



**LABCIT
COUNTRY
REPORT**

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**ROMANIAN
MIGRANTS IN THE EU:**

**THE STRUGGLE
FOR DECENT WORK
AND DIGNITY**

“Testing EU Citizenship as Labour Citizenship: From Cases of Labour Rights Violations to a Strengthened Labour-Rights Regime” (LABCIT) project is co-funded by the Europe for Citizens Programme of the European Union. We start from the position that a decent wage and working conditions are necessary for promoting full citizenship and the democratic participation of all European Union citizens. As such, the project aims to “test” the ability of European citizenship to be extended to work, favoring the respect of social and labor rights which form labour citizenship. We perform the testing through analyzing “extreme” cases of labour violations and exploitation in several EU countries, aiming to understand which existing and new instruments can be used for strengthening the protection of workers’ labour rights.

As part of LABCIT’s activities, Conect Association organised several meetings with Romanian workers who worked abroad, and held two hearings with migrant workers and labour rights experts. This Country Report investigates Romanian migrant labour exploitation outside of Romania, including in the Mall of Berlin case in Germany, solar panel construction in the UK, and the domestic work sector across several western-European countries.

“We have put all our efforts into making our situation visible for the people in Germany and for other workers. We were not ashamed. We did it for our dignity and for the dignity of other workers that were, are and will be exploited.”

Elvis Iancu, worker for the Mall of Berlin

Short overview

The deindustrialization process of the 1990s as well as the economic crisis of the late 2000s brought along unemployment and lack of prospects for decent living. They prompted many Romanian workers to find other work opportunities in western European countries with demand for skilled and unskilled labour force. The difficult economic situation at home pushed Romanians to accept unskilled and precarious jobs across Europe.

On the 1st of January 2014, seven years after Romania joined the European Union, Romanian and Bulgarian workers were granted full rights on the labour markets of the UK, France, Germany, Austria, Belgium, Luxembourg, Malta, the Netherlands and Spain. While many migrant workers have managed to improve their lives through seeking jobs in the newly-accessible labour market, for many others this was not the case. This report focuses on two sectors in which severe labour exploitation continues to occur: construction and domestic work. Instances of abuse in these domains were evidenced by the hearings organized by Conect Association in Romania and illustrated by the cases of the Berlinese ‘Mall of Shame’, that of the solar panel workers “posted” to the UK and testimonies and surveys on the situation of Romanian domestic workers, employed especially in Italy and Spain.

Conect Association conducted two hearings that involved Romanian migrant workers, public institutions, NGOs, trade unions, academic researchers and independent practitioners. While conducting the hearings we focused mainly on the labour conditions and difficulties encountered by migrant workers in the construction as well as the domestic sectors, in the main destination countries for Romanian migrants, namely Germany, the United Kingdom, Italy and Spain.

Compared to other EU countries, Romania is still mostly a country of emigration with an estimated number of 2.2 to 3 million citizens living outside its borders on a temporary or permanent basis (Calea Europeana 2014). The main factors that pushed Romanians to migrate

consist in the deficiencies of the labour market (high rate of unemployment, lack of jobs, undeclared jobs, low wages, etc.), due to the heavy deindustrialization that characterized the transition period. Currently, Romania is considered to be one of the most important workers' remittances recipients in the EU (Stanley 2015), with large amounts coming from Italy, Spain, Germany and the United Kingdom.

While during the 1990s and beginning of 2000s the remittances were used for investments on a local level (construction, opening small businesses, etc.), in the last decade, with the Romanian market being saturated, these monetary resources have been invested mostly in consumption, covering the basic needs of the migrants' families (Feraru 2011).

Although many have qualifications and skills, Romanian emigrants are willing to accept low skilled or unskilled jobs, precarious working conditions and lower wages, thus being more vulnerable to exploitation and rights violations. The main sectors of the labour market occupied by Romanian migrants are in construction (mainly in Germany, the UK), domestic care (Italy, Spain, Austria, Germany), agriculture (Italy, Spain, Greece), manufacturing and services. According to several studies and statistics, a high number of Romanian migrants are engaged in the informal economy, a situation that is most common in sectors such as domestic care and agriculture (European Commission 2014). The testimonies of numerous migrant workers relay similar information.

