

Poglavlje 6:

## UNFREE LABOR, FROM HANOI TO BELGRADE: CHINESE INVESTMENT AND LABOR DISPATCH IN THE CASE OF 750 WORKERS FROM VIETNAM

**Abstract:** *This article represents the first attempt to tackle China's labor dispatch in Serbia. It shows how its institutionalization in both Serbia and China followed increasing Sino-Serbian relations and Chinese investment. It then traces the increase of dispatching practices to November 2018 to a single company – Europe's first Chinese manufacturer – called 'Linglong'. By cross-referencing various data sources, including legal regulations, investigative journals, and labor data obtained from the Serbian National Employment Agency and the company itself, the article explained the history and dual dynamics of increased investment and increased influx of workers. The paper explores labor dispatch in more detail through two cases of Chinese and Vietnamese workers in Serbia. Finally, it identifies where further research is needed in the history and the legal regulation of unfree labor.*

**Keywords:** *China, foreign direct investments, labor dispatch, Linglong, Vietnam, Workers.*

### INTRODUCTION

Recently, a rare uprising of Vietnamese workers employed in Serbia's major Chinese investment project occurred. The case involved 750 Vietnamese dispatched laborers working at the construction site of Linglong, the first Chinese tire manufacturer in Europe, in the northern Serbian working-class city of Zrenjanin. It also involved untransparent global labor and value chains that gained international attention when some 500 (out of 750) Vietnamese construction workers went on strike over appalling conditions without heating, electricity, food or clean water. The case was widely reported, and several MEPs condemned the workers' conditions, which German MEP Viola von Cramon described as "modern slavery." Also, on December

15 2021, the European Parliament adopted Resolution 2021/3020 (RSP) on forced labour in Serbia, focusing on Linglong's factory.

However, the case was not an isolated incident, given that another case of a dozen Chinese dispatched workers who worked in one of the world's largest copper and gold mines in the city of Bor, the majority of which have been owned by the Chinese company Zijin since 2018. The Chinese dispatched workers' protest occurred several months before the Vietnamese protests. Both cases occurred relatively recently (in January and November 2021, respectively) and involved strikes against poor living conditions in two significant Chinese investments in Serbia. A third commonality is that they involved dispatched laborers in Chinese companies. Yet, despite the widespread media coverage, little to no attention has been paid to this very aspect: how their experiences relate to labor dispatch, that is, how they came to Serbia in the first place.

But before we begin, we must note that despite the clear focus on "modern slavery" shared by the media in Serbia and abroad, there is virtually no research that addresses this very question, either empirically or in the field of the history of unfree labor. While theoretical accounts of forced labor in Europe have a strong history (cf. Matković 2018b) and agency labor in general is a relatively well-researched phenomenon, the dispatching of Chinese workers abroad is in fact a rare topic in its own right. Apart from the literature quoted in this article, it is almost absent even from recent histories and debates surrounding the topic of unfree labor (see Linden, M. & Rodríguez García, M., 2014; Lewis, H., Dwyer, P., Hodgkinson, S. & Waite, L., 2014, 67, who only mention "the specter of confinement" reappearing in sweatshops in India, Bangladesh and China "where there is evidence of workers being locked in factories for up to 19 hours a day"). It is completely absent from those theorizing new perspectives on contemporary forms of unfree labor (Lebaron, G., 2015; Devito, C., Schiel, J. & Rossum, M., 2020). Ultimately, there are no articles on the topic of Chinese labor dispatch in Serbia in particular or its broader implications for research on unfree labor, which is understandable given its recent nature<sup>1</sup>. Hence, nothing in terms of research exists.

Therefore, this article aims to provide empirical material in order to "get to the basics" before calling for further research of such a controversial topic. The remainder of the article will first clarify the origins and significance of Chinese labor dispatch.

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<sup>1</sup> The inflow of Chinese migrants occurred after the breakup of Yugoslavia and its Commission for economic history, hence explaining why there was no one to document such economic changes in a systematic study (Cvetković & Matković, 2020, 219).

The article will then place it in the context of increasingly close Sino-Serbian relations and Chinese investment, before ultimately looking at the case of Vietnamese workers directly. It will do so by analyzing the biggest driver of increased labor inflows into Serbia, namely the the previously mentioned tire factory in the city of Zrenjanin – Europe’s first Chinese tire manufacturer and the largest Chinese investment in Serbia.

## THE HISTORY OF CHINA’S LABOR DISPATCH

So, what exactly is labor dispatch in China? Roughly speaking, “The term ‘temporary employment’ [TAW] is commonly used in the West, while the term ‘labor dispatch’ is more common in China, Japan and Taiwan.” (Zhang, 2015, 55). The International Labor Organization (ILO) defines TAW as “employment in which the worker is employed by the temporary employment agency and then loaned out to the user enterprise (and under its supervision) to perform their work. There’s no employment relationship between the temporary worker and the user enterprise. However, the user enterprise may have legal obligations towards the temporary worker, particularly concerning health and safety” (ILO, 2009, 1). Hence, the main feature of this type of work is the separation of the hiring and use of labor between a Chinese company, a labor agency, and a foreign employer (which is why some use the terms “triangular relationship” and “labor leasing” instead of “labor dispatching” to refer to the same thing. Hence, they’re sometimes used interchangeably) (Zhang, 2015, 55).

