4 The migration infrastructure of posting

Transnational informality

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Introduction

In an attempt to uncover legal, informal and grey zones, this chapter explores the transnational labour market emerging within employment postings from Romania to Germany. Here, I analyse the roles and strategies of actors involved in recruiting Romanians to work in the German construction and meat-processing sectors—that is, companies that facilitate posting, migration intermediaries and migration networks. Furthermore, I show how these actors actively make use of grey zones and informal practices, creating transnational spaces that often do not fit within legal systems. Moreover, I argue that companies, agents and migrants experience different types of transnational realities.

This chapter, therefore, contributes both to debates on recruitment to posted employment and to debates on the informalisation of transnational labour markets and transnational economic networks. Because mobile workers, brokers and companies engage with multiple national legal systems and cross-national boundaries, this multisite research moves beyond methodological nationalism (Wimmer and Glick Schiller 2002).

Typically, a posted worker is sent abroad by their employer ‘to carry out a service in another EU member-state on a temporary basis in the context of a contract of services, an intragroup posting or hiring out through a temporary agency’ (European Commission 2019). For example, a Romanian firm subcontracted to lay the foundation at a construction site in Germany is allowed to bring its own employees in order to complete the job. Posting represents less than 1% of the total workforce in the European Union; however, it is highly prevalent within several economic sectors in high-income countries, including the construction and the meat-processing sectors in Germany (Wispelaere and Pacolet 2018; Wagner and Hassel 2016).

Posted workers fall under a particular employment regime regulated by the following documents: European Directive 96/71/EC, its German counterpart ‘The Posting of Workers Act’ and European Directive 2018/957 (adopted subsequent to this research). Whilst regular migrants move through Europe on the grounds of the free mobility of labour, posted workers complete their work under the freedom to provide services.¹ Thus, their access to the labour market of the destination

country is only granted through their employer, with which they should have a history of standard employment in the country of origin. Moreover, at the time of my research, posted workers were not entitled to the minimum wages and working conditions above the minimum standards in the destination country.² Therefore, they were often paid less than national workers and regular migrants for the same job. The first indication of informal practices within posting is that most respondents held a contract with their employer only for the short periods of time they spent abroad (in the majority of cases, their contracts were terminated afterwards).

Theoretical background

In my analysis of the recruitment process for posted employment, I draw upon Lindquist et al. (2012: 9), for whom the migration infrastructure represents ‘the institutions, networks and people moving migrants from one point to another’. Researchers with similar views draw attention to the importance of infrastructures for the emergence and sustainability of migration (Xiang and Lindquist 2014; Lin et al. 2017). Such studies make use of concepts like ‘migration networks’ and the ‘migration industry’ to describe the system that moves migrants from one place to another and to explain its functioning principles (Xiang and Lindquist 2014: 122). Moving beyond established views claiming that migration becomes self-sustaining through networks (Massey 1988), such approaches seek to determine the role of each component within the migration infrastructure. Moreover, whilst scholars of the migration industry insist on the business dimension of migration, this body of work takes into account the fact that agents (brokers) also deal with infrastructure issues, such as collecting documents, organising medical tests or organising pre-departure trainings (Xiang and Lindquist 2014: 122).

According to Xiang and Lindquist (2014: 124), the concept of migration infrastructure includes the following dimensions: ‘the commercial (recruitment intermediaries), the regulatory (state apparatus and procedures for documentation, licensing, training and other purposes), the technological (communications and transportation), the humanitarian (nongovernmental and international organisations) and the social (migrant networks)’.

Similar to other contexts (Turaeva 2013; Urinboyev and Polese 2016), posted workspaces ruled out by official regulations are replaced with informal practices. For example, Romanian subcontractors that complete work in Germany count on informal agents (individuals who charge a commission or financially gain from posting) to recruit workers. In some cases, agents or firms charge posted workers recruitment fees, whilst some companies make additional deductions from paycheques for transportation and accommodation costs in the destination country.

