

# **Unions' strategies in the age of free movement**

**A comparative case-study of trade union strategies  
towards posted workers in the European Economic Area**

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## **Abstract:**

Numerous studies have concentrated on the consequences of intra-EU labour mobility. However, the literature lacks an analytical understanding of the types of strategies unions pursue and their relative usage. This thesis aims to reduce this knowledge gap by developing an analytical framework and connecting it with updated evidence from the German and Norwegian construction sectors.

This thesis investigates the following research question: “What have been the dominant strategies used by trade unions in Germany and Norway in response to the wage competition from EU posted workers in the construction sector?” The timeframe of the research is from 2010 to 2020.

The main findings are that unions in Germany and Norway have tried to restrict posted workers’ access to the construction sector by lobbying for legislation and industrial agreements that raise the cost for firms employing posted workers. At the same time, Norwegian unions have introduced agreements with the employers that ensure equal wages between posted and host workers in large construction projects. German unions have been less successful regarding this. Unions in Germany have offered posted workers political support through consultancy centres provided by unions. In contrast, Norwegian unions have had limited contact with posted workers.

Unions in both countries indicate that the regional and local governments have been the primary political area for directing their exclusionist strategies. The results suggest that future research on trade unions in political science should focus more on the intermediate analysis level of regional governments.

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## Abbreviations

CBA	Collective Bargaining Agreement
CJEU	European Court of Justice
DGB	Deutscher Gewerkschaftsbund
ESA	EFTA Surveillance Authority
EU:	European Union
FF	Fellesforbundet
FM	Faire Mobilitat
IG-BAU	IG Bauen-Agrar-Umwelt
LO	Landsorganisasjonen
NAF	Arbeidsmandsforbund
PWD	The Posting of Workers Directive
SD	The Service Directive

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## 1. Introduction

The place I love best is a sweet memory  
It's a new path that we trod  
They say low wages are a reality  
If we want to compete abroad

– Workingman's blues #2, Bob Dylan

Trade unions strategies towards posted workers point to the core of European integration. It exemplifies how national industrial actors respond to the political integration of the European Union (EU). The Maastricht Treaty from 1993 declared that all EU member states constitute a common territory where goods, services, capital and people, collectively known as the four freedoms, should move freely between the member states. However, workers applying for a job in another EU-state had to follow that country's labour regulations. There was one exception to this rule. Workers sent to provide temporary services only had to follow a limited amount of the labour regulations in the host country (Cremers 2019,128). These employees were commonly referred to as posted workers.

In 2004, the EU welcomed ten states from central and eastern as new members. Eurostat reported that the minimum wage in January 2021 was below 700 euros in the ten members states in the east of Europe (Bulgaria, Hungary, Romania, Latvia, Croatia, Czechia, Estonia, Poland, Slovakia, and Lithuania). In comparison, the minimum wages in Germany in that month was at 1 614 euros (Eurostat 2021). The enlargement resented a challenge for unions in the old member states. Posted workers from central had an incentive to accept lower wages than their members because wages were higher than in their country of origin. The wage dispersion between posted and national workers created attractive incentives for companies wanting to cut labour costs.

Today, over two million EU are posted in other EU states than their homeland. On average, posted workers stayed in the host country under four months, although they could stay as long as eight months in some sectors. (European Parliament 2020). Although posted workers



represent a small portion of the total labour population in the EU (only 0,7%), some sectors like construction witnessed large influxes (EU-fact sheet posted workers, 2020). As a result, several high-income member states experienced wage stagnations due to cheaper labour supply (Eldring and Alsos 2008, 448). Therefore, trade unions in these countries have been worried that posted workers would put pressure on their wages (Dølvik and Eldring 2006,216). Research from industrial relations shows that trade unions in exposed sectors have perceived posted workers presence as a challenge for their wages and working conditions (Cremers, Dølvik and Bosch 2007; Meardi 2009; Lillie and Arnholtz 2019). Unions in the old member states found permanent labour migration from the new member states preferable to temporary posting. (Krings 2009, 64). Therefore, the puzzle of this study is not *what* trade unions think about posted workers but *how* they have responded to this challenge. Hence, the research question of the thesis is:

*«What have been the dominant strategies used by trade unions in Germany and Norway in response to the wage competition from EU posted workers in the construction sector?»*

A stated goal for the EU Commission is to remove barriers to the free movement of services (EU Commission 2016). European regulation has required governments to dismantle national regulations that hinder the free market. The free movement has changed the political economy and the relationships between unions and the state (Alsos and Ødegård 2019). The effect the EU liberalisation has on unions strategies is especially interesting in neo-corporatist states. In these systems, trade unions historically have played a vital role in deciding the labour market regulation. Richard Hyman argues that the increasing integration of the European economies put the previous conceptions of trade unions strategies and autonomy in question (Hyman 2007). there is an academic need to re-conceptualise the role of trade unions in this age of deregulation for free movement. The theoretical ambition of this master thesis is to establish an analytical understanding of trade unions in the contemporary age of European market integration.

The timeframe of the research is from 2010 to 2020. There was written numerous publications about unions response to labour migration in the aftermath of the EU extension in 2004. In line

with my research question, Guglielmo Meardi article from 2012 *Mardi* showed that trade unions had to reformulate their strategies in light of increased service mobility. For example, trade unions proposed generalising collective bargaining agreements (CBA) to all workers in the sector. Extending CBAs was previously shunned because it undermined the autonomy of the industrial negotiations. (Meardi 2009,10 ). The research showed that wage pressure represented by service migration requires unions to adapt their strategies. By studying the strategies from 2010 to 2020, the research will examine how the earlier strategies worked.

The empirical analysis will investigate trade unions' strategies towards posted workers by examining various channels where unions have directed their strategies concerning the wage challenge from posted workers. Based on the channel that Arntholtz and Lille identified as the most relevant for trade union strategies towards posted workers, this thesis will concentrate on three channels of strategies (Arntholtz and Lille 2019): 1) The legislative against politicians, 2) the industrial against the employer and 3) Engagement towards posted workers.

A significant theoretical contribution that this thesis will build on is the research from Afonso, Wolf and Negash. They argue that unions have three strategies at their disposal in response to wage pressure from EU-labour migration.1) Exclusion through immigration control, 2) equalisation through collective bargaining and the introduction of minimum wages that apply for all workers, and 3) organisation of migrant workers through recruitment or migrant specific assistance (Afonso, Negash and Wolf 2020, 529).

The theory chapter will present a new theoretical apparatus for classifying trade unions strategies towards posted workers. With some notable changes, the typology from Afonso, Negash and Wold is used as the theoretical apparatus for classifying union strategies. Understanding trade unions strategies in the era of free movement are the central task of this paper. The research aims to link together the analytical groundwork of Afonso, Wolf and Negash unions' strategies towards migrant workers with an updated evidence investigation from the German and Norwegian construction sector.

Hardy, Eldring and Schultzen argue that cross-national research on trade unions should be concentrated to the sectoral level of analysis. Their research indicates that cross-sectoral differences internal in the country is often more significant than cross-national differences. (Hardy, Eldring and Schulten 2012, 348). Therefore, this research focus on the sector that witnessed the highest influx of posted workers. (European Parliament 2020). An EU Commission report in particular point out showed posted workers in the construction sector in high income as subject to lower wages than their local counterparts» (Lhernould et al. 2016, 123). The cases selected are classified as neo-corporatist, high-income EEA countries. Comparing cases from similar contexts might provide explanatory understanding (Kitshelt 1986, 58). Furthermore, understanding variations in the strategies across contexts will also increase the descriptive and analytical value of the findings. The empirical evidence for the comparative case study is nine semi-formal interviews and official documents from the unions operating in the Norwegian and German construction sectors.

The thesis also has a second purpose. In addition to mapping out trade union strategies in Germany and Norway, the analysis intend to describe how constraints from the political context might lead unions to pursue specific strategies. The description of the contextual constraints, therefore, leads to the secondary research question of this thesis:

*"What factor do trade unions identify as influential for their choice of strategy?».*

Two assumptions from the literature in political science will be investigated as explanatory factors: 1) the role of the EU courts, 2) the tripartite consultations between government employer organisations and unions in neo-corporatist systems. It is vital to embassies that this thesis will locate the explanatory factors by examining documents proposals and interviews with trade unions representatives. Trade unions might be biased in their explanations. Hence the secondary research question of this thesis investigates what unions perceive as the explanatory factors for their choice.

The findings show that the dominant strategies in both unions in Germany and Norway are exclusionary. Unions in both cases have aimed to restrict posted workers access to the

construction sector. In Norway, equalisation is the second most used strategy. In Germany, equalisation and organisation are both used to a large extent. Norwegian unions have cooperated with construction employers to install equalisation measures in large construction projects. German unions indicate that employers have blocked their attempts to equalise wages. German and Norwegian trade unions differ in their usage of organisational strategies. While organisational strategies that include contact and assistance towards posted workers have been dominant in Germany, they have been limited in Norway.

Both trade unions report that regional and local political levels have been the principal political areas where trade unions have directed their exclusionary strategies. The inability to introduce protectionist measures at the national level shows how EU integration has changed how trade unions operate. The unfeasibility under EU law excluding posted workers at the national level has led unions to turn their attention towards the local and intermediate level of politics.

### **1.1 The structure of the thesis.**

This introductory chapter has introduced the topic and research questions that this thesis will answer. The rest of the thesis will have the following structure. Chapter 2 presents the academic contributions from industrial relations and political science on trade union strategies towards labour mobility in the EU. The chapter concludes by outlining the contribution that the thesis wishes to add to comparative politics. Chapter 3 outline the vital legislation concerning the service provision in the EU single market. Chapter 4 present the theoretical framework of the thesis. The chapter opens with a conceptualisation of trade union strategies. It moves on to a presentation of the theoretical apparatus and the three ideal types of strategies used to categorise the strategies from the cases. Finally, the EU and the industrial system, the factors assumed to shape trade union choice of strategies will be outlined. Chapter 5 presents the method and the evidence collected to answer the research question. Chapter 6 and chapter 7 present the empirical evidence from the case studies. Chapter 8 discusses the findings. The chapter discusses similarities and differences in the evidence from the cases and how it relates to the existing theories on trade union strategies in political science. Chapter 9 concludes the master thesis and presents the contribution to academic research. The thesis concludes with some suggestions for future research based on the findings.

## **2. Literature on trade union strategies intra-EU mobility**

This study fits into two research fields: comparative industrial relations and the EU integration studies in political science. The chapter will present the most relevant contributions from both camps. Firstly, the different schools of thought on how trade unions might respond to the political integration of the EU will be presented. Secondly, research from industrial relations on trade unions strategies towards workers entering the labour market in the context of EU integration will be presented.

### **2.1 EU integration influences on trade union strategies**

The transfer of sovereignty from the national states to the EU level might make it necessary to update West-European trade unions' conceptions towards migrant workers (Hyman 2007, 195). The posting of workers demonstrates how the EU intervenes in member states internal national industrial relations. The free movement of services written down in EU constitutional law. Hence the EU regulates what governments can do to regulate service providers (Lillie 2010). The response from unions to this institutional development is theoretical interesting since posting show how the EU integration changes the autonomy of the national industrial relations. The critical role that unions have played in the labour market in many countries in western Europe might have changed due to EU economic and political integration. The study of union strategies towards posted workers will provide an updated description of trade unions' political role and power in the contemporary EU.

Trade unions operate within the institutional boundaries of their member states. However, the single market of the EU has severe consequences as temporary workers are allowed into the labour market. There are three schools of thought in the European Integration on how the political integration of the European Union has affected trade unions. The neo-functionalist approach, the intergovernmental explanation, and the theory of multilevel governance

The first approach in EU integration is the neo-functionalism approach. This theory argues that the European Commission promotes the removal of institutions intended to organise national economies. Due to the economic gain of deeper European integration, a series of mutually reinforcing processes will lead to further integration (Hooge and Marks 2019,5). Ernst Haas

explained the process of European integration in the following manner. "Political actors in several distinct national setting is persuaded to shift their loyalties, expectations and political activities toward a new centre, whose institutions possess or demand jurisdiction over the pre-existing national states" (Haas 1968,16). Following this reasoning, European institutions like the European Commission and the European court of justice will dominate labour market policies. Consequently, trade unions will shift their strategies from the national level to the European level to influence the outcome, something Haas described as "transfer in domestic allegiance" (Haas 1968,18).

The second theoretical approach from EU integration theories is intergovernmentalism. This theory explains integration as cooperation and competition among national governments searching for mutually advantageous bargains (Moravcsik1998, 54). The decision process consists of three steps: the domestic formation of national preferences, intergovernmental bargaining, and the creation of European institutions to secure agreements. In the first step, government preferences are shaped by powerful domestic groups like trade unions their preferences through national channels. Hence governments' institutional choices depend strongly on the institutional strength of the member state. In the absence of opposition from national actors like trade unions, member states will choose the liberalisation path, using EU law to strengthen the economy. The view from the intergovernmental approach is that the specific industrial relations systems drive the government's strategies to either embrace liberalisation or oppose it (Hassel, Knudsen and Wagner 2016, 1221). Consequently, the organisational strength of trade unions versus employers determines the degree of liberalisation.

The third theoretical strand is the multilevel governance theory. The perspective argues that labour market policy is an area of delegation and sharing of competencies between the member states and European institutions. Since the EU consists of complex institutions with shared competencies, the multilevel governance theory stresses that trade unions can directly influence decisions without consulting the nation-state (Hooge Marks 2009, 5). The multilevel governance theory argues that jurisdictional bargaining occurs at the EU level, for example, trade unions and the European Commission. The multilevel organisation of the European Union has implications for how trade unions do operate. Whereas trade unions previously had to limit

their strategies to national actors, trade unions nowadays are affected by various European institutions at various levels of government, from the central to the local level. (Hooghe and Marks 2008,23). The bypassing of the national level applies to other sub-national actors that the union might cooperate with. The state is not the only gatekeeper to the EU institutions. Hence the unions might focus on others that more effectively will represent the interests of the unions towards the EU.

These discussed theories differ in their account of how EU integration has changed how subnational actors like unions operate both towards national actors. This research aims to identify whether the influx of post workers has forced trade unions to change strategies towards political actors at the national level compared to previous years.

## **2.2. Comparative industrial relations research on trade union strategies**

The relationship between trade unions and immigration has been increasingly investigated within comparative industrial relations (Krings 2009, 50). Bosch and Weinkopf show that posted work in the EEA and the way it protected under EU law have forced trade unions to change their working methods (Bosch and Weinkopf 2013). After massive street protest came first from Belgian unions and later from a broad union coalition after the EU parliament approved the service directive in 2004 (Van Gyes 2004). Penninx and Roosblad argue that trade unions have different instruments at their disposal, from inclusion to exclusion. Trade unions have to choose whether to resist or welcome immigrants. Furthermore, they have to decide how much effort they are willing to integrate migrant workers into the labour market industrial relations (Penninx and Roosblad 2000).

Trade unions would either try to include the temporary workers into their respective system or choose exclusion strategies and attempt to reduce the wage competition by lobbying for legislation that prohibits wage dumping and makes it more difficult for posted companies to win contracts and operate in the sector. Research shows that posted those workers are reluctant to join unions. (Lillie and Sippola 2011,308; Lille and Wagener 2015). Posted workers are reluctant because their employment status with high labour mobility and temporary employment contracts leads to a lack of attachment and solidarity to the national context. The

lack of attachment leads them not to join the trade unions in the country they are posted (Caro et al. 2015,1620)

Bettina Wagner and Anke Hassel find that since unions do not control subcontracting and generally cannot recruit posted workers, they chose to protect their industry by restricting posted workers access to the labour market. (Wager and Hassel, 2016). Some scholars have criticised the exclusionist perspective. Instead, they argue that trade unions attempt to organise and represent posted workers. Trade unions have developed new strategies to defend the rights of migrant workers because they see themselves as champions of social justice. (Doellgast et al. 2018) (Hyman and Gumbrell-McCormick 2017, 542). Hence the industrial literature presents two competing views on the strategies trade unions strategies use in response to posted workers entering the labour market. Trade unions will either shield their working conditions by advocating the exclusion of posted workers. Alternatively, union strategies will be focusing more on including posted workers in the industrial system.

Mette Ødegård states that most of the studies on trade union strategies have been focused on EU-mobile workers. There have been fewer empirical studies on the consequences of labour migration connected to service mobility (Ødegård 2005, 25.) However, in the last years, there have been increasing attention to the specific study of trade union strategies concerning posted workers in comparative industrial relations literature. The anthology "Posted Work in the European Union," edited by Jens Arnholtz Nathan Lille was published in 2019. The book has been a theoretical inspiration for this study. The book was inspiring both for its findings and for research gaps that it did not address. In the chapter about trade union strategies, Lille and colleagues found the following strategies to be the most important towards posted workers in Germany, UK, Finland and the Netherlands: Political influence and regulatory engagement, migrant worker engagement, collective agreements extension and enforcement and site-level structures (Lille et al. 2019, 90).

I would argue that these are first and foremost channels for strategies and do not connect the theoretical discussion on various preferences from the unions. As shown in the literature review, scholars assert that unions have either followed exclusionary or inclusionary strategies towards



migrant workers from the EU. The research does not discuss the implication these studies have from the perspective of posted workers. What is missing is examining the strategy's relative predominance and what unions state as crucial for the choice of strategies. Providing answers to these questions is a research gap that this master thesis hopes to fill.

## **2.1 Contribution of thesis**

The theoretical contribution of this master thesis is twofold. Firstly, the study of trade union strategies towards posted workers contributes to the theoretical understanding of how industrial relations respond to the political and economic integration of EU-states. The findings, therefore, contribute to the academic knowledge on the effects of EU integration. Secondly, the research question contributes to an updated conceptual understanding of trade unions in the age of free movement. Traditional political science has portrayed trade unions as unidimensional representers of the working class—Hyman emphasises trade unions developed in the twentieth century as political actors within their country-specific context. As collective negotiators, the trade union's role primary concentrated on the national and sectoral levels. Scholars like Richard Hyman argues that the increasing integration of the global economy and especially the European economy put this autonomy in question (Hyman 2007, 195). This conceptual inference aimed to be achieved by linking the analytical groundwork of Afonso, Wolf and Negash unions' strategies towards migrant workers with an updated evidence investigation from the German and Norwegian construction sector.

