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Working Paper

Workers united? How trade union organizations at the European level form political positions on the freedom of services

MPIfG Discussion Paper, No. 16/16

Provided in Cooperation with:

Max Planck Institute for the Study of Societies (MPIfG), Cologne

Suggested Citation: Seeliger, Martin; Wagner, Ines (2016) : Workers united? How trade union organizations at the European level form political positions on the freedom of services, MPIfG Discussion Paper, No. 16/16, Max Planck Institute for the Study of Societies, Cologne

This Version is available at:

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MPIfG Discussion Paper 16/16

Workers United?

How Trade Union Organizations at the European Level
Form Political Positions on the Freedom of Services

Martin Seeliger and Ines Wagner



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MPIfG Discussion Paper 16/16
Max-Planck-Institut für Gesellschaftsforschung, Köln
Max Planck Institute for the Study of Societies, Cologne
December 2016

MPIfG Discussion Paper
ISSN 0944-2073 (Print)
ISSN 1864-4325 (Internet)

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Abstract

In the course of European integration, national trade unions in Europe founded the umbrella organization of the European Trade Union Confederation in order to establish common political positions. Drawing on the case of supranational politics of services regulation, this study shows how cleavages within the EU's multi-level system of labor regulation make the development of such positions a difficult task. Whereas most research on cleavages at the supranational level focuses either on party groups or national origin, findings indicate a vertical line of conflict within the multi-level system of European trade unionism.

Keywords: posting of workers, European trade unionism, integrationism, European Trade Union Confederation

Zusammenfassung

Im Zuge der europäischen Integration haben nationale Gewerkschaften in Europa die Dachorganisation des Europäischen Gewerkschaftsbundes gegründet, um gemeinsame politische Positionen festzulegen. Das Papier untersucht auf Grundlage der supranationalen Politik der Dienstleistungsfreiheit, wie Spaltungen innerhalb des mehrstufigen Regulierungssystems der EU die Entwicklung einer gemeinsamen Position zu einer schwierigen Aufgabe machen. Während sich die meisten Studien zu Spaltungen auf supranationaler Ebene entweder auf Parteigruppen oder auf Länderkonflikte konzentrieren, deuten die Befunde dieses Papiers auf eine vertikale Konfliktlinie innerhalb des Mehrebenensystems des europäischen Gewerkschaftsbundes hin.

Schlagwörter: Arbeitnehmerentsendung, europäische Gewerkschaften, Integrationismus, europäischer Gewerkschaftsbund

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Workers United? How Trade Union Organizations at the European Level Form Political Positions on the Freedom of Services

1 Introduction

European integration poses new challenges to interest groups and institutions already firmly established in national systems of representation. It equally provides a new institutional setting for the representation of interests. While trade unions have influenced the supranational political process in certain areas, they have encountered difficulties in adapting to changes brought about by Europeanization. The principal effort to extend their national bargaining leverage to the European arena was the establishment of an umbrella organization – the European Trade Union Confederation (ETUC). However, because of its diversity – it is a loose confederation of 90 members – it often takes the position of the “lowest common denominator” when representing union interests in the EU (Platzer 1997). Moreover, national differences have limited the unions’ ability to form an effective transnational organization.

For example, the ETUC is, on occasion, split between trade union interests in higher wage countries, which push for high uniform wages and working standards across countries, and those in lower wage countries, which resist higher uniform wages because they perceive this to undermine their competitive advantage (Lange 1992). After all, despite its internationalist ideology, the history of organized labor is profoundly linked to the nation-state (Erne 2008: 3). However, in the recent case of the lobbying process about the Enforcement Directive (ED) of the Posting of Workers Directive (2014/67/EU), a different cleavage developed. In this paper we examine the cleavage line that emerged between the sectoral and inter-professional level rather than along national lines. We discuss the formation of political position making within the European trade union movement and ask to what extent this process has influenced certain policy outcomes. By focusing on the backgrounds of actors within the multi-level system of trade union representation within the EU, we identify a horizontal cleavage line between the sectoral and the inter-professional levels.

Based on in-depth qualitative interviews with representatives of the ETUC and various European trade union federations involved in the lobbying process, we examine to what extent differences within and between the ETUC and the European sectoral federations (most importantly the European Federation of Building and Wood Workers) impede the effective position making of trade unions within the supranational policy making

For very helpful comments, we would like to thank Lea Elsässer, Daragh Golden, Roland Erne, Martin Höpner, and Nick Ziegler.

process. Findings show a cleavage line based on a partial detachment of the political goals of the ETUC staff from the interests of their sectoral member federations. The insufficient outcome in the case of the Enforcement Directive, from the trade unions' perspective, points to resource dependency and elitism as explanatory factors for the emergence of this particular line of cleavage. Previous research found that barriers impeding a common political position emerged along national and ideological lines (Cresspy/Gajewska 2010). This paper highlights the impact of the socialization experiences of European-level representatives as a cause of diverging interests. The focus on key actors as well as on lines of cleavage within trade unions can provide a more diversified picture of splits within supranational politics rather than reducing conflict to either between party groups or national identity.

