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# Precarious Posted Migration: The Case of Romanian Construction and Meat-Industry Workers in Germany

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*Drawing on in-depth interviews with Romanian workers posted in the German construction and meat-processing industries, with representatives of German unions and with migrant advisers, and on ethnographic work, this study examines precarity in posted employment. Firstly, the paper describes the precarious circumstances of Romanians posted in the construction and meat-industry sectors in Germany. Secondly, analysing the Romanians' own perspectives, it shows that low wages in the country of origin, often associated with insecurity and poor working conditions, drive these workers to engage in posted work. Their lack of knowledge of the German language prevents them from finding and carrying out standard jobs in Germany and, thus, determines that they remain in posted employment. Finally, the paper argues that posted workers experience different layers of precarity in the country of destination. It shows that those under contract with various companies for short periods of time are more precarious than de facto posted workers and workers with long-term informal agreements with one single employer.*

*Keywords: posted workers; level of precarity; migration; Romania; Germany*

## Introduction

That cold Saturday morning coincided with my first visit to a construction site where a block of flats was being built by a Romanian team consisting of around 25 workers. I met their team leader at the union's office and he permitted me to visit their worksite on Saturdays – the only workday when German supervisors were not present. I was not the only guest that morning. Dana, the wife of a worker, had travelled abroad for the first time to see her severely injured husband at the hospital. He had been cleaning the basement when a two-tonne cement staircase fell on him (later, the team leader, an engineer, explained that the staircase was insecure

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according to safety norms). The worker's legs had been crushed and he was only just conscious after remaining in a coma for a week. His co-worker, only superficially injured, was sent back to Romania the next day, basically losing his job. As Dana wanted to see the place where her husband's accident happened, we went downstairs together with the team leader. Stains of her husband's dried blood could still be seen on the cement wall.

This is an extreme example. However, even now, two years later, these images stay with me as a mark of the (severe) precarity which some posted workers face in a context where room is left for abusive relationships among employers and fragile employees.

Posted workers carry out work on a temporary basis for their employer, which provides a service in another EU member state. They move through Europe under the freedom to provide services, not under the free mobility of labour, hence they fall under a different regime to that of regular migrants. Posting is regulated through The Posting of Workers Directive 96/71/EC and through a series of decisions of the European Court of Justice (Laval, Rüffert, Viking) that provides workers with only minimum standards in the country of destination.<sup>1</sup> To make matters worse, loopholes in legislation and a lack of transnational control often lead to labour abuses.

Posting represents under one per cent of the entire workforce in Europe (Pacolet and De Wispelaere 2017). However, it is prevalent in several economic sectors in high-income countries, as it gives domestic companies opportunities to reduce labour costs and to avoid the obligations which they would have towards workers in standard employment (Berntsen and Lillie 2015).

In this article, I discuss precarity in posted employment, focusing on workers' perspectives. I look at posted migration using the dual labour-market theory (Piore 1979). First, starting from Rodgers and Rodgers' (1989) dimensions of precarity, I describe the working conditions of Romanians posted in the construction and meat-processing sectors in Germany. Secondly, I explain that low incomes in the country of origin – often linked with precarious working conditions – and the lack of knowledge of the German language both determine workers to engage and remain in posted employment, even if some would prefer standard jobs in Germany. Finally, considering matters of time (Anderson 2007) – namely the length of time in one particular job – I distinguish between the levels of precarity experienced by workers in the country of destination and show that *de facto* posted workers and workers under long-term informal agreements with a single company are in less precarious situations than workers holding short-term posted jobs with different employers.

This article is based on interviews carried out in Germany with construction and meat-industry workers from Romania, on interviews with representatives of German trade unions and with migrant advisors in the country of destination. The interview data were complemented with results based on participant and non-participant ethnographies collected at migrants' accommodation sites and workplaces and as a translator between the construction union representatives and Romanian workers.

## Definitions and concepts

A number of academic studies look at the impact of loopholes in the European regulatory framework over industrial relations (Berntsen and Lillie 2014, 2015; Wagner and Lillie 2014). The legislation gave main contractors the possibility to benefit from 'an array of regulatory contexts defined only partially and imperfectly by geographical contingency, between which they can choose and strategize' (Wagner and Lillie 2014: 416). In this context, the main producers in the German meat industry have a high bargaining power and are the main actors determining the working conditions of posted workers (Mense-Petermann 2018). Similarly, transnational companies in the German construction sector lead informal negotiations that disrupt the official framework of posting (Wagner 2015).

