFTA-subcommittee decided to create a Joint Working Group (JWG) on Mutual Recognition of Professional Qualifications. This JWG goal was to “...deepen the cooperation between CEFTA Subcommittee on Trade in Services, ERI SEE and RCC Social Agenda Working Group (SAWG) in the area of labour mobility⁷”. Its objectives were “... to reduce and eliminate barriers on free movement of experts and professionals across the region, facilitate recognition of professional qualifications in CEFTA Parties in the priority sectors, and encourage overall labour mobility⁸”.

In 2019 the CEFTA Additional Protocol 6 was approved. This protocol provides the legal commitments that allow entry and stay of natural persons in CEFTA signatories for business purposes (i.e. key personnel, trainees, business services sellers, contractual services suppliers, independent professionals and short-term visitors for business purposes, etc)⁹. It prohibits the parties to set limitations on the total number of natural persons that may be employed in a particular service sector (Article 4), or to fix a maximum period for each category.

The recognition of professional qualifications occupies a specific part of CEFTA Additional Protocol 6. According to its Article 11, parties “... shall engage actively to consider requests to recognize foreign education, experience, and certifications, either through agreements, arrangements, or autonomous decisions”. To advance this agenda further, in the Sarajevo Ministerial Conclusions in December 2020, the CEFTA Joint Committee mandated the Subcommittee on Trade in Services to establish a system of recognition of qualifications for a pilot profession which would be in compliance with EU rules and that will be gradually extended to other professions¹⁰.

However, as CEFTA’s work was blocked at the level of Joint Committee, other initiatives emerged to continue to push towards four factors’ mobility in SEE6. At this point, it is important to note that even during the deadlock, CEFTA continued to contribute to different regional working groups and initiatives on upcoming mobility agreements.

In conclusion, CEFTA drive on people’s mobility is a by-product of regional market opening for services. However, until 2022, the outputs on supporting peoples’ mobility were blocked at the CEFTA organizational level of Joint Committee.

⁶ ERI SEE is a regional platform for cooperation in the field of education and training established in Brdo 2010: <https://www.erisee.org/about-eri-see/legal-basis/memorandum-2010/3-memorandum-of-understanding-on-the-role-and-organisation-of-the-eri-see-brdo2010-2/>

⁷ Article 1, Decision of Joint Committee of CEFTA No.2/2015. Accessed at: <https://cefta.int/wp-content/uploads/2021/07/Decision-No-2-2015-on-the-Amendment-to-Decision-No-5-2014-2.pdf>

⁸ Annex 2, part 2: Objectives, Decision of Joint Committee of CEFTA No.2/2015.

⁹ Annex 1, CEFTA Additional Protocol 6. Accessed at: <https://cefta.int/wp-content/uploads/2022/06/Additional-Protocol-6-on-Trade-in-Services-.pdf>

¹⁰ <https://cefta.int/wp-content/uploads/2021/05/Ministerial-Conclusions-Sarajevo-16-December-2020.pdf>

ii) Regional Cooperation Council and South East Europe Strategy 2020: the policy-making layer

The Regional Cooperation Council (RCC) has played an important role in driving the establishment of a Common Regional Market in SEE6. RCC has facilitated collaboration amongst SEE6 through initiatives and programs designed to encourage regional economic cooperation, stimulate job creation and promote growth and mobility.

With regard to citizen's mobility, the removal of barriers for professionals and the improvement of their access in the intra-region labor market were made part of the Southeast European Strategy 2020¹¹. The SEE Strategy 2020 was developed in 2013 by RCC with the aim to support job-creation and boost growth in the region¹².

Some of the main citizens mobility measures under this Strategy, aimed to: (i) facilitate free movement of experts, professionals and skilled workers in the region (Dimension A "Free Trade Area")¹³; (ii) standardize qualifications and remove obstacles to their recognition (Dimension D "Education and Competence")¹⁴ (iii) abolish labour market restrictions in the region (Dimension L "Employment")¹⁵; (iv) harmonize and mutually recognize health professionals' qualifications and monitor the human resources for health and their mobility, and establish a Free Trade area for health workers (Dimension M "Health")¹⁶.

Very importantly, the SEE Strategy 2020 acknowledged the lack of resources needed to achieve and / or monitor all the measures provided to achieve its goals, as well as the risk of duplicating tasks among different institutions and/or creating parallel structures. Therefore, it devised a distributed approach: each of the pillars of the Strategy and the respective dimensions would have the responsible national authorities and regional coordinators tasked with the implementation of measures and their monitoring. As such, CEFTA, Education Reform Initiative of Southeastern Europe (ERI SEE), South-Eastern Europe Health Network (SEEHN)¹⁷ and RCC itself, would be regional coordinators for the measures related to citizens mobility.

RCC brings citizen mobility into regional policy making with focus on qualifications and labor market restrictions. Acknowledging its resource limitations, it introduces a "distribution of tasks" amongst existing regional cooperation initiatives.

iii) Common Regional Market and Berlin Process: no common market without political will

Initiated in 2014 under the German leadership, the Berlin Process aimed to strengthen and deepen regional cooperation between SEE6, as key to economic growth and peace in the

¹¹ South East Strategy 2020, Regional Cooperation Council, accessed at: <https://www.rcc.int/pages/86/south-east-europe-2020-strategy>.

¹² SEE Strategy 2020, pg. 4.

¹³ SEE Strategy 2020, pg. 18.

¹⁴ SEE Strategy 2020, pg.20

¹⁵ SEE Strategy 2020, pg.31.

¹⁶ SEE Strategy 2020, pg.32.

¹⁷ <http://seehn.org/>

region. It also aimed to fill the vacuum created after the President of the Commission Jean-Claude Juncker declared in his political program in 2014 that “...no further enlargement will take place over the next five years¹⁸”.

The Berlin Process has served – amongst other - as a political fora for the SEE6 to commit and deliver towards a closer intra-regional integration, while supporting the alignment of the region with the EU *acquis*. In that regard, at the Berlin Process Summit (BPS) in Trieste in 2017, SEE6 Prime Ministers mandated the RCC to start working on a proposal for a common market¹⁹. Consequently, RCC developed the Multi-Annual Action Plan for a Regional Economic Area (MAP REA)²⁰.

Labor mobility was considered an important part of the establishment of this Regional Economic Area. It aimed to achieve it through: (i) removal of barriers for the mobility of researchers; (iii) removal of obstacles to recognition of professional qualifications; and, (iii) removal of obstacles to recognition of academic qualifications²¹. To achieve those objectives, circa 18 measures were designed. The national administration, RCC, and regional initiatives like CEFTA, ERI SEE were involved.

In the Sofia BPS on November 2020, the SEE6 doubled down and endorsed the establishment of a Common Regional Market, as a regional area of free movement of people, goods, services and capital, based on the EU standards. It equipped it with a four-year action plan, *i.e.* the Common Regional Action Plan 2021 - 2024 (CRM AP1)²².

