

**European Union Centre of Excellence**  
York University | Toronto | Canada | [www.yorku.ca/euce](http://www.yorku.ca/euce)

## **WORKING PAPERS SERIES**

2010/04

### **Labour Migration and the Europeanization of Trade Unions – A look at developments in the construction sector in Germany**

Markus Kip  
PhD Candidate, Sociology  
York University

A working paper prepared for  
“Ever Closer Union/Union sans cesse plus étroite?”  
Graduate Student Conference  
European Union Centre of Excellence, York University  
March 11-12, 2010

European Union Centre of Excellence, York University  
715 York Research Tower, 4700 Keele Street  
Toronto ON M3J 1P3  
Tel: 417 736 5695  
Fax: 416 650 8069  
[euce@yorku.ca](mailto:euce@yorku.ca)

*The European Union Centre of Excellence at York University has been made possible  
through the generous support of the European Commission.*

This paper was presented at the conference „Ever Closer Union?“ organized by the European Union Centre of Excellence at York University on March 11 & 12, 2010. I would like to express gratitude for the constructive feedback to this paper by the conference participants, particularly by Prof. Heather MacRae.

## **1. Introduction**

Nowadays, trade union reports and lofty speeches usually come to the conclusion that cooperation among trade unions at the EU level should be intensified. Critics, however, point out over and over again that such statements amount to opportune rhetoric that is not backed up by concrete strategy. Particularly, in view of regulating the supply of labour, trade unions prioritize politics at their national arena even if it comes at the expense of EU-level cooperation. Most social and economic policies regulating the labour market are still decided on in the national arena – even as the function of these instruments is increasingly undermined through transnational flows of labour and capital. For trade unions in comparatively generous welfare states a difficult decision appears to arise: Will they continue to focus their actions on the national stage even if it seems like a losing battle? Or will they risk some of their certainties and relative national privileges in view of a vague hope of EU-level cooperation? To shed some light on these issues, this paper will focus on intra-EU migration with specific attention to the construction sector and the German context.

In the first part of this paper I will seek to address the divide between stated insights into the need of more trade union cooperation at the EU level and the lack to act upon this insight, primarily in the case of labour migration in the construction sector after the EU-Enlargement in 2004. I will argue that the main organizational vehicle of trade unions at the EU-level – the European Trade Union Confederation (ETUC) – is organized around the principle of national sovereignty of its trade union affiliates. As I will show, it is unable to offer a satisfying response to the issue of capital-driven migration within the EU. In order to do that, as I will show, trade unions need to address the issue of inequalities and uneven development between member states. This, however, has implications for the redistribution of resources within the labour movement. I argue that the most reasonable strategy – in a long-term perspective – would be a pooling of European trade union resources with the goal of fostering labour organizing in countries with low labour standards and high unemployment.

In the second part of the paper, I will discuss the European Migrant Workers Union (EMWU) in its potential to build a basis for labour solidarity crossing national borders. While not embodying a substantial practice of European labour solidarity, it contributes to the building of trust through its organizing and servicing approach. In contrast to the ETUC which builds only few relationships to rank-and-file members of labour unions, the EMWU employs an organizing and servicing approach that fosters direct relationship to and among workers – in contrast to the ETUC which builds only few relationships to rank-and-file members. Building solidarity from the ground up, appears a more promising approach than expecting

(weakly) established organizations as the ETUC to bring about the change necessary to contain the capital dynamics.

## **2. Europeanization of Labour! But how...?**

The majority of trade union commentators seem to agree on their problem-analysis of the current state of the European Union. Too much emphasis rests on the economic dimension, too little consideration is placed on the social. As Anne Karrass (2009: 90) states: „It is not acceptable, that freedoms of the market, that primarily serve businesses, are turned into a super-constitution that question long and hardwon rights in nation-states.“ She therefore calls trade unions and other social forces to take „forceful countermeasures“. (Karrass 2009: 90)

Starting from a different perspective, European Federation of Building and Woodworker also defines the „increasing mobility of capital and the exploitation of labour in connection with this“ as the problem but essentially comes to the same conclusion in that “New and extended ways for capital to exploit differences between labour standards in different countries have to be counterbalanced by an active European trade union movement.” (EFBWW 2008: 26)

The call for the “Europeanization” of the trade union movement has been also heard by Hans-Juergen Urban (2009) who, however, charges that hardly any concrete proposal was put forward in terms of how this “Europeanization” is supposed to happen. The specificity is certainly also lacking when scrutinizing the role of “labour mobility” in this discussion of the Europeanization of the trade union movement.

