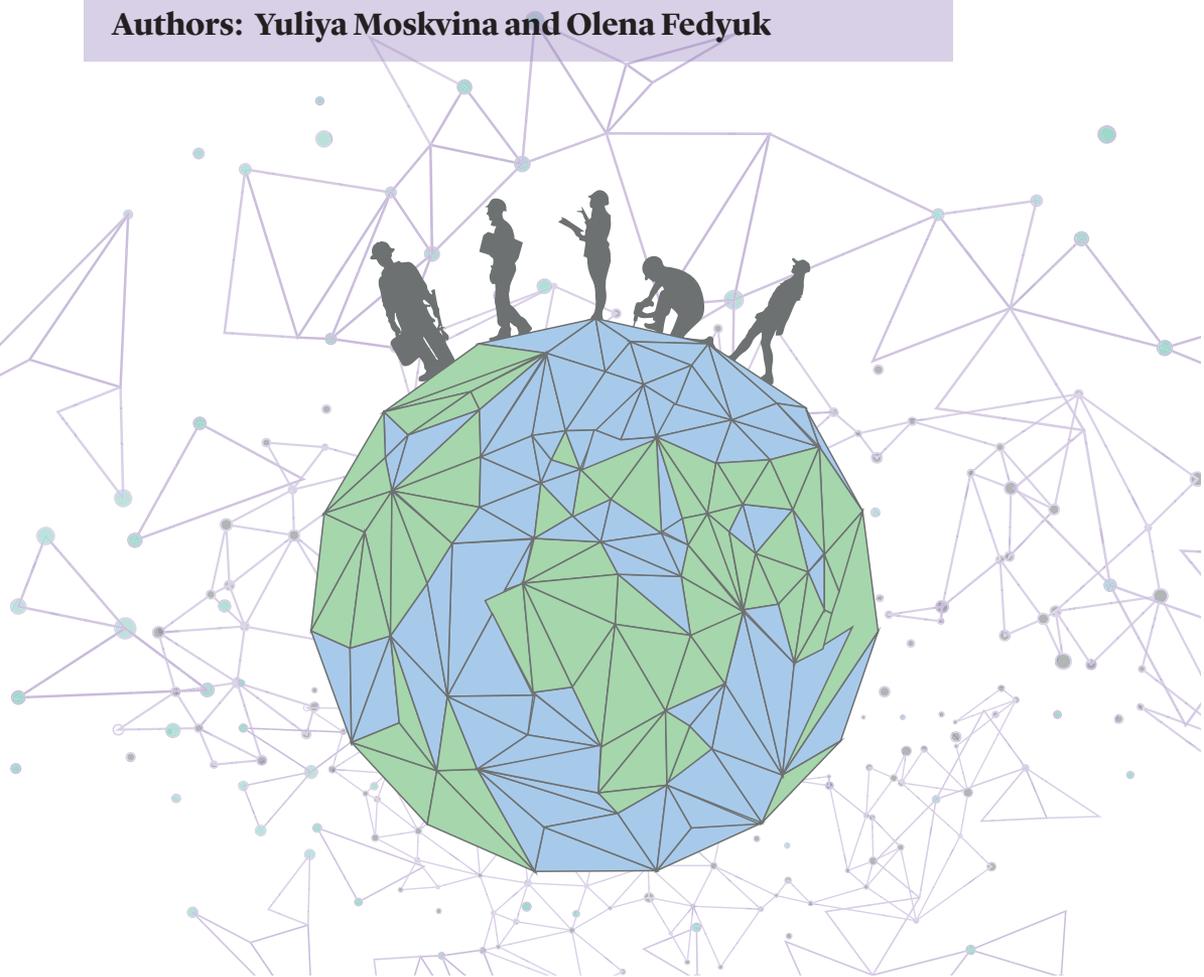


Towards Shared Interests between Migrant and Local Workers

Recommendations for Policymakers and Practitioners

Solidarity between Workers in Fragmented Workplaces

Authors: Yuliya Moskvina and Olena Fedyuk



With the support of the Europe for Citizens
programme of the European Union



This publication was prepared within the framework of the project ‘Towards shared interests between migrant and local workers’ supported by the Europe for Citizens programme of the European Union.

