

Employers, Cross-Class Coalitions and the Domestic Regulation of Labour Mobility in the Enlarged European Union

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Abstract

In the debates surrounding the regulation of labour mobility in the European Union, it has been implicitly assumed that employers always advocate minimal regulation regarding migration and services. This paper argues that this is not necessarily the case because of the cleavage between employers in exposed sectors, for whom unregulated service provision is beneficial, and employers in sheltered sectors, for whom free service provision means increased competition. In this context, cross-class coalitions between sheltered business and trade unions can foster strategies of labour market re-regulation to maintain wage levels and coordination arrangements in industrial relations. The analysis of domestic regulation strategies in Austria, Ireland and Switzerland shows that self-preserving regulation strategies of labour mobility prevail when sheltered business has a substantial influence within employer associations and where cross-class coalitions emerge, whereas minimal regulation strategies prevail when employers in exposed sectors are dominant and no cross-class coalition emerges.

Keywords: labour mobility, employers, trade unions, services, enlargement, regulation.

Introduction

The free movement of workers and services has recently come to the forefront of the debates on the maintenance of national social models in the European Union (Dolvik & Visser 2009; Lindstrom 2010). These debates have been triggered by two partly interlinked developments. On the one hand, the latest enlargements of the EU have fundamentally increased the heterogeneity of the single market in terms of wage levels, labour market regulations and welfare arrangements across member states. On the other hand, recent liberalisation efforts by the Commission (the so-called “Bolkestein directive”) or by the European Court of Justice (and its recent *Rüffert*, *Laval*, *Viking* and *Luxemburg* rulings) have created concerns that this heterogeneity combined with unregulated free movement could trigger a “race to the bottom” in labour standards, and the disorganisation of national models of capitalism (Krings 2009; Höpner and Schäfer 2010).

Distancing itself from the argument that a uniform trend towards disorganisation can be expected (Lillie & Greer 2007), recent research has highlighted the *domestic* factors which shape national re-regulatory strategies across countries in the face of supranational pressures for de-regulation (Menz 2005, 2010). In this perspective, the organisational characteristics of trade unions and employers, and the corresponding power relationships and lines of conflict between them, have been considered crucial in explaining why some countries may be able to maintain organised systems of industrial relations,

while others may be faced with a stronger liberalisation trend. So far, the domestic conflicts over the regulation of labour mobility have been implicitly understood around a classical class cleavage. Employers advocate full free movement and minimal regulation to reduce wage costs, while trade unions try to defend social standards and labour rights to maintain wage levels and social protection (Lindstrom 2010). In this context, the structural framework of industrial relations, or the embedded power of labour, has been considered the determining structural factor which shapes national regulation strategies of labour mobility (Menz 2010: 973).

This paper takes a more agency-centred perspective and argues that the preferences of employers in the regulation of labour mobility are not uniform, and that cross-class coalitions between employers and trade unions play an important role in the shaping of national regulatory strategies of labour mobility. While employers in exposed sectors may have an interest in full free movement and minimal regulation of service provision, employers in sheltered sectors may align with trade unions and prefer encompassing regulation to maintain coordination arrangements in wage regulation. In this context, cross-class alliances between trade unions and segments of employers are a central explanatory factor of national regulatory strategies. Empirically, the paper uses comparative case studies to investigate employer preferences, the formation of cross-class alliances and how they influence national regulatory strategies of labour mobility in the aftermath of the 2004 enlargement in Austria, Ireland and Switzerland. The paper is structured as follows. After outlining the potential impact of labour and service mobility on national varieties of capitalism, it describes the configuration of interests among employers over this issue, and then compares regulatory responses to labour market opening in the three countries. These have provided distinct regulatory responses to post-enlargement labour mobility.

Free Movement of Workers, Services Liberalisation and EU Enlargement

The free movement of labour and services after EU enlargement is a substantial challenge for coordinated systems of industrial relations and welfare systems. While the integration of product markets allowed distinct varieties of capitalism to co-exist drawing upon their respective institutional advantages in exports (Höpner & Schäfer 2010: 350), the integration of markets for services and labour potentially challenges their organisational foundations *on-site* (Lillie & Greer 2007: 552). For instance, if companies from one member state are allowed to provide services in another member state without complying with local wage agreements and compulsory social contributions, as proposed in the initial version of the directive on services in the internal market (“home country” principle), there would be no incentive for local companies to comply with them either, thereby starting a movement of disorganisation of organised capitalism.

The integration of markets for labour and services in the EU involves two co-existing regulatory regimes with different sets of potential conflicts at the domestic level: those around labour migration, and those around free service provision and the temporary posting of workers (Dolvik & Visser 2009; Menz 2002). These two issues are closely connected and should therefore be analysed jointly. The possibility for workers to freely move and seek employment in another member state, even if it does not challenge national regulatory frameworks as such, implies that it becomes more difficult to monitor the supply and demand for labour. Before the 2004 enlargement, intra-EU migration flows had remained largely marginal. Much of the discussion around labour mobility “bemoaned how little movement was actually taking place” (Donaghey & Teague 2006: 652). On the brink of the last enlargements of the EU, however, the important wage differentials between the EU15 and new member states (NMS) created concerns over the massive migration of eastern workers which would be “incompatible with high labor standards, an extended welfare state, and a normalized pattern of high-wage and high- skill employment” (Streeck 1995: 23). The high degree of politicisation of this issue led most European countries except Ireland, the UK and Sweden to implement transitional arrangements limiting the free movement of workers for a period of seven years after the 2004 enlargement (DG Employment 2004). Analyses that explained differences in the use of these restrictions have focused on elite positioning towards the far right (Gajewska 2006), or trade union policies (Krings 2009). In general, however, these analyses have not paid much attention to the cleavages and preferences among employers.