With regards to citizen mobility, the CRM AP1 included the following priority areas: (i) adopt and implement a framework for mutual recognition of professional qualifications of 7 professions²³; (ii) adopt and implement a framework for mutual recognition and licenses in tourism, selected financial services and other key services sectors²⁴, the mobility of students, researchers, professors²⁵; (iii) support the mobility of individuals (only with IDs)²⁶,

¹⁸ https://commission.europa.eu/system/files/2019-09/juncker-political-guidelines-speech_en.pdf

¹⁹ Statement from the WB6 Prime Ministers Meeting, Sarajevo, March 16, 2017: <https://europeanwesternbalkans.com/2017/03/16/joint-statement-western-balkans-six-prime-ministers-meeting/>

²⁰ MAP REA was adopted on 12th July 2017 at the occasion of the Trieste Western Balkan Summit. Consolidated Multi-annual Action Plan for a Regional Economic Area in the Western Balkans Six. Accessed at: <https://www.rcc.int/docs/383/consolidated-multi-annual-action-plan-for-a-regional-economic-area-in-the-western-balkans-six>.

²¹ See MAP REA 2017 objectives: III.1.1, III.2.1 and III.3.1.

²² The Common Regional Market Action Plan 2021-2024. Accessed at: <https://www.rcc.int/docs/543/common-regional-market-action-plan>.

²³ CRM AP, Priority areas 3.5.

²⁴ CRM AP, Priority areas 3.2 and 3.3.

²⁵ CRM AP, Priority areas 5.1.

²⁶ CRM AP, Priority areas 5.2.

and; (iv) remove work permits for intra-company transfers and contractual service providers; (v) portability of social rights²⁷. Specific measures, with a determined timeline and responsible authority for each of these priority areas were foreseen in the CRM AP1.

Based on the measures provided in the CRM AP1, and on the political push provided by the Berlin Process, three mobility agreements were signed at the Berlin BPS on 3.11.2022²⁸. Another agreement recognition of professional qualifications was signed in the Berlin Process Summit held in Tirana on 16 October 2023. Again, on the 10th anniversary of the Berlin Process, on October 9th 2024 in Berlin the SEE6 reached another milestone in terms of regional economic cooperation by endorsing the Common Regional Action Plan 2025-2028²⁹ (CRM AP 2), and signing a fifth Agreement on Access to Higher Education and Admission to Study in the Western Balkans³⁰.

In addition to mobility agreements mentioned above, CRM 2025-2028 tackles the free movement of citizens in its Action Plan, under the human capital dimension and under the liberalization of services. Under the human capital dimension there are around 18 measures that aim to facilitate citizens mobility in the region. Some them are: acceleration of recognition of SEE6 academic qualifications at EU level; facilitation of access to higher education and study admission for students from SEE6 in EU public higher education institutions (HEIs); elimination of unnecessary licensing and harmonization of licensing requirements; establishment a Regional Social Security Network; initiatives to explore and discuss opportunities to align pension-related matters across the region including portability and equal treatment of pension benefits³¹.

Furthermore, under the free movement of services, specific measures aim to increase the mobility of service providers, such as the conclusion of an agreement on recognition based on professional experiences in crafts, commerce and industry in line with the EU Directive, or the establishment of professional card(s) for specific professions such as care nurses, physiotherapists, pharmacists, and real estate agents, etc³².

The implementation of the measures foreseen in the new CRM AP 2025-2028 would depend both on the driving force offered by the Berlin Process and on the commitments of SEE6 national governments The appointment of a German Special Representative in charge

²⁷ CRM AP, Priority areas 5.3.

²⁸ See further [CRM SEMAFOR](https://cdinstitute.eu/2024/12/14/crm-update-north-macedonia-2/) monitoring system at: <https://cdinstitute.eu/2024/12/14/crm-update-north-macedonia-2/>

²⁹ Berlin Process Summit, Declaration on Common Regional Market 2025-2028, Berlin, 9 October 2024: https://www.berlinprocess.de/uploads/documents/declaration-on-common-regional-market-2025-2028_1728992485.pdf

³⁰ Text of the agreement: https://www.berlinprocess.de/uploads/documents/agreement-on-admission-to-higher-education-in-the-western-balkans_1728992201.pdf

³¹ See CRM AP 2025-2028, measures under priority areas 4.1-4.4.

³² See CRM AP 2025-2028, measures under priority area 2.2.

of BP process provided the support structure necessary to muster political will and the follow up with the implementation phase.

iv) Open Balkans: closed?

The Open Balkan Initiative (OBI) was launched in Novi Sad on 10 October 2019 by the leaders of Albania, Serbia and North Macedonia. Their stated aim was to create an area of *full and free movement* of goods, services, people and capital: a *single market, without borders* between the Western Balkan Countries³³. Different Memorandum of Understanding (MoU), agreements and protocols were signed and ratified under this initiative (See Annex 1: List of OBI mobility agreements).

With regards to free movement of people, OBI's most noticeable achievement was the negotiation of two agreements and of two protocols that guarantee access to labour market. The Agreement on Conditions for Free Access to the Labour Market in the Western Balkans³⁴ and the Agreement on the Interconnection of Electronic Identification Schemes for Citizens of the Western Balkans³⁵ - signed by the three Western Balkan leaders in December 2021 - aimed to create an area where citizens in search of employment or to be employed could move freely within the territories of the contracting parties. This would be supported by fast, efficient online application processes with short approval deadlines, facilitated mobility, and access to job opportunities.

Two subsequent protocols - *i.e.* the First Protocol on the Implementation of the Agreement on Conditions for Free Access to the Labor Market³⁶ in the Western Balkans and the Protocol on Connecting the Electronic Identification Schemes of the Western Balkans Citizens³⁷ - were adopted on January 2024, bringing in further details on the implementation of the two OBI agreements.

³³ Ristovski, S. "Comparison of the Open Balkan and the Common Regional Market: What's new for the regional economic integration in the Western Balkans." (2022). See declarations of President of the Republic of Serbia, Prime Minister of the Republic of Albania and Prime Minister of the Republic North Macedonia, 'Joint Declaration on Implementing the EU Four Freedoms in the Western Balkans' <<https://api.pks.rs/storage/assets/deklaracija-tri-predsednika.pdf>>. President of the Republic of Serbia, Prime Minister of the Republic of Albania and Prime Minister of the Republic of North Macedonia, 'Joint Statement of the Leaders of "Open Balkan"' (29 July 2021) <https://vlada.mk/node/26063?Ln=en-g>

³⁴ Agreement on Conditions for Free Access to the Labour Market in the Western Balkans, 21.12.2021, accessed at: https://g2g.kryeministria.al/upload/publikime_pdf/AL-2023-12-07-121215.pdf

³⁵ Agreement on the Interconnection of Electronic Identification Schemes for Citizens of the Western Balkans, 21.12. 2021, accessed at: https://g2g.kryeministria.al/upload/publikime_pdf/AL-2023-12-07-115136.pdf

³⁶ Agreement on Conditions for Free Access to the Labour Market in the Western Balkans , 22.01.2024, accessed at: https://g2g.kryeministria.al/upload/publikime_pdf/AL-2024-02-06-102537.pdf

³⁷ Agreement on the Interconnection of Electronic Identification Schemes for Citizens of the Western Balkans, 22.01.2024, accessed at: https://g2g.kryeministria.al/upload/publikime_pdf/AL-2024-02-06-102205.pdf

OBI served also as catalyst for the conclusion of additional bilateral agreements between Albania and Serbia and Albania and North Macedonia on Authorized Economic Operators³⁸.