Unions, on the other hand, were mainly restricted from carrying out collective actions for posted workers. At the same time, their national-based strategies did not prove widely successful in organising transnational

workers (Lillie and Sippola 2011). The only notable initiative to develop transnational cooperation among unions in a greater number of European countries (Greer, Ciupijus and Lillie 2013) was ineffective in the long term. However, as shown by Lillie and Greer (2007), the capacity of main contractors to weaken collective bargaining depends on union responses and domestic labour-market conditions – unions that rely on autonomous capacities are more successful than those counting on institutionalised relations with employers and the state. Other studies argue that, in some cases, unions and NGOs develop unconventional alliances with favourable outcomes (Berntsen 2015; Wagner 2015).

Against this background, posted workers often find themselves in vulnerable positions in relation to their employers. Several studies address the perspective of workers towards this type of employment (Berntsen 2016; Caro, Berntsen, Lillie and Wagner 2015; Lillie 2016; Thörnqvist and Bernhardsson 2015; Wagner 2015). Berntsen (2016) shows that, in order to improve their precarious working conditions, posted workers use individual strategies with no significant impact on the overall situation. Thörnqvist and Bernhardsson (2015) conclude that Polish workers posted to Sweden are motivated to stay in posted employment by a ‘life project’ they want to fulfil with money garnered from migration.

Posted migration in the German construction and meat industries can be explained using the concept of the dual labour market (Piore 1979). The author divides the labour market into primary and secondary sectors. While the primary sector contains stable, well-paid jobs characterised by employment protection, the secondary sector includes flexible jobs, with a low standard of working conditions, low pay and reduced upward mobility. These jobs are not appealing for native workers and are usually occupied by migrants, Piore (1979) explains. A more-recent approach explains division inside the labour market as an effect of regulations in high-income countries (King and Rueda 2008). These authors use the concepts of standard cheap labour (regular jobs) and non-standard cheap labour (flexible and temporary jobs) including migrants in the second group. They argue that countries with a low number of standard contracts – such as Germany – will develop a labour market that relies on cheap non-standard contracts. With a similar approach, in her analysis of the German labour market, Wilpert (1998: 269) concludes that the growth of non-standard jobs is, rather, determined by the ‘de-regulation of working relations’ than by the availability of cheap migrant labour.

Precarity has become a predominant characteristic of social relations nowadays (Kalleberg 2009) with several categories – such as low-skilled temporary workers – being more exposed to it (Kalleberg 2011). According to Rogers and Rodgers (1989: 3), precarity is a somewhat diffuse term but a precarious job is the result of a combination of the following factors: ‘instability, lack of protection, insecurity and social and economic vulnerability’. The authors identify four dimensions associated with precariousness:

1. the degree of continuity of the job;
2. the degree of control over working and salary conditions;
3. the degree of protection – to what extent workers are protected, by law, participation in collective organisations or usual practices; and
4. income level (Rodgers and Rodgers 1989: 4).

While definitions of precarity have been refined, insecurity remains a strong component of the concept. Standing (2011: 10) describes precarious workers as missing some of the following seven forms of security: that of the labour market, employment security, job security, work security, skill reproduction security, income security, representation security.

Instead of being essentially precarious, migrants are exposed to *some* experiences of precarity – in their case, insecurity is linked with mobility across space and time lines (Waite 2009). Processes such as immigration control make migrants more dependent than citizens and hence a more desirable group for employers

(Anderson 2010). The same author argues that analyses of migration and labour markets should consider aspects of time such as ‘length of period in a job, the impact of working time on retention, length of stay, changing immigration status etc.’ (Anderson 2007: 6). In this paper, I use the term ‘matters of time’ in the same way as Anderson (2007). More specifically, in order to distinguish between the levels of precarity experienced by posted workers in the country of destination, I mainly consider the length of time spent in one particular job.

## Methods and data

This article is based on 19 interviews with construction workers and 13 with meat-industry workers from Romania. I particularly chose these two economic sectors in Germany because they both hire a high number of (*de facto*) posted workers. Moreover, of around 58 000 workers posted from Romania in 2014, 43.6 per cent work in Germany (Pacolet and De Wispelaere 2015).

The entire migration process for posted workers is organised by companies; hence, in many cases, the workers remain isolated from the host-country society. Moreover, a large number are afraid of their employers and are reluctant to talk about work-related issues. As a consequence, access to the field proved to be quite difficult. The fieldwork was carried out between December 2015 and December 2016 in Berlin, Bavaria, Baden Württemberg and Lower Saxony. I chose these sites taking into account practical aspects: I was based in Bavaria and Berlin and decided to travel to reachable places where migrants agreed to be interviewed.