Among the representatives of the ETUC, legislation at the EU level developed in cooperation with the European Commission provides the ideal framework for labor regulation. This approach, however, is criticized by unionists from the sectoral federations, who highlight the importance of the national legislative arena. By drawing on the political origin of this cleavage, we introduce the concept of a "socialization paradox." In the existing literature, orientation at a supranational instance of the European Union is considered to be a central form of European integration. We can show, however, how in reality integrationist mindsets among trade unionists endanger the internal cohesion of the European trade union movement. On this basis, we detect important implications for labor power in its struggle for a "Social Europe" as European labor clearly has to advance further its political strategies. In what follows, we look more closely at the internal structure of the European trade union movement before we turn to the empirical discussion.

2 European trade union position-making within the European Union

Intermediary organizations and European-level socialization experiences

Research on European trade unionism often employs what Marginsson and Sisson (2004: VI) critically term a "top-down' national systems perspective." While institutional differences in terms of sectors and/or countries shape trade unions' political behavior (cf. Höpner 2013), analyzing processes of interest representation requires a complementary approach. In line with Hall (1993) and Woll (2008), we focus on agency in order to examine the emergence and transformation of political preferences. Action, however, is not carried out by atomized actors, but within contexts (Granovetter 1985). Political preferences develop in the interaction with, and reflection about, policy. Reconstructing the views of the actors involved in this process helps us understand the emergence and transformation of preferences.

From a perspective of interest in trade union politics, the multi-level systems of the European Union (Cini/Borragán 2007) comprise different dimensions, ranging from the local shop floor through the company and sectoral and/or national levels up to the European level. As labors' central political actors, trade unions represent workers' interests within the political system of the EU as "intermediary organizations" (Müller-Jentsch 2009). As Schmitter and Streeck (1999) point out, the political conduct of such organizations oscillates between two competing logics, namely the "logic of influence" and the "logic of membership." While leaders in intermediary organizations may establish and follow their own agenda of what they perceive to be necessary and desirable for the organization (or themselves), these goals do not necessarily need to overlap with (or even be adjacent to) the interests of the organization's regular members (for an application of this typology to the case of ETUC, see Dølvik 1997).

Drawing on Ahrne and Brunsson (2008), we understand European trade union federations as meta-organizations. Meta-organizations are usefully conceptualized as spaces of constant contention: "Conflicts over the balance between the meta-organization and its members tend to be strong because they concern fundamental aspects of all these organizations" (ibid.: 110). There is no rigid hierarchy in European trade union organizations. Decisions between member organizations are made within a flat hierarchy, and internal conflict is resolved using modes of negotiation and persuasion. Formal voting procedures within the member federations tend towards a rather ceremonial character, and agenda setting takes place within the framework of working groups and discussion circles. It is precisely within these microcontexts that persuasion takes place.

In order to analyze the processes of position making, we draw action theoretical insights from Socialization Theory. Here, it is assumed that actors' goals can be shaped and transformed in the course of ongoing interactions, instead of following pre-established ends (Emirbayer/Mische 1998: 967f.; Ansell 2011; Dewey 1960). As Ebbinghaus and Visser (1992) point out, organized labor is structurally disadvantaged both by the particularities of the EU's decision-making machinery (the opportunity structure) and by the specific challenges of internal interest intermediation (the logic of membership) facing the highly diverse associations of European trade unionism. While structural factors are vital in policy making, the existence of common goals depends equally upon the existence of a common identity. The process of socialization as the "process of inducting actors into the norms and rules of a given community" (Checkel 2005: 804) and the way opinions are formed and transformed within this process are significant factors in creating and/or developing such an identity (Woll 2008: 14f.; Coslovsky/Pires/Silbey 2010).¹ Across the multiple dimensions of the EU's political system, such socialization dynamics are profoundly significant (Cini/Borragán 2007). At the core of early

1 It seems, however, remarkable that mobilization from the top across the different levels of the EU's political system requires the willingness and capacity of actors on the lower levels to follow. Within the literature on socialization in international governmental organizations, this argument seems to be widely neglected.

integration theory, Haas (1958: 16) points to the supranational institutions of the EU as providing a new setting for socialization dynamics in which he describes the formation of political positions as

the process whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations and political activities toward a new center, whose institutions possess or demand jurisdiction over the pre-existing national states.

In a study on national representatives in the Council of Europe, Beyers (2005: 925) finds that they “adopt a consistent conception of their role and distinguish between two possible roles, a supranational role and an intergovernmental role.” Similarly, Zürn and Checkel (2005: 1065) identify the context of European institutions as a “most likely case for socialization dynamics,” while Lewis assumes “‘thick’ socializing effects on actors, which go beyond instrumental adaptation and strategic calculation to include the internalization of norms and rules into self-conceptions” (Lewis 2005: 940). How supranational norms are defined varies between each EU institution, but formally all of them have a supranational mission of “working for Europe.” In their daily working routines, officials are exposed simultaneously to national, European, and transnational “fields” (Bigo 2011: 251). EU officials are “multiply embedded” and have to deal with different rules and expectations emanating from these various contexts (Beyers 2005). Accordingly, this literature understands European-level socialization as increasing the cohesion of the EU’s multi-level decision making. By shifting representatives’ subjective feeling of belonging alongside loyalties to the EU’s top layer in Brussels, the political system of the EU is assumed to improve its capacity for cross-level coordination.