However, all of these concepts come from the “Chinese term ‘laowu paiqian’, which is often translated as ‘labor dispatch’, and sourcing agencies are often referred to as ‘dispatching employers’, ‘intermediary employment agencies’, or simply ‘temp agencies.’” (Harper Ho & Qiaoyany, 2014, 974). Moreover, according to Article 66 of China’s Labor Contract Law (LCL) from 2007, the term ‘dispatched workers often refers to casual labor and under the LCL even includes three different categories of positions: ‘temporary worker’, ‘auxiliary worker’, and ‘substitute worker’ (Tenth National People’s Congress, 2007).

But, in historical terms, dispatched labor is a relatively recent phenomenon in China. Namely, labor dispatch agencies first appeared in 1979, three years after Mao’s death, when the Chinese government established the Foreign Enterprises Service Corporation (FESCO) to provide staffing and personnel services (Chinese employ-

ees) for foreign enterprises' representative offices in China (Zhang, 2015, 56). The reason were the prohibitions on foreign capital – foreign investors were prohibited from hiring local employees and labor dispatch agencies were severely restricted until the 1990s. But with Deng Xiaoping's reforms and the fight against unemployment resulting from the restructuring of China's state-owned enterprises (SOE's) in the 1990s, regulations were relaxed<sup>2</sup>. From that point on, dispatched labor in China slowly began to develop. By the end of 2005, there were 26,158 registered labor agencies in China, while in 2010 at least 20% or about 60 million of China's total actively employed population were dispatched workers (Zhang, 2015, 56). But, rather than limiting the dispatching of workers to “temporary, auxiliary and replacement workers, many employers in China used temporary workers on a long-term basis in government agencies, public institutions and SOE, in addition to regular workers. These still include large companies in strategic sectors such as energy, railways, banking, telecommunications and the automotive industry.” (Zhang, 2015, 56). In recent years, their status has only begun to be regulated<sup>3</sup>.

But when it comes to sending workers abroad, it's necessary to consider a very different history. The practice did previously exist since the beginning of the PRC in a state-led form and had to do with economic and technical support for liberation struggles in developing countries in Asia and Africa. But the rise of overseas dispatch labor *via agencies* came much later. In fact, it came with China's reform and opening-up policy with the Chinese Citizen Exit and Entry Control Act at the end of 1985, when “Chinese citizens were given the right to apply for private passports for the first time. A few years later, in 1992, the Ministry of Labor issued a regulation setting out the criteria that had to be met in order to be a foreign employment agency (境外就业服务机构), which was allowed to send workers abroad and setting out rules for its operation. This meant that any person could look for a job overseas” (Halegua & Ban, 2020, 307)<sup>4</sup>.

2 The first Chinese Labor Law of 5 July 1994 did not even mention labor dispatch.

3 The situation began to change with the “amendment of the Labor Contract Law by the Standing Committee of the National People's Congress on Dec. 28, 2012, which became effective on July 1, 2013 (Amended Labor Contract Law), and the Interim Regulations on Labor Dispatch (Interim Regulations) issued by the Ministry of Human Resources and Social Security and effective March 1, 2014. Those two regulations provided new requirements on the use of dispatched employees in China.” (Yu, 2014).

4 When it comes to sending workers abroad, one must distinguish between agency sending and early state-directed sending of workers. “After the establishment of the PRC, Chinese workers were generally sent abroad only in the context of state-sponsored development projects in the host country. By the mid-1970s, China had established

Meanwhile, the overseas contracting business became a lucrative undertaking and an essential source of foreign exchange for China, with 5,175 contracts signed with a total value of US\$2.604 billion in 1990 (Shengjin, 1995, 430). Hence it is understandable why there have been few regulatory changes in sending Chinese workers abroad despite the reformist era. According to some, this was precisely why the practice expanded in the first place (Xie, 2015, 79).

However, according to other authors like Halegua & Ban, China adopted two models of labor dispatch over the years: either (in the first model) a worker could go through a *labor agency* in China (called “foreign labor service cooperation enterprise” or FLSCE) in order to get a job with a foreign employer. It was under the authority of the Ministry of Labor and Social Security. Or, a Chinese *company* contracted to do a project outside of China (called an “overseas project contracting enterprise” or OPCE) could dispatch its workers abroad. It was under the authority of the Ministry of Commerce (MOFCOM). One could also add informal or unregistered agencies, but those are illegal in China. Nevertheless, in a rare study of over 100 Chinese court cases concerning labor dispatch, the aforementioned Halegua & Ban found a “clear preference” for using the first model (along with collecting fees from the worker herself and making the workers sign a “service” rather than labor contract) (2020, 306). In maltreatment cases, this makes it hard for workers to prove their working relationship to the employer, leading to more abuses despite increasing legal regulation in China. Namely, according to Halegua & Ban, a range of problems were found to be persisting despite harsher regulation, including unfree labor: “While working abroad, some migrants are also subject to practices that are indicative of forced labour. For instance, it is not uncommon for overseas employers to confiscate the workers’ passports, prohibit them from leaving the dormitory or workplace, or even threaten that they will be returned to China if they are disobedient. The manager of the US subsidiary of the Chinese Rilin construction firm was convicted of subjecting workers to forced labour where the company took their passports, made them post a security deposit to ensure they finished their contract and returned to China, and chased down workers who attempted to leave their employment.” (Halegua & Ban, 2020, 310).