The research question also relates to the more general topic of how the internationalisation of the labour market challenges trade unions in high-income countries. Posting is, in many ways, a uniquely European phenomenon since service mobility is promoted through legislation of the EU. However Economic globalisation has created new forms of cross-border labour subtracting that challenged trade union's ability to control the labour market regulations. Service providers who are willing to accept lower wages than workers originating from the host country is a development that is happening in most globalised economies. Hence the findings of trade union strategies towards posted workers might have value for a broader set of cases, at least analytically.

### 3. Service provision in the European single market

The chapter describes service provision in the European Economic Area. The chapter will outline the legislation of service provision in the European Union and show how posting differs from ordinary labour migration. This is essential for the research question since EU-law allows posted workers not to entirely integrate into the host country's labour regulation. The competitive advantage against domestic workers constitutes an unprecedented challenge for the trade unions high-income member states.

#### 3.1 European Union's legislation regulating posted work

Posting occurs in various form. A worker could be posted through a contract of service provision, intra-group posting or hiring through a temporary agency. The most typical example is that a service provider in another member state wins a contract and sends its employees to carry out the contract (EU Commission 2020). An example of a posted worker is a Slovenian construction worker employed temporarily in a Norwegian construction project of a new school. Another example could be a polish worker employed through subcontracting by a general contractor on a German railroad project. Posted workers follows different regulations than permanent employed migrant workers moving under the free movement of labour, called EU mobile workers. EU mobile citizens are entitled to equal treatment with nationals regarding employment, working conditions, and other social and tax requirements. This does not apply to posted workers who pay social contribution in the home state and only follows the regulation in the host country if it is made legally statutory.

**Table 3.1: Difference between posting and ordinary EU-migration**

	Posted workers	EU-mobile workers
Workers are employed by	Company in country of origin or temporary agency	Company in host country
Workers follows legislation of	Both the country of origin (Service Directive) and country posted in (PWD)	Country where work is being done.
Working period	Temporary (Maximum 12 months)	Permanently/Long term

Source: European Commission 2020

For trade unions trying to coordinate strategies against this new form of very mobile and competitive labour migration entering their national labour market, two types of European regulations are essential to present: the Posting of Workers Directive from 1996 and the Service Directive from 2004

**3.1.1 The Posted Workers Directive**

After pressure from and trade unions in high-income member states, the European Parliament and Commission issued the Posting of Workers Directive (PWD) in 1996. The stated goal of the PWD was to strike a balance between the free provision of service and the need to ensure equal treatment of workers within the territory where the work is done (European Commission 2020). The PWD stipulated that there should be no difference between posted and home workers for the hard-core working conditions. “Hard-core working conditions” were also supposed to include pay. However, the directive had ambiguities in what the term “pay” included. For example, it was unclear if minimum conditions included housing cost or travel expenses for the posted worker in the member state where the work was being done (Hellsten 2007).

**Table 3.2: selected provisions in the PWD**

1 <sup>st</sup> consideration	The abolition of obstacles to the free movement of persons and services constitutes one of the objectives of the community
5 <sup>th</sup> consideration	The transnational provision of services requires a climate of fair competition and guaranteeing respect of the rights of workers
12 <sup>th</sup> consideration	Community law does not preclude Member States from applying their legislation or collective agreements entered into by employers and labour to any person who is employed, even temporarily, within the territory, although his employer is established in another member state.

Source: (EU-Lex 1996)

The debate around the directive showed diversion between member states. The main conflict line has been between states with high labour cost and decent labour laws and the countries with low labour cost. The central and eastern European states feared losing their competitive

advantage if the PWD went too far, guaranteeing that the wage level in the host country was to apply to all posted workers. Especial the 12th consideration in the PWD that stressed that trade unions had the right to apply their collective agreements to posted workers has been regarded as protectionist from many East European member states (Cremers Bosch and Dølvik 2007, 527). The PWD did not allow countries to apply one type of regulations for posted workers and another for home workers. The posted workers directive was revised in 2020. This thesis examines the strategies from unions from 2010-2020. Hence it is the 1996 version of the directive that is analysed in this thesis.

### **3.1.2 The Service Directive**

In January 2004, the European Commission proposed a new directive for the services sector. The Service Directive (SD) required all member states to ensure that all existing legislation followed the principle of non-discriminatory treatment of the posted workers (Directive 2006/123/EC). Only months after the directive was introduced, ten new members states from central and eastern Europe, with significant lower wage levels than the original members (EU-15), joined the EU. The directive required member states to ensure that all existing legislation were non-discriminatory, necessary, and proportional for service provision (EU Commission 2020). However, long-term benefits, such as pension and unemployment benefit contributions, would remain with the country of origin, to which the posted workers return after the service is over according to the service directive.

The complexity with service mobility in the EEA is that it is regulated by two contrasting and sometime conflicting types of legislation. On the one hand, the (PWD) protect the right of unions and national lawmakers to control their own labour market policy. The PWD benefitted trade unions as it guaranteed the equal treatment of workers and respect for the regulatory institutions in each member state. On the other hand, the (SD) emphasised that all obstacles to the free movement of services within the European Union should be removed (Nathan and Lille 2019, 7).

The question for trade unions is which of the two labour regulation principles should be applied. The sending state or the state where the work is done? The European Court of Justice is set to

decide by case law cases where the two principles might be contradictory. The court determines whether the consideration of service provision or national protection should prevail. The ECJEU has supremacy over the national courts regarding overseeing the implementation. Consequently, trade unions strategies towards posted workers can be ruled illegal by the EU courts if they are seen as protectionist or discriminatory towards posted. Therefore, there is a possibility that the ECJEU restricts some of the possible strategies from trade unions. The specific way the courts constraints certain strategies and how the courts have behaved in the years leading up to the investigation of this thesis will be explained in the theoretical framework

### **3.2 Net balance of posting**

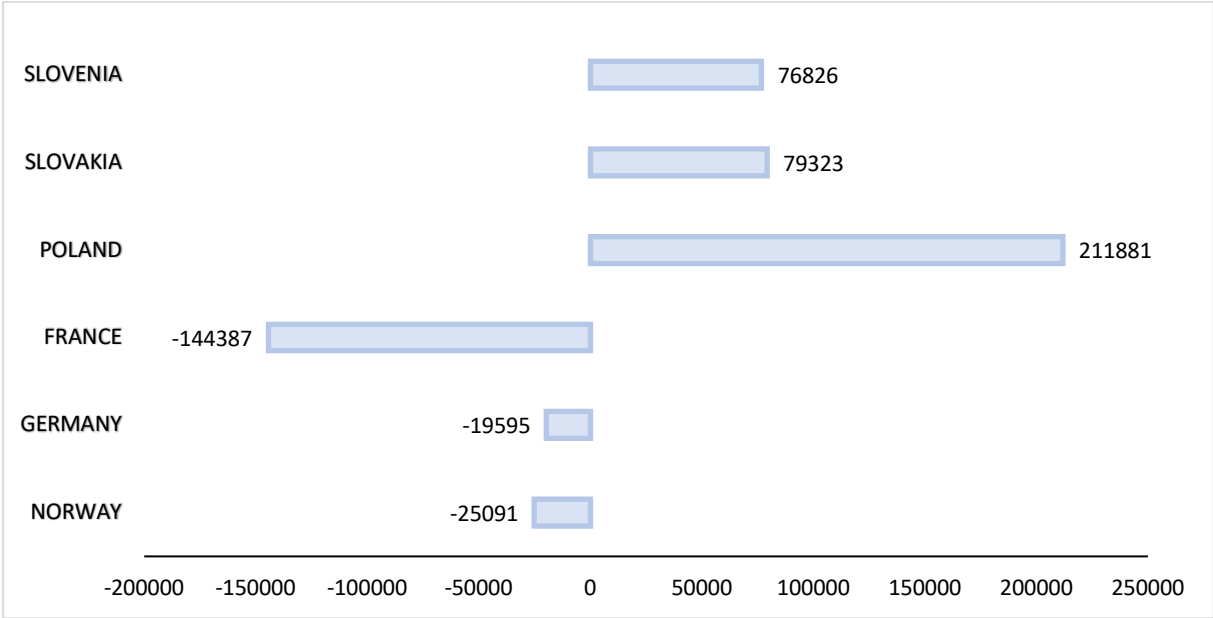
This labour mobility from the new member states from central and eastern Europe was higher than between older EEA countries (Friberg 2006, 12). The data on sending and receiving countries shows that posting mainly flowed from the new member states to the old member states. EFTA states experience the same patterns as the of the EU-15. The most reliable statistical survey of posted work is the distribution of a1 certificates. The A1 certificate is needed for companies to be posted legally to another country. The statistic shows a flow of postings from EU<sup>1</sup>-13 to the EU-15 Member States and across the EU-15 Member States. The table below shows the net balance of the number sent and received posted workers with A1 certificate. The table shows only a selection of the countries. The EU-15 are net receivers of posted work and the east sender of posted workers. The EU<sup>2</sup>-15 Member States received approximately 85% of postings (European Commission Report on A1 Portable Documents issued in 2017, 22). It has been challenging to register an accurate total number of posts since research suspects many workers are illegally posted.

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<sup>1</sup> The EU 13 are Bulgaria, Croatia, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia. (Members after 2004)

<sup>2</sup> The EU 15 are Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden and United Kingdom.

**Figure 3.3: Net balance of sender and receivers of posted workers.**



Source: Selected cases, from the report on administrative data PD A1 Questionnaire 2017 (European Commission Posting of workers Report on A1 Portable Documents issued in 2017, 22).

This contextual chapter have explained legal regulations concerning services provision in the European single market. The free movement of services impacts the national labour market by allowing low-wage workers to access the national labour market without fully complying with the country's labour market regulations. In the construction sector, high-income members have witnessed a considerable wage gap between posted workers who host workers operating in the same sector. Therefore, the posted workers' presence offers companies a hiring opportunity to undermine wages. The aim of this thesis is investigating what strategies trade unions in the host country has done trade unions respond to this challenge

## **4. Theoretical framework**

This chapter will firstly present the conceptualisation of trade unions union Secondly, the analytical framework will be presented. Inspired by the typology of Afonso Negash and Wolf, the framework expects unions to pursue either equalisation-strategy, exclusion-strategy or organisation strategy. The thesis will concentrate on three channels where trade unions direct these strategies: the legislative and industrial, and worker engagement.

The primary aim of the research question is to describe the relative usage of the ideal types of strategies. The thesis will examine whether the theoretical framework descriptions of union strategies are suitable for the cases studied. The chapter concludes by outlining how two political factors might influence unions choice of strategy: the political constraints from the EU institutions, and the effect of involvement in tripartite consultations typical in neo-corporatist systems.

### **4.1. Conceptualising trade union strategies**

This research will concentrate on the strategy's unions directed towards actors at the national level. Several scholars have argued that the variation in trade unions strategies is likely to be found when concentrating on the different channels where trade unions canalised their preferences (Child, Loveridge and Warner 1973,74). The research from Artholtz and Lille identified the three channels as the most relevant for trade union strategies towards posted workers (Arntholtz and Lille 2019,) 1) The legislative against politicians, 2) the industrial against the employer and 3) the engagement towards workers. The legislative channel refers to the process where trade union might direct their strategies against political legislators at the national or local level. The industrial channel is strategies directed towards the companies operating in the sector. The last channel where unions might direct their strategies is direct engagement with workers. Unions might contact or assist workers or trying to recruit them to the union.

Comparative studies on social movements have tried to explain why social movements arise and how they seek to achieve their collective goals (Amenta et al., 2010). Central for the conceptualisation is how trade unions are organised. The classic understanding of trade unions

is that they are collective organisations that consist of a centralised leadership that works on behalf of their members (Visser 2002). Trade unions engage in various political activities, including providing services to their members, undertaking industrial action against employers, or negotiating for better pay for their workers through collective bargaining. Buttigieg, Derry and Iversen argue that workers join unions because they see collective mobilisation to improve their working standards. Workers believe that the union will be instrumental in resolving job displeasures and injustice. Through a trade union, collective mobilisation is how workers can address this injustice (Buttigieg, Deery, and Iversen 2007).

However, even though workers share a perception of injustice, this might not necessarily lead to organised mobilisation (Javeline 2003). Workers will organise unions only if they have a sense of agency and believe that collective organisation can make a difference, these sets of ideas are what Klandermans calls "collective action frames" (Klandermans 1997, 17). Collective action frames are necessary but not sufficient conditions for the establishment of trade unions. To organise collective action, leadership is required. Hence, the framework supports the theoretical conceptualisation that trade union consists of a member base that regards unions as instrumental in achieving their aims and centralised leadership responsible for mobilising and finding the instruments to achieve them.

Based on this understanding, the thesis will use Andy Hodder and Paul Edwards definition of trade unions strategies as "The concrete plans and objectives that arise from the interactions between the leadership and the rank of files and lead to specific actions " (Hodder and Edwards 2015,847). Consequently, the strategy of the trade union is the result of the plans and objectives that arise from the interaction between these two groups. The conceptualisation of this thesis emphasises that strategies are the outcome of the aims resulting from internal debates within the trade union.

The conceptual framework asserted that union strategies are an outcome of the plans and objectives that arise from the interaction between members and the leadership. The aims will hence lead to specific actions. The thesis will broadly distinguish between three ideal types of strategic action: exclusionary strategies, equalisation strategies and organisational strategies.



These ideal types will be described in the second part of this chapter. Colin Crouch emphasises the need to consider the informed considerations and preferences of trade unions together with the political and economic system in which trade unions operate; "A choice of strategy is not just a choice between goals but a choice between goals set in the context of the means to secure them" (Crouch 1990). Hence the framework asserts that the constraints unions face in their sector influence their choice of strategy. This thesis assumes that the environmental constraints they operate in unions' capacity to secure the objectives. The chapter will finish with a description of how two of these factors, the EU and the institutions for wage coordination in neo-corporatist countries, influence the likelihood of some specific strategies

**Figure 4.1: Conceptualisation of trade union strategies.**

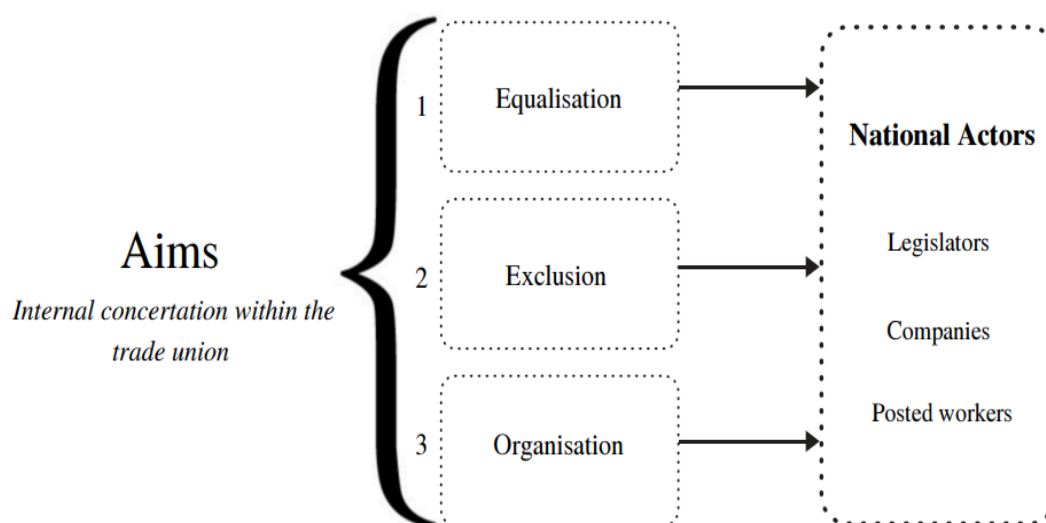


Table 4:1 illustrates the conceptual framework. This thesis uses the definition from Hodder and Edwards of trade union strategies as «The concrete plans and objectives that arise from the interactions between the leadership and the rank of files and lead to specific actions " (Hodder and Edwards 2015,847). The asserts that the strategies of strategies are a political process that consists of two components; trade union aims and trade union action. Strategies are the actions set to secure specific goals. These goals are formulated by both the member base and the leadership of the unions. However, the goals might be constrained and changed by the political

constraints that trade unions face. After consulting internally, the union might choose one of the three ideal types of strategies: exclusion, equalisation or organisation. These strategies will be explained in the following paragraphs.

**4.2 Analytical framework of trade union strategies**

The following paragraphs will outline the expected strategies from trade unions towards posted workers in trade union strategies in high-income European countries. The framework is inspired by the typology by (Afonso Negash and Wolf 2020), but some changes have been made to improve it to the topic of service provision in the EU. The most crucial difference from the original typology is that the framework of this thesis will count a strategy as exclusionary as long as it has the effect of making posted workers entrance to the labour market more difficult than for home workers. Moreover, a strategy will be counted as organising if it attempts to consult or assist posed workers by improving their rights. Legal advice, information-sharing will hence be included in these strategies. The strategies presented should be understood as ideal types. The strategies might not be mutually exclusive. Trade unions might combine them or various aspects of them in different situations. Since scholars disagree on the relative significance and usages of the strategies, the contribution of this thesis will examine whether one of these strategies has been dominant and whether the theoretical ideal types are sufficient and applicable to describe what is going on in these labour market.

**Table 4.1: Overall strategies from trade unions**

Equalisation	Trade unions work to secure equalize wages between posted workers and home workers by introducing rules and legislation that secure equal pay without discriminating posted workers.
Exclusion	Trade Unions work to restrict posted workers access to the national labour market by lobbying for legislation that makes posting more costly and difficult
Organisation	Trade unions assist the posted workers through recruiting them to the union or by providing them migrant specific assistances services.

Inspired by Afonso, Negash and Wolf’s typology (2020)

### **4.2.1 Equalisation strategies**

This framework classified strategies equalisation if "Trade unions work to equalise wages between posted workers and home workers by introducing rules and legislation that secure equal pay without discriminating posted workers". Hence the framework will count a strategy as equalisation if it aims to introduced universal measures that equalise the working conditions of posted and host workers without restricting posted workers access to the labour market.