More critical examinations of European integration point, in some instances, to the somewhat misguided belief among actors that problems of European integration can only be solved via the increase of political competencies and democratic processes at the European level (Höpner 2015). This is what Streeck (2015: 365) refers to as “misunderstood cosmopolitanism,” in which actors denounce not only borders but “protectionism *tout cours*” and associate “globalization” with the liberation not only of capital, “but of life in general.” Similar tendencies can also be found among European trade union organizations. Instead of focusing on maintaining and developing national regulation measures, European trade unions could be equally expected to identify the European arena as the central locus of regulation (Martin/Ross 2001). Among other things, Gajewska (2009) states, this leads to shared positions between national affiliates through mediation induced by the European Federations. Findings indicate, however, that these dynamics can also take different shapes. Especially in the discussion surrounding the free movement of services, trade unions have struggled but still managed to find a common position.

The European Trade Union Confederation

Founded in 1973, the ETUC consists of 90 national trade union organizations from 39 countries and the ten European industry federations. The main purpose behind the creation of the ETUC was to build a lobbying organization to counter the increasing activity of multinational companies in the European market. Since 1973, the ETUC has gradually established its own organizational identity, both with reference to its member organizations and the European arena. Accordingly, with its coordination role and lobbying engagement with European institutions, the literature shows two principal purposes of the organization (Hyman 2013: 171; Reutter/Rütters 2003; Dolvik 1997).

Due to its heterogeneous membership, “ETUC refers to a broad identity” (Gajewska 2009: 96). This self-understanding of the ETUC is best expressed in this passage from a text released on the occasion of its 40th anniversary:

The 40-year history of the European Trade Union Confederation is the history of a structure that has succeeded in enhancing its representativeness on a European level by overcoming the ideological divides that have characterized the internal trade union movement and by affiliating organizations from across the European continent. (Degryse 2013: 203)

As a “superstructure’ for European cross-national collaboration” (Turner 2005), the ETUC aims “at the construction of a European identity” (Gajewska 2009: 96). This genuine orientation towards European-level policy-making also causes what can be identified as one of the two core challenges of the ETUC – the creation of a common political agenda (Gumbrell-McCormick/Hyman 2013: 169). Weinert (2009: 75ff.) states that such high representativeness is a strength, but also a weakness. He regards internal heterogeneity as one of three features that has determined the ETUC’s development over recent years. First, a joint reference frame gains particular importance against the background of increasing competence allocated at the EU level (mainly induced through the common market and European Monetary Union). Second, while the European regulatory space becomes increasingly important, European trade unions struggle with resource restrictions (such as personnel, money, and logistics). Third, decreasing membership fees also play an important role in the ETUC’s political engagement.

Since the early days of the organization, national members were hesitant to transfer money to the ETUC. In order to gain agency, ETUC officials “had to seek its building materials elsewhere ..., accepting help from European institutional elites that were well-disposed toward labor but that also had their own political agendas” (Martin/Ross 2001: 74). Simultaneously, over time an integrationist tendency unfolds from this resource dependency among ETUC representatives: “In return for these resources, however, the ETUC was drawn into a coalition to advance the initiatives of those supplying them” (ibid.). In a similar vein, Wagner (2013: 193) points out how ETUC trade unionism contributes “to the growing autonomy of a trade union elite, characterized by a specific culture.” As the ETUC engages in a process of professionalization, personnel gradually

distance themselves from the regular member base. Accordingly, Hyman (2005: 19) sees the ETUC as “one of the most reliable interlocutors of the Commission, and one of the most enthusiastic supporters of more extensive European integration.” Moreover, Hyman (2011: 22) critically addresses a softening of political discourse as “Eurospeak”; a “subtle interaction between discourse, ideology and practice.” From this, according to him (*ibid.*: 23), a representation problem arises:

To the extent that Eurospeak has become the working language of the ETUC (and national union representatives active within its structures), their logic of membership is undermined by the fact that they speak a different language from those they seek to represent.

Trade union confederations are not able to represent the interests of all workers, and thus, ultimately worker representation always involves the making of strategic choices (Gumbrell-McCormick/Hyman 2013). What is important in relation to the literature on European integration and position making are the cleavage lines along which trade union leaders act strategically in ways that advance the interests of the majority of union members. The literature on European integration has dealt extensively with the way such political and social conflict is structured at the supranational level (Marks/Steenbergen 2004). While some cleavage lines are reproduced from the national to the supranational level (Wessels 2004), it has also been argued that new cleavage lines emerge in the EU integration process (Grande 2006). Various studies identify a territorial cleavage based on nation state interests or a left–right divide, where national interests barely play a role but interests develop according to party politics (Hix et al. 2006, 2007). Using this categorization, in the policy process labor would likely adopt a strategy according to either a territorial or an ideological cleavage (Streeck 1998). On the one hand, a territorial dimension of political conflict relates to a split in interest groups between “old” and “new” Member States following the Eastern Enlargements within the ETUC. On the other hand, ideological cleavages occur within the trade union movement between union representatives advocating for a more “liberal” policy approach and others who advocate for stronger regulation. This cleavage line can cut across nationalities. Equally, the national cleavage line can cut across ideological lines. However, it is particularly interesting that, in the case of the Enforcement Directive, the ETUC and the sectoral confederations acted according to neither class nor territorial loyalties. On the contrary, their interests and actions, as shown below, are structured according to the sectoral and inter-professional level. While territorial and ideological factors certainly do play a role in the European trade unions’ development of political positions, we argue that it is equally necessary to look at their internal dynamics in order to understand the complexity of this process. As Berger (1981) observed three decades ago, interests do not generally arise unambiguously from the world, because most actors have multiple aims that cut across previous loyalties. Therefore, adding a vertical cleavage line to existing accounts of horizontal cleavage lines not only further complicates the project of European integration, but also is necessary in order to fully grasp the “complex web of relationships among the different actors participating in the daily workings of institutional Europe” (Georgakakis/Rowell 2013: 1).