Yet despite these setbacks, Chinese companies have continued to contract overseas projects since 1990, and labor dispatching has become increasingly normalized in-

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more than 1,000 such projects in over 70 countries” (Halegua, A. & Ban, X., 2020, 306). This was done mostly in the form of economic and technical support for liberation struggles in developing countries in Asia and Africa.

side and outside China. However, it was not until the introduction of China's go-out strategy in 1999 – an attempt by the Chinese government to encourage Chinese investment abroad, which included promoting the export of Chinese labor – that the number of Chinese workers stationed overseas began to increase from 57,900 in 1990 to 424,900 in 2000 significantly, 846,600 in 2010 and 996,800 in 2018 (Halegua& Ban, 2020, 307). One of the reasons, then, why the BRI didn't change the dynamics of China's labor dispatch as we know it today is precisely because dispatching labor preceded it. As should be clear by now, the sending of Chinese labor abroad resulted from China's earlier opening tendencies and existed several decades before Xi Jinping announced the Belt and Road Initiative (BRI) in 2013.

### **INSTITUTIONALIZING LABOR REGULATION: SERBIA AS A BRI HOST STATE**

So far, we have provided a brief overview of Chinese labor dispatch, including how it got institutionalized within China herself. Now, we could look more closely at how it might be placed in the context of institutionalizing labor regulations for Chinese citizens in Serbia. But before we can do that, we must not forget that labor dispatching itself is closely linked to Chinese investments, which are an integral part of the legal development of closer Sino-Serbian relations. Hence the second part of the present article will attempt to trace labor dispatch in the context of rising outbound Chinese investments, only this time on the example of Serbia as a host country, before detailing the experience of workers from Vietnam.

Although Serbia is not necessarily a leader in every sector, it leads the region to total Chinese FDI inflows. With €1,996,500,000 in FDI is still China's most important investment destination in the Balkans<sup>5</sup>. Moreover, Serbia is a notable destination for Chinese FDI in comparison to other Southeast European (SEE) countries across several sectors. For example, Chinese investments in transport, energy and metals were widespread from 2013-2019, with Montenegro, Romania, Bosnia and Herzegovina and Greece receiving the most investments in the energy sector, following Serbia in first place with 2.500 million (the same is true for the transport sector, with

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5 According to own calculations based on data from the National Bank of Serbia, depicted in Table 4 by the end of the article. Furthermore, when it comes to energy loans, Bosnia appears to lead the way with EUR 1,084,980 for coal-related projects, compared to a total of EUR 918,494 for Serbia (both CDB and Exim Bank) (Global Development Policy Center, 2020).

Bulgaria, Northern Macedonia, Bosnia and Hertzegovina, Montenegro and Greece all receiving notable investments in this sector, of course following Serbia in first place with \$4,580 million) (Jovičić et al. 2021, 50). Conversely, this is one of the reasons why Serbia should be explored more strongly as by far the largest destination for Chinese FDI, accounting for 52% of all Chinese investments in SEE countries.

Moreover, Chinese investments into Serbia have a long history paralleling the development of diplomatic relations and labor migration between the two countries. Unlike in the late SFR Yugoslavia or the unity of Serbia and Montenegro, where increasing investment and labor migration did not coexist, their dual dynamics started almost with the establishment of the present Republic of Serbia<sup>6</sup>. Closer diplomatic relations were therefore established in the late 2000s. In 2009, the two countries signed a strategic partnership agreement, upgraded to a comprehensive strategic partnership in 2016.

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A year later, China and Serbia lifted visa restrictions on travellers to the two countries. Hence, closer legal regulation of Chinese workers in Serbia was also put in place following close diplomatic relations. In addition to the domestic Law on Employment of Foreigners, Chinese workers in particular were the subject of the *Law on Ratification of the Agreement on Social Security between the Government of Serbia and the Government of the People's Republic of China*, which was unanimously adopted by the National Assembly of the Republic of Serbia on September 25, 2018. Article 7 of this law deals with the so-called “dispatched persons” from China. According to the agreement, the Serbian Social Security Law does not apply to Chinese nationals being dispatched into Serbia and *vice versa* (Zavod za socijalno osiguranje, 2018). Although investigative journalists and even lawyers describe the law as putting the Serbian labor law out of validity, the article protects Chinese dispatch laborers from paying double social security contributions, as is common for such agreements. Moreover, it is in fact, a rare example of China regulating labor relations for the benefit of its workers in a host country.

