



COUNTRY
STUDY



NORWAY

Enhancing Economic Democracy for Posted Workers: The Case of Norway

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Introduction

The main question in this work-package is how unions and other relevant actors represent and support posted workers in the receiving countries. In the most topical Norwegian trade unions, i.e. in construction and manufacturing, they do not divide between posted workers and other foreign workers (individual labour migrants). This means that the Norwegian trade unions do not have any special programs or recruiting strategies for posted workers. This chapter will therefore be a summary of the experiences with recruiting and giving service to both individual labour immigrants and posted workers from the Central- and Eastern-European countries (CEE-countries) that are members of the EU.

Data: The basis for this country report is previous research/interviews done by Fafo Institute for Labour and Social Research on this topic, supplementary interviews with central and regional representatives for the trade unions in connection with this report.

Poles constitute the largest group of foreign labour in Norway, followed by workers from Lithuania and Sweden. The last two years (from 2015 and onwards) there has been a decline in the inflow of foreign labour immigration to Norway. This has been explained to follow from a stagnation in the economy.

There were around 40 000 workers on short-term basis (less than 6 months in the country) from the CEE-countries in Norway in the end of 2016. This number includes posted workers and people that commute from their home country to a job in Norway. There are some uncertainties about the number of posted workers. The Central Office for Foreign Tax Affairs (SFU) handles the tax-liability for posted firms and workers, and these statistics are not available for the public.

Numbers from Statistic Norway show that a large proportion of the workers on short-term basis are employed in construction (27 percent) and through temporary work agencies (17 per cent). At the same time, there were around 120 000 workers from CEE-countries registered as residents in Norway.

Important features of the Norwegian labour market model is the cooperation between employers and worker's representatives at both company, industry and national level. There is no statutory minimum wage in Norway. Conditions in the Working Environment Act are supplemented by industry-level collective agreements. Some of these agreements are made generally applicable, and this covers industries where use of CEE-labour is high, like construction and shipbuilding. Enforcement of collectively agreed rights, like wage, working time, overtime payment, reimbursement for travel and lodging, co-determination and decent working conditions more generally, are depend on trade union presence at company level and cooperation between employers, trade union-representatives and safety delegates. Extended agreements are left to the Labour Inspectorate to enforce, but local trade union representatives play an important role also in these situations. Several measures in connection with the extended collective agreements are depended on activity, like the shop stewards right to check pay-slips and contracts.

The Norwegian system is a so-called single-channel representation, meaning that the representation at the workplace level links to representatives of the trade union organizations. The system with work councils (like in Germany) is not present in Norway. The level of unionization both at company and industry level are decisive for the strength of the local trade unions.



In total, around 50 per cent of the Norwegian workforce is unionised. This is a high share compared to many European countries, but lower than in other Nordic countries. This aggregated number disguise huge difference in union density between sectors/industries (Nergaard 2018). In construction, the trade union density is around 37 per cent and in manufacturing, it is around 55 per cent. The bargaining coverage of the same industries was in 2014 respectively 58 and 65 per cent. Only companies bound by collective agreements will as a rule have local trade union representatives as these are elected on the bases of these agreements.

The labour immigration after the EU-enlargements in 2004 and 2007 is often referred to as a “supply chock” in the Norwegian labour market. It soon became obvious for the trade unions that they should play an active role, not by trying to reduce the use of foreign labour, but to include them as equal partners. The mantra was “You are welcome to work in Norway, but on Norwegian terms” (interview with regional trade union representative). The unions’ strategies went along several tracks; firstly, advocating for introduction of a transitional regime that required work-permits on so-called «Norwegian conditions» for labour migrants. The regime lasted until 2009 for the first eight accessing countries and until 2012 for Romania and Bulgaria, but covered only individual labour migrants and not workers posted to Norway.