3 The free movement of services in the Single European Market

From a trade union perspective, the integration of Europe into a single market has come with a number of significant challenges (Gumbrell-McCormick/Hyman 2013). One of these is the cross-border movement of services due to the heterogeneous political and economic structures within the EU (Höpner/Schäfer 2012). One form of cross-border employment taking place via the free movement of services is the posting of workers. Posted workers are sent by their employer to another EU member state to fulfill a service temporarily. One effort to regulate posted work was the Posting of Workers Directive, passed in 1996. It established that posted workers are entitled to a core of minimum working conditions of either their host state or the sending state, whichever is better from the workers' perspective. This allowed national regulation of employment by transnational subcontractors. Remarking on the successes of national regulation in the 1990s, Streeck (1998: 182) calls the Posting of Workers Directive the "most telling illustration of the continuing primacy of national institutions in European industrial relations." Accordingly, in light of the diversity among the member states and national political actors, different cleavages emerged in the discussion of the free movement of services in the Single European Market, such as the territorial and the ideological divides at the supranational level.

The territorial cleavage line that emerged with regard to the Posting Directive was the divide between old and new Member States. It has been argued that political and economic actors in new Member States favor the liberalization of services because their constituents are able to take advantage of competitive service providers and lower-wage labor. For example, Keating (1997: 32) predicted a transformation of interest group cleavages into "place-based inter-class coalitions of political, economic and social actors devoted to the economic development in a specific location." It is assumed that a large gap in prosperity levels might undermine the basis for united mobilization by trade unions in lower-wage and higher-wage countries, the argument being that trade unions from lower-wage countries would be reluctant to support harmonization of labor standards, as they see this as a protectionist device used by party and union representatives keen to protect jobs at home (Streeck 1998: 146f.). The preferences of actors regarding European integration are thus not only bound to their socio-economic status in their own country, but also to standards in other countries.

The ideological cleavage that has been discussed within the same context is the opposition between "the liberals" advocating more liberalization and deregulation as a means to stimulate growth and employment in the internal market, and "the regulators" struggling for the status quo, if not re-regulation at EU level (Crespy/Gajewska 2010). For example, analysis of the trade unions' response to the liberal version of the Services Directive revealed that there was no east-west cleavage based on competition between workers from low- and high-cost countries. For example, in a similar move to their western counterparts, Polish trade unions argued that liberalization could have disadvantages for the eastern workers and defined the conflict in class, not territorial, terms

(Gajewska 2009). A cross-national, cross-party line emerged between the ideology of reducing boundaries in the interests of free movement provisions and others who sought tighter regulation of those provisions (Crespy/Gajewska 2010).

Nevertheless, the common political line pursued by the European trade union movement in the case of the Posting of Workers Directive can be described as a successful attempt to form a position despite national differences (Seeliger 2016). Years later, however, the European Court of Justice (ECJ) reinterpreted the achievement of the Posting of Workers Directive. Initially the Directive allowed member states to improve the allowed conditions for posted workers further than specified in the Directive. In the case of *Laval*, the ECJ referred to the list of core rights for posted workers as defining the *ceiling* on the *maximum* standards that member states are allowed to impose on posted employees,² meaning that Member States are constrained from enforcing conditions for posted workers beyond the minimum conditions set down in law or in extended collective agreements. With this judicial reinterpretation, the Court effectively limited the host countries' latitude to regulate the labor market. Against this background, European trade unions once again faced the challenge of developing a joint position on how to achieve sufficient regulation.

In the construction sector, construction worker posting has become a systematic and large-scale way for employers to access lower-wage labor while also avoiding national labor laws and collective agreements (Lillie/Greer 2007). Transnational work agencies and construction subcontractors compete on cost against domestic subcontractors by bringing low-cost migrant workers to sites in countries with high labor costs and preventing them from claiming the wages and benefits demanded by domestically-hired workers (Wagner 2015c). This strategy has also spread to other sectors, such as meat slaughtering in Germany, the transport sector across the European Union, and, in some cases, the care industry (Wagner 2015a; van Hoek/Houwerzijl 2014). Moreover, the practice of circumventing the meager regulation (Wagner 2015b) that posted workers enjoy became widespread across both countries and industries, leading to prodigious media coverage and political discussion as to how to best respond to these abusive practices. Eventually, the knowledge that business was using these new opportunities to undermine national labor standards led to a new regulatory effort: the Enforcement Directive. The ED's main purpose is to ensure the consistent application and enforcement of posted workers' rights as outlined in the 1996 Posting of Workers Directive. The attempt to establish a joint political position on the issue has caused major frictions among European trade union federations. The case of the ED can serve as an empirical basis for examining the dynamics of European integration. Can political actors, such as trade unions, effectively formulate and pursue joint positions despite the horizontal and vertical differences within this system?

2 In a similar vein, in the *Rüffert* case (C-346/06) the ECJ ruled that the Public Procurement Act of the German federal state of Lower Saxony, according to which public authorities are obliged to only contract firms.