6 During the disintegration of Yugoslavia, a first wave of Chinese migration occurred in the 1990s, when Serbia was still part of what was left of the Yugoslav Federation under Slobodan Milošević. But the first wave of Chinese nationals did not come through any labor dispatch, but in fact migrated from other Eastern European countries, especially after experiencing unfavorable changes in Hungarian visa regulations. According to Jelena Gledić, a researcher from Belgrade, “They were mostly traders from the southern provinces of China who conducted cross-border business and lived in relatively isolated communities. They continued to distribute goods in the region, only now from Belgrade instead of Budapest.” (Gledić, 2021). Thus it could be said that labor migration at the end of Yugoslavia

By adopting the law, Serbia became one of the few countries in Europe and the only one among the Western Balkan countries with which China has settled social security. Namely, in parallel with the increase in trade and migration, from 2002 to 2019, China signed nine bilateral social security agreements with European countries, which allow Chinese nationals to be exempt from social security contributions in the host country for five years and vice versa. All agreements apply to dispatched persons, airline employees, consular staff, and civil servants (Lianquan, 2019, 23). In all cases, the agreements are reciprocal and cover pensions and social contributions, while health care, occupational accidents and maternity are not covered<sup>7</sup>. Moreover, these legal relationships are also novel on the Chinese side, and the agreements would not have been possible without significant legislative efforts to regulate labor on the Chinese side<sup>8</sup>. One of them is, of course, the Chinese Social Security Law (SIL), which came into force in 2011 when relations between Serbia and China were “warming up”. The Chinese law included five social insurance programs: pension insurance, health insurance, work injury insurance, unemployment benefits, and maternity insurance.

### CHINESE LABOR INFLOW IN SERBIA 2019-2021

But before we consider the dynamics of Serbian-Chinese labor dispatch, we need to keep in mind that since 2018, Chinese labor dispatch has been declining across the globe contrary to all previous trends<sup>9</sup>. According to the Chinese MOF-

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7 That is, except in Denmark and Switzerland, where the term is 6 years (Lianquan, 2019, vi).

8 According to Halegua & Ban, “as part of a major legislative effort in 2007–8, China passed three laws: one addressing labour contracts, another modifying procedures for enforcing labour rights through arbitration and the courts, and a third prohibiting certain forms of employment discrimination.” (2020, 310). Most recently, in June 2021, the Standing Committee of the National People’s Congress amended the Work Safety Law, tightening penalties for non-compliance, requiring enterprises to take care of the physical and mental well-being of workers, and making it mandatory for enterprises in high-risk industries such as mining, transportation or building construction to purchase liability insurance (effective September 1, 2021).

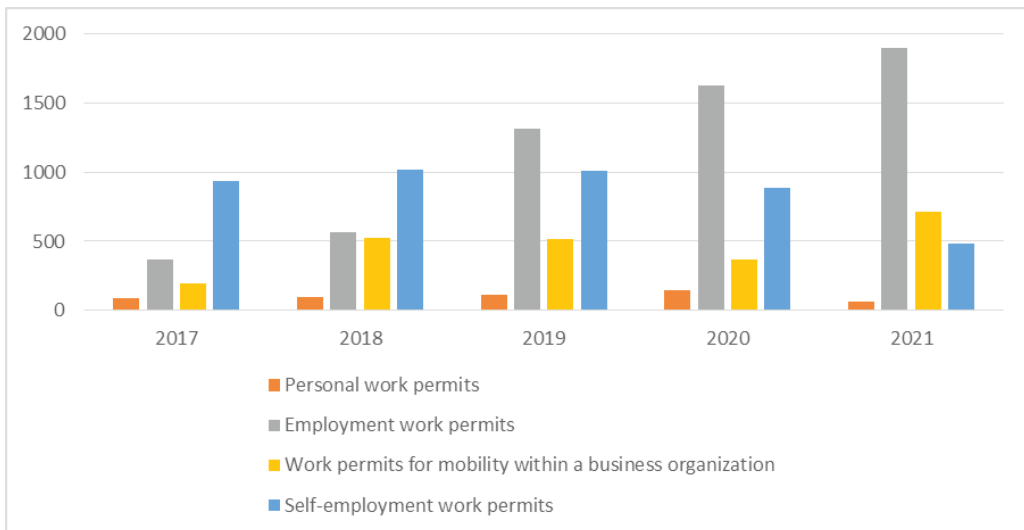
9 One of the likely reasons is the increasing regulation by the EU and member states, which have started to strengthen regulation against Chinese investment, such as the introduction of the “Screening Investment Mechanism” in March 2019, to protect their strategic interests regarding foreign investment. This occurred after several Chinese takeovers of European ports, including the Piraeus port in Greece, Zeebrugge in Belgium and Duisburg in Germany, prompting officials to propose legislation in 2017



COM, their total number since 2019 was 992,000, a year-on-year decline of about 4,000 while this year 487,000 Chinese workers were dispatched – a decrease of 5,000 year-on-year. decline of 5,000. Of course, the sharpest decline was in 2020, when 644,000 workers worked overseas and 183,000 workers were dispatched –142,000 fewer than the year before. However, this is understandable given the numerous travel bans in BRI countries as part of the global pandemic. But, in this context, the case of Serbia constitutes an exception rather than the rule. As we will see, there is a clear upward trend that largely parallels the rise in Chinese direct investment in Serbia.

While the number of incoming Chinese nationals is by definition larger, comprising 5535 individuals in 2021, the number of dispatched laborers has been steadily increasing. And expected to continue to do so in the near future. Namely, according to official data from the National Employment Agency of the Republic of Serbia, the number of dispatched Chinese laborers increased from 193 in 2019 to 494 in 2020 and 2374 in August 2021 – a twelfold increase in a three-year period (Matković, 2021). Hence, as we have already pointed out, the increasing momentum of diplomacy and investment has led, as expected, to an increased influx of labor (cf. Table 1&2).