Compared to the large number of Romanians that reside in other European Union countries, at the end of 2015 there were only 60 257 third country nationals registered in Romania, most of whom are family members of Romanian citizens, long term residents and students. Only a small number of about 2 500 immigrants are residents registered for the purpose of employment. On top of that, the Romanian authorities registered 43 882 EU citizens, mostly from Italy, Germany, France and Hungary (IGI Report 2016). Although the third country nationals' residency for the purpose of employment is subject to very strict regulations, which should also be a guarantee against labour rights violations, numerous cases of abuse have appeared in the last decade, especially in the case of the Filipino domestic workers and the Chinese construction workers, among others (Guga and Toader 2011).

While conducting our hearings but also based on existing research and media analyses, we have encountered several patterns and preconditions of migrant workers' exploitation. Recruitment agencies, subcontractors, the high occurrence of irregular or informal work, improper working and living conditions, delays in payment, and the lack of access to social benefits all play a part in the perpetuation of labour rights violations. Low involvement of

institutions in monitoring the work conditions as well as their limited tasks and duties in investigating labour exploitation mechanisms enable these patterns of labour rights violations. We have focused on these issues while researching some cases of labour exploitation in the construction sector (Germany and UK) and in the domestic care industry (Italy, Spain).

■ CONSTRUCTION SECTOR

The “Mall of Shame” (Germany) and “Solar Panel Construction Postings” (UK) cases depict a very common pattern of labour rights violations in the construction sector by tackling aspects such as subcontracting, employment in the informal sector, lack of social and financial benefits, improper work and living conditions, delays in payment and threats.

CASE 1

THE UNPAID SALARIES OF CONSTRUCTION WORKERS AT THE MALL OF BERLIN, GERMANY

The case describes the situation of a group of Romanian migrants that worked from July to October 2014 on the construction of the Mall of Berlin, a project estimated to cost nearly 1 billion Euros and considered to be one of the biggest commercial infrastructure projects in Europe. Their situation entailed all the violations described above, including significant delays in payment and lack of social benefits. In addition, there was a lack of involvement from the responsible local authorities and from formal representative entities such as the Romanian embassy as per the workers’ testimonies. Nevertheless, the workers decided to claim their rights and organized a protest movement for boycotting the Mall of Berlin.

According to the workers’ testimonies as well as subsequent interviews with DGB (German Trade Union Federation) and FAU, the workers received initial logistical help from the DGB as well as substantial long-term support and help from the FAU Berlin workers union (FAU 2014). Through this support, they managed to set up a campaign, known under the name of “Mall of Shame”. The campaign demanded decent work and payment for performed labour and denounced exploitation while boycotting the commercial center. In addition, during the campaign, the workers received temporary accommodation, the possibility to receive donations that would cover their basic needs and also access to legal aid in order to sue the companies that benefited from their services.

The workers returned to Romania and subsequently won the court trials in Germany against the subcontractors, despite their physical absence from Germany. Yet because these companies went bankrupt, the Mall of Shame workers will have to initiate further actions in order to receive the due compensations. Nevertheless, the struggle of the migrant workers as well as the huge impact of the Mall of Shame campaign managed to somewhat overshadow the impressive commercial center in the German capital. It also brought to light the immense challenges that migrant workers are facing in their demand for decent working conditions and respect for their rights.

CASE 2

WAGE THEFT AND ABUSIVE FIRING OF SOLAR PANEL CONSTRUCTION WORKERS, UK

This case refers to the situation of Romanian migrants who worked for a Romanian branch of a German company in the second half of 2014 for a period of two or three months.

