A dynamic and diverse research agenda

- different **channels of labour mobility** in the enlarged EU => different regulatory regimes
  - migration
  - posting
  - self-employment (and bogus self-employment)

- broad understanding of **worker protection**:
  - **employment regulations** on wage and non-wage issues => ETUI’s Economic, Employment and Social Policies Unit
  - **OSH standards** => ETUI’s Working Conditions, Health and Safety Unit
Intra-EU labour migration at times of the crisis: does it contribute to better labour allocation in Europe?
Project Manager: Béla Galgóczi

Goals
- to monitor and analyse trends in East-West intra-EU labour mobility during the crisis (employment/ unemployment patterns; sectoral distribution and its changes; skills/occupation match)
- focus on nationals and EU10 citizens in EU15

Findings
- EU10 labour as a labour market buffer; higher employment rates, but more affected by the crisis than nationals
- sectoral concentration of EU10 employment
- high and enduring overqualification of EU10 labour

=> free movement beneficial, but the main challenges are the underutilisation of human resources and abuse/ legal loopholes
Intra-EU labour migration at times of the crisis: does it contribute to better labour allocation in Europe?

Project Manager: Béla Galgóczi

- Outputs
Goals
- to **conceptualise** social dumping **and identify mechanisms** behind it
- focus on 1) intra-EU **migration** and employee **posting**; 2) **manufacturing** sectors; 3) national and EU-level **policy** measures

Findings
- **social dumping** defined as the practice of **undermining or evading existing social regulations**, undertaken by self-interested market participants **with the aim of gaining a competitive advantage**
- **varieties of normative/regulatory systems** => **varieties of social dumping**
  BUT **common mechanism** behind SD practices
Social dumping in the enlarged EU: concepts, challenges and policy options
Project Manager: Magdalena Bernaciak

- dispelling misconceptions about social dumping
  - not only about EU eastern enlargement, migration or employee posting
  - not only low-wage countries are involved
  - not necessarily a cross-border phenomenon

- social dumping practices in posting (Lille and Berntsen, 2015)
  - regulatory evasion: outright violation of social regulations
  - regulatory arbitrage: strategising between different regulatory systems
  - regulatory conformance: conforming to the formal norms but manipulating them for cost advantage
Social dumping in the enlarged EU: concepts, challenges and policy options
Project Manager: Magdalena Bernaciak

Goals

- to analyse the **spread of outsourcing**, its **impact on working conditions** and union **organising strategies** in outsourcing-prone areas

- Findings related to posting
- subcontracting to transnational service providers often used to **contest host-country regulations** and exploit differences btw regulatory systems
- cross-border law **enforcement difficult**
- organising posted workers key role of: union **accessibility, pro-active approach, trust and coalition-building** (Danaj and Sippola, 2015)

BUT **hypermobility** of posted workers ⇒ **transnational** forms of **organising** needed
Company decision making across borders: the outsourcing challenge
Project Manager: Jan Drahokoupil

- Outputs


Upcoming project
Posting in the EU: an interdisciplinary study
Project Managers: Magdalena Bernaciak and Zane Rasnača

- analysis of posting-related case law in 10 EU member states; focus on cases brought by workers, companies and trade unions

- project goals:
  - to map out problems that emerge in the application of the posting regulations for workers and posting companies in different political economic/industrial relations settings
  - bottom up approach => formulation of policy/regulatory recommendations

- time frame: April 2017- September 2018
Thank you very much for your attention!

Comments and questions welcome!

Publications available at:
www.etui.org
SCOPE OF ACTIVITIES

- EU policies, EU legislation
- Prevention systems
- Workers representation in H&S
- Work organisation / precarious work
- Psychosocial risks - stress, violence
- MSD
- Chemicals, asbestos, nanotechnologies
- Work equipment safety / CEN
- Enlargement
- Information: Publications - HESA Mail - HESA Newsletter
- Knowledge transfer / workshops
- Coordination / EU tripartite bodies
- Expert input / ETUC
- Website

HESA: ETUI health and safety, working condition unit

etui.org
OSH in the EU: Single market and Social Europe

Art. 100a 95
Establishment and functioning of the internal market
Directives are binding