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**Table 1:** Number of work permits issued by the National employment bureau 2019-2021 (arranged according to the type of permit). Source: author's own calculation based on information made available to the author by Serbia's National Employment Agency. Source: Author's calculation based on data from the National Bank of Serbia.

(Birmingham, 2021). Although there were different national systems, the mechanism is operative on the EU level from October 11 2020.

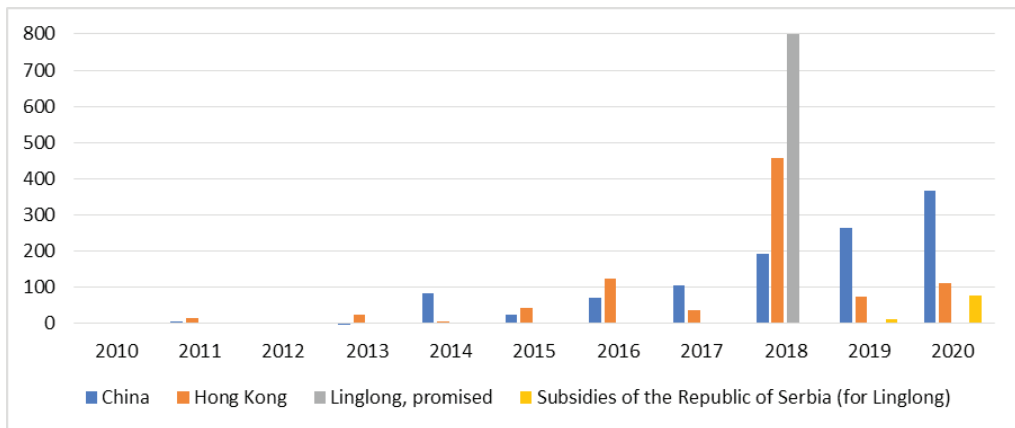
Year	2017	2018	2019	2020	2021
Personal work permits	90	97	112	142	65
Employment work permits	365	568	1317	1628	1902
Work permits for mobility within a business organization	195	523	519	368	712
Self-employment work permits	935	1017	1009	883	482
Work permits for dispatched persons	74	40	193	494	2374

*Table 2: Number of work permits issued by the National employment bureau 2019-2021 (arranged according to the type of permit) in tabular form. Source: author's calculation based on information made available to the author by Serbia's National Employment Agency. Source: Author's calculation based on data from the National Bank of Serbia.*

However, what is crucial is the concentration of dispatched laborers concentration is quite imbalanced. At their peak in 2021, 51,97% of all dispatched Chinese workers in Serbia came from a single company – Linglong, a well-known private tire factory (China's first in Europe) currently being built in Serbia's northern town of Zrenjanin<sup>10</sup>. It came to Serbia after China began tightening environmental regulations when several tire companies like Sailun Jinyu Co. Ltd, Zhongce Rubber Co. Ltd. and Double Coin Holdings Ltd. began to set up tire plants in Thailand, Vietnam,

10 E-mail from Linglong's management to the author from November 3rd 2021. According to Linglong's management, by November 1st 2021, Linglong in Zrenjanin employed 529 Serbian citizens (including one Thai citizen and several citizens of Bosnia and Herzegovina) and 101 Chinese citizens. In comparison, in 2019 it employed 9 Serbian citizens and zero Chinese nationals. However, this related to direct employees of the firm and not to construction workers. In a different reply (September 30) made available to the author by N1 television network journalist Maja Nikolić, the management stated that 1133 Chinese and 921 Serbian construction workers were operating at the site. This means that by November 1st, directly or indirectly, Linglong was the source of employment for 1234 dispatched Chinese nationals. Since by that time there were 2374 dispatched Chinese workers, Linglong constitutes 51.97% of all dispatched labor in Serbia by fall 2021. This number, however, excludes the 750 Vietnamese workers. With it, at least 1984 people were employed in one way or another by Linglong and its cooperants by November 2021. This further confirms that Chinese labor dispatch increased significantly only after Linglong came to Serbia and confirms our thesis that labor dispatching followed China's rising investments. As we have shown, in the case of Linglong, this occurred due to outsourcing dirty industry from the province of Shandong but other companies like HBIS Hubei (a steel producer) also came to Serbia from the province of Hebei.

etc., instead of China itself, to avoid facing fines or takeovers<sup>11</sup>. Following this trend, Linglong, at €816.294.480, became the largest Chinese investment into Serbia<sup>12</sup>. It is also set to become the largest closed factory in Serbia, and the largest tire producer with a capacity of 13 million tires per year. In fact, not only does it tower over other Chinese investments (cf. Table 3&4), but it is also connected well enough to have made profound legal impacts on Sino-Serbian labor relations for example, even the the crucial *Law on Ratification of the Agreement on Social Security* was approved on September the 25th 2018, during the same week that president Vučić visited Beijing to sign another agreement with “Linglong” tires (Matković 2020)). These facts should be enough to turn our attention to Linglong’s laborers in particular.



**Table 3:** Chinese investments (with or without Hong Kong) vs Linglong. Source: Author’s calculation based on data from the National Bank of Serbia.