Free service provision across borders, whereby companies in one member state “post” their workers to another member state for a limited amount of time, has more direct potential effects on national varieties of capitalism because it can allow for the exploitation of gaps in domestic regulations. Even if the initial intentions of the Directive on Services in the Internal Market have been substantially tempered after significant political protest (Schmidt 2009), there is still a great deal of uncertainty as to *which* locals norms should be binding for posted workers. Set against the transitional restrictions on east-west migration mentioned above, worker posting has become an important phenomenon in the aftermath of EU enlargement, even if figures remain scarce. There is, however, substantial evidence that worker posting has been used as a gateway for labour mobility set against the restrictions set on individual migration applied by most “old” member states (Dolvik & Visser 2009: 492; European Commission 2008: 121). By contrast to labour migration, the freedom to provide services across member states has not been the subject of transitional restrictions (except for Austria and Germany) after EU enlargement. At the same time, EU legislation is still characterised by many uncertainties as to its domestic application. This uncertainty has been strengthened after the series of rulings of the ECJ on Laval, Viking, Ruffert and Luxemburg (Dolvik & Visser 2009). For some analysts, this uncertainty has paved the way for a “new phase of European

integration” where national diversity in capitalist arrangements will become ever more unsustainable, and a uniform trend of deregulation is to be expected (Höpner & Schäfer 2010; Lillie & Greer 2007).

For other researchers, there is still room for national diversity which depends on the “re-regulatory capacity” of national actors, and particularly interest groups. In his analysis of national response strategies to service liberalisation in the EU in the 1990s, Menz (2005; 2010) argues that national response strategies to service liberalisation are essentially determined by the degree of organisation of industrial relations arrangements, following a “U-shaped” pattern. Countries characterised by an intermediate level of corporatism, such as Germany and the Netherlands, yielded rather business-friendly strategies while countries with a high degree of corporatist coordination (such as Austria or Sweden) or countries where the state can supplement weak social partners and extend collective bargaining outcomes by decree (such as France) yielded more labour-friendly strategies. Even if employer preferences and cleavages are paid attention to (Menz 2005: 178-179), they are not considered a causal factor explaining regulatory strategies as such. Building on the idea that the resilience of national diversity is determined by the capacity of national interest groups to re-regulate the labour market, I argue in the next section that preference aggregation mechanisms within employer association and cross-class coalitions play a distinctive role, since employers in exposed and sheltered sectors may have different preferences over this issue.

Interemployer Cleavages, Cross-Class Coalitions and the Politics of Labour Mobility

So far, the politics of labour mobility in the enlarged EU may have appeared to be essentially structured by a classical class divide. Trade unions (at least those in high-wage countries) are the main opponents of a race to the bottom that may emerge as a result of unregulated service provision across borders. Employers are assumed to have uniform preferences in favour of minimal labour market regulation, which allows them to cut down on labour costs. However, the distributional conflicts in this domain are more complex and may cut across the class divide. Hence, one of the central claims of research in comparative political economy since the 1990s has been that alliances built *across* the class divide between specific groups of employers and segments of the working class have been central structuring elements of labour market arrangements and welfare states (Mares 2003; Swenson 2002). Similarly, labour mobility is an issue about which the preferences of business are not uniform, and where sections of employers, particularly inward-oriented small business and smallholders, may align with trade unions against big export business. The distributional conflicts vary in labour migration and service provision.

In principle, immigration increases the supply of labour, may strengthen the position of employers in collective bargaining and slow down the progression

of wages. It can be understood as beneficial for all employers, especially those in low-skilled activities that are often highly dependent on migrant labour (Freeman 1995). However, the blurry area between dependent and independent employment makes distributional conflicts more complex. Individual migration also entails the possibility of the migration of self-employed labour (the so-called “polish plumber” threat) that may compete with local small business and the self-employed. So-called “bogus” self-employed workers may also be used by foreign companies to circumvent rules applying to posted workers regarding wages and employment conditions. National workers, for their part, may have an interest in limiting labour migration in order to enhance their position in wage setting, thereby aligning with small business. Partly reflecting this convergence, both small business owners and production workers have become the two main groups supporting radical right parties in Europe (Oesch 2008: 357). However, given that the rules of the single market have made restrictions on labour mobility politically and legally difficult, when it comes to actual policy responses, demands for closed labour markets may be transformed into demands for enhanced labour market regulation via collective bargaining or labour law.