The term ‘informality’ is primarily used in academic studies to ‘describe practices that emerge unofficially ... or underground, constitute grey areas and form a variety of shadow, second or covert economies’ (Ledeneva 2018: 1). In current debates, informality is regarded as immersed in social phenomena (Gudeman

2001; Yalcin-Hackman 2014). Some researchers argue that it is rather difficult to distinguish between formal and informal arrangements and practices, which often coexist and are entangled within society (Williams and Round 2014). Therefore, van Schendel and Abraham (2005) propose using an analytical framework which shows that understanding the formal/informal or licit/illicit may vary depending upon social norms.

Whilst most studies embrace the view that informality is embedded within the national boundaries of a single state, less research reflects how informality manifests within transnational spaces (Cieslewska 2013; Turaeva 2013; Urinboyev 2017). Along this same line of thought, taking into account the principles by which posted work is organised, one can state that the actors involved in this type of employment act within ‘transnational social fields’ (Levitt and Glick Schiller 2004). This concept is defined by Levitt and Glick Schiller (2004: 1009) as ‘a set of multiple interlocking networks of social relationships through which ideas, practices and resources are unequally exchanged, organised and transformed ... which connect actors through direct and indirect relations across borders’. In order to distinguish between the different types of transnationalism experienced by the actors involved in posting recruitment, I make use of concepts such as ‘transnationalism from above’ which refers to ‘transnational capital, global media and emergent supranational political institutions’ and ‘transnationalism from below’ which refers to an ‘informal economy, ethnic nationalism and grassroots activism’, as defined by Guarnizo and Smith (1998: 3).

Simultaneously, posted work is organised and takes place at the level of transnational, supranational and national regulatory systems. In most cases, posting companies hire workers in their country of origin and bring them temporarily to other member-states to complete a specific job. Their employment involves regulations laid down by the European Union, as well as by the sending and recipient states; thus, the concept of ‘transnational governance’ from Djelic and Sahlin-Anderson (2006) might offer an analytical framework. According to Djelic and Sahlin-Anderson (2006: 2), transnational governance is conducted ‘between and across nations’ and ‘regulatory boundaries do not necessarily coincide within national boundaries’. In other words, in their conceptual framework, states are not central to the act of governing and should, instead, be regarded as one of the many actors involved in multidirectional interactions. In order to analyse transnational governance, they propose a revised field perspective which takes into account spatial topographies (with fluid boundaries between local, national and transnational spaces), network topographies (connecting individuals, groups, organisations or networks) and meaning (institutional forces which involve the negotiation of rules between actors with different interests).

Data and methods

This chapter is based on qualitative research conducted between December 2015 and December 2016 in the German federal states of Baden Württemberg, Bavaria, Berlin and Lower Saxony. The primary data consist of interviews with

19 construction workers and 13 meat-processing industry workers from Romania. Both economic sectors hire a high number of posted workers. In 2017, approximately 13% of all construction workers in Germany were posted.³ In the meat-processing sector, around 70% of the workers hired by the four largest meat producers were posted based on estimates from the Food, Beverages and Catering Union (Brümmer 2013, in Wagner and Hassel 2016). However, the number of de facto postings is likely higher.⁴

Field access for this research was rather difficult. The migration process for posted workers is organised by their employers; thus, they often remain isolated from German society. Moreover, as a consequence of their employer dependency, workers are, in many cases, reluctant to disclose work-related information. I approached posted workers through the local offices of the construction union, through personal contacts and through Facebook groups of Romanian migrants in Germany and used the snowball sampling method in order to find additional respondents.

The age of the interviewees varied from 23 to 51, and only two respondents were women. Whilst the construction sector is male dominated, my attempts to interview additional women working in the meat-processing sector remained unsuccessful. With the exception of four respondents in the construction sector, most posted employees had worked abroad prior to posting (in countries such as England, Hungary, Israel, Italy and Spain). Six of the meat-processing industry workers had no previous migration history. Others had lived in Italy or had previously worked in Germany, the Netherlands and Turkey.