4 Methodology

The findings presented in this article stem from two research projects: one on international trade union cooperation in the field of European collective bargaining and another on cross-border labor mobility within a pan-European labor market. In total, 102 interviews were conducted with representatives from nine European countries, the ETUC and ETF as well as the European Commission. Participatory observation was conducted in meetings of ETUC committees over four months. Most interview partners from the national trade union organizations were the respective international secretaries. The interviews aimed to reconstruct how the political positions emerged. The following section is based on the interviews with the ETUC, the Sectoral Federations and the European Commission.

5 Empirical findings

The Enforcement Directive of the Posting of Workers Directive

In April 2014, the European Parliament adopted the Enforcement Directive of the Posting of Workers Directive, with the aim of practically strengthening the implementation of the Posting Directive. The goal of the new directive was to provide a solid framework for employment via posting. Among trade unionists in the EU, the development of a joint lobbying strategy for the directive has involved major negotiations that have included some conflict. After the Enforcement Directive was adopted by the Parliament, three central points of critique were highlighted by the European trade union federations: 1) the ambiguity of whether the host or the home country's framework applies in the case of legal abuse; 2) the issue of chain liability in the subcontracting chain; and 3) improving transnational administrative cooperation and the issuing of fines across state borders.

First, one of the most contentious issues of the Enforcement Directive is the specification of which rights apply when the worker is deemed to fall outside of the posting framework. For example, it is often unclear if the worker *de facto* falls under the free movement of persons or services (here the added complication is the person being employed via a subcontractor or agency contract) or is (unknowingly) bogusly self-employed. Trade unions demanded a clear determination of which law would apply to a worker who is in a *de facto* but not a *de jure* posted employment relationship (such as bogusly self-employed workers). The demand was for the Enforcement Directive to state clearly that, in the aforementioned case, the worker would be covered by the entirety of the host country's legislation. However, the Enforcement Directive does not state which framework applies and therefore leaves open the possibility that the coun-

try-of-origin's framework will be applied.³ The danger is the creation of a loophole allowing the *de facto* enactment of the country-of-origin's principle.

Another item of debate was the issue of liability within the subcontracting chain. Social partners of several EU countries pushed for main-contractor liability for all elements in the subcontracting chain. According to Article 12 of the Enforcement Directive, only the direct subcontractor can be held liable. It is left to the member state to determine the exact tool with which to enforce protection from such abuse in the subcontracting chain. However, this possibility is restricted from the outset because even though the Enforcement Directive leaves room for the member states to decide relevant enforcement measures, it equally and repeatedly cautions that additional measures need to be "justified" and "proportionate." While national inspectorates are not restricted in their imposition of particular measures, any additional measures have to be *justified* and *proportionate* in order to avoid creating a barrier, or obstacle, to the free provision of services. In fact, throughout the Enforcement Directive the attention to "proportionate" measures alerts member states to maximize their own tools to avoid infringement procedures. The European Commission emphasizes in Article 9 that it will monitor whether the Directive is effectively translated into national law. Even though the European Commission has an institutional duty to monitor compliance, this responsibility is usually not written into Directives.

In certain aspects, the directive did advance transnational administrative cooperation. It sets time limits by which authorities of other member states have to respond to requests for assistance (for example a two-working-day limit to respond to urgent requests and a 25-working-day limit for non-urgent requests). However, the method of actual collection of fines is unspecified. Fines imposed on a posting firm cannot be executed effectively because they are based in a different jurisdiction. Art. 18 (1) introduces a right for the service providers to contest the fine, penalty, and/or underlying claim. This provision is not a codification of case law; the inspiration for it was drawn from provisions of regulations and directives in the field of social security and tax law (see Houwerzijl 2013 for a critique on this issue). If such a dispute arises, the cross-border enforcement procedure of the fine or penalty imposed will be suspended pending the decision of the appropriate national authority in the matter. Companies making a business model out of worker posting may be able to use this provision as a tool to postpone legal consequences. In this sense, companies are still able to profit and can develop strategies based on their registration in another jurisdiction.

3 Recital 11 states: "Where there is no genuine posting situation and a conflict of law arises, due regard should be given to the provisions of Regulation (EC) No 593/2008 of the European Parliament and of the Council ('Rome I') or the Rome Convention that are aimed at ensuring that employees should not be deprived of the protection afforded to them by provisions which cannot be derogated from by an agreement or which can only be derogated from to their benefit. Member States should ensure that provisions are in place to adequately protect workers who are not genuinely posted" (Directive 2014/67 EU).

The lobbying process mainly involved the ETUC and three other national trade union federations, with the most prominent being the European Federation of Building and Woodworkers (EFBWW). Headquartered in Brussels, the EFBWW is the European Industry Federation for the construction industry, the building material industry, the wood and furniture industry and the forestry industry. The EFBWW has 76 affiliated unions in 34 countries and represents a total of two million members. The European Federation of Trade Unions in the Food, Agriculture and Tourism Sectors (EFFAT) was also involved, but more marginally than the EFBWW. It was founded in 2000 by the merger of two European-level federations. EFFAT represents 2.6 million members from 120 organizations. Heavy resource restrictions originate from the strong representation of low-wage-sector workers in the union. EFFAT is affected by the freedom of services, especially in the meatpacking sector. The European Transport Workers' Federation (ETF) was also involved in the lobbying process. It was founded in 1999 through a merger of other federations and since then has consisted of trade unions from the transport sectors. It organizes unions from the railway sector, maritime transport, harbors, fishery, civil airways, street traffic and logistics. It represents 2.5 million members in 231 organizations from 41 countries. The issue of posting holds a particular significance for the ETF because of the particular employment relations in the sector. The main task of the respective federations is to represent their affiliates in Europe and help them defend the rights and interests of the workers in the industries they cover. Since the virtual completion of the European Market, representation in Brussels has become important to the trade union movement. The federations' main aim is to develop the social dimension in the European Union and to provide a framework for union cooperation and the coordination of action taken in the industries they represent.