Baccaro and Howell assert that trade unions desire to reduce the posted workforce's exploitability and constrain employers' capacity to pressure down the wages in the sectors by introducing equalisation legislation from the national level. (Baccaro and Howell, 2017) Equalisation strategies involve instances where trade unions call on the state to ensure equal working conditions for all workers. One way of doing this could be to make CBAs compulsory for all companies in the sector (Nevers and Paster 2019).

Afonso, Wolf and Negash emphasise that generalisation often is the second choice for two reasons. Firstly, the generalisation of CBAs only affects wages at the labour market's bottom end. Since it is a static one-time transfer of the minimum rates, it cannot hinder that posted workers are paid less than native workers (Afonso Wolf and Negash 2019, 520). Secondly, statutory minimum wages undermine the autonomy of trade unions. Since the introduction of a state minimum wage makes unions dependent on governmental intervention, trade unions in neo-corporatist countries have in many instances opposed the state role in wage-setting because of the fear of the free-riding problem. Union members might see less value in getting organised if all of the workers in the sector receive the benefits (Afonso Wolf and Negash 2019, 520).

Meyer points out that trade unions might support introducing statutory wage floors if they do not have the capacity to introduce alternative regulations or strengthen collective bargaining (Meyer 2019, 478). Unions may see generations as a lesser evil than wage segmentation, which undermines the maintenance of wage standards in the sector and leads to a low recruitment of national workers to the sector

#### **4.2.2 Exclusion strategies**

This thesis will count a strategy as exclusionary if it has the effect of making the entrance to the labour market more difficult for posted workers. Wagner and Hassel emphasise that under the EU's freedom of service, trade unions cannot control subcontracting. Therefore, unions prioritise protecting the wage standards of their members by excluding posted workers (Wager and Hassel 2016, 165). Concrete examples of exclusionary strategies include banning posted related services like temporary agencies from the sector or introduce legislation that restricts subcontractors.

The framework will modify the understanding of the exclusion of Afonso Negash and Wolf. They state that the main exclusion component is making migrants workers entering the labour market more difficult through immigration policies (Afonso Negash and Wolf 2020,519). Exclusion is a valuable analytical category, but I would argue that immigration policies are less relevant to EU-service provisions. In the EU, posted workers right of entering the labour market is protected by EU law. Therefore, restrictive migration policies are a less viable strategy. The argument is supported by the research from Julie R Watts shows that trade unions have moved away from immigration control and allied with employers over immigration openness in the wake of EU integration. (Watts 2002, 153).

The conceptual problem is that the trade unionists might claim that some exclusionary strategies are equalising. Trade unions might argue that they aim to secure wage equality for all workers in the sector by setting strict minimum standards. Following this logic, only companies that dump wages to a degree of social dumping will be denied access to the market. Equalisation might be the aim of the union. However, this thesis is concerned with the relationship between trade unions and posted workers. Therefore, a strategy will be coded as exclusionary if it makes service provision in the sector more difficult. The framework classifies strategy exclusionist if it discriminates between posted workers national workers by it more difficult for posted workers to work in the sector. One example of this could be by banning employments models typical for posted workers illegal.

### **4.2.3 Organisation strategies**

The framework will classify a strategy as organisational if trade unions assist the posted workers. By recruiting posted workers to the union or providing assistance, wage pressures can be resolved through the industrial system by including posted workers in the collective agreements. However, Lille and Sippola's studies show that posted workers are reluctant to join unions because their temporary employment leads to a lack of attachment and solidarity to the country they are posted (Lillie and Sippola, 2011). The challenge of recruiting posted workers due to their very temporary stay in the country is why this framework will utilise a more comprehensive definition of organising strategies compared to the conceptualisation of (Afonso Negash and Wolf 2020).

This reason for stretching the analytical categories to include a broader range of union activities is based on the research of (Mariano Peninx and Rooseblad 2015). They find that trade unions have developed innovative methods to represent temporary workers through information sharing and representation without posted workers' obligation to become union members. These migrant specific services include language training and facilitating access to housing and public services (Mariano Peninx and Rooseblad 2015). Consequently, this thesis asserts that the organising strategy includes strategies beyond recruiting like information-sharing and offering posted workers assistance without requiring them to become members

To sum up, the framework has presented three ideal strategies from trade unions towards posted workers: exclusion, equalisation and organisation. Trade unions could choose exclusion by introducing restrictive legislation that limits posted workers access to the labour market. Alternatively, they could push for equalisation by making the state issue statutory minimum wages or applying the wage and working standards in the collective agreements to posted workers by generalising collective agreements to all workers in the sector. Lastly, trade unions could include and organise migrant workers by delivering migrant-specific services or recruiting them to the trade unions. While equalisation and exclusion primarily are connected to legislative and industrial channels, the organisation strategy is directed to the channel of workers engagement. The chapter moves on to discuss the potential factors that shape unions choice of either of these strategies.

### **4.3. Influential factors for the choice of strategy**

In addition, examine the usage and types of strategies, the thesis has a secondary goal of identifying the factor that trade unions find influential for their choice of strategy.

The chapter will outline two political factors that the literature has suggested might influence unions choice strategies: the political constraints from the EU institutions and the effect of involvement in tripartite consultations typical in neo-corporatist systems. That said, the case-oriented research will broadly look for explanatory factors for unions choice of strategy,

#### **4.3.1 EU reduces the likelihood of exclusion**

The first theoretical assumption is that EU institutions will reduce the likelihood of trade unions choosing strategies. Tapia and Alberti point out that while trade unions have demanded the possibility of restricting EU labour migration, the EU integration has decreased the strategy's viability of exclusions strategies (Tapia and Alberti et al., 2014, 113). Through the single market, the EU makes it illegal to excluded EU workers from the labour market. Several researchers, therefore, claim that trade unions from the western states have "abandoned their restrictive stances of the past" (Marino, Penninx and Roosblad 2015, 8).

As described in chapter two of this thesis, the European Court of Justice (CJEU) has given the reasonability to interpret cases of contradiction of different legislative principles by case law. The Court has repeatedly shown that it will not tolerate what it sees as protectionist measures from unions to protect their members against services providers from other EU states. One example of this was the case of Vaxholm. In 2007 Swedish trade unions took action against the Latvian construction company Laval because Laval refused to sign a collective agreement for the Latvian posted workers. To mobilise against this Swedish union initiated a blockade at the construction sites. The Swedish Labour Court referred the case to the European Court of Justice. The CJEU ruling declared that the action from the Swedish unions illegal. The right to strike is a fundamental right but not as vital as the right of businesses to supply cross-border services. Through the Laval ruling, the CJEU subordinated the right to strike to the freedom to establish services (Mabbet 2016,1243; Bruun 2007).

Seikel and Nadinger's research from the German labour market shows that the rulings of CJEU have constrained trade unions possible exclusionary strategies. One example was that the state of Lower Saxony obliged construction companies to pay at least the wages stipulated in the collective agreements to their workers in one dispute. The CJEU ruled out that the provision was not compatible with EU law as it represented an unjustifiable infringement of the freedom to provide services (Seikel and Nadinger 2019, 133). Hence, the framework will expect that trade unions have to ensure that their strategies do not overstep national opportunity structures set up by the EU. Since there is no viable exit solution trade unions must find innovative solutions to protect their standards.

#### **4.3.2 Corporative involvement leads to higher likelihood of exclusion and equalisation**

A challenge in comparative studies of trade unions is that strategies are contingent on the political system they operate. This thesis investigates unions in a system classified by the political economy literature as both neo-corporatist political systems and a coordinated market economy (Schmitter and Lambruch 1979; Hall and Soskice 2001).

The comparative political economy literature of the 1950s classified some countries as neo-corporatist. Neo-corporatist states were characterised by economic tripartism, where trade unions, employers' associations and governments decided wages through centralised collective negotiations. Centralised collective bargaining was perceived as advantageous to the economy's competitiveness because it made trade unions demand more responsible wage increases (Schmitter and Lembruch 1979) (Zysmann 1983). The framework expects that the consultation in tripartite consultation will increase the likelihood that unions will introduce exclusionary strategies that restrict companies that exploit wage differential by paying posted workers indecent wages and introducing equalisation that secures equal pay in the labour market posted and host country workers.

The varieties of capitalism literature expanded on the neo-corporatist literature's insights to argue that companies in some societies saw the tight cooperation with trade unions as a competitive advantage (Hall and Soskice 2001). These economies were classified as coordinated market economies. The varieties of capitalism literature differentiate advanced

capitalist economies into either coordinated market economies (CME) or liberal market economies (LME) (Hall and Soskice 2001, 21). In liberal market economies, companies coordinate their activities through a hierarchical structure where competitive market arrangement sets the rules for exchanging services. (Hall and Soskice 2001, 30). In CME, The companies are not as hierarchal structured as in LME but are often bound by a general assembly where trade unions and worker councils are represented. (Hall and Soskice, 2001, 24).

This close strategic collaboration reduced the perceived individual cost for the companies in investing in workers education because and was seen to profit all companies. CME is recognised as a system with more substantial protection for workers and long-term employment conditions (Hall and Sosikice 2001,25). Therefore, the thesis will assert that the coordination and information sharing with employers will make it more likely to introduce equalisation strategies through industrial cooperation. The assumption is that based on the coordination and the high degree of union influence also firms will see the interests of protecting their sector from wage pressures and coemption from foreign companies.

However, advocates of the power-resources theory have criticised the business-oriented explanation of the VOC framework. They argue that the power and influence of trade unions in these countries came from intense class struggles (Korpi 2006, 168). The development of the market coordination described in the varieties of capitalism framework came from social democratic governments implementing policies that deliberative strengthen the unions relative to the companies. Companies did only agree to them because they had no other choice as social-democratic governments held power for several decades in some countries(Korpi, 2006, 175). Hence the nuanced argument is that unions will influence the neo corporatist structures if they haw sufficient power resources and are supported by political allies on the left, not necessarily directly as an outcome of the consultations with the government and employers.

Hardy and Fitzgerald show trade unions in the UK and Ireland have focused on the organisation of posted workers after the EU extension. They attribute this to the lower capacity for influencing the UK's political legislators compared to their Scandinavian and German counterparts. The low capacity for influencing legislators makes unions turn to organising as



the second-best option (Hardy and Fitzgerald 2010, 370). The argument that this thesis will investigate from Hardy and Fitzgerald is that if unions indicate that they are not involved in the tripartite consultation or listened to by the government, they will turn to focus on organising strategies by posted workers direction.

The institutional assumption examined in the empirical analysis is the following: If trade union involvement is high, the trade union will have a higher likelihood of introducing equalisation or exclusion through agreements with state and employers. If trade unions are less consulted, they will turn to the migrant workers themselves as a second best option. The findings will contribute to an updated theoretical picture of the "corporatist-standing" of the countries through the comparative case study.

**Figure 4:2: Factors influencing union choice of strategy.**

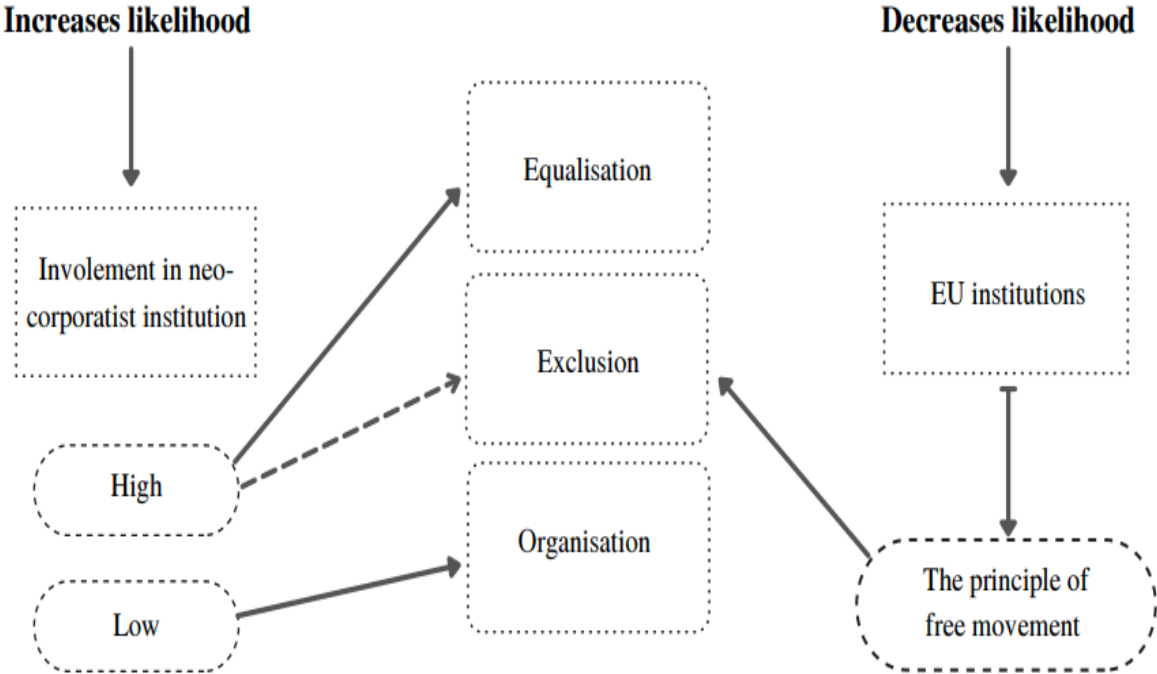


Figure 4:2 Illustrates the two assumptions of this chapter. Based on the neo corporatist literature I expect that if trade union are included in consultations with government and business in tripartite forums, typically for neo-corporatist systems, increases the likelihood of introducing

exclusion and equalisation strategies. If involvement is high, the likelihood of introducing exclusion and equalisation will increase. On the other hand, if unions involvement is low, I expect unions to focus on organisational strategies, as Hardy Fitzgerald and shows are more common in countries with a lower degree of involvement. Secondly, the framework expects that EU institutions like the CJEU will reduce the likelihood of introducing exclusionary strategies. Through the insistence of member states complying with EU regulations on removing obstacles to free movement, exclusionary strategies will be regarded as incompatible with EU law.

#### **4.4. Sum up of theoretical framework**

This chapter has defined trade union strategies as the "Concrete plans and objectives that arise from the interactions between the leadership and the rank of files and lead to specific actions such as campaigns to organise certain groups of workers" (Hodder and Edwards 2015,847). The chapter has presented the theoretical framework used to classify unions strategies—inspired by the categories developed by (Afonso, Wolf and Negash 2020). The thesis expects the union to follow a strategy that is either exclusionist, equalisation or organisational. This thesis aims to check whether these ideal types fit the cases of this thesis and determine the relative usage of the strategies. Lastly, the thesis will investigate two factors that the literature expect will influence unions choice of strategies: EU institutions and the degree of involvement in neo-corporatist institutions. The EU courts are expected to reduce the likelihood of exclusion strategies. Moreover, some scholars argue that the stronger the involvement in neo-corporatist structures, the higher the likelihood that unions will succeed with either legislative equalisation or strategies through cooperation with governments and employers in neo-corporatist institutions. However, if involvement is weak, the thesis expects that the likelihood of organisational strategies increases.

## **5. Data and methods.**

This chapter presents the method and data used in this thesis. The comparative case-oriented study has been chosen because description and analytical understanding are the research question's main aim. Comparing unions in two countries that share similar institutional and economic characteristics aims to provide insight into how institutional contexts influence trade unions' choice of specific strategies. Furthermore, understanding variations in the strategies across contexts will also increase the descriptive and analytical value of the findings.

The case study includes the collection of multiple data sources. Eight, one-hour-long semi-structured interviews with trade union representatives and qualitative documents analysis of the union's political programs and official statements is the evidence for the empirical analysis. Combining the in-depth investigation of unionist strategic considerations with the static and more reliable analysis of documents increases the validity of the thesis. Assessment of the data quality and sources of errors will be discussed when presenting the data and collection methods.

### **5.1. Epistemological foundation**

The thesis follows a pragmatic view of the epistemological foundations of qualitative research. A premise that this thesis would reject is that qualitative research opposes the positivist tradition. Many researchers argue that since qualitative research involves human coding and interpretation, it must follow an interpretive epistemology. Denzin and Lincoln argue that qualitative researchers study things in their natural setting, "attempting to make sense of or interpret phenomena in terms of the meaning people bring to them" (Denzin and Lincoln 2005,3). I would say that it is to undervalue qualitative research to place it in the interpretivist epistemological category. Rather I would support the more pragmatic claim from Guest, MacQueen and Namely, that it is how the researcher uses the qualitative data and not the method itself that defines whether the research is "positivist, interpretivist or something in the middle" (Guest MacQueen and Namely 2008,32). They instead point to the more functional definition of qualitative research presented by Nkwi, Nyamongo and Ryen who states that "qualitative research involves any research that uses data that do not indicate ordinal values (Nkwi, Nyamongo and Ryen 2001, 1).

This thesis has chosen a research qualitative method because it provides more relevant information for the research question than the quantitative analysis. The theoretical framework asserted that strategies are the outcome of a political debate inside the trade unions. Hence, a qualitative approach where the actors explain the reasoning and strategic will provide the most relevant findings for answering the research question.

## **5.2 The comparative case-oriented studies.**

Charles Ragin defines the case-oriented study in the following way: "the case-oriented strategy focuses upon a relatively small number of cases, analysed with attention to each case as an interpretable whole» (Ragin 2000, 22).

Understanding an «interpretable whole» fits rather well with the research question. Describing and understanding trade union strategies related to the free movement of services in the EEA is the primary goal of the thesis. The comparative case study shares the goal of the statistical method in that it attempts to explain social phenomena by the systematic manipulation of parameters and operative variables' (Smelser 1976, 158). The difference is that while a variable-oriented study expresses these answers as hypotheses that aim to establish a relationship between two concepts, the comparative case-oriented method aims to understand the cases as a whole and tries to understand the complex unity of the cases rather than linking variables to each other and estimate their correlations (Heritier 2008, 61; Ragin, 2000, 22).