While trade unions commonly join the choir that praises “labour mobility” as a core progress for Europe (ETUC 2009), they denounce the current conditions in which workers move as a neoliberal plot. Under the given circumstances, labour migration is a core means by which capital exploits labour. So, what exactly are these conditions?

In their resolution “Conditions for free movement: more protection of workers and fair competition” from 2009, the European Trade Union Confederation comes to the following conclusion:

“Member States in consultation with social partners should, where necessary, address the weaknesses of their national systems which may lead to an increase in undeclared work, nonapplication of labour standards and unfair competition on wages and working conditions, and make them ‘mobility proof.’” (ETUC 2009)

A curious statement is implied: labour mobility is embraced to the extent that ‘mobility proof’ conditions are achieved. Member states are charged with the task, in “consultation with social partners”, i.e. also trade unions. There is no mentioning of

any support the national trade unions might receive from other trade unions in the EU. Becoming 'mobility proof' is a national affair.

The underlying assumption thus appears to be that nation-states are capable of producing conditions in which capital no longer determines the flow of labour. It therefore entails an premise reflective of the framework of the Fordist "Keynesian National Welfare State" (Jessop 2002) in which major economic circuits are contained and regulated within the national sphere.

In difference to the Keynesian National Welfare State – with its heyday in the three decades following the Second World War –, creating "mobility proof" conditions at the national level today would have to cope with entirely new productive forces, including transport and information technology and a new social organization of labour. It would have to come to terms with an expanding transnational network of relationships in terms of production and consumption. It hardly seems imaginable, how these could be domesticated to fit once again within a national framework. And who/what would be the forces that would be willing and capable of doing that?

Aside from the regulatory difficulties within a national framework, there are also dynamics based on socio-economic realities that transcend a national framework.

Recent findings confirm that within the EU labour migration tends to flow from contexts high unemployment to low unemployment and from low wage to high wage (Galgóczi et al 2009). If that is correct, to achieve "mobility proof" conditions in a context of free movement can only imply to level socio-economic standards between countries.

The main shortcoming of the current approach of the European Trade Union Confederation (ETUC) thus is its failure to address these dynamics of uneven development and instead to relegate the problem of migration to the national sphere. To address the unevenness, labour unions should clearly be considered a crucial organizational vehicle that could advocate and organize a struggle for changes to improve of wages and benefits as well as instituting worker-friendly labour market policies. However, it is no surprise that sending areas usually have only weakly established labour unions which makes it difficult for them to mount such a struggle.

"European labour solidarity" therefore could mean that comparatively resourceful labour unions dedicate resources towards supporting labour unions in such areas with organizing and servicing efforts. This, however, is not a significant feature in the institutional make-up of the European Trade Union Confederation.

### **3. Weak Europeanization: European Trade Union Confederation**

Given these fairly obvious difficulties, the question thus is why the European Trade Union Confederation (ETUC) emphasizes such a national framework in their responses to migration. The answer, I argue, is to be found in the organization of the ETUC which structures what the ETUC is capable and expected of doing. The consideration of its organizational structure will show that the ETUC has very little power in terms of forcing its will against particular trade unions or national

confederations. Rather, the emergence of the ETUC and its competencies is strongly circumscribed by what national unions allow it to do. As the most prominent organizational vehicle of the labour movement at the EU-level, the ETUC indicates the low degree in which the trade union movement has in fact been “Europeanized”.

Founded in 1973, the ETUC is formally recognized by European Union, the Council of Europe and by the European Free Trade Association as the only social partner that represent more than 60 Mio. trade unionists throughout Europe. Its affiliates are 82 national trade union confederations from 36 European countries and 12 European industry confederations, in addition to other trade union structures and organizations (ETUI 2010).

