

Strikes against foreign contractors

A spectre is haunting Europe – the spectre of xenophobia. Many expected the spectre to raise against labour migration stemming from the EU enlargement eastwards. However, the spectre has long kept quiet. Apart from riots against Romanians in Southern Italy (which had nothing to do with employment, but much with pre-existing urban degradation), there have been no prominent protests against Eastern European migrants. The extreme Right was too busy with Muslim migrants to consider the (white and mostly Christian) Eastern European ones. It was also strongest in countries that had kept their borders closed with 'transitional arrangements' (Austria), than in those which had opened it to the largest inflows (UK, Ireland, and soon afterwards Spain). It seemed that Europe was coping well with the freedom of movement of labour - until January 2009, at least.

The problem is that, while migration was taking place without much protest (and with the enthusiasm of the European Commission and western employers), the freedom of movement of services was emerging as a contested social issue. The so-called 'Bolkestein Directive' opened the debates. Unlike the freedom of movement of workers, that of services is not subject to any transitional period limitation. In spite of the service Directive not being approved in the original Bolkestein text – with the 'country of origin' principle –, the destabilising effect of this freedom has become apparent very quickly.

The Laval conflict of 2004 in Sweden, with the subsequent European Court of Justice's ruling in 2007, has been the first clear case. In that occasion (protests of Swedish trade unions against a Latvian contractor adopting Latvian, rather than Swedish, labour standards), the Swedish and Latvian employers tried to organise Latvian workers in Latvian trade unions to bypass and undermine the Swedish ones. This case evoked the fear of 'liaisons dangereuses' emerging between eastern European unions and employers against 'protectionist' western regulations - something capable of disrupting European industrial relations. Such developments have been avoided at the political level, but at great effort, as in the difficult negotiation of a common European Trade Union Confederation standpoint on the Bolkestein Directive.

In concomitance to the transition periods on the freedom of movement of workers, a 'trade-off' between free movement of workers and free movement of services emerged, the latter being more disruptive where the former is limited (Germany and Austria above all). Both Polish and German media highlighted in 2007 the case of Polish subcontractors employed by the largest meat-processing company in Germany, Tönnies,

within its own factories. German trade unions were struggling to find a way to oppose the employment conditions of Polish contract workers (€3.50/hour pay, 84-hour working week), as these were not considered as German employees. The later Ruffert and Luxembourg ECJ rulings, like Laval's, highlighted how the freedom of movement of services was the Achilles' heel of western labour standards.

Interestingly enough, the most visible mobilisations against foreign contract workers occurred not in Germany or Austria (where trade unions supported limits to labour migration), but in the 'open border' Sweden (Laval), Ireland (Irish Ferries), and UK (in construction engineering). The question is then whether such mobilisations' nature is nationalistic or not – as these are exactly the countries where, at the same time, the free entry of migrants has proceeded smoothly and with the consent of organised labour. In the Irish Ferries case, the Latvian trade unions were involved, and some efforts in this regard were made also by the Swedes on Laval: these cases are not primarily protectionist or against international solidarity, and xenophobic tones were not detected.

The case that rang the alarm bell of nationalism occurred in the UK in January-February 2009 at the Total Lindsey refinery, under the banners 'British jobs for British workers' (a reference to a speech by Gordon Brown). It did not actually involve workers from the new member states, but contractors from one of the oldest founding members of the EU, Italy. However, the case quickly gained national relevance for the issue of foreign contract workers in general, and especially from eastern Europe.

In the Lindsey case, the role of the media was instrumental in depicting the protests against Sicilian contractor IREM as 'xenophobic'. BBC reports engaged in selective quotations when showing protesters saying 'we cannot work alongside the Eyties' (a politically incorrect, but not necessarily offensive, colloquial term for 'Italians'), cutting off the subsequent explanations that they were not allowed to (rather that they did not want to) work together with contractor workers. Even worse was the representation of the events in the Italian media. Leftwing newspapers *Il manifesto* and *L'Unità* devoted to it the whole first page and compared the protests to the concomitant rightwing anti-migrant actions in Italy. As if re-enacting the Boxers' revolt of 1900, state broadcaster RAI opened the reports from the safety of the floating barge that housed the Italian workers under alleged siege, and even provocatively interviewed Italian workers on Italian sites where British workers were employed, asking whether they wanted to take

Recent disputes across Europe involving the cross-border movement of companies and so-called 'posting' of workers have revealed weaknesses of transnational union organisation



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Coordinated transnational responses to these cases by trade unions would keep xenophobia at bay and keep the focus on worker rights

revenge for the treatment of their compatriots in England (to the bafflement of the interviewees). Such reports had political effects, with strong condemnations of the protests, among others, by Business Secretary Lord Mandelson in the UK, and even from the Italian President Napolitano. The Sicilian governor Lombardo even threatened to stop procurement of contracts to British companies in retaliation.