John Geering argues that there is always a trade between descriptive vs causal knowledge (Geering 2004, 341). Since the primary aim of this thesis is to establish a better analytical understanding of trade unions strategies towards posted workers, descriptive knowledge consideration is prioritised over the statistical inference. The conceptual framework asserted that union strategies are an outcome of the plans and objectives that arise from the interaction between members and the leadership. The qualitative case-oriented design of this research, the decision-making process and the degree to which members are included in setting the aims can be discovered by examining the documents and interviewing local and central representatives of the union.

The second objective of the research question is to identify the factors unions identify as influential for their choice of strategy. By comparing two cases, patterns of similarities and differences in trade union factors influencing unions choice of strategies can be identified.

A case-oriented comparison follows a different logic than statical methods. While statistical analyses measure variations where independent and dependent variables vary together, the comparative analyses looks and methods of similarities and differences (Donatelle Della Porta 2008, 205). Donatella Della Porta emphasises that small-N, case-oriented comparison aims to point at similarities and differences through dense narratives (Donatella Della Porta 2008, 204). Hence, the comparative case-oriented method provides the generalisations temporarily limited to the subjects studied.

### **5.3. Case selection**

The cases are selected because they have a political, industrial relations system where trade unions engaged in tripartite bargaining institutions. Both countries are at the upper end of the income leader in the. They are part of the single market and therefore faces the same legislative constraints from the EU institutions. Lastly, both countries have witnessed a significant presence of posted workers in the construction sectors. Hence, they share enough characters to explain how trade unions in high-income EEA countries respond to increased EEA service mobility.

The empirical analysis will compare the trade unions at the sectoral in Germany and the sectoral and Norway. This is based on recommendation from Hardy, Eldring and Schultzen, cross-national research on trade unions should be concentrated to the sectoral level of analysis. Their research indicates that cross-sectoral internal in-country often more significant than the cross-national differences. (Hardy, Eldring and Schulten 2012, 348). The construction sector is selected since this is the sector that witnessed the highest influx of posted workers. (European Parliament 2020).

An important caveat is that this analysis provides evidence from a sectoral comparison and not the trade union movement in the country at large. Trade unions in the other sector will meet

various challenges depending on their sectoral organisation that affects their strategies (Hyman, 2001, the strategy against posted workers would be seen as less relevant in the higher wage sector where posting is less used or seen less relevant a less critical challenge.

Since the central question in this thesis is how trade unions represent union members higher wages than posted workers strategies toward wage pressure of posted work, Germany and Norway were selected. The average construction worker gross salary in Germany is 36.086€ (Salary Expert Germany, 2020). In comparison, a worker in the construction sector in Norway at an average of around 44.375 euro per year (Salary Expert Norway, 2020). In contrast, the average construction gross salary in Poland construction is at 12.950 euro. This shows that posted workers earn considerably less in their home country than in the two cases in our study (Salary Expert Poland, 2020).

**Table 5:1: Employment figures in the construction sector**

	Norway	Germany
Employed	254,000	1 999 900
Minimum wage	Collective agreements	12.55 EUR per hour
Trade union density (2016)	29 %	13
Bargaining coverage (2013)	43 %	68
Posted workers % (2014)	3,5	8,6

Source: (Statista 2020; Statistisk Sentralbyrå 2018b)

Norway and Germany have both been classified as neo-corporatist states. Trade unions in these systems were included in tripartite institutions where trade unions, employer organisations discussed the vital legislation concerning the labour market (Schmitter and Lembruch 1979; Zysmann 1983). Similarly, Hall and Solstice classified both Germany and Norway as

coordinated market economies (CME). CME systems have robust protection for workers and long-term employment conditions due to the collaboration between employers and trade unions (Hall and Sosikice 2001, 25). The varieties of capitalist literature argue that one can find the prominent features of CMEs in Denmark, Finland, Norway, Sweden, Austria, Belgium, Netherlands, Germany, and Switzerland.

The binary distinction within the VoC literature between Liberal Market Economies and Coordinated market economies has been criticised for being too simplistic (Crouch, 2005). EEA-States within the two classes can have very different institutional characteristics for union involvement (Copeland 2015). Nonetheless, this thesis will assert that the distinction helps classify countries closer to one of the two ideal types. The service directive (SD) reaction confirms the analytical value of classifying trade union movements into either CME or LME. The service directive was supported by the new member states and Ireland, Luxembourg, Spain, the Netherlands, and the United Kingdom, all recognised as LME. On the other hand, Austria, Belgium, France, Germany, Greece, Italy, Portugal, and Scandinavian countries, all classified as CME or neo-corporatist countries, opposed the directive (Lindstrom, 2010). Consequently, this thesis will assert that selection on the ground of Schmitter and Hall and Solicie is a sufficient categorisation.

In sum, Germany and Norway are selected as cases because they have a similar institutional background, thus making it more likely that a particular factor tells us something about its influence on trade unions strategies. Both countries are high-income EEA-states. Both cases have an industrial relations system where trade unions engaged in tripartite bargaining institutions. Both countries have witnessed a significant presence of posted workers in the construction sector. There are some crucial differences between German and Norwegian industrial relations. However, this thesis would argue that the cases are similar enough to shed light on how posted work influences the trade unions. The relaxation of the selection bias criteria and the number of cases has the downside of making this thesis's findings less generalisable to a broader set of cases.

### **5.3.1 Selection bias**

Selection bias arises when cases selected for analysis does not fulfil the requirement of proper randomisation. Incomplete randomisation again means that the sample obtained is not representative of the population intended to be analysed, leading to misleading findings. Since this research only compare two cases, it could be criticised as having a selection bias problem. Daniella Della Porte argues that comparative small-N research should not be assessed on the same rules for selection biases in statistical regression analysis (Della Porte 2008, 212). Several researchers have argued for relaxing this requirement for qualitative research since statistical inferences is not the aim of this research. Since it is unreliable to expect that the comparisons of only two cases will provide a basis of causal inference for a broader set of cases, the goal is to examine the cases internal mechanism in great detail and contrast them with each other (Collier, Mahoney and Seawright 2004, 100). Charles Ragin writes that comparative researcher using the case-oriented comparison start with the idea that "social phenomena in like settings that might parallel each other sufficiently to permit comparing and contrasting them (Ragin 2004, 125).

## **5.4. Data collection**

The data collection of the thesis was qualitative document analysis and semi-structured interviews. The next section will briefly outline the types of evidence that was collected, and the consideration done in research proses of conduction interviews and analysing the documents.

### **5.4.1 Qualitative document analysis**

Qualitative document analysis is a research technic for analysing data based on systematically comparing different documents and structuring the content relevant to the issue into different categories (Grønmo 2004, 175). The strength of the qualitative document analysis is that it can provide a deeper insight into perspectives and perceptions in the current debate than we could have if we used quantitative research arrangements. Furthermore, the problems associated with "reactivity" where the researcher influences the respondents, as could happen in interviews, are avoided. (Grønmo 2004, 180).



Three kinds of documents collected: political programs of the unions, strategy documents and public responses to legislation. Additionally, documents like government papers and new articles were collected to get a broader contextual understanding of the development and a complementary perspective outside the unions. Officials' documents from the trade unions that were publicly available online were, therefore, the primarily collected source. All the publicly available documents are listed in the bibliography of this thesis. Additionally, internal documents were provided by some of the respondents. These documents were granted on the condition that they would not be forward or presented. The inability reduces the replicability of the thesis. Given these documents relevance for the research question, they were considered too influential not to use. Therefore, the evidence provided by the internal documents is backed up by quotes from the interviews in the case studies.

#### **5.4.2. Semi-formal interviews**

I completed eight semi-formal interviews with representatives from trade unions. The interview lasted for approximately one hour. The interviews complemented the document analysis and contributed to an in-depth understanding of the consideration behind the different strategies.

Punch categories three types of interviews: Structured, semi-structured, and unstructured (Punch, 2014, 144). This research used semi-structured interviews. The researcher's role in semi-structured interviews is to function as a facilitator of the conversation rather than a traditional interviewer asking questions (Jakobsen, 2012, 113). The semi-structured interview's natural interaction is beneficial because it enables the researcher to gather evidence from respondents less accessible in written settings or with clearly defined questions (Punch, 2014, 147). The strength of the semi-structured interview is that the researcher can be flexible and adapt the questions if something interesting for the research question comes up.

I formulated an interview guide that consisted of around twenty questions and made unions responses comparable, as was one of the goals of the research question. A potential error would be to pressure the categories from the theoretical framework on the respondent. The interview

guide is attached in the appendix at the end of the thesis to increase the replicability of the thesis.

Due to the continuous pandemic situation of Covid-19, all the interviews had to be conducted online by digital interviews. The advantage of using digital interviews, especially in this covid-19 pandemic, is that access is gained. Sullivan stresses that Skype interviews can provide an equal authenticity level with face-to-face allow for visual impressions to be evaluated (Sullivan 2012, 55). Digital interviews could be beneficial because it encourages interviewees who have time or place limitations for a face-to-face interview. This was particularly an advantage in getting access to the German respondents as travel restrictions could be avoided. Concerning consent and the right to withdraw from the interviews, Janghourban and Roudsare and Taghipoor emphasise that online interviews allow participants to withdraw from the interview process in uncomfortable situations by clicking a button (Jangouabrity Rodusare, Taghipoor 2014, 1).

#### **5.4.3 Sampling and conduction of qualitative interviews.**

Given the research question, I needed to talk to the construction unions: IG-BAU in Germany and Fellesforbundet and Norsk Arbeidsmandsforbund in Norway. It was essential to select both centrally and local leaders as the respondents. The recruitment of both local and central union representatives provided a wholesale picture of the union's strategies and strategies as the strategies "on the ground". Potential respondents were contacted by email and asked to participate in an hour-long interview about unions strategies towards service mobility.

The sampling of this research is a combination of combined strategic selection and snowball selection. Strategic selection is when candidates are selected because of their position in the union. Snowball selection happened when the respondents set me in contact with colleagues in the trade union. Being a Norwegian made it easier to reach Norwegian respondents. I struggled more with recruiting representatives from the German unions. Therefore, I asked one of the German respondents to contact associates within the trade union movement. A weakness with snowball selection is that when respondents are recruited through referrals of people who know one another, this increases the probability that the respondents inform and influence each other. Hence, respondents who work together and maybe are friends could be

regarded as a less credible sampling source (Waldorf and Biernacki 1981, 151). This was accepted as a minor error since this type of sampling only accounted for a minority of the interviews and because the thesis would collect multiple sources of data like documents to answer the research question.

**Table 5.3: List of trade unions interviewed.**

LO	Norwegian Confederation of Trade Unions. 21 national unions affiliated
Fellesforbundet	Trade Union for construction workers. Representing workers in the housing part of construction. Part of the LO-structure
Norsk Arbeidsmandsforbund	Norwegian trade union for construction workers. Organising workers in facilities part of construction. Part of the LO-structure
IG-BAU	German biggest trade union for construction workers. Part of the DGB structure.
Fair Mobilitat	Organisation under DGB. Consulting and assisting posted worker in eleven locations in Germany.

### 5.5 Interpreting the data

There are two ways of categorising documents in qualitative research: inductive and deductive coding. In deductively coding one starts with predefined concepts. Thereafter the research looks to discover these codes in the empirical material in order to deductively confirm this finding. Inductively coding means concepts are found through the analysis and that no concepts are defined beforehand. Miles and Huberman advocate for a mix of inductive and deductive approaches to analysing data. According to Miles and Huberman, it is equally legitimate and valuable to start with analytical categories derived deductively or gradually develop such categories (Miles and Huberman 2018). Ryen stresses that an inductive approach is recommended when dealing with new or complex fields (Ryen, 2002, 157). The two concerns are the reason why this thesis will combine both induction and deduction in the categorisation. Some of the categories used in the coding have already been presented in the theoretical framework's expected strategies (inclusion, consent and exclusion). However, these coding will only be applied if they are seen as relevant. The rest of the coding will be "open-coding" and

developed inductively. To increase the findings' replicability, the codes assigned to the empirical material are attached in the appendix at the end of this thesis.

### **5.6 Assessment of data quality**

For assessing the quality of the evidence collected for the empirical analysis, validity and reliability are valuable measurements.

Internal validity is the extent to which a study establishes a trustworthy relationship between a method and the result. I have interviewed 5 Norwegians and 3 Germans. However, the thesis will consider the comparison meaningful since the German case's empirical findings include over four hours with interview data and comprehensive document analysis. The German case could be considered to have passed the threshold for theoretical saturation. Nevertheless, it is essential to be aware that the Norwegian case has more data underlying its generalisations.

Reliability concerns itself with the replication and trustworthiness of the research. It is a judgement about whether other researchers would come to the same result (Ringdal, 2014, 96). Since replicability can be a challenge in the interview where the setting is unique and anonymised, it is essential to document the data collection accurately. All the categories developed for the empirical analysis is attached in the appendix at the end of the thesis.

My lack of proficiency in German might reduce the trustworthiness of the German findings. Several measures were taken to reduce the problem of reliability. I used various digital translation programs to translate German documents in order to increase reliability. I sent some excerpts of my translations to two German-speaking associates who found no significant errors related to the translation. Through reliability checks and multiples translations, the errors are hoped to be minimised. However, there could minor error in the empirical chapter that is a result of language limitation.

The combination of interviews and documents analysis, which is static and non-reactive, was ideal for the research's validity. By corroborating evidence, weakness from both sources is hoped to be limited. If there was a conflict between the interviews and documents, the

documents were weighted more significant since they represent unions' collective decisions and are less prone to misinterpretations, as sometimes can happen in interviews. The combination of these data collection forms is therefore ideal for this comparative case study. The combination of various sources of evidence increases the validity of the thesis.

### **5.7. Ethical considerations**

An important consideration in qualitative research is to secure the privacy of the respondents. The interviewees were asked to sign a consent form that stated that they agreed to participate in the research before the interviews. They were informed about the project and given the option to withdraw from the project at any given time. I asked the respondents about their consent to record the conversation both in the consent form and at the start of the interview. Respondents were promised that the recording was to be deleted when the empirical analysis was finished. All respondents were given the possibility to decide the degree of anonymity. The Norwegian Centre for research data (NSD) was contacted with information on the process and storage of respondents' personal information in the research project. NSD assessed the method and storage of information from the respondents I had planned. NSD replied that the research was conducted following the privacy regulations.

## **6. Empirical findings Norway**

This chapter presents the empirical findings of the case study of trade unions in the Norwegian construction sector. The chapter will present dominant strategies, and the factors trade unions have reported as influential for their choice of strategy. The unions that have been analysed are the two unions in the construction sector Fellesforbundet (FF) and Norsk Arbeidsmandsforbund (NAF), and the umbrella organisation of the two unions, Landsorganisasjonen (LO).

### **5.1 Background Norwegian Construction sector**

Norwegian construction employs approximately 250 000 people. Over 40 per cent of registered workers in construction had a foreign background in 2020, most of whom are from Poland and the Baltic states (Tariff Board 2020, 1; SSB 2020). Two different unions represent workers in the Norwegian construction sector. The construction sector is divided between the construction section and the facilities section. The construction section («bygg») includes building houses, office buildings, and the rehabilitation of buildings. The facilities section («anlegg») includes transport development, road development, bridge construction, railway work, and quay facilities. The construction part of the sector is represented by Fellesforbundet (FF). FF is Norway's largest union in the private sector and represents 160 000 members in the building, agriculture, and transport sector. The facilities projects workers are represented by Arbeidsmandsforbundet (NAF). NAF is a considerably smaller union than FF, with 33 000 members. The collective agreements have only been generalised to the construction sector and not on facilities. Hence there is no wage floor for working in facilities.

Norway is not an EU member but a part of the European Economic Area through the EEA agreement from 1994. The agreement gives the EEA countries access to the EU's internal market based on "the four freedoms" principle. Hence EU's labour market regulation applies to Norway in the way as to member states of the EU. The EFTA Surveillance Authority (ESA) ensures that Norway complies with the provisions to which Norway has given its consent. Through the EEA agreement, Norway is answering the EFTA Court. The take-home point is

that the EFTA court plays the same role as the ECJ/EU. It has supremacy over the national courts regarding oversight of the implementation. Norway does not have the opportunity to veto the EU or stop a provision. A judgment of the EFTA Court may not be appealed. A judgment from The EFTA Court puts Norway in front of the following alternatives: Either negotiate new provisions in the EEA agreement, adopt national legislation to the judgment or terminated the EEA agreement (Stortinget 2020).

## **5.2 Exclusionist strategies**

“Social dumping is not something people bring with them. It is something they are exposed to in the Norwegian labour market. The slogan for LO is yes to labour immigration, no to social dumping. Measures have been taken to prevent this from happening<sup>3</sup>. (R3, Fellesforbundet).

The quote is indicative of the Norwegian union primary strategy, exclusion. Trade unions wanted to restrict posted work in construction to prevent workers from low wage exploitation, referred to as social dumping by the unions. The case study will classify these strategies as exclusionary as they are attempted to exclude posted workers access to the labour market. Trade unions welcomed service mobility in principle but argued that the extent and way that firms used posted workers as travel agencies to exploit European workers and pressuring Norwegian wages could not be accepted. The following paragraph will be present the "measures that have been taken" to prevent social dumping from happening. Trade unions pursued three types of exclusionary strategies. Firstly, the restriction on temporary work, secondly the aim to register posted work and thirdly, the introduction of procurement models.

### **5.2.1 Erna Solbergs' biggest political defeat**

The legislative change that restricted temporary hiring in 2019 was perceived as a victory for Norwegian trade unions. The law forbids zero-hour contracts in all industries. The practice of workers not receiving a salary between assignments was also made illegal. Secondly, only companies bound by a collective agreement with a trade union with a so-called right of

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<sup>3</sup> Sosial dumping er ikke noe folk har med seg, men er noe de blir utsatt for i det norske arbeidsmarkedet.

Parolen for Lo «ja til arbeidsinnvandring, nei til sosial dumping. Så har man pøst på med tiltakk for å forhindre at det skal skje

cancellation ("innstillingsrett) had the right to hire labour from temporary agencies companies. To be classified as a union with «the right of cancellation», one had to have at least 10,000 members. In practice, this means a trade union with LO-affiliation. Hence only LO- unions can allow companies to hire temporarily. The union wanted this to ensure that the companies could not undergo the legislation by setting up a "paper agreement" called a collective agreement without any substance or protection of working rights. In other words, the staffing agencies shall, as a rule, only have permanent employees.

