The Subcontract Chain, Migrant Workers and Health and Safety

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Subcontracting, migrant workers and occupational safety and health

1 in 33 of US are migrants (Rom. and Slovakia) (IOM, 2012);

Evolving integration and enlargement of single market, greater movement of capital and labour, subcontracting chains increasingly involve companies from differing Member States:

Temporary work agencies (Dutch labour inspectorate -3 times higher risk; German sickness fund higher muscular and skeletal injuries; UK Irwin Mitchell report cases not going to court (Cremers, 2009, Fitzgerald, 2010);

Undeclared/illegal (migrant) labour;

Self-employed/Bogus self-employed;

Principal contractor and subcontractors in chain argue that all those on site are self-employed.
The New Reality? In 2007 Commission launched programme to reduce administrative burdens, opinion on policy working areas:

**Allow derogation** from an obligation to draft a health and safety **plan** and a **file** for low risk sites;

Exempt **very small firms** with low risk activities from having to produce a written risk assessment;

Have distinction between **risk levels for differing Firm sizes**, so smaller the firm lower the risk (Gehring 2010).

“**Employment security** … made way for **maximum flexibility**… self-employment, genuine or bogus, forms a substantial part of the workforce pattern. **Worker representation** is weak and the prospect of a **bottom-up safety culture** being successful in the near future is **unlikely**” (Donaghy, 2009: 11)
Migrant workers and occupational safety and health - Movement

The UK is one of the most open Member States for the provision of cross-border services;

Migrant workers more likely to be working in sectors, such as construction, with a heightened health and safety risk;

Over 90% of UK construction firms have less than 10 employees with over a third ‘one man bands’;

Fragmentation of construction sector (fragmented enforcement of agreements) Compliance with occupational health and safety regulations a significant cost: There is a negative impact on competitiveness.
Migrant workers and occupational safety and health - Conditions

In **UK** in **2007-2008** almost a fifth of construction fatalities were migrant workers. Overall a **fourfold** rise in migrant worker fatalities since the 2004 accession;

Dept. of Social Affairs and Employment in the **Netherlands** reported that 13 % of accidents victims were foreign nationals (2007-2009). A striking result was that almost half of the foreign victims were temporary workers;

According to the **Labour Inspectorate**, inspections have pointed out that the bad working conditions of foreign nationals are more related to the mere fact that they are temporary workers, rather than to the sectors they work in.
Migrant workers and occupational safety and health – UK Reality

In 2005/6, 55% of migrant fatalities were in construction - by 2006/7 this increased to 62% - then 2007/8, this increased to 66%;

Many cases are not prosecuted. In 15 cases where CCA were able to obtain information, 9 families (60%) did not have legal representation;

Common for Health and Safety Executive NOT to issue a press release following prosecution convictions.
Migrant workers and occupational safety and health – Why?

1. Relatively short periods of work in the host county;

2. Motivations coming to host county, particularly where based on earning as much as possible, in the shortest possible time;

3. Ability to communicate effectively with other workers and supervisors, particularly with regard to risk;

4. Access to limited health and safety training and difficulties in understanding what is being offered, where proficiency in host language is limited;

5. Failure of employers to check on work and language skills (competence issues, authenticated certificates of training).

“A potential death trap”
HSE Inspector
Migrant workers and occupational safety and health – Main reasons

6. Different experiences of **health and safety regimes** in migrants’ countries of origin;

7. **Limited knowledge** of host country health and safety system;

8. **Lack of knowledge** of health and safety **rights** and how to raise them, including **knowledge of the channels** through which they can be represented;

9. **Employment relationships** and unclear responsibilities for health and safety, in particular where workers are supplied by **recruitment agencies** or **labour providers** or are **self-employed**.
References


