

Precarious employment - precarious participation. Foreign workers in the German low-wage sector

Summary

Foreign workers from third countries and from the new EU member states are significantly overrepresented in the German low-wage sector. They work on construction sites, harvest asparagus, pick strawberries and look after or nurse elderly people. The Corona pandemic demonstrated how urgently dependent the economy and society as a whole are on the work of this group of people. Nevertheless, they receive below-average pay. What is more, their working conditions are often problematic and hinder self-determined participation in Germany. This is the starting point for the present qualitative interview study that explores the following questions: Why are foreign workers exposed to a high risk of precariousness? And what impact does precarious employment have on these workers' overall participation in German society? The study focuses on the particular vulnerabilities (such as lack of legal knowledge, limited mastery of the German language and scarce financial and social resources) of this group of foreign workers. Moreover it studies how the interplay of residence, social and labour law create legal and factual barriers to participation and how protection rights are implemented (or not), both in official practice and at the workplace.

The overall framework of residence and social law determines access to the labour market, to social security and to security of residence and therefore impacts foreign workers' legal opportunities for participation in Germany. There are major differences in these respects between EU nationals and third-country nationals. Workers' opportunities for participation are also structured by the legal framework of various forms of employment. **Institutional practice can increase barriers to participation. Such practice may, for example, make it more difficult to obtain recognition of qualifications acquired in other countries or result in foreign workers being (wrongly) excluded from social security.** This in turn increases their dependence on precarious employment. The legal and institutional framework in which agencies operate may in this way be partly responsible for the creation, persistence or even further exacerbation of precarious employment.

Drawing on examples from the construction industry, the meat industry, domestic care and seasonal work in agriculture, the study shows that in many cases employers systematically sidestep applicable labour law and protective regulations. This is also made possible by the selection (and abuse) of certain forms of employment and contractual arrangements. Foreign workers who are recruited to jobs in the German low-wage sector by employment agencies or who are employed at the end of a subcontracting chain are particularly affected. Their vulnerability is in some cases deliberately exploited and exacerbated, which further reinforces the precariousness of their employment. In addition, because foreign workers in precarious employment have only limited access to labour courts, works councils and trade unions, they find it difficult to protect themselves against violations of labour law.

This results in low pay that is below the subsistence level, in unstable and problematic employment and a high risk of in-work poverty. Precarious employment then makes it even harder to overcome previously existing barriers to security of residence, the labour market and social security. Such employment conditions also often make it impossible for workers to participate fully in society by, for example, establishing close relationships or learning the German language. Overall, the study shows that those employed in the low-wage sector often find themselves in a vicious circle of precarious work, exclusion from benefits and precarious participation. **Rather than providing a stepping stone for foreign workers, low-wage employment often traps them in precariousness.**