According to unions, there was a political cleave between unions the constructions firms. Unions felt the wage pressure from posted work hired by the temporary agencies and disagreed with the employers that it was needed to ensure flexibility. According to the unions, temporary agencies were among the most common entering gates for posted workers into the construction sector. Therefore, LO started in its strategic document that it believes the time had now come to follow up the stated ambitions by further limiting the temporary agencies access to the construction sector (Fellesforbundet 2018).

Through the interviews, respondents described the lobbying process in achieving the change in legislation. The first thing FF did in 2011 was to overview the scope of temporary hiring in construction. The union researched construction sites and asked employers and employees about their contracts and how many workers were hired permanently and temporarily. FF has gathered this information and has published five reports on the usage of temporary hiring since 2011.

According to the unions, the report showed that the six largest temporary agencies had twice as many employees as the six largest contractors. According to the documentation of unions, the illegal use of hiring had increased (Englestad 2019,7). According to unionists, the trade union movement concern over the development had usually been met the counterargument that the total scope of hiring in the Norwegian labour market is low (1.5–2 per cent). Nevertheless, in 2017 came it for the first-time official figures which documented a far greater scope within the construction sector. The survey showed that temporary agencies hired 8–11 per cent of all the workers in construction nationally and 14–18 per cent in Oslo and Akershus. While the unions'



survey in spring 2017 showed that 35 per cent of the workers on the large construction sites in Oslo were hired by temporary agencies (Fellesforbundet 2019b, 31).

FF won support from the political parties on the left, but the government and the right side supported the manning industry. A political opportunity arose in 2018 when Krf, the centrist christen democrats, decided to withdraw as a support party for the right-wing minority government. Hence, the unions had a small window of opportunity, and after several months with targeted input from Fellesforbundet and LO (Fellesforbundet 2019b, 31), Krf decided to support the trade unions vote together with the rest of the opposition. Consequently, Stortinget restricted the use of temporary hiring to companies that had an agreement with an LO trade union. The restriction was a significant victory for the trade unions and was resisted by the employer and the government. The conservative prime minister Erna Solberg called it her biggest political defeat as prime minister (NRK 2018).

**Table 6.1: Voting record on legislation on restrictions 2019**

<b>Party</b>	<b>Political orientation</b>	<b>Voting record</b>
<b>Frp</b>	<b>Far-right</b>	<b>Against</b>
<b>Høyre</b>	<b>Centre-right</b>	<b>Against</b>
<b>Venstre</b>	<b>Centre</b>	<b>Against</b>
<b>KrF</b>	<b>Centre</b>	<b>For</b>
<b>MDG</b>	<b>Centre</b>	<b>For</b>
<b>Arbeiderpartiet</b>	<b>Centre-left</b>	<b>For</b>
<b>SV</b>	<b>Far left</b>	<b>For</b>
<b>Rødt</b>	<b>Far left</b>	<b>For</b>

Source: Stortinget 2019

The decision strategies to focus on restricting hiring companies down to unions with the right of cancellation were perceived as a weak compromise by some union representatives. The evidence indicates that the largest cities that experience the highest wage pressure from temporary hiring regarded a ban on the temporary agency industry completely as the preferred strategy. When asked about the most crucial topic concerning posted workers, the respondents from the construction sector in Oslo replied, “The war against the temporary agency industry” (R8).

At the 2018 national convention in Fellesforbundet’s, it was discussed whether the unions should advocate a complete ban on temporary agencies in construction, as IG BAU had done in Germany in 1982. The talks at the convention focused on whether FF should ban temporary or more modestly try to archive restrictions. The study found internal disagreements within FF regarding how far the union should go in restricting temporary agencies. The trade union had an in-house debate regarding the issue. Some wanted a total ban, while others saw it more realistic to pursue a restriction.

«We cannot ban posting as many would like to. A shipyard that has the task build a boat. They pick up hulls from Turkey, and then they will install them. Should they hire ten style workers temporarily? Or should they pick up that service temporarily? We as a nation have not equipped ourselves to build everything indoors. It is entirely impossible» (R5).

A local trade union leader presented a contrasting view from the Oslo construction union: “You make changes to the law, but the temporary agency industry does not spend more than five minutes working around the regulations. We are in favour of a ban because the industry has proved unable to handle the measures that have been imposed on them. We do not want them to get any more chances”. (R8).

These quotes show that the sectors were a splitting cleavage in the debate. It is important to note that FF includes clubs and unions from various sectors. Unions in sectors like shipping preferred the flexibility that posting provided. However, trade unions from the construction sector stressed that the situation has been so bad for wages and Norwegian recruitment that FF

had to advocate temporary ban work. In the end, the pragmatic solution won, and FF went in to restrict the use of hiring temporary through the agencies and abandoned the strategy of a ban on temporary agencies like the German one from 1982.

The last demand unions often mentioned in the interviews was that the government should reintroduce collective lawsuits (“kollektiv søksmålsrett”). In 2014, LO finally won the right to a collective lawsuit. A collective lawsuit meant that the trade unions could subpoena employers if they claimed that illegal hiring was carried out in the company. The rules in the Working Environment Act on the trade unions’ right to bring an independent action for illegal hiring was repealed by the conservative government on July 1st, 2015 (Regjeringen 2015). Several respondents claimed that the removal of collective lawsuits was the single most brutal attack on unions ability to confront wage pressure from service mobility. The removal attests to the divergence between unions the Solberg government. The claim from unions that the Solberg government was blockading the most restrictive strategies seems to have substance.

### **5.2.2 Introducing procurement laws**

The most frequently stated exclusionary strategy by trade unions was the introduction of procurement laws. Procurement laws are stipulations of the contracts where the state is the employer of constriction projects. Norwegian unions used their influence to make the municipality set minimum wage and working conditions for the construction companies to get the contract.

Trade unions emphasise that the state plays a vital role as an employer in the construction sector. The public sector in Norway accounts for almost 500 billion in procurements per year (SSB 2018). FF and LO have advocated for procurements models where states and municipalities outline strict conditions for companies to win the contracts. Maximum chains of subcontractors are part of the requirement to win a contract. The procurement models started locally in the Norwegian country of Telemark, where the social-democratic led regional government introduced the "Telemarks model" after initiative and dialogue with Fellesforbundet Section 8, a local branch of Fellesforbundet (Byggmesteren 2019a).

The Telemark model had several requirements; Firstly, the contracts ensured that the salaries for workers were in line with the applicable collective agreements. Secondly, the money must be paid out by the bank and not in any other way. The idea is to persuade the municipality to use their purchasing power to influence working conditions (Fellesforbundet procurement strategy, 2). The construction company Skanska is a concrete example of this. They employed their workers permanently when they built two schools in Telemark County. Given the stated problem with subcontractors, the obligations applied to both the main contractor and the subcontractors (Byggeindustrien 2015).

Another requirement in the Telemark model was to get the companies to stop the companies from sticking to the extended contract chains. According to trade unions, it was at the very end of the chains of big construction centres where wage exploitation by low wages most often took place. Unionists explained that there were often as many as eight contractors in the chain in the large construction projects. The Telemark model put a limit on two chains of subcontractors below the general contractor. The same was stipulated in the Oslo model that came later. Following the success of Telemark, Oslo Municipality introduced its procurement model. The "Oslo model" gained international attention since the scope of posted workers is more prominent in Oslo. The restrictive content in the model affected considerably more significant numbers of workers.

The theoretical framework asserted that trade unions in coordinated market economies are included in consultation with the government and the employer through tripartite organisations. Unionists reported that what mattered more than just being included in consultations was the right/left dimension of the political parties in government. According to the trade unions, left-wing parties and social democrats were more willing to support exclusionist policies than the conservative parties. FF has therefore aligned with left-wing city governments around the country to introduce procumbent models. According to FF-representative, the city minister for employment (byråd for sosial) labour party politician Robert Steen was the first politician to expand the Fellesforbundets Telemark model to Oslo. Unions stressed the political composition

of the local government of the municipality or county for the likelihood of implementing procurement models.

The Norwegian Association of Local and Regional Authorities (KS) has been sceptical of the procurement models because they are more costly for municipalities than regular contracts (LO 2020,6). The collaboration with the left shows that unions find the municipality's political composition decisive for introducing unions' proposed legislation. The political explanation is valid also for the national level. Unionists claimed that social dumping had national priority under the red-green government until 2013 compared to the conservative government that followed. As emphasised in the methodological chapter, potential source errors might be the close connection between the labour party and the trade unions. The Labour Party has governed the first regional governments that introduced procurement legislation (Oslo, Skien and Trondheim, Telemark). The evidence from union documents indicates that social democratic led cities more often supported trade union strategies than conservative-led cities. Today over 180 municipalities have followed procurement regulations.

In addition to the cooperation with social democrats, unions have cooperated closely with the Norwegian employer organisation in construction "Byggenæringens Landsforening" (BNL). In 2019, BNL and FF presented an industrial agreement on procurement standards for the construction industry (Fellesforbundet 2019). FF and BNL agreed that workers must be employed in at least an 80 per cent job fraction. The agreement also requires companies to ensure a place of residence so that those entitled to cover travel, board and lodging receive it.

Unions have focused on introducing procurement models in the Social Democrats led local governments simultaneously as they have cooperated with BNL for a national scheme introduced a national agreement through the industry that can be implemented on a large scale. After Oslo municipality introduced procurement laws, the employers took it to the EFTA surveillance authority (ESA). ESA is the organ supervising the implementation of the EEA agreement in EFTA countries and bring cases to the EFTA court. The trade unions were frustrated with the employer, whom they believed to be using the law free movement in the EEA agreement to enhance their goal of weakening the trade unions' industrial strength.

In 2020 the Oslo model was put to trial by the ESA. ESA believes that the requirement to limit the number of links in a contract chain is contrary to EU competition rules. ESA was critical of the stipulation that a contract chain should only consist of two links. ESA claimed that the union-led initiative from Oslo would hinder free competition. The Norwegian government supported the unions and publicly stated its disagreement with ESA. The government has written ESA to state that the measures in the procurement models are following the principle of proportionality, which is essential in EU law. In June of 2020, ESA stated that national regulations must align with the problem it seeks to remedy and not be too regulatory. ESA claimed unions should work for their goals without restricting the number of contract chains. The resistance from the Norwegian government led ESA to ask the municipalities of Skien and Oslo to share their experiences.

On October 10th, 2020, Oslo and Skien emphasised that social dumping and work-related crime seemed to be taking place towards the ends of the supply chains and that it was vital to restrict the number of subcontractors delivering services in the construction sector (LO Brussels Office 13.10.2020). They also pointed toward the significant increase in temporary contracts for employees in the period before the Oslo model was developed. The case is still ongoing. The dispute confirms the assertions from (Seikel and Nasidiner 2019) that trade unions in neo-corporatist societies must ensure that their strategies fall under the scope allowed by the EU. The government has resisted ESAs proposals and supported the procurement models, indicating room for national autonomy.

The strategy of procurement might be challenging to place in one of Afonso three categories. It might be challenging to determine whether the introduction of procurement models should be regarded as an equalisation strategy or an exclusionary strategy. Trade unions argued that the aim was not to discriminate against posted workers directly, but procurement legislation was a powerful strategy to ensure equality between posted workers and home workers. As explained by one unionist: "We are not against posted work, but we are against everything that tastes of regime shopping, where there are strategies for getting cheap labour and not good labour" (R2). Unions aim to ensure that posted workers are included and receive equal wages

as host workers. Still, if one looks at the consequences of the strategies from the perspective of posted workers, procurement and registration have an exclusionary effect. The unions argue that only if one ensures orderly working conditions one can allow free competition.

### **5.2.3 Registering posted workers.**

Trade unions have demanded a register over posted workers operating in the Norwegian labour market. Both Denmark and Sweden have registered posted workers. LO has demanded that the tax authorities register posted workers in the same way as the Danish register model. The political disagreement between the conservative government and LO was evident in the consultation proposals. The government proposed solutions that went in the direction of further liberation of the registration of posting. The government proposed to exempt companies from registering their business if they operate two chains below the general contractor. The government also wanted to change the general contractor's obligation to information about subordinate chains. LO believed this would make the wage pressure in the lower parts of the contract chains even stronger and lead to higher pressure on wages. LO and FF were consequently critical of the government's proposals (Høringsvar 2016, LO).

A unionist indicated that they perceived the EFTA court as influential for the government's position. The unionist mentioned a meeting with the finance minister to explain their preferences for registering posted companies. The government replied that they agreed but were wary that ESA would find it incompatible with the EEA agreement. The impression from the ministry was that if ESA was not satisfied with the answers from the Norwegian government and might intervene. Hence, the government encouraged the union not to propose the strategy, as it would provoke ESA. The government's attention to ESA shows how unions must consider the government's fear of ESA reactions when formulating a strategy. LO and FF conceived the government's fear that the EU might sanction attempts to exclude posted workers and companies through procurement. ESA might perceive the strategy as a protectionist attempt. In the meeting with the finance ministry, the government encouraged FF to behave constructively and accept that many policies were no longer viable under European oversight (Respondent 3). The EU consideration strengthens the claim from the theoretical chapter that the EU has constrained trade union's ability to promote exclusionary strategies.

One respondent from FF mentioned an effective counterstrategy against the government: The threat of starting a debate around the EEA agreement. Being the largest union in the construction sector, FF has significant influence over Norwegian politics. In 2017 there was a debate at FF national convention about whether one should explore alternatives or advocate a withdrawal of the EEA agreement. The EEA agreement had considerable support from the established and leading political parties in Norway. The discussion created a furore in the political parties. Among others, the social-democratic leader Jonas Gahr Støre spoke against the proposal at the convention. The EEA agreement had considerable support from the political at the national convention (source).

A compromise solution was found. The national convention decided by a large majority that LO should demand a report on Norway's relations with the EU (Fellesforbundet 25.02.2020). FF claimed the EEA agreements should be revised if the government did not get the EU to respect the autonomy of national labour market policies like procurement laws. In a meeting with the finance minister shortly after the national congress, one of the respondents noticed that the finance ministry was visibly quieter in their opposition to included travel expenses from the wage remuneration concept, which it eventually did in revising the posting workers directive. The perception was that both ESA and the government understood that proving the unions might lead the union to advocate that Norway should leave the EEA agreement, something both the government and ESA would find troubling.

As predicted by the theoretical framework, the EU's influence mainly constrains the national legislators to produce innovative legislation like procurement tools to prohibit wage dumping in the sector. Trade unions have been critical in pointing out that Norway must exploit the room for manoeuvre afforded by the EEA agreement to influence the drafting of new regulations and their implementation into Norwegian law. The reservation clause should, according to LO, be triggered when EU directives restrict domestic actions against social dumping and curtail trade union rights and welfare schemes (Strategic document 2017-201, 10.)



### **5.3 Equalising strategies**

«A principal decision in was made in Fellesforbundet. We just cannot have a situation where a Norwegian and a Pole work side by side and the Pole earns half<sup>4</sup>.»(R3).

Norwegian unions mentioned two vital equalising strategies between 2010 and 2020. Firstly, they demanded to simplify the procedure of generalising a collective agreement. Secondly, they cooperated with employers installed LO coordinators and Regional Safety Inspectors. The role of the inspectors is to oversee the working conditions at the construction site where posted workers operate.

#### **5.3.1 Simplify the generalisation of collective agreements**

After pressure from the trade unions, the Act on Generalisation of Collective Bargaining Agreements was passed in May 1993 by the social-democratic government of Gro Harlem Brundtland (Labour Party). The law established the tariff board (Tariffnemda). The Tarif board has one chairman and four other permanent members, and both the employer and the trade unions are represented on the board. If unions want to generalise an agreement, they can request generalisation to the tariff board. Unions have to document that workers systematically work under worse conditions than those in the CBAs if the board is to extend CBAs to the whole sector (Tariffnmeda 2021). As a result, the extension means that all workers today, whether posted or domestic, must, by law, be paid an hourly wage of at least 209 NOK (20 euro) for skilled workers and 188 NOK (18,5 euro) for unskilled workers.

The FF and LO proposed demands for reforming the tariff board. Unions demanded that the criteria for generalisation should be lowered. Furthermore, the generalisation process should be modified so that union could generalise without the employer's consent. The current law states that only the Tariff Board can decide on generalisation after documented that posted workers are exposed to social dumping. FF wishes that the documentation requirement is removed and that it must be sufficient for one of the parties of the collective agreement to demand

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<sup>4</sup> My translation: «Det ble tatt en prinsipiell beslutning i Fellesforbundet, hvor ja vi kan bare ikke ha en situasjon hvor en nordmann og en polakk jobber side om side og en polakk tjener halvparten

generalisation. The decision on generalisation must apply for as long as one of the parties requires it, and in any case, for at least two contract periods (Fellesforbundet 2018, 22).

Unions preferred the existing regulation of the tariff board compared to no regulation, and trade unionists emphasised that collective agreements' generalising was the single most effective strategy to counter wage pressure represented by posted work. At the same time, unions wanted more power over the wage setting. Therefore, trade unions wanted to modify the mechanism for generalising collective agreements. Trade unions wanted to declare an extension of collective agreements to sectors with high wage pressure without employers' or the state's consent. FF and LO's have emphasised that the employer should not block a proposal to generalise. This strategy shows that trade unions have to balance the concern about securing wage floor through the state against maintaining its status as autonomous and powerful in influencing wages through industrial relations where the state does not interfere.

After 2004 union quickly discovered some deficiencies with the generalisation. The evidence indicates that Fellesforbundet was very active in simplifying and improving the generalisation regulations and coming up with quite powerful proposals. Several legislative decisions were made. FF succeeded in implementing the law as a duty of information liability "(Påseplikt)". This law meant ensuring that the general contractor was legally responsible for informing and ensuring subcontractors about the CBAs and working the regulations in the sector (Arbeidstilsynet 2021). They also have to inform subcontractors about pay and working conditions that follow CBAs and the national regulation.