The views expressed in this publication are those of the respective authors and do not reflect the views of the European Commission.

The series was edited by Olena Fedyuk.

About the Project

Central and Southern European countries have faced growing labour migration from both EU and non-EU countries. Mostly welcome by employers and some politicians, it has remained controversial for parts of the general public due to perceptions of competition in the labour market and local reactions in places with a concentration of migrant workers. This project responds to these conflicting economic, political, and social interests by engaging a discussion with the local European publics.

While most of the debates on migrant integration have traditionally centred on cultural adaptation and social inclusion, this project targets their economic and legal situation in particular. In the context of flexibilisation and precarisation of employment, migrant workers have begun to share manifold aspects of their situation with the host country's domestic labour force. Yet, solidarity between migrant and domestic workers is constrained by negative stereotypes and a lack of common platforms in which to share experiences. This project suggests that such a platform can be created by taking a labour rights perspective.

As part of the project, partners from 5 countries (Czech Republic, Poland, Bulgaria, Italy, and Spain) conducted interviews with migrant and local workers, labour rights experts, and other local asking about (1) precarisation and social citizenship, (2) competition and labour standards, and (3) solidarity in fragmented workplaces.

Summary

This brief looks into the obstacles and paths to achieving solidarity in workplaces with temporary agency workers. It is based on the following studies: seasonal work in Bulgarian all-inclusive hotels; Czech multinational supermarket chains; the industrial cleaning sector in Italy; the Spanish domestic care sector; and van drivers, food production, and digital service providers in Poland. In this paper we first summarise the main obstacles that hinder the possibilities for workers to build networks of solidarity and support. We then proceed to discuss recommendations that can be done at the EU, national, and local levels to open up channels that support and engage workers better in collective struggles.

We identify three basic dividing lines that affect solidarity and social cohesion in a workplace. First, there is an interconnection between migrant status and the type of employment regime: Temporality of work and residence permits lead to different economic strategies, diverse attitudes from management, and limited ways of integration or professionalization at work. Second, spatial and temporal constraints play an important role, especially with the development of digital platforms that give a feeling of autonomy to a worker (as in the case of Polish service providers) but less connectivity. Finally, in terms of institutionalised solidarity, classic trade unions functioning on the national level do not really represent the voice of temporary and migrant workers (with the situation being somewhat better in Italy). This not only complicates their ability to bargain but also plays a role in the level of public representation. Temporary migrant workers cannot influence their own image within society or be properly represented in political debates about themselves. Under such circumstances, grass-roots organizations start to play an important role in constructing bonds of solidarity at the workplace.

Main issues

1. Intersection of employment and migratory regimes — subcontracting and temporary/short-term migration status.
2. Spatial and temporal constraints — obstacles related to the organisation of work and digitalisation of labour.
3. Workers' representation — limited role of trade unions, poor participation and representation in the public discourse, and the rising role of grassroots solidarity networks.

1. Intersection of employment and migratory regimes

We observed a strong connection between migrant status and the type of employment contract in all five cases. A less secure type of residence status is usually related to more precarious working arrangements, often leading to further social fragmentation of a workplace, hostile attitudes, and/or obstruction of a sense of solidarity. The following section will explore in detail how such overlap manifests in practice and what type of fragmentation it creates.

Temporality of a contract constitutes a particularly precarious situation when combined with migrant legal status as it structures a certain type of working relationship. This is illustrated in the example of workers with they are pushed to a certain kind of temporality by the type of visa. A similar situation exists in Poland, where the temporality of a stay led to the impossibility of a worker receiving a promotion. In both cases, solidarity in the workplace has deteriorated due to the temporal character of work defined by the residence permit, and the absence of the possibility for long-term stable employment and development.