I interviewed workers who, at any time, had been in posted employment. Interviews focused on their entire professional trajectories. For each posted job they held, amongst others, I explored their experiences with the recruitment process and the particularities of their contracts. Two interviews were conducted via telephone with migrants who had moved from Germany. I also interviewed two construction engineers, two migrant councillors and European-level representatives of IG Bau (the Trade Union for Building, Agriculture and the Environment) and DGB (The German Trade Union Confederation). Interview data were complemented with data collected through participant and non-participant observation. I visited one construction site each Saturday (for two months), I interviewed migrants at their workplace and accommodation sites and I translated for the construction union (IG Bau) during their attempts to organise Romanian posted workers.

Interviews with migrants, construction engineers and migrant councillors were conducted in Romanian, whilst union representatives were interviewed in English. Informal discussions with local representatives of IG Bau were conducted in German.

Situating the migration infrastructure in the construction and meat-processing sectors

The recruitment system behind posting takes on a pyramid structure consisting of primary entrepreneurs (meat-processing companies, private or state actors

that finance a construction project), in some cases a general contractor (present largely in the construction sector), subcontractors, workers and, at times, agents. In the meat-processing industry, subcontractors are normally hired by the primary entrepreneurs, whilst in the construction sector a general contractor might be involved (usually a German company fully responsible for the implementation of the project). Currently, subcontractors are typically Romanian companies that hire Romanian workers. At times, even if hired in Romania, workers are posted through companies from a third country. However, beginning in 2014 as a result of union and media pressure, the six largest meat producers in Germany adopted a 'self-commitment' to abolish posted work. Subsequently, meat-processing factories hired only subcontractors registered in Germany who, therefore, operate according to home-country regulations. However, these subsidiaries continue to be managed by the same foreign subcontractors who resort to abusive practices (Mense-Petermann 2018). For example, workers are still hired for (informal) salaries below the standards in the destination country and/or charged for accommodation and transportation.

Those actors involved in the recruitment process illustrate different types of transnational involvement (Guarnizo and Smith 1998). Companies, both at the bottom and at the top of the subcontracting chain, experience transnationalism from above generated by European Union regulations. Agents experience transnationalism from below. Workers experience both transnationalism from above (generated by European Union regulations) and from below (as generated by the transnational practices of intermediaries). Yet, even if not directly linked with the recruitment process, unions are grounded in the national regulatory framework.

For the purpose of analysing rule-making and 'transnational governance', Djelic and Anderson (2006) proposed a framework that extends beyond a state-centred perspective (and includes non-state actors) (see also Turaeva 2013). Because posting is regulated both officially by institutions acting at the national and supranational levels, and informally by companies, agents and migrants, the framework suggested by Djelic and Anderson (2006) is useful for exploring this type of employment. Drawing upon their revised field perspective (Djelic and Anderson 2006), below I consider posted work using spatial, network and meaning dimensions. In the rule-making process, some actors who take part in posting manage to navigate between fluid boundaries across local, national and transnational spaces, whilst others are unable to. For example, companies are privileged to negotiate between 'an array of regulatory contexts defined only partially and imperfectly by geographical contingency, between which they can choose and strategise', whilst workers cannot fully benefit from the industrial relations arrangements in the destination country (Wagner and Lillie 2014: 416). Posting is organised across the sending and recipient states (and, in some cases, a third state), as well as at the supranational level, through complex networks consisting of migrants, companies and agents. Simultaneously, the actors involved in this type of employment follow their own interest and are involved in power dynamics. Companies at the top of the system resort to subcontracting and posting in

order to reduce labour costs, to enjoy flexibility and to absolve themselves from their obligations towards regular employees (Cremers 2011; Berntsen and Lillie 2015; Lillie and Wagner 2015; Lillie 2016; Wagner and Hassel 2016). Moreover, either through their high bargaining capital (Mense-Petermann 2018) or through informal negotiations (Wagner 2015), meat-processing companies and transnational companies in the German construction sector influence the official regulatory framework of posting to their advantage. For example, as Mense-Petermann (2018) explains, meat processors dictate the conditions of contracts in ways that constrain subcontractors to reduce workers' income as the only opportunity of profiting.