LO and FF found an unliteral extension from the union movement unrealistic in the immediate future. As a second-best solution, LO proposed to make the renewal of the agreements automatic. Instead of the current practice where unions have to prove that the wage pressure towards workers is so severe that generalisation is needed, LO has suggested that the employer has to provide evidence that the sector functions so well that generalised minimums floor are not required. In other words, the generalisation should be automatically renewed until the employer side can prove otherwise.

The strategy is classified as an equalising strategy because it does not discriminate between Norwegian and posted workers. Although generalisation can have the side-effect of excluding posted workers by establishing a wage floor that reduces their competitive advantage, the strategies do not involve protectionist activities. Relating to the theoretical framework of EU legislation constraints on national policies, this might also be a reason for the advocating generalisation. To be considered a collective minimum standard, the EU requires legislation to be applied by national law. Trade unions state were aware of this fact, which influences the decision to depart from the traditional role of keeping the state out of the wage setting. LO and FF assert that the wage pressures from posted workers would be more severe had it not been generalised in the construction sector. However, unions also emphasised that the wages for posted workers have stabilised at the lower end of the income scale after generalisation. Posted workers' wages centres around the minimum wage stipulated in the collective agreements.

There is some notable difference between the two unions in construction when it comes to generalisation. NAF, the trade union for workers in facilities projects, has still not advocated generalising their CBAs. NAF decided not to generalise their agreement with the employer since most contracts are with public purchasers. Examples of public purchasers in the Norwegian construction sector is the state road administration ("Statens Vegvesen") or the national road corporation ("nye veier"). In contracts where the state is the employer, conditions are regulated by the "regulations on wages and working conditions in public contracts» (LOV-2016-06-17-73-§6).

A representative from NAF reasoned that public contract was advantageous for most of the members. For example, in the CBA, the maximum working hours are 40 hours. However, the law on public contracts, the maximum working hours allowed is 37.5 hours and workers in tunnel work are entitled to only work 33.6 hours a week. The union made a strategic choice to priorities the workers conducting projects for public purchasers at the expense of the members in the private project. Although this was beneficial for most of their workers, this strategy left the facilities-worker in private projects with no wage floor. In private projects in facilities, there is still no minimum wage for posted workers. The lack of a wage floor was a concern the central leader from NAF was aware of.

"Our solution may be worse since you do not have the solidarity liability between the contractors the chains like you have in generalised agreements. If the supplier does not pay in the generalised agreements, you can take it to the next level where it is generalised. That is not possible with the regulation of public contracts." (R8).

Trade union strategies are complicated and nuanced. Even when narrowing it down to the same sector, different strategies are selected due to the unions' strategic interests. Through the interview and documents from NAF, it was apparent that members' interest was the reason for not choosing to generalise. The wage protection for posted workers appeared less important than securing better working conditions for most union members. The strategic decision shows that the conceptual understanding of unions strategies as the outcome of the discussion between the leadership and members presented by Hodder and Edwards fits well with the political processes in Norwegian unions.

### **5.3.2 Professionalising union representation at constructions sites**

Two concrete examples of equalisation strategies that consisted of collaborations with employers came up in the interviews—the instalment of LO coordinators and regional safety inspectorates. Trade unions indicate that posting workers are more challenging to organise than mobile EU workers. Trade unions report that they had limited success organising posted workers. A strategy for getting around this challenge has been the instalment of "LO coordinators". The LO-coordinators were because of agreements with the employers. FF agree with BNL (the employer association in construction) about LO coordinators. The agreements ensure that a unionist is employed to oversee the working conditions in large construction projects. Compliance is ensured by reporting to the labour inspectorate if conditions are not met.

A concrete example of the job LO coordinator can be seen in the project of "Follobanen". Follobanen is the building of what will be the longest railway tunnel in the Nordic region. The state is the employer and has given contractors to several international contractors who use

posted workers. The state railroad agencies (Jernbaneverket) have so far entered into three total contracts. One of them is with the Spanish Italian "Acciona Ghella Joint Venture" for NOK 8.7 billion (Follobanen.no). The task of the LO coordinator in the project will be to supervise all the chains in the project and have an office at the construction site in Åsland, Oslo. The coordinator's work will come as a supplement to the regular supervision of labour inspectorates. Trade unions remarked that additional supervision is needed to secure that worker is paid the minimum rate in the CBA.

The role of the LO coordinator is to ensure that lunch breaks are allowed and that posted workers receive proper safety equipment. These are questions that a LO coordinator can more easily oversee by being stationed at the construction site. Through the instalment of regional safety representatives in facilities, a similar type of initiative with the employer side has happened. FF and NAF have cooperated with the safety authorities and established so-called regional safety representatives who can control the smaller construction projects. RAF and FF employ them, but it is a foundation between the Norwegian Labour Inspection Authority and Regional safety representatives supervise small companies that typically employ under ten workers.

Since there is no requirement for safety representatives for companies with less than ten employees, the regional safety representative's task is to inspect conditions in small working companies. Trade unions interviewed stated that posting is an economic problem and concerned the safety at the construction site. The annual report from 2020 shows that the safety inspectors conducted over 5800 visits to construction sites in 2020. The regional safety inspectors stopped hazardous 1810 times in 2020, where the most significant number of stops were made in the construction industry. During the regional safety inspectors 2853 stops, 96 construction projects have been cancelled due to unsafe work. Several of the representatives highlighted the safety conditions (Norks Arbeidsmandsforbund 2015, 4).

Analytically the professionalisation of the union representation could be seen as one of the necessary adoption unions have to do to respond to the changed political context that service mobility is a part of. Trade unions stated that organising the posted worker is difficult because

of the short duration of the contracts. The usage of safety inspectors was therefore seen as a viable alternative. According to unionists, companies regarded the LO inspector as approval of serosity. Companies have therefore been welcoming the agreements. The lo coordinator agreement is a testament to the relationship between employers and employees in the Norwegian labour market. This thesis finds that cooperation with employers has led to equalisation.

#### **5.4 Organising strategies**

The findings show that unions report that it has been challenging to organise posted workers. A local union leader stated that he felt that posted workers had sceptical views of the Norwegian trade unions. Posted workers view of unions made recruitment difficult: «I have got the impression that unions for them have associated as some mafia stuff. They have biased negative attitudes towards us. Many, but not all» (Local unionist FF). In this climate, the union found it challenging to establish unions departments in companies against unionism. According to the unions, the posted workers who wanted to join the union met much resistance from their employers. One respondent talked about a posted worker he had recruited the union. The posted worker then wanted to establish a union branch in the firm where he did work. «When the (posted) worker started to raise some demands on behalf of his colleagues, they just shut him out. He did not get a new job. This is the mud lump we are in. The individual has to scarify a lot a stay with it. I have great respect for that. It is certainly not an easy thing to do (R5).

The empirical evidence indicated a difference between the two parts of construction. Recruitment of posted workers seemed more manageable in the facilities-part(anlegg) of construction than construction-part(bygg). Construction ("bygg") has smaller companies and projects than facilities. The evidence indicates that organising was easier in facilities. In extensive facilities projects posted, companies wanted consultations with the unions before coming to the country. Unions then used the opportunity to advocate for the introduction of collective agreements. The respondents from NAF answered the following: "It is about making them understand that union involvement is beneficial. They are given an assignment, and then we contact them. We have gained a good reputation, so in many cases they contact us. However, there are both types, of course."(R8)

Organising in the construction part ("bygg") has been more challenging since companies are smaller and less interested in cooperating with the trade unions. Nevertheless, trade unionists also in the construction part spent resources and time in organising. They also stated that it was much easier to organise EU-mobile workers who stayed in the sector for a longer time. In the Oslo construction sector, this had been a great success, according to the representatives. According to the unionist, the limited success of posted workers was regarded as a minor challenge since the generalisation covered all workers. One local unionist described the particular tactics he had on recruiting posted workers to the union.

"We can be a little more ongoing with the Norwegian workers. They probably perceive me more insistently than the working immigrants do. In principle, I make no difference between organising working immigrants or Norwegians. I do not talk about insurance with posted workers because this is usually not relevant for them. I am trying to talk more about the ideology that we must stand together to make sure that no one can harass you. That you have the trade union in the back if something happens». (R5).

One of the topics discussed internally in the trade union movement was whether generalisation could make it more difficult to organise workers. If the state set a minimum wage that covered all workers, why should workers bother joining the trade union? Trade unions reported that this was a balance since the tariff board only extends the minimum wages stipulated in the collective agreements. In its first decision, the tariff board decided that only the minimum wage rates of the collective agreements were extended to all workers in the sector that experience generalisation. Other wage concepts like local collective agreements with higher pay rates were held out of the agreements. LO also accepted this. LO found it beneficial that it would still count to be organised and demand additional benefits in local collective agreements"(LO 2020).

In other words, the extension did only specify the minimum conditions. Through collective agreements, additional benefits are given to the workers who decided to join a union. Unionists stated that the extensions of collective agreements positively affected organising posted workers. However, the continuation of the extension was dependent on the trade union support

and position in the tariff board. Trade unions used this as a tactic to "sell-in" membership to posted workers. «We have drawn the opposite conclusion. Since trade union is control whether to generalised CBAs. The generalisation has been organising and not disorganising"—local trade union leader (R4).

### **5.5 Conclusion Norwegian findings**

Exclusion is the most used strategy by the Norwegian unions. The main form of exclusion has been to restrict posted workers access by introducing public procurement models in cooperation with the labour party-led local governments. Furthermore, unions have lobbied national politicians to introduce national legislation that restricts employers' ability to hire temporarily without an agreement with the unions. The second most union strategy is equalisation. Trade unions advocated simplifying the procedure for generalising CBAs through the national tariff board. The unions' demands did were not listen to by the government. The least used strategy from the theoretical framework is organisation. Unions report that posted workers short stay in the country makes them a challenging group to organise. Instead, trade unions have installed professionalised union representatives at the construction site where posted work is being used. LO coordinators supervise that posted workers have their working conditions but are installed through an agreement with the employers. The agreements with employers attest that service mobility requires trade unions to develop innovative solutions to secure the labour market from wage pressure represented by posted workers.

Unions state that the political affiliation of local and regional governments is an important explanatory factor. A conservative government had ruled Norway since 2013. Unions indicate that the right-wing government has been less interested in introducing legislation that challenges the EU's free movement of services than the previous social democratic government. Unions report that this has made collaboration more difficult than under the labour party's previous government. Furthermore, the EU played a role by defining what strategies were considered possible by trade unions. The ongoing trial over the procurement models of the Oslo model, where ESA finds it incompatible with EU law, illustrates this.



**Table 8: Norwegian trade unions strategies towards posted workers**

<b>Equalisation strategies</b>	<b>Exclusion strategies</b>	<b>Organisation strategies</b>
Simplification of generalisation (legislative)	Register over posted work (legislative)	Conventional recruitment (organisational)
Instalment of LO-coordinators (industrial)	Change in the use of temporary hiring (legislative).  Procurement models like the Oslo model (Legislative)	Cooperation with posted companies (organisational)

Table 5:1 summarise the findings from the case study on Norwegian strategies. Norwegian trade unions pursued out several types of exclusionary strategies. Firstly, the restriction on temporary work, secondly the aim to register posted work and thirdly, the introduction of procurement models. The first equalisation strategy that the Norwegian unions have been engaged in is to demand to simplify the mechanisms for generalising a collective agreement. Secondly, they cooperated with employers installed LO coordinators and Regional Safety Inspectors. The role of the inspectors is to oversee the working conditions at the construction site where posted workers operate. Lastly, trade unions have tried to recruit posted workers to the union but with limited success. One of the unions (NAF) indicate that they have established a good reputation by European companies and that this had made it easier to recruit workers in the facilities-part of the construction sector.

## **7. Empirical findings Germany**

"It is like climate change. Everybody knows this is a problem, you know the solutions, you know what will happen if you are not handling it, and still, there is a long way to go. The main thing is that many people are benefiting from the system." IG-BAU representative (R3)

This chapter will present the findings from the German case. The trade unions that have been examined are the biggest trade union in construction IG- Bauen-Agrar-Umwelt (IG-BAU) and the largest umbrella organisation Deutscher Gewerkschaftsbund (DGB). Furthermore, one consultant from the DGV-led "Fair-Mobility Centre" was interviewed. This chapter will present dominant strategies and the factors trade unions have reported as most influential for their choice of strategy.

### **6.1. Background German construction sector**

Germany is the EU's largest construction market, with over 2.1 million workers employed in the German construction sector (Statista, 2018). Posted workers represent 8.6 % of the construction sector in Germany which are more than twice as many as in the Norwegian construction sector, representing 3.5% of the workforce. The Deutscher Gewerkschaftsbund (DGB) is the main confederation of unions in Germany, representing 79 per cent of total union membership in 2004 (Visser, 2019). The DGB is formally politically unaffiliated but maintains contact with the two largest political parties, the Social Democratic Party (SPD) and the Christian Democratic Union (CDU–CSU). The industrial union Bauen-Agrar-Umwelt (IG-BAU) is the main union representing workers in the construction sector. IG-BAU represents 247 000 workers (as of 2018), making it the fifth-largest single union in the DGB.

After lobbying from IG-BAU, the posted workers act (Arbeitnehmer-Entsendegesetz – AentG) came into action in March 1966. The AENTg was the first legislation regulating temporary service and was issued thirty years before the EU's Posted Workers Directive. The act introduced a sectoral minimum wage to all workers in the construction sector (Cremers, Dølvik and Bosch 2017, 531). The sectoral minimum wage in 2015 was different in two wage brackets for east and west Germany. The different brackets pointed to the wage difference between east and west Germany, with the former having a lower living cost and wages. In 2020, the minimum

wage in the East German states, excluding Berlin, was 12.55 euros, whereas 15.55 euros is the wage bracket in West Germany( Soka BAU 2020).

## **6.2 Exclusionary strategies**

«In the end, you need to make posting so difficult that it doesn't make sense for the general constructor to use them» (IG-BAU representative).

German unions have tried to promote exclusionary legislation towards companies using posting as a business model that gives workers lower salaries. Germans have tried to restrict posting in two ways. First, they have introduced public procurement models in the sixteen different German states. Secondly, they have tried to force companies to pay the posted workers by using media to scandalise subcontractors lower down the contractor chains who do not pay their workers.

### **6.2.1. Introduction of regional procurement law**

Unions reported that long chains of subcontractors under a general contractor's construction project led to wage pressure in the sector. Through subcontracting, general contractors could hire polished companies of posted workers to do one specific task. The use of long chains subcontractors, a significant employer of posted workers, put pressure on wages since the posted workers were willing to accept lower salaries than the German workers. Each of the links in the contracting pyramid pressured the wages down compared to the German construction firms by being more specialised and more wage efficient. Therefore, unionists indicated that a critical goal was to restrict the link of subcontractors allowed to be employed under a general contractor

Unions stated that the legal protection service provision under EU law made it challenging to restrictive procurement models that limit contractors' chains. However, German unions did not feel the federal government had used the possibilities in the current political climate and under EU law. To contrast it with the German government, several unionists mentioned the procurement legislation in Spain. Spain has introduced a maximum supply chain in

construction. The fact that an EU country had done so was an inspiration, according to the German unions.

IG-BAUs regional and local branches have tried to connect with unions friendly legislators to introduce a procurement model that restricts subcontracting. Germany has a long tradition of using public procurement as a tool to ensure fair working conditions. All states except for Bavaria had a procurement law at the start of 2010. Given the federal structure, unions could not get a national agreement limiting subcontracting in the way Spain had. Therefore, German unions focused on implementing procurement law at the state level.

An example of a successful exclusionist strategy through cooperation at the intermediate level in the Bundeslander. is the procurement model in the federal state of Hessen. In the same way as the Norwegian unions, the IG-BAU branch in Hessen has made agreements with their political allies to negotiate a new and more restrictive procurement model in 2013. T was presented in an interview with the branch secretary Johannes Schader stated the aims of the model in 2013:

"We want changes in the Hessian procurement law. Our demands include the subcontractor chains' limitation to three links, the control of the subcontractors during the construction work by the contracting authority, or the customs' controls, which remain essential. We also demand noticeable penalties and, in the case of proven violations, exclusion from the award" (DGB 2018).

After the extensive lobbying, the procurement model of Hessen was changed. The revised model restricts subcontracting to three levels. The number of contractors is one more than in the Oslo model. Hence it could be seen as less restrictive on the freedom of service from the EU-institutions perspective. IG BAU stated that they were aware of the close monitoring by the CJEU and that they needed to approach the ban on subcontractors cautiously for this reason.

The procurement models in Hessen were driven forward by the local branch of IG-BAU. Unions had success in implementing restrictive procurement in other states as well. After

pressure from the IG-BAU, Bremen and Rheinland-Platinat change their state procurement so that contracts to a general contractor should be the exception. The general rule was that building projects of a certain magnitude should go to so-called small and medium enterprises. The model in Bremen and Rheinland-Platinat was an example where the IG-BAU cooperated with the employer organisation. Therefore, the reasoning was that it profited both small German enterprises and workers. The evidence in interviewing different respondents showed local variations in the cooperation with the employer side. For example, in regions like Hessen, the union's representative stated that the procurement regulation resulted from a better relationship with their counterpart than in the rest of the countries. The example in Rheinland-Platinat favoured German enterprises over companies using posted and was a form of protectionism where the unions and employer align.

Unions claimed that the BDA, the largest employer's organisation, did resist attempts at federal restrictions. The resistance stemmed from the fact that most German companies also heavily used the subcontractor's scheme. Although unions cooperated with employers in some states, the evidence showed that IG-BAU was less align with employers overall than the Norwegian unions. One trade union representative from IG-BAU claimed that the relatively stronger position of the construction employers explained why they had not been successful in introducing limits to the number of contractors in construction projects.

The representative compared the difficulties of establishing procurement models in construction with the experience from the agriculture sector, where IG-BAU also represent workers. The agriculture sector had been more successful in restricting the chains of contractors. Hence more effective in excluding more posted workers, according to the representative:

"The agriculture sector found better solutions for posted workers. It is more regulated than construction. The employer associations were as strong in agriculture. We had much bigger problems with the employer associations. In construction, some politicians think, okay, we have to build houses, and more workers are needed if we put limits on chains» (R7).