Another important OBI outcome was the agreement on Mutual Recognition of Academic Qualifications (June 2022) amongst Albania, North Macedonia and Serbia. The agreement outlines the commitment of the three countries to facilitate the recognition of diplomas and scientific degrees delivered by their respective higher education systems. It also aims to streamline and expedite the process of mutual recognition of diplomas and degrees in the higher education system, reducing both time and procedural barriers³⁹.

Although not yet reached the stage of an agreement, the three OBI signatories countries have signed in June 2022 a MoU on cooperation in the field of tourism in the Western Balkans⁴⁰, as well as a MoU on cooperation in the field of culture⁴¹ providing specific provision on facilitation of visa, stay and mobility of artists and of tourists.

In July 2023, Albanian Prime Minister declared that Open Balkan initiative “...had fulfilled its mission” and the the signatories “... *must now plunge headlong into the Berlin Process because we have this opportunity*”. Nevertheless no legal steps to denounce, nullify or otherwise legally close this initiative has been made public as yet.

v) Synergies and overlaps

The regional legal framework on citizens' mobility in SEE is a by-product of different initiatives; has been developed gradually; and has been actively supported by domestic and / or external (EU and EU Member States) forces. Sometimes an initiative would start within one regional organization and then move over and develop in junction or within another organization or regional forum.

The Berlin Process and OBI agreements on free movement of citizens and workers aim to enhance mobility within the region. The BP free movement with ID cards facilitates citizens and especially frontier workers, to move from one country to the other. Easier access to job market offered by the OBI agreements opens new opportunities to workers from the

³⁸ Council of Ministers Decision No. 131, date 02.03.2022 “On the approval of the Agreement on Mutual Recognition of Certificates of Authorized Economic Operators (AEOS) Between Albania and Serbia; Council of Ministers Decision No.132, date 02.03.2022 “On the approval of the Agreement on Mutual Recognition of Certificates of Authorized Economic Operators (AEOS) Between Albania and North Macedonia”

³⁹ Albania ratified this agreement in few months after its adoption (Council of Ministers Decision No. 644, date 05.10.2022)

⁴⁰ MoU on cooperation in the field of tourism in the Western Balkans, 8.06.2021, accessed at: https://g2g.kryeministria.al/upload/publikime_pdf/AL-2023-12-07-120849.pdf

⁴¹ MoU on cooperation in the field of culture, 08.06.2022, accessed at: https://g2g.kryeministria.al/upload/publikime_pdf/AL-2023-12-07-115707.pdf

region to explore, seek and work in the region. The agreements on recognition of diplomas, licenses or certificates enable to facilitate the integration of workers in the host member countries, and smoothen their integration into their own profession or field of expertise.

However, albeit being complementary some agreements overlap. Both BP Agreement on Recognition of Higher Education Qualifications and the OBI Agreement on Mutual Recognition of Academic Qualifications aim to facilitate the recognition of diplomas issued by national higher education's institutions centers. Both promote close cooperation between ENIC/NARIC centers and impose a requirement for higher education institutions (HEIs) to respond within 14 days to any request from ENIC/NARIC centers on verification of the authenticity of qualifications.

But while BP and OBI agreements share the same goal and similar provisions, they are governed by different institutional bodies and implemented through different procedures. This situation certainly leads to confusion regarding the obligations, enforcement mechanisms, and the hierarchy between both agreements in case of conflicts on their scope and during their implementation stage. The respective bylaws and / or implementation acts for the enforcement of each agreement have different dynamics and result in a more fragmented regulatory approach adversely affecting the recognition of higher academic qualifications.

Similar considerations can be noted also for the respective BP and OBI agreements on AEOs or the recognition of professional qualifications.

Open Balkans Initiative Agreements:

1. [Agreement on Conditions for Free Access to the Labour Market in the Western Balkans, December 2021](#)
2. [Agreement on the Interconnection of Electronic Identification Schemes for Citizens of the Western Balkans, December 2021](#)
3. First Protocol on the Implementation of the Agreement on Conditions for Free Access to the Labor Market in the Western Balkans, January 22, 2024.
4. Protocol on Connecting the Electronic Identification Schemes of the Western Balkans Citizens, January 22, 2024
5. Agreement on mutual recognition of academic qualifications, June 2022.
6. [Agreement on Mutual Recognition of Certificates of Authorized Economic Operators \(AEOS\) Between Albania and Serbia - December 2021.](#)
7. [Agreement on Mutual Recognition of Certificates of Authorized Economic Operators \(AEOS\) Between Albania and North Macedonia - December 2021.](#)

Berlin Process Agreements

1. Recognition of Higher Education Qualifications
2. Freedom of movement with ID cards
3. Agreement on the recognition of professional qualifications of doctors of medicine, doctors of dental medicine and architects in the Central European Free Trade Agreement context.
4. Agreement on the recognition of professional qualifications of nurses, veterinary surgeons, pharmacists, and midwives in the Central European Free Trade Agreement Context.
5. Agreement on Access to Higher Education and Admission to Higher Studies 2024.

OBI and BP agreements aim to facilitate the establishment of a common regional market in SEE6 by following on EU steps. However, from the normative point of view the OB and BP employ a totally different methodology. As a rule, BP agreements are built upon and incorporate the EU *acquis* - this is clearly stated in at least two of the agreements⁴².

⁴² For example, Annex I, II and III of the Agreement on the Recognition of professional qualifications of Nurses, Veterinary surgeons, Pharmacists, and Midwives states explicitly that all the provisions "are taken from the EU Directive 2005/36/EC on the recognition of professional qualifications as amended by EU Directive 2013/55/EU of the

By incorporating the EU *acquis*, the BP agreements accelerate the alignment of national legislation of all SEE6 - at the same time for the six of them - with the EU. This creates the premises for the same regulatory environment throughout the region, as well as avoiding further harmonisation during membership negotiations. OBI agreements tend to bring innovative and original instruments and mechanisms, all by stating that the implementation of the agreements must respect and / or adhere to the EU *acquis*. This normative solution does not automatically guarantee OBI agreements' compliance with EU *acquis*.