The distributional conflicts over *service liberalisation* and the posting of workers are slightly different (Eurofound 2010: 29-30). Export industries can be assumed to favour minimal regulation of transnational service provision. Worker posting is not a source of competition for domestic firms in exposed industrial sectors who are confronted with international competition on a daily basis, and introducing more competition on domestic markets by liberalising service provision can be a way to bring down costs. It may be cheaper to outsource work to foreign contractors paying lower wages than to local companies complying with the whole set of arrangements prevailing in one sector. By contrast, the interests of firms in sheltered sectors are clearly more mixed. For many companies in sheltered sectors, such as construction, the posting of workers by foreign companies or work agencies is an unwelcome form of competition, especially if they can compete with different rules. In many European countries, the construction sector is typically the one with the highest degree of unionisation, encompassing collective bargaining coverage, relatively high wages for that level of skills and a whole set of sectoral corporatist arrangements in the domain of vocational training, social benefits or early retirement which strongly structures their interests in a path-dependent manner (see for Switzerland Fischer 2002). In this context, employers in these sectors may want to ensure that foreign companies operating in the same country are subject to the same rules, and do not use lower wages to undercut them. In this area, their preferences are aligned with those of trade unions, who have an interest in protecting local wage standards at any rate.

Table 1: Preferences with Regard to Labour Mobility Regulation

	Individual migration	Worker posting
Sheltered business	Generally Low Regulation. Increase labour supply but possible increased competition by self-employed	High Regulation. Sheltered sectors threatened by worker posting, favour regulation to ensure fair competition
Export-oriented business	Low Regulation	Low Regulation
Trade unions	Mixed preferences: internationalist commitment vs. prevent downward pressure on wages	High Regulation. Threat on wages and labour standards if no compliance with regulatory framework

What transpires from this account of preferences on labour mobility is a potential convergence of interests in favour of high regulation between trade unions on the one hand, and employers in the sheltered sectors of the economy, such as construction, on the other. If trade unions may favour strict regulation of transnational service provision and tight labour market control as a matter of maintenance of wage standards, employers in sheltered sectors may want it as a means to protect their domestic market from unfair competition.

Starting from these different sets of preferences, the power relationships within employer associations and the coalitions between employers favourable to labour market control on the one hand, and trade unions on the other play an important role in the domestic regulation of labour mobility. In the context of EU enlargement, regulation efforts (the dependent variable of the analysis) have included the use of both transitional arrangements on labour mobility, and the adjustment of regulatory frameworks to cope with risks of wage dumping, such as the inclusion of posted workers in the application of collective labour agreements. This second dimension could even be considered more important, as restrictions on labour market access itself will no longer be possible at the end of the transitional period after enlargement. In the next section, I assess this argument with case study analyses of regulatory strategies of labour mobility in three affluent European states.

National Regulatory Responses to Labour Mobility in Austria, Ireland and Switzerland

The empirical section of this paper provides a comparative case study analysis of labour market opening and the regulation of migration and worker posting after EU enlargement in Austria, Switzerland and Ireland, three high-wage countries where the incentives for the use of labour mobility to cut down on wage costs are substantial. Two components of labour mobility regulation are analysed here, namely the use of transitional arrangements on the free movement of labour after EU enlargement (immigration control) and, most importantly, measures of wage protection (statutory minimum wage floors, measures to make collective wage agreements universally applicable, enhanced labour inspection). The main hypothesis (H1) is that substantial measures of labour market protection take place in countries where sheltered business with protectionist preferences coalesces with trade unions, while weak regulatory measures are adopted in countries where this alliance does not emerge.

The selection of cases allows for the assessment of alternative explanations drawn from the literature. Hence, another alternative hypothesis *H2* would hold that the degree of corporatism is the determining factor that shapes regulatory strategies (Menz 2010). Since Austria is the corporatist country *par excellence*, it should display strong regulatory responses while Ireland and Switzerland, with a weaker degree of corporatism and less institutionalised power resources for unions, should display weak regulatory responses. Even if Switzerland is considered to be a Coordinated Market Economy (CME) while Ireland is a Liberal market Economy, in particular, following Menz, Switzerland as a country with an intermediate degree of corporatism (similar to Germany) should undergo a significant disorganisation pattern and a weak regulatory response. For each case, I link these regulatory responses to the configuration of interests within employer associations and the coalitions built between labour and segments of employers. The hypotheses of the analysis can therefore be formulated as follows:

Finally, the comparison of two EU countries with a non-EU country allows us to assess the causal impact of EU membership (Haverland 2006). This is especially useful with regard to the alternative hypothesis *H3*, that the EU induces a uniform trend towards deregulation (Lillie & Greer 2007). Even if Switzerland adopts much of EU legislation either through bilateral agreements or on an autonomous basis, it is not so directly subjected to EU pressures for deregulation. According this hypothesis, the regulation of labour mobility should be weaker in Austria and Ireland than in Switzerland.

H1: Countries where cross-class coalitions emerge adopt self-preserving re-regulatory strategies, while countries where those coalitions do not emerge undergo stronger liberalisation.

H2: The degree of corporatism is the main determinant of change and continuity. One should observe self-preserving change in Austria but liberalisation in Ireland and Switzerland.

H3: EU membership induces a uniform trend towards liberalisation notwithstanding domestic factors. Liberalisation should be stronger in Austria and Ireland than in Switzerland.

The analysis is based on extensive document analysis as well as 36 expert interviews with employers, trade union officials and ministries in the three countries. The upshot of the analysis is that countries where cross-class alliances emerged (Austria and Switzerland) produced more thorough regulatory responses than the country (Ireland) where no such cross-class alliance could be observed, and where labour was left on its own to advocate regulation.