Among the main priorities of the ETUC is its involvement in the “European Social Dialogue” with European employers’ associations. The term “social dialogue” was coined after the former European Commission President, Jacques Delors, who initiated a first meeting in Brussels in 1985 between “European social partners” and representatives of the European Commission. These became regular meetings and were eventually incorporated as Article 139 in the Amsterdam Treaty (former Article 118b in the Maastricht Treaty). “[T]he Commission shall endeavour to develop the dialogue between management and labour at European level which could, if the two sides consider it desirable, lead to relations based on agreement”.

While the ETUC Congress in Helsinki stipulated that the involvement in such dialogue cannot be a substitute for working towards strengthening ones negotiating position in European industrial relations, the coordination of collective bargaining at a European level has only taken small steps. Several European Industry Federations have already set up collective bargaining committees. Waddington & Hoffmann, however, concede that the internal structures of the EIF are still too weakly established to ensure effective co-ordination of bargaining (Waddington & Hoffmann 2003). Cremers (2006) laments particularly the lack of coordination in the construction industry.

While the ETUC proudly mentions its involvement in the consultation process that led to EU Directives on parental leave, part-time work as well as fixed-term contracts, it hardly amounts to an powerful actor within the field of EU policy-making. Although certain provisions stipulate that social partners need to be consulted, the consultation itself hardly forces concrete programs or steps on the EU Commission – or other EU bodies. In addition to the consultative and coordinating functions, the ETUC through its European Trade Union Institute (ETUI) also engages in research and education for its members on EU developments and seeks to initiate or intervene in public debates around various EU topics. The ETUI is partly funded by the European Commission.

To the extent that the ETUC is powerless makes it hardly a controversial actor for national trade unions and trade union confederations. Affirming their affiliation with the ETUC allows them to appear “European” which in certain respects operates as a code for being “progressive” all the while not assuming any major risks. National trade union don’t need to expect ETUC to bring about consequences that would work against their national interests – a conclusion that Penninx & Roosblad (2000) also draw. On the other side, the weak negotiating position of the ETUC makes it also a comparatively harmless social partner for

employers association to be in dialogue with. At this point, it appears the existence of the ETUC is at least in part accounted for by this constellation. Its existence and status can hardly look back to a long tradition of publicly significant struggles of European trade unions.

The organization therefore mirrors the low degree of political integration within the European Union and the continuation of the national as the predominant political arena. In this respect, the “Europeanization” of the trade union movement proceeds based on the consent of members, but hardly in a way that it might become so powerful as to turn against them. Since neither national trade unions nor the ETUC offer any substantial vision or program that could counterbalance the emphasis on national competitiveness, appeals to solidarity such as the following remain shallow:

“Increased cross border mobility also demands the adaptation of trade union actions, activities and structures, in order to provide the workers concerned, especially those temporarily working abroad, with adequate and effective information, support and protection regarding their social and labour rights. It is now more urgent than ever to invest in cross border solidarity” (ETUC 2009)

In the absence of any substantial notion of solidarity, European solidarity seems to boil down to a lowest common denominator: the agreement among national trade unions and trade union confederations to secure their prerogatives to bargain on their national turfs. This is reflected even in those moments when “Europe” became a topic for trade unions in recent years. Particularly in the construction sector, the question of Europe was mostly focussed on the issue labour mobility. Since production and produced results are usually immobile, labour mobility is the crucial means in the construction sector which allows “capital to exploit differences between labour standards” (EFBWW 2008).

