

Con3Post - Posting of Third Country Nationals. Mapping the trend in the construction sector
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REGIONAL CASE STUDY

**From Morocco and Tunisia to Belgium via Italy:
migration and posting of third country nationals**

Work package 3

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Executive summary

- During the last decade Belgium has become one of the main receiving countries for posted workers, including TCNs from non-EU Eastern European countries, North Africa, Latin America and Asia, who are sent by companies located in the EU15 and EU12 Member States.

- In Belgium restrictive migration policies limit labour immigration only to highly skilled professions. Low-skilled workers enter the Belgian labour market through temporary and precarious migration regimes, like the posting of workers.

- The construction industry is the main sector that resorts to the posting of workers because of labour shortages. Moreover, Belgian companies have adopted a business model which tends to increase flexibility and decrease labour costs.

- The employment of TCN posted workers in the Belgian construction sector has opened a new phase of the downward competition among workers, involving both domestic workforce and EU workers who have been employed as posted workers for many years.

- Belgian companies face many problems deriving from the fragmentation of both the organisation of work and the workforce, particularly with regard to the management of transnational workplaces.

- Over the last few years, Italy has increasingly sent posted workers to Central and Northern Europe, particularly to countries where the construction sector is having a good performance thanks to public or private investment. This posting stream involves Italian, EU and TCN workers.

- Italian construction companies that send TCN posted workers to Central and Northern Europe have been frequently investigated for violations of labour legislation and posting regulation, including some cases of crimes related to the trafficking of human beings.

- Italian sending companies offer lower costs and greater flexibility, thanks to the availability of a large reserve of skilled and unskilled workers who lost their jobs in the construction sector because of the 2008 economic crisis. TCN posted workers are under blackmail because of the precarity of their migration status.

- In the Danish and Swiss construction sector, some Italian sending companies linked to organised crime put in place a system of recruitment and transnational posting based on the gangmaster system.

- Moroccan and Tunisian posted workers sent to Belgium via Italy are mainly immigrants who have resided in Italy for many years. They have been particularly affected by the 2008 economic crisis and they are forced to accept to be posted because of their precarious migratory status and/or their economic vulnerability.

- Moroccan and Tunisian posted workers employed by Italian companies are mainly immigrants who have resided in Italy for many years because since the 2008 economic crisis Italy has adopted restrictive migration policies that have reduced labour immigration from third countries, thus influencing the composition of the TCN postings.

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1. INTRODUCTION

Overview of the context

Over the last fifteen years Belgium has been one of the main destinations for posted workers¹, together with Germany and France. This growth has been absorbed particularly by the construction sector², which has been less affected by the 2008 economic crisis with respect to other European countries, thanks to the investment in public infrastructures and residential construction. This sector has also recorded a growth in TCN postings³, which involve workers from non-EU Eastern European countries, North Africa, Latin America, and Asia that are employed by companies from the EU15 and EU12 Member States⁴.

The existing literature on the Belgian case mainly focus on labour market and posting trends by a statistical perspective, without providing qualitative data on the main vulnerabilities of TCNs posted workers. As for Italy, there is no academic literature and statistics on its role of sending country of TCN posted workers to Belgium and Central-

¹ “A posted worker ‘posted worker’ is an employee who is sent by his employer to carry out a service in another EU Member State on a temporary basis, in the context of a contract of services, an intra-group posting or a hiring out through a temporary agency. [...] The EU rules establish that, even though workers posted to another Member State are still employed by the sending company and subject to the law of that [sending] Member State, they are entitled to a set of core rights in force in the host Member State. This set of rights consists of: minimum rates of pay; maximum work periods and minimum rest periods; minimum paid annual leave; the conditions of hiring out workers through temporary work agencies; health, safety and hygiene at work; equal treatment between men and women” (European Commission, 2020). The social security of posted workers is regulated through Regulation no 883/2004 on the coordination of social security systems, which imposes that persons are subject to the legislation of a single Member State only. “In case of employment the legislation of the Member State where the activity is carried out usually applies (‘lex loci laboris’). However, in the posting of workers regime the legislation on social security of the sending Member State applies: “In order to prove that a person is subject to a social security system a so-called ‘Portable Document A1 (PD A1)’ is issued by the Member State whose legislation remains applicable” (De Wispelaere & Pacolet, 2019, p. 8). PDs A1 can be distinguished on the basis that the employed and self-employed persons are sent to another Member State (Articles 12(1) and 12(2) of the Basic Regulation) or to two or more Member States (Article 13 of the Basic Regulation).

² Con3Post project defines construction according to NACE classification (Statistical Classification of Economic Activities in the European Community). See [https://ec.europa.eu/eurostat/statistics-explained/index.php/Glossary:Statistical_classification_of_economic_activities_in_the_European_Community_\(NACE\)](https://ec.europa.eu/eurostat/statistics-explained/index.php/Glossary:Statistical_classification_of_economic_activities_in_the_European_Community_(NACE))

³ The term “Third-Country Nationals” refers to persons who are citizens of countries that are not a member of the European Union. See <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/third-country-nationals#:~:text=of%20Working%20Life-,Third%2Dcountry%20nationals,agreement%20between%20two%20other%20countries.>

⁴ EU 15 Member States include: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, United Kingdom. EU12 Member States include: Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia.

Northern Europe. However, in recent years, Italian construction companies have been investigated by competent authorities in Belgium, Switzerland and Denmark for cases of severe labour exploitation of TCNs workers from North Africa, Asia, EU and non-EU countries. Moreover, regarding Tunisia and Morocco, there is no specific literature on the postings to Belgium by Italian construction companies.

Aims of the paper, research question and method

The paper explores the main characteristics of the trend of posting of Moroccan and Tunisian immigrants by Italian companies to work in the Belgian construction sector and draws from literature review and data collected through three focus groups organised to explore the role of Italy (sending perspective), Belgium (receiving perspective), Morocco and Tunisia (third countries perspective).

The main research question we posed for this study is:

What are the main characteristics of the trend of posting of third country nationals to work in the EU construction sector?

The research question is broken down into five thematic questions, each with its own specific sub-questions as outlined below:

1. Regional and EU labour market dynamics and shortages

- *What is the extent of labour and skills shortages in the EU construction sector in general and in the explored regions in particular (sending, receiving and third countries)?*
- *What are the dynamics of supply and demand of workers in the EU construction sector in general and in the explored regions in particular (sending, receiving and third countries)?*

2. Labour migration and mobility trends

- *What is the extent of recruitment/posting of third country nationals to work in the construction sector in the explored regions and what are the projections for the future?*
- *What are the strategies used to recruit workers from third countries to work in the construction sector in the explored regions?*
- *How are public policies relating to labour migration/mobility and recruitment of workers responding to imbalances in the labour market in general and construction sector in particular?*

3. Labour rights, violations and representation of posted workers who are third country nationals

- *What are the main violations of TCN posted workers' rights in the explored regions?*

- *What are the (policy) responses and other measures in place to safeguard posted TCN workers working in the construction sector in the explored regions?*
- *What are the main channels that TCN posted workers in construction use to acquire information? How can information/communication channels be improved?*

4. Social welfare, OSH and vulnerabilities of posted workers who are third country nationals

- *What are the main vulnerabilities of workers who are third country nationals and are recruited to work in the construction sector in the explored regions?*
- *What are legal mechanisms and practices in place in case TCN posted workers experience work-related accidents or develop occupational diseases? How is their safety and health affected if they are posted by letter-box companies?*
- *What measures can be introduced at the policy level to reduce identified vulnerabilities of TCN posted workers?*

5. Managing transnational workplaces

- *What are the main challenges encountered by managers of transnational workplaces in the construction sector and how are they managed?*

The paper also includes three future scenarios covering the sending, receiving and third country perspectives. The scenarios were developed during foresight workshops and focus on labour markets, imbalances in demand and supply of workers, migration and mobility trends.

Main argument

Con3Post research has shown that TCNs postings in the Belgian construction industry have opened a new phase of the downward competition among workers, involving both domestic workforce and EU workers who have been employed as posted workers in the construction sector for many years. This dynamic is posing new challenges to public authorities and trade unions, but also to employers' organisations and Belgian companies, particularly with regard to the management of transnational workplaces.

Even if Italy does not play a central role in the posting of TCNs in the Belgian construction sector, Con3Post research highlights that Italian companies are increasingly investing in Northern and Central European countries, particularly in the public construction sector. They are in fact capable of offering lower costs and greater flexibility, thanks to the availability of a large reserve of skilled and unskilled workers who lost their jobs because of the 2008 economic crisis and who are willing to accept worse conditions in order to continue to work. This workforce includes many immigrant workers, who are even more under blackmail because of the precarity of their migration status. It also emerged that in Denmark and Switzerland some Italian sending companies linked to organised crime put in place a

system of recruitment through the gangmaster system that allows greater profitability and flexibility and a closer control of workers both inside and outside the workplace.

As for Moroccan and Tunisian posted workers, the research results highlight that this posting stream involves mainly immigrants who have resided in Italy for many years. On the one hand, this is related to the impact of the 2008 economic crisis on immigrant workers, who were forced to accept to be posted to not to lose their jobs. On the other hand, it is linked to the fact that Belgium (since the second half of the 1970s) and Italy (after the 2008 economic crisis) have adopted restrictive migration policies which have reduced labour immigration from third countries, thus also influencing the composition of the TCN postings.

Structure of the report

This introduction is followed by the literature review on the posting of TCN workers in the region (Section 2) and the methodological section which presents the research design and the methodology used to collect empirical data (Section 3). Section 4 presents the research results, focusing on: Regional labour market dynamics and labour shortages (Chapter 4.1); Labour migration and posting trends (Chapter 4.2); Labour rights, violations and representation of posted workers who are third country nationals (Chapter 4.3); Social welfare, occupational safety & health and vulnerabilities of posted workers (Chapter 4.4); Managing transnational workplaces (Chapter 4.5). Section 5 includes the conclusions and recommendations and contains also the three future scenarios developed during the foresight discussions and the final section provides policy recommendations grouped according to workplace and industry-level, national level, and regional level (Section 6).

2. LITERATURE REVIEW ON POSTING OF WORKERS IN THE REGION

Over the last fifteen years Belgium has been one of the main destinations for posted workers, together with Germany and France (European Commission, 2012; De Wispelaere & Pacolet, 2019). The construction industry is the main sector that resorts to posted workers and has absorbed practically all the growth of postings recorded over the years (De Wispelaere and Pacolet, 2017, pp. 10-14). Both statistical sources and academic and grey literature show that posted workers tend to be employed through the subcontracting system by large clients that use posting services in all branches related to the construction industry, with a higher concentration in the construction of residential buildings and in some specialised construction activities, like plastering, electrotechnical installations, roofing, central heating and ventilation installation and painting (De Wispelaere & Pacolet, 2017; Cillo, 2018; Ouali, 2012).

The increase of postings, which has been facilitated by investment in public infrastructures and residential construction and a simultaneous decrease in the number of workers employed by Belgian companies, has had a displacement effect on the number of domestic employees in some sub-sectors, like the plasterboard sector, and some professional qualifications, like the manual labourer (De Wispelaere & Pacolet, 2017, pp. 10-14). However, according to De Wispelaere and Pacolet, the use of postings has played a supplementary role:

“the net change in domestic employment and individual posted workers clearly shows that far more jobs are created via posting than jobs that are lost among domestic employees. During the last three years, there have been five more individual intra-EU posted workers for one less domestic worker. In this respect posting is also supplementary” (De Wispelaere & Pacolet, 2017, p. 12).

Since the EU enlargement of 2004 and 2007, the displacement effect has been one of the main issues addressed by social partners and media in several campaigns against social dumping and unfair competition (Cillo, 2017; Cremers, 2011; Ouali, 2012; Perin, 2010). Meanwhile, the Ministry of Labour has adopted several policies to combat related phenomena, such as the use of letterbox companies, tax and social security frauds, non-compliance with labour legislation... (Cillo, 2017, 2018; Danaj & Zólyomi, 2018). In fact, posted workers employed in the Belgian construction sector frequently experience working conditions characterised by several irregularities with regard to remuneration, the payment of social security contributions in their country of origin, working hours and breaks, health and safety

at work, housing conditions... Moreover, they have to face problems caused by language barriers and social isolation, which reinforce their economic vulnerability and dependence on their employers, making difficult the access to protection mechanisms and enforcement organisations (Cillo, 2018; Cremers, 2011; Danaj & Zólyomi, 2018; Idea & Ecorys, 2011; Ouali, 2012).

These vulnerabilities affect also working and living conditions of third country nationals employed as posted workers in Belgium (Albin, 2016; Engels, 2020; Grégoire, 2016; Stroobants, 2019). Especially during the past 5 years, trade unions' denunciations, labour inspectorates' investigations, journalistic inquiries and protests from the workers themselves have revealed a number of cases of exploitation involving TCN posted workers employed in the "cascade of subcontractors" that characterizes both public and private Belgian construction industry:

"The further we descend this 'cascade', the more we venture into the opaque areas of the economy, between light grey and dark grey. The mechanism has the merit of diluting the responsibility of the client and the prime contractor, who hide behind the fact that they are not the direct employers of exploited workers" (Grégoire, 2016, p. 28).