The search for a common position among European trade union organizations

In the discussions about the ED, we identified a strong cleavage line between several members of the ETUC – the EFBWW, EFFAT and ETF – and the ETUC itself as to whether they should reject the proposal of the ED outright or try to improve the existing proposal by lobbying the respective institutions. While its member federations favored rejecting the proposal outright, the ETUC supported the lobbying strategy that aimed to improve the existing proposal. In what follows, we will discuss the cleavage line that emerged in the debate about the ED. In order to show that this cleavage line led to separate lobbying efforts, which contributed to the ED being an insufficient outcome from the trade unions' point of view, we will show how resource dependency and elitism are explanatory factors in the emergence of this cleavage line.

The cleavage line: To accept or not to accept the Enforcement Directive proposal?

Since it has been the most strongly affected by cross-border posting, the EFBWW has traditionally taken the lead in European-level interest representation on the topic of posting. In fact, an ETUC representative went as far as claiming “the Posting of Workers Directive was basically their [the EFBWW’s] Directive” (ETUC interview, 2014). Therefore, construction trade unions have acquired the most expertise, but also developed the strongest political initiative. However, especially since Eastern Enlargement, other sectors – such as food, agriculture and transport – have seen an increase in employment of posted workers and they were, therefore, equally invested in and affected by the policy discussions around the ED. Yet, the EFBWW still took the lead in the ED discussions, while closely cooperating with other trade union associations.

While the EFBWW and the ETUC cooperated closely in the negotiations around the Posting of Workers Directive, when it came to the ED, the ETUC put this division of labor into question. The trade unions originally demanded a change of the original Posting of Workers Directive. However, the Commission proposed the introduction of a whole new directive aimed at the enforcement of the original directive. According to the Commission, the central advantage lies in the fact that this procedure would be much quicker than a change to existing legislation:

If we would have decided to revise the existing directive, it would have been quite unlikely to arrive at an acceptable compromise. The negotiations of the Posting of Workers Directive were immensely complicated. It took six years until the negotiations were finalized. Now, the interests diverge even further and therefore it is likely that it will be at least as complicated as in the Posting of Workers Directive discussions. That is why we said we do not want to discuss Article 3 again but focus on the enforcement.

Both the ETUC member unions and the ETUC itself were skeptical about the introduction of an ED. For example, an EFBWW representative points out: “the Enforcement Directive as such was not needed. Nobody asked for it. Not even employers. Not even we. Nobody asked for it. It was an idea of Barroso.”

In a similar vein, the ETUC was not convinced about the proposal, as one former representative explains:

And it is actually very difficult to say whether it is useful, this weak Enforcement Directive. Or that you should adopt it and say, okay, we would have something and we will improve it. Both positions are legitimate in a way.

However, opinions were divided as to how one should proceed in the political discussions.

From the ETUC's point of view, in order to improve the content, the best way to deal with the situation was to engage in further political discussion. According to another representative, after internally discussing the document, the ETUC representatives "identified some room for improvement" within it: "In fact", he goes on, "we see some positive signals, so for instance that this responsibilities in this chain of subcontractors is positive."

At the same time, organizations from the sectoral level made clear very early on that they were against accepting the document. As stated in a common press release by EFBWW and EFFAT (2012), the directive will increase the likelihood of social dumping through "less control powers for labor inspectors, more possibilities for labor providers to post workers abroad and more information websites." Due to its unclear content, a representative of EFFAT sees the directive as:

a text which leaves much to interpretation. It does not give any legal clarity or legal certainty. And, in fact, it would seem the way it is drafted, that it does restrict control measures and enforcement measures that the member states can take.

Another EFFAT representative further elaborates:

The whole concept of an Enforcement Directive that acknowledges that an existing directive doesn't work is a bit strange. I think it, there was so much evidence mounting that the posting workers directive wasn't enforced. And in response you have a directive which is shaping up to be a directive that basically lists all of the areas in which the posting of workers directive can't be enforced. And rather than giving member states the autonomy to impose the control measures and inspections and checks that they deem necessary to prevent and control and sanction: social dumping.

An EFBWW representative similarly expressed concerns since:

it is an Enforcement Directive which tries to improve the situation, but the solution they are proposing is a one-step liability system which can be exonerated by due diligence: in real terms this means absolutely nothing.

Following the proposal of the European Commission, European trade union federations and the ETUC did not manage to establish a common position on the issue. While generally acknowledging their expertise on the topic of posting, a representative of ETUC describes the EFBWW as pursuing interests that are more specific than a comprehensive trade union position would allow for: "They have ideas that are really good, but they are really related to the construction sector and perhaps not so relevant for other unions." At the same time, an ETUC representative describes a style of negotiation among the construction workers' representatives as being inappropriate: "their language is very tough, their tone is very hard. They are construction workers."