In recent years, the proposals of the Bolkestein and Posted Workers Directive which essentially established the “country-of-origin” principle for workers within the EU stirred significant debate, particularly also for construction trade unions. In essence, this directive allowed the employment of cheaper labour by using workers posted a country with lower wage rates. This obviously undermines each national trade union’s turf and was therefore target of EU-lobbying efforts as well as a European-wide mobilization of trade unions supported by the ETUC. The mobilization that became visible in European-wide demonstrations had arguably an effect on the watering down of the Bolkestein Directive. The resistance, however, dwindled significantly in 2006 due to conflicts that forced the trade union movement to focus on national politics (Skarpelis-Sperk 2009). Another common concern addressed at the European level by European Federation of Building and Woodworkers has been the issue of bogus-self-employment as well as unregulated, i.e. illegal employment of workers from EU states. The goal in these campaigns has been greater communication among trade unions across borders as well as education of workers to avoid the victimization through such practices. As

mentioned before, these campaigns, however, practiced the principle of mutual non-interference in national turfs.

Arguably, the most touchy areas that trade unions and trade union confederations have not shown much willingness to cede to the ETUC is the power to make decisions on national strategy and tactics and the use of resources (see also Penninx & Roosblad 2000). National trade unions and confederations continue to market themselves such as “Your Voice for Work and Social Justice” (German Trade Union Confederation - Deutsche Gewerkschaftsbund (DGB)). On the websites of the German Trade Union Confederation or the German construction trade union, one has to make an effort to find any reference of their involvement in the ETUC or in European Industry Federations. In these self-presentation the DGB as well as IG BAU pretend to be *the* representatives for workers. At the same time, it prepares its membership that the European counterparts pay little to no role in the representation of workers interests.

Thus, by implication, national trade unions such as the German Trade Union Confederation pretend that “Your Voice for Work and Social Justice” is effectively uttered through an organization that operates within a national framework. Considering the existing transnational relationships of production and consumption, the question is how a national organization would be capable of effectively realizing “Work and Social Justice” in a globalizing context. Hirsch (1995) has identified the “national-competitive state” as a model that promises to address these issues by subordinating to the interest of national capital. This, however, is a problematic strategy for various reasons. First, it is likely to deepen conflicts between different EU countries, as they are also competing with one another. That could not be considered a “Europeanization of labour solidarity”. Furthermore, this model places the definition of what is competitive in terms of accumulation of capital, thereby continuously provide incentives for capital to seek extra-profits through the exploitation of labour from low-wage countries. In a post-Fordist context that seems notoriously to be a privileged strategy of capital (in several sectors like construction) compared to investment in technologies for greater efficiency (see also Schierup et al 2006). This subsumption of trade unions to the national competitiveness therefore entails significant potential of tension between trade unions and migrants.

In other words: What I have been trying to argue is that the strategy based on the political premise of mutual non-interference in national trade union politics is not workable to achieve the self-declared goal to end capital-driven labour migration within the EU. In contrast, I have been suggesting that a more promising strategy is to focus European attention and resources to trade union movements in countries of low labour standards and high unemployment. Strengthening such trade union movements to attain better labour standards and a worker-friendly labour market policy works in the way of levelling conditions between EU countries. The ETUC (2009) resolution “Conditions for Free Movement” points into this direction when it states that:

“Mutual aid systems between unions cross border on a bilateral as well as multilateral basis must be further developed, building on existing good

practice, and the possibility for wider cooperation under ETUC umbrella must be explored.”

Such statements, however, remain vague and are not further elaborated in terms of what is implied by this mutual aid. What the ETUC and other European trade union federations seem to be dancing around is the conclusion that resourceful trade unions need to support trade unions with less resources. Of course, such a statement would violate the gentlemen-agreement of mutual non-interference in the national turf. And it would be a hard sell for trade unions that seek to convey the image of being effective and producing deliverables for its members.

In the current context trade unions have been confronting for years a membership decline. Union membership of the German IG BAU declined from 780,000 in 1990 to under 326,000 in 2009 (DGB 2010). Trade unions seek to offset emphasizing the benefits and services associated with membership and the significance of one’s participation (see also Waddington & Hoffmann 2003). To the extent, however, that workers are appealed to by trade unions as utility maximizing individuals, a project of supporting trade unions in other countries would probably be difficult to promote as in the members best interest. One might ask: Why would a worker confronted with increasing risk of unemployment and a real lowering of wages and benefits, believe that her union’s support for foreign trade unions would improve her situation? Such a questions raises the issue of solidarity and its significance in the trade union movement. The approach of the European Migrant Worker Union (EMWU) is interesting in this regard because of its potential to foster a practice of solidarity that goes beyond a membership type of utility maximizing individuals.

