

# ETUI Policy Brief

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### Organising hyper-mobile transnational construction workers

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## Policy recommendations

As European construction sites attract a growing number of longer-term or temporarily posted migrant workers, unions need to adopt specific strategies in order to organise them. Considering aspects such as the relatively short duration of posted workers' stay and the phenomenon of hyper-mobility, there is a need for even more specific strategic initiatives. We identify the following strategies among union practices in different EU countries: union accessibility, pro-activity, trust-building and cooperation. In order to overcome the country-bound union jurisdiction, we highlight the need, as a fifth strategy, for a transnational organisation for the protection of hyper-mobile transnational workers such as those posted within the EU.

## Introduction

Construction is an industry characterised by highly fragmented labour relations which are the result of long and complex subcontracting chains as well as of the use of agency workers, self-employment and transient employment. Another feature of this industry is the high rates of non-local workers, making it one of the most likely sectors in which to find posted workers. Free movement of labour within the EU, especially after the enlargement to Central and Eastern European (CEE) countries, has led to an increase in the number of labour migrants moving either individually or through a posting contract (Posted Workers Directive 96/71/EC) from CEE countries to EU15 states. In this Policy Brief we discuss the strategies employed by trade unions to organise migrant workers, with a particular focus on hyper-mobile posted workers. The Policy Brief is based on empirical qualitative data collected within the framework of two research projects in Finland, the Netherlands and the United Kingdom.<sup>1</sup>

## Posted workers: challenges to union organising

Several relevant examples of successful migrant worker organising have been identified in the literature (e.g. Adler *et al.* 2014; Eldring *et al.* 2012; Milkman and Wong 2000). Despite their obvious

vulnerability to deportation and limits on their legal rights, migrant workers are by no means impossible to unionise (Milkman and Wong 2000). Indeed, the fact that they are relatively powerless might provide the necessary impetus for organising (Adler *et al.* 2014; Wills 2008). Furthermore, the intersections of class with gender, ethnicity and immigration have repeatedly created an explosive mix for organising campaigns (Wills 2008).

Yet the organisation of posted workers has proved difficult for trade unions in the European Union. Unions indeed face certain challenges in organising this particular type of worker in specific sectors such as construction. The most obvious challenge derives from the transient nature of the construction industry which, combined with the workers' posted status, poses the problem of their hyper-mobility (Berntsen and Lillie 2014). In other words, workers are hired to work in other EU countries for relatively short and often unspecified periods ranging from a few weeks to several months. Time constraints inhibit unions' ability to properly engage with posted workers and stand up for their rights, leaving these workers with little possibility to familiarise themselves and become

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involved with local unions and resulting in their exposure to the threat of social dumping and exploitation.

The difficulty in recruiting the hyper-mobile posted workers is attributable also to a rather limited jurisdiction of the trade unions on the construction sites: elected shop stewards at the subcontractor level are able to represent only workers hired by the same company so that, if posted workers are hired by a different subcontractor, often non-local, it becomes more difficult for local unions to organise them. Furthermore, different workers are represented by different trade-based unions. In the United Kingdom, for example, civil construction workers fall under the purview of different unions and collective agreements than engineering construction workers.

Our research findings in Finland, the Netherlands and the UK show that some posted workers exhibit signs of scepticism and indifference towards union membership due to the expectation that their employment on a given site is likely to be short-lived. In other cases, scepticism towards trade unions can be traced back to previous bad experiences or perceptions of trade unions in the country of origin. Moreover, language barriers remain in all cases an impediment, despite efforts to facilitate communication by means of leaflets translated into the languages spoken by the workers on site, as well as of use of interpreting services.

The managements of the construction companies or sites also play their part in minimising posted workers' involvement with the unions. Worker hyper-mobility is attributable more to the project-based nature of the employment than to workers' own wish to move from one workplace to another; many posted workers are regularly and frequently transferred between sites by their employers. And the management decision to keep workers moving generates an understanding among the latter that their stay will be too short for it to be worth their while joining a local trade union.

Managements may also seek to separate posted workers from the local workforce both on site and in their accommodation. In some cases, workers and unions have reported threats and payoffs for those who try to join unions or report any malpractice to them. As a result, the possibility for direct communication with unions and other workers is limited, entailing a naturally adverse effect on posted workers' efforts to familiarise themselves with organised labour on site and on unions' efforts to mobilise and organise posted workers.

## **Unions' initiatives in organising posted workers**

National and local trade unions have sought to handle the situation by approaching the non-local workforce in a range of different ways, often by the simultaneous pursuit of more than one strategy. In all our case studies in the three countries we noticed two underlying threads to the initiatives undertaken by the different unions. Firstly, unions present themselves as service-providers, to whom posted workers can go to resolve individual grievances. At the same time, there is a strong element of solidarity based on the like-by-like principle, which unions try

to convey to all (migrant) workers on worksites, including posted workers. We have grouped the various organising initiatives of the unions in our case studies into four categories: union accessibility, pro-activity, trust-building and cooperation; these are discussed in more detail below.