These quotes illustrate the importance of the opportunity structure where employer and trade unions compete to represent the political authorities for shaping strategies towards posted workers. On another level, this shows the industrial relations between employers and trade unions in Germany. The political resistance towards procurement was also evident from the side of the unions. According to IG-BAU, politicians often tried to stop union attempts of introducing procurement models in their state or municipal. According to IG-BAU, this was because the politician benefitted from the system of subcontractors.

«The main thing is that many people are benefiting from the system. Also, the state, because construction is much cheaper through it. The construction companies use the posting industry to make much more profit. We are not strong enough." (R3).

Long contract chains where posted workers were employed instead of German workers cut expenditures from the state. By hiring cheaper labour-power than German contractors could provide, more money was saved for other political priorities. The pressure on politicians to deliver fast and cost-effective projects in the construction sector might tempt politicians to choose the cheapest and faster contractors who often use posted workers. This evidence points to a possibly neglected area in trade union research. The state is a primary employer of low-wage workers. Hence the industrial struggle is not only between companies and unions but towards national politicians. According to unions, politicians see low wage flexibility from posted workers as an effective way of making available more public money.

### **6.2.2. Register and ban on letter box companies**

IG-BAU have demanded a register of posted workers from the federal government. (IG-BAU 2021,3). One of the reasons for this was that IG-BAU has wanted to make sure that posted workers are entitled to the German social securities. IG-BAU has requested the government to strengthen the cooperation with the social security authorities of the countries of origin of posted workers. Having greater transparency of the social security's entitlements to workers would also make it easier to control whether the posting is legal and if companies employ third-country citizens. According to the unionist, the usage of illegal third-country citizens significant

problem in the construction sector. Since the illegal use of posting was not a direct focus for the research question, it will not be discussed further in this thesis.

Norwegian unions spent resources on restricting the temporary agency industry, the primary employer of posted workers in construction. German unions introduced a ban on temporary agencies already in 1982. Unionists claimed that the temporary agencies' ban was ineffective under the EU's current legal framework on the free movement of services. Unions stated that companies under today free movement of service provision were able to circumvent the ban. By hiring posted firms through letterbox firms that the companies, in reality, operate as temporary agencies did. One representative explained that many employers in construction were, in reality, travel agencies for wage-dumping.

"They recruit people from a foreign country to post them. It is very similar to temporary agencies work. Yes, it is under the roof of a construction company, but these companies do not work with construction in their own country. If you look at them from an objective perspective, they are temporary agencies companies."(R3)

Strategies have been directed to the federal legislative channel to counter this market manipulation. German unions have posted workers to document that they are construction workers in their homeland and not travel agencies used for low wage workers. A proposal that IG-BAU has spent time lobbying is a 3-month requirement to work in construction. Posted workers should document that they have worked in the construction sector in the country of origin for at least three months before getting posted. By introducing this legislation, the union is hoped to prevent companies from using posting as a form of temporary agency work through letterbox companies. Hence, making the ban on temporary agencies in construction effective again. IG-BAU had not had approval for the proposal.

IG-BAU explained that by doing something about this use of posted workers, the union must prove that the firms using posted workers do not have any activity in the host country. In cases, they had proven that the posted workers function as temporary agencies, and since their

companies were only letterbox companies, it took six months. Then work was already done, and the posted workers on their way home.

These examples show that that EUs free movement of service allows some companies to function as a temporary agency, even though there is a ban against them in the German construction sector. The difficulty in setting demands for posted in their country of origin supports the theoretical predictions from (Seikel and Absenger 2019,125) that the judicial rule of the EU makes it challenging to restrict posting through exclusion. German unions showed by the example of letterbox that EUs freedom of services made the national response in 1982 ineffective.

### **6.2.3 Scandalising companies at the lower end of the chain.**

The evidence indicates that German unions have spent resources scandalising companies who withheld who withheld wages from posted workers through media exposure. Trade unions mentioned that the usage of media was an essential strategy to held companies accountable. Union officials from DGB provided insight into how unions worked to scandalise companies who did exploit posted workers by not providing them salaries. The first they did was research the owners of various companies in the construction contract to reconstruct the subcontractors' chain. After the union had constructed the chain, they wrote claims to every company participating in this chain. Every single one of the contractors is liable, including the general contractor. The unions made sure that posted worker received the wages were entitled to in their contracts. It did not matter for the union which of the subcontractors who ended up paying. Union threatened the companies that if not a payment solution was agreed, they would scandalise the case in the media. According to the unionist, the companies located at the bottom of the chain often were the ones who ended up paying(R6).

### **6.3. Equalising strategies**

Germany has pursued two strategies that this thesis will classify as equalising strategies. These strategies aim to ensure the equal treatment of posted and domestic workers without restriction posted works access to the labour market. Firstly, DHB and IG-BAU wanted to include additional wage and working stipulations in the German transposition of the Posting of Workers



directive minimum. Secondly, unions wanted regional CBAs to be applicable in the Worker Act.

### **6.3.1. German transposition of the PWD**

The revised PWD from the EU was stated as a victory for German trade unions. However, DGB AND IG-BAU were not happy with the German transposition. The critical issue was how far the concept of "minimum wage" would be interpreted in the German transposition. IG-BAU welcomed the new directive and was especially pleased that the directive gave the concept of payment a broader meaning than minimum wages. Under the previous directive, posted workers had seen their wages fall short through employers' right to deduct wages, such as accommodation, meals, or travel expenses. The revised PWD would prevent this. In the transposition process, DGB requested the federal government to extend additional wage components to all the workers in the sector.

IG-BAU and DGB felt that the employer organisation's strong connection with the federal government undermined the protections of equal treatment in the German implementation of the directive. Trade unions have observed a change in the employer organisation (BDA) view on posting. Previously, BDA was interested in substantial protection that made German companies compete with the low-cost travel companies from eastern Europe. Judged on the proposals from the employer organisation IG-BAU noticed that this view was no longer present. In a press release, IG BAU stated the following.

"No German company can withstand competition based on wage dumping. Construction employers, in particular, know this very well. It was them that in the 1990s wanted a collectively agreed minimum wage to be able to compete against European Competitors. Therefore, it is dishonest of employers now where the EU is finally ready to provide structures for fair competition manage to torpedo them. Horror scenarios such as excessive bureaucracy or rising building prices are easy-to-see attempts to create a mood against the proposal (IG-BAU 2016, 1).

The public hearing in 2020 showed the DGBs disappointment with the German transposition of the PWD. DGB found it problematic that the draft only provided for the extension to three pay levels. DGB emphasised that this was "contrary to the guidelines" in the PWD and that this regulation would restrict the parties to the collective bargaining agreement in the future and would be suitable for promoting wage dumping (Bundestag 2020a). One unionist summarised the German transposition in the following manner.

« No, we were not satisfied. We wanted CBAs to work at all levels, government, parliament, state structure. It works well. They listened to us and said, well, it is too bureaucratic what you demand. We favour the business side». (R3).

DGB and IG BAU were disappointed that the German disposition of the PWD made a distinction between minimum wage rates and other wage components. Only the minimum wage rates are extended to all workers in the sector. Furthermore, IG BAU was disappointed that the collective agreement extension should only be up to three wage levels. (IG BAU cabinet resolution to the German federal state of February 12, 2020). Another thing was that IG-BAU wanted precise regulation if travel accommodation costs were to apply to posted workers.

According to the union, it is up to the country of origin to decide which systems were to apply. In the hearing about posting workers, DGB demanded that overtime rates and dirt and danger allowances and benefits in kind from the employer should be paid for all employees working in Germany. There could, according to DGB, be not differential between posted and host workers when it came to these remunerations (DGB response to the public hearing about the posted workers act JUNE 2020). Including overtime rates in the concept of minimum pay was stated as essential by the IG-BAU representatives. The IG-BAU representative explained that they were not satisfied with the German transposition. However, IG-BAUS achieved some of their goals when negotiating and trying to influence the political parties in the Bundestag. According to one representative from IG-BAU, the union did achieve to take some supplements for overtimes work for Saturday and Sunday binding in the German law on posted workers. However, German unions emphasised the importance of applying more wage components, like additional overtime stipulations and higher pay for the worker with longer seniority.

The strategy of advocating other wage components in the generalised agreement indicate a difference between Norway and Germany unions. In Norway, minimum rates were regarded as positive because this gave incentive for posted workers to join the union. In Germany, the documents and interviews indicate that unions find the pressure on wages from posting in construction so severe that it is necessary to apply additional wage components. Trade unions have lobbied legislators to increase the financial contribution to the German labour inspectorate. Increased financing of the labour inspectorate was urgent to control the construction sites. According to trade union representatives, proper monitoring of posted is impossible with the current resources given to the labour inspectorate.

### **6.3.2 Regional collective agreements.**

«IG BAU calls on the federal government to take its own appeals and declarations seriously and to act. We need both an improvement of the regulatory environment as well as better controls and law enforcement. » (IG-BAU 2021, my translation<sup>5</sup>)

Given the technicality of questions related to posting, the German unions indicated that the strategies mostly confined to lobbying, writing papers, position papers, talking to people, and convincing parliament members—activities like strikes or mobilisation of members were less common. In the same way that the tariff board can generalise wage conditions in Norway, the federal government in Germany can include minimum rates and other wage groups for all workers through the German Posting Act. IG-BAU included more components to the minimum wage clause in the German worker's act. While Norwegian unions stressed that comprehensive coverage would undermine the recruitment process, German representatives emphasise that the wage pressure from posting is so aggressive that generalising additional wage components was vital. Therefore, German unions have chosen a more comprehensive equalisation strategy in their legislative demands than the Norwegian unions, who wanted only the minimum pay rate to

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<sup>5 5</sup> Translation: Die IG BAU ruft daher die Bundesregierung dazu auf, die eigenen Appelle und Erklärungen ernst zu nehmen und zu handeln. Es bedarf sowohl einer Verbesserung des regulatorischen Umfeldes als auch besserer Kontrollen und Rechtsdurchsetzung.

be applied. However, German unions failed to integrate their desired wage components into the Workers right act.

The unions stated that the proposal from the EU more often was in line with their interest compared to the German federal government. IG-BAU was satisfied that the PWD gave member states the possibility to apply national collective to posted workers. However, IG-BAU noticed that the PWD gave a reservation for member states to decide this in their national implementation. It was not something that the industrial partners could decide autonomously. Germany is a federal state consisting of one central government and sixteen different states (Bundeslander). The Bundeslander and the federal states have shared responsibility in the economic regulation. Still, the federal law has supremacy, and thus the Bundesland cannot pass laws that violate federal law principles (Voeckler 2014, 11).

The IG-BAU, therefore, stressed that the implementation process needed to apply state collective agreements to posted workers. (IG-BAU, 05.03.2018). Due to the significant wage differential between east and west Germany, the employer organisations BDA have imposed this. IG-BAU wanted a regional collective agreement to apply to posted workers (the agreement in the respective states), but the government refused. Eventually, only the national CBAs was extended to all workers in the German transposition. According to trade unionists, the most significant employer association Bundesvereinigung der Deutschen Arbeitgeberverbände (BDA), a powerful influence over the German federal government. The government did listen to their requests for flexibility in the transposition hearing. Only two federal minimum wages were included in the generalised CBA. One for West Germany and one for East Germany. There was no room for extending the CBAs from the state agreements.

The presence of only a national CBA led high-income states to have a more significant wage gap between posted and home workers. The lack of extending regional agreements has exhilarated the wage gaps and made the transposition ever worse since much of the construction projects and activities are happening in high-income cities like Frankfurt and München. The trade unions mentioned that Germany is a large country with a strong federal structure. If some of the Bundesland said no to one part of the agreement, the agreement failed. According to

unions, this provided every region with the power to veto a comprehensive, generally binding agreement. IG BAU representatives explained that they promoted collective agreements' extension through lobbying federal politicians.

## **6.4 Organising strategies**

The evidence indicate that German unions spent resources on assisting posted workers who have difficulties in the German labour market. Through consultancy centres specifically constructed for posted workers DGB has focused on improving the wage inequality by approaching posted works directly. Additional to the assistance posted workers has also made changes to the membership requirement in order to recruit more posted workers to the union.

### **6.4.1 Fair Mobility**

“Faire Mobilitate” or Fair Mobility as it is promoted as to attract posted workers, arose in the ashes from the failed “European Migrant Workers Union”. In 2004 IG-BAUS founded the European Migrant Workers Union (EMWU). EMWU was a trade union specifically for posted workers working in another member state. IG-BAU collaborated with trade unions over Europe to ensure that every worker was represented (Dribbusch, 2004). IG BAU hoped that creating a separate organisation for migrant workers would make it easier to engage with them and guarantee an efficient representation of their interests. However, EMWU failed as it was not able to attract a significant number of migrant workers. A central advisor at the EMWU claimed that the trade union from eastern Europe felt that IG-BAU took too much responsivity at the EMWU.

At the end of 2008, IG BAU decided to transform the EMWU into a lobby association for migrant workers and reintegrate the organising strategies for migrants within its structures. In the shadows of this, the new form of organisational tactics was raised through the fair mobility project. Eleven Advice centres were set up for posted workers to be informed, advised and supported in their native languages in labour and social law. The political responsibility for Fair Mobility lies with the DGB federal executive board.

Since August 2020, the DGB has won the legal right of funding Fair Mobility from the federal budget in order to be able to continue and expand fair Mobility. It is financed by the federal ministry for labour and social affairs through Fair Mobility, offering assistance for the mobile workers in native speaking languages. At the moment, there are eleven counselling centres in Germany. Fair Mobility is counselling and supporting workers in their native language and organising different educational offers. They also work together with the media, and in certain also scandalising cases of the exploitation of workers in Germany, Fair mobility was used as a traditional organising tactic of recruitment. However, this was no condition for assistance from Fair Mobility.

The counselling happened in mutual ways. The councillors advised posted workers through video sessions, chats on Facebook, phone, or email. Twice a week, the centres had opened a hotline where the worker can call in after work. Since working shifts on the construction sites often stretch from the morning to the evening, FM has opening hours until late at night. There is a close collaboration between and FM trade unions, although they are formally separated. One employed in FM told the following about the cooperation with unions in construction. «Cooperation with unions is intense. Our counselling is free of charge, and you do not have to be a member of the trade union to receive counselling. However, using the counselling situation to sensible the workers of the benefits of trade union membership. To protect themselves, we are explaining to them what possibilities they have in order to act preventively» (R6)

Councillors state that the most common problems for posted workers were questions related to payment and termination. Deduction of promised payment is the number one requirement according to the councillors. Posted, workers often did not receive their last or their two months last payments salaries. Sometimes there is a deduction on the payment slips that posted workers could not understand. Another problem that posted worker wanted assistance on was too expensive accommodation that the worker had to pay for to their employer. Lastly, unpaid overtime is a recurrent problem. The following from a former advisor gives an overview of the situation in the contemporary German construction sector:

“All the workers that I had contact with were hired on a contract that had not enough hours. They had like 80 hours, but then actually it was 120 hours pr month. The employers were warning. That was actually in this area, but that is the scheme. That is also what you had as workers. Do you want to work 120 hours officially?” (R7).

The concrete way FM worked to ensure that posted workers revived their money was to write complaints to the companies and setting posted workers in contact with advocates. The FM supports posted workers up until the legal stage and does not go to court cases directly. However, FM-advisor stated that they were often were successful in making employers pay parts of the wage they had illegally deducted from posted workers' salaries.

“Sometimes, you speak the language of the employer. So, it is often about speaking employer to ask them another time to pay or find a pragmatic solution. This happens often. Let's sit together, leave those outsiders out of it. We inform them of the legal way. Let's speak their language and negotiate. I contacted the employer a lot of times, he had some money left, and he said; we can offer you 70 per cent. I mean, that's like a normal thing that lawyers often do. Should we open a case, or should we find a solution before?” (R7).

Councillors from FM stated that the employers often were interested in not letting the cases go to the court system. However, this meant they often had to compromise on behalf of the posted workers. Unions stressed the importance of connecting with workers from east Europe through shared linguistic and cultural bonds. The councillors said that she was predominantly counselling workers from post-Yugoslavian countries. These are workers who do not speak the German language and have employment that is not going so well. (FM) are only allowed to assist the worker up to a court-proceeding. Everything outside the law process is within our field. So, we are contacting the employer. The unions representative stressed the advisor's linguistic skills and cultural background in Fair Mobility on the explanatory side. The councillor reported this as a crucial element for contacting and assisting posted workers.

"Not only linguistic competence but shared origin. I frequently get confirmations during my counselling work that they have some a-priori confidence and trust in me because they pursue

me as a person originating their area. After they hear and read my first and last name, they call me and say, you are a Serb or Yugoslav? As a councillor, I am somehow stamped or recognised as a person of shared origin. We are trained to not take it personally but to use that shared origin to a tool to good counselling" (Councillor Fair Mobility, R6)

If one sees an organisation in connection with the fact that German trade unions have tried to introduce strong wage defences in PWD implementation but failed, one could interpret the focus of the organisation strategies as a substitute for lack of impact in tripartite consultation. The fact strengthens the prediction from the theory chapter that lack of involvement on the part of the authorities leads to organising strategies. However, this hypothesis needs more robust documentation and research to review. The behaviour of companies using is increased the need of establishing union contact through centres like FM. The advantage of FM is that through close contact with posted workers, they dynamically respond to the exploitative nature of companies according to unions. According to one of the respondents, FM-advisors who had a personal relationship with the worker could more effectively assist the worker than the labour inspectorates.

“I remember I was in contact with a Romanian worker who changed his contract five times. This is a part of the scheme with posting. They change the construction site. So, it is tough for the labour inspectorate to find illegalities and illegal practices. The companies (posted) belong to the same group of persons, sharing the workers between them. (R7).

At the same time, the trade unionist emphasises that FM is substituted needed to respond to the immediate problems with wage pressures and illegal exploitation of workers represented by posted workers. It cannot be used as an alternative to exclusionist and equalisation strategies.

