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Decent Work for All: A Key for Effective Industrial Relations

Transnational conference - Napoli, 18th of May - Hotel Terminus

‘Social dialogue, decent work and migration in Europe – challenges, good practice and policies needed’

On the 18th of May, within the framework of the “Decent Work for all: a key for Effective Industrial Relations” project, a conference was held in Naples hosted by the CGIL Campania and organised by Progetto Sviluppo and IRES alongside SOLIDAR.

The aim of the conference was to highlight the way in which social dialogue can strengthen the working conditions of migrant and posted workers building, in particular, on the recommendations¹ gathered through the case studies drafted by IRES² and ADO SAH ROM³.

Amongst the participants there were workers affiliated to the CGIL, representatives of employers, researchers and representatives of migrant workers’ associations and of NGOs. Please find the agenda here:

http://cms.horus.be/files/99931/MediaArchive/social_policy/DWIR-TC-Naples-18.05.10-Draft-Programme-28.04.10.pdf

The social dimension of migration policies.

Although the topic of decent work and migration involves several policies, such as citizenship, integration and social inclusion, in Italy as well as in most of European countries migration is approached with an excessive focus on security and public order issues. This approach is often justified by decision makers through the need to tackle irregular migration, thus not duly taking into account the widespread situation of exploitation suffered by irregulars and, in general, preventing immigrants from achieving effective labour rights. As a matter of fact, according to a research carried out within the framework of the Clandestino project, the figures relating to the number of irregulars would have been overestimated giving Member States and EU more credit in enforcing harsh measures against third country nationals entering or residing irregularly⁴. In any case, beyond the quantitative issue, what is important is to guarantee irregular migrants their fundamental rights and finding comprehensive ways to regularise their situation.

¹ SOLIDAR, *Social Dialogue: a tool to promote and defend decent work and quality jobs in Europe*, <http://cms.horus.be/files/99931/MediaArchive/Booklet%20DWIR%20light.pdf>

² M. Mora, *Building decent jobs for migrant workers*, IRES, http://cms.horus.be/files/99931/MediaArchive/17_Solidar_BrochItaly_Construction.pdf

³ R. Novac, C. Constantin, ADO SAH ROM, http://cms.horus.be/files/99931/MediaArchive/16_Solidar_BrochRomania.pdf

⁴ N. Flamigni, *Immigrazione clandestina: l’UE si scopre allarmista*, [http://www.euroalter.com/it/2010/immigrazione-clandestina-l’UE si scopre allarmista/](http://www.euroalter.com/it/2010/immigrazione-clandestina-l%E2%80%99ue-si-scopre-allarmista/) ; Clandestino project, final report http://clandestino.eliamep.gr/wp-content/uploads/2010/03/clandestino-final-report_-november-2009.pdf





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According to Michele Gravano, there is an urgent need to bring migrants out of a condition of irregularity since dealing with decent work for migrants also means

addressing undeclared work. It is anyway to be highlighted that evidence rather suggests a reverse causal relationship than the one according to which migration gives rise to irregular work, notably undeclared labour provides the preconditions for increased labour migration, including irregular migration⁵. This argument was also raised by Fulvio Fammoni who stressed the rate of autochthones in the Italian black economy which implies that only 25% of the phenomenon concerns immigrants (not necessarily irregulars). Fammoni also pointed out the relationship between the extension of undeclared work and an increasing incidence of indecent working conditions.

Decent Work and Migration.

One of the main requests, stemming from the case studies and highlighted during the conference as well as by the International Labour Organisation (ILO)⁶, is a rights-based approach to meet the needs of migrant workers. Indeed, in a context of economic downturn, defending migrants' rights becomes even more difficult.