Austria

Austria is a prominent example where business organisations are dominated by small, inward-oriented business with protectionist preferences due to a specific historical trajectory (Traxler 1998). A large part of Austria's big industries were nationalised after the second world war, thereby limiting private ownership to small business. In the mid-1970s, among the 50 largest firms in Austria, two thirds were state-owned, and only 10% were in private, domestic hands (Katzenstein 1984: 50). This has left a significant imprint on the representation of Austrian business interests, leaving private interest representation mainly to small sheltered business (Culpepper 2007: 624). Besides, the Austrian peculiar system of interest representation, with compulsory membership in the economic chamber (*Wirtschaftskammer*), gives an advantage to small firms. Big export firms have their own independent organization, the IV (*Industrielle Vereinigung*) but its membership is not compulsory; it does not enjoy the status of "official" social partner and thus has weaker political clout. Even if the latter may have a say in important economic decisions, small- and medium-sized enterprises with protectionist preferences are clearly dominant. On the side of labour, trade union density has steadily declined since the 1960s, reaching 34% in 2004 (Visser 2009).

The risk of important migration flows from neighbouring countries was a highly politicised issue in Austria. The Austrian regulatory response to labour mobility has been the most protectionist of all the cases analysed here, notwithstanding the already encompassing degree of collective bargaining coverage sustained by extension mechanisms. In the 1990s, a law on the universal applicability of collective agreements to posted workers (AVRAG) was adopted to subject all foreign companies to the provisions of existing collective labour agreements. On the brink of EU enlargement, the Austrian

Government, along with Germany, adopted the longest possible transitional period for free movement allowed by the enlargement Treaty, and also managed to impose restrictions on service provision (Heschl 2008; Ziegler 2002). It played a leading role, along with Germany, in the initiative to introduce transitional arrangements on the free movement of workers within the enlargement Treaty (Interview AUT2, AUT4). In many ways, the prevalence of small sheltered business in Austria favoured a solid compromise between the majority of employers and trade unions over the protection of the Austrian labour market. This compromise was relayed by the grand Coalition SPÖ-ÖVP, in power until 2000 during the accession negotiations, but also by the much more right-wing ÖVP/FPÖ Government which ruled between 2000 and 2006.

This compromise was underpinned by the convergence of interests between sheltered business and trade unions mentioned above, more precisely by the connection between the mobility of posted workers and the self-employed (feared by both employers and trade unions) and that of employees, in particular frontier commuters (partly feared by trade unions). This fostered an alliance between trade unions and dominant segments of employer associations (Interview AUT2, AUT7) over measures of labour market protection both with regard to labour migration and free service provision:

“It was clear that the trade union side would strongly demand the closure of the labour market, whereas employers would have had a more liberal stance, and would be interested in getting skilled labour from the new member states. But free movement has two sides. There is also the freedom to provide services, which would have deeply affected our companies, especially in the border area, in the construction sector, that is, protected sectors. In the end, this has led us to say: 'Ok, we cannot cherry-pick, we cannot open here and close there. It must be a balanced step” *Social Policy official, WKO* (Interview AUT7), my translation.

“And so there was – and there still is – an alliance between employers and workers. [...] In Austria, the power lies within the Chambers. And the WKO is a craftsmen’s organization [...] It is the small businessmen who have their say. And when those small businessmen [...], when they are afraid, they will tell their president that he needs to protect them. Then he will be talking to our president [of the ÖGB], with the President of the *Arbeitskammer*, and if the three are eye to eye [...] then there is no government in Austria that will contradict them” *Head of International Affairs, ÖGB* (Interview AUT2), my translation.

In the end, employers pronounced in favour of transitional arrangements. The IV, representing industrial export sectors, rallied itself to the position of the WKÖ, although arguing for a sufficient level of flexibility. This convergence of interests between employers and trade unions, and then – by virtue of the links between organised interests and parties – between the social democrats and conservatives in Government, allowed for a large base of political support for transitional arrangements, and a protectionist regulation strategy focusing on immigration control and encompassing regulation of posted work, for which legislation had already been passed in the 1990s (Menz 2005). Through a EU-enlargement “adaptation” law passed by the ÖVP/FPÖ government on the

brink of enlargement (Osterreichisches Parlament 2004), Austria implemented restrictions on labour mobility for the longest possible period permitted by the enlargement Treaty. In this case, one could observe a relatively clear cross-class coalition in support of self-preserving protectionist change. The fact that the ÖVP/FPÖ right-wing coalition with a strong anti-union stance advocated similar policies shows that labour was not the only political force in favour of labour market protection. Employers and their strong links with the conservative party were also strongly in favour of it.

Ireland

Similarly to Austria, interest groups in Ireland have played a determining role in influencing the policy process, most notably during the period of centralised wage bargaining that operated from 1987 to 2008 (Hardiman 2006). In contrast to Austria, however, employer interests in Ireland have been dominated by export-oriented firms, most notably represented by the Irish Business and Employers Confederation (IBEC). Given the very internationalised nature of the Irish economy, foreign companies (particularly US-based) have constituted an important influence group therein (Begg 2007; Interview IRE6). Interests in the construction industry, one of the only sectors where a binding sectoral collective agreement exists, are represented through a separate organisation, the Construction Industry Federation (CIF). The power relationship among Irish business interests is therefore reversed as compared to the one observed in Austria, with a dominance of bigger, export-oriented firms. Trade union density in 2004 was 38% (Visser 2009).