I recruited my sample through local branches of the construction union, through *Facebook* groups of Romanian migrants and through personal contacts. I used the *snowballing* method to find new respondents. I interviewed migrants who, at any moment in time, had been in posted employment. However, most of them had held several such positions. The interviewees were aged between 23 and 51 years old and only two were women (construction is a male-dominated sector and attempts to interview more women working in the meat industry failed). Before gaining posted employment, respondents (with the exception of four of them) from the construction sector had previous migration experience in Hungary, Israel, Italy, Spain and England. Six of the meat-industry workers had no migration background. The others had lived in Italy or had previously worked in Germany, the Netherlands and Turkey. The interviews focused mainly on the workers’ professional trajectories. For each posted job they held, I was interested in issues such as their motivation to engage in this type of employment, their recruitment process, particularities of their contracts and their working conditions. Most of the interviews were carried out face-to-face, but I agreed to a telephone interview with two migrants who had moved out of Germany: one who had returned to Romania and another who was working in France.

Sampling through unions and through *Facebook* groups would possibly have put me in contact with migrants who had experienced extreme precarity. In order to have a more nuanced understanding of posting, I also collected data from other sources. I held interviews with other actors in the field: two Romanian construction engineers (leaders of teams consisting of more than 25 workers), two migrant advisers and representatives of IG Bau at the European level (Trade Union for Building-Agriculture-Environment) and DGB (The German Trade Union Confederation). I interviewed migrant workers, construction engineers and migrant advisers in Romanian and union representatives from IG Bau and DGB in English. I carried out informal discussions with local representatives of IG Bau in German. In order to protect workers’ identities, pseudonyms are used throughout the article.

The data were complemented with results based on my participatory and non-participatory observation. I visited one construction site each Saturday during working hours, interviewed migrants at their workplaces and accommodation and translated for a local office of IG Bau in their organising actions with Romanian migrants.

One of the limits of my study is that I was not able to interview representatives of companies that post workers abroad and of the Romanian authorities responsible for the issue. Their perspectives might have brought a better understanding on posting.

## Results

### *Precarity dimensions of posted workers*

#### Job security

Job security (Leschke, Schmid and Griga 2006) implies that workers will remain employed within the same company. Even if against regulations, many of the respondents did not have an employment relationship with the companies that posted them to Germany – and were, indeed, hired just before going abroad. Especially in the construction sector, it is common among the workers I interviewed to be posted only for the (short) length of time necessary to carry out a single project. When the contract they were hired for terminated, they had to search for a new job with another employer (or, as happened in some cases, to wait until they received a new offer from the same company). As Lillie puts it: ‘Workers expect to be fired at any time and realise they have to move to another job, another country’ (2016: 56). In the next paragraph, I describe the work trajectory of one of the respondents in order to illustrate the lack of job security in posted work. However, it is important to mention that, even if insecure trajectories are characteristic for most posted workers, some of them experience a higher level of security.

In the following quote, Mircea, a construction worker, describes the insecurity experienced both in origin and destination countries. Besides short-term employment, like many other posted workers I interviewed, he has had to deal with the illegal practices to which subcontractors turn in order to save on labour costs. For him, posted employment feels like a lottery, an unfair system in which workers can never be certain that they will remain employed or that they would receive the appropriate compensation for their work.

*There are very high risks. One can lose, one can win, one is never 100 per cent sure and one is not able to say ‘I am working and I will receive my payment’. You are not sure of anything, anywhere. We are people who live in stress, because we have no security. There is no safe job here [in Germany], nor at home (...). The thing is that they are all ghost [companies]; for me there is no well-known firm that went to Germany or to other countries with no problems. Either a pay delay or they cut off wages, they cut off overtime pay and so on... So, posting... people brought here [in Germany] are insecure.*

Mircea’s professional trajectory in recent years illustrates the job insecurity he speaks of. Between 2007 and 2015, he was posted to Germany by different Romanian subcontractors, he worked as self-employed twice in Germany and was posted to Belgium and Poland. Between jobs abroad he undertook work in Romania. Employment in foreign countries was unstable – during this period he worked for six different companies. In some cases, he agreed to work abroad for only a few months; in other cases, an infringement of labour rights constrained him to leave his job.

