

**The European Migrant Workers Union: Union Organizing through Labour
Transnationalism**

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Abstract

Despite the presence of hyper-mobile migrant workers in the European Union, there is very little research on transnational union organizing efforts.ⁱ This paper examines the European Migrant Workers Union (EMWU), which signalled a shift by the German union Industriegewerkschaft Bauen-Agrar-Umwelt (IG BAU) in its approach to migrant workers away from national protectionism and toward transnational organizing. The EMWU, however, failed to thrive as an organization, primarily because of decisions by other unions to reject the transnational approach and instead to defend existing jurisdictions. We argue that this inaction constitutes a setback for union reassertion of control over markets and for bringing industrial citizenship to Europe's hyper-mobile workers.

Keywords: Union organizing; labour transnationalism; migrant workers; industrial citizenship; European migration

In 2004 Industriegewerkschaft Bauen-Agrar-Umwelt (IG BAU) established a project to organize migrant workers from Central and Eastern Europe, called in English the ‘European Migrant Workers Union’ (EMWU).ⁱⁱ Rather than organizing posted workers directly, IG BAU allocated €1.5 million to the EMWU, a transnational subsidiary that would recruit and serve members as they circulated in the European labour market. The founding ambition was to attract 10,000 members and financial support from other unions, in Germany and abroad. The EMWU, however, did not achieve either of these goals, and in late 2008 it was restructured as a servicing and information point for migrants, housed within IG BAU.

The story of EMWU demonstrates the difficulties unions face when they address the problem of transnational labour mobility using national strategies. The EMWU emerged due to IG BAU’s loss of power in the construction industry and its frustration with the slow speed of the development of transnational inter-union cooperation in the European construction sector. IG BAU staff do not regard the EMWU experience as a failure in a broad sense: it was successful in its advocacy and servicing functions. IG BAU has, furthermore, rallied several European construction unions to support the European Construction Mobility Information Network (ECMIN), a less ambitious multi-lateral project that could, in the long run, lead to collaborative cross-border organizing initiatives. But the EMWU failed to establish itself as a viable independent organization. We argue that the unwillingness of other unions to support the project made it impossible to overcome the flaws in the EMWU’s organizing model and the inherent difficulties of organizing hyper-mobile migrants.

We advance the concept of transnational industrial citizenship as a bridge between the literatures on union organizing and labour transnationalism. Cross-border worker mobility, like the mobility of goods and capital, sometimes leads to calls for international trade union cooperation to regain union control over wage competition. Union organizing of migrant workers, however, requires a complex process of adaptation to a set of dilemmas (Lillie and Sippola 2011). In Europe, the exercise of denationalized civil rights, such as workers’ rights to cross-border mobility (Ciupijus 2011), accompanies migrants’ exclusion from nationally rooted social rights such as access to collective bargaining (Lillie 2010). Drawing on Gordon (2007) we define the exercise of such rights

by hyper-mobile workers as transnational industrial citizenship, and argue that its practical implementation requires a worker organization capable of operating in many countries simultaneously. We refer to the construction of this kind of organization as transnational migrant worker organizing.

This paper describes the EMWU, explains its failure, and teases out implications for worker rights in Europe. We use this case as a window into transnational migrant worker organizing, because it is the most ambitious example of the phenomenon of which we are aware. The data were collected in four waves between 2003 and 2010. First, in 2003-4, we examined EMWU as part of IG BAU's strategy and interviewed trade union activists, works councillors, staff at the national and local levels, employers, government representatives, and EMWU staff. Second, in 2006-7, we examined EMWU in international perspective by interviewing union and employer representatives in the UK, Germany, and Finland. Third, in 2008-9, we studied a specific site in depth, and interviewed Finnish construction unionists and managers at the Olkiluoto 3 nuclear power plant, where there had been an effort by Polish workers to involve the EMWU. Fourth, in 2010, we updated the story through interviews with staff and activists of EMWU in Germany and Poland, and broadened its national coverage through phone interviews with trade unionists in Belgium, the Netherlands, Norway, Poland, Spain, Sweden, Switzerland, and the UK. The case study is thus constructed from 88 interviews conducted in Dutch, English, Finnish, German, and Polish, as well as secondary written sources and observation of union work.

We first assess the literature on labour transnationalism and union organizing of migrants. Then we discuss EMWU, including IG BAU's motives for creating it, its servicing and organizing model, the reactions of other unions, and the rise of the alternative ECMIN project. We conclude by examining the reasons why EMWU did not become a full-fledged transnational union and exploring implications for transnational industrial democracy in Europe.

Labour transnationalism and organizing migrants

Little empirical literature exists on transnational approaches to union organizing of migrants.