#### **4. Towards a Strong Europeanization of Labour Solidarity? The European Migrant Workers Union**

A stronger Europeanization of labour solidarity, one in which comparatively resourceful trade unions share resources for relatively poor unions in other countries, arguably requires a different relationship between trade union and members than the one just outlined. In contrast to the ETUC whose activity is largely removed or even unknown to the vast membership of national trade unions, the European Migrant Worker Union actively seeks to build relationships to workers. I argue that through this activity relationships of trust could be formed between migrant workers and domestic trade unionist opening up the possibility for stronger practices between trade unions in different countries.

The European Migrant Workers Union, for example, was founded with the support of 1.5 Million Euros from the German construction trade union IG BAU. Although it is not an officially recognized trade union, the EMWU was established with the goal of developing a transnational organizational structure for migrant workers in the construction sector. It has an outlook towards becoming a bargaining collective possibly in the future. Offices have been established in Poland, Germany and outreach has been done to Romania. Its staff is fluent in German, Polish and Romanian. This organizational effort offers primarily legal advice and support to



migrant workers in Germany who have been cheated wages or have suffered workplace accidents due to substandard health and safety standards. The main task of this organization is to protect migrant workers, but the hope is that it builds a network of members in which members eventually will foster collaboration among migrant workers but also to resident workers. It seeks to raise awareness of labour standards and to show ways to combat them. Its initial goal was to organize 10,000 – mostly eastern European - workers within two years from 2004-2006. That goal, however, was missed. The organization only counted 2,000 members after this period (Berger & Meyer 2008). It also sought to expand the EMWU into other EU-countries which, however, was unsuccessful, mostly due to the national trade unions scepticism towards creating parallel organizations for migrant workers, rather than organizing migrant workers in the already existing structures.

The EMWU's collaboration with state agencies to enforce labour laws seems to be walking on a fine line. While the goal is to seek redress for injured or duped workers, it still appears as a risky endeavour for most migrant workers to seek such help. In the end, there is concern of deportation because of illegal work or migrant workers fear retaliation from their employers leading also to burnt bridges for future employment, if not to their deportation. It is because of such risk calculations that the EMWU's work revolves mostly around emergency-situations rather than a systematic organizing approaches as organizer Mihai Balan (2008) reports.

In my assessment, the significance of the EMWU is in defending workers interest regardless of their citizenship status and legal ramifications around the employment situation. As long as trade unions are perceived to defend national interests, it should not be surprising that many migrant workers do not seek a connection with the trade union in the host country. What could a migrant worker reasonably expect from a trade union of workers with whom she is perceived to be in competition with? In contrast, if trade unions can make a credible claim to workers for the advancement of cross border solidarity, this relationship between migrant worker and trade unions might arguably change.

Furthermore, the beginning of an engagement with migrant workers at least potentially raises the question in the German trade union debate around the working conditions of migrant workers. It could further lead to asking why migrant workers often seem not to take advantage of national trade unions supports for migrant workers. An encounter with migrant workers in the context of labour organizing also promises to bring a human face to these migrants that otherwise usually are considered in terms of economic calculation or in chauvinist discourses as "welfare tourists". Contacts between trade unionists and migrant workers can work as an important hook for building relationships of trust and appreciation. This might open towards another practice of solidarity, one that is not primarily oriented to the "self-interest", but rather one based on mutual recognition and justice. In this respect, the EMWU would throw a different light on the issue of redistribution of trade union resources across borders and could open up the trade union movement towards a more substantial practice of European labour solidarity.