The company specialized in building and maintaining solar plants and thus, in providing infrastructure in the field of solar energy. The company still exists and continues to hire skilled and unskilled workers for ecological infrastructure projects that are developed mostly abroad, in countries such as the UK, Germany, Italy and Spain.

In 2014, a group of workers were recruited and employed by the Romanian company on the basis of an individual work contract. The contract came along with a resignation letter the workers had to sign in blank. It was also accompanied by the promise of adequate equipment, free accommodation, meals, medical insurance, and performance bonuses, in exchange for work that would be conducted exclusively in the UK.

Once at their destination, the mobile workers received the amounts specified on the contracts but no payment for overtime nor decent amounts of money for food, despite individual working time that reached up to 350 hours per month. When the workers insisted on signing the A1 form (the certificate concerning the Social Security legislation which applies to workers posted inside the EU), the company cancelled their contracts and told them to return to Romania at their own expense. Consecutively, the workers received

a letter that confirmed the termination of their contracts. They were paid their last salary, but without the overtime compensation.

With the help of a Romanian trade union (CNSLR Fratia), some of the workers filed a complaint with the Romanian Labour Inspection. Their case is still pending.

■ DOMESTIC WORK SECTOR

Starting in the mid-1990s most Romanian female migrants found work in domestic care in countries such as Italy, Spain, Austria and Germany. While other sectors of the labour market were characterized by economic fluctuations, influenced by the economic crisis or by the demand for skilled workers; the domestic care sector offered migrants an apparent stability and opportunities for finding employment. Most migrant women have been finding these work opportunities through informal family or friends networks, especially in Italy and Spain – countries with a strong tradition of employing Romanians in domestic care. In countries such as Austria and Germany, domestic care workers mostly find job opportunities through recruitment agencies.

The common abusive practices that we documented in our seven interviews with the domestic care workers consist of: work in the informal sector of the economy – lack of work contracts and thus, lack of access to social benefits and health services; schedule overload – working and living in the house of the employer, performing all household duties, insufficient days off or vacation days; verbal and physical abuse from the employer, and isolation. In fact, the issue of lacking work contracts has also been evidenced by a recent study which showed that over 60% of the Romanians working in the domestic sector in Italy do so without employment contracts (Gheorghe 2015). Despite the difficult work conditions, interviewed Romanian domestic workers consider that once they learn the language and get along in the host society, they have the chance to create stronger networks that would allow them to choose between job offers and employers.

Yet even when the women speak the language and rely on fairly strong networks, care work is often a precarious form of employment. One woman, working in Italy since 2001, recalled that:

“When the first person that I took care of died, I found myself unemployed the second day. I knew that it would happen, but I did not manage to find a new client in such a short notice. So I found myself near Rome, thinking if I should go home or find a temporary solution. I asked around and people told me to go to the Caritas shelters, where I slept for about two weeks, until I found another job. I met there many people in the same situation – workers that did not have a job and were staying there instead of sleeping on the streets. Since then, I slept in Caritas shelters two more times...the conditions are reasonable and it is free of charge. It is full there of Romanians, Bulgarians, Albanians and so on...”

The situation of immigrant (third-country nationals) domestic workers in Romania bears many similarities to the situation of Romanian women in Western Europe, as well as many differences, due to the legal provisions that regulate the status of the two categories of migrant workers. One aggravating factor is that the migrant domestic workers’ status (right to residence) is related to maintaining a job. This requirement has been maintained, in disregard of instances of extreme abuse denounced by many domestic workers. Effectively, most third-country national domestic workers in Romania are forced by these restrictive immigration laws to stick to jobs where sometimes their physical and psychological integrity is at great risk, at least until they manage to recover the large amounts of money (2000-4000 Euros) that they have paid to the recruitment agencies that brought them to Romania.

The abuses that domestic workers have been subjected to raise new questions regarding the capacity of responsible institutions to monitor labour violations and abuses that take place on the employer’s private property, in the absence of witnesses, and many times under dangerous circumstances linked with the isolated work environment. Although the ILO Convention on Domestic Workers represents a better policy in countries that ratified it, further steps should be taken to create legal frames that foster and uphold decent work conditions for this category of workers.