The Irish Government adopted a radically different regulatory response to Austria. It fully opened its labour market for both labour migration and services right at the time of enlargement without adopting any measure of labour market protection (Interview IRE5). This happened in the context of strong employment growth. After the full opening of the Irish labour market, immigration from the EU 10 to Ireland increased to a significant extent. The number of nationals of the EU 10 in employment in Ireland was multiplied by 6 between 2003 and 2007 (Hughes 2007). Even though most political parties and organised interests had endorsed the view that EU enlargement would not lead to a “flood” of immigrants exerting downward pressure on wages, industrial disputes related to EU enlargement caused significant concern on the part of trade unions, and contributed to the politicisation of this issue. In particular, the case of Irish Ferries, a company operating transport services between Ireland, France and the UK which announced its intention to offer redundancy terms to 543 seafarers and replace them with agency workers from Latvia, yielded significant political debates, besides industrial action and protests (Interview IRE8). Even if negotiations between organised interests occurred after the opening of the labour market, they would also play an important role, but would be underpinned by different power relationships.

At the end of 2005, the terms of the nationwide centralised wage agreement “Sustaining Progress” were coming to an end. When the Government issued an invitation to the social partners to participate in a new round of negotiations on pay increases, trade unions announced that they would not negotiate pay terms before commitments were made by the Government and employers to protect the Irish labour market against wage dumping resulting from labour mobility, similar to the debate in Austria (Interview IRE8). Interestingly, trade unions asked for the reinforcement of a continental-style system of collective bargaining to protect the labour market:

“We need to protect wages above the level of the minimum wage; in particular our legislation needs to recognise the *standard week remuneration* where this is above the level of minimum wage so that we can provide a legal guarantee for what’s commonly known as the *going rate for the job*. By pushing for a legal guarantee for the going rate, ICTU is making a further push in the direction of regulation and away from voluntary collective bargaining. The implication is that ICTU is opting for a more continental European-style wage bargaining system” Quoted in EIRO (2006).

Even if a long negotiation process resulted in the adoption of measures to reinforce labour inspection, no compromise could be found on a reinforcement of the legislative backing of collective bargaining as asked by trade unions. For employers, such an increase in labour market regulation was believed to be a threat to inward investment, and especially for US companies working in a non-union environment (Begg 2007: 183; Interview IRE6; Interview IRE7; Interview IRE9). In contrast to Austria, in the Irish context there was no will on the side of business to protect Irish companies from foreign competition:

“Ultimately what the trade unions were seeking was some form of legislative underpinning of what we came to refer to as sector norms. That would have been agreed through collective bargaining and the effect of that would have been to say to any company coming into a sector, particularly those who would be operating in a non-union environment, that if you come into this sector you cannot pay below this sector norm, even though that sector norm might be quite a distance above the national minimum wage [...] So, these were some of the sensitivities that we would have had, and why we weren’t able to go there” (Interview IRE7) .

“It gradually emerged that the real problem lay with the Foreign Direct Investment companies, and in particular, I would say the American Chamber of Commerce. Ironically these were not the target of our campaign but they saw any change in the legal framework on this issue as a watershed – a fundamental shift away from a pro-business totally accommodating and, by definition, unregulated labour market. The power of this FDI sector is very great – not just as an influence group within IBEC but also in terms of their direct political access to and clout with the Government” Secretary General, Irish Congress of Trade Unions (Begg 2007: 183).

Besides, even the domestic construction companies were very aware of the importance of foreign direct investment on the construction sector, and did not voice in favour of protecting the domestic labour market from competition like their Austrian counterparts (Interview IRE9). Eventually, the negotiations resulted in a reinforcement of labour inspection and slight improvements in the protection of employment standards against job displacement, but the

“continental-style” changes in the framework of industrial relations requested by trade unions was met with united resistance from employer associations, so that no cross-class compromise emerged. The actual regulatory response to labour mobility, even if it was triggered by trade union mobilisation, emerged as a fairly export-business-friendly solution where both labour mobility and transnational service provision remained weakly regulated with no specific dispositions applying to posted work (Menz 2010: 980).

Switzerland

Switzerland is not a member of the European Union but nevertheless adopted the free movement of workers through a series of bilateral agreements with EU countries, extended to new member states in 2005. The Swiss political economy features strong export-oriented firms, but small, inward-oriented business nevertheless has significant political clout. The Swiss Employers’ Union (SAV) represents the interests of both export-oriented companies and the construction industry for matters of industrial relations (Eichenberger & Mach 2011). SwissMem represents the powerful metal industry sector, while the Swiss Union of Crafts (Union Suisse des Arts et Métiers) represents the interests of small and medium-sized, inward-oriented companies. Similarly to Ireland, the Swiss labour market has been characterised by its low level of regulation: about 50% of the workforce is covered by collective labour agreements, and there is no national minimum wage. Interestingly, the opening of the Swiss labour market yielded a process of re-regulation where the cleavage between export-oriented and domestic business was conspicuous, and where an alliance between traditionally weak trade unions (19.6% union density in 2004) and sheltered business emerged, in a similar way to Austria.

As part of a package of agreements on Swiss-EU relations that would be extended to new EU countries after enlargement, Switzerland agreed to open its labour market for EU workers (Fischer et al. 2002). In Switzerland, these types of international agreements are subject to optional referendum votes if 50,000 citizens so demand (Kriesi & Trechsel 2008). Arguing that this would lead to massive immigration flows, the national-populist Swiss People’s Party (SVP), opposed the agreement from the outset and threatened to call for a referendum vote, drawing upon the widespread scepticism towards immigration among Swiss voters. In this context, trade unions stated they would support labour market opening only if “accompanying measures” to protect Swiss wage standards were provided (Fischer et al. 2002). Given the importance of bilateral agreements for export companies, the government and employers could not afford the opposition of both trade unions and the radical right SVP in a popular referendum, and after some hesitation, were drawn to negotiate with trade unions on this issue.