The spread of postings of TCNs is also evident from the academic literature that analyses the transformations of the labour market from a statistical point of view (Mussche et al., 2016; Mussche & Lens, 2018). Between 2008 and 2018 the percentage of postings of TCNs remained stable (around 10%), however there was a growth in absolute terms (2018: 20,000) that involved posted workers from non-EU Eastern European countries, North Africa, Latin America and Asia that are sent to Belgium by companies located in both EU15 and EU12 Member States. This phenomenon mainly involves Ukrainian posted workers sent to Belgium by Polish companies, Bosnians and Serbians by Slovenian companies, Turkish by German and Dutch companies, Brazilians by Portuguese companies, and Moroccans and Kosovars by companies located in Italy, France, Spain and the Netherlands (Mussche & Lens, 2018; MYRIA, 2019).

As for the role of Italy as country that send TCN posted workers to Belgium and Central-Northern Europe, there is no academic literature and statistics that specifically deal with this topic. However, in recent years, journalistic inquiries, trade unions investigations and enforcement agencies' controls revealed that Italian construction companies have been involved in episodes of severe labour exploitation of TCN posted workers sent to Belgium,

Switzerland and Denmark (Acciari & Bellobuono, 2019; Albin, 2016; Sartor, 2020; Grégoire, 2016). For example, in 2015 Belgian trade unions reported the case of an Italian letterbox company working in the subcontracting chain of the construction of the hospital in Liège: this company employed 20 Indian workers with Italian citizenship, without paying their wages and forcing them to live in containers located inside the Liège construction site. After labour inspections, the judicial system charged the Italian company with trafficking in human beings, and infringements of social legislation and well-being at work obligations (Bernard, 2015; Grégoire, 2016). Another important case concerns the construction of the Rive Gauche shopping centre in Charleroi (Belgium), which involved some Italian companies of the subcontracting chain that employed immigrant workers from Albania, Egypt, India, Kosovo and Romania. After not receiving wages for six months, these workers began to protest and climbed up a crane inside the construction site. Thanks to the protests, the support of Belgian unions and the media denunciation, these workers obtained 1,200,000 € for unpaid wages and non-compliance with the Belgian national collective agreement and the company was charged with infringements of labour legislation, including trafficking in human beings (Albin, 2016; Furlan, 2016).

In the case of Switzerland and Denmark, investigations carried out by journalists and trade unionists have brought to light a case of severe exploitation of posted workers that implicated an Italian company linked to organised crime and specialised in railway construction (Acciari and Bellobuono, 2019; Sartor, 2020). After winning contracts for important public infrastructures thanks to the system of offers to the maximum discount, this company employed as posted workers both Italians and immigrants from North Africa and non-EU Eastern European countries. In order to cut production costs, the company forced workers to work 13-14 hours a day, without respecting breaks, without paying overtime, night work and holidays, and resorting to the gangmaster system to control workers and avoid contacts with trade unions and journalists. However, in both Denmark and Switzerland, a part of the workers managed to break the isolation and denounce the working conditions, paving the way for controls by public authorities (Acciari and Bellobuono, 2019; Franchini, 2019; Sartor, 2020).

As for the role of Tunisia and Morocco within the posting of North African workers to Belgium by Italian construction companies, there is no relevant literature on this issue, but the broader literature on emigration can help to contextualize the characteristics of labour migration within this posting stream. Since the second half of the twentieth century, millions

of Moroccan and Tunisian workers have emigrated in particular to France, Germany, Belgium and, more recently, to Italy, and have often been employed in the construction sector (De Bel-Air, 2016a, 2016b; Khachani, 2019). In the case of Belgium, labour migration from Morocco and Tunisia has developed since the early 1960s, when strong industrial growth led to a growing workforce demand in industry and public construction, which was recruited through bilateral agreements in southern European countries and in non-European countries.

This phase of immigration from North Africa, involving mainly of adult males, ceased after the 1973 oil crisis, with the adoption of policies of “zero immigration” for labour purposes. From the second half of the 1970s, Moroccan and Tunisian immigration to Belgium occurred mainly through family reunification and to a lesser extent for study and asylum reasons, and began to take root definitively in the territory (De Bel-Air, 2016a, 2016b; Manço, 2000; Schoonvaere, 2014).

The adoption of restrictive policies in Central and Northern European countries pushed the North African labour migration towards other EU countries, such as Italy and Spain (Colucci, De Bel-Air, 2016a, 2016b). Since the 1970s Italy has become the destination of a mainly male immigration from Morocco and Tunisia that entered the agriculture, construction, itinerant trade and fishing sectors (Colucci, 2018b). In the following decades there has been a steady growth in labour immigration and, since the 1990s, for family reunification, which involved in particular Morocco, which in 2001 became the first country of origin of immigration to Italy (Colucci, 2018a).

Over the years labour migration from Morocco and Tunisia has spread to all production sectors. However, the construction sector has continued to attract a significant share of immigrant workforce: in fact, in 2017 it absorbed respectively 9.8% and 22.2% of the Moroccan and Tunisian workers (Ministero del Lavoro e delle Politiche Sociali, 2018a, 2018b). This sector is characterized by a stratification of the labour force along racial lines: in fact, immigrant workers, including those from Morocco and Tunisia, “perform the more difficult and dangerous tasks and are employed mainly at lower-skilled levels, despite the fact that many have been working for several years within the industry and are capable of performing higher-skilled jobs” (Cillo & Perocco, 2015, 54; see also Galossi, 2015). Their working conditions have further deteriorated since the 2008 economic crisis, due to a higher frequency of layoffs and an increase in the differential between the wages received by workers of Italian origin and workers of immigrant origin (Ires-Fillea Cgil, 2012).

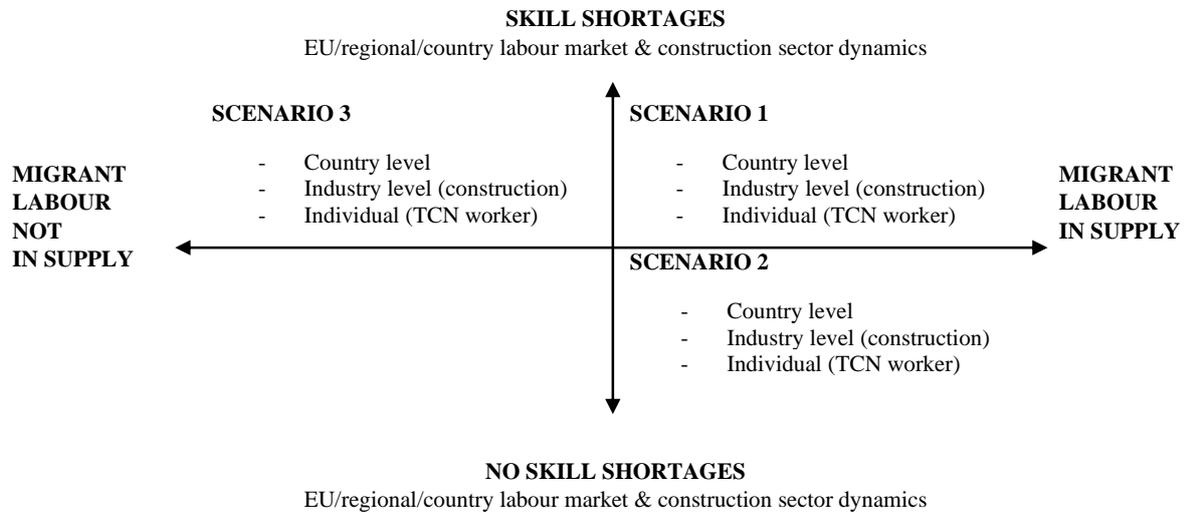
3. METHODOLOGY

The research design for this study is based on the comparative multiple-case studies approach. The project has produced three regional case study reports. Each report covers a sending, receiving and third country perspective. The current country report focuses on Morocco and Tunisia as the third countries, Italy as the sending country, and Belgium as the receiving country.

The findings in the reports are based on secondary resources such as academic and grey literature on posting to and from the countries included in the study and primary empirical data collected through Joint Visits (JVs) organised with representatives of national policy-making institutions, enforcement agencies, social partners and NGOs that have direct experience and knowledge of posting and/or labour migration to and from their country. Each Joint Visit had three parts with different objectives. They started with focus group discussions, which were the main source of data collection guided by the Con3Post research questions. After the focus group, an international seminar was conducted, where the perspective of the different stakeholders on the posting trends and issues related to third country nationals were delivered through presentations and discussions opened to the public. Finally, foresight workshops were conducted on the second day, which followed a classic scenario-building methodology using the techniques that are participatory and creative, multidisciplinary, geared at generating systemic understanding, and aimed at generating insights on the dynamics of change, future challenges and options (Da Costa et al. 2008). The aim of the foresight was to develop scenarios/narratives about plausible futures concerning future dynamics of the EU and regional labour markets in the construction sector, supply and demand of skilled labour, and labour migration/mobility/posting dynamics in the region and in each individual country. The guiding question was what could happen in their country/region in the field of our interest by 2035.

Scenarios were built around two axes providing the overall scenario logic. The vertical axis represented 'Skill supply and demand on the EU/regional/country level', the extremes of the axis being a) significant skill shortages and b) no skill shortages. The horizontal axis represented the availability of migrant/posted workers, the extremes of the axis being a) migrant/posted labour not in supply and b) migrant/posted labour in supply (see Figure 1 below). The participants outlined the drivers for all four scenarios but chose to develop one that they deemed most likely to happen.

Figure 1: Scenario building



The JVs for this report were conducted during the period June-November 2019. The events were attended by stakeholders with specific expertise on the posting of workers, labour migration and employment in the construction industry and involved labour inspectors, representatives of trade union and employers' organisations, academics, journalists. During the first joint visit, which focused on the role of Italy as sending country, we invited stakeholders from Italy and from countries that receive posted workers from Italy, like Denmark and Switzerland, to gather more information and materials on this phenomenon, which is very little studied in Italy. With regard to the second joint visit, which focused on the role of Belgium as receiving country, the invited experts included both Belgian and Italian stakeholders to facilitate transnational cooperation and information exchange. Furthermore, the information collected during the focus group was integrated with two interviews with a trade unionist and a representative of an employers' organisation of the Belgian construction sector. Finally, the third joint visit, which focused on the role of Morocco and Tunisia as countries of origin of posted workers, was attended by Italian stakeholders (including an Italian trade unionist of Moroccan origin) and by trade unionists from Morocco and Tunisia.

Further details of each JV and its events are presented in the tables below.

Table 1. Details of the fieldwork, June-November 2019

	JV1 (Italy – sending country)	JV2 (Belgium – receiving country)	JV3 (Morocco and Tunisia – third countries)
Place and dates	Venice, 13-14 June 2019	Brussels, 25-26 September 2019	Venice, 18-19 November 2019
No. of participants in the Focus Group	12	9	13
Stakeholders participating in the FG	9 <i>from Italy:</i> 2 trade union representatives, 3 labour inspectors, 1 anthropologist, 1 academic researcher; <i>from Denmark:</i> 1 trade union representative; <i>from Switzerland:</i> 1 journalist	6 <i>from Belgium:</i> 1 trade union representative, 1 employers' organisation representative, 2 labour inspectors; <i>from Italy:</i> 1 trade union representative; 1 labour inspector	11 <i>from Morocco:</i> 1 trade union representative; <i>from Tunisia:</i> 2 trade union representatives; <i>from Italy:</i> 4 trade union representatives, 2 labour inspectors, 1 expert on labour market dynamics, 1 academic researcher
No. of participants in the Foresight workshops	10	9	7
Stakeholders participating in the FS	7 <i>from Italy:</i> 1 trade union representative, 3 labour inspectors, 1 academic researcher; <i>from Denmark:</i> 1 trade union representative; <i>from Switzerland:</i> 1 journalist	6 <i>from Belgium:</i> 1 trade union representative, 3 labour inspectors; <i>from Italy:</i> 1 trade union representative; 1 labour inspector	4 <i>from Morocco:</i> 1 trade union representative; <i>from Tunisia:</i> 2 trade union representatives; <i>from Italy:</i> 1 trade union representative
No. of presentations in the International Seminar	7	4	4

Table 1.a. Details of the fieldwork. Presenters and titles of seminars' presentations