Although some argue that public policy or collective worker responses should be transnational in

nature (Gordon 2007; Visser and Dølvik 2010), there has been little empirical work discussing migration as a problem of labour transnationalism. There are rich literatures about union responses to migration, and union transnationalism, but these have developed separately.

The dilemma facing national unions is well documented: they try to avoid downward wage pressures by restricting labour supply, but in doing so could alienate migrants, who are potential members (Penninx and Roosblad 2000). When they decide to integrate migrants, migration becomes a driver for organizational change, providing the basis for organizing around new topics such as anti-racism and renewing union leadership (Virdee 2000). Migrant communities are also becoming sites of labour struggles outside of formal union structures (Iskender 2007). National inter-regional labour mobility provided the impetus for the growth of national trade unions in the US (Ulman 1955), and international labour mobility could similarly lay the foundations for the internationalization of trade unions in Europe.

The labour transnationalism literature treats union organizing as just one of many reasons why unions would work across national boundaries. Transnationalism can be aided by the erosion of existing national-level union competences (Lillie and Greer 2007) and (as the literature on supranational union federations shows) hindered by the propensity of still-powerful unions to defend their jurisdictions by resisting the transfer of functions to the transnational level (Croucher and Cotton 2009; Platzer and Müller 2009). Transnationalism can include many different activities; it may be a matter of fighting demands by multinational employers for concessions (Greer and Hauptmeier 2008) or influencing supranational government bodies such as the EU (Gajewska 2009). Numerous overlaps also exist between organizing and transnational unionism: international solidarity may help to secure rights for the unorganized (Fichter, Helfen, and Sydow 2011), negotiate international sectoral collective agreements (Anner et al. 2006), or pressure employers facing union organizing campaigns (Anner 2001).

Conversely, the union organizing literature treats the transnational level as only one of many sources of leverage. For example, research on ‘social movement unionism’ and ‘community unionism’ places organizing campaigns in a broader context, but the partners available tend to be local rather than international. In the US, Fine (2005) identifies a class of community organizations

aimed at organizing immigrants, and immigrants also play an important role in the rise of ‘organizing unions’ in the construction and service sectors (Milkman 2005). UK studies show the importance of ethnic identity in the dynamics of workplace organizing campaigns (Holgate 2005) and tactics by British unions to target migrants in their recruitment campaigns (Fitzgerald and Hardy 2010). There is also some evidence from the UK that creating special union structures for minorities can lead to improvements in awareness and expertise in dealing with their issues (Wrench 2004). Comparative writers highlight contrasting national union strategies towards migrants, ranging from the exclusion of migrants in order to protect local and national markets, to the inclusion of migrants and the attempt to enforce local and national labour standards (e.g. Krings 2009). What these studies have in common is that transnationalism plays no role in analysis of union behaviour. Migration is principally understood in terms of the concerns of host country unions and workers or local ethnic communities.

Purely national responses to migration are, however, increasingly ineffective, at least in Europe. Within the EU, changes in the application of EU law have deterritorialized regulatory authority, opening national markets to migrant workers and multinational firms. Article 3(a) of the Treaty of Rome (1957) treats the creation of a single market, via the free movement of ‘goods, persons, services, and capital’, as one of the main activities of the European Community. A series of decisions of the European Court of Justice have delineated strict limits to how host country governments and unions can regulate the working conditions of posted workers (Woolfson and Sommers 2006; Barnard 2009). Freedom of movement of persons permits workers to circulate freely across national borders and work in other EU member states; freedom of movement of services permits companies to send their staff abroad to work. The latter freedom is more problematic from the perspective of enforcing labour rights and equal treatment, because working conditions are, in many respects, regulated from the home country of the sending firm rather than the host country where the work is performed. Workers migrating as dependant employees therefore have access to differently constituted and enforced rights than those who migrate as individuals (Dølvik and Eldring 2006). From the perspective of a main contractor operating in a high-wage country, accessing posted workers on home country conditions through subcontractors is a direct substitute for off-site outsourcing to low-wage

countries (Lillie 2010). In such internationalized contracting chains, the organization of work has a strong transnational dimension.

Why, then, does labour transnationalism play such a minor role in studies on union organizing of migrants? An obvious explanation is that not all migrants are embedded in transnational labour markets – as is the case for most workers in low-wage service industries, such as cleaning, cooking, and security – and there is consequently no need for a transnational response. The European construction sector, however, *does* have transnational labour markets, and part of the workforce *is* hyper-mobile. Nationally bounded union strategies therefore fail to address the problems of (1) maintaining union bargaining power and (2) protecting migrants' labour rights.