At this point, a working group gathering together employers, unions, and the government was set up to develop measures of labour market protection which

could be presented to voters together with the establishment of free movement of workers. The main stake of these tripartite negotiations was the loosening of extension rules of collective labour agreements, the creation of a law on posted workers to ensure compliance with local wage standards and social security contributions, as well as increased staffing of the labour inspectorate. At the outset, representatives of the export economy were firmly opposed to these measures. Representatives of sheltered business, even if they aligned with export employers at the outset of the negotiations, progressively rallied trade unions under the influence of their affiliates in the construction sector (Interview CH5). The construction sector had an interest in protecting established wage bargaining arrangements against foreign companies that could post their workers to Switzerland for lower wages. This meant strengthening protection measures for Swiss wages and making them binding for foreign companies operating in Switzerland. Representatives of the Swiss Employers' Union, who represent export industries but also the construction sector, were in-between these two positions.

“Export industries have no interest in protecting domestic businesses and Swiss wages. For them, the high level of wages is a loss of competitiveness in world markets [...] For export industries, there is no interest in protecting domestic industries in Switzerland. For a variety of tasks, it would be cheaper to use the services of foreign contractors. To build their factories in Switzerland, they would have had an interest in there being no law on posted workers. For their production plants [...] it would have been cheaper to hire Polish contractors. The same for machine maintenance or services. That's all a cut on production costs. They clearly made it explicit. For them, foreign competition already exist everyday, it occurs on the products in global markets. This is understandable. They take care of their business, which consists of producing in Switzerland with competitive prices despite Swiss wages. The Swiss Employers' Union, which also represents the construction industry, had to juggle with competing interests among its members (Interview CH2).

“We had fairly violent discussions within the employer association. There were two camps, or rather three. Representatives of the construction sector were clearly in favour of protecting their businesses, especially in border regions. [...] On the other hand there were those who said that they wanted nothing. Nothing needs to be done. In-between, there were those who were negotiating, those who defended our position vis-à-vis both sides, and vis-à-vis the unions. We had to see what we could accept and what we could not accept. And then it took a little something to force the hand of the board of directors [to accept the principle of flanking measures]. We had to tell them that we had to continue on this path because otherwise there was no chance of winning the referendum” Member of Management, Swiss Employers' Union (Interview CH8).

In Switzerland, the power balance between export-oriented employers keen on deregulation and sheltered business susceptible to coalesce with trade unions was clearly different from Austria. However, the threat of an objective alliance between trade unions and the radical right in a popular referendum convinced export-oriented employers to make concessions in this area, and support measures advocated by sheltered business. A corporatist compromise around an encompassing package of domestic regulation measures of posted work and labour market control was eventually agreed by peak employer organisations,

despite the reluctance of export sectors. After its acceptance in Parliament, the bill on labour market opening and the package of domestic “accompanying measures” was approved on 25 September 2005 a majority of 56%, supported by both trade unions and employers.

Conclusion

This paper has shown that the class divide is not the only element that structures the conflicts around the regulation of labour mobility in the enlarged EU. The preferences of employers are not fully uniform, and some segments of business may have strong preferences for more stringent regulation of labour mobility as a way to protect their domestic markets. In this context, political coalitions in favour of enhanced regulation of wage standards may emerge between employers in traditionally sheltered sectors and trade unions. These cross-class coalitions decisively shape national regulatory strategies of labour mobility. Empirical results therefore confirm the hypothesis H1, according to which cross-class coalitions foster high-regulation strategies of labour mobility. The preferences and power relationships within business organisations strongly influence the domestic regulatory responses to the free movement of workers and services in the enlarged EU. In countries where a substantial constituency of sheltered domestic business coalesced with trade unions on an agenda of labour market protection, such as in Austria and Switzerland, substantial measures were implemented either to close labour markets through long transitional arrangements, or through substantial re-regulation measures to prevent wage dumping. In Ireland, the country in which no such coalition emerged, a rather liberal regulation strategy emerged.

Table 2: Characteristics of cases analysed

	Degree of Corporatism ¹	Cross-class compromise	Union Density Rate 2004 ²	Regulatory Response Strategy
Austria	High Corporatism	Yes	34%	High Regulation
Switzerland	Medium Corporatism	Yes	19%	High Regulation
Ireland	Weak Corporatism	No	38%	Low Regulation

¹ See for instance Hicks and Kenworthy (1998). Corporatism scores are respectively .96 for Austria, .55 for Switzerland and .07 for Ireland.