11 In 2014, China declared “war” on pollution, and in 2015, China’s Environmental Protection Law was tightened. By the way, the regulations themselves came after an unprecedented fiscal stimulus, nominally focused on building high-speed railways and expanding health care. However, with it, China has turned heavy industries like steel, aluminum, and cement – among the worst polluters in terms of carbon emissions – back into the backbone of its growth in response to the global crisis of 2008 (cf. Tooze, 2018, 246–247).

12 This figure includes €800.000.000 investments in material and immaterial goods plus €16.294.480 worth of salaries. From an unpublished document (document number 401-00-00049/2020-01/7 from June 5 2020) of the State Aid Control Commission for Linglong made available to the author by N1 television network journalist Maja Nikolić, p. 3

Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Sum
<b>China</b>	2,0	6,0	1,0	-0,4	82,5	24,1	69,5	103,5	191,8	264,2	366,8	=1037
<b>Hong Kong:</b>	0,2	13,0	0,3	22,6	3,9	42,4	122,2	36,4	457,6	74,3	112,1	=885
<b>Total</b>	2,2	19,0	1,3	22,2	86,4	66,5	191,7	139,9	649,4	338,5	478,9	=1996.5

*Table 4: Chinese investments (with or without Hong Kong) in tabular form, in millions of euros. Source: Author's calculation based on data from the National Bank of Serbia.*

## THE CASE OF 750 VIETNAMESE WORKERS CONSTRUCTING LINGLONG'S TIRE FACTORY IN THE CITY OF ZRENJANIN

The increased use of dispatched labor followed mostly Linglong's and other Chinese investments<sup>13</sup>. As we will now see, their need for labor also began to draw in Chinese labor dispatch. From this perspective, it is understandable why there were more and more labor violations against Chinese workers in Serbia starting in 2020. The increasing influx of workers through the Chinese labor dispatching – which took place from 2019 onwards – following increasing investments significantly increased the likelihood of labor violations (or, conversely, there could not have been almost any labor violations before that year, as the dispatching of Chinese workers was simply not common in Serbia before 2019). Therefore, instances of mistreatment of workers became more numerous. While there are other sites where Chinese dispatched workers live in similarly appalling conditions (e.g. the Kostolac thermal power plant), the first case in which they protested themselves involved about a dozen dispatched Chinese workers in January 14 2021, protesting working conditions outside one of the world's largest copper and gold mines in the city of Bor, which has been majority-owned by the Chinese company Zijin since 2018. While working at Zijin, their rights were severely violated, including restrictions on their freedom of movement, a 12-hour working day, and being required to surrender their passports (Dragojlo, 2021a). The case, however, is not sufficiently documented to comment on the extent to which their labor dispatch responsible and in what manner. How-

<sup>13</sup> While outsourcing both production and pollution is not a novelty (cf. Matković 2018a), there are no articles on how the use of dispatched labor or cases of unfree labor consequentially followed from it. Hence, the present article is also an attempt to amend the problem.

ever, their experience fits a pattern that Halegua & Ben has already noted among other Chinese workers in other countries: “In 2015, for example, a group of 200 Chinese workers in Belarus protested because they had not received their promised wages. Similar protests by unpaid workers occurred on Saipan in 2017 and Algeria in 2018. In 2019, a Chinese construction worker in Israel was killed when iron bars fell on him, and workers in Cambodia died when a building they were constructing collapsed.” (2020, 309). There are, nevertheless, better-documented cases in Serbia which we could focus on.

One such but more complex case is precisely the case with the 750 Vietnamese workers. Chinese companies working for Linglong began influencing not only Chinese but also other labor dispatch agencies. In short, Linglong’s cooperants started outsourcing their labor dispatch to Vietnamese agencies, which are even less regulated, revealing the true complexity of labor dispatching and the severity of the process that dispatched workers often have to endure. Hence, as it will be made clear later on, Linglong began prompting Vietnamese labor inflow into Serbia through its Chinese cooperants.

On November 6, 2021, an investigative journalist from the Investigative-Analytical Center of Vojvodina “VOICE” began reporting on the case of 750 Vietnamese workers who lived in a former beverage storage facility in the southeastern industrial zone of Zrenjanin, 150 meters from the Linglong tire factory - the first of its kind in Europe, the construction of which they were partially commissioned to build since March (Gordić 2021). Some of the halls where the workers lived were badly damaged and in danger of collapsing. Most of them slept in tightly packed cold rooms separated only by tarpaulins, sharing one bathroom for 500 people. Since Zrenjanin has had no drinking water due to high arsenic levels for 17 years, wells were drilled to obtain groundwater. Food was probably not delivered often enough, so domestic animals such as rabbits and geese were being bred on the grounds for food. The news spread quickly in all major local, national and international media and has since been investigated, primarily by non-governmental organizations and civil rights activists, with no legal action taken by the government.

Moreover, what was not reported was how the Vietnamese workers came to Serbia – precisely by labor dispatching. Therefore, it is worth reconstructing how and when the dispatching to Serbia took place in the case of the Vietnamese workers. We shall now outline what is so far known of the case.