Such portrayal influenced national and international trade unions. The European affairs officers of the largest Italian union, CGIL, Nicolosi and Petrucci, signed a declaration opening with the words 'what is going on in Lincolnshire is one of the ugliest pages in the history of the trade union movement in these globalised times: English workers against Italian workers' (*Ufficio Stampa CGIL*, 2nd February 2009). The initial reaction of the second Italian trade union, CISL, was similar. However, if one moves from the official level to the local one, the picture was different. In its home town of Syracuse (author's own interviews with CISL and CGIL union officers), IREM was known by the trade union for its anti-union practices and for by-passing national collective agreements (which it managed to do by affiliating to the artisans' confederation rather than to the employers' confederation). Unionists on the ground understood the British protesters for two reasons: they were not surprised that IREM would have tried to undercut British collective agreements on pay, and agreed with the British concern on employment, given the Italian unions' practice to sign local 'employment continuity' contracts in large industrial sites or ports, to bind foreign contractors to the use of already locally employed workers (whether Italians or foreigners) local labour and the respect of collective agreements. In short, as one unionist said, if the same problem with a foreign contractor had occurred in Syracuse, 'we would have done exactly the same'. At Lindsey, at the same time, a question mark on the xenophobic nature of the demonstration is raised by the participation in the protests of locally resident Polish workers.

The Lindsey dispute was settled in a hurry, without tackling the underlying issue. Total, faced with escalating protests, political pressure and bad publicity, offered 200 additional jobs for local workers, without rescinding the contract with IREM. Ten days later, the arbitration body ACAS produced a rushed inquiry report, stating that there was no evidence of employers' abuses, pointing at difficulties in harmonising travel, housing and working conditions of contract workers (Italians are not used to 'tea-breaks' in the same way as the British), and failing to investigate the crucial issue of pay. The Lindsey case demonstrates the possibility of workers' success only through major political pressure – legally speaking, IREM and Total could have probably acted like Laval and claimed that the protests were illegal. But it also confirms the weakness of transnational organisation: Italian unionists were only informed of the events through the Italian media at the end of January, even though British trade unions had started negotiating the issue with Total before Christmas. At no stage had

there been direct Italian-British union contacts, also due to the non-union nature of IREM foreign operations, but also indirect, slow and easily distorted links through European trade union structures. However, the existence of some sort of, even if vague, common European labour organisation and identity has prevented, in spite of strong political and media incentives, the emergence of xenophobic conflicts – even if it has proved too weak to produce any positive, active solidarity. In the case of the freedom of movement of services, the emergence of transnational networks is more difficult than on migration not only because of the lack of institutional and structural resources (union-unfriendly legislation), but also because of the segregation, in the workplace as well as housing, of foreign contract workers – as the IREM barges symbolise.

The settlement of the Total dispute did not remove the problem. Similar, if less prominent, protests occurred against Spanish and Polish contractors of Alstom in England and Wales in February, and then again against Polish contractors at the South Hook natural gas refinery in Wales in May. Again, no contacts between Polish and British trade unions were established (even though the Alstom's Polish contractor Remak is unionised), but nationalistic developments were at least side-lined, and the focus remained on the labour issues of working conditions, respect for collective agreements, and matters of employment security. Local settlements were reached again, but without addressing the underlying issue of whether the implementation of the Posting of Workers Directive in the UK protects the construction engineering's sector collective agreement or not. Eventually, in June, the two main sector unions GMB and Unite opted for balloting workers on strike action to pressure the employers into a binding agreement, and stepped up the political pressure on the government.

The time, location and form of the British strikes shows that it is not migration, but the failed social regulation of the freedom of movement of services that is socially unsustainable. Whether such regulation is at all possible is questionable, especially after the recent overall shift to the Right in the European Parliament, an institution that had played an important role on the directives on freedom of movement of services, on ports deregulation, and on working time. It is also questionable whether transnational union responses, which would keep xenophobia at bay and keep the focus on worker rights, are likely. A rare case had occurred at Alstom in France, where in 2005-06 the CGT, with the support of the Polish union Solidarity, campaigned against the inhumane treatment of Polish subcontractor ZREW's employees, and the French court condemned ZREW to respect French collective agreements. But French collective agreements have legal status and are protected from ECJ interference. Swedish, German and British trade unions cannot rely on such help from above, and they need a clear and realistic message if the scene is not to be left to other, simpler slogans.