For example, even though he had a long-term agreement, the first time he was posted to Germany, he decided to resign after four months since he was not satisfied with the payment arrangements: he received a weekly food allowance and was paid his first salary only three and a half months after he started working. Following his resignation, he did not receive his entire remuneration.

After working in Romania for a few months, Mircea accepted a second job in Germany. Employers asked him – to absolve them from obligations towards him as an ‘employee’ – to register as a self-employed worker, even though *de facto* he was posted. Two years later, he went back to Romania. Subsequently, he was posted to Poland by another employer and, after working for 1.5 months without being paid, he and other Romanian workers found out that their contracts were legally invalid. Again, he had lost his job unexpectedly. Back in Romania, he started a small construction company. Later, he was posted to Belgium for six months, worked in Romania and was posted to Germany for a period of four months by the same company he was working for at the time of the interview. ‘I had a great misfortune in my life’, Mircea says when he speaks about his work life and his experiences abroad. The misfortune he describes is in fact the result of an unfair posting system in which workers’ rights are less important than companies’ rights to competitive advantage (Lillie 2016).

For many respondents, the length of stay in posted employment is determined by their readiness to work under improper conditions. Repetitive work and high workloads, fatigue and low temperatures lead to accidents and affect workers’ health. In some cases, these circumstances convince them to leave their jobs. Ana, for example, temporarily stopped working in the meat industry at her doctor’s suggestion:

*I could not handle it anymore. I got very sick, I had problems with my lungs, it was two degrees inside (...) and the doctor told me that I should either change my job or take a three-month break. (...) Both tiredness and stress and I was smoking a lot.*

### Income level

In the construction sector, a minimum wage was adopted with the introduction of the Posting of Workers Act or *Arbeitnehmer-Entsendegesetz*, the German correspondent of the Posting of Workers Directive. The Posting of Workers Act initially consisted of six economic sectors. It extended progressively, with the meat industry being included in 2014. Subsequently, negotiations for a minimum wage in the sector were carried and entered into force in 2015. In 2016, regulations on posting did not entitle workers to wages above the minimum in the country of destination and granted them almost no access to collective agreements. In 2018, the Directive (EU) 2018/957 introduced new amendments to the Posting of Workers Directive 96/71/EC. At an official level this provides better protection for workers (the right to remuneration, allowances and collective agreements), yet it remains to be seen whether the changes will be effective in practice.

The wage difference between Germany and Romania is substantial. In 2016, in Germany, the minimum hourly wage in the construction sector was set at between 14.40 and 14.45 euros gross<sup>2</sup> and at 8.60 euros in the meat industry. The minimum hourly wage in Romania was set at around 1.9 euros.<sup>3</sup> In the construction sector, it is common for workers to agree on a lower salary than stipulated in official documents (the salary ranges from 900 to 1 600 euros per month, irrespective of the number of hours worked). In the meat industry, in many cases, workers receive the monthly minimum wage; however, often due to long working hours, the remuneration per hour is actually lower. In other cases deductions for accommodation, transport and equipment costs are made, as Georgeta, a meat-industry worker, explains: ‘After 260 hours [worked] per month without any free day, we got around 900–1 000 euros, minus food [expenses], minus rent, minus transportation’.

My respondents described other abusive practices by employers. For example, in the meat industry, payments were delayed in order to discourage workers from resigning – if they did, they would not receive remuneration for their last worked month(s). In other cases, fees were charged for each day on which employees missed work due to health issues. In construction, employers postponed wage payments, sometimes for months, and offered small food allowances instead – in such cases it was common for workers to not receive all the remuneration to which they were entitled. Other respondents described the circumvention of payments

to SOKA-BAU, the Paritarian Social Fund in the construction industry (related to holiday pay during the posted period).<sup>4</sup>

Several studies on posted work present similar findings. Polish workers in Sweden receive lower hourly payments (Thörnqvist and Bernhardsson 2015). Workers in the German construction sector are also paid below the minimum hourly wage and experience the circumvention of annual holiday leave (Wagner 2015). Eastern and Southern European workers in Germany, Finland, the Netherlands and the United Kingdom have to deal with ‘wage theft’ (Lillie 2016).

#### Control over working conditions and salary and degree of protection

Like other categories of migrants (Anderson 2010), posted workers are highly dependent on their employers, who grant them access to the labour market in the country of destination and organise their entire migration process. Migrants’ lack of knowledge regarding the regulatory framework, the institutional system and their poor German language all add to their vulnerability when working with subcontractors.