Fragmentation is the next challenge. Here we can bring the case of recognition of higher education diploma and qualifications. Starting in the **bilateral layer**, in 2010 the Government of Albania adopted and ratified a bilateral Agreement with the Government of the Republic of Kosovo to cooperate in the field of education and science⁴³. Among other provisions, the agreement foresaw that contracting parties engage in the "*facilitation of the procedures for the mutual recognition of diploma, titles, grades and professional activities, issued by the educational institutions officially recognized in the two countries...*" (Art. 12 of bilateral Agreement). The parties in also engaged to encourage the mobility of students in both directions by allowing interested candidates to apply directly to the host country's higher education institutions and by granting minimum 10 scholarships per year⁴⁴. The agreement validity was stipulated for 5 years, subject to automatic renewal unless one of the parties would withdraw with a prior notice of six months (Article 14). To implement this agreement, the Contracting Parties would establish Joint Working Groups, with the same number of representatives from each of them. A similar bilateral agreement in the field of education and science was signed later by Albania with North Macedonia.⁴⁵

On the **regional layer**, within the framework of Bologna process a Regional SEE Working Group on Recognition of Qualifications in the region was established in 2014. It aimed to enhance the recognition procedures amongst the higher education within the region⁴⁶. ERI SEE - based on the SEE Strategy 2020 - included in its annual action plan the removal of obstacles of recognition of qualifications.

European Parliament and of the Council of 20 November 2013." Similar references are also found in the annexes of the Agreement on the recognition of professional qualifications of doctors of medicine, doctors of dental medicine and architects in the Central European Free Trade Agreement context.

⁴³ Council of Ministers Decision No. 265, date 21.4.2010 "On the ratification of the Agreement between the Council of Ministers of the Republic of Albania and the Government of the Republic of Kosovo for the Cooperation in the field of Education and Science."

⁴⁴ Article 6 of the Albanian-Kosovo Agreement in the field of education and science.

⁴⁵ Council of Ministers Decision No. 781, date 22.9.2015 "For the approval of the Agreement between the Council of Ministers of the Republic of Albania and the Government of the Republic of Macedonia, for the cooperation in the field of Education and Science."

⁴⁶ Regional SEE Working Group on Recognition of Qualifications. Terms of Reference <http://regional-platform.unizg.hr/docs/Terms-of-Reference-Regional-Group-on-Recognition.pdf>

Staying on the same subject, in 2017 the MAP REA action plan contains measures facilitating the mutual recognition of diploma and academic qualifications. Section III.3.1 of MAP REA “Removal of obstacles to recognition of academic qualifications”, provided a comprehensive array of specific measures on this regard. They included the drafting, adoption and implementation procedures for a fast-track recognition; the establishment of an operational sub-regional network of ENIC/NARIC centres⁴⁷; the development of a joint online system to share information between ENIC/NARIC centres and Ministries in the region; strengthening the cooperation and exchange of information between Quality Assurance Agencies in the region, etc⁴⁸. In the period of 2018–2022 many meetings of ERI SEE-RCC Joint Regional Working Group on Recognition of Academic Qualifications took place.

These objectives were also included in the CRM AP 2021 - 2024 (see Art 5.1. of the Action Plan). CRM AP 2021-2024 continues to cover the recognition of academic qualification, extending its scope and instruments.

In parallel, on June 2022 the OBI Agreement on Mutual recognition of higher academic qualifications was signed among Albania, Serbia and North Macedonia. Only some months later - on November 2022 - the CRM Agreement on the Agreement Recognition of Higher Education Qualifications was adopted.

So, apart from the bilateral agreements among SEE6 countries on recognition of higher academic qualification, we have one full regional agreement signed by all six, and a partially regional one signed amongst three of them – all on the same topic.

Therefore, despite all the commendable initiatives to guarantee citizens mobility in the SEE6 region, the legal framework is fragmented, shaped by different organizations and initiatives, which sometimes overlap with each other. The existing bilateral, partly-regional and fully-regional agreements on free movement of workers and citizens’ mobility in the Western Balkans show the importance of this subject. However their overlap complicates their implementation, creates jurisdictional insecurity and complicates SEE6 citizen demarches.

I.2. Governance of Open Balkans Initiative and of Berlin Process mobility agreements

Methodological differences of BP and OBI mobility agreements are also noticeable at their governance and institutional level.

⁴⁷ **ENIC** (European Network of Information Centres) and **NARIC** (National Academic Recognition Information Centres in the European Union).

⁴⁸ MAP REA, cit. supra, pg. 14.

i) *OBI: out-of-the box model*

Each OBI mobility agreement describes its own responsible bodies, entrusted with specific duties necessary for the implementation of the agreement. Some agreements - but not all - have a two-tier structure: one body at the regional level established *ex-novo* to administer the good implementation of the agreement; and a second tier at the national level. It is not always clear to where the tier 1 bodies report to, but we assume, following the example of the first agreement that they report to the Contracting parties.

OBI Agreement on Conditions for Free Access to the Labour Market in the Western Balkans foresees the establishment of a Joint Committee tasked with organizing, coordinating and controlling activities related to the implementation of this agreement (Article 11). The Joint Committee is composed of at least 5 representatives from each party (Art. 12). It shall report to Contracting parties once in six months and will gather at least once a year (Art. 13). This regional tier 1 body is responsible to adopt its own rules of procedures. At the national level, the implementation of this agreement is assigned to specific national structures. In the case of Albania, the Directory of Migration in the Ministry of Interior is in charge for the proper implementation of this agreement and its protocols.

OBI Agreement on the Interconnection of Electronic Identification Schemes for Citizens of the Western Balkans, does not have any specific provision for a regional body (tier 1) responsible for the coordination of the agreement, but relies on exchange of information between competent authorities and contact points (Art. 5 of the Agreement). These officials will gather at least once in three months and report to the Contracting authorities in a written form.

The First Protocol on the Implementation of the OBI Agreement on Conditions for Free Access to the Labor Market in the Western Balkans, provides for the establishment of a Joint Working Group, which shall *"discuss and resolve all the legal and technical impediments arising from the implementation of the Agreement and this Protocol"*⁴⁹. This Protocol foresees that the Contracting Parties may designate as many people as necessary as members of the Joint Working Group, however they shall appoint one person to lead or Co-lead the Joint Working Group and which will serve as contact point⁵⁰. A similar tier 1 coordination is also foreseen for the OBI Protocol on Connecting the Electronic Identification Schemes of the Western Balkans Citizens (see Art. 3).

But again, the coordination layer is absent in the OBI Agreement on Mutual Recognition of Academic Qualifications, where Art. 2 foresees only the specific domestic institutions responsible for the implementation of the Agreement⁵¹.

⁴⁹ Article 10, paragraph 1

⁵⁰ Article 10, paragraph 2 and 3

⁵¹ More specifically, Article 2 provides that: *"The institution responsible in the Republic of Albania for the recognition of diplomas obtained abroad (except the scientific degree "Doctor") is the Educational Services' Center (ESC) under the Ministry of Education and Sports of the Republic of Albania. The institution responsible for the recognition in the*

In OBI Agreement on Mutual Recognition of Certificates of AEOs, no tier 1 body is provided for coordination / implementation, but only the responsible national institutions (see Art. 1).

