

Labour mobility and worker protection in the EU

Overview of ETUI research agenda

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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

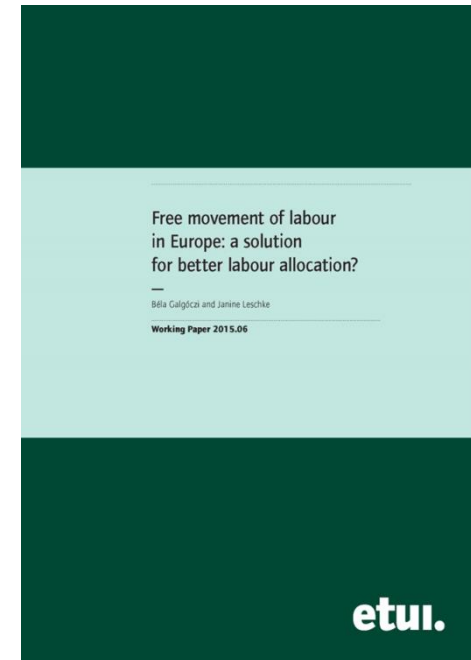
Findings

- **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



Social dumping in the enlarged EU: concepts, challenges and policy options

Project Manager: Magdalena Bernaciak

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

Bernaciak, M. (2015) (ed.) *Market Expansion and Social Dumping in Europe*. London: Routledge.

Berntsen, L. and Lillie, N. (2015) 'Social dumping at work: uses and abuses of the posted work framework in the EU'. ETUI Policy Brief 7/2015.

Bernaciak, M. (2014) 'Social dumping and EU integration process' ETUI Working paper 2014.06.

Cremers, J. (2014) 'Letter-box companies and abuse of the posting rules: how the primacy of economic freedoms and weak enforcement give rise to social dumping'. ETUI Policy Brief 5/2014.

Krings, T. (2014) 'Varieties of social dumping in an open labour market: the Irish experience of mass immigration and the regulation of employment standards'. ETUI Policy Brief 6/2014.

Company decision making across borders: the outsourcing challenge

Project Manager: Jan Drahokoupil

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

Drahokoupil, J. (2015) (ed.) The outsourcing challenge.

Organizing workers across fragmented production networks. Brussels: ETUI.

Danaj, S. and Sippola, M. (2015) 'Organising hyper-mobile transnational construction workers'. ETUI Policy Brief 11/2015.