Workers usually avoid coming into conflict with their companies, since they could lose both their jobs and their accommodation abroad. On this premise, in most of the cases, posted workers do not exercise a high degree of control over their working conditions and wages. However, there are nuances. Experienced, skilled workers are more often in a position to negotiate the context in which they will work abroad. In the following quote, Mihai, who has worked in the German construction sector since 2010, explains how negotiations about wages take place between future posted workers and Romanian companies:

*The boss tells you ‘This is what I can offer’. If you accept it, you are going to Germany tomorrow. If you don’t accept it [what he will say is] ‘I can’t pay more’. But if he knows that he needs you, he starts by offering a higher amount of money. Or you can be the one telling him ‘Mister, if you need me, I was thinking that...’, but this can be seen as disobedient and they don’t take you into account any more.*

Even workers with greater negotiation capital try to avoid looking ‘too demanding’, otherwise they risk being excluded from the selection process. Besides, they are never certain that agreements with employers will be respected: ‘After [going abroad], we wait for a month or two and see the results. If they are cheating on us, people leave. They find other jobs’, Mihai continues. On the other hand, even if experience in the field is appreciated, some companies avoid hiring unionised workers or workers who have spent more time in the country of destination, as it is more likely that they will be familiar with work regulations or that they will take action in cases of labour rights violations.

Workers with a lesser likelihood of finding another job abroad are more vulnerable when working with certain employers. Some use individual strategies to resist the conditions imposed, instead of bargaining, as they do not feel that any action they might take would improve their working conditions. For example, Claudiu, a construction worker, ‘just pretends to work’, if he has to be on site for more than eight hours. Other studies similarly show that, in the lack of an efficient framework for collective action, workers turn to individual strategies that help them to cope with their precarious working conditions (Berntsen 2016). However, this leads to a perpetuation of the current situation, the latter argues.

Other workers remain in employment only until they have secured their positions in the country of destination, as Georgeta’s case illustrates. After she paid an illegal fee in order to gain a job in a meat factory in Germany, her employer made deductions she had not previously been informed about. For instance, she paid 200–250 euros monthly for sleeping in a bed she was sharing (in shifts) with co-workers. In order to pay back the money she had borrowed for travelling abroad and to support herself, she had to remain in employment for

a period of time. After she had saved enough to rent a flat, together with two other colleagues, Georgeta quit her precarious employment for a standard job in the German cleaning sector.

In other cases, instead of turning for help to institutions able to protect them, workers who face serious problems with their employers tend to return to their countries of origin. This practice is best summed up in Mircea's quote: 'If it is not ok, we leave. If we don't get along with the boss, with the company, I, personally, give up. I (...) take the first means of transportation back to Romania'. Even though they can become union members in Germany, most respondents are not unionised. Also, most of them are not familiar with advisory offices for migrants that offer counselling, in Romanian, in the country of destination. Usually, migrants approach such institutions only when extreme violations of their labour rights take place, as an employee of BEB,<sup>5</sup> one of the advisory offices in Germany, explains:

*Many [of them] work for four months without being paid and then they call here, when they have lost or are close to losing their accommodation, when they have absolutely no money to return home and when many problems congregate. But I think the trigger which pushes them to contact someone from the outside is the lohn [wage].*

Previous research has found similar results regarding the frequency with which workers address unions (Lillie 2016). Workers' reluctance to contact the authorities about work-related problems also stems from their perception that institutions will not take their side, as Mircea explains in the following quote:

*It is my right, but who should I fight with? When I go [somewhere] here [in Germany] nobody helps, who should I fight with here or anywhere in the world? We are seen differently and no one takes you into account.*

Moreover, a lawsuit against an employer would be a lengthy procedure timewise and would imply material resources that the workers simply do not have (or that are highly disproportionate in comparison to those of employers). The quotes show that, in the current context, with national-based unions unable to address the problems of a transnational work force (Lillie and Sippola 2011), workers consider themselves under-represented by German institutions.

#### *Why do Romanians remain in this form of employment?*

##### Low-level wages and precarious working conditions in Romania

The wide gap between wages in the countries of origin and those in destination countries is what determines Romanians to gain posted employment in the construction and meat-processing sectors in Germany. In most cases, meat-industry workers' motivation for leaving Romania is linked to the low salaries on offer in the country of origin. For example, Ana had already worked for almost 10 years in the Romanian tourism industry, earning around 250 euros a month, when she started to look for a job abroad, because 'salaries in Romania leave much to be desired', she explains. After an interview with a company that could post her in the meat industry, Ana was told she needed to improve her skills in order to work in Germany. She decided to leave her job and do unpaid work in a meat factory owned by her employer in Romania until the company decides that she is qualified enough to go abroad (she obtained a contract two weeks later).