More important, when it comes to posted workers is the decision by The Confederation of Trade Unions (LO) to make use of the possibility to make collective agreements generally applicable. As mentioned, there is no statutory national minimum wage in Norway. Wages are subject to collective agreements or if no such exist, agreement between the employer and the employee as part of the written employment contract. As a direct consequence of the eastward enlargement,

LO demanded an extension of three collective agreements (Alsos and Ødegård 2007). The decision to extend these agreements in 2004 has since been followed by several others and at the beginning of 2018, nine agreements are extended. This has become an important tool in order to secure minimum rates of pay in the following branches:

- Construction
- The shipbuilding industry
- The agriculture and horticulture sectors
- Industrial and private cleaning
- Fish processing industry
- Electricians
- Freight transport by road
- Passenger transport by tour bus
- Hotels and restaurants

When an agreement has been extended local trade union representatives will have the access to several tools in order to enforce the regulation, among others chain liability, right to access documents and so on.

Organising foreign workers – opportunities and challenges

The local trade union for construction-workers in Oslo (Oslo Bygningsarbeiderforening) was among the first to initiate recruitment of CEE-workers, both individual immigrants and posted workers. They have never differentiated between these groups, but have over the years been occupied with the many construction workers hired through temporary agencies, both Norwegian and foreign companies.



Fafo conducted a survey in 2006 among Polish workers living in the Oslo-area ("the Polonia survey"). This was followed by a second report in 2010, and showed among other things the development concerning foreign workers organized in the Oslo construction union: In 2006, the share of Polish/Baltic members in the Oslo construction union was 8 per cent. After two years, in 2008, the share had increased to 42 per cent (Friberg and Eldring 2011). The union assumed that around a quarter of these members were employed through temporary work agencies. According to interviews conducted in the spring 2018, the share of CEE-workers in the Oslo union is now between 30 and 40 per cent of the total members.

In the Polonia surveys, all the Polish workers in the Oslo-area also got questions about trade union membership (the numbers above show only the share of Polish/Baltic members in the Oslo construction union). In total, 21 per cent of the workers had membership in 2010. However, foreign employees in Norwegian companies were more probable to be unionized. Less than 10 per cent of the employees in foreign companies (posted workers) were members. The most important motivations for becoming a union member were:

- » support in case of trouble at the work-place (69 %)
- » get help with housing, insurance etc. (35 %)
- » equal treatment with Norwegian workers (27 %)
- » get help with wages and employment contracts (20%)
- » get help with work permits and tax-questions (11%)
- » an obligation to be unionized when working in Norway (4%)
- » (Friberg & Eldring 2011).

In addition to these answers, almost 40 per cent either feared that they would lose their job if they joined the union or that they would get in trouble finding work. There was also a considerable share of Polish workers that had little knowledge and experience with the trade union movement in Norway.

For the union, recruiting and assisting foreign workers, have been very resource demanding. Funding from the national union has made it possible to pay for interpretation services, courses, information material in several languages and extra organizational workers.

Other success factors have been multilingual staff, weekly open-ended meetings and the recruitment of members of staffing companies (ibid). The strategy was, from the beginning, to be united, i.e. there should be no such thing as separate membership or organisations for foreign workers.

The extended collective agreement has proved to be important because it facilitated the union to assist foreign workers in getting the right wage without going the long way of establishing a collective agreement.

Nevertheless, in the beginning the union for construction workers in Oslo tried to establish trust by helping with all kind of questions. Looking back, in 2018, one of the trade unionists says:

We tried to make ourselves known by having an open door. I think that the we in this union and the Catholic Church were the most important help-centers during the first years, when it came to practical questions, such as assistance in paying parking fines and rent for housing. We assisted in cases at the work place without claiming membership. Then, we had a period when the workers joined the union when they needed help and then left us after solving the problem. Now this practice is over. We must act as a real union, with full membership, and where the questions at stake are wages and working conditions. We cannot act as a collection agency.



This means that the union will not as a rule help foreign workers unless they were members when the possible infringement took place. Still, this practice seem to vary between different unions, where some unions are more relaxed when it comes to helping workers that were not members when they got into trouble (Alsos and Eldring 2014).

A high share of foreign workers in an union are more resource demanding than having mostly Norwegian members, due to the high number of infringement cases experienced by foreign workers (Alsos and Eldring 2014). This can result in less resources being directed towards traditional tasks pointed at the Norwegian members, and making those members less satisfied with the union.

