

Building decent jobs for migrant workers

DECENT WORK FOR ALL:
A KEY FOR EFFECTIVE INDUSTRIAL RELATIONS
BRIEFING ON THE SITUATION IN ITALY

17

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Acronyms

ANCE: National Association of Building Project Organisers

CGIL: Italian General Confederation of Labour

CISL: Italian Confederation of Trade Unions

FILLEA CGIL: Italian Federation of Wood and Building Workers (CGIL)

FILCA CISL: Italian Federation of Building Workers (CISL)

INAIL: National Institute for Occupational Injury Insurance

INPS: National Social Security Institute

Overview

Foreign workers are an essential part of Italy's construction industry, making up about 17% of the workforce. The number of migrant workers has increased sevenfold since 2001, and despite the effects of the economic downturn on the industry, the demand for foreign workers continues to rise. Firms are looking for at least 10,200 new foreign workers in the construction sector in 2010, while the number of Italian workers in the industry has fallen slightly.

The construction industry is still the most dangerous industry in the country, with the highest rate of injuries and permanent disabilities, and the second highest rate of fatal accidents. The accident rate among foreign workers is noticeably higher than among domestic employees, with 44 accidents out of 1,000 foreign workers, compared to 39 out of 1,000 for all workers¹.

Foreign workers have been exposed to discrimination, exploitation, and poor health and safety standards, as well as difficulties in their social and cultural inclusion. The protection of their rights is gradually improving, however. Foreign workers are beginning to join the trade unions in increasing numbers, with 20,000 new members joining in 2008, bringing the total number of immigrant workers affiliated to the three most important national trade union centres to 820,000 by the end of 2008. This increase has helped to partially counter the fall in the number of Italian workers affiliated to trade unions.



¹ Source INAIL (National Institute for Occupational Injury Insurance) figures 2009

Theory

The legislation

In the construction sector, EU and foreign workers enjoy the same rights as Italian workers including equal pay and insurance both in national law and in collective agreements.

Workers' representation

All workers have the right to join or form the union of their choice, and to take part in trade union activities such as collective bargaining and industrial action. The right to form and join trade unions is enshrined in the 1948 Constitution, in article 39, and article 40 recognises the right to strike. The 1970 Workers' Statute also recognises the right to freedom of association and collective bargaining, and prohibits anti-trade union behaviour.

Migrant workers

Act 40, of 6 March 1998, affirms equality between foreign workers legally resident in Italy and Italian workers. Migrant workers enjoy the same protection as Italian workers in collective agreements.

The "Bossi-Fini" law on immigration and asylum allows non-EU workers to be recruited if they legally reside in Italy and have a valid work permit. If that is not the case, workers have to apply for the right to work (nulla osta, or clearance) under the quota system governed by the Decreto Flussi (Flows Decree), using an on-line system. The future employer is then responsible for offering the job to the foreign worker who must then apply for a visa at the Italian embassy or consulate in their home country. If the application to work is accepted the employer can collect it from the "Single Desk for Immigration" and send a copy to their prospective employee to enable them to collect their visa at the Italian embassy/consulate.

To obtain a residence permit, the employer and the non-EU worker must sign a Residence Agreement at the "Single Desk for Immigration". The residence permit must be applied for within eight working days of the person's arrival in Italy, from the Post Office. The employer must register the recruitment of a non-EU worker with the local police headquarters, the registry office, job centres, the National Social Security Institute (INPS) and the National Institute of Occupational Injury Insurance (INAIL).

"In the construction sector, EU and foreign workers enjoy the same rights as Italian workers including equal pay and insurance both in national law and in collective agreements."



“Foreign workers are frequently hired into a lower job category than appropriate for their experience and qualifications, which are rarely taken into account. Even specialised workers or those who have worked for the same employers for years tend to be kept in the lowest level jobs.”



Practice An evaluation

Discrimination

Despite the protection provided by legislation and collective agreements, in practice foreign workers in the construction industry often face discrimination:

- **Access to employment**

Employers often favour hiring foreign workers in the construction sector, not for their skills but because they see them as easier to exploit.

“(Foreign workers) are willing to work even on Saturdays, they are more willing to work extra hours, they are more willing in every way, probably because they materially have more needs and expenses.²”

There is discrimination against certain national groups, however, due to the method of recruitment and national stereotyping. Workers tend to learn of jobs through networks of acquaintances, thereby keeping the job within one national group. There are also prejudices against some national groups.