## **Union accessibility to increase visibility and availability in the workplace**

Upon arrival, posted workers often have little or no point of contact with local unions and minimum knowledge of the way unions operate. In all cases studied (in Finland, the Netherlands and the UK), workers had limited opportunities to leave the workplace and 'look for' the unions. To facilitate contact and the possibility of recruitment, trade unions observed in our study organised site visits (Finland), established office hours on site (Netherlands), or opened a full-time office and made shop stewards available to workers at all times (UK). Unions also presented themselves as open-door service providers for handling individual grievances. In some cases, they organised on-site meetings, for example in the cafeteria, during lunchtime. Presence on site has helped unions to come into direct contact with workers, and posted workers have the opportunity to meet with union representatives and learn about local unions, which some of these workers eventually decide to join.

However, availability on site does not necessarily always mean accessibility. Typically the union rules stipulate that workers have to be union members in order to be able to make use of unions' services. However, as membership fees have sometimes been considered an impediment to unionisation, especially when it comes to long-term migrants, the Norwegian construction trade union, for example, temporarily suspended the rule requiring that migrant workers become union members prior to being offered assistance (Eldring *et al.* 2012). With removal of the pressure to join and of the financial burden potentially represented by membership fees (especially for those employed in low-paid jobs), migrant workers were believed to become more likely to approach unions. In the long run, this flexibility regarding the membership requirement makes unions more accessible, fosters trust in the union among migrant workers, and makes it subsequently easier for them to decide to join.

Yet the same strategy would be counter-productive in the case of hyper-mobile posted workers because if such workers were to receive union services without prior commitment they might lose the incentive to join the union, especially in the case of posted workers. As a result, unions demand that such workers become union members before assisting them with individual grievances.

## **Pro-activity to increase union success**

Apart from the availability of the union representatives during office hours, shop stewards at various sites covered by our case studies approached posted workers directly, seeking to provide them with information about the unions, the benefits

of membership and how they could receive help in solving their difficulties. The union officials also organised visits to the dormitories or other worker accommodation, put up posters giving information about basic labour or working conditions, and distributed leaflets in various languages. In the UK, for example, shop stewards were able to be involved in the induction process for new workers enabling them to inform newcomers about local trade unions and their on-site presence. In Finland and the Netherlands, union organisers visited posted workers in their living quarters. In all cases, efforts were made to overcome the language barrier by providing interpretation where necessary.

### Trust-building to increase union credibility

Accessibility and availability as well as the unions' ability to provide assistance in tackling individual grievances help them to build up trust among the non-native workforce. All the unionists interviewed during our research underlined the importance of trust. However, the hyper-mobility of the workers does not help, as trust-building requires time. Most of the posted workers, for example, spend a relatively short period at each site. Language barriers constitute a further obstacle to building trust. Employers have been eager to provide interpreters, and in some cases unions have reluctantly accepted the offer, while remaining sceptical of these interpreters' contributions. In other instances, unions have rejected such offers, arguing that they would jeopardise confidentiality and direct communication with the workers. In most cases unions have channelled their efforts to overcome

language barriers towards the recruitment of workers who speak the host-country language and who are respected by the members of the ethnic group in question.

Despite the problem of the workers' hyper-mobility, unions' continuous efforts to gain members among migrant workers might eventually engender trust in the union in question. Such an outcome might require, however, some positive resonance from fellow workers' experiences with local unions. In the Finnish case, for example, a Polish-speaking official of the Metalworkers' union was used as a contact person and the Polish workers on site were naturally more inclined to trust someone who shared their language. Furthermore, the Polish workers had already gained support from the Electrical Workers' Union on a nearby site in a case that turned out to be a victory for the Finnish union and the Polish workers. This success eventually helped to boost the credibility of the union in the eyes of the Polish workers on the site, a pro-union attitude that was further spread by word of mouth. As a result, the union managed to gain a few hundred foreign members on site, most of them Polish. Examples of the trust-building strategy based on members of the ethnic group who spoke the host country's language were found in all cases studied and the unions successfully used this as a strategy in relation to long-term migrants.

Based on both our empirical data and the existing literature, we have compiled a table of the pro-active initiatives embarked upon by trade unions to enhance union accessibility and earn the trust of permanent or posted migrant workers so as to be in a position to unionise them (see Table 1).

Table 1 Union accessibility and pro-activity (and ultimately, trust-building) in migrant organising campaigns in selected countries

Country	Features that enhance union accessibility, pro-activity and trust-building (combining traditional and novel approaches)
Denmark	hiring a Polish-born officer establishing a Polish club hiring five Polish-speaking consultants
Finland	establishing an Estonian-Russian club hiring a Polish-speaking officer
Netherlands	visiting workers' accommodation sites distributing leaflets in various languages
Norway	suspending common (exclusive) membership rules temporarily to allow local unions to gain a foothold in migrant communities
UK	involving for a short period a TUC-seconded <i>Solidarność</i> national organiser hiring non-UK-born shop stewards and organisers enabling senior shop stewards to introduce the trade unions and the collective agreement during the induction days
USA (LA/Southern California)	Using high-profile campaigning (e.g. J for J) as a background involving college-educated organisers and researchers

Note: The data for Finland are based on our own empirical data; the data on Denmark and Norway on Eldring, Fitzgerald and Arnholtz (2012); the UK data partly on the latter source and partially on our own data; the data on the Netherlands on Berntsen and Lillie (2014); and the American examples on Milkman & Wong (2000).