² (Visser 2009)

Now let us examine the alternative hypotheses. Hypothesis H2 has a significant explanatory power when it comes to comparing Austria and Ireland, but proves to be more problematic with the case of Switzerland. Austria has clearly more corporatist structures and stronger trade unions than Ireland, and has yielded an essentially self-preserving protectionist regulatory response, while Ireland yielded a liberal response in line with already liberal corporatist structures. However, Switzerland displayed a fairly astonishing regulatory response, characterised by substantial re-regulation, which was difficult to predict, set against existing power relationships between employers and labour. This case also shows that even in countries characterised by intermediate levels of corporatism, more labour-friendly regulation strategies can prevail. Previous research analysing service liberalisation in the 1990s argued that in a country with a similar “medium corporatist” system such as Germany, the failure of trade unions and employers to find an agreement on re-regulatory measures led to new avenues for employers to bypass contractual obligations to standard wages, thereby revealing the ‘Achille’s heel of *Modell Deutschland*’ (Menz 2005). It seems therefore that it is not the overall degree of organisation of the system of industrial relations alone that shapes regulatory strategies, but above all the configuration of interests that underpin those structures, which may change significantly over time (Baccaro 2003). Analyses of other cases would be necessary to assess the claim that actor coalitions matter more than structures of industrial relations, but cooperation patterns between employers and trade unions in favour of stringent regulations of posted work have recently been documented in other countries, such as Germany (Eurofound 2010: 29-30).

In any case, hypothesis H2 which predicted a stronger deregulatory trend in Austria and Ireland than in Switzerland is not confirmed, as Austria displayed the most protectionist regulatory response while Ireland displayed the most liberal response. This provides little empirical support for a generalised and undifferentiated trend towards the disorganisation of organised capitalism under the pressures of EU negative integration, and instead shows that the politics of market-making in the EU can still be influenced by domestic interest configurations, and trigger process of re-regulation of markets at the domestic level despite the EU impetus for liberalisation (Menz 2010). However, in a context in which the regulation initiatives of member states are increasingly likely to clash with the dynamic of “negative integration through law” promoted, among others, by the ECJ, it remains to be seen to what extent domestic regulation countermovements to supranational economic integration will still remain possible in the future (Scharpf 2010). The regulatory strategies analysed here were deployed before the “quartet” of rulings of the ECJ on worker posting, and the room for manoeuvre of member states may have shrunk substantially. However, recent research conducted in the aftermath of those rulings provides evidence of differentiated responses across countries or even across sub-national political units within the same country (Blauberger 2010). It is therefore still important to understand the domestic configurations

of interests and conflicts which shape those national responses to European integration.

References

Interviews quoted

Interview AUT2, Section International Affairs, Trade Union ÖGB , 30.09.2008, Wien.

Interview AUT4, Section European Union and International, Arbeiterkammer Wien, 02.10.2008, Wien.

Interview AUT7, Section Social Policy, Austrian Economic Chamber, 08.10.2008, Wien.

Interview CH2, Sector Labour Relations, State Secretariat for Economics, 09.03.2007, Neuchatel.

Interview CH5, Swiss Union of Crafts and SMES, Member of Working Group "Flanking Measures", 26.03.2007, Bern.

Interview CH8, Management, Swiss Employers' Union SAV, 11.05.2007, Bern.

Interview IRE5, Head of IBEC Brussels Office and Former Senior Social Policy Executive, Irish Business and Employers Confederation, 28.01.2008, Dublin.

Interview IRE6, Department of Enterprise, Trade and Employment, 29.01.2008, Dublin.

Interview IRE7, Irish Business and Employers Confederation, 05.02.2008, Dublin.

Interview IRE8, Irish Congress of Trade Unions, 07.02.2008, Dublin.

Interview IRE9, (Joint Interview), Construction Industry Federation, 08.02.2008, Dublin.

Literature

Baccaro, L. (2003) "What is Alive and What is Dead in the Theory of Corporatism", *British Journal of Industrial Relations* 41(4): 683-706.

Begg, D. (2007) "Immigration, Integration and Cultural Identity", *Translocations: The Irish Migration, Race and Social Transformation Review* 2(1): 181-189.

Blauberger, M. (2010) "With Luxemburg in Mind... the Making of National Policies in the Face of ECJ Jurisprudence", *Paper presented at the the ECPR Pan-European Conference on EU Politics, Porto, 24th-26th June 2010.*

Culpepper, P. (2007) "Small States and Skill Specificity: Austria, Switzerland, and Interemployer Cleavages in Coordinated Capitalism", *Comparative Political Studies* 40(6): 611.

DG Employment, s.a.a.e.o. (2004) *The Transitional Arrangements for the Free Movement of Workers From the New Member states Following Enlargement of the European Union on 1 May 2004.* Brussels: DG Employment, social affairs and equal opportunities of the European Commission.