Consequently, it is not clear if there is a regional coordination between these bodies that deals on cross-section issues. It also remains to be verified if the same people that sit on the tier 1 bodies are also the ones that fill the tier 2 level positions (i.e. are in charge for the implementation of different agreements).

ii) Berlin Process: grounded on the acquis

On the other hand, each of the Berlin Process mobility agreements has a two-tier administration structure:

- a. one body at the regional level established *ex novo* to administer the good implementation of the agreement, and;
- b. a second tier at the national level, supplemented by a regional coordination.

In a marked difference with the OBI mobility agreements logic, a special role is provided for existing regional cooperation bodies such as CEFTA or RCC during implementation. For example, the agreement on the Recognition of Higher Education Qualifications provides for the establishment of a Joint Commission on the Recognition of Higher Education Qualification (Art 6). This Joint Commission will be responsible for the organization, coordination and monitoring of the activities under this agreement and will gather at least twice a year. It will be comprised of three representatives from each contracting parties. Apart of this *ex-novo* body, Article 7 of the Agreement provides that the *"work of the Joint Commission will be coordinated by the RCC and ERI SEE."*

The BP Agreement on the Recognition of Professional Qualifications of Doctors of Medicine, Doctors of Dental Medicine and Architects, provides for the establishment of Contact points (art.15), and of a Joint Working Group on the Recognition of Professional Qualifications (Art.16). It also bestows RCC and CEFTA secretariat with transparency tasks by putting them in charge of keeping an open access database of the regulated professions (Art.17).

Similarly, BP Agreement on the Recognition of Professional Qualifications of Nurses, Veterinary Surgeons, Pharmacists, and Midwives provides for the establishment of a joint

Republic of Albania of the scientific degree "Doctor" obtained abroad is the Ministry of Education and Sports. The technical secretariat for this service is located near the Center for Educational Services. The institution responsible for the recognition in the Republic of Serbia is Qualifications Agency (ENIC/NARIC Centre) for professional recognition (for the purpose of employment) and accredited higher education institutions in the Republic of Serbia for the academic recognition (for the purpose of continuing studies). The institution responsible for the recognition in the Republic of North Macedonia is Ministry of Education and Science - Unit for recognition of foreign diploma qualification".

Working Group “... to facilitate and supervise the implementation and application of this agreement” (Article (16(1)). It also tasks CEFTA and RCC to oversee transparency obligations through the establishment of an open-source database on regulated professions (art. 17).

BP Agreement on Freedom of Movement with ID cards provides for the establishment of a Joint Commission “tasked with organising, coordinating and monitoring activities related to the implementation and application of this Agreement” (Art. 8). The Joint Commission shall be composed by two representatives from each contracting party, gather at least once a year and report every six months to the Parties. Article 9 of the agreement, again foresees the regional coordination layer by providing that “the work of the Commission will be coordinated by the Regional Cooperation Council”.

So, BP agreements contain a very clear regional cooperation component during the implementation either through a tiers 1 structure stipulated in the agreement, or by bestowing implementation tasks to CEFTA and RCC as per their profile and agency.

In conclusion, a common feature of both BP and OBI regional mobility agreements is that they provide for the establishment of technical bodies or working groups to advance the objectives of the agreements, take care of implementation, or monitor its application. These technical bodies and working groups would be composed by officials of the public administration of each of the contracting countries. They are not permanent, but gather periodically to adopt bylaws or take measures for the proper implementation of the agreement.

BP agreements however, all have a regional coordination layer. Moreover, in every BP agreement special implementation tasks are assigned to RCC and CEFTA secretariat(s). Having RCC and CEFTA present in each of the BP agreements, apart of own joint technical bodies as established in each agreement, enhances regional coordination, centralizes process oversight, and helps identify potential fragmentation at an earlier stage. However, this is not a guaranteed solution, since delays in communication between bodies, lack of a hierarchical administration and the administration of multiple initiatives simultaneously, can still result in poor regional coordination. In the case of CEFTA, the internal governance blockages where the most egregious one is the everlasting appointment of the Director of the CEFTA Secretariat⁵², renders useless the logic of tier 1 coordination layer.

Up to date it is almost impossible to find online the bylaws, meetings or decisions related to or produced BP or OBI technical bodies, so it is impossible to track how this cooperation and coordination has actually evolved. Thus, in addition to fragmentation in different layers of governance, and of a mosaic of working groups, the lack of transparency - on the bylaws adopted or on the appointment of technical bodies’ members - further exacerbates their implementation challenges. Until the technical bodies and / or the national institutions will produce the respective bylaws, SEE6 citizens will not be able to benefit from the recognition

⁵² Opened since 2023, CEFTA has not closed yet the selection and recruitment of its Director

of their titles and diplomas, from access to work or free travels, and will find it hard to seek redress for their rights or hold authorities accountable under these agreements.

In the absence of some concrete measures and of respective enforcing mechanisms at the level of the agreements, there is a risk to diminish their practical impact, leaving their implementation unclear or not effective.

As we will see latter, the “soft” nature of SEE6 regional agreements does not equip the tier 1 regional coordinating structure with executive agency. As such it conditions the enforcement component at the supra-national level, leaving it at the good will of signatory parties.

Conclusions

There are different regional initiatives aiming to improve the free movement of workers and citizens’ mobility in the Western Balkans, resulting in a fragmented legal regional framework.

The existing bilateral, partly-regional and fully-regional agreements on free movement of workers and citizens’ mobility in the Western Balkans show the importance of this subject. However, their overlap complicates implementation, creates jurisdictional insecurity and complicates SEE6 citizen demarches.

OB and BP employ different normative techniques. BP agreements incorporate the EU *acquis* and as such accelerate the alignment of the legislation of all SEE6, at the same time with the EU. This creates the premises for a unified regulatory environment for citizens throughout the region. On the other hand, the OBI agreements, tends to bring in original instruments and mechanisms, while stating that the implementation of the agreements must respect or adhere to the EU *acquis*. This normative solution does not automatically guarantee their compliance with EU *acquis*.

The institutional framework in charge for the oversight and implementation of regional agreements is fragmented; lacks a communication/coordination of cross-cutting issues; presents problems of transparency (no publication of JWG decisions), and lacks a hierarchical and central coordination at the technical level.

OBI MoUs or Protocols do not have a harmonized governance structure – some of them miss the supra-national coordination level. All Berlin Process mobility agreements have a regional coordination layer. Moreover, all Berlin Process mobility agreements task regional cooperation structures such as CEFTA or RCC with implementation duties as per their profile and / or agency.

Even where they exist, regional coordination / supra-national structures of both OBI and BP are not endowed with executive powers, leaving all decision-making agency to the national levels.

At this stage, the Berlin Process takes the right approach by grounding SEE6 free movement of people in the EU acquis. However, by lacking an enforcement mechanism at the regional level, its agreements rely entirely on the goodwill of signatory parties for their ratification, approval, adoption, and implementation — ultimately making the progress dependent on signatory parties' political will.