In international labour markets unions no longer control employer access to labour and therefore lose their power in wage bargaining. This is similar to the whipsawing problem explored in the literature on European Works Councils. When unions facing multi-national employers fail to coordinate their wage bargaining, management can extract concessions by creating within-company markets for investment (Greer and Hauptmeier 2008). In industries such as construction, that are organized through complex transnational contracting networks, firms from low-wage countries win bids in high-wage countries on the basis of wage cost advantages and then move their workers to the high-wage country. While high profile examples of this such as the wild cat strike at the Lindsey oil refinery raise issues about the right of national actors to regulate conditions for posted workers (Barnard 2009), union officials admit that at most large construction sites around Europe it is possible to find migrant workers, posted or not, receiving wages below the rates in collective agreements. Absent international union coordination, national collective agreements are thus difficult to enforce, and migrant workers have little or no access to union representation.

The second problem has to do with the social rights of migrants in a more direct sense. They are cut off from meaningful representation of their interests, not only in collective bargaining and workplace-level representation, but also in terms of the enforcement of legal rights (Dølvik and Visser 2010) and participation in the workplace and polity (Meardi 2011). Trade unions have been a vehicle for the construction of national citizenship as a part of the class compromises in advanced capitalist countries in the 20th century. This national focus of trade unionism, resulting from its historical role in

defining the meaning of national citizenship, now functions as a barrier to the development of European level industrial citizenship. Although EU citizens may participate freely in labour markets within the European Economic Area, the passports they carry still determine their access to certain labour rights. Just as industrial citizenship emerged in the mid 20th century at the level of the nation-state (Marshall 1950), however, a regime of collective and statutory worker rights could emerge in Europe to cover workers exercising their right to cross-border mobility (Ciupijus 2011). This kind of transnational labour citizenship would entail the construction of worker organization effective enough to redistribute the material benefits of migration and minimize its social harms (Gordon 2007).

Some forms of labour transnationalism in Europe enjoy external institutional support, such as the European Works Council directive. EMWU, by contrast, was an attempt to build a transnational organizational infrastructure without strong outside institutional support. While labour transnationalism is shaped by pre-existing external structures, such as the characteristics of industries (Anner et al 2006), building organizations in the absence of such structures is not as far-fetched as it sounds. Unions building new structures are important in accounts of the early trade union movement (Ulman 1955) and current accounts of union renewal (Turner 2009). In the maritime shipping industry, the International Transport Workers Federation has organized a functioning global network of trade unions behind a unified bargaining agenda for the seafaring labour market, demonstrating that ambitious cooperative projects are possible (Anner et al 2006). EMWU is a case of ‘managerial internationalism’, structured by a ‘bureaucratic division of labour’, in which the concerns of members are identified and addressed by ‘technical specialists and experienced international officials’ (Umney forthcoming). Under these conditions, internal organizational dynamics matter a great deal in explaining success or failure. Nevertheless, we will argue below that the decisive factor was the failure of EMWU to win financial and political support from other unions in Europe.

The Formation of EMWU

Why did IG BAU establish the EMWU? In our early interviews with union staff and activists in 2003-4, there was widespread belief that the IG BAU’s nationally focused strategy had been ineffective. Although there had been separate migrant workers unions in the late 19th and early 20th

centuries (Kulczycki 1994), post-war German trade unions were organized by sector. A union for migrants, whose jurisdiction cut across industrial boundaries, represented a fundamental departure from the way German workers had been organized, and would have constituted a change for nationally-constituted construction unions across Europe. The EFBWW is the main vehicle for EU-level construction union cooperation, but it is organized not as a membership organization of workers, but as a federation of unions. Its members are reluctant even to accept transnationally portable union membership, much less shift one of their core functions – the organization and representation of individual workers – to a transnational body.

EMWU was born out of the profound changes in industrial relations in post-unification Germany. Employment in the German construction industry had fallen from 1.5 million in 1995 to 740,000 in 2003 (Statistisches Bundesamt, 2005), and IG BAU reported membership decline from 780,000 just after unification to 461,000 in 2003, despite gaining 100,000 new members through a merger (DGB 2007). Unemployment and insolvency rates were climbing and the under-the-table ‘shadow economy’ expanding. More than their counterparts in other sectors, large German construction companies became sites of concessionary agreements, following real and threatened bankruptcy and mass layoffs (Rehder 2003). Concessions spread to collective bargaining in the construction industry as a whole, despite a successful nationwide strike in 2002.

At the same time, there were significant numbers of difficult-to-organize migrants from Central and Eastern Europe. IG BAU did not exclude migrants from membership: past generations of workers had been covered by collective bargaining under guest worker programs and remained highly unionized (Kahmann 2006). But the union faced difficulty with this new group, for a number of reasons. First, illegal under-the-table work [*Schwarzarbeit*] and bogus self-employment [*Scheinselbständigkeit*] expanded alongside migration. Employers estimated that 35% of revenue in construction is generated by the underground economy (ZDB 2006), and IG BAU has estimated the number of workers in the unregulated sector at between 300,000 and 500,000 (Keller 2002) or, more recently, 20% of the industry and 65% in some subsectors (Schmidt-Hullmann 2008). While it is unclear how many of these are Germans and how many migrants, large numbers have been the latter. A second reason was the rise of worker posting, in which employers – usually operating within the

law – would rotate their workforce internationally from site to site. At its peak, worker posting reached 118,000 out of 603,000 blue-collar workers in the German construction industry (Kahmann 2006). These workers were highly mobile and unlikely to become members of any nationally rooted union. Third, due to cost pressures, employers faced incentives to derecognize collective agreements and avoid taxes and social insurance contributions.