Yet, contracts in Germany involve higher gains for Romanian companies than in their homeland. Given this economic opportunity, although regulations stipulate that workers' stays in the destination country should be temporary and that a share of their activity should take place in their country of origin, in many cases employers recruit for the sole purpose of posting. At the time of my research, these companies benefitted from not being required to pay posted workers above the minimum hourly wage in Germany (whilst workers in standard employment contracts usually received higher salaries negotiated through collective agreements). In addition, some posting firms circumvent regulations by opening letter-box companies or by asking their *de facto* employees to engage in bogus self-employment.⁵ Practically speaking, Romanian subcontractors increase their profits either by circumventing regulations or through informal arrangements with workers, agreements which allow companies to pay salaries below the minimum standard and to take additional deductions from employee paycheques.

On the other hand, in search of better earnings, in some instances, posted workers are eager to change jobs. As a consequence of the highly flexible labour markets and the high turnover rate in the construction and meat-processing sectors, employers rely on an infrastructure that allows them to recruit workers rapidly.

The posting recruitment process: workers initiate contact with a company

Studies attest to the role of the migration industry in facilitating migration (Hernández-León 2013; Kyle 2000), specifically during the beginning of the process when migrants lack information on finding a job or accommodation in the destination country. Correspondingly, upon their first departure to Germany, it was more common for informants working in the meat-processing industry to actively seek a company with which to be posted abroad. The majority did not work in the same field in Romania; therefore, they had fewer chances to develop social connections that could facilitate a job abroad. Yet, most of the construction workers I interviewed were experienced in their sector and had previously worked abroad. Many found their current job through migration networks. However, a look at advertisements posted on Facebook groups of Romanian migrants in Germany or during interviews with migrant advisers showed that, in some instances, migrants

working in the construction sector were also recruited directly by companies or by agents.

In what follows, I use the example of a migrant who actively looked for a company with which to be posted abroad. Ana⁶ decided to leave Romania for economic reasons after working for ten years in the hospitality industry. She decided upon employment in the meat-processing sector in Germany, since it required neither previous work experience in the field nor knowledge of the German language. Because she did not know anyone who could help her find a job abroad, she searched for employment opportunities online. Some companies that post workers abroad use the internet to connect with job seekers. Such companies share announcements on their own websites, on e-commerce websites, on Facebook pages purposely designed to promote vacancies, in Facebook groups of Romanians who live in Germany or in Facebook groups of workers in the two economic sectors.⁷

Ana found an announcement for a job on an e-commerce website, called the company and went to an interview (which included a practical assessment test). Even if initially her employers did not agree that she held the required level of skill necessary to work in Germany, Ana was keen to go abroad. Thus, she left her job and insisted on engaging in unpaid work at the Romanian headquarters of the company:

I didn't know how and where else to go for training and they agreed because they had nothing to lose; I didn't ask for money. And after a week they saw that I was determined and I very much want that, [so] I had the contract to go to Germany. (*Ana, former meat-processing industry worker*)

However, experienced migrants actively look for posting companies as well. For example, Luca worked in the meat-processing industry in Romania for several years and initially found two jobs in Germany through former colleagues. When his second contract ended, he returned to Romania where he contacted a company that secured him posted employment in Germany.

Both workers upon their first migration experiences and, more seldom, those with a history of migration, might initiate contact with companies that post workers abroad. The examples here, involving job seekers recruited in order to be posted and who, in exceptional cases, participate in unpaid training with their future employers, illustrate how grey zones of recruitment have emerged as a result of loopholes within the regulatory framework on posting and through the lack of transnational control (Lillie 2016).