## 5. Bibliography

Balan, M. (2008) Patroni Wider Willen, *express Zeitschrift für sozialistische Betriebs- und Gewerkschaftsarbeit*, 1/08

Berger, R. & M. Meyer 2008. Neues im Anti-Dumping-Kampf: Der Europäische Verband der Wanderarbeiter ist am Ende. *ak - zeitung für linke debatte und praxis* 531/ 2008

Cremers, J. (2006), Social Dialogue in the European construction industry, *Construction*

Labour Research 1, 2006, accessed online on Apr 15 2010 at:

<http://www.clr-news.org/>

DGB (Deutscher Gewerkschaftsbund) 2010. Grafik. DGB Mitgliederentwicklung in DGB Einblick, accessed online on Apr 15 2010 at:

<http://www.einblick.dgb.de>

EFBWW (European Federation of Building and Woodworker) 2008. 50 Years of Commitment and Solidarity, accessed online on Apr 15 at:

[www.efbww.org/.../History%20EFBWW%202008%20-%20GGB%20FINAL.pdf](http://www.efbww.org/.../History%20EFBWW%202008%20-%20GGB%20FINAL.pdf)

ETUC (European Trade Union Confederation) 2009. Conditions for Free Movement: more protection of workers and fair competition, Resolution adopted by the Steering Committee of the ETUC, Brussels, 28 April 2009 (SC. 127), accessed online on Apr 15 2010 at:

<http://www.etuc.org/a/6212>

ETUI (European Trade Union Institute) 2010. Trade Unions and Transnational Projects:

A guide to managing European training projects, Version 7.3, accessed online on Apr 15 2010 at:

<http://www.etui.org/education/Resources/Trade-unions-and-transnational-projects-7th-Edition>

Galgóczi, B., J. Leschke & A. Watt. 2009. Intra-EU labour migration: flows, effects and policy responses, ETUI Working Paper 2009.03, accessed online on Apr 15 at:

[www.etui.org/Publications](http://www.etui.org/Publications)

Hirsch, Joachim. 1995. *Der nationale Wettbewerbsstaat: Staat, Demokratie und Politik in*

*globalen Kapitalismus*. Berlin/Amsterdam: Edition ID-Archiv

Jessop, B. 2002. *The Future of the Capitalist State*, Polity Press, Cambridge, 2002

Karrass, A. 2009. "Kein Grundrecht auf ungestörtes Sozialdumping! Was steckt hinter

den Urteilen Laval, Viking, Ruffert und KOM vs Luxemburg" in Scholz, Dieter; Schmidt-Hullmann, Frank; Karrass, Anne; Martens, Helmut; Paust-Lassen, Pia; Pieper, Wolfgang; Wolf, Frieder Otto (Eds): "Europa sind wir". Gewerkschaftspolitik für ein anderes Europa, Münster: Westfälisches Dampfboot

Penninx, R. & J. Roosblad (Eds). 2000. Trade Unions, Immigration and Immigrants in Europe – 1960-1993, Berghahn: New York, Oxford

Schierup, C.-U., P. Hansen & S. Castles (2006) Migration, Citizenship, and the European

Welfare State. Oxford: Oxford University Press

Skarpelis-Sperk, S. 2009. „Was tun? – Die EU-Dienstleistungsrichtlinie und gesellschaftliche Gegenwehr“ in Scholz, Dieter; Schmidt-Hullmann, Frank; Karrass, Anne; Martens, Helmut; Paust-Lassen, Pia; Pieper, Wolfgang; Wolf, Frieder Otto (Eds): "Europa sind wir". Gewerkschaftspolitik für ein anderes Europa, Münster: Westfälisches Dampfboot

Urban, H.-J. 2009. „Gewerkschaftliche Revitalisierung in einem neoliberalen und postdemokratischen Europa?“ in Scholz, Dieter; Schmidt-Hullmann, Frank; Karrass, Anne; Martens, Helmut; Paust-Lassen, Pia; Pieper, Wolfgang; Wolf, Frieder Otto (Eds): "Europa sind wir". Gewerkschaftspolitik für ein anderes Europa, Münster: Westfälisches Dampfboot

Waddington, J. & R. Hoffmann 2003. Trade Unions in Europe: Reform, Organisation and

Restructuring in D. Foster & P. Scott (eds.) Trade Unions in Europe: Meeting the Challenge, Brussels: Peter Lang