The difference between the economic strategies of local and migrant workers is another dividing line that can be connected to migratory status and which affects the sense of common goals in a workplace. When workers come for a short fixed period, their economic strategy might be to work as many hours as possible if they do not find any objective constraint. This strategy differs from that of a fully employed local workers who work fixed hours, which may lead to a conflict of interests between the two groups and the emergence negative/blaming attitudes towards migrants. Such an attitude is present within managers who can be especially exploitative (Czech Republic, Poland).

However, the shortcomings of temporary employment seem to create similar economic strategies among both local and migrant workers that can function as a line of common experience to help to build solidarity as well. These are related to the unsustainability of a decent quality of life (including opportunities for raising families, professional development, education, recreation, and health issues) for workers in temporary, unstable employment. Like local workers, temporary working migrants usually cover such costs by themselves (an exception is the Bulgarian case); this means they pay for accommodation, food, and their social life. Like local workers, temporary migrant workers try to invest as little as possible in their housing, food, social and cultural life which drastically decreases their standard of living. Therefore, when temporary work agencies (TWAs) or an employer does not invest into the quality of life of these workers, the latter tends to be kept on a low level. In addition to these, temporary migrant workers are often excluded from access to the public health system and make low or no contributions to the social system (which is especially important for older workers in regard to pensions).

Our cases studies showed that local managers and employers seeking a flexible labour force are rarely interested in improving the conditions of temporary migrant workers. In the case of Polish food production, these workers do not enjoy the same rights and work opportunities as core workers: There is no possibility of being directly employed, of receiving a promotion, or improving work opportuni-

ties. Temporary workers are visually separated by wearing different uniforms. Meanwhile the solidarity between managers and temporary workers is eroded by the type of employment and subcontracting, and the environment of the workplace itself is alienating for the temporary migrant workers.

Subcontracting often obscures the employment relationship; it is not clear whom workers should address their collective demands: to the manager at the workplace, a user company, or a TWA. Managers who have influence on the working conditions are often employees of the end-user company, while the workers are employed by a TWA that is simply leasing them to the company. In this way, all worker complaints need to be addressed not to the managers who regulate the workers' daily work, but to a company that is often not even present at the work site. Often temporary workers perform work at different sites, prohibiting them from meeting all the other workers from the same TWA and formulating collective demands towards it. This fragmentation is even more eminent when temporary migrant workers feel that their residence status is directly connected to their employment contract.

2. Spatial and temporal constraints

Together with the fragmentation of employment relations and regulations, we observed ever-growing fragmentation of the work processes and working spaces. And yet, the possibility to meet face-to-face, to have time to socialise outside of production and working hours was crucial for the emergence of commonalities and solidarity. This section outlines some of the trends that we observed in our five country cases.

Access to facilities for workers to organise and communicate differ tremendously in different countries and sectors. In Bulgaria, migrant and Bulgarian workers have different accommodation and while conditions for migrants are basic, they are worse for locals. For Ukrainians, transportation from the bigger cities is organised,

so workers can meet each other on the way. Canteens exist in Czech supermarkets and both local and migrant temporary workers and core workers could use them during breaks. The obstacles to communication, however, might be differences in shifts and a constant change of workplace (this was the case of a so-called ‘smart team’ in one multinational supermarket chain that organised shelves in different shops during discount periods). The same obstacle exists for industrial cleaners in Italy: Workers employed by the same company work in different places. In other cases, such as driving and cleaning in Poland, the nature of work does not allow workers to meet and organise themselves.

The role of the digital platforms in Poland’s case tends to have a negative effect on relations of solidarity at the workplace. Digital platforms function in such a manner that an end-user and a cleaner connect with each other on the web. Meeting other workers and having real contact with an employer becomes impossible. In this case, cleaners are self-employed or employed by other firms, which cause another line of fragmentation. Individualised employment relationships on digital platforms are not yet fully understood and covered by the lawmakers and trade unions. Therefore, even when workers right to self-organise is guaranteed by Article 28 of the Charter of Fundamental Rights of the EU¹, there is no space for it to be realised.

