Migration, labour rights, and safe and secure working environments

European Centre Contribution to SDG Targets 10.7 and 8.8

Sonila Danaj & Leonard Geyer
SDG 10.7 and 8.8 Targets

10.7 Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies.

8.8 Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment.
Status Quo: Migration Policies

“Most countries have policies to facilitate safe and orderly migration, but more work remains to be done to protect migrants’ rights and socioeconomic well-being” (United Nations, 2019)

Types of migrants in the EU:
- Intra-EU migrants
- Labour migrants from third countries
- Asylum seekers and refugees

Types of policies:
- Cross-border labour mobility policies
- Integration policies
- Active Labour Market Policies
Status Quo: Labour Rights and Safe Working Environments

Migrants are more prone to experience:

- **Discrimination** in access to the labour market

- Labour market **segmentation**: 3D jobs (dirty, dangerous and demanding: agriculture, construction, health care, households, transport and food sector)

- **Vulnerability** to unequal terms and working conditions

- Work-related **accidents**
Contributions of the European Centre

POOSH: Occupational safety and health of posted workers

EEPOW: Posting of workers in Eastern Europe

Con3Post: Posting of third country nationals: Mapping the trend in the construction sector

With financial support from the EASI Programme of the European Union
Perspectives

Thematic
- occupational safety and health
- policy transposition
- policy implementation
- working conditions
- wages
- social security
- health care and insurance

Types of workers
- temporary migrants
- posted workers
- third country nationals

Stakeholder-oriented
- institutional structures
- institutional capacities
- social partners engagement
- human resources

Sectoral
- construction
- transport
- manufacturing

Geographical coverage
- EU Member States
- Bridge Building Countries

Multi-disciplinary
- regulatory (legal)/institutional analysis
- policy analysis
- social analysis
- Industrial relations analysis
- political economy analysis
Main POOSH Findings: Vulnerabilities of temporary EU migrants

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<th>Employment and contractual conditions</th>
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<td>No or irregular payment of taxes/social contributions in country of origin</td>
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<td>Working time issues (i.e. extended work hours, frequent overtime, weekend work)</td>
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<td>Poor quality of accommodation (i.e. overcrowding, lack of amenities)</td>
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<td>Problems related to costs of accommodation</td>
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The peculiar case of Posted Third Country Nationals

Posted Third Country Nationals are quite invisible, although their presence in the labour market has started to become politicized.

Preliminary findings from Con3Post Research suggest that TCN posted workers are:

- posted from a Member State or a candidate country (RS, NM)
- recruited sometimes with the sole purpose of being posted
- facing a lack of appropriate OSH training, medical examinations, and poor communication with the employer, and
- a lack of information and knowledge (on labour and welfare regulations of the sending country and/or the host country)
- ‘dealt with’ by the employers in case of OSH injury, often by being returned or pressured to return first to the posting country and then to the country of nationality to avoid further investigation and expenses.
Institutional Challenges: EU Member States (POOSH)

- Limited or **insufficient information** and **scope of action** of state agencies on across-the-border activities (confined to/by national jurisdiction)
- Insufficient human resources
- (Long chains of) **Subcontracting** and different national rules on **liability** create challenges for enforcement agencies and workers
- **Division of labour** among state enforcement agencies or departments within the same agency (e.g. inspectors oversee either OSH or posting)
- **Joint national inspections** are commended but sometimes different agencies have diverging interests
- **Transnationally**, institutions rely on IMI, the Senior Labour Inspectors Committee (SLIC) and their Knowledge Sharing System (KSS platform), EU-OSHA on information sharing and exchange, while bilateral agreements regulate relations with non-EU countries
Needs Assessment: Posting in Candidate Countries (EEPOW Method)
Albania, Montenegro, North Macedonia, Serbia

- Assessing capacities in the context of the policy process cycle
- Highlighting the interdependence of different institutional capacity dimensions

- Identifying capacity needs that are specific and relevant for implementing the Directive

- Recognising capacity development as an inherently home-grown process – importance of country specific capacities and needs
Needs Assessment: Indicators (EEPOW Method)

**Legal framework**
- Issue-specific
- Issue-relevant
- Country-specific

- Transposition of the Directive & EU legislation approximation
- Labour market regulation, social security, health insurance, tax system
- National Labour Code and Subcontracting Liability Regulation

**Institutional arrangement**
- Issue-specific
- Issue-relevant
- Country-specific

- State agencies responsible
- Designated agencies/offices to deal with the Directive/EU labour market issues
- Inspection structures & Grievance Procedures

**Inter-agency cooperation**
- Issue-specific
- Issue-relevant
- Country-specific

- National inter-agency cooperation structures & protocols
- Transnational inter-agency cooperation structures & protocols
- Liaison Offices & Information dissemination practices

**Human resources**
- Issue-specific
- Issue-relevant
- Country-specific

- Designated personnel to deal with the Directive/EU labour market issues
- Training/knowledge of the Directive and of the EU labour market legislation & regulation
- Language Skills

**Stakeholder engagement**
- Issue-specific
- Issue-relevant
- Country-specific

- Trade Unions Engagement
- Employers Associations Engagement
- Tripartite Social Dialogue & Collective Bargaining

**Public governance**
- Issue-specific
- Issue-relevant
- Country-specific

- Efficiency
- Transparency
- Participation
Needs Assessment: Results from EEPOW

### Legal framework
- The Directive has been **partially transposed**
- Complete the legal framework
- Coordinate social security systems with all EU MS

### Institutional arrangement
- Different state institutions and agencies **responsible for some aspects** of posting
- Establish the liaison office and/or extend the responsibilities of existing structures with a clear mandate and specialized on posting

### Interagency cooperation
- Bilateral protocols of cooperation with some EU Member States
- Establish protocols for communication and information exchange
- Build/improve the infrastructure for data and information sharing

### Human Resources
- Partially involved through consultations
- Increase administrative capacities; Additional training
- Better quality assurance of training content

### Stakeholder engagement
- Partially involved through consultations
- More active involvement of social partners

### Public governance
- Regulatory quality and political stability
- Rule of law
- Control of corruption
Conclusions

- The regulatory framework (migration and other related policies) is quite complex. Yet, a lot of temporary labour EU and TCN migrants remain vulnerable to unequal terms and working conditions that can lead to their abuse and exploitation.

- Enforcement mechanisms and institutional monitoring and control need not only be put in place but also be able to provide the necessary protection for all workers, which means that they need to be prepared for the specific needs of the most vulnerable categories of workers, such as temporary EU and TCN migrant workers.

- Social partners involvement would strengthen the protection mechanisms available.
Thank you very much for your attention!

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References


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