Seminars	Presenters and titles
<i>The posting of workers from Italy to Central and Northern Europe in the construction sector</i> 1 st Joint Visit, Venice, 13 June 2019	- Giulia Frosecchi - University of Trento, <i>The Italian legislation on the posting of workers</i> - Oscar Acciari - RSI, Swiss radio and television, <i>"The ashes of work". Swiss television investigation on the exploitation of posted workers employed by Italian companies in public construction sites in Switzerland and Denmark</i> - Rossana Cillo - Ca' Foscari University, <i>The phenomenon of the posting of workers from Italy to Belgium in the construction sector: data and trends</i> - Lara Rampin - North-East Interregional Labour Inspectorate, <i>The posting of workers from Italy in the construction sector: data and trends in Veneto</i> - Marconi Stefano - North-East Interregional Labour Inspectorate, <i>The system of inspections in Italy, with a focus on the posting of workers</i> - Franca Cossu - Venice Labour Inspectorate, <i>The posting of workers in the construction sector: some practical cases of labour inspections</i> - Mercedes Landolfi - Fillea CGIL, <i>The posting of workers in the construction sector: working conditions and trade union intervention</i>
<i>The posting of workers in the Belgian construction sector</i> 2 nd Joint Visit, Brussels, 25 September 2019	- Nancy Segers - SPF Emploi, Travail et Concertation Sociale, <i>Some examples of TCNs postings from Italy to Belgium in the construction sector</i> - Lode Van Steenkiste - National Social Security Office, <i>Social security issues in posting TCNs</i> - Tom Deleu - ACV-CSC, <i>Trade union support to posted workers in Belgium</i> - Nancy Segers - SPF Emploi, Travail et Concertation Sociale, <i>Support measures to posted workers / policies against social dumping</i>
<i>Immigration from North Africa to Italy and labour market dynamics in the construction sector</i> 3 rd Joint Visit, Venice, 18 November 2019	- Iside Gjergji - University of Coimbra, <i>Bilateral agreements on labour migration between Italy and the countries of North Africa</i> - Letizia Bertazzon – VenetoLavoro, <i>The job placement of the Maghrebi workers in Veneto: the construction sector</i> - Rossana Cillo – Ca' Foscari University of Venice, <i>Working conditions of immigrants in the construction sector in Italy, with a focus on posted workers</i> - Mercedes Landolfi - Fillea CGIL, <i>Maghrebi workers in the construction sector: trade union action at an international level</i>

4. RESULTS

4.1. Regional labour market dynamics and labour shortages

Over the past decade, the labour market of the Belgian construction industry has undergone profound transformations linked to the development of a transnational labour market based on postings, the reorganisation of the production process linked to the spread of the subcontracting system and the transformations of the internal labour market. As for the latter, labour inspectors and representatives of trade unions and employers' organisations highlighted how the Belgian construction sector has been less affected by the crisis with respect to other countries thanks to state investment in public infrastructures and the growth in the private housing sector (JV2). The Regions of Wallonia, Brussels-Capital and Flanders have indeed introduced medium and long-term investment plans for transport facilities, while the EU has funded specific projects aimed at improving transport infrastructures under the Connecting Europe Facility (CEF) (European Construction Sector Observatory, 2018a). As for the private sector,

“the Belgian housing market has been relatively stable and unaffected by the economic crisis, displaying a steady growth in house prices, good availability of mortgage credit and low household indebtedness. The house price index in Belgium has experienced an 11.6% increase over 2010-2016, thus evidencing the recovering demand in the housing market” (European Construction Sector Observatory, 2018a, p. 2).

The growth of the construction industry has not corresponded with a complementary growth in the domestic workforce employed in the sector. Although overall employment in the sector remained stable between 2008 and 2018 (2008: 322,300; 2011: 337,500; 2018: 323,300), the share of employees decreased from 242,800 persons to 229,200 persons (Eurostat Database). As highlighted by Belgian stakeholders, these dynamics have led to labour shortages and skill shortages in both the private and public sector and have gradually boosted the process of internationalisation of the labour market through an increasing use of postings (JV2). As reported by a representative of a Belgian employers' association, the decrease of domestic labour force among employees has depended from the expectations of the younger domestic workers towards the labour market and from the lack of attractiveness of the construction sector. Additionally, construction companies have preferred increasingly flexible forms of employment, more linked to the temporary nature of the projects and less tied to permanent employment which prevails in the Belgian labour market. Moreover, as

highlighted by a Belgian trade unionist, the use of the posting of workers has facilitated a strong competition among the companies that used postings and those that mainly employed domestic workforce, as the EU regulation concerning the posting of workers allows lowering labour costs by leveraging the differential between the social contributions and tax levels of the sending and receiving countries. Over the years, this context has incentivised an increasing use of postings by Belgian companies, which has had a displacement effect in some subsectors of the construction industry⁵ (JV2).

These transformations have facilitated the development of a transnational labour market of posted workers that are sent from both neighbouring countries -such as the Netherlands, which has suffered most from the impact of the crisis on the construction sector- and countries of Eastern and Southern Europe (JV1, JV2, JV3). As emerged from the focus group on the Italian case, over the last few years Italy has become one of the main countries sending posted workers to Central and Northern Europe, especially in the construction sector. This phenomenon is closely linked to the dynamics that have affected the Italian economy in the last decade. In fact, the construction industry has been hit hard by the consequences of the global economic crisis of 2008 (JV1). Between 2009 and 2017, the economic value of this sector and its production chain diminished by 27.5%, while employment decreased by 21.7%, from 3,450,000 to 2,700,000 workers (Federcostruzioni, 2019). In the construction sector in the strict sense, between 2008 and 2018, the total number of employed persons decreased from 1,925,500 to 1,406,800 individuals, while the number of employees fell from 1,238,500 to 860,100 workers (Eurostat database).

The economic recovery of the Italian construction sector has encountered greater difficulties compared to other countries, because of the crisis of the private sector and the austerity measures adopted in the last decade, which have blocked public spending, causing delays in payments for public building projects at local level and increasing the bankruptcies of the companies involved in these projects (European Construction Sector Observatory, 2018b).

As emerged from JV1, within this context, the large multinational companies have intensified the internationalisation process, investing in the EU, Latin America, Africa and

⁵ According to data on PDs A1, in 2018 Belgium reached 156,695 incoming postings (De Wispelaere & Pacolet, 2019). The latest statistics based on the LIMOSA system, which registers the number of individual posted workers working in the Belgian economy, show that in 2015 the construction sector employed 130,597 individual posted workers (De Wispelaere & Pacolet, 2017). As for the comparison of the different registration systems of posted workers sent to Belgium, see footnote 9.

Middle East (see also Construction Sector Observatory, 2018b), and have involved an increasing number of small and medium enterprises through the subcontracting system. At EU level, the countries in which Italian companies have invested include Austria, Belgium, Denmark and Switzerland. In these countries, the construction industry has suffered fewer heavy impacts from the economic crisis of 2008. In addition, as reported by a Danish trade unionist and a Swiss journalist, during the last decade large public construction projects were carried out thanks to state investment adopted to stimulate the economy (e.g. Denmark) or adopted before the 2008 crisis to improve the existing infrastructures (e.g. Switzerland) (JV1).

In many cases, Italian companies have managed to win these contracts thanks to the mechanism of the offer at the lowest price, which in some cases has allowed public administrations that were funding the project to save up to 30%. Furthermore, in some cases these companies managed to compete, with both local companies and other international companies, also on the duration of the project, thanks to the flexibility allowed by the systematic use of the subcontracting system and the growing use of the posting of workers. In fact, as highlighted by a Swiss journalist, “when there is a contract that lasts a year or two and a company takes it, the thing that matters most is saving money and time” (JV1).

The increasing competitiveness of Italian companies in the EU market has been made possible thanks to the wide availability labour force in the domestic labour market, due to the impact of the 2008 economic crisis on the Italian construction industry. Many stakeholders highlighted that the posted workforce includes both low-skilled and high-skilled workers that in many cases have already gained long experience in Italy. Italian sending companies employ this workforce in building sites that include the construction of houses, hospitals, railways, subways, roads, highways... (JV1, JV3).

As for the labour market dynamics in North Africa, the Moroccan and Tunisian economies have suffered a strong impact from the economic crisis of 2008 and, in the case of Tunisia, also from the political instability following the Jasmine revolution (2010-2011) (JV3). The labour force of both countries registers a low employment rate (2018: MA 41.2%; TN 39.2%) and a high unemployment rate (MA 9.3%; TN 15.5%), particularly among the young population (MA 22.2%; TN 35%). Furthermore, both countries have high rates of informal economy (MA 79.8%; TN 58.8%) (OECD, World Bank, ILO databases).

The labour market of the construction sector of these countries has experienced different development dynamics during the last decade. As emerged during the joint visit focused on

the role of North African countries, the Moroccan construction sector has experienced strong growth in particular in the public sector, thanks to state investments that since 2010 have facilitated the modernisation of infrastructures (port expansion, airport expansion, railway networks, and energy production and transmission) (see also Oxford Business Group, 2020). The construction sector also benefited from the growth in phosphate production - exported mainly to India and China - which stimulated further investment in transport infrastructures (JV3). Italian and Moroccan stakeholders reported that a further stimulus came from the housing sector: the growing urbanisation has increased the demand for housing for the middle classes -thus stimulating investment in the private sector- and for the popular classes -thus stimulating the adoption of large-scale residential projects by local administration in medium and large cities (see also Oxford Business Group, 2020). Moreover, the growth of the construction sector has pushed the Moroccan government to adopt specific programs for vocational training and tertiary education to fill skill shortages. These training policies are part of a broader reform of the educational system, which includes bilateral agreements with other States (Germany) and collaboration with Moroccan companies (Mohamed V airport) and foreign companies (Citroen, Renault) (JV3).

Tunisia, on the other hand, recorded an expansion in the private sector, due to the growth of its population and the increasing urbanisation of the population coming from the countryside. The public construction sector, on the contrary, was severely affected by the political instability and the lack of state investment, entering a crisis which should ease in the next decade through the launch of transport infrastructure projects, financed by loans obtained from the International Monetary Fund (Oxford Business Group, 2017). Regarding skill shortages in the construction industry, “it is estimated that Tunisia’s vocational training system prepares between 5,000 and 8,000 apprentices on an annual basis, while labour needs average roughly 25,000 workers” (Oxford Business Group, 2019, p. 140).

Table 2: Overall labour market dynamics (2018)⁶

	BE	IT	MA	TN
GDP real (annual growth in %)	+1.5% ^a	+0.8% ^a	+3% ^b	+2.5% ^b
Employment rate, population aged 15+ (%)	64.5% ^a	58.5% ^a	41.2% ^b	39.2% ^b
Job vacancy rate (%)	3.5% ^a	NA	NA	NA
Unemployment rate, population aged 15+ (%)	5.9% ^a	10.6% ^a	9.3% ^b	15.5% ^b
Male employment rate (%)	68.2% ^a	67.6% ^a	64.7% ^b	60.3% ^b
Male unemployment rate (%)	6.3% ^a	9.7% ^a	8.8% ^b	12.5% ^b
Youth unemployment, population aged 15-24 (%)	15.8% ^a	32.2% ^a	22.2% ^b	35% ^b
Informal employment as share of total employment (%)	13.5% ^c	19% ^c	79.9% ^c	58.8% ^c
Average monthly gross wage (in EUR)	4,054 ^a	2,588 ^a	493 ^d	309 ^d
Monthly gross minimum wage (in EUR)	1,562 ^a	NA	253 ^c (2020)	101 ^c (40h)

Table 3: Regional labour market dynamics in the construction sector (2018)⁷

	BE	IT	MA	TN
Annual growth in construction (%)	+1.6% ^e	+1,4% ^f	NA	-1.3% ^g
Total turnover in construction (in billion EUR)	72,795 ^a (2017)	158,553 ^a (2017)	1,112 ^h	2,2 ^g (2016)
Employment in construction (percentage of the active population employed in construction)	6.6% ^a	6.2% ^a	9% ^h (2016)	13.5% ⁱ
Skill shortages in construction (number of workers in shortage in the construction sector)	8,916 ^a	NA	NA	17,000 ^j 20,000 ^j
Full-time employment in construction, share of employees aged 15+ (%)	93.6% ^a	92.4% ^a	NA	NA
Temporary employment in construction, share of employees aged 15+ (%)	5.9% ^a	18.7% ^a	NA	NA
Self-employment in const., share of employees aged 15+ (%)	14.6% ^k	25.0% ^a	NA	NA
Informal employment as share of total employment in construction (%)	11.9% ^l (2013)	17.0% ^m (2017)	89.4% ⁿ (2015)	NA
Average monthly gross wage in construction (in EUR)	3,143 ^a	2,707 ^a	493 ^d (all sectors)	132 ^j (net)
Monthly gross minimum wage in construction (in EUR)	1,562 ^a	NA	253 ^c (all sectors 2020)	101 ^c (all sectors 40h)

⁶ The data sources of the table are the following: a) EUROSTAT database; b) OECD database; c) ILO database; d) UNECE database.

⁷ The data sources of the table are the following: a) EUROSTAT database; c) ILO database; d) UNECE database; e) Atradius Belgique; f) Atradius Italie; g) Oxford Business Group Tunisia 2017; h) Oxford Business Group Morocco 2020; i) Statistiques Tunisie; j) Oxford Business Group Tunisia 2019; k) SPF Economie; l) European Commission 2018; m) ISTAT Database; n) World Bank 2017. For complete references regarding sources, see the bibliography at the end of the report.

4.2. Labour migration and posting trends

According to statistical studies published by the European Commission, in 2018 Belgium ranked third for incoming postings (156,695 PDs A1), following Germany (428,935 PDs A1) and France (262,126 PDs A1)⁸ (De Wispelaere & Pacolet, 2019). Yet, if we consider statistics obtained from databases of the LIMOSA registration system⁹, Belgium has recorded 249,755 individual posted workers, registering a marked and constant increase, which has almost tripled the total number of individual posted workers since 2009 (83,958) (Idea & Ecorys, 2011; De Wispelaere et al., 2020). Belgium receives posted workers mainly from neighbouring countries (France, Germany, Luxembourg, the Netherlands) and the main sending countries (Poland, Portugal, Slovenia, Italy and Romania) (De Wispelaere & Pacolet, 2019; Myria, 2018).