Resource dependency and elitism

Despite these differences, the ETUC representative claims that frictions between the ETUC and EFBWW have not endangered a joint lobbying process: “Well, the construction workers are members of the ETUC, so our common position is the position of the members, who have agreed upon. We had a common work all through the procedure” (ETUC interview 2014).

At the same time, the interviewed representatives from the sectoral federations all describe cooperation with the ETUC as very difficult. As one representative from the European Transport Federation explains, the ETUC refused to grant either his organizations or the EFBWW a seat in a joint discussion group that the Commission was holding with workers’ and employers’ representatives:

They said, we don’t have enough seats. And then the Commission said, there is a clear reference to transport in the posting of workers, as is for the construction sector. So the construction and the transport federations have been invited directly, not through the ETUC. (ETF 2014)

All of the interviewees were critical of the ETUC’s close orientation to the European level. Explicitly assigning it what he terms “an integrationist ideology,” a representative of European Public Service Unions describes the following problem: “There are issues, where you think, the ETUC does want an agreement on European level, whereas at federation level, we don’t necessarily want an agreement at all costs.” The political vision of ETUC is – according to them – taking place “in a different sphere.” Enhancing the European arena with additional capacities for stronger rule setting appears to be a legitimate goal – as the representatives from EFFAT explains, it just does not fit the immediate needs of the different sectors:

And we [EFFAT] don’t want to wait for 50 years, because then we would have a longer-term concept. ETUC was pushing it in parallel. Sometimes there is a bit of a misunderstanding on that. ... It is a trade union movement, not a European movement.

Another suspicion concerning over-identification with the European project is expressed by unionists from the ETF and EFBWW saying ETUC employees “are more involved in these high polished debates, these fancy lunches.” More polemically, a representative from the ETF explains how their habitual proximity corresponds with little conflict between ETUC and Commission representatives:

Now they are invited to meetings and a number of people really feel in paradise when they sit at the same table as the president of the commission. What can you ask more? I am representing here the ETUC. And we are passing our message to them. They don’t give a shit, but we are using the opportunity to pass the message to the ETUC.

A similar suspicion is expressed by a representative of the ETUC:

Yes, I think, the federations have less trouble in being more objective on the European discussion. But here at the ETUC, as I say, there is this mix with another discussion of saying “let’s watch out as ETUC, because we have to be part of the European setting, European institutional discussions. So we can’t step aside, out of the discussion by saying all the time that Europe has no competence.”

Besides such habitual aspects, the ETF representative sees another important reason for ETUCs compliance with Commission proposals in its financial support; it is funded by European institutions:

In particular, there is the big problem of dependency of EU funding. Or many areas of the work of ETUC. And there is too big feeling of what they call responsibility. If we want to be respected and to be listened to by the commission, we have to behave.

The representatives from ETUC similarly states:

Perhaps not consciously but subconsciously or somewhere looming in the background of thinking, there is the idea, “let’s look at the amount of money we are getting from the European Commission.” And indeed it is sometimes a lot of money. So, they don’t want ... They might subconsciously be thinking, let’s not endanger this.

Different lobbying efforts

These divergences in viewpoints led the sectoral federations to launch an independent campaign against the Directive. In 2013 and 2014, two public demonstrations were conducted in Brussels, one organized by EFBWW and one jointly called for by EFBWW and EFFAT (EFBWW/EFFAT 2012). Another lobbying effort was to collect and publicly share hard evidence about cases of social dumping. As part of this campaign, EFFAT and ITF joined EFBWW in creating a repository of cases, symbols and posters against social dumping. They also joined a big joint protest at a Council of Ministers meeting, as well as smaller protests. There were some disagreements as to how involved the ETUC should be, however: “In terms of the visual campaign. That was something we hoped the ETUC would join. And, in the end ... it was just us, who joined the visual campaign initiated by the EFBWW.”

Moreover, the sectoral federations wrote two open letters – one to all Members of European Parliament and one to the European Ministers of Labor – in which they explained their reasons for completely rejecting the Enforcement Directive. The following statement from the letter to the MEPs illustrates the fundamental criticism directed at the proposal: “After careful consideration we can clearly state that the current agreement will deteriorate the situation on the workplaces and increase legal uncertainty!” Following a general framing of the problem with the abuse of posting by companies conducting social dumping, the letters address the three points of critique explained above.

The obvious absence of ETUC from this lobbying initiative illustrates the cleavage line that separated the sectoral trade union federations from the inter-professional level. From the federations' perspective, the political approach of ETUC appears not conflictual enough. As a representative from the ETF puts it, "in this, as in other situations, is that ETUC prefers a bad deal over no deal. Representatives of ETUC", the representative goes on, "are ready to compromise on levels which are not really acceptable, but just for the sake of an agreement, they prefer to have little." In a similar vein, the representative from EFBWW states: "You pour a lot of water into your wine, but there is an agreement. Will it be beneficial? Well, that's another issue." Generating consensus with the European institutions has – according to him – become a goal in itself for the ETUC: "It is pure political window dressing. It is nothing else, nothing more. The situation would have been much better without the directive. They could have resolved it in a different way."