Main issues

Although it is often mentioned that exploitation is based on the limited information that workers have regarding their rights and the labour regulations in destination countries (AN-ITP 2014), as well as the language barriers, our findings conclude that this is just one side of a story whose roots are much deeper and complex. Secondly, although we agree that labour rights violations are very much related to the precarious social and economic conditions of the workers who are forced into lowering their standards when accepting certain work conditions, other factors come into play as well. The fact that migrant workers have very limited safety nets and very limited resources in order to fight against the abusive practices of companies and institutions must also be taken into account.

During our hearings and discussions with construction and domestic workers we have managed to outline some issues that seem to be at the core of the labour rights violations that they have been subjected to. These include abusive recruitment agencies, irresponsible subcontracting, work informality, the passivity of diplomatic representatives and other institutions and legal and bureaucratic hurdles to achieving a minimum level of social security in migrants' host countries.

■ RECRUITMENT AGENCIES

The recruitment agencies often charge commissions for providing workers with jobs abroad (on the basis of civil contracts), without exercising any further check-ups on the activity of the employers or assuming responsibility on the basis of bilateral conventions or contracts signed with the firms. Thus the agencies do not take any responsibility in situations of abuse. Furthermore, some of them exercise control over the workers and regularly demand commissions, even after workers have been placed with their employers.

■ SUBCONTRACTING

Subcontractors are a very common presence, especially in large construction and infrastructure projects. Many times, the investor (the beneficiary of the project) does not monitor or take responsibility for the activity and practices of the subcontractors charged with providing the work force. Exploited workers have demanded justice from the companies (investors) that subcontracted their employers, but in most cases their demands were not met, because the companies were not directly pressed by any legal obligations towards the employees of their subcontractors. Also, in numerous cases subcontractors declared bankruptcy (the case of Mall of Berlin, for instance), a procedure which slows down or freezes entirely the process of recovering compensations for workers. Even when workers won

court trials against the subcontractors, they did not manage to recover the compensations they were entitled to.

■ WORK INFORMALITY

Informal work is frequently mentioned in migrants' stories, especially in the case of domestic workers. Contracts signed in languages that the workers do not understand, that were not registered or that stipulated other terms than those agreed on, contracts that were terminated without the knowledge and the agreement of the employees, contracts that came along with resignation letters signed in blank, all are among the informality-causing situations described in interviews. Other examples include: employers postponing the signing of work contracts, pressures on workers to register as self-employed so the payment of health and social benefits is imputed to them (Mall of Berlin case), employers falling short of making posting formalities for workers employed for labour exclusively abroad, etc. When such cases reach the court, the workers can usually count only on witnesses to support their allegations. From another perspective, undocumented work poses a great danger for workers in case of work accidents (no access to medical services beyond an emergency) or when in need of medical, maternity holidays or unemployment benefits.

■ PASSIVE INSTITUTIONS

The insufficient involvement of public institutions and diplomatic missions was mentioned by many workers, especially in cases when they were subjected to severe abuse, left without travel documents or without the financial means needed to return home. Workers that found themselves in such situations decry the lack of reaction of the institutions that should have protected or supported them in accessing their rights. The limited responsibility of the labour inspection (especially in monitoring the cases of domestic workers), the lack of involvement on the part of the embassies or the consulates, the slow and discouraging actions of the police, are only some of the aspects that should be taken into consideration.

■ INACCESSIBLE SOCIAL PROTECTION FOR WORKERS FIGHTING ABUSE

The lack of safety nets and the long bureaucratic procedures in seeking justice are other aspects that should be taken into consideration when thinking about the causes of the large number of work exploitation casualties among Romanian migrants, especially if we also consider the comparatively low number of cases that reach the court or that benefit from a thorough investigation made by the responsible institutions. In most cases, the abused workers do not benefit from unemployment or other social benefits that would allow them to stay in the destination country at least for a period of time until they can start a trial, protected from the threats of their former employers (ex. according to their statements, the workers

from the Mall of Berlin have been intimidated several times by their former employers, after setting up the boycott campaign). Most often, even with the support of trade unions, the workers find themselves in the situation of leaving the country and urgently find other work opportunities that would ensure their minimal financial stability.