II. SEE6 LEGAL FRAMEWORK vs. EU ACQUIS ON FREE MOVEMENT OF WORKERS.

II.1. Direct applicability feature of EU *acquis*

Free movement of citizens in EU is one of the most successful achievements of the EU Single Market. The opportunity for EU citizens to work and establish a business in another EU Member State is enshrined in the fundamental EU treaties. Initially, the right of free movement was extended to workers (Art. 45 TFEU), natural persons establishing an economic activity as self-employed (Art. 49 TFEU) or people offering services (Article 56 TFEU). The aim was to remove barriers in the free movement of workers and allow the supply of workforce to move where there was a demand, and adjust the market failures caused by specialization. The Treaty prohibits discrimination based on nationality in terms of access to work, of working conditions of workers, as well as on equal treatment of self-employed persons who move or reside in another Member State to establish an economic activity.

To implement the Treaty provisions, the EU has introduced secondary legislation composed by Directives and Regulations. Regulation 3/58, established rules on social security coordination rules, covering social security benefits and access to healthcare; Directive 68/360 regulated the rights of entry and residence; Regulation 1612/68 governed access, conditions of employment and social rights; Regulation 1251/70 provided special provisions on the rights of the workers and their family members to remain in the territory of the host member state in the event of retirement, permanent capacity to work, etc⁵³; Regulation 1612/68 elaborated the principle of equal treatment and many substantive rights for workers. This regulation guaranteed the right to reside in a host member states for the purpose to pursuit work or occupation not only to the workers, but also his/her family members, irrespective of their nationality. A special status was granted to the workers' children and their integration in the education life of the host member states. It stipulates that "*...the worker enjoy the same social and tax advantages as national workers, and all the rights and benefits accorded to national workers in matters of housing*".

To facilitate the free movement of the workforce within the Union, further secondary legislation was adopted aiming to harmonize the rules concerning regulated professions and to ensure the mutual recognition of qualifications and diplomas between Member States⁵⁴.

⁵³ Búrca, Gráinne de, and Paul Craig. "EU Law: Text, Cases and Materials." *Edition, Great Britain* (2003). pg704-762, Steiner, Josephine, and Lorna Woods. "Textbook on EC Law [2003]." *London: Blackstone*. p.300-334.

⁵⁴ Council Resolution of 6 June 1974 on the mutual recognition of diplomas, certificates and other evidence of formal qualifications; Directive 2003/103/EC of the European Parliament and of the Council of 17 November 2003 amending Directive 2001/25/EC on the minimum level of training of seafarers; Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications; Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market;

The Directives of 1970s and consecutive directives on equal treatment, health and safety in the workplace; on transparent working conditions and on consultation rights, provided the regulatory framework for workers to work and reside freely in the host member state. In the 90s, the EC adopted three other directives conferring a general right of movement on the retired, students and those with sufficient resources and medical insurance⁵⁵. The Maastricht Treaty in 1992, established the Union citizenship, a special status with rights and obligations.

The different EU regulations and directives during 70s and 90s were grouped together in an umbrella directive for EU citizens, i.e. the Directive 2004/38. This directive recognized the right of every citizen of the Union to travel freely to another MS for a short period of up to three months, without having to show any document other than his valid ID card or passport. For periods over three months stay, the EU citizen had to prove that he/she had sufficient resources and a comprehensive health insurance.

Union's citizens who have legally stayed for a continuous and uninterrupted period of five years, have the right of a permanent residence. The field of benefits of union citizens when they work and reside in another member state is broad, covering accidents at work, unemployment and family allowance, sickness or maternity leave, ensuring as such the portability of social security.

Very importantly, the Court of Justice of EU has played a crucial role in broadly interpreting the rights of workers and citizens under the EU law, under the principles of solidarity and equal treatment. Considered as an engine of EU integration or criticized for judicial activism, the Court of EU has expanded the boundaries of rights as enshrined in the Treaties or provided in Directive 2004/38, sometimes beyond the national labor laws of the Member States. The preliminary ruling procedure has been used as a mechanism for workers and citizens to challenge national laws, which were a barrier of free movement, before the national courts and European Courts.

II.2. SEE6: no regional legal framework, yet

SEE6 legal and institutional framework governing workers mobility is still underdeveloped compared with the early years of the EU acquis on free movement of workers. Most importantly, it lacks the normative and institutional setting to ensure that regional agreements on free movement of workers in the region are directly applicable in the signatory countries.

i) Between political commitments, direct applicability and indirect barriers

At the EU level, Article 45 of the Treaty of the Functioning of EU (TFEU) provides prohibition of discrimination on grounds of nationality, not only on employment, but also on

⁵⁵ Directives 90/364/EEC, 90/365/EEC and 90/366/EEC

remuneration and other conditions of work and employment. Article 49 TFEU ensures that every citizen of and EU Member State shall pursue activities as self-employed persons and to set up and manage undertakings, under the same conditions laid down for its own nationals by the law of the host country. Similarly, for citizens who would provide services in another member state, article 59 TFEU require the abolition of restrictions to provide services.

Thus, the wordings of the Treaty provisions were not limited to the facilitation of procedures, or timelines, but offer directly applicable access and equal treatment of citizens in the host Member State, which they can be enforced before national courts. To facilitate the free movement of the workforce within the Union, further secondary legislation was adopted aiming to harmonize the rules concerning regulated professions and to ensure the mutual recognition of qualifications and diplomas between Member States.⁵⁶

OBI or BP Agreements do not provide direct application effect on citizens' mobility. Second, most of the agreements are framed as commitments rather than regulations that provide citizens with enforceable rights. Some of them are broadly framed as political commitments to advance citizens mobility in the respective field, rather than legal texts with implementation procedures or timelines, let alone the enforcement mechanisms.

The implementation of these agreements largely rests on the commitment and capacity of individual signatory countries, making their effectiveness and impact on individuals in the region uncertain. The extent to which they will benefit professionals and citizens, depends on how consistently and efficiently each country ratifies / adopts / approves them; issues the by-laws; sets up the needed institutional structures; enforces the agreed-upon measures; and, removes bureaucratic obstacles.

As a positive cases where the mobility agreements provides specific rights for citizens is the BP Agreement on Free Movement with ID cards; the Agreement on Recognition of Qualifications for Doctors of medicine, doctors of dental medicine and Architects; and the Agreement on the recognition of professional qualifications of nurses, veterinary surgeons, pharmacists, and midwives in the CEFTA context – all three do have provisions that directly confer rights to natural persons. These provisions resemble to the EU law provisions on free movement of citizens or freedom of establishment⁵⁷.