As observed by Arben Hasani, there is a strong link between rights and decent work and this link is also related to non-discrimination issues. In fact, strong evidence suggests that migrant workers, although paying taxes and social contributions as native workers, do not often enjoy the same rights if we look at access to housing, health care and education. Furthermore, migrant workers suffer from exploitation because of gang master systems and since the penalties foreseen are insufficient and do not have a retaliating effect especially in sectors, such as agriculture, domestic work and restaurant industry, where control is more difficult and trade unions are not strong enough.

Obviously, the conference also focussed on the Italian situation which, within the EU, is a particular one. Indeed, the role of organised crime and a government partly driven by xenophobic political groups increase the number of challenges when dealing with labour migration and decent working conditions. The updated legislation on migration, the so-called Security Package, the push-backs of immigrants to Libya, have been seriously criticised by the ILO because of non-compliance with the Convention 143 (ratified by Italy) as well as by several institutions protecting human rights. It has to be reminded that art. 3 of the European Convention on Human Rights prohibits in an absolute way *refoulement* granting in any situation the right to apply for asylum.

Decent Work and posting of workers.

Romania is not an important country of destination as there are no important work opportunities and wages are particularly low. However, the number of foreigners has been increased since Romania joined EU and, once the economic crisis, the workforce will probably count on foreigners even more. Workers posted from third countries are an important share of migrant workers and there is an urgent need to adapt Romanian legislation in order to guarantee labour rights to workers posted from third countries.

⁵ J. Cremers and J. Janssen, *Undeclared labour: don't blame the migrants* in Transfer 4/08, ETUI, 2008

⁶ International Labour Organisation, *International Labour Migration. A rights-based approach*.

http://www.ilo.org/public/english/protection/migrant/download/rights_based_approach.pdf 2010





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Indeed, this category of worker is not covered by national legislation and find itself victim of legislation deficiencies

Talking about posting of workers in general, Sam Hagglund gave a wide overview of major challenges concerning this issue. The main question is how to enforce equal

treatment for posted workers, in particular regarding social security. Over the last few years, the European Court of Justice's rulings raised criticism around the interpretation of the posting of workers directive and highlighted several controversies around the scope of the regulation to be enforced by the host state concerning working conditions of posted workers. Trade Unions are particularly worried about the way in which the interpretation of the posted workers directive put at risk the entire social partners' toolbox and, in particular, the role of collective bargaining, the right to strike and the minimum wage. Mr Hagglund also recalled that the posted workers directive includes a reference (art. 1, par. 4)⁷ according to which undertakings established in a non-member State must not be given more favourable treatment than those established in a Member State. In fact, in Member States such as Spain, Portugal and the Netherlands, national law extends the scope to workers, from third countries, who are entitled to at least the same protection and their employers are obliged to comply with the same conditions as employers from within the EU.

In the next future, as European Commission President promised and as it has been taken up in the work programme for 2010, the European Commission should work on a revision of the posted working directive. Andor, Commissioner for DG Employment, Social Affairs and inclusion, stated that a revision of the posted workers directive will be tackled and even signed a PSE statement according to which equal pay for equal work has to be enforced.

The role of the social dialogue.

According to Giovanni Mottura, trade unions, although they might have political and ideological differences, all agree on main topics related to decent work and migration. In Italy there is a very high involvement of migrant workers in trade unions' work and these latter are important producers of knowledge on migrant workers' needs and expectations. Indeed, for migrant workers the services provided by trade unions are paramount. On the other hand, trade unions still have much to do in order to actually guarantee migrant workers' rights.

Employers' representatives, who intervened during the conference, agreed on most of the issues related to decent work and migration that were raised by trade unionists and offered their full contribution in achieving better working conditions. Aristide Del Grosso particularly insisted on the need for undertakings to take the distance from illegality and organised crime's influence. Decent work, for him as for Bianca Maria Baron, should be at the core of the economic and social development and labour migration should be seen as an opportunity both for destination countries and countries of origin. In this context, social dialogue is fundamental so as to avoid conflicts and increase productivity.

⁷ "Undertakings established in a non-member State must not be given more favourable treatment than undertakings established in a Member State"

