Representing Migrant Workers in the Construction Sector in the Context of European Enlargement: The Irish Case

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Objectives, Methodology and Limitations

- Asses the coping mechanisms of trade unions in the context of EU enlargements
- ‘Case within a case’ – instructive example of the effects of European integration on construction
- Document analysis (official and media) and semi-structured interviews
- Limitations – still awaiting interviews
Presentation Layout

• Overview of the construction sector
  – Drivers of change & industrial relations systems
• EU enlargement of 2004
  – Implications for construction and trade unions
• The Laval un Partneri case
• Moneypoint – ZRE Zakowice
• Conclusions, comments/questions
Construction: Drivers of change

- Market deregulation and economic liberalisation
- Concentrate on core competencies, emphasis on ‘structural flexibility’ (Dainty et al. 2007)
- Increase in sub-contracting and self-employment (Drucker et al. 2000)
- Atypical work practices more prevalent (McKenzie et al. 2010)
Example of chains of contractors in subcontracting processes

Source: Eurofound (2008)
Construction: Drivers of change

- Evidence to suggest that further down the subcontracting chain the industry is less regulated and informal employment practices are more common (Bobek et al., 2008). It is in these rather deregulated segments of the construction sector where migrant employment tends to be more widespread (Flynn, 2006).

- ‘As construction projects become increasingly international, as well as interdisciplinary, the risks and costs of disharmonious working becomes even larger’ (Tijhuis et al 2011: 20)
Enlarging the European Union

[Map of Europe showing countries and regions indicated by colors and labels]
Hourly wage costs in the European construction sector in 2000 (€s)
Hourly wage costs in the European construction sector in 2000 (€s)
<table>
<thead>
<tr>
<th>Country</th>
<th>Stance in 2004</th>
<th>Extra Features</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ireland</td>
<td>Relaxed all barriers</td>
<td></td>
</tr>
<tr>
<td>Sweden</td>
<td>Relaxed all barriers</td>
<td></td>
</tr>
<tr>
<td>UK</td>
<td>Relaxed all barriers</td>
<td>Maintains a worker registration system for monitoring purposes</td>
</tr>
<tr>
<td>Denmark</td>
<td>Retained all barriers</td>
<td>In 2009 all barriers were gradually removed</td>
</tr>
<tr>
<td>France</td>
<td>Retained all barriers</td>
<td>March 2006, a ‘step-by-step’ removal of barriers, targeting specific sectors</td>
</tr>
<tr>
<td>Finland</td>
<td>Retained all barriers</td>
<td>Opened completely from May 2006</td>
</tr>
<tr>
<td>Portugal</td>
<td>Retained all barriers</td>
<td>Opened completely from May 2006</td>
</tr>
<tr>
<td>Spain</td>
<td>Retained all barriers</td>
<td>Opened completely from May 2006</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>Retained all barriers</td>
<td>Unclear</td>
</tr>
<tr>
<td>Greece</td>
<td>Retained all barriers</td>
<td>Opened completely from May 2006</td>
</tr>
<tr>
<td>Italy</td>
<td>Retained all barriers</td>
<td>Initially granted 75,000 work permits per year. Announced in March 2006, this is to be raised to 170,000</td>
</tr>
<tr>
<td>Netherlands</td>
<td>Retained all barriers</td>
<td>Likely to retain barriers in the short-term, though unclear for the medium term</td>
</tr>
<tr>
<td>Belgium</td>
<td>Retained all barriers</td>
<td>Maintained all barriers until 2009</td>
</tr>
<tr>
<td>Austria</td>
<td>Retained all barriers</td>
<td>Maintained all barriers for the maximum period</td>
</tr>
<tr>
<td>Germany</td>
<td>Retained all barriers</td>
<td>Maintained all barriers for the maximum period</td>
</tr>
</tbody>
</table>
Free movement of labour and services

• Individual migrant worker
  – Free movement of labour
  – Domestic employment agency

• Self-employed migrant
  – Freedom of establishment

• Posted worker
  – Freedom to provide services
  – Transnational employment agency
Unions’ Trilemma
(Penninx & Roosbland, 2000)

1. Resist inward migration
   – Lobbying the government
   – Most Member States – Transition Agreements

2. Incorporate migrant workers
   – Treated as native workers
   – Treated as a group with different needs

3. Reflexive comraderie
   – Compatibility between demands of native and migrant workers.
Enlargement: Implications for construction

• Set in train new migratory patterns
  – Levels far exceeded expectations
  – Introduced notion of ‘Polish plumber,’ ‘flexploitation’ and hyper-mobility
  – ‘deepening through widening’

• ‘Deeper debates on the conceptual and methodological implications for migration studies and for the understanding of the European labour market are only still beginning’ (Meardi 2009: 102).
Laval un Partneri

www.byggnads.se
Consequences for unions

• According to ETUC *Laval* creates ‘intolerable uncertainty for unions involved in virtually any case of industrial action over migration and free movement, a naturally growing area for disputes as Europe integrates its labour and services market.’