Directives
Standardisation
Machinery directive

Standardisation

Transposition and implementation into national law

Art. 118a 137
Improvement of the working environment
Directives lay down minimum standards

Directives
Recommendations
Framework directive

Individual directives

Single European Act (1987)
EVALUATION OF THE PRACTICAL IMPLEMENTATION OF THE EU OCCUPATIONAL SAFETY AND HEALTH (OSH) DIRECTIVES IN EU MEMBER STATES

MAIN REPORT

Legislative Framework

Using of the work equipment

2009/104/EEC Work Equipment

89/391/EEC – Framework Directive on the introduction of measures to encourage improvements in the safety and health of workers at work

Specific activities

90/269/EEC Manual Handling of Loads

90/270/EEC Display Screen Equipment

92/91/EEC Drilling Workplace

89/654/EEC Workplace

92/57/EEC Temporary/Mobile Construction Sites

92/58/EEC Safety and/or Health Signs

92/104/EEC Surface and Underground Mineral-extracting Industries

93/103/EC Fishing Vessel

92/29/EEC Medical treatment on board vessels

99/92/EC Explosive Atmospheres

Specific group of workers

92/85/EEC Pregnant and breastfeeding workers and worker who have recently given birth

91/383/EEC Temporary workers

94/33/EC Young workers

Personal protection

89/656/EEC Personal Protective Equipment

Exposure to agents

98/24/EC Chemical agents

2000/54/EC Biological agents + ionizing radiation

2002/44/EC Vibrations

2003/10/EC Noise

2004/37/EC Carcinogens and mutagens

2004/40/EC Electromagnetic fields

2006/25/EC Artificial optical radiation

2009/148/EC Asbestos

2000/39/EC Indicative occupational exposure limit values

etui.
OSH in the EU: The EU OSH machinery

- Policies & strategies
- Legislation: regulations and directives
- Standards
- Principles, recommandations
- Institutions & agencies (tripartite)
- Social dialogue (EFAs, SDCs)
- Guidelines, practical instructions (non-leg)
- Funding, projects

National OHS policy, Transposition & Implementation

EU Social Policy:
More and better quality jobs. A safe and healthy working environment is an essential element of the quality of work.

EU Action in OHS:
Has its legal bases in Article 137 of the EU Treaty.
Social OSH legislation & posting of workers directive

Article 3

Terms and conditions of employment

1. Member States shall ensure that, whatever the law applicable to the employment relationship, the undertakings referred to in Article 1 (1) guarantee workers posted to their territory the terms and conditions of employment covering the following matters which, in the Member State where the work is carried out, are laid down: by law, regulation or administrative provision, and/or by collective agreements ...

(e) health, safety and hygiene at work;

89/391/EEC - Framework Directive
on the introduction of measures to encourage improvements in the safety and health of workers at work

Using of the work equipment
2009/104/EC
Work Equipment

Specific activities
90/369/EEC
Manual Handling of Loads
90/270/EEC
Display Screen Equipments
92/91/EEC
Drilling

Specific group of workers
91/383/EEC
Temporary workers
94/33/EC
Young workers

Personal protection
89/656/EEC
Personal Protective Equipment

Workplace
89/654/EEC
Workplace
92/57/EEC
Temporary/Mobile Construction Sites
92/58/EEC
Safety and/or Health Signs
92/104/EEC
Surface and Underground Mineral-extracting Industries
93/103/EC
Fishing Vessel
92/29/EEC
Medical treatment on board vessels
99/92/EC
Explosive Atmospheres

Exposure to agents
98/24/EC
Chemical agents
2000/54/EC
Biological agents + Ionizing radiation
2002/44/EC
Vibrations
2003/10/EC
Noise
2004/37/EC
Carcinogens and mutagens
2004/40/EC
Electromagnetic fields
2006/25/EC
Artificial optical radiation
2009/148/EC
Asbestos
Labour mobility and OSH: common aspects

The common workers are exposed to a different level of risk depending on

- Labour market / relations
- Country / prevention culture
- Sector / Job
- Age, gender, skills
- Dangerous, demanding and dirty jobs
- Less prevention / info / equipment
- Longer working time / no extra pay
- Higher job insecurity
- Low wages / must pay for services
- Often agency work with less training
- Multiposting / no employer / no advice
- Changing circumstances / violating rules
- Less knowledge on local environment
- Language barriers and poorer social life
- Poor housing, recovering between shifts