IG BAU's strategy throughout the 1990s was to protect the German construction market from competitors based in lower-wage zones, mainly from Central and Eastern Europe (Cyrus 2002). Employers and the state were willing to work with them on this. Employers were interested in fighting 'unfair' competition, and they worked with IG BAU to lobby for the EU posted workers directive, which created a framework for EU member states to police wages and working conditions at firms based in other countries, and the German Posted Workers Law, which transposed the directive into national legislation. The social partners also passed a number of *Land*-level prevailing wage laws [*Tarifverträge*] mandating that contractors on public works projects abide by collective agreements.ⁱⁱⁱ The German government was interested in improving the policing of workplaces, in order to collect taxes and insurance contributions. It created an inspectorate within the customs agency to fight illegal work, the *Finanzkontrolle Schwarzarbeit* (FKS). The union worked closely with FKS agents to pressure employers not to violate labour laws. For a year, the union ran a national campaign, '*Ohne Regeln geht es nicht*', which involved visits to construction sites by union activists and staff, and a hotline to allow people to anonymously alert the authorities of suspected illegal work.

Protectionism, however, produced meagre results, and the union and industry continued to decline. Employers were ambivalent about stepped-up law enforcement. Although the two main employer associations were in favour of protecting their members against the sector's 'black sheep', they opposed inconvenient restrictions on their members and protectionist policies that could jeopardize their access to neighbouring markets. The German posted workers law, for example, contained a principle of 'main contractor liability', which the union had advocated as a way to recover back wages when subcontractors disappeared. The association of main contractors argued that these rules would increase the cost and complexity of monitoring subcontractor chains (HDB 2006).

The strategy was also controversial within the union. In the *ohne Regeln* campaign, the union's visible role in the intensified monitoring of construction sites scared workers (migrants and Germans alike), away from the union. Critics argued that this policy could make the union responsible for the deportation of workers and stoke xenophobia in the union's membership (Cyrus 2002; Maurer and Harning 2004). In the initial round of interviews, just after EMWU was formed, several IG BAU activists and staff told us that migration made national unionism ineffective and that an international union was the natural response.

IG BAU might have addressed these problems through bi-lateral alliances with unions in labour-sending countries. But where cooperation existed, it was superficial. Because the largest labour exporter to Germany was Poland, the IG BAU executive decided in the 1990s to focus first on two Polish construction unions: the OPZZ-affiliated Związek Zawodowy (ZZ) Budowlani and the Construction and Wood Industry Branch of Solidarność. ZZ Budowlani, which in 2004 claimed 25,000 members, out of an estimated 600,000 construction workers in Poland (Towalski 2004), is the larger of the two. While both of these unions were active in signing cooperation agreements with unions in western Europe (Hardy and Fitzgerald 2010), IG BAU interviewees described the cooperation agreement as 'not filled with life', despite the creation of an IG BAU office in Warsaw. Our Polish interviewees (a union official, and a posted construction worker) criticized the Polish construction unions as incapable of representing posted workers. Our German interviewees took for granted that Polish construction unions were ineffective, particularly when it came to posted workers, pointed to deep disagreements over IG BAU's arguably exclusionary law enforcement efforts, and suggested that Polish unions had been corrupt and untrustworthy. The creation of EMWU did not seem to help matters. A former ZZ Budowlani official told us, 'they [the Polish unions] perceive EMWU as unfriendly competition...they do not cooperate with a perceived competitor, but perhaps they should'. Interviewees at the EMWU also reported little contact with unions in other sending countries.

The creation of the EMWU did not entail a complete abandonment of the law-enforcement approach. Although the *ohne Regeln* campaign and the hotline were scrapped, IG BAU continued working with FKS to crack down on criminal employers. IG BAU and EMWU staff told us in

interviews that cooperation with FKS made it more likely that the policing of employers could take place without victimizing workers. While this claim is difficult to confirm, it does reflect the intention of EMWU's founders to avoid complicity in migrant job losses and deportation inherent in what they call the 'repressive' approach.

Organizing by servicing

The EMWU's organizing model functioned principally through the provision of services, rather than the organization of worker representation structures and collective bargaining agreements. When IG BAU began planning its response to worker posting, officials commissioned a survey asking migrant construction workers what kinds of assistance they could use from a union. The two most common answers were legal advice and advice on conflict at work. The plan from the beginning was that workers with problems would only join the organization after they received assistance. However, they did not reach their initial goal of recruiting 10,000 members in this way.