The role of agents in the recruitment process for posted employment

Migration brokers play an important role in informal transnational labour markets. Whilst a body of work focuses on formal and informal recruiters in Asia (Lindquist 2010, 2017 Lindquist et al. 2012; Molland 2012; Spaan 1994), not much research covers brokers in Europe. Elrick and Lewandowska (2008) analysed the role of agents in recruiting Polish women for home care in Italy and Poland. In doing so, they

distinguished between agents and intermediaries, supporting the importance of agents in the migration process. As such, Elrick and Lawandowska (2008: 722) defined the agents ‘as persons who want to be materially rewarded for passing on information’.

Ana’s second experience with posted migration illustrates how agents are positioned within the recruitment infrastructure of posting and how their interaction with posted workers takes place. When her first trip abroad ended after just a few months because she was unsatisfied with the intense rhythm of work in the factory and conflicts with her supervisor, Ana returned to Romania and looked for another employment opportunity online:

I found a man from Oradea who, for the sum of €350, was willing to take you to the slaughterhouse, to offer work, accommodation and transport from Romania to the factory’s gate. (*Ana, former meat-processing industry worker*)

Ana’s agent was the first link in a transnational subcontracting chain. He worked with a temporary employment business in Timișoara, a city in Western Romania. Through this company, Ana’s contract was registered with a firm based in Poland, which legally posted her to Germany. In practical terms, her path to the German slaughterhouse passes through three European countries and is organized by four actors with either formal or informal roles in the posting process: a Romanian agent, a Romanian recruiting company, a Polish subcontractor and the German main entrepreneur. The meat-processing company hired the Polish subcontractor. The latter employed Ana through the Romanian company. The temporary employment business hired an agent responsible for recruiting workers.

On a different note, whilst Ana did not know her broker before encountering him online, other agents are a part of the workers’ migration networks. Andrei, for example, obtained two of his posted jobs through an acquaintance of his colleague:

She got us in there, this woman, ... she probably charges the company a fee.... She didn’t ask for anything from us. ... A friend at the construction site knows her and it was through her that we went both to Belgium and to Germany. ... She knew people and met the boss who asked for workers. (*Andrei, construction worker*)

In the construction and meat-processing sectors in Germany, agents are either individuals who identified an economic opportunity or former or current migrants—in most cases—well connected with entrepreneurs and/or (future) workers in the two sectors. Practically speaking, they are a part of subcontracting chains consisting of several formal and informal actors. Typically, agents charge companies, although, in some cases, both migrants and employers are required to pay fees for their services. They offer their services to strangers or are embedded within migrant networks, such that recruitment is carried out either by word of mouth or through advertisements posted in newspapers and online. At the same time, agents might earn their living out of facilitating migration or they might be one-time brokers. Essentially, as illustrated in the examples above, the identities of agents vary and

should be considered in relation to time, location and power-related dynamics (Lindquist et al. 2012:8).

Risk associated with recruitment for posted employment

Mckeown (2012) explains that agents are usually presented in a rather negative light in migration reports, either as traffickers or as providers of indispensable services for the beneficiaries of temporary work programmes. However, beyond illegal activities that harm migrants, agents handle documents, make connections and offer services creating fluid, temporary job markets (Mckeown 2012).

In many cases, the interactions between agents and the workers involved in posting go well, as was the case for Ana. For a fee, she found a job in a short time. In other cases, these exchanges carry several risks. Although they pay for a service, migrants might not receive a posted job abroad or they might end up working in poor conditions. Ana explains:

And many of them [the agents] are scumbags. They take people's money and either leave them on the street or promise a price [a salary] at home, which has nothing to do with what they offer abroad. (*Ana, former meat-processing industry worker*)

The case of Doru illustrates the risks brought about through interactions with agents. He was approached in his village by a former supervisor, who offered him a three-month posted job on a German construction site. Doru accepted the proposal and went abroad with four of his acquaintances. One-and-a-half months later, after realising that their employer would not advance payment, he and his colleagues stopped working. The Romanian subcontractor registered his posting with the German authorities, so that everything appeared legal on that end of the deal, but failed to register the workers' contracts in Romania. Without a valid employment relationship, the company could not be held accountable by the authorities. Doru, who is aware of the commodification of his migration, describes his experience with the agent in negative terms: 'So that was his purpose; he came, he placed us and left ... just like slaves, he sold us.'