As for the sectorial distribution, Belgian stakeholders reported that the construction industry is the sector that mostly uses posted workers (JV2). Indeed, the latest available data relating to distribution by sectors show that in 2015 61.9% of individual posted workers were employed in the construction sector (De Wispelaere & Pacolet, 2017)¹⁰. As highlighted by a trade unionist and a representative of an employers' organisation, this concentration of posted workers in the construction sector is closely related to the migration policies adopted by the Belgian State. After the 2004 and 2007 EU enlargements Belgium has extended restrictive measures during the second phase of the transition period with regard to granting work permits to nationals from new Member States: as a result, the shortage of manpower in the construction

⁸ These data consider only PDs A1 issued by competent Member States according to Article 12 of the Basic Regulation, which includes employed and self-employed persons posted to one Member State.

⁹ Data published by the European Commission are based on PDs A1 issued by sending countries. The LIMOSA data are based on a mandatory registration system of incoming posted workers introduced in 2007, which enables to identify the number of unique persons posted to Belgium. As highlighted by the European Commission, "The figures [provided at European level] may underestimate the actual number of posted workers. From a receiving perspective, data from national compulsory registration systems show a relevant gap between EU and national figures, with the latter being up to five times higher in the case of Denmark" (European Commission, 2016a, p. 57). A counter-proof that the statistics relating to A1 PDs underestimate the extent of the posting of Workers is obtained if we consider the number of A1 PDs registered by the LIMOSA system: "The same person can come to Belgium for several short-term projects. The 230,000 workers posted in 2018 correspond to around 847,000 effective declarations, and the average duration of their service is around 107 days" (MYRIA, 2019, p. 94). Moreover, it must be taken into consideration that the LIMOSA system provides underestimated data as it collects an "incomplete picture of the number of posted self-employed persons because there is only a notification requirement for 3 'high-risk sectors': construction, meat and cleaning" (De Wispelaere et al., 2020, p. 6).

¹⁰ In 2015 130,597 individual posted workers out of 210,815 were employed in the construction sector (De Wispelaere & Pacolet, 2017).

sector was met through a growing reliance on posting, rather than stable immigration from Eastern European countries (JV2).

Over the years, Belgium has also experienced an increase in the posting of workers from third countries (cf. table 4). In 2018, “LIMOSA registered 28,000 third-country nationals, 20,000 (72%) of whom were posted to Belgium from other EU member states, i.e. without a Belgian work permit” (MYRIA, 2019, p. 94). The main sending countries are Poland, Slovenia, Portugal, Germany, Italy and the Netherlands, while the main countries of origin of TCNs are Ukraine, Turkey, Bosnia and Herzegovina, Brazil, Kosovo and Morocco (Mussche & Lens, 2018; MYRIA, 2019) (cf. Table 5). Italy is included in the top 10 member states that send posted workers to Belgium and is among the countries that send posted workers from third countries, in particular from Kosovo and Morocco (De Wispelaere & Pacolet, 2019; Mussche & Lens, 2018; MYRIA, 2019).

Table 4: Number of TCN posted workers sent to Belgium from EU28 countries

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
EU15 ¹¹	4,587	3,593	3,853	4,473	4,730	5,585	6,322	7,653	7,217	8,181
EU10 ¹²	158	214	265	603	1,246	1,526	3,908	6,079	2,836	5,760
EU3 ¹³	9	32	51	29	31	48	278	383	241	423
Total	4,754	3,839	4,169	5,105	6,007	7,159	10,508	14,115	10,294	14,364

Source: Mussche & Lens, 2018 (calculations on: Belgian National Social Security Office, LIMOSA data)

As Mussche and Lens (2018) pointed out, over the years the posting of TCNs has become a way of overcoming the restrictions imposed on labour migration by Belgian legislation, which incentivises the entry of highly skilled workforce. For this reason,

“the profile of third country nationals [posted from EU28 Member States to Belgium] is very different from that of third country nationals coming to work in Belgium under the cover of a work permit. In fact, work permits mainly cover exceptional categories (highly qualified people and managers)” (MYRIA, 2019, p. 97).

Indeed, in 2018, “more than 90% of TCNs posted from EU28 countries enter Belgium as employees rather than as self-employed workers” (Mussche & Lens, 2018). Additionally,

¹¹ Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, United Kingdom.

¹² Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia.

¹³ Bulgaria, Croatia, Romania.

the sectorial distribution shows that among TCN posted workers, 50% is employed in the construction sector, 15% in the transport sector, 7% in the metallurgy sector and 3% in the maintenance of electrical installations (MYRIA, 2019, p. 97).

As for the Italian role, the joint visits revealed that Italy is becoming a country that sends posted workers to many countries in Europe, not only to Belgium. The analysis of the sending perspective from a broader point of view will allow to highlight how trends that may seem secondary if analysed within individual receiving countries, are more relevant if analysed within the transnational labour market. Indeed, even if compared with countries like Poland and Germany, the total number of Italian postings in the Belgian labour market seems to be marginal (JV2), it must be taken into consideration that in recent years Italy has become one of the main sending countries, doubling the number of outgoing posted workers since 2015 (2015: 83,277 PDs A1; 2018: 167,264¹⁴) (De Wispelaere & Pacolet, 2016b, 2019). The main receiving countries are France (37,088 PDs A1), Switzerland (36,414 PDs A1), Germany (18,070 PDs A1), Spain (10,483 PDs A1), Austria (7,193 PDs A1), and Belgium (6,016 PDs A1) (De Wispelaere & Pacolet, 2019).

There are not statistical data on sectors where the postings take place, as the Italian Ministry of Labour has not yet published the data broken down on an annual basis, however labour inspectors, trade unionists and journalists provided specific examples from receiving countries (e.g.: Austria, Belgium, Denmark, Switzerland) and from labour inspectorates investigations on sending companies that highlight that the construction industry is strongly involved (JV1, JV2, JV3).

Many stakeholders highlighted that the recruitment of workforce for posting involves workers with different migration status and includes mainly Italian workers and immigrant workers from North Africa and Eastern European countries (EU and non-EU) who have long resided in Italy. To a lesser extent, Italian companies also employ workers specifically recruited for posting from other EU Member States (especially Eastern European countries) and third countries, thus transforming Italy into a “transit country” (JV1, JV3).

On the one hand, this variegated composition of the workforce that Italian companies employ abroad in the posting of workers regime is related to the 2008 economic crisis which caused a sharp increase of unemployment in the Italian construction industry. This situation pushed both Italian and immigrant workers who have long resided in Italy to accept more

¹⁴ In 2018 Italy issued 148,863 PDs A1 according to Article 12 and 18,401 PDs A1 according to Article 13 (De Wispelaere & Pacolet, 2019).

flexible forms of work, such as being employed as posted workers, in order not to lose their jobs (JV1). On the other hand, this composition reflects the specific racial stratification emerged since the 1980s within the Italian labour market, including the construction sector. This industry, indeed, has been of the main employment sectors for male immigration from North Africa (Egypt, Tunisia, Morocco) and Eastern Europe (Albania, Romania, Moldova, countries of the former Yugoslavia) (JV3).

As stated by an Italian labour inspector, some areas, such as the Veneto and Lombardy Regions, have become specialised areas where companies recruit workers to send them in Central and Northern Europe:

“in the construction sector many companies recruit foreign workers, especially from non-EU countries, to send them to Belgium, or to Austria. So, our country has become a sort of large basin where you may find non-EU workers to be sent to other countries, also because it helps non-EU workers to have a residence permit or renewal of the same” (JV1, Italian labour inspector).

Furthermore, as stakeholders from Denmark and Switzerland have pointed out, in Central and Northern Europe trade unions and media have detected some cases related to important public contracts within the infrastructures construction in which the Italian sending companies have had links with organised crime. These companies have used the gangmaster system for both recruiting and controlling the workforce and to conquer a very profitable niche of the transnational labour market of postings by offering lower labour costs (JV1).

As for the labour migration trends from North African countries, Europe has been the main destination for emigration from Morocco and Tunisia (JV3). France, Germany and Belgium have been the main destination since the second post-war period, while since the 1980s and Spain since the 1990s (Khachani, 2019; De Bel-Air, 2016a, 2016b). In 2017, 2,898,700 Moroccan migrants and 767,200 Tunisian migrants were residing abroad and 87.4% and 75.4% respectively immigrated in the EU¹⁵ (European Commission, 2019a, 2019b). As for Italy, in 2018 the immigrant population with Moroccan and Tunisian citizenship residing in Italy included respectively 422,980 and 95,071 persons¹⁶ (Idos & Confronti, 2019).

¹⁵ These statistical data refer to the first-generation of migrants, i.e. persons born in Morocco or Tunisia and residing abroad.

¹⁶ In 2018 the immigrant population with foreign citizenship also included 1,206,938 Romanians, 441,027 Albanians, 299,823 Chinese and 239,424 Ukrainians (Idos & Confronti, 2019).

Moroccan, Tunisian and Italian trade unionists pointed out that emigration from Morocco and Tunisia is linked to a number of structural push factors, which include the high unemployment rate (especially among young people), poor socio-economic conditions that lead to seek better conditions abroad, and in the Tunisian case the political instability that followed the Jasmine Revolution (2010/11). As for the pull factors, they stressed the role of better job opportunities and the presence of extended social networks in Europe (JV3).

However, the role of Morocco and Tunisia in international migration is changing and is not linked only to emigration patterns, as during the last decade both countries experienced a constant growth of regular and irregular immigrants. In 2017 regular immigrants to Morocco and Tunisia came mainly from EU Member States and North African countries¹⁷. In addition, both countries have become destination for asylum seekers and refugees from the Middle East (European Commission, 2019a, 2019b). Irregular immigration is mainly composed of emigrants from Central and South African countries who arrive in Morocco and Tunisia on their journey to Europe. However, the largest part of them remain in Morocco and Tunisia because of the restrictive migration policies adopted by the European Union, which actively involve both countries on the externalisation and securitisation of the EU borders (Menjívar, 2014; Badalič, 2019). Consequently, these policies have turned Morocco and Tunisia into countries of transit and at the same time destination of irregular immigrants from Central and Southern African countries that are employed in the informal economy (JV1, JV3).

The introduction of restrictive migration policies is also influencing emigration from Morocco and Tunisia to Europe. Despite the strong migratory pressure from North Africa, since the 2008 global economic crisis and the 2011 North African uprisings, the EU and the main immigration countries -including Italy- have adopted restrictive migration policies. For this reason, during the last decade emigration from Morocco and Tunisia has occurred mainly through family reunification, asylum seeking, entries for students, seasonal workers and highly skilled workers¹⁸ (JV1, JV3; see also European Commission, 2019a, 2019b).

¹⁷ Immigration to Morocco included 36,129 persons from France, 13,771 from Algeria, 4,200 from Spain, 2,643 from Tunisia and 2,098 from Syria. In the case of Tunisia, it included 10,620 persons from Algeria, 9,302 from Libya, 8,783 from France, 5,901 from Morocco and 2,246 from Italy (European Commission, 2019a, 2019b).

¹⁸ In the Tunisian case Italy also recorded a growth of unauthorised entries by sea (2018: 5,000 persons; see Idos & Confronti, 2019, p. 133).

Only Morocco and Italy have stipulated a bilateral labour agreement¹⁹ (Bilateral labour agreement between the government of the Italian Republic and the government of the Kingdom of Morocco, 21 November 2005²⁰). However, the restrictive migration policies introduced during the last decade have also had an impact on legal entries allowed by this bilateral agreement because the release of work permits is subject to the provisions of the annual “Flow Decree” issued each year by the Ministry of Labour and Social Policies, which sharply reduced the entries for work purposes²¹.

These dynamics also have repercussions on the analysed posting stream. The introduction of restrictive migration policies has sharply reduced labour immigration from third countries, thus influencing the characteristics of the migratory status of TCNs employed by Italian sending companies. The largest part of TCN posted workers from North Africa sent by Italian companies to Central and Northern European countries are not new immigrants, but long-term immigrants who have resided in Italy and have been employed in the construction sector for many years (JV1). Historically the Italian construction industry has been in fact one of the key sectors for the labour insertion of immigrant workers from Morocco and Tunisia (see Chapter 2). The unemployment and the deterioration of working conditions caused by the impact of the 2008 economic crisis on this sector and the precarity related to their migratory status have therefore led many Moroccan and Tunisian immigrant workers to accept to be posted in order to not to lose their jobs.

¹⁹ Belgium stipulated bilateral labour agreements with Morocco in 1964 and Tunisia in 1969. These agreements ceased in 1974, with the stop to immigration introduced after the oil crisis and the adoption of policies for highly skilled immigration.

²⁰ https://www.lavoro.gov.it/temi-e-priorita/immigrazione/focus-on/accordi-bilaterali/Documents/MA_AccordoBilateraleMarocco.pdf

²¹ In 2018 the Annual Flow Decree authorised 30,850 entries from the 32 non-EU countries with which Italy has stipulated bilateral agreements (<https://www.interno.gov.it/it/notizie/decreto-flussi-2018-ingresso-30850-lavoratori-non-comunitari>).