According to several central trade unionists, it is almost impossible to recruit workers that are on temporarily assignments in Norway. Firstly, workers find it is too costly to become a member, secondly, the workers often fear the employer will refuse to send them on a new assignment if they organize. A middle manager overheard saying to a worker: "Your first day in the union will be the last day in this company" (interview with a regional trade union representative). Even if Norwegian employment protection regulation prohibits a dismissal based on these grounds, many of the foreign workers contracts, which de facto provides them with little protection. This is for instance the case for temporary agency workers that are hired on project contracts. If the employer is not satisfied with the worker, the can choose not to offer him or her a new assignment. Both the uncertainty when it comes to their contract and how long they are staying in Norway makes it difficult for unions to help them.

Some of the members are afraid that the employer should be aware that they are organized, and they therefor pay their fees directly to the union. If we get a case from someone in trouble, we can wait until the concrete assignment has ended (local shop steward, The Electrician and IT workers union).

I stopped recruiting foreign workers when I experienced that all 18 new members in a company were laid off (local shop steward, The Norwegian United Federation of Trade Unions).

In cases when trade unions succeed to organize, to get a collective agreement and a local shop steward, there might be other obstacles waiting. Here is a story from a shipyard:

We were happy, we had organized and the new local union had elected a shop stewards. One day I could not reach him and I contacted the firm. He was then on leave in his home country for three months. Such arrangements make it very difficult to run a union (regional shop steward, The Norwegian United Federation of Trade Unions).

It is also a matter of cultural and language barriers. Many of the CEE-workers do not have any positive experiences with trade unions from their home country and/or they do not have any knowledge about the important role that the trade unions play in the Norwegian labour market. There is sometimes also a notion that the trade unions do not care about the foreign employees, especially if they are at the workplace on a temporary basis. Recent interviews show that the skepticism has faded during the years. Many CEE-workers have had good experiences with the trade unions in Norway during the years after 2004.

The language barriers are still there, but it has become easier since the younger generations (both from Norway and among foreign workers) have a better knowledge of English. Nevertheless, it still it might be difficult to communicate about quite complicated issues as the content of the collective agreement or working hour-arrangements.



Most of the unions have now got important information translated to languages as English, Polish and Lithuanian.

A very important factor for the union is to convince a foreign worker that has a strong voice among his/her co-worker, and can act as an “agent”. This has been a success factor in many firms:

It was very difficult to organize the Polish workers, but then we got hold on one strong person, and it was done! All others became members. Then it was very important that the national trade union had information and registration forms in several languages (local shop steward, The Norwegian Food and Allied Workers Union).

In 2014, the organization Solidaritet Norge (Solidarity Norway) established as a trade union for Polish workers in Norway. According to their website, the trade union has now about 1200 members. The union was set up because of the problems foreign workers had experienced in Norway, including bad treatment from some Norwegian trade unions. Solidaritet Norge help their individual members in meeting with employers and offer legal assistance in court cases. The union is now also open for others than Polish citizens.

Positive interest from employers

Some trade union representatives have experienced very positive interest from employers when recruiting members. This relates to opening clauses in the statutory regulations on working time directed at local parties in companies bound by a collective agreement. Many foreign firms and workers prefer work schedules of 14 days on work and 14 days off. The Working Environment Act lays down limitation on what schedules that could be introduced, but the employee protection is more relaxed if a company is bound by a collective agreement.

A few years ago, a huge construction contract for new rail tunnels outside Oslo was given to a Spanish-Italian contractor. The contractor formed a Norwegian-registered company to carry out the work, but employed mainly foreign workers. Before the project started, the management of the contractor asked for a meeting with the main office of the Norwegian Union of General Workers, which organizes road- and tunnel-workers. The management wanted to know more about how to do the work in a correct way and learn about Norwegian wage- and working-conditions. The union welcomed this and they has since the first meeting developed a relationship of trust with the management in the main contractor.

The result is about 900 new union members (mainly workers from Italy and Spain), a local collective agreement, a shop steward on full time and a mobile union office at the site. The employees can visit the office when in trouble or if they have any questions. All the shop stewards in this project have attended courses to learn about the Norwegian labour market system.