“Usually the Romanian is preferred because he is considered to be reliable, good at his job, responsible and he doesn’t drink. This was a problem that concerned Polish workers for example, because they brought alcoholic drinks to work.³”

“There is a prejudice against Albanians who are believed not to work, to cause problems, to make things disappear very often when they are around and because of this the Albanians find some difficulties.⁴”

Similar prejudices are held against Moroccan workers. The real problem lies in the fact that Moroccans and Albanians have been in the construction sector longer and, because they have a better knowledge of the law, are more likely to demand the respect of their rights. Romanians are more recent arrivals, by contrast. There is also a steady influx of new Romanian workers, anxious to get a job quickly to repay the cost of coming to the country, and more prepared to accept low wages and not “cause trouble”.

Previous experience in the sector does not seem necessary in order to be hired, even though in most cases it is positively assessed. In the same way, the level of knowledge of the Italian language does not seem to be relevant when choosing a worker.

“Let’s say that the people we hired have been somehow guided and taught their job, in the sense that they worked side by side with more experienced people and, little by little, by explaining everything, they understood and learnt both the language and the task they have to carry out.⁵”

- **Working conditions including professional advancement**

Foreign workers are frequently hired into a lower job category than appropriate for their experience and qualifications, which are rarely taken into account. Even specialised workers or those who have worked for the same employers for years tend to be kept in the lowest level jobs. Vertical mobility among foreign workers is scarce, making vertical employment segregation one of the most common forms of discrimination. As one Romanian crane operator explains:

“All my life I have worked, but the employer doesn’t recognise this and hires me in another pay grade. Every day I lose money; the engineer says I don’t care, I’m not interested. He gave me a Grade 2 contract, even though I am qualified as a Grade 7.”

² D., Italian, head of human resources in a construction firm.

³ L., Italian, FILLEA CGIL officer in the Eastern area of Rome

⁴ C., Italian, officer FILCA CISL in the Eastern area of Rome.

⁵ D., head of human resource in a construction site.

A union official adds: "At the construction site what can happen as a form of discrimination is that workers are not recognised for their real job, so even though they are specialised, very often they receive lower wages.⁶" Foreign workers reported that they were regularly asked to carry out tasks not included in their contracts, and that they are the ones who have to carry out the hardest tasks on site.

"For example, when someone says, listen there is that bag of rubble to take upstairs. You take it and maybe the Italian does something else, because that is hard work. Or when a truck must be unloaded during lunch break, maybe they tell you get up and go unload it."⁷

Workers without a valid residence permit are even more exposed to discrimination at the workplace, and do not enjoy the protection of trade unions, who only deal with foreign workers with a legal residence permit. They often find themselves the victims of very low or even unpaid salaries, and are frequently required to work more hours than those established by contract.

"Only at the end I told him, Mauro (employer) please give me this money. I don't have money to make ends meet. I worked even during the holidays, everybody left and I worked, and you didn't pay August, you didn't pay September, you didn't pay October, and what can I do? How can I live without money? "I'll pay you tomorrow, I'll pay you tomorrow", he kept saying. He didn't pay me for three months and then he told me he didn't have to."⁸

• Vocational training and safety at work

It is difficult for foreign workers to attend vocational training courses because their residence permit is usually linked to having an employment contract and because they cannot usually afford to attend courses that last several months, without pay, and without a family network to support them.

Safety training is complied with according to the construction companies, but workers say they rarely receive such training and that often there does not appear to be a clear company policy on safety. Accident rates among foreign workers are higher. Trade unions point out that safety standards are better at unionised workplaces. The worst problems occur where there are irregular workers on site, who lack social protection.

• Multiple discrimination

There are many forms of discrimination that affect access to the workplace. In some cases an individual can be affected by several of these at the same time, multiplying the barriers they face.

Three issues to be mentioned here are :

- Religion/ethnicity: There have been prejudices against hiring Muslims, particularly due to fears of low performance during Ramadan. The issue is currently being addressed through collective bargaining.
- Length of stay. Workers who have been in Italy for a short time, have not mastered the language and do not know their rights are more vulnerable to discrimination.
- Residence permits: Foreign workers with an irregular permit or a short term permit are more vulnerable to discrimination.

⁶ L., Italian, FILLEA CGIL officer in the Eastern area of Rome.