Table 5: General labour migration and posting trends, migration and posting trends in construction (2018)²²

	BE	IT	MA	TU
General labour migration and mobility trends				
Net migration	+48,925 ^a	+175,364 ^a	-109,000 ^b	-16,409 ^c
Total number of emigrants	88,935 ^a	156,960 ^a	2,898,700 ^d (Total of Moroccans abroad, 2017)	767,200 ^e (Total of Tunisians abroad, 2017)
Total number of immigrants	137,860 ^a	332,324 ^a	95,800 ^d (Total of foreigners, 2017)	57,700 ^e (Total of foreigners, 2017)
Total EU migrants received	63,924 ^a	57,369 ^a	31,483 ^f (Europe 2012)	15,007 ^g (Europe 2014)
Total TCN migrants received	73,936 ^a	274,955 ^a	95,800 ^d (Resident foreigners, 2017)	57,700 ^e (Resident foreigners, 2017)
Share of immigrants of working age (19-65 years old) (in %)	74.2% ^a	73.2% ^a	59% ^f (Europeans, 2012)	NA
Share of emigrants of working age (19-65 years old) (in %)	76.7% ^a	75.9% ^a	46% ^f (2012)	77% ^g (2014)
Main countries of destination	France ^a Netherlands Spain UK Romania	UK ^a Germany France Romania Switzerland	France ^d Spain Italy Netherlands Israel (2017)	France ^e United States Italy Germany Israel (2017)
Main countries of origin	Romania ^a France Netherlands Morocco Italy	Romania ^a Nigeria Brazil Albania Morocco	France ^d Algeria Spain Tunisia Syria (2017)	Algeria ^e Libya France Morocco Italy (2017)
Total number of outgoing posted workers	38,215 ^h	85,376 ^h	NA	NA
Total number of incoming posted workers	156,695 PDs A1 (art. 12) ^h	73,927 PDs A1 (art. 12) ^h	NA	NA

²² The data sources of the table are the following: a) EUROSTAT database; b) CIA 2020a; c) CIA 2020b; d) European Commission 2019a; e) European Commission 2019b; f) De Bel-Air 2016a; g) De Bel-Air 2016b; h) De Wispelaere & Pacolet 2019; i) MYRIA 2019; j) Mussche & Lens 2018; k) Idos & Confronti 2019; l) De Wispelaere & Pacolet 2017. For complete references regarding sources, see the bibliography at the end of the report.

Labour market share of incoming posted workers	5.3% ⁱ	NA	NA	NA
Total number of TCN posted workers	14,364 ^j (2017)	NA	599 ^j to Belgium (2017)	NA
Main countries of destination for posted workers	France ^h Netherlands Luxemburg	France ^h Switzerland Germany	NA	NA
Main countries of origin of posted workers received	Germany ^h Luxemburg Poland	Germany ^h Spain France	NA	NA
Main countries of origin of TCN posted workers received	Ukraine ^j Bosnia-Herz. Brazil (2017)	NA	NA	NA
	BE	IT	MA	TU
Labour Migration and mobility trends in construction				
Total number of immigrants in construction	NA	243,000 ^k	NA	NA
Total number of incoming posted workers in construction (numbers and/or %)	62% ^l (2015)	NA	NA	NA
Total number of outgoing posted workers in construction (numbers and/or %)	19% ^h	NA	NA	NA
TCN incoming posted workers in construction (numbers and/or %)	20,000 ⁱ	NA	NA	NA
TCN outgoing posted workers in construction (numbers and/or %)	NA	NA	NA	NA

Table 6: Top 6 TCNs posted to Belgium from EU28 countries – citizenship and sending country

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Ukraine (total)	100	72	116	191	498	464	1,422	2,040	988	2,958
Poland	2	2	14	53	243	158	586	910	412	2,041
Other	98	70	102	138	255	306	836	1 130	576	917
Bosnia-Herz. (total)	206	244	222	394	646	834	1,658	3,028	1,468	1,780
Slovenia	47	86	105	247	539	673	1,516	2,853	1,263	1,486
Other	159	158	117	147	107	161	142	175	205	294
Brazil (total)	141	200	179	258	564	835	767	927	1,245	1,748
Portugal	116	176	150	213	452	699	660	800	1,134	1,612
Other	25	24	29	45	112	136	107	127	111	136
Turkey (total)	1,550	1,216	1,161	1,387	1,250	1,307	1,195	1,202	1,263	1,209
Germany	1,209	895	731	881	755	792	617	588	664	627
Netherlands	257	217	355	419	398	415	501	487	474	449
Other	84	104	75	87	97	100	77	127	125	133
Serbia (total)	179	190	205	212	184	231	443	479	426	676
Slovenia	15	18	25	52	52	86	169	185	138	323
Germany	126	92	107	109	66	78	125	116	121	150
Other	38	80	73	51	66	67	149	178	167	203
Morocco (total)	281	188	229	263	314	372	394	486	564	599
Italy	40	13	53	13	44	33	57	83	140	161
France	144	86	96	124	99	112	83	116	135	142
Spain	3	3	8	46	56	99	96	111	137	117
Netherlands	61	33	42	53	95	97	106	122	106	115
Other	33	53	30	27	20	31	52	54	46	64

Source: Mussche & Lens, 2018 (calculations on: Belgian National Social Security Office, LIMOSA data)

4.3. Labour rights, violations and representation of posted workers who are third country nationals

Incoming posted workers in Belgium: regulation and national competent authorities

Belgium has transposed the Posting of Workers Directive (Dir. 96/71/EC) and the Enforcement Directive (Dir. 2014/67/EU) respectively into the national law “Loi belge du 5 mars 2002”²³ and the national law “Loi du 11 décembre 2016”²⁴. This regulatory framework requires that each posted worker or self-employed worker must have a Portable Document A1. The foreign employer (or her/his representative) who post an employee to Belgium and posted self-employed persons must fill in a compulsory electronic declaration, called LIMOSA²⁵. Moreover, since 1 October 2017, foreign employers posting their employees to Belgium are required to appoint a liaison officer through the LIMOSA declaration.

Regarding labour rights, the Belgian legislation has applied a broad protection level with regard to the provisions of Directive 96/71/EC, including the national legislation and collective agreements, which are universally binding by law. As for temporary workers, complete legislation is applied (Pallini & Pedersini, 2010) and temporary workers enjoy the same rights as same-level permanent employees of the company using temporary workers’ agencies. Temporary work may only be used when it is necessary to “ensure the temporary replacement of a permanent worker; to respond to a temporary increase in work; to perform exceptional work”²⁶ (WEC Europe & UNI Europa, 2011).

In the construction sector, contracting companies have an obligation for joint social responsibility on the wages of all workers (Loi du 11 décembre 2016 portant diverses dispositions concernant le détachement de travailleurs).

In case of missing remuneration, the Belgian legislation²⁷ has three different levels of joint liability that can apply also to posted workers: - the general regime, which applies to certain activities, in case of direct contractual relationships and indirect relationships (within the subcontracting chain); - the special regime applicable in the construction sector, which

²³ Loi belge du 5 mars 2002 transposant la directive 96/71/CE du Parlement européen et du Conseil du 16 décembre 1996 concernant le détachement des travailleurs effectué dans le cadre d’une prestation de services et instaurant un régime simplifié de tenue des documents sociaux pour les employeurs qui détachent des travailleurs en Belgique (publiée au Moniteur belge du 13/03/2002).

²⁴ Loi du 11 décembre 2016 portant diverses dispositions concernant le détachement de travailleurs.

²⁵ The LIMOSA declaration has been introduced since 1 April 2007 by the law “Loi-programme du 27 décembre 2006 portant des disposition relatives à la relation de travail”.

²⁶ Loi du 24 juillet 1987 sur le travail temporaire, le travail intérimaire et la mise de travailleurs à la disposition d’utilisateurs (<http://www.emploi.belgique.be/defaultTab.aspx?id=38257>).

²⁷ Loi du 12 avril 1965 concernant la protection de rémunération des travailleurs.

derives from the implementation of the Enforcement Directive and concerns the direct contractual relationship between two contractors in the subcontracting chain (general contractor and contractor, or contractor and subcontractor); - the special regime for the employment of a TCN illegally residing in Belgium, which derives from the transposition of the Sanction Directive.

The inspection bodies responsible for monitoring the implementation of the legal framework are:

- Direction générale Contrôle des lois sociales (DG Control of Social Laws): it is supervised by the Federal Public Service Employment, Labour and Social Dialogue and is divided into 24 provincial divisions. The labour inspectorate of the DG Control of social laws carries out controls in matters of regulatory labour law (labour and labour relations regulations, promotion of employment), collective labour law (joint committees, existing security funds, collective labour agreements) and annual vacation legislation²⁸.

- Direction générale Contrôle du bien-être au travail (DG Control of the Well-being at Work): it is supervised by the Federal Public Service Employment, Labour and Social Dialogue and coordinates: the Division for Regional Control with 8 Regional Directorates; the Division for chemical risks control; the Division for the Knowledge Management of Workplace Wellbeing. The labour inspectorate of the DG Control of the Well-being at work controls all aspects defined by the well-being at work law²⁹.

The labour inspectorates have created nine "posting teams" at provincial level³⁰ (5 in Flanders, 3 in Wallonia, 1 in Brussels), which currently employ 9 chief-inspectors and 37 inspectors (approximately 10% of the total number of inspectors employed by the Belgian Labour Inspectorate). As reported by a Belgian labour inspector,

“the posting teams have: to monitor foreign companies that send posted workers to Belgium (and Belgian companies that use posting companies); to fight organised social fraud; to support, collaborate and exchange information with the other posting teams, with foreign labour inspectorates, with traditional directions and with specialised posting teams of the National Social Security Office (NOSS and NOSS-SE). Regarding the

²⁸ <https://emploi.belgique.be/fr/propos-du-spf/structure-du-spf/inspection-du-travail-direction-generale-contrrole-des-lois-sociales>

²⁹ <https://emploi.belgique.be/fr/propos-du-spf/structure-du-spf/inspection-du-travail-direction-generale-contrrole-du-bien-etre-au>

³⁰ The first ones were created in 2006 in Flanders and in 2008 in Wallonia and Brussels.

posting of workers, they have: to ensure the application of minimum rates of pay and with respect to working time; to guarantee minimum employment standards to foreign workers; to raise awareness, and reduce the exploitation of foreign workers; to tackle cross-border social fraud, to reduce unfair competition” (JV2, Belgian labour inspector).

Additionally, the Service de Recherche et d’Information Sociale (Research and Social Information Service) oversees specific tasks regarding the fight against social fraud and undeclared work. The SIRS provides support to “cellules d’arrondissement” (district cells) dealing with social fraud. The district cell is chaired by the work auditor and is made up of delegates from: the Social Inspection of the Federal Public Service Social Security; the DG Control of Social Laws; the inspection service of the National Social Security Office; the inspection service of the National Employment Office; the National Pensions Office; the National Institute for Health and Disability Insurance; the National Family Allowances Office for salaried workers; the Federal Public Service Finance; the Federal Orientation Office; the federal police; the regional inspection service responsible for employment policy; a magistrate from the public prosecutor’s office³¹.

The available statistical data on labour violations committed by foreign companies in all sectors show that in 2017 the companies involved were located mainly in Portugal (302 cases), Poland (264), France (189) and the Netherlands (180). The main infringements concerned various regulations (504), social documents (477) and obstacle to control (254) (Direction Générale Contrôle des Lois Sociales, 2019).

³¹ https://emploi.belgique.be/fr/propos-du-spf/structure-du-spf/service-dinformation-et-de-recherche-sociale-sirs#toc_heading_2

Table 7 - Infractions committed by foreign companies in Belgium – DG Control of Social Laws (2017)

Legislation	Warnings	Warnings Workers	Regulations	Regulations Workers	Amount of regularisations	of	Pro Justitia	Pro Justitia Workers	Amount of Pro Justitia	Total Infractions	Workers Total	Total Amount
Collective agreements	13	85	32	839	378,159		23	319	44,461	68	1,243	422,620
Various	22	243	351	6,439	6,592,634		131	2,999	6,638,266	504	9,681	13,230,900
Social documents	65	252	323	3,878	3,089,719		89	944	323,369	477	5,074	3,413,087
Holidays	8	31	4	18	7,102		12	162	0	24	211	7,102
LIMOSA	133	218	22	58	0		85	212	0	240	488	0
Labour Law	36	512	73	937	656,953		64	1,240	3,806,526	173	2,689	4,463,479
Provision	0	0	10	69	51,110		67	1,377	180,851	77	1,446	231,961
Obstacle to control	2	2	250	4,235	7,591,751		2	27	0	254	4,264	7,591,751
Protection of remuneration	1	0	0	0	0		18	187	0	19	187	0
Social Security	0	0	5	3	0		0	0	0	5	3	0
Agency work	0	0	0	0	0		102	2,090	3,451	102	2,090	3,451
Total	280	1,343	1,070	16,476	18,367,428		593	9,557	10,996,922	1,943	27,376	29,364,350

Source: Direction Générale Contrôle des Lois Sociales, 2019

Outgoing posted workers in Italy: regulation and national competent authorities

As for the legislation that regulates the posting from Italy to other Member States, Italy has transposed the Posting of Workers Directive (Dir. 96/71/EC) and the Enforcement Directive (Dir. 2014/67/EU) respectively into Legislative Decree No. 72/2000³² and Legislative Decree No 136/2016³³.