According to the Norwegian Union of General Workers, this must be the ideal method for a contractor when winning a large contract in another country – almost a business strategy. In addition to collaborating, employers benefit from agreed working time arrangements that are more flexible than permitted by the Working Environment Law. This is an arrangement that is in the interest of both employer and employees.



Claiming rights

The extension of collective agreements in several industries have been the most effective tool to combat low-wage competition in the aftermath of the EU/EEA-enlargements. It has shown useful to secure right pay for foreign workers. The system also makes it easy to get knowledge about the exact sum that the workers are entitled to (Eldring et al.2011).

Parts of the trade union movement was skeptical with regard to extending collective agreements. In many ways, this marked a shift in trade union strategies when it comes to wage setting, where collective agreements and a minimum of intervention from the state has been the former ideal. After almost 14 years of experience with regard to extension, the attitude from the trade unions is solely positive.

In many of the large companies within shipbuilding, construction, fish processing and more, local trade union representatives play an important role as watch dogs when it comes to wages and working conditions for workers employed by foreign sub-contractors. They engage in audits before subcontractors are engaged, they approach foreign works in order to inform them about their rights and are often also included in audits on whether subcontractors meet their obligations related to wages and working conditions. However, a prerequisite for this involvement is a solid union member bases, an employer that is interested in following the rules and local trade union representatives that makes this work a priority.

Chain liability for wages, introduced in 2010, in the areas covered of an extended collective agreement means that all contractors in the chain are liable to employees further down in the chain for unpaid wages and holiday pay. The individual worker has to make the claim, but the trade unions might assist them. Payment of wages is a matter of civil law.

According to a study, conducted by Fafo in 2014, this possibility to collect wages has had a limited use, despite that the chain liability had been a very strong claim from the trade unions for many years before it was introduced.

Too little knowledge and limitations in the system can be explanations of the limited use. Lack of documentation and old cases (older than three months) are two point specified as explanations (Alsos & Eldring 2014).

In general, it is difficult for the trade unions to help foreign members with cases through the court system, because it takes too much time. Even long before reaching the courts, the worker might have left Norway and the union.

Many shop stewards tip off to the Labour Inspectorate about breaches on labour conditions/ low salaries, either at their own workplace if they cannot cope with the challenges or in subcontracting or neighboring companies without trade union representatives. Shop stewards are often frustrated because the Inspectorate, due to confidentiality are not able to exchange information with them. Anyway, interviews with labour inspectors since the enlargement show that they appreciate these tip offs, and that they in many occasions have informal contact with shop stewards in order to collect information, and in such cases also exchange information.

The trade unions have argued that all foreign firms, that get an assignment at a project in Norway, should get obligatory training in how the labour market are functioning in Norway. The idea is that it will be easier to follow the rules and create a better understanding for the Norwegian model.



Transnational Cooperation

The trade union movement have their base nationally, and their international organisations do not have the power base or resources to act in an effective way across borders. The national labour market systems are also different, so transnational cooperation becomes quite difficult. Besides, in the countries that are most important in the Norwegian context, the union density is very low. The chances that a posted worker, for example from Poland or Lithuania, is a member of a cooperating trade union, is very low.

The Baltic Organising Academy BOA is a framework for unions from the Nordic and Baltic countries and from industry, transport and service sectors to work together. It is a program to develop organizing unions in Estonia, Latvia and Lithuania. The BOA stakeholders use their resources: staff, time, competence and money to joint action.

Under this umbrella, Fellesforbundet (The Norwegian United Federation of Trade Unions) and the Latvian union for construction workers (LCA) has signed an agreement to promote that Latvian construction workers posted to Norway are members of LCA and that they get information about regulations and working-conditions in Norway. These members should also be secured the right salary and other conditions, and be assisted by Fellesforbundet in case of trouble. The first agreement was signed in 2007, and the last is ongoing from 2016.

The Norwegian Food and Allied Workers Union (NNN) has in their statues a paragraph about giving support to members of cooperating unions in other countries. So far, there is no examples of any practical use of this paragraph.





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