For Ana, and for other workers, going abroad involved the risk of trading a low but steady income for an insecure job. Due to the intense work rhythm and conflicts with her supervisor, Ana left her first job in Germany after four months. Liviu's case is similar. He was not satisfied with his earnings in the country of origin and was looking for an opportunity to go abroad when a friend suggested a job at the same meat factory he was working for in Germany. In order to gain employment, Liviu had to follow a meat-processing course, so he left his job in order to dedicate more time to it. After he received his certification, he could not reach his friend for a while. When he finally managed to contact him, he had to decide within a few hours whether or not to go abroad. He discussed it with his wife and decided to take the opportunity because 'one can't do much with the money earned in Romania', he says.

For construction workers, the motivation to go abroad is also financial, as Gigi, a construction worker who had several posted jobs in Germany, explains in the following quote:

*In Romania one earns very little in comparison to what one earns here [in Germany]. This is why I am here. Otherwise, I would have been near my family... I would have been in Romania and I would have carried on my life instead of drudging here.*

Many of my respondents in the construction sector had insecure jobs, characterised by low social protection, both abroad and in Romania. Especially after the economic crisis, when the construction market sunk, many employers sought ways in which to circumvent labour regulations. Eugen described the conditions he had to accept in recent years while working in the Romanian construction industry. His employers registered part-time contracts even though he worked for 10 hours a day. He was asked to take medical leave while going to work. He also undertook unregistered labour. He was paid below the minimum wage, so that his company could reduce social contributions.

However, I also encountered a slightly different narrative. Respondents, who had improved their living standards by going abroad for several years, continue to migrate to high-income countries in order to maintain their improved living standard. For example, Mihai, a construction worker, had worked abroad since 1994 (in Hungary, Israel, Spain, Germany and Belgium); he invested the money earned through migration in a house. He continued to work abroad as his current living standards require 'a certain capital and one can't maintain it with the money gained in Romania'. However, low wages and the way that business owners treat their employees are also of importance, as his quote illustrates:

*Last year (...) I spent the entire summer at home and I tried to work on my own. If you work for a company you are disesteemed. You are not appreciated for your own value. (...) Who works in Romania under these conditions? I can't work for such small amounts of money.*

To conclude, low wages and precarious working conditions in the country of origin make workers determined to accept posted employment, even when it involves a number of risks (such as not receiving wages or as remaining in employment only for a short while). For them, whose options in the country of origin are precarious as well, being posted abroad becomes desirable when considering the significantly higher earnings involved.

#### Lack of knowledge of the German language

Most posted workers state that it is their inability to speak German which makes finding a standard job or carrying out their work in a non-Romanian team rather difficult. For some this is an aspect to consider right

from the start. Ana explains that she did not look for a job in the tourism industry, in which she worked in Romania, because she did not have the required language skills: ‘It doesn’t matter that I have a diploma and I am experienced in the field if I don’t speak German’. She considered that gaining employment abroad through a Romanian company would be a good option, since she would work in a Romanian team.

Other workers, who tried to find jobs on their own, blame language barriers for their lack of success. This was the case for Luca, a construction worker: ‘All of them ask you to perfectly know the language (...) I also searched for a standard job in Germany, in my field. Everything was fine, until we got to the language issue’. Mircea, who has already been posted to Germany several times, believes that what kept him in this type of employment is the fact that he would not be able to fulfil his tasks in a non-Romanian setting: ‘I could not work [directly] with a German, I can’t. I mean not because I am afraid or too shy, but I am not able to... we would not be able to understand each other’.

Romanian subcontractors usually hire a German-speaking team leader who mediates between German supervisors and Romanian workers. In the country of destination, workers usually live in shared apartments arranged by their employer and work in teams formed of co-nationals. Often isolated from society in the country of destination (Caro *et al.* 2015), they are trapped in a vicious circle with few opportunities to improve their language skills.

### *Levels of precarity in posted employment*

As a result of unlawful practices and informal arrangements between them and their direct employers, workers experience different layers of precarity in the country of destination. In this article I take into account the issue of time (Anderson 2007), focusing mainly on the length of time a worker is in one particular job in order to distinguish between the precarity levels.