Vulnerability
Inequality
Labour mobility and OSH: specific aspects

The mobile workers are exposed to a higher risk depending on

- Labour market / relations
- Country / prevention culture
- Sector / Job
- Age, gender, skills
- Dangerous, demanding and dirty jobs
- Less prevention / info / equipment
- Longer working time / no extra pay
- Higher job insecurity
- Low wages / must pay for services
- Often agency work with less training
- Multiposting / no employer / no advice
- Changing circumstances / violating rules
- Less knowledge on local environment
- Language barriers and poorer social life
- Poor housing, recovering between shifts

Definition of social dumping (NO)

It is considered social dumping when foreign employees working in Norway receive substantially lower wages and worse working conditions than Norwegian workers.

In other word, the term is not limited to receiving lower wages for the same work.

It is also considered social dumping if foreign employees are given substantially worse working conditions in general, i.e. more straining working hours, lack of safety training, lack of safety precautions during work etc.

Arbeidstilsynet, 2011
Hidden Face of Migration
Double Standards at the Workplaces

PART I Development of migration influx in Europe
Background to the economic migration in Europe
How the EU deals with migration
Return Directive
The ETUC reaction to the EU approach

PART II Migration within the framework of H&S at work
Issues arising from migrants' vulnerability
Racism and xenophobia make matters worse
Trade union questionnaire to establish a clear picture of the real situation

PART III Insufficient statistical data
Collecting data on accidents of migrant workers in the EU
Overview of statistics

PART IV Organizing the migrants
Migrants are often the least protected
Examples of trade union initiatives
Role of government and social partners

PART V Summary
An alarming situation that needs to be tackled immediately
Call for action

Example of HESA project
Enforcement
The watch dog has to take action!

The Issues
- Who is a responsible authority
- Particularly unsafe work of MW
- Inspections where MW are employed
- Working conditions and contracts
- LI cannot replace role of police
- Loss of confidence of workers

Solutions
- Cooperation agreements
- Joint inspections
- More time for such inspections
- Promoting migrant H&S Reps
- Regional H&S Reps
- TU identifying bad employers

Examples of Good Practice
DK - TU support LI by monitoring
NO - Strengthening of power of LI
NO - Directorate of Immigration web
UK - HSE and TUC websites
CZ - Cooperation agreement
Example from practise
Norway: coll. agreements, regulations, supervision

- OHS information in workers own language, and sometimes written
- Minimum wages and other benefits in construction, wharves and farming
- A control duty for contractors from 2010, to inform subcontractors and entrepreneurs in these sectors of the minimum wages etc.
- Joint and several liability of contractor
- Identity cards for all working at construction sites since 2007.
- A mandatory registration of labour hire firms to AT(LI), from 2009
- Posted workers may be given their home countries' wages etc. thus except in construction, wharves and farming, where collective agreements apply
- Supervision of housing situations, enforcing minimum standards
- Implementing SD-policies through information and supervision
Example from practice

The Swedish RSRs – Social partners project

- In small firms the workers face serious risks.
- Regional safety representatives (RSR) help to improve OHS in the large majority of SEs in Sweden.
- A visit once in a couple of years is still many times more frequent than visits by labour inspectors or occupational health services.
- RSRs by far the most important actor to provide small firms with competent advice on H&S through engaging owners-managers in a dialogue on work hazards (Frick and Walters, 1998).
- Why does it work? The Swedish model of co-operation between SPs.
- A globalized flexible economy and labour market with less secure jobs.
- An important difference to H&S in small firms is a Swedish Success that is threatened by political and labour market changes.
Charter the challenges of modern working life, i.e. trends and new forms of work in Sweden.

Analyse and assess how existing regulations of OHS responsibility are adequate in this new working life.

Look into RSRs access and other rights, and draft new regulations for what changes might be needed (i.e. broader but not unlimited rights of entry).

A chance for a better prevention in OHS for the posted workers?
Labour mobility and worker protection in the EU

Thank you for your attention!

Magdalena Bernaciak
Viktor Kempa
European Trade Union Institute (ETUI)