The analysis of the political initiative run by the sectoral federations and ETUC illustrates that their lobbying efforts had different targets. While the ETUC was in favor of negotiating an Enforcement Directive, the sectoral federations blocked the proposal early on. The interviews show to what extent trade unionists from the field of the sectoral federations ascribe reasons for this to the ETUC representatives. Their acceptance of an insufficient proposal of the European Commission can be traced back to an integrationist tendency of generally favoring comprehensive regulations on the European level. This is connected to their resource dependency on the European Commissions. Moreover, representatives of the ETUC generally show a higher degree of identification with the European level. Against this background, it was not possible for the various groups to join forces on the issue of the Enforcement Directive. As the representatives from the sectoral federations have stated on various occasions, a more fruitful regulatory outcome would have been possible had that been the case.

6 Conclusion

The posting of workers continues to provide a major challenge for European trade unions in trying to protect national standards. Originally, the field of the freedom of services was, on the labor side, divided along national and/or ideological lines, specifically between representatives from countries with high and low employment standards. Although in the case of the ED this traditional division could be overcome, a central cleavage line runs between neither countries nor political parties. It does run between different vertical levels of the system of European labor relations – namely the sectoral and the inter-professional levels. This is striking, especially with regard to mobilizing efforts in relation to previous European Directives such as the Services Directives, where the "Europeanist" capture did not prevent a successful pan-European campaign. However, it is important to note that the mobilization in the Service Directive included major national conflict lines, which were overcome by a deal struck between the ETUC

and Eastern European trade unions in which the latter agreed to support the ETUC's stance if the ETUC advocated for the removal of transitional measures imposed on the free movement of workers from the new member states (Arnholtz 2012). In the case presented here, trade unions were not able to effectively formulate and pursue joint positions due to both horizontal and vertical differences. The focus on the socialization experiences of European-level representatives helps explain the diverging interests of the different actors. The focus on key actors and variegated cleavage lines within trade unions not only provides a more diversified picture of cleavage lines within supranational politics, but also has implications for labor power in its struggle for a "Social Europe" as the internal structuring of the European trade union movement plays an important role in advancing European labor's political strategies.

Therefore, the case of posting remains a contentious topic not only from an industrial relations perspective. If the central challenge of the EU as a political system lies in effectively integrating political interests across its various levels, then the relationship between the ETUC and the sectoral federations highlights an important dysfunction. As an intermediary organization, ETUC has to maneuver between a logic of influence and a logic of membership. Using international socialization literature, we have shown how ETUC representatives gradually shifted their orientation away from their members' interests.

From the literature on socialization processes within multi-level systems, we have borrowed the assumption that a shift of loyalties to the EU level facilitates coordination processes across the different levels. While processes of international socialization were highlighted as fostering the internal cohesion of multi-level systems, our findings show how internal preference formation was not only contentious, but also problematic to a degree that prevented a common position from emerging. Dynamics of socialization and persuasion that could lead actors to arrive at a common standpoint did not emerge in the course of their cooperation with the ETUC. What does seem interesting, however, is the fact that socialization dynamics as described by Zürn and Checkel (2005) seem to have taken effect among ETUC's staff. Here, the reference group of these dynamics was primarily found not within the ETUC as a meta-organization, but in the local environment in Brussels; ETUC representatives coupled their political position to the one taken by the European Commission and thereby effectively decoupled their political goals from the interests of the sectoral federations. Therefore, the position represented by the ETUC did not reflect the one articulated by the sectoral trade union federations. To use an image drawn from the literature on socialization dynamics in supranational contexts: a "transfer of loyalties to the European level" (Risse 2010: 88) among the representatives of the ETUC does occur. Simultaneously, the representatives from the sectoral level stick with their national members from the respective sectors as their immediate reference group.

The institutional relationships in the case at hand are visibly strained. While the ETUC representatives internalize particular supranational norms by being embedded in the European political process and its institutional landscape, this socialization process

does not advance, but rather prevents integration because it disrupts trade union power at the supranational level. This “socialization paradox,” as one could call it, results from the distance of the ETUC from the actual sectoral – and ultimately the shop floor – level. Within the complexity of the EU’s multi-level system, the ETUC’s representatives developed a unique set of ideas on how European integration should be handled as a political process. This “logic of influence” advances a certain form of European integration. However, despite a generally positive identification with the project of European integration, representatives from the sectoral federations are more critical of the European institutions because of “the logic of membership” through which they are more immediately bound to the interests of their national members.⁴

This finding is relevant for the literature on socialization in international government organizations. This literature regards the socialization process as helpful because socialization triggers processes at the international level that would otherwise not be possible. In fact, these processes even become necessary for the cohesion and further integration of the European political space. The interests and actions of actors *converge* within the European policy making space, leading to institutional change at the policy level. However, the findings of this study show that socialization processes can also have an adverse effect: in our case, the strong socialization among the representative of the ETUC does not increase its internal cohesion. In fact, the socialization in international organizations leads to a divergence of opinions between actors within the trade union movement. This is important because this divergence *hinders* integration as well as diminishing the power of trade unions to influence policy-making on the European level. The implications for the literature on international organizations (in disciplines such as international relations, organization studies, and research on European integration) are that further research on organizational cohesion across the different layers of multi-level political systems is necessary in order to understand the mediation of interests in the twenty-first century.

4 An interesting analogy can be found in the differentiation between idealistic and materialistic theorizing: While an integrationist consciousness seems more likely to spread among ETUC representatives, who are more distant from the material circumstances of the different economic branches, these material realities prevent the emergence of a similar ideology among the sectoral representatives.

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