It is, however, important to mention that – for respondents – precarity is not necessarily linked with ‘mobility across different spaces and time lines’ (Waite 2009: 427). Many of these low-skilled workers also have to cope with insecurity and poor working conditions in the country of origin. They are, hence, more likely to accept insecure jobs in Germany either in order to avoid unemployment or in search of higher wages.

Those in a less precarious situation are *de facto posted workers*. They have an employment relationship with the company posting them before moving abroad for work (which proved to be seldom the case among the workers I interviewed). I identified four workers from this category, all of them employed by the same construction company. They were paid according to German standards and when not abroad they carried on working in the country of origin with the same employer. One of workers in this category is Ion. He does not speak German and describes his previous migration experiences to Germany in negative terms, as he felt isolated while working in the agricultural sector. Now, he works for two months abroad and for one month in Romania. He and his colleagues prefer postings to longer-term circular migration, as it allows them to earn more than in Romania while still participating in the lives of those friends and family they have left behind.

Workers who have long-term informal agreements with the same employer also experience relatively high job security. Due to breaches in legislation, they carry out their work in Germany for longer periods of time, longer, even, than permitted by regulations on posted employment, as a migrant advisor from Fair Mobility explains:

*We are talking about Kettenentsendung [chain posting] through Rotationsystem [a rotation system]. This means that people are sent [abroad] for a maximum of two years, 23 months, for example. Afterwards, they get a short holiday and they are re-employed by the same company. They either get leave or the contract*

*terminates and they are hired by the same company. Or they are registered for two years with another company that belongs to the same person in Romania.*

Three of my interviewees had long-term agreements with an employer at the moment of the interview (others had previously had similar settlements). Taking into consideration unsuccessful past experiences, they were relatively satisfied with the working conditions and preferred a long-term collaboration as it provided security in an unstable labour market. ‘The company is serious, it pays’, Ionuț, a construction worker who is bound for over four years with the same employer, explains. Even if he is unemployed (or on unpaid leave) for the short periods when the firm has no activity abroad, this practice offers him the certainty that he can have a job (abroad) for more than a few months.

Those in the most precarious situation are workers who are posted with different companies. This category is formed of migrants who either work in Germany only for short periods of time when they want to increase their income in the country of origin or who would prefer long-term employment abroad but who, due to the lack of opportunities, are posted with different companies in Germany or other European countries. Workers in the second group also move between companies because they are looking for better wages and working conditions. I identified 21 workers in this category (I excluded one construction worker and three meat-industry workers who found standard jobs abroad after being posted with one employer). In some cases, workers in this category encounter no serious work-related issues. In other cases, they suffer a number of moderate labour violations. However, some end up in extremely abusive employment relationships and thus perceive themselves to be in a dead-end situation, as Georgeta (a meat-industry worker whose case was previously described) explains in the following quote:

*Working in a meat factory means you don't have a life anymore, you forget yourself, you erase yourself as a person and start thinking you are a slave. You don't do this thing [this type of work] because you like it; you do it because you have to, because otherwise you have no money to go home, you have no money to pay your rent.*

Another case encountered in the field can be described as extremely precarious. A group of five construction workers stopped working as they realised that their employer would not advance payment (also, their contracts were not registered in Romania). They were working for 10 hours a day, they slept in tool containers on the construction site and received a weekly food allowance of 20–50 euros per week. They refer to the interaction with their recruiter in the following terms: ‘He sold us as if we were slaves’ (Doru, construction worker). More workers I interviewed described themselves as *slaves* when thinking about their relation with employers at their most vulnerable times, as they were aware of their lack of negotiation capital and of their work's commodification – which takes them abroad, in extremely precarious circumstances, while their personal lives back home are put on hold. Their experiences – in which emotions are an ‘important element for the control of employability’ – can be described using the concept of affective exhaustion (Tsianos and Papadopoulos 2006: 2).

With the exception of *de facto* posted workers, most respondents' contracts are effective only as long they are abroad. Following this timeframe, they are either in an idle period, as it is the case for construction workers with long-term agreements, or they have no job arrangements. Posted workers are, hence, on a continuous search for employment and rarely in a position to refuse opportunities, as this might be followed by a period of inactivity (Tsianos and Papadopoulos 2006). Some of the workers in the most precarious situations have no valid contracts in the country of destination. Others are asked by companies to register as self-employed even if *de facto* they are posted. Workers with no employment arrangements or with inactive ones do not contribute

to social security funds. This has consequences for their immediate situation as well as over their future one – since it will reflect in their pensions.

