

POLICY BRIEF

Labour mobility and citizenship Safeguarding social standards in Europe

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BACKGROUND

Following the 2004 EU enlargement, the beginning of the economic crisis in 2008 and subsequent austerity measures, a significant number of EU citizens from mostly Eastern Europe employed in low-skilled occupations across the EU have questioned the meaning of EU citizenship as a set of rights and privileges. While employment in the destination country represents an opportunity for many, some of the mobile EU citizens have faced serious labour rights violations similar to those experienced by non-EU migrant workers. This is despite the fact that migrant and domestic EU workers are legally equal in the national labour markets.

At the same time, the meaning of EU citizenship is being redrawn with calls to restrict access to national labour markets or social welfare for mobile EU citizens as can be observed in several political debates in the EU (e.g. the BREXIT discussion). The patterns of labour rights violations as well as issues such as social dumping raise serious questions for the meaning of labour mobility today and the possibility to safeguard social standards (see SOLIDAR Briefing on '[Social Safeguards in Europe - Redefining our narrative](#)') in Europe.

THE LABCIT PROJECT

The Labour Citizenship Project (LABCIT), co-funded by the Europe for Citizens programme of the European Union, begins from the position that a decent wage and decent working conditions are necessary for promoting the democratic participation of all EU citizens. Joining together 11 partner countries, it extends the concept of European citizenship to work situations, favouring the respect of social and labour rights which shape the "labour citizenship" of EU mobile workers. The project collects and analyzes "extreme" cases of labour rights violations and exploitation in the Czech Republic, Germany, Lithuania, Ireland, Italy and Romania; and has consulted with over 250 migrant workers and stakeholders.



KEY FINDINGS

Subcontracting and various intermediaries (recruiters, employers, etc.) characterise most of the violations in the collected cases. Although present in specific and ever evolving forms (e.g. temporary agency employment, subcontracting, cooperatives, bogus self-employment, posted workers), the violations are connected with indirect employment and the diffusion of responsibilities in supply chains.

The collected cases demonstrate that the current EU debate on social dumping is flawed in two ways. First, it concentrates mostly on posted work, which is only one of many problematic mechanisms in the EU labour market. Second, it stresses the situation in labour markets with higher levels of wages and labour rights protection, thereby ignoring the situation in labour markets where regulatory evasion does not need to occur through transnational regulatory evasion; it can occur through the use of mostly domestic (and not transnational) legal and illegal forms. The protection of labour rights of EU mobile workers is not sufficient in those contexts.

Migrant workers continue to struggle with the diversity of sectorial, national and European legal regimes. Lacking knowledge of their rights and of the local language weakens their bargaining position for better working conditions and pay, and functions as a communication barrier.

A “lottery of help” refers to the process of seeking help when experiencing labour rights violations. Labour rights enforcement by labour inspectorates is not a uniform process across the EU, and is often highly selective and individualized. The lengthy interventions often do not correspond with the workers’ short-term working engagement. Bureaucratic processes and court cases are costly, and become structural obstacles for migrant workers awaiting a verdict or compensation. Many migrant workers emphasised mistrust towards official institutions. NGOs, trade unions and labour inspectorates are able to handle the worst cases of labour rights violations. Their networks are, however, not dense enough and transnational cooperation is not developed sufficiently.

The experiences of labour rights violations have contributed to mobile EU workers seeing themselves as “foreigners” rather than as “EU citizens.” They may, however, not feel as full citizens already in their home country due to weak welfare systems, indebtedness as well as low below or close to poverty-level wages in some sectors in a number of EU countries. The situation in the country of origin is therefore equally crucial for the development of a full EU citizenship at home and abroad.

POLICY RECOMMENDATIONS

- Establishing a requirement for employers to provide employment contracts in a language known by the worker;
- Curb atypical work in Europe by obliging employers to engage in direct employment relationships unless employers can prove the need for subcontracted work (time-limited, specialised, no expertise in-house);
- Introduce chain liability (without exception) of the lead firm and other firms in the supply chain towards the subcontracted workers (at least as regards payment of owed wages and social security and other state contributions);
- Guaranteeing real and fast access to the host country’s judicial system by supporting mobile workers legally (free legal advice), economically (living allowance, travel expenses reimbursement) and practically (help with travel organization, accommodation; facilitation of e.g. court testimonies via Skype from the mobile worker’s home country);
- Increasing controls of labour inspectorates and widening their mandates (e.g. possibility to contact workers outside their workplace, e.g. dormitories); disconnecting labour inspections from immigration controls; instituting structural cooperation between NGOs, trade unions and labour inspections; strengthening transnational cooperation between labour inspectorates, especially the control of recruitment agencies; labour inspectorates should have inspectors and interpreters possessing the necessary language skills and should not rely on the interpreters provided by employers and intermediaries;
- Creating a guarantee fund for workers who suffer fraud or non-payment of wages;
- Strengthening the role and activities of NGOs and trade unions aimed at promoting labour citizenship and financially supporting them, including those that connect countries of (im)migration and emigration.