The bodies responsible for monitoring the implementation of the legal framework relating to the posting of workers from Italy to other EU Member States are:

- Ispettorato Nazionale del Lavoro (INL): the National Labour Inspectorate is supervised by the Ministry of Labour and Social Affairs and “coordinates nationally a supervisory action on labour, welfare contribution, mandatory insurance and social legislation, including health protection and safety on the workplace”. The provincial labour inspectorates control outgoing posted workers and companies that send them abroad, focusing on the regularity of the employment contract and working conditions, the regularity of social contributions and the regularity of health insurance. In addition, they can also inspect the place where the sending company carries out its main economic activity and where its administrative staff is employed.

- Istituto Nazionale di Previdenza Sociale (INPS): the National Social Security Institute is the main social security institution of the Italian public pension system and is supervised by the Ministry of Labour and Social Affairs. INPS is responsible for dealing with undeclared work and the control of the regular payment of social contributions and the correct use of the benefits, including the case of outgoing posted workers. INPS also issues PDs A1 to employers who intend to use the posting of workers and to self-employed workers.

- Istituto nazionale per l'assicurazione contro gli infortuni sul lavoro (INAIL): the National institute for insurance against accidents at work is the public body responsible for safeguarding workers against physical injuries and occupational diseases. INAIL pays the accident allowance and invalidity pensions in the event of an accident occurred to the posted worker sent by an Italian company to another EU Member State. Regarding investigations on accidents occurred during the posting, INAIL verifies that the sending companies have regularly paid contributions for accident insurance. It can also control and investigate in case

³² Decreto Legislativo 25 febbraio 2000, n. 72. "Attuazione della direttiva 96/71/CE in materia di distacco dei lavoratori nell'ambito di una prestazione di servizi".

³³ D.Lgs. 17 luglio 2016, n. 136 (1). Attuazione della direttiva 2014/67/UE del Parlamento europeo e del Consiglio, del 15 maggio 2014, concernente l'applicazione della direttiva 96/71/CE relativa al distacco dei lavoratori nell'ambito di una prestazione di servizi e recante modifica del regolamento (UE) n. 1024/2012 relativo alla cooperazione amministrativa attraverso il sistema di informazione del mercato interno («regolamento IMI»).

the sending company has not reported the accident or if the employer and the employee have provided different versions regarding the dynamics of the accident.

- Comando Carabinieri per la Tutela del Lavoro: the Carabinieri Department for Labour Protection are supervised by the Ministry of Labour and Social Affairs and have “police functions tasks”. Carabinieri for labour protection and the local Carabinieri Labour Inspectorate protect work, repress abuses, and tackle irregular work. OSH-related crimes and cooperate with labour inspectors "in inspections that could be dangerous for the inspector’s safety (especially where criminal organisations control workplaces)". Moreover, “they monitor compliance with the law on immigration from non-EU Countries (therefore workers posted from those Countries are included)” (Orlandini, 2013, p. 45). Their tasks also include prevention and contrast of social dumping and abusive and elusive use of the posting of workers.

- Guardia di Finanza: the Fiscal Police is supervised by the Ministry of Economy and Finance and is a fully-fledged part of the armed forces and law enforcement. It is responsible for dealing with crime in economics, finance and in the tax system.

In Italy, at local level there is a close collaboration between these various bodies in case of investigations related to the postings from Italy to other Member States. As emerged during the joint visits, Italian labour inspectors frequently collaborate with the Belgian labour inspectorates through the IMI platform. In fact, some of the cases reported in this report, such as that of Charleroi (Belgium) or the Swiss one, have seen a direct cooperation between the Italian and foreign competent bodies (JV1, JV2).

Regulatory, collective and workplace collective representation in place

In Belgium and Italy, support for workers who need help is provided by trade unions. Belgium is one of the EU countries with the highest trade union membership and collective bargaining coverage with respectively 50.3% and 96% of employed persons (2018, OECD database). The three main trade unions, to which sectoral unions are affiliated, are: the Confederation of Christian Trade Unions of Belgium (CSC), the General Federation of Labour of Belgium (FGTB), the Central General of Liberal Unions of Belgium (CGSLB). They participate and negotiate collective agreement with employers’ associations for three different levels: the central level bargaining, which produces an intersectoral collective agreement

covering the whole of the private sector; the industry-level bargaining, covering specific industrial sectors; and the company-level negotiations.

At workplace level, the union representation is founded on works councils³⁴ and trade union delegations³⁵. While “the role of the works council is essentially to be informed about a range of economic and financial issues and to be informed and consulted about employment and personnel issues”³⁶, trade union delegations are the recognised partner for the-company level negotiations and control the application of collective agreements and labour law.

In Italy trade union membership equal to 34.4% of employed persons, while collective bargaining covers 80% of employed persons (2018, OECD database). The three main trade unions, to which sectoral unions are affiliated, are the Italian General Confederation of Labour (CGIL), the Italian Confederation of Workers’ Unions (CISL) and the Italian Labour Union (UIL). They participate and negotiate collective agreement with employers’ associations for two different levels: industry-level bargaining and company-level negotiations. Moreover, the second level bargaining includes also territorial/regional collective agreements that are negotiated for certain sectors, such as construction, tourism, crafts, and agriculture.

At workplace level, the union representation is based on Unitary Union Representatives (RSU) that are elected by all the workers of the company who must choose among the candidates put up by trade unions³⁷. Trade union delegations are the recognised partner for the-company level negotiations and control the application of collective agreements and labour law.

In Morocco, trade union membership is around 15%. The existing legislation prohibits anti-union discriminations; however, trade union freedoms are heavily curtailed in practice and in various cases the defence of workers who need help has been carried out by civil society associations, such as the Moroccan Human Rights Association (Association Marocaine des Droits Humains, AMDH)³⁸. The three main unions are: the Moroccan Labour Union (UMT), the General Union of Workers of Morocco (UGTA) and Democratic Confederation of Labour (CDT). The collective bargaining system is based on two levels, which include the industry-

³⁴ Works councils’ members are elected in all workplaces with more than 100 employees and represent the whole workforce.

³⁵ Trade union delegations are elected by all the workers of the company who must choose among the candidates put up by trade unions. In alternative, they are appointed by the union.

³⁶ ETUI, <https://www.worker-participation.eu/National-Industrial-Relations/Countries/Belgium>

³⁷ In some companies, there is also the RSA (Company Union Representation), the union representative structure introduced by the 1970 Workers’ Statute and substituted by the RSU structure after the 1993 agreement between the three main unions and the employers’ association Confindustria.

³⁸ <https://survey.ituc-csi.org/Morocco.html?lang=en>

level bargaining and the company-level negotiations, however, bargaining at company level occurs in very few cases (OCDE, 2018).

In Tunisia, trade union membership is very low, because of the high rates of shadow economy and above all because the law permits anti-union discrimination and imposes restrictions on union rights³⁹. Also, in the case of Tunisia, the defence of workers who need help has been carried out in various cases by human rights organisations, like the Tunisian League of Human Rights (Ligue Tunisienne des Droits de l'Homme, LTDH). Regarding trade unions, the three main unions are: the Tunisian General Labour Union (UGTT), the General Confederation of Tunisian Workers (CGTT) and the Tunisian Labour Union (UTT). Collective bargaining in the private sector has been established since 1973 and is founded on a tripartite system. The collective bargaining system is based on two levels, which include the industry-level bargaining and the company-level negotiations, however, bargaining at company level occurs in very few cases (OCDE, 2018).

Moroccan and Tunisian trade unions are members of larger umbrella organisations, such as the International Trade Union Confederation and the International Confederation of Arab Trade Unions.

Channels of information for TCN posted workers

The research results highlight that Belgian and Italian trade unions provide support for posted workers, including TCN posted workers, with a plurality of means. As for the Belgian case, they inform incoming posted workers about their rights and duties and the existing sectoral agreements through multilingual publication (flyers, posters...), which are also available online. In some cases, trade unions have introduced specific services for cross-border workers and workers from the new EU member states provided by union officers of immigrant origins to overcome the obstacles created by language barriers. This is the case of the construction union affiliated to FGTB in Charleroi, where unionists of Italian origin have provided support to TCN posted workers employed by Italian companies, and the case of the project aimed at supporting posted workers from Poland organised in Antwerp since 2008 by the local headquarters of the construction union CSC (JV2). Moreover, in Belgium and in Italy, the unions provide specific services aimed at new immigrants, through union staff of immigrant origin, who can communicate more easily with immigrants from third countries, such as Morocco and Tunisia.

³⁹ <https://survey.ituc-csi.org/Tunisia.html?lang=en#tabs-2>

Belgian and Italian unions also provide legal advice and legal support in court, at individual and collective level. However, as reported by a Belgian trade unionist, compared to the total number of violations found in the construction sector, the number of cases for which a labour dispute is initiated is definitely lower, since posted workers usually ask union support only in case of serious problems, like unpaid wages and work accidents, and often are not able to provide physical proofs (JV2).

A further area of intervention is the collective bargaining at sectoral level and company level: over the past few years trade unions have increasingly focused on the issue of subcontracting recognising its strong links with the diffusion of the posting of workers and have obtained important achievements:

“since the collective agreement of 2015, shop stewards in the construction industry have the right to have information about subcontracting and outsourcing contracts from their main employer and, in that sense, also the right to check this and have discussions, go and meet their colleagues, even of subcontracted companies” (Belgian trade unionist, JV2).

These support activities for posted workers include also transnational cooperation: Belgian trade unions regularly collaborate with trade unions of the sending countries to support posted workers also in their countries of origin. They are also members of umbrella organisations where they cooperate with the unions of the EU Member States (e.g. European Federation of Building and Woodworkers; European Trade Union Confederation) and the unions of third countries (Building and Wood Workers’ International).

Moreover, both Belgian and Italian trade unions are involved in EU-funded projects focused on the posting of workers in the construction industry. The project “ECMIN 2.0 - Workers’ Information and Portal Website on Applicable Working Conditions”, coordinated by EFBWW, developed a website which shares information on working conditions and labour legislation of the receiving countries in 30 languages. The project Reder Network involved trade unions, labour inspectorates and migrant associations of 9 countries (France, Belgium, Bulgaria, Germany, Italy, Poland, Portugal, Romania and Spain) and provided information to more than 50,000 workers, solving 120 cases.

4.4. Social welfare, occupational safety & health and vulnerabilities of posted workers

Posted workers employed in hazardous sectors, such as the building industry, usually experience multifaceted vulnerabilities, which range from the precarity related to their status of temporary worker in the receiving country, to irregularities regarding the contractual conditions imposed by their employers, to the infringement of existing regulations on working and living conditions (Cremers, 2011; Danaj & Zólyomi, 2018; Wagner & Lillie, 2014).

The findings of the Con3Post research have confirmed that these vulnerabilities also affect the condition of TCN posted workers sent by Italian construction companies to Central and Northern Europe. However, it has also emerged that in most cases immigrant workers employed as posted workers are more vulnerable to forms of extreme exploitation due to their precarious migration status in Italy and to the fact that Italian legislation on labour migration links the validity of the residence permit to the employment contract and the access to social rights to the migration status (JV1, JV2, JV3). In fact, as pointed out by an Italian trade unionist, the uncertainty of the migratory status pushes many TCN posted workers to accept worse working conditions and to postpone the request for assistance from trade unions or labour inspectors until the situation becomes truly unsustainable (JV1). Moreover, in the case of posted workers who have immigrated and have been employed in Italy for a long time, it should be taken into account that they have already suffered multiple discriminations in the Italian labour market and that, even when they have a more stable migration status, they can be in a socio-economic vulnerable position that influences the conditions under which they are employed as posted workers (JV3).

Irregularities of the employment contract or the documentation necessary for posting - such as the PDs A1, the mandatory registration of posted workers to the LIMOSA system, the mandatory declaration of new employees through the DIMONA system- constitute frequent violations detected by Belgian labour inspectorates. Moreover, there are also cases of undeclared work in which TCN posted workers, with a regular residence permit in Italy, were sent to Belgium without any employment contract. Sometimes these irregularities are combined with more serious violations of Belgian labour legislation. One of the most serious cases of exploitation of TCN posted workers sent to Belgium without any contract involved an Italian company in a building site in Antwerp. As reported by a Belgian labour inspector this Italian company CCC worked as subcontractor for the Belgian company BBB that in turn

worked for the Belgian main contractor AAA⁴⁰. The Italian company CCC, after sending 12 Moroccan and Egyptian posted workers to Belgium, stopped to pay their salaries for many months because it did not receive payments from the BBB company. So, on 5 October 2018, seven workers occupied a crane to get their wages and came down only after trade unions and the Federal Police negotiated the payment with the main contractor AAA. Then, AAA company removed the Belgian company BBB from its subcontracting chain and paid the sum directly to the Italian company, which finally gave wages to workers. Belgian labour inspectors asked the collaboration of the Italian labour inspectorates through the IMI system and discovered that five of those workers were working for the Belgian company BBB and were staying illegally in Belgium, while two of the seven employees of the Italian company CCC had been sent to Belgium without any contract. After that,

“Belgian labour inspectors prepared a criminal report against the Italian company for obstruction of the investigation and undeclared work for two workers and sent it to the labour prosecution office. Moreover, the Belgian company BBB got a criminal report for: human trafficking with the aggravating circumstance of participation in a criminal organisation; no or no correct DIMONA declaration on the starting date of employment; employment of a foreign national without a residence permit; employment of a foreign national not admitted or authorised to stay in Belgium; not paying the employee’s wages (in time)” (JV2, Belgian labour inspector).