• Reintroduction of Taff Vale principle (Hepple 2010)
### Employment & nationality in the Construction industry 2004-05

<table>
<thead>
<tr>
<th></th>
<th>2004 (000s)</th>
<th>2005 (000s)</th>
<th>2006 (000s)</th>
<th>2007 (000s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Irish nationals</td>
<td>205.5</td>
<td>223.5</td>
<td>233.3</td>
<td>234.6</td>
</tr>
<tr>
<td>Non-Irish nationals</td>
<td>15.7</td>
<td>29.1</td>
<td>47.1</td>
<td>48.6</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>5.5</td>
<td>7.1</td>
<td>7.9</td>
<td>6.3</td>
</tr>
<tr>
<td>EU 15 excl UK</td>
<td>2.4</td>
<td>1.0</td>
<td>1.3</td>
<td>1.4</td>
</tr>
<tr>
<td>10 NMS</td>
<td>4.9</td>
<td>16.2</td>
<td>29.9</td>
<td>35.7</td>
</tr>
<tr>
<td>Other</td>
<td>2.8</td>
<td>4.8</td>
<td>8.1</td>
<td>5.1</td>
</tr>
<tr>
<td><strong>Total persons in</strong></td>
<td><strong>221.1</strong></td>
<td><strong>252.6</strong></td>
<td><strong>280.4</strong></td>
<td><strong>283.2</strong></td>
</tr>
<tr>
<td><strong>construction</strong></td>
<td><strong>7.1%</strong></td>
<td><strong>11.52</strong></td>
<td><strong>16.8</strong></td>
<td><strong>17.16</strong></td>
</tr>
</tbody>
</table>

(Non-nationals as % of total)

Free movement and Ireland: TEEU

• Trade unions were caught on the ‘back foot’ (Beggs 2006; Krings 2009)
• 2007 ICTU initiative – spearheaded by SIPTU & TEEU
• Recruitment of Polish and Lithuanian organisers and activists
• Raise awareness – publications in different languages
• Raise problems faced by migrant workers
Industrial Relations in Ireland

• Sector is governed by Registered Employment Agreement (REA) – following a decade of upheaval (McCarthy 1973)

• *Ergo omnes* - legally binding.

• ‘Safe Pass’

• General contractor should outsource work to approved subcontractors.

• Despite economic crisis and REAs being challenged, employers’ association (CIF) remain supportive.
Moneypoint Environmental Retrofit Project

(€368,000,000)
Subcontracting Arrangement
• 200 Polish workers were receiving €5.20 per hour
• Workers were not paid for a number of weeks
• Lentjes ended the contract with ZRE Katowice
• TEEU balloted its members on strike action – voted in favour
• Unions demanded workers be paid wages owed and additional benefits and re-employed
• Other trade unions agreed to support a strike
ZRE KATOWICE (IRELAND) CONSTRUCTION LIMITED
(In Voluntary Liquidation)

AND IN THE MATTER OF

THE COMPANIES ACTS 1963-2005

At an Extraordinary General Meeting of the Members of the above Company duly convened and held at The Prince of Wales Hotel, Athlone, Co. Westmeath, on 22 November, 2007, the following Resolution was passed:

1. “That it has been proved to the satisfaction of the Company that this Company cannot by reason of its liabilities continue in business, and that it be wound up voluntarily.

2. That Declan McDonald, Foster McAteer, 32 Upper Mount St., Dublin 2 be appointed Liquidator for the purpose of said winding up.”

3. “That the Liquidator’s remuneration shall be fixed by reference to the time given by him as a responsible Insolvency Practitioner, and his staff, in attending to matters arising in the winding up and he shall be authorised to pay such time costs and expenses on account of his remuneration and expenses pending the conclusion of the liquidation.”

Signed: DECLAN McDONALD.

Date: Thursday, 22 November, 2007.
• Lentjes is to provide an ex-gratia payment of €600,000
• The remainder will come from the State Insolvency Fund
• Letter from Chairman promising flights home and employment in Poland
• Union members voted to accept the deal
Conclusion

• Subcontracting, agency work and posting workers set to continue – impact on the employment relations

• Solidarity in good times – same good will in recessionary times (Lindsey oil refinery, 2009)

• Trade unions play an important role is ensuring migrant workers are not exploited and articulating their concerns.
• Thank-you for listening and enjoy the conference!
• Questions or comments welcome