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EU labour mobility and the circumvention of rules: how ethnography can help to uncover the dynamics of Europeanization

One of the objectives of the European Union is the construction of a pan-European labour market. EU institutions, most importantly the European Commission and The European Court of Justice (ECJ) have been the driver of a European labour market. They created a space in which labour mobility often takes the form of temporary movements regulated via the EU framework of services or labour mobility. A firm in one member state can 'post workers' to another member state and thereby circumvent specific national labour relations' systems. Most of the research on the Europeanisation of labour markets looks at the encounter between EU and national institutions or national political economic systems. The literature relies on data from elite interviews and argues that the EU regime for labour mobility is being mediated by national industrial relation systems (see for example Menz, 2005; Eichhorst, 2000). I will contend that this story is incomplete. I seek to extend this research by looking at what happens when various actors in specific contexts appropriate the EU regulatory context of labour and services. The policy arenas of the EU, EU member states, and ground level policy implementation are intertwined, and must be understood together.

I focus on the construction industry. This is not the only industry with a pan-European labour market, but in construction the transnational labour supply system is at its most developed (Menz 2005; Lillie and Greer 2007). Because of the way construction is organized, construction sites are where the dynamics affecting posted workers – relations between main and sub-contractors, workers, lay representatives and unions – come together. I focus on migrant construction workers that temporarily reside for their work in a host country. These workers find themselves in a dependent employer relationship as their migration is linked to the employer. I refer to these workers as posted workers, because posted workers are workers that are send by their employer to work in another country.

From 2010- 2013 I conducted participant observation of large construction sites, accommodation sites where posted workers live and participant action research of trade union organizing techniques in the German construction sector. In addition to in-depth interviews and group discussion with union representatives, works councillors, management and labour inspectorates I conducted group discussions and in-depth interviews with posted workers. The ethnographic methods I used seek to find the meaning in the everyday activities of the interviewee, by asking them to describe their situation. The interviews were conducted in various languages, and interpreters were used when necessary (which was often the case for worker interviews). Many interviews were recorded with the permission of the interviewees; others were conducted with the interviewer taking notes. The interviews were stored and coded using MaxQDA qualitative data analysis software. All interviews are anonymised in order to protect the informants.

This data has been collected in connection to several large construction sites in Germany. The cases give insight into a microcosm of power relations between employer practices and worker's rights in a pan-European labour market. The ethnographic research shows how different legal rules and institutional frames of reference create an ambiguous transnational legal space for workers and other actors involved in the posting relationship. Even though a minimum rights framework exists for posted workers as implemented at the national level, the way it is set up makes the application of certain posted workers' rights inherently difficult in the everyday working lives.