⁷ I., Romanian, president of the Romanian League in Italy and construction worker.

⁸ B., Romanian, construction worker (he carries out the tasks of a crane operator).

⁹ Sale centres of construction materials that are usually located in the areas surrounding the gathering points of irregular construction workers.

¹⁰ D., Italian, head of human resources in a construction firm.

¹¹ B., Romanian, construction worker (he carries out the tasks of a crane operator)

The Smorzi

For illegal work, the periodic recruitment of workers takes place in areas known as "smorzi"⁹, where there is a strong presence of foreign workers.

- "There are some meeting points where people gather to look for a job, especially in construction sites, that is what really happens"¹⁰

- "(I found a job) at the "smorzo", a man came in a car, he said I'm looking for a driver, a mechanic

- And how did you know how to do it?

- My cousin told me (...)

- How does the "smorzo" work?

- Foreigners go there in the morning, they wait there, it's crowded, and when someone who needs a worker comes he asks who is a builder, a driver, I need a driver, it's me, I need a mechanic, a need a builder.

- And if there are 5 builders and he only needs one, how is he chosen?

- He chooses the best, the strongest, because amongst foreigners who is strongest is chosen"¹¹

Initiatives by Italian trade unions in support of migrant workers

Italian trade unions implement many policies and activities in support of immigrant workers, in addition to the very important protection provided by collective agreements. In the areas with the strongest presence of immigrant workers – seasonal work in agriculture or tourism, some industrial districts in the North-East, some big metropolitan areas - trade unions tend increasingly to act through a series of preparatory local initiatives before or at the same time as negotiating protective measures in collective agreements. These initiatives include organising and membership drives by means of, for example, information campaigns carried out locally or at the workplace, services such as specialised counselling and offices, protection of workers in the event of industrial disputes, the establishment of a social delegate for migrant workers and Italian language courses.

Social dialogue

Collective bargaining

Migrant workers issues have rarely, until recently, been specifically taken into account in collective bargaining, as foreign workers are seen as having been assimilated into the regular workforce. As the law establishes equal treatment for all workers, including foreign workers, many of their rights are protected. The scarcity of clauses relating specifically to migrant workers issues, however, limits the ability of trade unions to protect migrant workers and integrate them into the union. This also reveals the difficulties and constraints on the trade union's efforts aimed at representing, offering protection to and integrating migrant workers into the trade unions. Different trade unions adopt different approaches, with clauses on specific issues appearing in some collective agreements and not others. Specific conditions for foreign workers that may be taken into account in collective bargaining include language training, special leave for religious events, improvements in professional and social integration and information to workers in different languages.

Bargaining at the provincial level is becoming increasingly important, including bargaining on actions aimed at supporting immigrant workers. The main subjects covered at this level are language courses and training, and monitoring activities. Guidelines on bargaining at the provincial and enterprise level were adopted in March 2009. Additional needs identified by migrant workers for local and enterprise level bargaining are:

- More training, including training such as apprenticeships prior to hiring and continuous training, including literacy courses
- Recognition of titles and qualifications. Foreign workers are often more educated and qualified than Italians, but their qualifications are not recognised.
- Welfare funds for specific needs such as the cost of the “residence tax”, and to compensate for the loss of a working day when renewing a residence permit.
- Extended parental leave. An additional two days unpaid leave to the three days parental leave to allow parents to travel to their home countries.
- Remittances. A service to help immigrants send money home to their families in their country of origin, to be established in cooperation with the banks.

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The principal subjects covered in national agreements are vocational and language training, holidays, and the monitoring of problems and immigrant work dynamics. The national collective agreement for the construction industry of May 2008 (there is also another of June 2008 for the cooperatives) does contain some specific measures to protect foreign workers, including:

- Vocational training
- Training courses to improve linguistic and intercultural comprehension between workers of different nationalities
- Training in the organisation and management of the construction site
- Training to prevent injuries.