First, as might be expected under triangular employment, they did not sign employment contracts directly with Linglong – the company whose factory they were sup-

posed to build. But although the workers in question came from Vietnam – a key and novel element in this case – they came through employment agencies used by two Chinese intermediary companies. Namely, the first of the two Chinese companies, “Tianjin Electric Power Construction Company” (TEPCO), is a wholly-owned subsidiary of “China Energy Engineering Group Corp., Ltd” (CEEC), which was founded in 1964. It has operated in 28 provinces throughout China, as well as in Vietnam, India, Sudan, Belarus, Pakistan, Iraq, etc. In Serbia, the company operates three branches in Belgrade and was registered in September 19, 2018. The other company was “Sichuan Dinglong Electric Power Engineering Co. Ltd.” which was registered on November 24, 2020. Since the deadline for the first phase of Linglong’s construction, which includes two power substations and a network of local power grids, was November 30, 2021, it is understandable why Linglong could choose to use the power construction and engineering companies “Tianjin” and “Sichuan Dinglong” (Ekapija, 2020).

However, to get enough construction workers (of which there is a shortage in Serbia<sup>14</sup>), these companies decided to outsource their workers through two Vietnam-based labor dispatching agencies. The two Vietnamese agencies are: “Bao Son Labor Export Company” [Công Ty Xuất Khẩu Lao Động Bảo Sơn] and Song Ho Gia Lai International Company Limited [Công Ty Trách Nhiệm Hữu Hạn Quốc Tế Song Hồ Gia Lai]<sup>15</sup>. In this case, Linglong was an overseas project contracting enterprise or OPCE that contracted other companies to build part of its

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14 Coincidentally, the deficit became known in 2018, when Chinese labor dispatch began to increase its momentum in Serbia. According to Dragana Radovanović, the then director of the School of Construction in Belgrade, “the number of employees in the construction sector has roughly halved in the last ten years, dropping to 50 thousand. Their average age is 50 and their salary is about 300 euros. One third of construction companies have ceased to exist.” (Vlatković, 2018). Ironically, according to Goran Rođić of the Serbian Chamber of Construction Industry, the deficit is due to the fact that German, Spanish, French and other companies employ Serbian workers as subcontractors who then migrate out of the country. In the case of Chinese investment, this leaves a gap that is then filled by Chinese labor dispatch.

15 The names of the companies were made available to the author via e-mail on November 22<sup>nd</sup> 2021 by Danilo Ćurčić from the NGO “A11”, one of activist organizations involved in dealing with the case. Information regarding the first company can be found here: <https://infodoanhnghiep.com/thong-tin/Cong-Ty-TNHH-Xuat-Khau-Lao-Dong-Bao-Son-93267.html> and here regarding the second: <https://infodoanhnghiep.com/thong-tin/Cong-Ty-Trach-Nhiem-Huu-Han-Quoc-Te-Song-Hy-Gia-Lai-84099.html>. As in other cases, in the case of Vietnamese workers, local activism developed as a reaction to increasingly deep economic changes (cf. Matković 2016).

factory in Serbia. Since the companies themselves are registered in Serbia, this also makes them an OPCE. At the same time, the two Vietnamese could be considered Vietnamese “FLSCE’s” or “foreign labor service cooperation enterprises” – but not under Chinese law, of course, since they are from Vietnam and recruit there.

The two Chinese companies signed similar 1-year labor contracts with the workers, who mainly were all male and came from the Hanoi area. According to evidence provided by the Balkan Investigative Network (BIRN), these contracts deviated from Serbian law and international labor standards: ‘Regular working hours’ can be up to 234 hours over 26 working days per month if required, which is contrary to Serbian labor law, which limits working hours to 192 hours per month, including overtime. During the 12-month contract period, workers are entitled to 12 days of vacation, far less than Serbian law requires, and can only use them after the contract expires. (...) Absence from work, even when sick, costs an employee around five euros a day in fines, according to the ‘on-work rules’ seen by BIRN. Failure to show up for work without a supervisor’s permission can result in a wage deduction of 150 percent of the daily rate for each day missed. (...)” (Dragojlo 2021b). In addition, “workers who exhibited symptoms of COVID-19 were prohibited from seeking medical attention, even though they were covered by health insurance under their contract.” (Dragojlo 2021b). It also emerged later that their passports were taken from them while they were being taken away by their employers. Moreover, the labor dispatching agencies gave them false information about the nature and strictness of Serbian laws. Among other things, they were made to believe that their right to strike did not exist in Serbia and that for breaking the law, they faced corporal punishment, death sentences and bodily mutilation.

However, due to the wage differences between Serbia and Vietnam (where the average wage is about €132.78), there was no difficulty in finding workers<sup>16</sup>. But, what also must be considered crucial, the case of Vietnamese workers

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16 According to the labor contracts photographed by investigative journalists, the Vietnamese workers were to receive 82441 RSD or €701.77 (Dragojlo 2021b). However, since they were paid in cash and with numerous supplements outside the contract, it is not certain how much they actually received. Nevertheless, it is a good indicator of payment problems that one of the reasons for the protests was that most of them received only one month’s salary, regardless of the amount, while they worked from March to November.