Precarity also impacts on workers' spare time. As labour was the only reason why they were abroad, most of them were quite willing to work extra hours. Moreover, all my respondents lived in shared accommodation organised by the employers (some residential containers/houses are placed next to the workplace, while others are not). Under these arrangements, workers are always under the direct supervision of their employers – rendering them unable to separate their work and private lives. Moreover, their spatial segregation, as well as the fact that, especially in the construction sector, they move around different geographical locations, has consequences for their willingness and capacity to integrate in the country of destination (Caro *et al.* 2015).

## Conclusions

The literature focusing either generally on the German labour market (King and Rueda 2008) or specifically on the construction and meat-industry sectors (Cremers 2011; Lever and Milbourne 2017; Lillie and Wagner 2015; Mense-Petermann 2018; Wagner and Hassel 2016; Wilpert 1998) argues that state and European Union policies encourage non-standard employment. This has led to the establishment of a secondary labour market (Piore 1979) with insecure jobs, characterised by low remuneration and low social protection and occupied by posted workers (among other categories of non-standard workers). In the German construction sector, around 12.9 per cent<sup>6</sup> of workers are officially posted. In the meat industry, around 70 per cent of the workers hired by the top four meat producers are posted and subcontracted, according to an estimation by NGG – The Food, Beverages and Catering Union (Brümmer 2013, in Wagner and Hassel 2016).

Against this background, several studies illustrate workers' perspectives regarding their precarious conditions abroad (Berntsen 2016; Caro *et al.* 2015; Thörnqvist and Bernhardsson 2015; Wagner 2015). This paper adds to the literature on precarity in posted work. Firstly, it analyses the case of Romanian workers posted in the German construction and meat-industry sectors. Secondly, it explains what causes them to remain in this type of employment. One of the factors is the high wage gap between origin and destination countries. In comparison to low-paid, often insecure jobs in Romania, workers prefer posted employment abroad even if it is connected with precarity and risk. The language barrier is another factor which prevents respondents from finding and carrying out work in a standard setting in Germany. If other studies acknowledge that migrants temporarily accept precarious working conditions in posted work because of a 'life-plan' they would like to fulfil in the country of origin (Thörnqvist and Bernhardsson 2015), this article has shown that some workers prefer long-term employment in Germany and only turn to posted employment when there is a lack of better opportunities.

Finally, I argue that, as a consequence of unlawful practices by companies and of the informal arrangements between them and their employees, workers experience different degrees of precarity in the country of destination. Considering the issue of time (Anderson 2007) – namely the period spent in one particular job – the paper analyses workers' trajectories in order to distinguish between the precarity levels. This shows that workers who gain posted employment with different companies (only for the period of time they are abroad) are in a more precarious situation than *de facto* posted workers and workers who have long-term agreements with the same company. On a global scale, posted workers can be seen as part of the *precarariat*, an insecure *class-in-the-making* formed as a result of the changes which globalisation has brought to labour markets (Standing 2011).

## Notes

<sup>1</sup> The Posting of Workers Directive was recently amended by the Directive (EU) 2018/957. Current changes entitle posted workers to the same remuneration rules that apply to domestic workers, to allowances (for costs such as travel) and to negotiations through collective agreements. None of them had been granted while I was carrying out my research. These current changes go a step further in protecting posted workers' rights but they will not have a significant impact as long as they are not accompanied by a better control of the conditions guaranteed by subcontractors and better (transnational) control over law enforcement.

<sup>2</sup> It has different values depending on the region (East vs West).

<sup>3</sup> The minimum monthly wage increased from 232 euros to 276 euros on 1 May 2016.

<sup>4</sup> In Germany, workers' leave entitlements are collected from monthly contributions made by each of their employers to SOKA Bau – The Paritarian Social Funds in the Construction Industry (for each 12 days of labour, workers are entitled to one day of holiday). When they take holidays, their current employer pays their leave and applies for a reimbursement by SOKA the following month.

<sup>5</sup> The full name in English is the Counselling Office for Posted Workers, EU Citizens Exercising the Free Movement of Labour and Self-Employed People with Unclear Labour Status.

<sup>6</sup> In 2014, the total number of posted workers registered with the Paritarian Social Funds SOKA-BAU is 98 214 (SOKA-BAU 2016, <http://tiny.cc/5yxvcz>, accessed: 27 August 2019), while the total number of construction workers employed in Germany is around 757 000 (Statista.com, <https://goo.gl/AAuiNa>, accessed: 27 August 2019).

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