⁵⁶ Council Resolution of 6 June 1974 on the mutual recognition of diplomas, certificates and other evidence of formal qualifications; Directive 2003/103/EC of the European Parliament and of the Council of 17 November 2003 amending Directive 2001/25/EC on the minimum level of training of seafarers; Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications; Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market;

⁵⁷ Example: *"The recognition of professional qualifications by the receiving Party shall allow natural persons to gain access in that Party to the same profession as that for which they are qualified in the issuing Party and to pursue it in the receiving Party under no less favorable conditions as its natural persons."* Article 4, Agreement on the

However, even in those cases it is not clear if SEE6 citizens of the contracting countries can use these provisions to enforce the rights provided before the national courts. Much will depend on the legal effect that these agreements have in the internal legal order of each of the countries. Since SEE6 have different legal orders and the hierarchy and applicability of regional / international agreements is different, this might lead to different implementation of the agreements.

Within the EU, the direct effect and supremacy of the EU law makes the provisions of the EU Treaty and respective secondary legislation on free movement of citizens enforceable before the Member States courts. It remains questionable if OBI or BP mobility agreement could serve as a legal basis to seek redress against a SEE6 contracting member state, in case they fail to implement the agreement properly. Both OBI and BP agreements lack any enforcement mechanism and therefore there is a missing link between the political commitment of signatory country representatives and the citizens' rights as applied on the ground.

Secondly, neither OBI nor BP normative frameworks cover indirect barriers to free movement. There is not yet any regional agreement on portability of social rights; tax benefits; social housing; or special rights for the family members. The facilitation of administrative procedures, the automatic recognition of titles and diplomas, or even the right to stay up to two years in the host country does not in itself guarantee free movement of workers. There are many direct and indirect barriers that make the free movement of workers and professionals difficult, or less attractive. The lack of social rights portability or unequal treatment for the workers and family members amount as barriers for free movement.

ii) The risk for a non-uniform application of SEE6 regional mobility agreements

At the European Union level, discrepancies arising by the differences among the legal systems of the member states, are superseded by the European Court of Justice. It is ECJ that ensures the uniform application and interpretation of EU norms across the Union. The European Commission as a supranational organization oversees the implementation of the Union law and is the guardian of the Treaties. Thus, in EU there are supranational institutions that are vested with the necessary agency to act and serve as integration agents by removing direct and indirect barriers posed by member states.

In the SEE6 regional cooperation scene this institutional setup does not exist. Structures like RCC or CEFTA still rely on the consensus of the signatory countries and are not able to assertively act upon any measure from any party that disturbs the Common Regional Market or - specifically in our case - the free movement of workers.

recognition of professional qualifications of nurses, veterinary surgeons, pharmacists, and midwives in the Central European Free Trade Agreement Context

In addition, the technical bodies (such as Joint Working Groups / Committees / else) that are responsible for the monitoring or proper implementation of the agreement are not independent from the Member States and from their decision-making. Their members are appointees from national administrations. Furthermore their workings are shrouded in secrecy – even their own rules of procedures remain secret and unpublished.

Finally, in EU specific administrative arrangements have been set up to facilitate and continuously monitor and foster the free movement of workers and freedom of establishment. Specially-established EU-based bodies provide targeted services such the European Network of Employment Services (EURES)⁵⁸ or European System of Integrated Social Protection Statistics (ESSPROS)⁵⁹. Specific regulation has been adopted on the creation of an European Health Insurance Card⁶⁰. The establishment of a first and second general system for the recognition of professional education and training⁶¹ and other systems of coordination have been put in place in place to monitor and coordinate the removal of obstacles on the free movement of workers and self-employed⁶².

In marked contrast, in SEE6, and as observed in section 1 of this paper, the institutional framework of coordination and monitoring of OBI and BP agreements is very fragmented. To overlapping agreements, are added regional structures who monitor or regulate them

⁵⁸ Regulation (EU) 2016/589 of the European Parliament and of the Council of 13 April 2016 on a European network of employment services (EURES), workers' access to mobility services and the further integration of labour markets, and amending Regulations (EU) No 492/2011 and (EU) No 1296/2013 Council Directive 82/76/EEC of 26 January 1982 amending Directive 75/362/EEC concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in medicine, including measures to facilitate effective exercise of the right of establishment and freedom to provide services and Directive 75/363/EEC concerning the coordination of provisions laid down by law, regulation or administrative action in respect of activities of doctors amended by 31989L0594 abolition Article 15 from 08/11/1989

⁵⁹ Regulation (EC) No 458/2007 of the European Parliament and of the Council of 25 April 2007 on the European system of integrated social protection statistics (ESSPROS).

⁶⁰ 2004/777/EC: Decision No 197 of 23 March 2004 on the transitional periods for the introduction of the European Health Insurance Card in accordance with Article 5 of Decision No 191.

⁶¹ Commission Directive 95/43/EC of 20 July 1995 to Council Directive 92/51/EEC on a second general system for the recognition of professional education and training to supplement Directive 89/48/EEC.

⁶² Decision No 85 of 22 February 1973 concerning the interpretation of Article 57 (1) of Regulation (EEC) No 1408/71 and of Article 67 (3) of Regulation (EEC) No 574/72 relating to the determination of the applicable legislation and the institution competent for the award of benefits in respect of occupational diseases

Chap 3 2007/172/EC: Commission Decision of 19 March 2007 setting up the group of coordinators for the recognition of professional qualifications ; 2009/767/EC: Commission Decision of 16 October 2009 setting out measures facilitating the use of procedures by electronic means through the points of single contact under Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market (notified under document C(2009) 7806) (Text with EEA relevance); 2010/425/EU: Commission Decision of 28 July 2010 amending Decision 2009/767/EC as regards the establishment, maintenance and publication of trusted lists of certification service providers supervised/accredited by Member States (notified under document C(2010) 5063)

at technical level, but without enforcement power or coordination mechanisms. This fragmentation both in the regulatory and institutional level hampers the uniform application of mobility agreements in the region.

In this regard, it is the EU *acquis* and the coordination mechanisms of respective EU bodies, in addition to the supranational role of the Commission and of the European Court of Justice, that provide a tested and proved regulatory framework that enables free movement of people. Anything less than this approach may not provide the expected results in creating an internal market in the Western Balkans where citizens can move and work freely.

Conclusions

SEE6 legal and institutional framework covering workers mobility is still underdeveloped compared with the early years of EU *acquis* on free movement of workers. None of SEE6 bilateral, partly-regional or fully-regional agreements on workers' mobility produce direct effects. As such their implementation and impact escapes the competencies of regional coordination bodies.

Some of regional mobility agreements are framed as political commitments rather than legal texts which guarantee free movement of workers. Moreover, SEE6 mobility agreements are focused on the facilitation of administrative procedures, applications or recognition of qualifications, without including the indirect barriers affecting free movement of workers, such as social rights portability, equal access to housing social benefits, tax, or the status of the workers' family members.

The technical bodies (such as Joint Working Groups / Committees / else) that are responsible for the monitoring or proper implementation of the regional mobility agreement are not independent from the signatory countries.