occurred at a particular moment when Vietnam was on the verge of tightening labor dispatch regulation for FLSCE's (Nishimura & Asahi, 2020). But when the case was discovered, the new Law on Vietnam overseas worker dispatch under contracts, which, unlike its predecessor, would have specifically outlawed deceiving workers and forced labor, was not in place since it will come into effect by January 1 2022. Moreover, the case also came when laws regarding labor dispatch abroad for OPCE's were being *relaxed* in China. Previously, "in order to apply for MOFCOM's approval to be an OPCE, the entity was required to have registered capital of a certain amount, employ personnel with safety experience and overseas experience, and have no prior 'major violations'. It was mostly state-owned enterprises that were capable of satisfying these criteria. After 2017, though, when the relevant regulation was repealed, an OPCE was only required to register the project in MOFCOM's electronic platform, report to the embassy where the project was to be conducted and contribute 3 million RMB to a reserve fund." (Halegua& Ben 2020, 314). Like all cases in 2020, the case of the 750 Vietnamese workers occurred during a period between the tightening of Vietnamese regulations, which were not yet in effect, and a completely opposite motion in China – the relaxation of China's laws on OPCEs, or companies contracting abroad, which made the case difficult to discover. Hence, the horrific experience of Vietnamese workers occurred both ahead of future and despite currently implemented regulation.

In addition, the Vietnamese workers were in a particularly bad position because Serbia has no diplomatic relations with Vietnam and there is no Vietnamese embassy in Belgrade (the embassy responsible for Vietnamese citizens in Serbia is in the Romanian capital, Bucharest). The fact that they were in a duty-free free trade zone (FTW) in Zrenjanin, where labor rights are rarely checked, ultimately made the case more likely<sup>17</sup>. Coupled with similar cases allowed to slip under the radar due to Serbia's lax attitude towards labor abuses, it is understandable how such a case could have gone unnoticed from March to November 2021<sup>18</sup>. When the Vietnamese workers were finally dis-

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17 Ironically, according to the State Aid Control Commission for Linglong, which monitored the land awarded to Linglong in Zrenjanin, one of the reasons why Zrenjanin was chosen over Pančevo, precisely because of its free trade zone, was sufficient unemployment. Unpublished document (document number 401-00-00049/2020-01/7 from June 5 2020) of the State Aid Control Commission for Linglong made available to the author by N1 television network journalist Maja Nikolić, p. 7

18 Other examples of similar include widely reported protests by Turkish or Indian wor-



covered by journalists after 500 of them went on strike, they were transferred by their employers to five other sites in the city of Zrenjanin with varying conditions after the Labor Inspectorate declared their first site unfit for human habitation<sup>19</sup>.

## CONCLUSION

As was already made apparent in the present article, the labor dispatch mechanism in Serbia has both increased and diversified. The article demonstrated this by tracing the process of institutionalization of labor dispatching between China and Serbia following increasing Chinese investments. It showed how forms of unfree labor could follow FDI through the use of labor dispatching, most notably because of the arrival of a tire manufacturer Linglong, in the fall of 2018<sup>20</sup>.

The article also explained why this could happen in this particular company. because Linglong began to rely increasingly on external labor due to local shortages, which it acquired in particular through foreign labor, which at the time of writing accounted for 51.97% of all dispatched Chinese labor in 2021 (excluding the 750 Vietnamese workers in undignified conditions). Given the abundance of similar cases of labor dispatch and unchecked violations of labor law in Serbia, it is not surprising that a case of mistreatment of workers was very likely.

However, the fact that in less than a year there have been two cases of mass unfree labor in Chinese investments with labor dispatch in Serbia could in itself constitute one of the crucial reasons why further investigations need to be conducted. The article laid the groundwork for future theoretical and empirical studies by showing that the problems

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kers against abusive conditions and unpaid wages in 2020.

19 The citadel in Ečka, then Petra Drapšina, Kumanovska, Penfarm near Linglong and the original halls Gomex, where some of them were in fact left in the beginning. Also, the relocations to the above-mentioned places followed a public statement by Linglong to pro-government media stating that no Linglong employees were living in the camp, but that the workers were employed by one of their subcontractors on 18 November 2021.

20 This is in stark contrast to 1990's when Chinese labor migration didn't involve large labor dispatch use nor did it follow Chinese investments.

faced by Chinese and other dispatched workers are neither random nor unconnected, but follow certain trends observed in several BRI countries. Moreover further studies will be required to follow a trend begun in countries that have already started to increasingly re-regulate cases of unfree labor in the context of labor dispatching. Although labor rights abuses in Serbia are rarely checked in practice, Serbia will have to adopt additional regulation regarding the matter since on 10 March 2021, the European Parliament adopted Resolution P9\_TA (2021) 0073 on corporate due diligence and accountability and invited the European Commission to prepare concrete guidelines to be implemented within 2 years. However, they will not be implemented across the EU as the Commission is yet to complete them. Therefore, according to the Serbian Ministry of European Integration, which aims to harmonize local legislation with that of the EU, the guidelines are currently not active in Serbia<sup>21</sup>. Nevertheless, one could not help but notice that all the countries and regions involved are once again focused on preventing and regulating global labor dispatch, especially with regard to unfree labor. Therefore, the topic will likely require further coordinated global research in the coming years. Hence, both researchers and government officials across the countries involved should be prepared to seriously consider putting more effort and resources into research, especially in interrelated cases that could expose where stronger regulation is urgently needed.

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21 E-mail from the Serbian Ministry of European integration to the author from November 5 2021.

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