## Cooperation and non-workplace issues to raise awareness and increase leverage

Cooperation is understood as collaborating with other unions that have representation on site (on sites where union membership is based on trades) as well as with stakeholders outside the workplace. Collaboration among unions, community organisations and the media has the potential for joint action against the main contractor and the subcontractors in case of labour standard violation. Power leverage can be gained by simple strength of numbers. What is more, collaboration with media and community organisations provides the unions with the opportunity to raise awareness among local people on labour standard breaches and to put pressure on management to comply with workers' demands. Public exposure through media channels has been an integral and distinctive element of many campaigns (Milkman and Wong 2000; Wills 2008; Lillie and Sippola 2011; Berntsen and Lillie 2014).

Earlier studies show that a multi-stakeholder approach – or community-based organising (Holgate 2015) – offers strong potential for campaign success. Such an approach involves alliance- or coalition-building with the wider community and civil society or community organisations, and the use of highly creative tactics to win public support and put pressure on employers. For example, the East London Communities Organisation (TELCO) used a holistic, class-based approach to finding common society-level ground around issues such as job quality, housing, welfare, immigrant rights and street safety. Organisers of this campaign were able to create grounds for class interests through the lens of community, immigration, race and religion (Wills 2008).

## A pan-European union to increase the sustainability of worker representation across borders

The number of posted workers who have joined national trade unions has remained relatively small despite all the union efforts described above. Even in the more successful instances, membership has been short-lived, as the workers have moved on to the next project, often to another country, thereby interrupting their relationship with the union in the previous country. Although migrants can carry traditions of militancy developed in one place over to new places (Rainnie *et al.* 2009), their continuous cross-border hyper-mobility poses a challenge for spatially-bound organisational practices (see for e.g. Berntsen and Lillie 2014; Lillie and Sippola 2011; Lillie and Greer 2007).

As a possible means of keeping pace with the new labour relations configurations transcending national borders and which limit the field of action of national unions, some scholars (e.g. Rainnie *et al.* 2009; Lillie and Greer 2007) have suggested the establishment of a transnational union that would represent workers across national borders within the European Union. We draw upon this idea as an additional fifth strategy from which unions could benefit in unionising EU migrant workers. A pan-European union would contribute to the sustainability of the unions' efforts in organising hyper-mobile posted workers.

The idea of a transnational union has already been tested with varying results. For example, the European Migrant Workers' Union (EMWU), founded in 2004 under the auspices of IG Bau in Germany, was set up to represent CEE workers. Despite its transnational mission, the project was unsuccessful because of the participating unions' insistence on defending existing jurisdictions, the slowness of inter-union cooperation, and its own inability to develop into an independent organisation. Another multilateral project, the European Construction Mobility Information Network (ECMIN), established in 2009 and coordinated by the European Federation of Building and Woodworkers (EFBWW), has proved more sustainable. Its mandate, however, is limited to the provision of information on working conditions. Nevertheless, the initiative has been applauded as a way to build national trade union support for a transnational approach (Greer *et al.* 2011).

More than ten years have passed since the establishment of the EMWU, and that time might have helped to change the attitudes of national unions and make them more open to transnational organising. We perceive throughout our case studies a strong need for more sustainable action on the part of unions, which, as we argue, would be possible only under a transnational umbrella organisation. To increase membership and achieve longer-term commitment of posted workers to the trade union movement requires joint coordination and collaboration by national unions across borders; a pan-European union organisation combined with local activism would help to protect the rights of a hyper-mobile workforce.

## Conclusion

The first important lesson to be drawn from recent research on migrant workers and trade unions is that the unions can no longer neglect the protection of long-term or temporary posted migrant workers at European construction sites. The overall decline in union membership and increase in precarious employment, with work often outsourced to companies relying on migrant labour, make the unionising of longer-term and posted workers important for union revitalisation. The hyper-mobility of many migrant workers, however, makes a case for strategies and initiatives that take into account their relatively short-term service-based employment situation. Bundling strategies and incorporating innovative and context-specific initiatives increase the chances of success.

The various approaches so far used by national unions to recruit migrant workers provide us with 'tools' that trade unions can use in other national contexts as well as at the transnational level. The 'tools' we would suggest for a benchmarking exercise across European borders are crystallised in four keywords: accessibility, pro-activity, trust-building and cooperation. Workplace accessibility makes unions more visible and available for migrant workers; pro-activity is important for increasing unions' success rates; trust-building adds to the credibility of the unions; and cooperation with other stakeholders enhances unions' power of leverage vis-à-vis employers. While all of these strategies are useful to unions in seeking to overcome the challenge of country-bound union jurisdiction, we also highlight the need for a fifth strategy

that embraces a transnational union organisation which would be able to protect hyper-mobile transnational workers such as those posted within the EU. This proposed strategy has the potential for more sustainable relationships between European hyper-mobile migrant workers and trade unions in the different EU member states.

## Further reading

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