The lack of supranational / regional bodies in charge of overseeing the proper implementation of the agreements, the different legal status of the regional mobility agreements in each of the SEE6, or the lack of proper coordination among different technical bodies, risks the non uniform application of the agreements.

Although Berlin Process mobility agreements are based on the EU *acquis*, they lack the necessary institutional framework and normative agency needed to ensure the direct effect of their provisions on free movement of workers, exercise effective monitoring; or implement enforcement measures.

ANNEXES

ANNEX 1: Open Balkans Mobility Agreements

Agreements	Albanian laws and bylaws which ratified the agreements.	National Structures responsible for the implementation of the agreement	Monitoring/governing bodies at the regional level.
<p>Agreement on Conditions for Free Access to the Labour Market in the Western Balkans. December 2021</p>	<p>Council of Ministers Decision No.70, date 2.2.2022 “ On the approval of the Agreement on Conditions for Free Access to the Labour Market in the Western Balkans”</p>	<p>Ministry of Interior, AKSHI</p>	<p>Joint Committee, of at least 5 representatives of each party (art.11 and 12)</p> <p>Report to CP once in 6 months and gathers at least once a year (Art.13)</p>
<p>Agreement on the Interconnection of Electronic Identification Schemes for Citizens of the Western Balkans, December 2021</p>	<p>Council of Ministers Decsion No.69, date 2.2.2022, “ On the approval of the Agreement on the Interconnection of Electronic Identification Schemes for Citizens of the Western Balkans.”</p>	<p>Ministry of Interior, AKSHI</p>	<p>Contact points, Art. 5 of the agreement.</p>
<p>First Protocol on the Implementation of the Agreement on Conditions for Free Access to the Labor Market in the Western Balkans, January 22, 2024.</p>	<p>Council of Ministers Decision No.382, date 12.06.2024 “ On the approval of the First Protocol on the Implementation of the Agreement on Conditions for Free Access to the Labor Market in the Western Balkans”</p>	<p>Ministry of Interior, AKSHI</p>	<p>Joint Working Group (one representative of each contracting party as a contact point/ lead/co-lead and “as many people necessary” Article 10</p>
<p>Protocol on Connecting the Electronic Identification Schemes of the Western Balkans</p>	<p>Council of Ministers Decision No. 272, date 02.05.2024 “ On the approval of the</p>	<p>Ministry of Interior, AKSHI</p>	<p>Joint working group (one representative of each contracting party as contact point and in</p>

<p>Citizens, January 22, 2024</p>	<p>Protocol on Connecting the Electronic Identification Schemes of the Western Balkans Citizens."</p>		<p>the JWG as "many as people as necessary). Art. 3</p>
<ul style="list-style-type: none"> • Agreement on Mutual Recognition of Certificates of Authorized Economic Operators (AEOS) Between Albania and Serbia - December 2021' • Agreement on Mutual Recognition of Certificates of Authorized Economic Operators (AEOS) Between Albania and North Macedonia - December 2021 	<p>Council of Ministers Decision No. 131, date 02.03.2022 "On the approval of the Agreement on Mutual Recognition of Certificates of Authorized Economic Operators (AEOS) Between Albania and Serbia"</p> <p>Council of Ministers Decision No.132, date 02.03.2022 " On the approval of the Agreement on Mutual Recognition of Certificates of Authorized Economic Operators (AEOS) Between Albania and North Macedonia"</p>	<p>Ministry of Economy and Finance- General Directory of Customs in Albania and Ministry of Finance- Custom's Administration in Serbia (Art.1)</p> <p>Ministry of Economy and Finance- General Directory of Customs in Albania and Ministry of Finance- Custom's Administration in North Macedonia(Art.1)</p>	<p>-</p>
<p>Agreement on mutual recognition of academic qualifications, June 2022.</p>	<p>Council of Ministers Decision No. 644, date 05.10.2022 " On approval of Agreement on mutual recognition of academic qualifications of diploma, scientific grades issued by the Higher Education Institutions and other authorized institutions in the</p>	<p>Article 2 The institution responsible in the Republic of Albania for the recognition of diplomas obtained abroad (except the scientific degree "Doctor") is the Educational Services' Center (ESC) under the Ministry of Education and Sports. The institution responsible for the recognition of the scientific degree "Doctor" obtained abroad is the Ministry of Education and Sports. The</p>	<p>-</p>

	Western Balkans"	<p>technical secretariat for this service is located near the Center for Educational Services.</p> <p>The institution responsible for the recognition in the Republic of Serbia is Qualifications Agency (ENIC/NARIC Centre) for professional recognition (for the purpose of employment) and accredited higher education institutions in the Republic of Serbia for the academic recognition (for the purpose of continuing studies).</p> <p>The institution responsible for the recognition in the Republic of North Macedonia is Ministry of Education and Science - Unit for recognition of foreign diploma qualification.</p>	
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ANNEX 2: Berlin Process Mobility Agreements

Agreements:	Albanian laws/bylaws which ratified the agreements.	Institutions responsible	Monitoring/governing bodies at the regional level.
Recognition of Higher Education Qualifications	Council of Ministers Decision No.18, date 18.01.2023 "On approval of the Agreement on the Recognition of Higher Education Qualifications in the Western Balkans."	ENIC/NARIC	Joint Commission on the Recognition of Higher Education Qualification (art 6) Joint Commission coordination with RCC and ERI SEE (Art.7)
Freedom of movement with ID cards	Council of Ministers Decision No. 55, date 1.2.2023 "On approval of the agreement on freedom of movement with ID cards in the Western Balkans."	Ministry of Interior	A joint Commission (Art.8) RCC will have a coordinating role (Art.9)
Agreement on the recognition of professional qualifications of doctors of medicine, doctors of dental medicine and architects in the Central European Free Trade Agreement context , 3.11.2022	Council of Ministers Decision No. 35, date 27.1.2023, "On approval of the Agreement on the recognition of professional qualifications of doctors of medicine, doctors of dental medicine and architects in the Central European Free Trade Agreement context	Contact points (art.15) Ministry of Education	Joint Working Group on the Recognition of Professional Qualifications (Art.16) RCC and CEFTA secretariat in charge to keep an open access database (Art.17)
Agreement on the recognition of professional qualifications of nurses, veterinary surgeons, pharmacists, and midwives in the Central European	Law No. 24/2024, date 21.3.2024, "On ratification of the Agreement on the recognition of professional qualifications of nurses, veterinary surgeons, pharmacists, and midwives in the Central	Ministry of Education	Art. 2(3) Joint Working Group on Recognition of Professional Qualifications the laws, regulations and administrative provisions, which it adopts with regard to the issuing of evidence of formal qualifications in the professions covered by this Agreement.

<p>Free Trade Agreement Context.</p>	<p>European Free Trade Agreement Context.”</p>		<p>Art. 17 The CEFTA and RCC Secretariats shall set up and maintain a publicly available database of regulated professions, including a general description of activities covered by each profession</p>
<p>Agreement on Access to Higher Education and Admission to Higher Studies 2024</p>			

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