Good practice

Protection through collective agreements

Through collective bargaining at the local level, the trade unions have in recent years successfully included specific measures into collective agreements aimed at integrating and protecting foreign workers, including vocational, literacy and health and safety training. Some examples of such agreements are:

- Training to improve workplace safety, beginning with signs at the workplace in the workers' languages (Supplementary agreement for artisans, Aosta Valley, 2007)
- Training to improve social and working conditions (Supplementary agreement for artisans, Aosta Valley, 2007)
- Training for new workers entering the sector, literacy training, vocational training and safety at work (Supplementary construction agreement with the National Construction Association ANCE, Imperia (Liguria Region), 2007)
- A round table in the region to find resources for tackling the problems of foreign workers (Supplementary construction agreement with the ANCE, Ascoli Piceno (Marche Region), 2007).
- Organising holidays to take into account the need of foreign workers to return to their country of origin, including longer holiday periods; action with the public administration to meet the housing needs of workers (Supplementary construction agreement with the ANCE, La Spezia (Liguria Region), 2007).
- Specific courses designed for foreign workers in the Italian language, health and safety etc. (Supplementary construction agreement with the ANCE, Calabria region, 2006).
- Courses for the recognition of professional skills, distribution of multilingual information to ease the social integration of foreign workers (Supplementary construction agreement with the ANCE, Ragusa, Sicily, 2006).

Welfare and assistance funds for building workers

Another example of good practice is the measurable improvements in recent years in terms of protection for foreign workers, such as a sharp increase in the numbers registered in the "Cassa Edile" Welfare and Assistance Fund Institution for building workers, bringing the current total to 19%. There has also been a 60% increase in apprenticeship contracts for foreign workers over the last year, which should bode well for their future employment.

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About the project

“Decent Work for All: A Key for Effective Industrial Relations” is a one-year project which aims to produce recommendations on how to improve working conditions around Europe in sectors with higher incidences of precarious working conditions (ie construction, health and long-term care) and more vulnerable groups (ie youth, undocumented migrants) through coordinated efforts by governments, employers and trade unions in the framework of social dialogue. It also looks into the role of social partners in fighting precarious labour and promoting decent work and quality jobs.

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SOLIDAR is a European network of 53 NGOs active in over 90 countries working to advance social justice in Europe and worldwide. SOLIDAR lobbies the EU and international institutions in three primary areas: social affairs (more social Europe), international cooperation (development cooperation) and education (lifelong learning for all).

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Summary

Discrimination towards foreign workers employed in the construction sector takes multiple forms. Some discrimination is based on national origin, with positive discrimination in hiring towards Romanian workers and negative discrimination against their Polish, Moroccan and Albanian colleagues. Those most exposed to discrimination in working conditions however are workers without a residence permit, workers who are not aware of their rights or who are willing to ignore them in exchange for an immediate economic return. The most common problems they face are downgrading, lack of retirement benefits and lack of severance pay. Foreign workers are also frequently confined to the lower grades, perform the hardest tasks and are far more vulnerable to blackmail compared to Italian workers.

Trade union representatives interviewed believed that knowing one’s rights “is the most effective tool to fight or at least limit the problems faced by foreign workers in the construction sector”. The most vulnerable subjects are those who work in construction sites not affiliated to trade unions or illegal construction sites. Moreover, workers without a residence permit are also considered vulnerable because they lack any protection and must face many problems when seeking the help of trade unions. Where trade unions are involved, they have successfully negotiated specific measures to support and protect foreign workers in collective agreements, particularly at the local level. Hence they reach out to foreign workers by means of information campaigns, counselling services and trade union organising drives.

Trade union representatives interviewed agreed, however, that foreign workers, especially those from Central and Eastern European countries, do not trust trade unions. To solve this problem, the trade unions chose to include foreign workers among their delegates. The majority of interviewees felt however that, at least in the initial stages, a competent Italian trade union delegate was also needed.

For workers to be aware of their rights is only one step however. For them to be properly respected and implemented, a normative and institutional framework focused on and committed to equal opportunities is needed.

Recommendations

To address the challenges of achieving decent working conditions in the framework of industrial relations/social dialogue/collective bargaining, social partners can take the following actions:

- legal measures to penalise employers who are found guilty of discrimination against foreign workers should be enforced and strengthened.
- bargaining as an instrument to guarantee equal treatment of workers in terms of professional development, wages, security and a system of rights and protections.
- bargaining as an instrument to combat and prevent discrimination (at different levels) and guarantee social inclusion, including recognition of qualifications and literacy training.
- bargaining as an instrument to promote intercultural understanding.
- full respect for international conventions respecting migrant workers rights, including ILO Convention 97 on Migration for Employment, ratified by Italy, and the UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, which Italy has not yet ratified.