

Study: Fair mobility without borders?

Abstract

The study takes account of the employment situation of workers from the EU-8 Member States and the EU-2 Member States. Firstly, the available data and the legal situation are examined and the problematic issues regarding the work and employment situation of mobile workers are analysed. Subsequently, possibilities for enforcing employment rights are discussed and possible controls and sanctions are described. On this basis, available advisory and information services for mobile employees are evaluated in terms of their target group, objectives and content and unmet needs are formulated.

Moreover, transnational cooperation between trade unions is presented and analysed based on its orientation. In conclusion, recommendations for an improvement in the work and employment situation of mobile workers are developed. The free movement of workers and the freedom to provide services functions well in many sectors: a large proportion of the employees subject to social security contributions from Central and Eastern Europe work under conditions similar to other employees in Germany. They receive their due wages as collectively agreed upon, work under legal working conditions and are well integrated in Germany. In some branches – as the study results demonstrate – the situation of mobile workers is systematically used to circumvent the minimum work requirements as well as the prevailing tariff systems. This can be observed in particular in the following branches: the construction industry, building cleaning, the slaughtering industry, caregiver professions, the hotel and restaurant industry, transport and logistics and in industrial services.

In these branches, a permanent workforce is increasingly being replaced by a flexible workforce without security who often come from the Eastern EU states, have hardly any negotiating power and are not well-informed of their opportunities within the German labour market.

The analysis shows that in terms of the forms of employment, the most serious problems could be observed in the cases of cross-border temporary agency work, posted workers, cross-border self-employed workers (false self-employment) and cross-border contracted workers.

The background of this situation includes the deficient legal protection of mobile workers, their lack of knowledge concerning their legitimate rights and the consequent difficulties in enforcing these rights.

The study includes various recommendations. Urgent measures which emerged include a revision of the directive regulating the posting of workers, an extension of the general liability of general contractors and the further development of controls and sanctions by public authorities. In addition, an adaptation of procurement laws in the case of public contracts could have a positive effect on the situation on the labour market.

The analysis additionally shows that worker participation can help to improve the situation of those affected, yet here too, the trend towards circumvention of such measures can be observed, in particular by increasingly employing posted workers or by replacing permanent employees with a contracted workforce. In this case it seems necessary that the rights of co-determination are extended so that the workforce which is actually working at the company can also represent itself to the employer.

The situation regarding information and advisory work for those affected is characterised by offers at a national level which have been predominantly created for long-term immigrants. Migrant workers who immigrate for a short period of time and for whom long-term integration into the German labour market is not necessarily a prospect fall by the wayside. With advisory centres like those being developed within the Fair Mobility project, this need can be met in part. Based on the analysis as a whole, a considerable expansion is recommended on both a widespread and grassroots basis with respect to the advising of mobile workers. At the same time, it seems important to develop information for mobile employees on the German labour market in an adequate form and in various languages and to make this information available at the proper locations. This also includes information which is already made available to mobile employees in their countries of origin and in their native languages. Particularly to this end, the existing transnational cooperative relationships between trade unions should be utilised and strengthened.

About the author

Michaela Dälken studied history and German philology at Osnabrück University. After working at the Institute for Migration Research and Intercultural Studies (IMIS), she began working with the DGB Bildungswerk in 2001 where she today heads the Kompetenzzentrum Globale Mobilität und soziale Sicherheit (Competence Centre for Global Mobility and Social Security). She is additionally a member of the faculty at Osnabrück University.