EMWU operated – and continues to operate – from offices in Frankfurt and Warsaw. Staff speak German, Polish, Romanian and to some extent other Slavic languages. The original idea was that staff would circulate around Germany, talking to migrants and helping them with problems at work. This meant in practice close cooperation around specific migrant worker complaints and providing translation, interpretation and other expertise to IG BAU and other unions around Europe. EMWU staff also sometimes worked informally with other German unions, such as the union *Nahrung-Genuss-Gaststätten* (NGG) in meat packing.

Central to the EMWU's functioning has been advocacy and publicity. EMWU staff participate in conferences and meetings involving trade unionists and NGOs for migrant workers. Tensions with other groups sometimes play out in these forums. In one session we observed heated debate between IG BAU staff, far-left groups who opposed any cooperation with the state, and business-friendly activists who opposed any policies that could exclude Polish companies from the German market. EMWU helped to increase the coverage of migrant worker mistreatment in the German news media. In a search of the Lexis-Nexis database conducted in July 2010, we uncovered 56 articles mentioning the EMWU in the mainstream German-language news media, all published

between the formation of EMWU and its restructuring in 2008. EMWU also received coverage in the Polish press and the German-language alternative media.

A common problem of migrants and common reason for their contacting the EMWU is the tendency of their employers to withhold wages using legally questionable means. One technique is to work migrants extremely long hours, but not pay them for all the hours worked. In one case recounted to us, a group of 40 Polish men in a small concrete factory worked 350 hours per month on a salary of €1000, i.e. under €3 per hour. Often, as two EMWU representatives pointed out, the workplace becomes a labour camp, with employers taking exorbitant deductions for transportation and (substandard) room and board. In one case, an employer also deducted pay for a two-week unpaid holiday that did not take place. A third variant is the ‘dead souls’ method: firms pay salaries to workers who do not exist and underpay workers who are working.

Recovering lost wages can be difficult, and has been a major focus of EMWU activity. Employers escape their obligations through strategic use of bankruptcy. In these cases, from the workers’ perspective, firms and their assets disappear, leaving workers owed several weeks’ back pay. Employers also hide their assets using complex transnational networks of organizations, many of them shell companies [*Strohänner*]. Even in a relatively simple case of an Austrian contractor using a Hungarian labour-supply agency on a British site, we heard the contractor argue that it was difficult logistically to get the Hungarian employer to change the paychecks to reflect what had been agreed with the union. In more complex cases, workers are not aware of the nationality of their employer, because it is obscured by a chain of shell companies used to skim profits and hide assets. Using the courts to recover wages requires proving the links in these chains. A further problem is the complexity of legal jurisdictions. In more than one case, we heard of Polish contractors who had substantially reduced their back wage payments by moving the venue to a different regional court. Although the German Worker Posting Law addresses this problem by making main contractors liable for back pay, these complexities make it difficult for main contractors to police the contracting chain.

The closed nature of the German labour market was acknowledged by many of our interviewees as part of the problem. Because employers were not allowed to directly employ staff from the ten accession states that joined the EU in 2004 – Germany was among the old EU member

states that restricted labour market access to the new EU citizens until 2011 – workers instead were pushed into bogus self-employment or worker posting arrangements with circumscribed or unenforceable social rights. While the accession treaty allowed Germany to delay opening its labour market, it did not allow such delays in contracting markets. Workers could be excluded, but not firms or entrepreneurs. Although workers could not usually be deported, they could still lose their jobs if enforcement action led to their employer getting shut down. This was a sensitive topic for IG BAU officials, who felt that opening the labour market would have led to more severe job cuts and pressures for concessions in Germany, and who felt the tension between protecting current union members and representing temporary migrant workers.

The EMWU office in Warsaw advises and assists Polish migrants bound for old EU member states for work. EMWU caters to those who temporarily work in Germany, mainly in construction, but also in meat packing and agriculture. Partly in response to the worry that EMWU might compete with national unions outside of Germany, staff define their activity as an information centre rather than a union. EMWU staff advise workers on the norms of working in Germany and other EU member states before they leave their home country and provides contact details for Polish-speaking union officials in destination countries. This service allows a migrant worker to learn about unions or, in the case of IG BAU, to join the union before leaving Poland. Promoting union membership among potential migrants, however, is not easy, partly due to the issues surrounding the retreat of labour in post-communist Poland (Ost 2005). Our Polish interviewees pointed to a lack of union awareness among young people who entered the labour market after the 1990s, disillusionment with the trade union movement related to Solidarity's support to the right-wing government in the late 1990s, and the disengagement of Polish unions vis-à-vis migrants in the old EU member states. To reach departing migrants, EMWU uses advertising in the Polish press, including the popular outlet *Work and Life Abroad*.