3. Workers’ representation

In the cases of Bulgaria, the Czech Republic, and Poland, trade unions took a reserved position towards temporary workers, especially migrants. In the Bulgarian case, Podkrepa and the Confederation of Independent Trade Unions of Bulgaria (KNSB) expressed fear that the influx of migrant labour was destabilising and causing emigration from the country as well as a possible xenophobic backlash. In the Czech Republic, the trade unions are not interested in the actual organisation of

¹ Charter of Fundamental Rights of the EU.

Available at: <https://eurlex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>

migrants despite their declared openness to TWA employees and the enforcement of migrants' rights. In the Polish case of food production, TWA employees could not join the trade union of the factory. In Italy, it is important for the unions to have migrants and local workers united. They managed to address the issue of paid leave for migrants in the National Collective Agreement. In comparison with the Czech trade unions that address the topic only in a declaratory way, Italian unions have taken more concrete measures regarding migrant workers' rights. While in most cases the position of unions is reserved, the Italian case of autonomous trade unions shows that unionised workers are more willing to stand up for themselves, as they did in reaction to work intensification (while non-unionised workers continued to work, unionised workers adopted practices of resistance like leaving tasks incomplete when there was a lack of time). In Spain, unions do not play an important role in the domestic sector; however, there are other groups struggling for the rights of the workers².

The reserved position of trade unions leads to the lack of representation for the temporary workers, which they are entitled to (Art. 7, Directive 2008/104/EC on the representation of temporary workers)³, and to exclusion from a social dialogue (Art. 33, Directive 2000/78/EC on the promotion of dialogue between social partners⁴, and Art. 6 p. 5, Directive 2008/104/EC on the facilitation of a social dialogue in order to improve the access to training and childcare facilities for temporary workers).

2 For example, see Territorio Domestico, a grass-roots organisation gathering local and migrant women together in common struggles inside the domestic sector.

Available at: <https://www.facebook.com/territoriodomestico/>

3 Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work. Available at: <https://eur-lex.europa.eu/legalcontent/EN/TXT/?uri=CELEX:32008L0104>

4 Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. <https://eur-lex.europa.eu/legalcontent/EN/TXT/?uri=celex%3A32000L0078>

In cases when trade unions are weak, grass-roots organizations could appear. In the Czech Republic, there are two organizations that deal with rights violations in supermarkets, but they are not prominent in the public discourse. In the case of Bulgaria, there is the autonomous trade union; however, its members admit that it is hard to organise workers in hotels as a sector. In Spain, grass-roots organizations were the most successful. Workers organised themselves in eight different organisations with different profiles. The organisations do not differentiate according to worker's origin but are based instead on shared work experience in the domestic sector. The functioning of grass-roots organizations gives temporary and migrant workers feelings of security and mutual understanding. Contrary to Italian unions, these organizations are based on emotional proximity and meetings outside of the working place.

The weak voice of workers in public discourse about their experiences translates into a negative impact on the perception of their work from the wider public, employers, and management. Via this, an image of a worker who does not deserve a good wage — a 'gastarbeiter' (this word was used by a Czech trade unionist in a description of Ukrainian workers) — appears. Migrant workers often become scapegoats publicly accused of social dumping; in cases where unions are not inclusive of migrants this is especially vivid. All this together disturbs the social cohesion in society and disrupts solidarity from the wider public with the work, which is physically and emotionally hard. The role of trade unions is important for migrants, because they can be recognised as a group with specific needs (Italy). Spanish organizations working in the domestic sector try to solve this problem by the spreading awareness in meetings and forums as well as through campaigns and political lobbying.