Labour abuses are not an exception to construction sites in Germany (Voivozeanu 2019). A migrant advisor of the Counselling Office for Posted Workers (BEB) explained that, in other cases, taking advantage of migrants' lack of knowledge of both the German language and the regulations concerning posting, rather than hiring them directly, recruiters ask a potential employee to open an individual enterprise or a firm with which a contract can be concluded.⁸ Thus, migrants who are able to set their own tariffs under this arrangement will charge sums below the minimum wage. Because this recruitment process is informal, in cases involving labour-related issues, migrants often have difficulties in identifying their employers.

However, even posted workers recruited by formal actors (Romanian firms) might end up in highly precarious or abusive employment relationships. For example, George, who found a job abroad through a company in Timișoara, ended

up working alone at a construction site for ten hours a day and was housed in his employer's basement (for whom he presumably worked for no pay during his free time as well). Similarly, Gina paid her posting company a recruitment fee and had to deal with deductions for accommodation costs, despite companies not being allowed to impose fees for facilitating migration and being obliged to provide accommodation free of charge.

These examples show that informal practices and—at times—illegal transactions are part of the posting system. Often, terms are negotiated in favour of the actors who control the process of recruitment.

Interconnections between formal and informal, legal and illegal actors within the posting infrastructure

Ana's case also illustrates the processes of blurred boundaries between legal and illegal, formal and informal, offering an in-depth insight into the dynamic character of the posting infrastructure, which is organised beyond the legal system of a single country. At the beginning of her migration history, Ana made use of the services of an agent—that is, an informal actor who charged her a fee to facilitate her migration. However, Ana ultimately signed a contract with a company registered in Poland—a formal actor—whereby her posting contract was formalised and became legal. The meat processor and the Polish company collaborated under the terms of the officially signed contract; therefore, their relationship was also formalised.

There are also examples of agents (brokers) who open their own companies and, thus, formalise their involvement within the posting business. In order to recruit personnel, they use their contacts in the construction industry in Romania and their ability to speak the workers' native language. In some instances, agents work jointly with partners based in Germany that conclude the service provision contracts in the destination country. Mihai described the process as follows:

They will see an engineer is efficient [and they will propose to them]: 'You will go to Romania and start a company on your behalf, you will recruit people, ... 60–40% gain, I'm searching here, I have the people who are negotiating prices.' Then, [workers will remain under contract] with the same employers; they have about four or five companies. (*Mihai, construction worker*)

Some workers under this type of arrangement remain employed in the destination country for a longer period than stipulated by the regulatory framework on posting (i.e., more than 24 months). However, because their contracts alternate and are registered with different companies, their posting appears to be legal.

The previous examples illustrate the dynamics between the actors involved in the migration process and show, in agreement with Lindquist et al. (2012), that the analytical distinction between legal and illegal (formal and informal) is difficult to define when it comes to the posting infrastructure and the manner in which the recruitment process unfolds in practice. Therefore, one can argue that formal and informal arrangements often blur (Williams and Round 2014).

The role of migration networks in the recruitment process for posted employment

If some companies turn to agents in order to recruit workers, others resort to migration networks of employees. In the construction industry, characterised by short-term employment opportunities, this type of recruitment was particularly common amongst my informants. Some companies use networks of construction engineers who manage projects carried out abroad. In the following quote, Mihai describes how, taking into account workers' skills and abilities, engineers contact either people with whom they had previously worked or people recommended to them. He also claims that engineers are, in some instances, mediators between companies and future employees. Thus, they set the starting wages, whilst workers further negotiate with employers based on their skills and experience:

The employer allows every engineer to choose his people: 'I have worked there with someone who is good at balconies, someone else knows the stairs, another one is good at the masonry.' All engineers have a sort of agenda, and the employer says: '... gather your team, I have a job for you.' Then, the engineer negotiates: 'What is my salary, €2500–3000.' That's what it's like on the construction site. And then he [the engineer] grabs his phone [and contacts the workers]. (*Mihai, construction worker*)