EMWU staff reported that this information centre works well. The geography and the scope of activities of the Warsaw office is very wide and is not limited to the recruitment of members for IG BAU; some of IG BAU's investment is actually in the service of other unions. The model thus allows EMWU to provide support to those non-unionized Polish workers in the old EU member states who

otherwise might be left with no assistance whatsoever. EMWU's Warsaw office also helps returning migrants, especially those with ongoing court cases in Germany or Poland. EMWU staff report that, since its founding, the office in Warsaw has assisted over one thousand people.

The office in Frankfurt handles queries and cases from migrant workers in Germany. Staff assist workers regardless of whether they are union members. The staff are Polish and Romanian, representing the languages of the bulk of posted workers in the country, and the Polish speakers have some facility in Russian, Slovakian and Bulgarian. Some queries concern everyday life: e.g. where to find a Polish-speaking doctor or Catholic priest or a Polish shop. Other queries concern workplace issues, such as taxes or minimum wage standards. Some queries, however, are from people facing serious problems on the job, requiring EMWU to deal with firms that owe back wages. EMWU provides legal support free of charge, including wage-recovery cases with German main contractors and employment tribunals with Polish companies. However, migrants facing employers outside of Poland or Germany often have to approach national unions in the firms' countries of origin, which are often reluctant to help temporary migrants, due to the high costs of legal support, and the low likelihood that the worker will be a union member.

The EMWU approach proved not to be a recipe for a vibrant member-driven union. Retaining members was difficult. With court cases lasting up to two years, keeping in touch with mobile workers proved difficult. Once workers recovered their lost wages they would often stop paying their dues after a few months. IG BAU officials estimate that over the long term they retain 5%-10% of those they recruit through EMWU. Providing a good service was insufficient to maintain member loyalty, much less to ensure member participation, and EMWU became a difficult financial proposition for IG BAU. IG BAU staff estimate that EMWU's work costs €6 - €7 for each euro that is brought in through dues. With members scattered around Europe and viewing the EMWU as a service, meetings were not well attended. Consequently, in 2008, EMWU was restructured as a migrant worker information and servicing point within IG BAU (Balan et al 2008; Schmidt-Hullmann 2008).

International relations

In order for EMWU to thrive, it needed financial support from unions other than IG BAU. In our interviews with trade unionists around Europe, it emerged that they regarded EMWU as a failed experiment that had never had a real possibility of success. Aside from IG BAU and EMWU activists and staff, none of the trade unionists we interviewed who were familiar with the EMWU wanted it to succeed. There was a reluctance to discuss the topic, and objections were many: (1) EMWU was German-dominated and therefore not truly transnational, (2) existing national and local union structures and projects were more effective than a separate migrant workers union, (3) a transnational union would lack sufficient knowledge of existing national arrangements, and (4) EMWU was a form of apartheid that could lead to separate and unequal collective agreements.

Because EMWU was established to serve members as they circulated around Europe, it was inevitable that it would become involved in jurisdictional disputes with other unions. One such case was Olkiluoto, a nuclear power plant project with 4000 workers, 1200 of whom were agency workers from Poland. Several hundred Polish workers were employed by the Ireland-based multinational work agency Atlanco Rimec. The Olkiluoto 3 project was widely cited in the news media for mismanagement, delays, and mistreatment of its pan-European workforce. Without adequate structures in place for coordinating work, or for monitoring working conditions, workplace problems were numerous. For example, Portuguese-speaking supervisors had difficulty communicating with Polish workers, used threats to make them work faster, employed workers under differing terms and conditions of work, and, rather than providing health insurance, sent workers back to Poland when they became sick (Niemenen 2010).

In summer 2007, Polish workers at Atlanco Rimec complained to the local office of the Finnish construction union, the Rakennusliitto, about wages, working time, holiday pay and other violations. The main complaint was that Rimec had deducted 30 percent of the workers' salaries for taxes paid to the government of Cyprus. Because the workers were Polish residents, working in Finland, for what they thought was an Irish company, they rejected the idea that their payroll deductions should go to Cyprus. Local union officials and shop stewards did not pursue the matter and kept it secret from the national office, prompting the Polish workers to seek help through a variety of channels, including contacting the EMWU office in Warsaw. Sensing an opportunity to prove its

value to a foreign union, the EMWU offered, via IG BAU's international department, to assist the Finnish union in their organizing efforts. Although Finnish trade unionists had frequently complained of the difficulties of organizing the Polish workers at Olkiluoto 3 and the lack of information available to help them organize, this offer infuriated the Rakennusliitto's leaders. The offer was rejected on the grounds that EMWU was not a 'genuine' union, and that IG BAU was too weak to be an attractive partner.