Recommendations for social dialogue actors on various levels

1. Intersection of employment and migratory regimes

State: Legal measures that clarify and improve the status of migrant temporal workers in terms of reconciling temporal status with employment, taxation, pension transfers, and opportunities to obtain a more stable status must be adopted. The fact is that the presence of temporary migrant workers is not a short-term phenomenon but a long-term development that must be publicly admitted. States must recognise the important role temporal workers are playing in their social and economic life. Instead of fragmenting legal status into variations of seasonal, temporal, etc. and thus obstructing more comprehensive social rights and protection, measures should be taken to consolidate the rights and access to social benefits of all types of workers. One of the first steps should be a decoupling of the employment contract from the visa, breaking worker dependency on the employer and allowing job mobility for migrants. A further step would be implementing and securing the function of particular legal measures towards TWAs. These measures must reflect the fact that, in agreement with Directive 2008/104/EC, §11, TWAs are responsible not only for the economic condition of migrants but that they must also secure decent life conditions, including the possibility to reconcile working and family lives, educational and professional growth, and the possibility of recreation. In such a manner, TWAs must play a larger role in the integration of migrant workers, including childcare, social care, healthcare, personal and professional education and growth, and cultural integration. Moreover, the social responsibility of business and the larger share of responsibility of the employers and TWAs (especially in providing health and social benefits) must be supported at the state and municipal level.

Trade Unions: Create transnational nets of solidarity in response to transnational challenges. The example of cooperation between UK, Irish, and Polish trade unions in order to reduce the competition driving down the level of pay and working conditions could serve as a good example. The mutual effort combines the signing of agreements and the exchanging of organiser⁵. This undertaking could be promoted in other sectors and states outside of the EU. Campaigns such as www.stopsocialdumping.eu (a campaign organised by two large European trade unions) must be supported in order to enforce relevant EU Directives on the European level. Existing networks such as the European Migrant Workers Union should already be promoted in the countries of origin in order to protect the rights of temporal and seasonal workers.

In many cases, jobs are already advertised in countries of origin that are outside of the EU, which poses a further obstacle. Real working and social conditions are not known to applicants, nor are the basic provisions of the Labour Code of the hosting country. A **cross-country information network** which can deliver updates on these conditions to the country of origin is needed in order to support access to information about employment conditions guaranteed by the European Pillar of Social Rights⁶, the Proposal for a Directive on Transparent and Predictable Working Conditions, Art 4 (on workers' right to receive written information about their working conditions)⁷, and Directive 91/533/EC

5 Krings, T. 2014. 'Unorganisable? Migrant workers and trade union membership.'

Available at: https://www.researchgate.net/publication/280490650_Unorganisable'_Migrant_workers_and_trade_union_membership

6 European Pillar of Social Rights. Available at: https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-socialrights/european-pillar-social-rights-20-principles_en

7 Proposal for a Directive of the European Parliament and of the Council on transparent and predictable working conditions in the European Union.

Available at: <https://eur-lex.europa.eu/legalcontent/EN/TXT/?uri=CELEX:52017PC0797>

(on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship)⁸. A variety of social actors can take part in this network: trade unions, NGOs, and embassies.

Trade unions could take an especially active part and exchange practices and specialists between the EU and sending countries while the European Labour Authority can play an essential role in providing information about the European labour market⁹. The network though must cover countries of emigration where workers often do not have up-to-date information, not only migration inside of the EU.

2. Spatial and temporal constraints

Municipalities, grass-roots organizations, and trade unions: Provide facilities and opportunities for temporary agency workers to meet with other workers outside of the workplace, to share knowledge and experiences with different TWAs they work for, to discuss their working conditions, and to be included more in the social life of a community. There should be regulatory and trade union pressure on the employer to provide fair access to the common facilities for all the workers and enable their communication as it is given in Article 6, Directive 2008/104/EC.

Trade Unions: React to the change of employment practices in the digital era. A clear legal framework should be set in order to recognise self-employment, full-time employment and temporary types of employment on digital platforms. Trade Unions must be involved in the creation of such legislation in order to prevent

⁸ Council Directive 91/533/EC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship.

Available at: <https://eurlex.europa.eu/legal-content/EN/TXT/?uri=legissum:c10811>

⁹ European Labor Authority (Proposal for establishing).

Available at: <http://ec.europa.eu/social/main.jsp?catId=1414&langId=en>

the possible exploitation of cheap labour. Some institutional actors suggest that the status of platform workers must approximate that of temporary work agencies, and collective agreements should be automatically extended to wider categories of workers than the ‘employee’, with a view to including platform workers¹⁰.