Stakeholders also reported many violations regarding social security contributions and tax payment in the sending country. In some cases, these practices are related to the systematic use of letterbox companies. For example, the labour inspectorate and the fiscal police discovered a network of letterbox companies in the Province of Venice, linked to an important Italian company operating in Belgium and Austria, after receiving in 2016 a report, sent by Belgian labour inspectors via IMI, regarding a number of violations committed by this company while working as subcontractor on a building site in Charleroi (JV1). This company and its network of letterbox companies employed both Italian and immigrant workers from Albania, Egypt, India, Kosovo and Romania, who started to protest and occupied a crane after not receiving their wages for several months (JV2; see also Section 2).

As emerges from these two cases, irregularities regarding social security contributions and tax payment are frequently associated with violations regarding salaries, such as: disregard

⁴⁰ The names used to indicate the companies involved in the case are invented names.

of minimum wages and collective agreements; payment according to the minimum standards of the sending country; non-payment for overtime, night work and holiday employment; wage deductions for accommodation and travel; restitution of a part of the salary to the employer... This situation does not only concern TCN posted workers sent from Italy to Belgium, but also TCN posted workers hired by companies located in other EU countries and employed in the Belgian construction industry. As reported by a Belgian trade unionist, Polish companies are using the posting of Ukrainian immigrant workers to further lower salaries, thus generating a wage dumping effect which affects also Polish workers who have long been employed as posted workers in Belgium:

“I don't say that it doesn't matter that they come from third country or from their own country. Polish people posted from Poland or Ukrainian people posted from Poland... But I think you can see a little bit of a difference on the ground because during the last few years the Polish people knew what they were asking for... We saw in 80% of the cases that people got 9 or 10 euros, 11 euros net per hour... that was a bit of a standard in posting criteria. But now we have again cases of third country nationals, Ukrainians, who work for 2.5 or 3 euros per hour. I think that's again a big deal. That's the big difference now. The wages were stabilised over the last few years. But now the competition of the third country nationals is really upsetting and bothering” (JV2, Belgian trade unionist).

A similar situation, with widespread irregularities and some cases of extreme exploitation, has also been observed for postings of TCNs to other Central and Northern European countries via Italy. For example, a Swiss journalist referred a case occurred between 2017 and 2018 which involved dozens of Albanians, Moroccans and Italians employed as posted workers by an Italian company, which was the main contractor in the construction of a railway tunnel in Canton Ticino (Switzerland) (see Section 2). These workers habitually received a payslip based on Italian payroll items. By using the item "allowance for travelling abroad", the Italian company was able to pay (and hide) overtime hours, which amounted to up to 120 hours per month, and to illegally deduct a part of workers' salary through the recovery of false tax credits advanced by the company (JV1).

Stakeholders have also reported many violations related to legislation on working hours, which include: working at night and on non-weekdays; overtime beyond the limits permitted

by law⁴¹; double shifts; no breaks; no holidays; work 6 or 7 days a week. In the Swiss railway construction site previously mentioned, a Moroccan worker was forced to work 24 hours in a row, without any break. This case, however, was not exceptional, considering that overworking was a common practice for all workers because the Italian main contractor declared a higher number of posted workers to win the bid for public tender, but then employed half of them to save money after submitting an offer lower than 30% of the real value:

“the union tried to meet the workers in the canteen, but in reality few usually went to the canteen in the evening, those few who managed to have dinner... because most of them worked the double shift and worked 16 or 20 hours a day, resting 4, 5 or 6 hours maximum” (JV1, Swiss journalist).

As for the OSH-related vulnerabilities, stakeholders reported problems related to language barriers and to different perception of OSH risks among people with different socio-cultural background and highlighted also that exploitative working conditions and unsuitable accommodation combine and contribute to further reinforce OSH risks for TCN posted workers (JV1, JV2, JV3). Moreover, it emerged that frequently TCNs do not receive adequate information and training and are not provided with proper protective equipment (JV1, JV2, JV3). Belgian stakeholders referred that in a number of cases sending companies, but also receiving companies cut investments on OSH (preventive measures, information...), thus exercising unfair competition against companies seeking to comply with all health and safety regulations (JV2). Frequently workers are forced to accept these conditions because they have no choice, as clearly emerges in the case of the railway construction site in Switzerland, where an Albanian posted worker and his colleagues had to learn to drive a special train for railway construction in a few minutes. They were then assigned to that task, without having the necessary licenses for driving the train, and caused accidents to other workers:

“in the case of small accidents, no report was made and workers continued their task, while in the case of medium-sized accidents, the Italian company took the workers and brought them back to Italy, without reporting anything to the Swiss or Italian authorities” (JV1, Swiss journalist).

Belgian labour inspectors also reported that some companies, even in the case of major accidents, did not report the incident and sent workers back to their country of origin (JV2).

⁴¹ Belgian labour legislation requires that work be carried out for a maximum of 11 hours per day and 50 hours per week. Moreover, it is prohibited to work between 8pm and 6am and on Saturdays and Sundays.

One of these cases, emerged during the Poosh Project (2018), involved a Moroccan worker sent to Belgium by an Italian construction company. He had a short-term residence permit and, before being posted, he worked as agricultural labourer in the Italian countryside. He was hired by an Italian construction company and immediately sent abroad without any training. He had an accident at work and after he suffered of permanent disability. The Italian company sent him back to Italy and then he returned to Morocco. After the Poosh project, an Italian unionist of Fillea Cgil⁴² intervened for the reimbursement of part of the medical care by INAIL, but it was not possible to open a dispute against the company because the Moroccan worker went back in Morocco (JV3).

Finally, during the joint visits focused on the role of Italy as sending country and the role of Morocco and Tunisia as emigration countries, stakeholders raised the issue of the links between Italian sending companies and organised crime and the methods of recruiting and controlling the workforce through forms of gangmaster that have emerged in some cases of serious exploitation of TCN posted workers sent via Italy to Central and Northern European countries. In fact, some of the companies that send Italian, EU and TCN posted workers in Denmark and Switzerland are highly specialised companies, which participated in the construction of the railway infrastructure in Italy and, after being convicted by the Italian judiciary for links with organised crime, have been excluded from the “white list” of companies that can participate in public contracts⁴³ (JV1, JV3). In fact, in the past decades, but especially since the 2008 economic crisis, organised crime has increasingly invested in the Northern regions (Veneto, Lombardy, Emilia-Romagna, Piedmont) focusing on some key sectors that allow high profitability rates, such as the sector construction (in particular public procurement), the logistics sector, a part of the large-scale retail trade.

As already mentioned in previous Sections, these companies have been able to win tenders at EU and international level by offering lower bids and shorter lead times than international competitors by leveraging on the extreme profitability and flexibility allowed by a system of recruitment and transnational posting based on the gangmaster system (JV1). In fact, these companies use a pool of gangmasters, of Italian and immigrant origin, to recruit

⁴² The construction union Fillea Cgil was associated partner of the Poosh project and, after attending a transnational meeting in which the Belgian labour inspectors presented the mentioned case, made a commitment to follow the developments of the case in Italy and to give help to the worker involved..

⁴³ Companies registered on the white list must comply with a series of obligations such as: financial traceability of the contract, single bank account, obligation to report intimidation and extortion requests, transparency in hiring staff.

workforce according to the needs of the production cycle and to control them both inside and outside the workplace in order to avoid contact with trade unionists and journalists:

“workers were monitored: these companies put in place a worker monitoring system already tested in other countries, repeated in Denmark and transferred to Switzerland. So, if a trade unionist approached, the worker never remained alone, someone approached immediately. Many times, he was the gangmaster, the one who later collected the money returned by Albanian workers, when they came back to Italy” (JV1, Swiss journalist).

4.5. Managing transnational workplaces

The research results show that the management of transnational workplaces presents many difficulties related to the fragmentation of both the organisation of work and the workforce, which have rapidly augmented because of the increasing use of subcontracting and the diffusion of recruitment practices based on the posting of workers.

One of the main challenges is related to language barriers (JV2). The workforce employed in the Belgian construction industry has been of multinational origin since the second post-war period, as a result of the introduction of bilateral agreements with Southern Europe and North African countries. However, as reported by a representative of a Belgian employers' association, the situation has become even more complicated with the increasing use of postings, in particular regarding OSH issues. The management of health and safety challenges in the workplace is influenced not only by language barriers, but also by the different "culture" of OSH risks among posted workers. As highlighted by a Belgian labour inspector, although there is a common legislative framework at European level, in the various countries there are different practices and habits, such as not using protective clothing or helmet. The Belgian main contractors have tried to overcome this obstacle by "using security boards with only pictographs. No texts. So, you can use it for different people who are talking different languages" (Belgian employers' association, JV2).

Language barriers also influence the coordination between the various companies operating on the construction site, thus impacting on work performance and quality. In fact, in many cases posted workers do not know the languages spoken in Belgium and do not understand English, so it becomes necessary that the employer of the sending company or the team leader speak these languages to transmit information and orders to posted workers⁴⁴ (JV1, JV2).

Furthermore, language barriers also strongly influence the activities of trade unions and labour inspectorates (JV1, JV2, JV3). As already mentioned in previous Sections, trade unions overcome this obstacle by employing union officials of immigrant origin, who speak the same languages used by posted workers. In the case of labour inspectorates, however, it is much more difficult to have internal staff able to speak all the different languages of posted workers.

⁴⁴ "When you work with same language speaking people, it's easier because people can tell others what one person told. Here, the Portuguese cannot speak with the Polish or the Bulgarian. And sometimes you think it's a Bulgarian, but it is a Slovenian... Portuguese and Brazilian is quite similar. But other side of Europe, it's not so easy" (Belgian employers' association, JV2).

One of the solutions frequently adopted to detect working conditions is the use of translated forms that workers can complete in their own language (JV2). In other cases, labour inspectors are supported by external interpreters provided by other public authorities: for example, in the province of Venice, this service is provided by the unity against human trafficking of the social services (JV1).

As for the fragmentation of work organisation, derived from the presence of a large, diverse and fragmented group of subcontractors, it emerged that especially big construction companies “have start to hire more white collars as construction site managers in order to have special skills to manage different nationalities and different people on the working sites” (Belgian employers’ association, JV2).

Stakeholders reported also that the presence of long subcontracting chains, with many companies involved, favours the spread of social dumping and unfair competition, such as the employment of undeclared workers or social frauds (JV1, JV2). In the Belgian case, social partners tried to find a solution by introducing “ConstruBadge”, a special badge issued by the Belgian occupational welfare fund of construction industry “Constructiv”, which is used for the visual identification of workers employed in the private and public sectors. The ConstruBadge was officially introduced on all construction sites in 2014 and is used as identification tool as imposed by the National Legislation for Well-Being at Work. It makes it possible to monitor the presence of workers employed by Belgian building companies or temporary workers employed in the construction industry by authorised temporary employment agencies. In the case of posted workers, the use of Construbadge is recommended and is issued by the occupational welfare fund Constructiv when it receives the payment of the fee for the badge⁴⁵.

Furthermore, as already mentioned, Belgian trade unions have focused the negotiations for the sectoral collective agreement on the issue of subcontracting and the fragmentation of the production process and labour force that derive from it, obtaining that shop stewards can access information about subcontracting and outsourcing contracts from their main employer (cf. Chapter 4.3).

⁴⁵ At the beginning an agreement between trade unions, employment organisations and the occupational welfare fund Constructiv declared that Construbadge was mandatory also for posting companies. However, it is used on a voluntary basis since 2018, because it has been imposed by agreement and not by law. www.constructiv.be/Constructiv/media/ConstruBadge/Construbadge%20EN/ConstruBadge_Brochure_Buitenlandse_Werkgever_EN.pdf

5. CONCLUSIONS AND FORWARD-LOOKING PERSPECTIVES

Con3Post research confirmed that Belgium has become one of the main receiving countries of TCN workers from non-EU Eastern European countries, North Africa, Latin America and Asia who are posted by EU15 and EU12 Member States. The spread of this phenomenon within the construction sector has been facilitated by domestic and EU labour market dynamics: on the one hand, the Belgian construction sector is affected by labour shortages, on the other hand, Belgian companies have adopted a business model which tends to increase flexibility and decrease labour costs. Moreover, this phenomenon has been facilitated by the adoption of restrictive migration policies, which limit labour immigration only to highly skilled professions, thus forcing low-skilled workers to enter the Belgian labour market through temporary and precarious migration regimes, such as the posting of workers or seasonal migration.