The Rakennusliitto was also unwilling to pursue the matter aggressively. (For their part, the Polish construction unions also did not provide any support for the workers, despite being contacted by Polish workers and a Finnish shop steward.) Within the Rakennusliitto some took the view that more should be done, while others wanted to avoid expending resources on foreign workers. The situation escalated when a Polish worker who had spoken on television about conditions at Olkiluoto 3 was fired. His colleagues conducted a small job action, forcing the Rakennusliitto to issue a strike warning. The warning was subsequently rescinded when Atlanco Rimec explained the reasons for the deductions. Many of the Polish workers felt that this explanation was inadequate, and that they should not be paying welfare deductions to Cyprus. Rakennusliitto failed to involve the Polish workers in the negotiation process enough to allay their suspicions, and several dozen cancelled their memberships (for a detailed account of this case, see Lillie and Sippola 2011). Despite offering a capacity that the Finnish union admitted itself it needed, EMWU's proposal represented a clear threat to the Rakennusliitto's geographically defined jurisdiction.

Finland is far from unique. Like Rakennusliitto, many European unions that disapprove of EMWU have not developed an effective response. This is not to say they have ignored migrant workers. In western and northern European 'host' countries – the UK, Belgium, the Netherlands, Spain, and even Finland – construction unions have national or local projects to service and organize migrant workers. Some aim to organize migrants settled in the host country or provide advice and services for a wider range of migrants (including posted workers); and some operate information points in important countries of origin or build links to immigrant communities. But none support a transnational migrant workers union. In the minds of most national union officials we interviewed, the

all-important question was: how would EMWU interact with local and national union work in differing legal and cultural contexts that they would not necessarily understand?

German unions in other sectors also did not endorse EMWU, for similar reasons: complacency on the issue of worker posting and slow-burning jurisdictional problems. For IG BAU, broadening the project's sectoral coverage was less a priority than extending it to additional countries. Discussions with other unions did take place, and all but NGG rejected it, partly on the grounds that worker posting was not perceived as a serious problem in their main sectors. IG BAU officers pointed to, for example, posted workers in supply chains in the metalworking sector – in particular shipyards – but the metalworking union IG Metall remained uninterested in the project. This lack of interest may also be due to the fuzziness of union jurisdictional boundaries in outsourced manufacturing work. Large employers have saved money in support services such as cleaning (an IG BAU jurisdiction), food service (NGG), and logistics (the services union *Vereinte Dienstleistungsgewerkschaft* [ver.di]), by outsourcing to companies using lower paying agreements negotiated by these unions (Greer 2008). An undercurrent in these discussions is the fear of IG Metall staff and activists that these workers will be recruited into another union.

From EMWU to ECOMIN

In late 2008 EMWU was restructured as an 'association' [*Verein* in German or *Stowarzyszenie* in Polish] closely tied to IG BAU (Schmidt-Hullmann 2008). 4 out of 8 staff were retained, as were the offices in Frankfurt and Warsaw. Those who would have once been EMWU members now became members of one of two national unions: IG BAU or the Polish migrant workers union. (IG BAU and EMWU have worked with the Polish agricultural workers union to establish an association to advise agricultural workers in Germany and coordinate with FKS.) Some servicing roles were shifted to IG BAU's regional offices, and EMWU staff continued to provide advice and information to migrants and maintain an advocacy role for them within the union. IG BAU continued funding EMWU in order to maintain pressure on employers, and to keep the union responsive to the needs of migrants. The project, which according to our interviewees is uncontroversial within IG BAU, continues.

IG BAU became involved, furthermore, in the multilateral ECMIN project, established in 2009 and coordinated by the umbrella body of national unions, the European Federation of Building and Woodworkers (EFBWW). Rather than creating an alternative union membership structure, this project provides information on working conditions to anyone with an internet connection (<http://ecmin.efbww.org>). It was funded by the EU Commission to run from 2008 to 2010, with the goal of providing essential information on working conditions in all European member states in English, Polish, Romanian, and eventually nine languages (although there is no information in the languages of such key sending nations as Latvia and Lithuania). The German and Swiss unions have been the most enthusiastic backers, but other unions have also been involved. The staff of the EMWU see ECMIN as a way to build national union support for a transnational approach.

The website provides information about national standards of pay and working conditions in Austria, Belgium, the Czech Republic, Finland, France, Germany, Great Britain, Ireland, Iceland, Italy, Netherlands, Norway, Spain, Sweden, and Switzerland. Thus, unions from about half of the European Economic Area's member states participate. It also gives contact information for national trade unions and for assistance in English, Polish and other languages (the Polish-language contact is EMWU). When we used this information to contact each union, responses varied. In some cases, there was no English speaker who could comment on the ECMIN project. One of the listed contacts told us that no migrant workers had contacted him through ECMIN. ECMIN is thus not yet a functioning system of transnational union representation or even a well-functioning information point.