- Dolvik, J.E., and J. Visser (2009) "Free Movement, Equal Treatment and Workers' Rights: Can the European Union Solve Its Trilemma of Fundamental Principles?", *Industrial Relations Journal* 40(6): 491-509.
- Donaghey, J., and P. Teague (2006) "The Free Movement of Workers and Social Europe: Maintaining the European Ideal", *Industrial Relations Journal* 37(6): 652-666.
- Eichenberger, P., and A. Mach. (2011) "Swiss Business Interest Associations" in Trampusch, C., and A. Mach (eds.) *Switzerland in Europe. The Swiss Political Economy in Comparative Perspective*. London: Routledge:
- EIRO (2006) "Formal Talks Underway on Seventh Successive National Pact", *European industrial relations observatory online* 2006(2): <http://www.eurofound.europa.eu/eiro/2006/02/feature/ie0602203f.htm>
- Eurofound (2010) *Posted Workers in the European Union*. Dublin: European Foundation for the Improvement of living and Working Conditions.
- European Commission (2008) *Employment in Europe*. Brussels: European commission.
- Fischer, A. (2002) "Wirtschaftsbranche, Gewerkschaftsstärke Und Interessengesätze Der Arbeitgeber: Der Fall Der Flankierenden Massnahmen Zur Personenfreizügigkeit", *Revue Suisse de Science Politique* 8(3/4): 85-100.
- Fischer, A., S. Nicolet, and P. Sciarini (2002) "Europeanisation of Non-Eu Countries: The Case of Swiss Immigration Policy Towards the Eu", *West European Politics* 25(4): 143-170.
- Freeman, G.P. (1995) "Modes of Immigration Politics in Liberal Democratic States", *International Migration Review* 29(4): 881-908.
- Gajewska, K. (2006) "Restrictions in Labor Free Movement After the Eu-Enlargement 2004: Explaining Variation Among Countries in the Context of Elites' Strategies Towards the Radical Right", *Comparative European Politics* 4(4): 379-398.
- Hardiman, N. (2006) "Politics and Social Partnership: Flexible Network Governance", *Economci and Social Review* 37(3): 343-374.
- Haverland, M. (2006) "Does the Eu Cause Domestic Developments? Improving Case Selection in Europeanisation Research", *West European Politics* 29(1): 134 - 146.
- Heschl, F. (2008) "Europäische Integration Und Arbeitsmigration Nach Österreich Zwischen Arbeitnehmer- Und Arbeitgeberinteressen", *Wirtschaft und Gesellschaft* 2008(2): 159-184.
- Hicks, A., and L. Kenworthy (1998) "Cooperation and Political Economic Performance in Affluent Democratic Capitalism 1", *American Journal of Sociology* 103(6): 1631-1672.
- Höpner, M., and A. Schäfer (2010) "A New Phase of European Integration: Organised Capitalisms in Post-Ricardian Europe", *West European Politics* 33(2): 344-368.

- Hughes, G. (2007) "Eu Enlargement and Labour Market Effects of Migration to Ireland From Southern, Central and Eastern.", *Second IZA Migration Workshop 'EU Enlargement and the Labour*.
- Katzenstein, P.J. (1984) *Corporatism and Change : Austria, Switzerland, and the Politics of Industry*. Ithaca ; London: Cornell University Press.
- Kriesi, H., and A.H. Trechsel (2008) *The Politics of Switzerland : Continuity and Change in a Consensus Democracy*. Cambridge: Cambridge University Press.
- Krings, T. (2009) "A Race to the Bottom? Trade Unions, Eu Enlargement and the Free Movement of Labour", *European Journal of Industrial Relations* 15(1): 49-69.
- Lillie, N., and I. Greer (2007) "Industrial Relations, Migration, and Neoliberal Politics: The Case of the European Construction Sector", *Politics & Society* 35(4): 551-581.
- Lindstrom, N., *Service Liberalization in the Enlarged Eu: A Race to the Bottom Or the Emergence of Transnational Political Conflict?*,
- Mares, I. (2003) *The Politics of Social Risk: Business and Welfare State Development*. Cambridge: Cambridge University Press.
- Menz, G. (2010) "Are You Being Served? Europeanizing and Re-Regulating the Single Market in Services", *Journal of European Public Policy* 17(7): 971-987.
- Menz, G. (2002) "Patterns in Eu Labour Immigration Policy: National Initiatives and European Responses", *Journal of Ethnic and Migration Studies* 28(4): 723-742.
- — — (2005) *Varieties of Capitalism and Europeanization : National Response Strategies to the Single European Market*. Oxford ; New York: Oxford University Press.
- Oesch, D. (2008) "Explaining Workers' Support for Right-Wing Populist Parties in Western Europe: Evidence From Austria, Belgium, France, Norway, and Switzerland", *International Political Science Review/ Revue internationale de science politique* 29(3): 349.
- Osterreichisches Parlament (2004) 414 D.B. (Xxii. Gp) *Eu-Erweiterungs-Anpassungsgesetz. Materialien*. Wien: Nationalrat.
- Scharpf, F.W. (2010) "The Asymmetry of European Integration, Or Why the Eu Cannot be a 'Social Market Economy'", *Socio-Economic Review* 8(1): 211-250.
- Schmidt, S.K. (2009) "When Efficiency Results in Redistribution: The Conflict Over the Single Services Market", *West European Politics* 32(4): 847-865.
- Streeck, W. (1995) *German Capitalism: Does it Exist? Can it Survive?* Cologne: MPIfG Discussion Paper 95(5).
- Swenson, P. (2002) *Capitalists Against Markets: The Making of Labor Markets and Welfare States in the United States and Sweden*. Oxford University Press, USA.
- Traxler, F. (1998) "Austria: Still the Country of Corporatism" in Ferner, A., and R. Hyman (eds.) *Changing Industrial Relations in Europe*. Oxford: Blackwell: 239-261.

- Visser, J. (2009) *Ictwss: Database on Institutional Characteristics of Trade Unions, Wage Setting, State Intervention and Social Pacts in 34 Countries Between 1960 and 2007*. Amsterdam: Amsterdam Institute for Advanced labour Studies.
- Ziegler, G. (2002) "The Accession Negotiations on the Free Movement of Workers" in Ott, A., and K. Inglis (eds.) *Handbook on European Enlargement: A Commentary on the Enlargement Process*. The Hague: Asser Press: 131-142.