Unions must endeavour to reach out and protect platform workers at the EU level and involve themselves in a dialogue concerning digitalisation which is now oriented towards *safeguard[ing] a fair, predictable, sustainable, and trusted business environment in the online economy*¹¹.

3. Workers’ representation

Trade unions: A pro-active presence at the local level or in workplaces, and an openness to all workers. In cases such as Bulgaria, the Czech Republic, Poland, and Spain sectors are weak or non-unionised, and the workers do not hear about the unions. Unions must embed themselves in these workplaces and be open to other organisations which are already functioning there and have nets of solidarity. In the Czech Republic, unions can run information campaigns for temporary workers and provide the means to complain and report violations. In Poland, unions must consider a policy that is more open to temporary workers.

Openness to migrants: The already existing Union Migrant Net¹² — a network of migrants established, managed, and supported by trade unions — could be useful to trade unions that are hesitant in addressing migrants (the organisation sees trade unions as one of the facilitators of integration).

10 European Centre of Employers and Enterprises providing Public Services and Services of general interest proposes (CEEP). Available at: <https://www.ceep.eu/ceep-on-the-challenges-andopportunities-of-digitalized-labour-markets-at-the-informal-espc/>

11 Juncker, J-C. 2017. European Commission - Press release. Online platforms. Available at: http://europa.eu/rapid/press-release_IP-18-3372_en.htm

12 Union Migrant Net. Availabe at: <http://www.unionmigrantnet.eu/Pages/WhoWeAre.aspx>

Networks between trade unions and grass-roots collectives are beneficial for both. There is a gap between trade unions that are able to represent workers at the state level but do not have enough strength in terms of organisation at the workplace, and grass-roots organisations that are able to organise workers at the workplace but have little representation at the level of states. This gap could be breached by cooperation between both. Trade unions and grass-roots organisations can facilitate the creation of joint local ‘workers’ centres’, meeting rooms, advisory services, etc. They can share experience of different ways of organising and educate workers about various self-organising options, including providing the legal support to form grass-roots trade unions. This cooperation might have a sectoral character, be physically placed in respective areas where particular workers are situated, and employ migrants interested in the topic (see, for example, the Faire Mobilität project for CEE migrants in Germany)¹³. Legal support deserves special attention — many temporary migrant workers do not want to use these services because they do not believe in their efficiency or simply do not know about them. Through this cooperation, trade unions can draw on the strong networks of solidarity in grass-roots organisations and grass-roots organisations can draw on the legitimacy and bargaining power of the classic trade unions.

Trade unions in the media: create pressure on businesses by focusing on those problematic aspects and labour standards that compromise migrant and temporary workers; develop a more positive and friendly image of temporary migrant workers.

¹³ The Fair Mobility Project. Available at: <http://www.fairemobilitaet.de/en/>

Migrants, NGO, and other actors at the municipal level:

Previous research has demonstrated that community campaigns organised by migrants and unionists directly in the workplace can be successful with regard to the visibility of migrant workers (the Justice for Cleaners campaign organised in universities where cleaners worked)¹⁴. Community organizations can find common ground round issues such as quality of life, housing, welfare, migrant rights, etc. — topics which combined together can speak to a large group of actors on a larger geographical scale (e.g. the TELCO campaign in the UK, which included local citizens, church leaders, and community campaigners)¹⁵. Community organisation on the municipal level leads to greater visibility of migrant workers, better employment relationships, and improved quality of life for local communities.

14 Holgate, J. 2011. TEMPORARY MIGRANT WORKERS AND LABOR ORGANIZATION. Working USA: The Journal of Labor and Society ·1089-7011 · Volume 14

15 Wills, J. 2008. 'Making Class Politics Possible: Organizing Contract Cleaners in London.' International Journal of Urban and Regional Research, Volume 32.2 June 2008 305–23



With the support of the Europe for Citizens
programme of the European Union

This electronic publication is available at
<https://migrationonline.cz/shared>. You may find further
information on the MKC website at www.mkc.cz

Prague, November 2018

Graphic Designer: Krystyna Macková



multicultural
center
prague



migrationonline.cz