The Con3Post research shows that the development of these labour market dynamics in the Belgian construction industry has coincided with a transformation of the role of Italy as sending country. Over the last few years, in fact, Italian companies have increasingly posted workers to Central and Northern Europe, particularly to countries where the construction sector is having a good performance thanks to public or private investment. Italian companies are capable of offering lower costs and greater flexibility by using large reserve of skilled and unskilled workers on a just-in-time manner, trying to satisfy the daily requests of the receiving companies. This workforce is made up of workers who lost their jobs because of the 2008 economic crisis, which resulted in the loss of 750,000 jobs in the Italian construction industry and its production chain and in nearly 400,000 layoffs in the construction sector in the strict sense. The resulting sharp increase in unemployment has contributed to creating a reserve army of labour. This is composed by workers who are willing to accept worse conditions in order to be employed and also includes many immigrant workers, who are even more under blackmail because of the precarity of their migration status.

As for Moroccan and Tunisian posted workers, the research results highlight that these posting stream involves mainly immigrants who have resided in Italy for many years. On the one hand, this is linked to the fact that after the 2008 economic crisis Italy has adopted restrictive migration policies that have sharply reduced labour immigration from third countries, thus influencing the characteristics of the migratory status of TCNs employed by

Italian sending companies. On the other hand, historically the Italian construction industry has been one of the key sectors for the insertion of immigrant workers from Morocco and Tunisia. The impact of the 2008 economic crisis on the sector has thus severely affected migrant workers, both in terms of job losses and deteriorated working conditions. This has forced them to accept to be posted in order not to lose their jobs. Therefore, the increased migratory and economic vulnerability of immigrant workers who have resided in Italy for many years is at the basis of the peculiarity of the posting stream involving posted workers originating from Morocco and Tunisia sent to Belgium via Italy.

Con3Post research shows that in the Belgian construction sector the employment of TCNs workers posted from various EU member states has opened a new phase of the downward competition among workers, involving both domestic workforce and EU workers who have been employed as posted workers in the construction sector for many years. As for the role of Italy, it has emerged that Italian construction companies that send TCNs posted workers to Central and Northern Europe have been frequently controlled and investigated for violations of labour legislation and posting regulation, sometimes including for crimes related to the trafficking of human beings. Moreover, one of the most alarming trends was detected in Denmark and Switzerland, where some Italian sending companies linked to organised crime have put in place a system of recruitment and transnational posting based on the gangmaster system. The latter allows greater profitability and flexibility and a closer control of workers both inside and outside the workplace.

These dynamics are posing new challenges to public authorities and trade unions at national and transnational level, but also to employers' organisations. Furthermore, also employers' organisations and Belgian companies face many problems deriving from the fragmentation of both the organisation of work and the workforce, particularly with regard to the management of transnational workplaces.

Findings from the foresight exercises

The foresight workshops organised during joint visits were attended by stakeholders with specific expertise on the posting of workers, labour migration and employment in the construction industry, but with different professional backgrounds, which included labour inspectors, representatives of trade unions, academics, journalists. The experts were invited to share their opinion on how the situation could evolve in their country/region by 2035, taking into consideration the future dynamics that can affect the EU and regional labour markets in

the construction sector, the supply and demand of skilled labour, and labour migration/mobility/posting dynamics in the region and in each individual country. Each of these dimensions of the posting stream has been discussed from the global, regional, EU, national, local and sectoral perspective.

The choice of the plausible scenarios was influenced by the composition of the panel. Indeed, the different background of the participants made it possible to develop very interesting and creative narratives, based on the combination of different points of view that led to consider different driving factors that can be at the basis of alternative scenarios.

During the foresight workshop for Belgium, stakeholders developed as the most plausible scenario the one in which there will be skill and labour shortages, but not migrant labour in supply. The participants gave particular relevance to already existing trends and developed a scenario quite similar to the current situation, albeit it was considered plausible that in the next 15 years working conditions of posted workers and domestic labour force there will significantly worsen. This foresight discussion has been particularly useful because it facilitated to develop detailed policy recommendations, especially at workplace and industry level.

During the foresight workshop for Italy, stakeholders developed as the most plausible scenario the one in which there will be migrant labour in supply and skill and labour shortages. The participants discussed about several economic, social and political factors that will affect the labour market dynamics at national, regional and international level in the next 15 years. Also, in this case participants hypothesised a deterioration of the working conditions, but they also open the door to the possibility that in some countries posted workers will organise spontaneous struggles and trade unions will be able to unionise a part of them.

During the foresight workshop for the situation in Morocco and Tunisia in 2035, stakeholders developed as the most plausible scenario the one in which both countries will have migrant labour in supply and skill and labour shortages. The discussion focused on the hypothesis of a radical change in the role of Morocco and Tunisia with regard to the transnational labour market and the current mobility regime and emphasised how the most recent economic development trends in the mining and construction sectors could contribute to attracting immigration from sub-Saharan Africa and Europe.

Nothing new on the Belgian front

During the foresight workshop for Belgium, stakeholders developed as the most plausible scenario the one in which there will be skill and labour shortages, but not migrant labour in supply.

In 2035 Belgium will have even more restrictive migration policies than it currently does since the population will increasingly vote for right-wing parties that will implement anti-immigrant policies. Right-wing parties will collect 25% of the votes thanks to election campaigns centred on the slogan: “Stop immigration because migrant workers are taking our jobs”. Also, at European level there will be restrictive migration policies regarding in particular family reunification.

The construction sector will continue to grow thanks to investments in private and public sector. There will be workforce and skills shortages for technical and low skilled professions in particular because the older workforce will be retired, while young people will not intend to carry out certain jobs. The national education system will provide training courses and will try to overcome this impasse by organizing campaigns to make employment attractive in this sector. However, Belgian companies will prefer not to hire the domestic workforce because it is too expensive. They will not invest in the training of their employees and increasingly resort to the subcontracting system.

These shortages of workforce and skills will therefore be overcome through the posting of workers. The posted workforce will be largely composed of third-country nationals, who will immigrate through special recruitment programs adopted in sending countries. The TC posted workforce will mainly consist of ecological refugees, war refugees and economic immigrants from Africa and Latin America.

Working conditions in the construction sector will worsen because companies will increase their profits by further lowering labour costs and increasing flexibility. Furthermore, in many cases, sending companies will hire inadequately trained workers and this will increase accidents at work. This situation will also impact on the quality of the buildings because there will be many problems due to the organization of work and the employment of inadequately trained workforce.

Nothing new on the Italian front too... But posted workers start to fight for their rights

During the foresight workshop for Italy, stakeholders developed as the most plausible scenario the one in which there will be migrant labour in supply and skill and labour shortages.

In 2035, regardless of the political orientation of the governments in office, the EU and Italy will have more restrictive migration policies, inspired by the Trump model and based on an agreement for the management of immigration aimed at avoiding “Italexit”. However, these policies will not stop immigration from Africa, Asia and Eastern Europe. On the contrary, immigration from these regions will continue to increase because of growing economic inequalities, wars, climate change....

Italy will continue to be a country of emigration and a transit country for migrants directed to Central and Northern Europe. The emigration of the domestic labour force will involve high-skilled and low-skilled workers of both Italian and migrant origin (e.g. long-term immigrants, second-generation...). As for the new immigrants that entered Europe through Italy, a large part of them will reach other EU countries. New immigrants who instead decide to stay in Italy will be employed in the undeclared economy and, in many cases, will be recruited through gangmasters' networks controlled by organised crime.

The construction sector will partly recover, also because the hydrogeological catastrophes will make it necessary to rebuild some parts of the country. However, the growing emigration and the refusal by the domestic workforce to perform certain jobs will determine labour shortages. Some skills will also be lacking as the education system will not be able to train an adequate number of workers. A part of labour shortages will be filled by new immigrants employed through the gangmaster system.

As for posting, it will involve a huge number of workers from Eastern and Southern European countries to Central and Northern Europe. Italy will be one of the main sending countries and, at the same time, will receive posted workers from Eastern European countries who will be employed mainly in the construction sector.

Working and living conditions of posted workers will worsen also because the European Court of Justice will make a series of decisions that will limit workers' rights to favour the free provision of services. However, in some countries posted workers will organise spontaneous struggles to improve their working conditions and trade unions will be able to unionise a part of them.

Morocco and Tunisia: towards a total reversal of the current situation

During the foresight workshop for the situation in Morocco and Tunisia in 2035, stakeholders developed as the most plausible scenario the one in which both countries will have migrant labour in supply and skill and labour shortages.

In the case of Tunisia, the political class will change and this will make the country more stable and foster the economic development. In the case of Morocco, there will be no change in the political class and the government will continue to implement the already existing economic policies. Other North African countries will also move towards greater political stability, Africa will unify, and Morocco will become the leading country at continental level, thanks to its role in the financial sector.

In both Morocco and Tunisia, the State will make considerable public investment in the construction sector, particularly in infrastructure and popular housing. The construction industry will also attract investment from China and the EU (e.g. France, Germany, Italy, Spain). Furthermore, the growth of the construction industry will also be stimulated by the demand for infrastructure deriving from investment in the extraction of phosphates, in the chemical industry and in green energy. The growth of international trade will also lead to investment in logistics infrastructure (ports, airports...). In both countries the State will invest in professional training and tertiary education to meet the increasing request of skilled workforce. As for the construction sector, trade unions and foreign investors will also set up their own vocational training centres.

Economic growth will also influence the demographic structure: female participation in the labour market will increase and families will have fewer children. Moreover, economic changes will cause labour and skill shortages and will put an end to mass labour emigration to Europe. There will continue to be people who emigrate to Europe, but they will mainly be highly skilled workers or persons who will emigrate for non-economic reasons.

Tunisia and Morocco will increasingly attract immigrants from the rest of Africa and Europe and will promote bilateral agreements particularly with Sub-Saharan countries. In the case of Europe, labour immigration will involve high-skilled workers, while in the case of Africa it will involve low-skilled workers to be employed in sectors and professions that are no longer considered attractive to the local workforce, such as the construction industry and tourism.

6. POLICY RECOMMENDATIONS

This section presents the main recommendations proposed by stakeholders that attended the three joint visits.

Recommendations at national and regional level

Labour market dynamics and labour migration and mobility policies

- Since the analysis of the labour market dynamics of the construction sector in *Belgium* has shown that labour shortages are a structural feature, it is recommended that the government introduce *migration policies that favour the stabilisation of TCNs*, even in case of low-skilled professions. This measure would make it possible to *limit the social dumping effect* deriving from the increasing use of postings and to improve posted workers' conditions by limiting the precarity connected to their mobile status.
- In the case of *Italy*, it is recommended that the government *cancels restrictive migration policies*, in particular the link between the duration of the residence permit and the employment contract, in order to mitigate the blackmail linked to the migration status.
- In order to combat the social dumping effect that derives from the differential between social contributions and tax levels of the sending and receiving countries, it is recommended that the EU introduces a *single European taxation and social contribution system*.

Social welfare, occupational safety & health and vulnerabilities of posted workers

- In recent years both trade unions and labour inspectorates made several efforts to *inform posted workers* about their rights by providing information materials in *various languages* and employing staff with multilingual skills. It is recommended that they intensify this effort and to extend multilingual information *also to TCN posted workers*.
- With regard to Belgium and Italy, stakeholders recommended that *labour inspection services are strengthened*. In the *Italian case*, it is also recommended that the Ministry of Labour creates *multidisciplinary taskforces* dealing with the posting of workers from a sending and receiving perspective.
- The Con3Post research shows that Italian and Belgian labour inspectorates regularly collaborate through the *IMI system*. However, stakeholders who participated in the joint visits argued for the need further to *improve this cooperation*, for example by setting up *transnational taskforces of labour inspectors* specialised on posting issues. It is also

recommended that the two countries promote *transnational cooperation* between *justice authorities*.

Labour rights and representation of posted workers who are third country nationals

- The Con3Post research showed that Italian and Belgian trade unions regularly collaborate. However, stakeholders who participated in the joint visits expressed the need to further *improve this cooperation*, also including representatives of TCN trade unions.

Recommendations at workplace and industry-level

Labour market dynamics

- Since the analysis of the transnational provision of services in the construction sector in Northern and Central Europe has shown that in case of *public procurement*, the system of offers to the maximum discount is particularly widespread and affects working conditions of posted workers, it is recommended to set *limits on the offers to the maximum discount*.
- With regard to the cases of sending *companies linked with organized crime*, it is recommended to introduce *whitelists* that can be consulted at *European level*.
- With regard to the subcontracting system, it is recommended the EU introduces a common legislation that *limits the number of subcontracting levels* and that provides a more *extended chain liability regulation*.

Social welfare, occupational safety & health and vulnerabilities of posted workers / Managing transnational workplaces

- Since the management of health and safety challenges in the workplace is affected by *language barriers*, it is recommended that companies extend the existing efforts to provide *information materials in various languages* and to recruit *supervisors* with specific skills for the *management of transnational workplaces*.

Labour rights and representation of posted workers who are third country nationals

- In order to encourage posted workers to report violations, it is recommended that trade unions or the paritarian social funds of the construction industry create a *fund to support workers who lose their jobs* in the event of a complaint or labour dispute.

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