■ PRECARIOUS SITUATION OF THE DOMESTIC WORKERS

Although the EU laws that govern the domestic workers are mostly the same as for any other category of workers, the particular type of employment and the working conditions are different thereby generating new forms of exploitation and new sets of rules for the institutions responsible for monitoring such situations. Most domestic workers are employed by physical persons (not by companies) and they are often required to live full time with their employer, who can control their mobility and their access to communication. The employment conditions allow employers to exercise unrestricted control over the workers, which often translates into indoor abusive practices that are very difficult to investigate or to prove to responsible institutions such as the police, labor inspection or the court. In addition, in many cases the domestic workers are not employed with a work contract, and their undocumented work situation does not grant them the right to social benefits in the host country (unemployment, health services, pensions, etc).

Past pro-worker Interventions

Based on our research and practice, although the number of reported abuses against workers exceeds by far the number of interventions that have been made in response to exploitative practices, some initiatives deserve to be mentioned:

On the part of the workers, there existed several initiatives to take abusive employers to court, usually with the support of trade unions or workers' unions. The difficulties encountered by workers in seeking justice refer to the lack of sufficient involvement on the side of responsible institutions (labor inspections, police, embassies, etc.), the high costs in time and money and bureaucratic obstacles they have to assume, the lack of safety nets and legal procurements for Romanian migrants abroad that would allow workers to reside legally in the destination countries for the duration of the trial or at least until the start of the procedures. Although most workers do not seek justice in court, they believe that such negative experiences increase their knowledge regarding scenarios that should not be repeated. Other examples of workers' initiatives refer to established members of building workers' unions from

destination countries, formerly migrants themselves, who provide information and support for fellow migrant workers by creating web platforms with stories, advice, useful resources and contacts for other migrants, etc.

Trade unions in destination countries (for example, in Western European countries) employ people from communities with a large number of migrant workers in order to overcome language and cultural barriers. Trade unions also publish informational materials in various languages. Nevertheless, they encounter difficulties in situations in which workers are not affiliated with the union, when they are self-employed, or not covered by the collective agreements. Other difficulties refer to the delay in claiming abuse on the side of the workers, and also the lack of logistics for offering integrated support to migrant workers (accommodation, food, legal aid, etc).

Certain **public institutions** have functional platforms of inter-cooperation, such as between labour inspectorates and police in different countries – active especially when investigating criminal networks that not only involve forced work and human trafficking but also can include other rights violations or abuses. The Ministry of Labour in Romania has attachés responsible for work and social affairs in all Romanian embassies in countries with considerable numbers of Romanian migrants. In some countries, legislative initiatives are being promoted in order to increase the reach of labour inspectors, to accelerate court procedures, and to create new mechanisms that would offer more efficiency in monitoring and combating labour abuse and exploitation. Still, based on their interaction with public institutions and diplomatic missions both in the home and the destination country, mobile workers have little trust in the justice system and in the steps taken by public institutions.

Recommendations

On the basis of the above-mentioned issues we propose a few recommendations that, once implemented, might contribute to diminishing the consequences of labour exploitation:

1. Implementing legislative initiatives for closer monitoring and accountability of recruitment agencies as well as subcontractors (e.g., in case the subcontractors go bankrupt their contractor should be automatically and directly responsible, and the trials should be expediated). Although in some countries there are laws on the legal liability of subcontractors, most often the trials last for years because they first focus on the subcontractors and only afterwards on the lead firms.
2. Creating powerful support mechanisms for (migrant) workers by informing them where to seek help in cases of abuse and what services they are entitled to.
3. Lifting the barriers limiting the activity of labour inspectors, especially in monitoring domestic workers’.

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