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



HESA: ETUI health and safety, working condition unit

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

networking

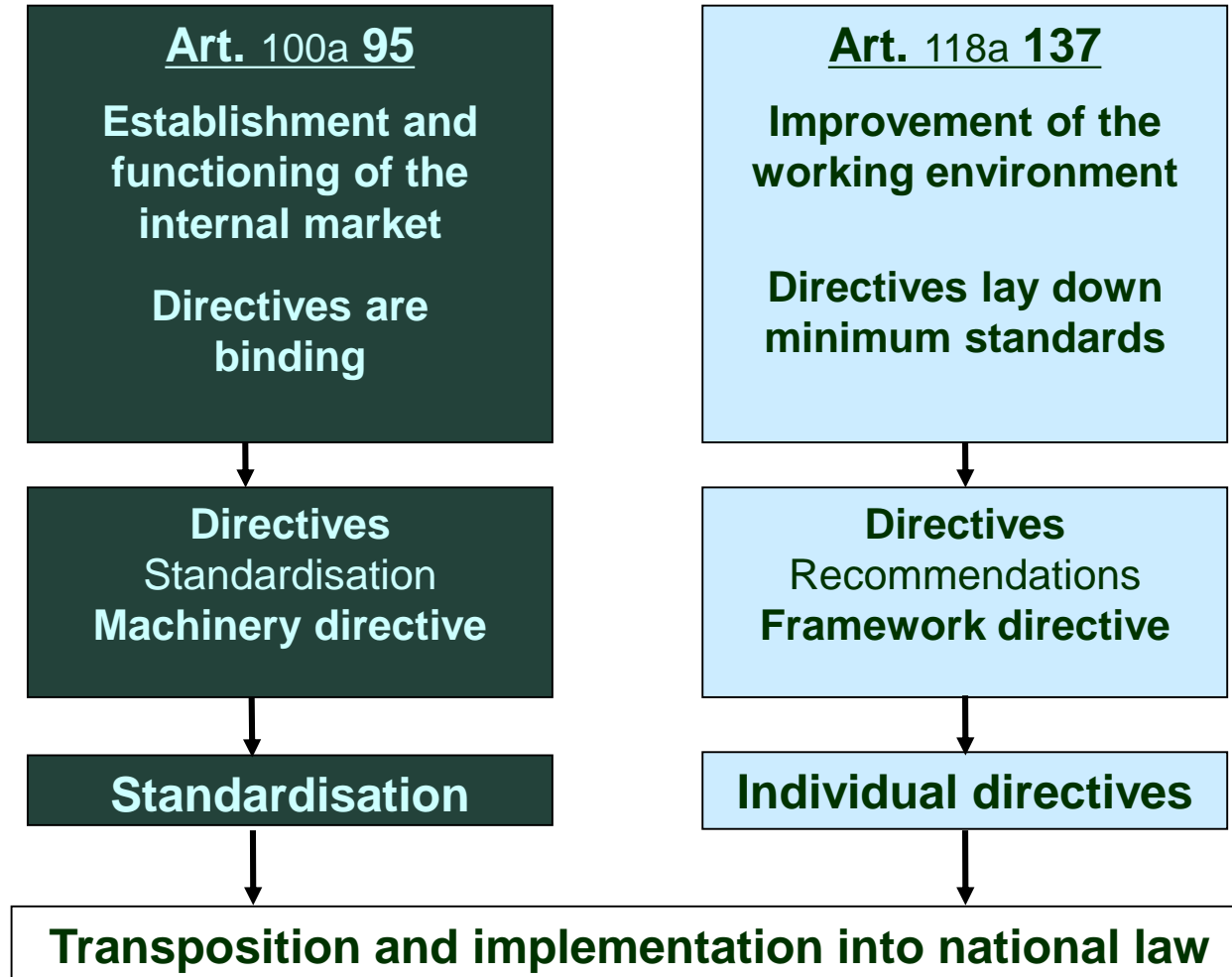


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OSH in the EU: Single market and Social Europe

Single European Act (1987)



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

MAIN REPORT

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OSH in the EU: The EU OSH machinery

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



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.

National OHS policy, Transposition & Implementation

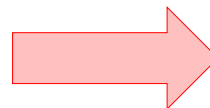
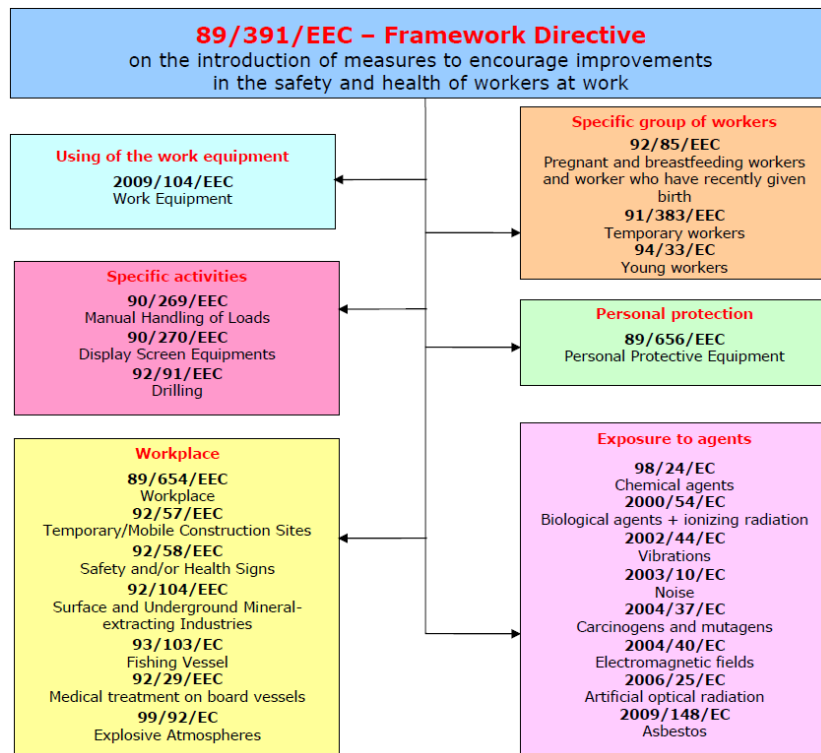
Social OSH legislation & posting of workers directive

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;



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

Example of HESA project

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

Fact sheet 15

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 OF FACT SHEET

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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

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

A new public inquiry – a new role for RSRs?

- 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?

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Thank you for your attention!

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