Iulian, a construction engineer who worked for several years with Romanian sub-contractors in Austria and Germany, explained that, by hiring known or recommended workers, employers are confident that future employees will be skilful and committed:

People continue to be recruited through acquaintances, not through recruitment firms. ... I heard that, 'I know him, I've worked with him, he's a serious man, he has a team, he knows this, he knows that.' (*Iulian, construction engineer*)

For posted workers, being hired through migration networks may bring security in an uncertain labour market. However, it may be bounded to constraints. Mihai describes the context in which Romanian construction companies post workers in Germany as a 'closed circle'—that is, with employers who have the advantage of being able to check the history and reputation of potential employees. Beyond information about their skills, they might be interested in finding out whether workers are obedient or unionised or not. Mihai explains:

'Have you been to Germany before?' 'Yes, I worked there for eight months.' 'Where did you work, with what engineer?' And this circle is a closed circle. They know each other. ... And I, if I was there [in Germany] before, [what they might say is,] 'I'm going to ask the engineer: "Does he have a long

history in Germany, doesn't he know things too well, isn't he affiliated with trade unions, doesn't he know too much?"' (*Mihai, construction worker*)

In other instances, companies recruit the acquaintances of employees who are already in the destination country. This is how Andrei found some of his posted jobs. During my fieldwork, I observed Andrei receiving calls from Romania enquiring about employment opportunities in Germany. For Gigi, who has been working in Germany for many years, acquaintances are just as important. Over time, he has developed social connections that he relies on every time he seeks a job abroad. The relationships between him and his colleagues rely on reciprocity. Here, he explains how the company that was going to post him abroad asked him to serve as an intermediary, at very short notice, so that two other workers would join the same project:

So I was at this company. I went, I registered, and Mr [name] said: '...[Gigi], I need two more boys.' And I took these boys, Cristian and George. We went to the firm on Thursday, we talked and on Friday we were on the bus [to Germany]. (*Gigi, construction worker*)

The case of Alin is also interesting. After being posted for several years in the German and French meat-processing sector, he received a standard job as a team leader in France. He was then able to start a team consisting of former Romanian colleagues in a meat-processing factory in Germany (one more example showing how roles within recruitment infrastructures might change). As time passes, workers enlarge their migration networks. In the meat-processing industry, this serves as one of the factors that increase workers' possibilities of finding a standard job abroad, as illustrated by Lari's case. He previously worked in a meat-processing factory in Romania and held two posted jobs in that sector in Germany. After 2014, when Romanians obtained free access to the German labour market, through former colleagues, he found standard employment in the German meat-processing industry. He explains how networks are used by workers within the same economic sector:

In our branch, we let each other know. Now, for example, I know people all over Germany and we keep in touch: '... Look, a new work station will open somewhere. Are you interested? These are the conditions.' (*Lari, meat-processing industry worker*)

A slightly different situation existed for most of the construction workers I interviewed. Although many had connections in the field, they were unable to find regular jobs in the destination country. This might be a consequence of the highly flexible labour market in that sector; however, further systematic research is needed here.

Given the high turnover rates and the insecurity related to short-term postings, both companies and agents strategically rely on employees' social networks

for a constant supply of cheap labour. Important for job seekers as well since they might provide (better) employment arrangements, these connections also reproduce power dynamics possibly leading to worker exploitation (Turaeva 2016).

Conclusions

This chapter uses the examples of posted work from Romania to Germany to discuss both recruitment in posting as well as the informalisation of transnational labour markets and transnational economic networks.

Posted work is governed by supranational and national entities (institutions of the European Union and the sending and recipient states), as well as by companies (Wagner 2015; Mense-Petermann 2018), agents and migrants. Given the wide range of actors with different roles, practices and interests actively shaping its regulatory setting, I analysed the recruitment infrastructure (Lindquist et al. 2012; Xiang and Lindquist 2014) of posted employment using the concept of ‘transnational governance’ (Djelic and Andresson 2006). Moving beyond state-centred views, this novel perspective considers non-state actors who participate in rule making, acknowledging that regulatory boundaries do not always correspond with national borders.