When discussing the project with more active participants, however, it became apparent that ECMIN matters beyond its tangible output. Construction unions have been nationally focused until now, and some of our interviewees have found the ECMIN project useful for building international contacts. Belgian, Dutch, German, Spanish and Italian unionists said that they had learned from the project, and some were emphatic that it should be expanded to include more information and partners, such as immigrant-oriented NGOs. But will ECMIN develop into a transnational worker organizing project? The answer depends on whether these new channels of communication can reassure trade unionists that transnational approaches to migrant organizing do not threaten national standards.

Analysis and implications

The principle reason for EMWU's failure to become a full-fledged transnational union was the unwillingness of unions other than IG BAU to support it. It is true, however, that EMWU had internal organizational flaws. Organizing through servicing was financially unsustainable, and EMWU never became a vibrant, membership-based organization. In addition, organizing hyper-mobile workers proved to be an inherently difficult task. Worker mobility made it difficult to sustain communication between union staff and members, or to organize attendance at membership meetings. However, there is no evidence that these two problems were insuperable. Had EMWU had developed into a full-fledged transnational union, European trade unions might have learned important lessons about how to overcome these difficulties.

National unions' objections to the EMWU, however valid, were also self-fulfilling. The EMWU was German-dominated because no other union provided significant support. It therefore had few resources to organize workers outside of Germany, and when it did intervene unions' responses were generally hostile. Consequently, EMWU had neither the knowledge of national arrangements nor the political support of unions in other countries that it needed to serve its members. The objection that EMWU is a form of apartheid that could lead to separate and unequal collective agreements is misleading. Negotiating separate collective bargaining agreements was never a goal of the EMWU, and it worked very closely with local union officials in specific campaigns. Unions seemed reluctant to support *any* transnational organizing project, and ECMIN provides evidence of this. Unions from half of EU member states did not participate, although it would have merely meant posting online the kind of information that any trade union official should have ready to hand. Like the Rakennusliitto in the Olkiluoto case, most construction unions in host countries have sought to maintain their right to represent the migrant workers working within their national jurisdictions – and their right to decide the limits of the representation migrants receive.

EMWU's work highlights the need for transnational union structures for workers circulating around the EU. Because of their hyper-mobility, it is impractical for them to join unions in every country where they work, and it is difficult for unions to organize them. For nationally rooted trade

unions this is a serious problem, since it undermines their control over the labour market and hence their power.

This case, however, also demonstrates the difficulty of extending industrial citizenship to the transnational level in Europe. While workers in the EU have new civil rights to live and work in different countries, in accessing these rights they give up the rights of industrial democracy. Without collective forms of representation aimed to give a voice to pan-European workers, EU citizenship in itself might not bring tangible improvements to working lives of workers, particularly Central Eastern European migrants working in the old EU member states (MacKenzie and Forde, 2009). Many trade unionists and academics blame the neoliberal outlook of lawmakers, bureaucrats, and judges in EU institutions. In order for there to be meaningful European industrial citizenship, however, trade unions also have to adapt their own structures and strategies. Their failure to support the EMWU, or even accept mutual recognition of union membership, means that practical access to social rights for hyper-mobile migrants may be a long way off.

In terms of union strategy, it is tempting to conclude on a purely negative note. The story of EMWU shows that most European construction unions are either unwilling or unable to organize hyper-mobile workers at a transnational scale. Nonetheless, some unions do approach EMWU and ask for translation services, and EMWU staff do support the ECMIN project. Tensions between IG BAU and its Polish counterparts have eased somewhat, and across Europe attitudes of construction trade unionists are changing. If in 2004 unions outside of Germany rejected the EMWU, some now see the value of transnational experimentation. ECMIN represents a burgeoning recognition of the need for a transnational response.

This shift in trade unionism could have consequences for the quality of labour citizenship for workers, both mobile and settled. Unions may turn to the state for resources and for recognition as agents of this citizenship, and they may also work across borders to reassert their control in labour markets and recruit migrants into membership in the process (Gordon 2007). But there is little sign in this case of an evolution towards a rank-and-file-driven 'grass-roots internationalism' (Umney, forthcoming). Trade unionism may develop as a means of protecting workers and redistributing

resources in an internationalized sector, but as a passive form of citizenship lacking a parallel rebirth of worker self-organization and civic participation.

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ⁱⁱ EMWU’s Polish and German names (Europäischer Verband der Wanderarbeiter and Europejskie Stowarzyszenie Pracowników Migracyjnych) use the word for association, rather than trade union.

ⁱⁱⁱ The ECJ overturned these laws in *Dirk Rüffert vs. Land Niedersachsen* (2008).

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