Furthermore, I showed that the actors involved in posted work illustrate different types of transnational involvement (Guarnizo and Smith 1998). Companies experience transnationalism from above (generated by European Union regulations). Agents experience transnationalism from below. Workers experience transnationalism both from above (generated by European Union regulations) and from below (generated by the transnational practices of agents).

Moreover, I argued that, in the context of the current European regulatory framework, the social fields created through posting are filled with informal norms and structures through which the actors involved negotiate across borders, thereby extending the literature on transnational informality (Cieslewska 2013; Turaeva 2013; Urinboyev 2017). Within recruitment for this type of employment, formal actors (companies) rely on informal actors and practices to recruit workers. A first indication of informal practices is that, even if posted workers should have an employment history with firms, many are hired only for the short periods of time when they work abroad. Throughout the recruitment process, some companies and agents strategically resort to employees’ migration networks, which provide a constant supply of cheap labour. For the same purpose, other companies resort to agents, similar to findings from Lindquist (2010), who explained that recruitment agencies in Indonesia operate in similar ways. Arrangements involving agents and/or networks might be beneficial for migrants, since they could bring (better) employment opportunities, whilst also possibly reproducing power dynamics favouring actors who control the recruitment process, thereby possibly leading to worker exploitation (Turaeva 2016).

The examples and case studies on posting detailed in this chapter reveal that the boundaries between formal and informal often blur (William and Round 2014). In

other words, looking closely at the entire migration process, where diverse actors develop both formal and informal relationships and practices, it becomes difficult at times to differentiate between formal and informal arrangements amongst companies, agents and migrants (Lindquist et al. 2012).

Notes

- 1 The freedom to provide services allows companies based in the European Union to pursue economic activities in other member-states.
- 2 This will change at least at the official level with the introduction of European Directive 2018/957. This document stipulates that, beginning in July 2020, posted workers will be entitled to the same remuneration as workers in standard employment contracts.
- 3 In 2017, the German construction sector hired approximately 757,000 workers (Statista .com, <https://goo.gl/AAuiNa>, accessed on 15 September 2019). In that same year, the Paritarian Social Fund, SOKA-BAU, officially registered 98,214 posted workers (European Commission 2016).
- 4 The total number of posted workers is measured by the number of A1 forms issued by all member-states. This document proves that workers pay social security contributions in their country of origin. However, for several reasons, this offers only an indication of the number of postings. First, some employers do not comply with the regulations related to issuing A1 forms for each of their employees. Second, the statistics concern the number of postings, but not the number of posted workers (if a worker is posted in two different countries within a year, two A1 forms will be issued). Third, the data do not distinguish between the types of postings and will, for example, include the number of intracorporate postings.
- 5 Letter-box companies are established in one member-state usually with no more than a postal address, whilst their activity is carried out in another country. The aim is usually to avoid taxation and circumvent social contributions. In the particular case of posting, letter-box companies have no economic activity in the country of origin and, therefore, no legal capacity to post workers.
- 6 In order to protect workers' identities, pseudonyms are used throughout the article.
- 7 Here, I reproduce an ad used by one of the companies posting workers abroad: 'We are recruiting unskilled butchers aged 18–55, able to work, with no medical problems and a clean criminal record, skilled or unskilled in bovine and pig butchering, with experience in slaughtering, slicing, boning, packing and stamping. The net monthly wage is €1900, working Monday through Friday 8h / day, respectively, 40h / week, with optional overtime paid at the end of the week. Contract period of three months with a possibility of extension by the foreign employer. Medical insurance, accommodation, allowances and a daily meal are provided throughout the contractual period. Seriousness is required! WE DO NOT CHARGE A COMMISSION FEE!!!'
- 8 Full name in English: 'Counselling office for posted workers, EU citizens exercising their right to free labour movement and self-employed people with an unclear labour status'.

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