### **6.3.2 Traditional organising**

Traditionally recruitment of posted workers to become members of the union was also cited as necessary. IG-BAU has introduced several measures for making it easier for posted workers to become members of the unions. The union have made changes to the registration fee. For



becoming a member of IG-BAU from monthly to annual payment, membership begins with one payment of the membership fee and ends after twelve months without notice unless renewed. (IG BAU website, 2021). The fair mobility centres are an example of an organising project where trade unions provide services to posted workers to improve their working conditions without excluding them from the labour market. IG-BAU also abandoned the waiting period for members to get legal protection to attract new members to the unions. The resources spent on fair mobility break with an essential logic of trade union actions only cares for the interest of their members. The German case confirms the findings of (Doellgast et al., 2018) that trade unions initiate new innovative services to organise and represent posted workers despite the challenges resulting from their temporary stay and lack of attachment to the German society.

### **6.5 Conclusion German findings**

The evidence indicates that German trade unions have combined exclusion and organisation. On the one hand, trade unions have tried to limit posting as a business opportunity through procurement rules at the regional level. At the federal level, German unions have directed resources towards the media scandalising posted workers. IG-BAU have focused on scandalised firms that do not pay posted workers according to the national regulations. Through media coverage, trade unions have held general contractors liable and made them push subcontractors further down the chain to pay. Union representative emphasises that pushing the general subcontractors the companies further down the chain often pay. Simultaneously to the exclusionist strategies, DGB has spent considerable resources on seven advisory centres for posted workers in the most significant cities for construction work. The Fair Mobility centres provide legal support to posted workers without becoming members. The universal consultancy towards posted workers breaks with the notion of trade unions of representative organisations that only care for their members.

It may sound contradictory that the German union have combined exclusionary strategies like procurement with organising strategies like free legal and political advice. The impression from interviews was that posting is such a critical problem for wages and working conditions that it needs both a long-term structural response in terms of exclusion and an immediate response in

terms of organisation. The dual strategy of exclusion and organisation from German unions indicates that German trade unions are concerned about posting as a business model. The workers coming from other EU countries are not the enemy. According to IG-BAU, it is in the interest of all workers in the construction sector that posted workers receive equal wages as host workers. Therefore, are dual strategy where posting should be limited in the long term while at the same time acknowledging that the workers operating in the sector need immediate assistance has led DGB and IG-BAU to support this strategy

**Table 6:1 German union strategies towards posted workers**

Equalisation	Exclusion	Organisation
Introducing a regional CBAs to posted workers (legislative)	Introducing regional procurement laws (Legislative)	Consulting and assisting posted workers through "Fair Mobility." (Organisational and legislative)
Advocating additional wage components applicable to posted worker (legislative)	Scandalising companies in the media (Industrial)	Simplifying the procedures to become union member (organisational)

Table 6:1 summarises the main findings from the German construction sector. The evidence indicated that unions have aimed to excluded posted workers access by introducing regional procurement laws in the German Bundeslander that make it harder for companies using posted workers to win the contract. The second exclusionary strategy from the German unions was holding businesses that conduct wage exploitation of posted workers accountable through media exposure. Of the equalisation strategies, unions had advocated more comprehensive minimums regulation. Unions wanted additional wage components applicable to posted workers. Moreover, IG-BAU worked to make it possible also to make the regional CBAs

applicable to posted workers. Of the organisational strategies' unions have engaged with posted workers directly through the consultancy centres Fair Mobility. Lastly, IG-BAU has made several changes to their membership requirements to make it easier for posted workers to join the union.

## **8. Discussion of findings**

This thesis has answered the following research question; «What have been the dominant strategies from German and Norwegian trade unions in the construction sector towards posted workers?

This chapter will discuss the findings concerning the theoretical framework and how the results relate to the previous contributions from the literature in political science. The chapter will discuss each of the three subtypes and how the findings contribute to new knowledge about union strategies to European service mobility. The discussion will also revolve around the explanatory factors for trade union strategies, as was the second research question of this thesis. Lastly, the chapter will discuss the prediction from the theoretical chapter on explanatory factors.

The theoretical framework seems to be relevant for the union strategies the unions studied in this thesis. The concrete strategies identified in interviews and the official documents from the union fitted well to one of the three conceptual categories of the theoretical chapter. The importance of either restricting posting or ensuring legislative change was stressed by the unions. The importance of the Fair Mobility centres in Germany and the difficulty with unionising work in Norway showed the importance of organising strategies as a third conceptual category. Hence the theoretical apparatus corresponded with the empirical reality and the concrete strategies that unions indicated as important. However, there could be other ways of measuring union strategies. For example, the thesis has not investigated the role of the working councils in Germany. In the councils' workers influence firms by being represented in the companies' boards. The analysis has also not looked into unions collaboration with the labour inspectorate.

Unions indicated legislative lobbying and industrial cooperation with employers as the two most important channels for canalising their strategies. The importance of the three levels from unions confirms that the narrowing of the research focus seems relevant. The evidence from unions confirms the assertion of (Nathan and Lille 2019) and shows that the narrowing of the

focus of this research was appropriate. The following paragraphs aim to provide a deeper analytical understanding of the usage of each strategy.

### **8.1. Varieties of exclusionary strategies**

Exclusionary strategies are the most dominant strategy from the analytical framework. Unions have tried to make it challenging to use posting as a business model in the construction sector. However, unions assert that exclusion is promoted both out of solidarity with the posted workers working in unacceptable conditions and their members' sake. An important caveat comparing Germany to Norway is that the German union introduced exclusive measures earlier. Therefore, the comparison will focus on the unions' strategies in common from 2010 to 2020.

The evidence from the German construction sector is that the wages pressure resulting from the posting of workers is so problematic that unions have to follow a dual strategy. Simultaneous as unions tried to for limiting posting, they assisted posted workers through the Fair Mobility centres. This second organisation strategy will be explained more in detail in the sector (8.3). According to the unions, the dual approach of German unions is not contradictory. It instead satisfies equally essential targets according to IG-BAU. Unions state that the pressures from the posted worker on wages are so severe that immediate action was needed. However, the long-term desire was to restrict posting, or as one unionist explained, "You should cut posting back to what it is supposed to be". In his mind, this was specialised work when needed in exceptional circumstances. Posting of workers should not be used as a permanent business model for cutting wages (R3).

In order to avoid any misinterpretation of the results, it is vital to reiterate what this thesis means with exclusionary strategies. The theoretical framework classified a strategy for exclusionary if trade unions "work to restrict posted workers access to the national labour market by lobbying for legislation that makes posting more costly and difficult". The evidence indicates that unions in both cases are positive to labour migration. The condition unions require is that posted workers are paid equally to the national workers. The main problem for unions is that posted workers are willing to take jobs at lower wages than the union members. If one looks at the consequences of trade unions strategies from the perspective of posted workers, procurement

and registration have an exclusionary effect. Procurement rules or industrial standards reduce the likelihood for the posted workers to be employed in a low wage position in the two countries' construction sector.

Unions indicate that the EU has limited their opportunities for exclusionary strategies. Norway has been in court with ESA over the Oslo model. German unions maintained that they were that legal reaction could come from the EU. They only introduced a limitation to three subcontractors in its model in Hessen, compared to two contractors, which was the number in the more restrictive Oslo model. However, the role of the EU is nuanced. For example, IG-BAU indicated that the EU is the supportive actor compared to the government and employers. In implementing the revised PWD, German unions found that it was the German transposition that was disappointing, and the Unions were more pleased with the original proposal from the EU. Unions have recognised the EU's role in this, making it very difficult to restrict posting fundamentally in the immediate future. The German unions' disappointment about federal attempts to limit subcontracting strengthens Seikel and Basinger's assumption that the CJEU's role limits exclusion possibilities. According to trade unions, the manoeuvring room was not used by their government (Seikel and Nadinger 2019, 133. Conservative governments have ruled Germany and Norway in the period (the Erna Solberg government took power in 2013).

In Norway, the unions point out that it has been more effective to cooperate with employers to ensure equalisation at the construction site. According to both unions, the national government has not used the political possibilities within the current EU to restrict service provision. Whether unions are correct in this assumption has not been the task for this thesis to decide. Nevertheless, it may be interesting that both unions in two coordinated market economies perceive that their government is not using the opportunities that lie in the current political climate.

The evidence strengthens Tapia and Alberti's argument that EU integration has decreased the viability of exclusionist strategies (Tapia and Alberti et al., 2014, 113). Trade unions have demanded restricting EU labour migration. However, the trade unions assert that the lack of effectiveness of exclusionary strategy from the national level of politics due to EU oversight

has led the union in both cases to focus its attention on the local and regional levels. In Norway, the local level of municipalities is identified as most relevant. In Germany, the state level of the Bundeslander is emphasised as the central channel for introducing exclusionist strategies.

This change of political actors of relevance within the national contexts strengthens the neo-functionalism prediction from Ernst Haas. European integration has led "Political actors in several distinct national settings persuade to shift their loyalties, expectations and political activities towards a new centre, whose institutions possess or demand jurisdiction over the pre-existing national states" (Haas 1968, 16). However, while Haas assumed that political integration would lead to a new focus on political actors higher up in the system, this thesis shows that trade unions have focused downwards on the pyramid of political authority.

Since the national political level was considered a less viable channel to direct exclusion strategies, unions have focused on introducing procurement at the regional level in collaboration with left-wing governments. The unions' change in strategies may theoretically indicate that the EU's monitoring of national attempts at protectionism has made the regional political level a more critical and more relevant channel for trade unions seeking to protect working conditions in their sector. The finding corresponds with the theories of multilevel governance that emphasise the EU's complex system of authorities sharing political power. A system of actors such as trade unions can influence decisions without consulting the nation-state (Hooge Mark 2009, 5). The description of sub-national actions in multilevel government is adequate for the strategies from trade unions in Norway and Germany.

For both cases, collaboration with the employer has been positive to get through procurement models. German unions nevertheless maintain that this varies from the different German states. The evidence suggests that employers are more cooperative when it comes to exclusionary strategies compared to equalisation. The assumption from the VOC literature that coordinated market economies are characterised by the exchange of information and cooperation between the industrial actors must therefore be nuanced (Hall and Solcike 2001, 30).

This analysis has found that while employers consented to procurement models, they were more sceptical of legislation regulating the domestic market of wage components to all workers. German employers supported procurement models in most states. However, they actively tried to block equalising legislation. According to German unions, firms were sceptical to the proposal, like higher pay in the CBAs or additional wage components. The firms' different approaches to equalisation and exclusion strategies suggest that employers are willing to cooperate to exclude potential competitors. However, when it comes to setting minimum standards for equal treatment of all workers in a sector through national legislation, they are more sceptical. This nuance the literature on industrial cooperation from varieties of capitalism and indicates that cooperation between trade unions and unions varies according to the type of legislation. This thesis suggests that collaboration is determined more by the topic and the consequences for the firms. Companies are satisfied to regulate outside competitors in a restrictive way but not in the domestic market where they lose the flexibility from hiring posted workers.

**Table 8.1: Main exclusionary strategies**

	<i>Germany</i>	<i>Norway</i>
<i>Usage of strategy</i>	Dominant	Dominant
<i>Typical channel</i>	Regional governments	Local governments Cooperation with employers
<i>Measures introduced</i> <i>Strategies</i>	Introduction of procurement models (success in some regions). Scandalising firms in the media	Register of posting work (failed) Introduction of Procurement models (reported as effective) Reinstating collective lawsuits (failed)



<i>Explanation for success</i>	Political strength in regional governance Skills in media-relation. Good public relations.	Good cooperation with employers. Involvement in consultation with
<i>Explanation for failure</i>	Fear of EU-sanctions Limited will to use the room of manoeuvre by the federal government	ESA ruling it as incompatible with EU law.

## 8.2. Varieties of equalisation strategies

In both cases, unions have pursued equalisation strategies. Unions wanted state legislation that guarantees equal pay levels for posted workers and workers in the sector. A difference is that German unions have wanted more comprehensive coverage in these agreements than Norwegian unions. Norwegian unions argue that too extensive CBAs could make it more difficult to organise workers since there is less incentive to join the union. Unions indicate that equalisation legislation like extended CBAs or minimum wage requirements through industrial agreements is the most critical measure to counteract low-wage competition from posted workers. The assumption from Afonso that although union will see the states call on the for a more decisive role in regulating the labour market after the labour market opening pressure from the EU is therefore strengthen (Afonso Wolf and Negash 2020,528).

According to the evidence, the central government in Germany and Norway has not been receptive to the union equalisation strategies. Norwegian unions demand to have a more autonomous role in the generalising procedure have been rejected. The demand from unions demands on including additional working requirements in the minimum wage legislation has also not been heard. The evidence shows that unions have had limited success in implementing new legislation on top of the existing. It is essential to emphasise that this thesis looks at the process from 2010 to 2020. The difficulty of introducing new legislation might result from previous achievements. According to unionists in the interviews, the politics of legislation

might approach the upper boundaries of what is possible under EU law and the political conditions in the country.

Nonetheless, unions point out that the government has not exploited the scope of opportunity within the EU system. The Norwegian unions point out that it has been more effective to cooperate with employers to ensure equalisation. German unions attempted to extending wage groups through the posted act German and in the transposition of the PWD. Their interpretation was that the government was much more responsive to the demands of the employer-side. The difference between the cases is that Norwegian unions, to a great extent, found industrial collaboration with employers. Collaboration seems not to be as evident in the documents and interviews with the German trade unions movement. The industrial alliance relates to the informal connection in tripartite forums typical for the neo-corporatist system. Therefore, the findings strengthen the assumption that a higher degree of involvement in tripartism institutions leads to equalisation. It furthermore indicates that unions who seen their involvement decreasing will turn to organisational strategies.

The evidence suggests that trade unions in wanted generalised requirements of the CBAs compared to the Norwegian unions. The demand for more extensive CBAs indicates that Germans want stronger equalisation compared to Norwegian unions. Again, it is crucial to make reservations as there are twice as many posted workers in Germany than in Norway. Like the Norwegian unions, trade unions in Germany realised that they had to secure their markets against wage pressure from posting through federal intervention. However, this happened earlier in Germany. IG-BAU managed to introduce a ban on temporary agencies in the construction sector as early as 1982. The fact that unions have not successfully introduced new legislation does not mean they find this type of strategy unimportant

The institutional explanation presented in the theoretical framework assumed that trade unions in neo-corporatist countries would have a higher chance of introducing equalisation and exclusion through close contact with the authorities. Unions in both cases confirm that it is often consulted. What is stated as more important is the political preference of the government. A caveat is to not make the methodological mistake by selecting the sample variable. To answer

how the consultation affects the possibility of exclusion, one must compare the response from the authorities in countries that do not have neo-corporatist arrangements. The analysis reveals that the unions felt that the authorities were afraid of violating the EU principle of free movement of tents. The consultation was thus stated as less critical.

The literature review in chapter 2 of this thesis presented the assertion from Hassel Knudsen and Wagener that the specific industrial relations systems drive the government's strategies to either embrace liberalisation or oppose it (Hassel, Knudsen and Wagner 2016). Hence, the organisational strength of trade unions could determine the degree of liberalisation. The evidence indicates that the failure of unions succeeding with further equalisation is because the governments have been more responsive to the preference of the employer side. The power resource model assumption that coordinated structure reflects the relative power resources of unions versus the companies seems to have some evidence by examining the responses from the studied unions (Korpi 2006, 168). Trade unions express that they perceived that both employers and the government had used the EU to introduce legislation to promote flexibility because it is in their original interests. There are some variations between the cases. Norwegian unions highlighted cooperation with employers as important. Employers entered agreements such as lo-coordinators and regional safety inspectors into collaboration with employers.

**Table 8.2: Main equalisation strategies:**

	<i>Germany</i>	<i>Norway</i>
<i>Usage of strategy</i>	Medium	Medium
<i>Typical channel</i>	Legislators	Legislators Cooperation with employers
<i>Measures introduced</i>	Lobbied to extend concept of remuneration in the PWD transposition (limited success.)  Make regional CBAs apply to posted workers (failed)	Lobbied to simplify the process of generalization. (Failed)  Introduction of LO-coordinators and regional safety inspectors (Reported as effective)
<i>Explanation for success</i>		Good cooperation with employers. Involvement in consultation with government and employer
<i>Explanation for failure</i>	Political strength of the employer side	Governments have opposing views

### **8.3 Varieties of organizational strategies**

The most significant difference between the cases was the use of organisational strategies. Germans' unions have used extensive resources on the establishment of consulting centres for posted workers. German unions point out linguistic distinctions to the advisers as very important. It was a crucial victory for DGB when FM received federal funding from the state budget to operate the eleven fair mobility centres around Germany. Norwegian unions have not

spent resources towards assisting posted workers in centres. Norwegian unions have initiated some measures, like handing out material in a different language and providing information about posted workers working rights. However, this is not comparable to the effort of the German unions. The Norwegian trade union even emphasised that they did not believe these measures were necessary. According to unions, it would weaken the organisational efforts and make it even more challenging to recruit migrant workers as members.

Unions in both Germany and Norway focused on traditional recruitment. Also, in this regard, the evidence suggests that unions in Germany have put more resources towards engagement with posted workers'-BAU have changed the procedure of becoming a member and spent resources on exposing illegal activities of companies that do not pay posted workers might through media scandalisation. The focus on improving posted workers rights might have gained IG-BAU a more prominent reputation by the posted workers. Local organisers from unions in Norway report that posted workers have negative biased attitudes towards the unions. NAF stated that they had received a good reputation from the European companies employing posted workers. Therefore, European companies often contacted them before they arrived in Norway. The companies wanted information on working regulations and unions.

The universal assistance through fair mobility might challenge the tradition with the conceptual understanding of trade unions. The framework asserted that unions consisting of leadership are established by instrumental means of resolving workers dissatisfaction with their wages and condition (Buttigieg, Deery, and Iversen 2007; Visser 2002). The German union's organisational strategies illustrate that the union considers itself responsible for the disadvantages of workers on an international level. The assistance towards workers without membership requirements in the union might point to a reconceptualising unions' definitions as political actors from representative collective institutions to solidaristic institutions.

An objection against this assumption is also in the German unions' interest that posted workers are not exploited and pressure the sector's average wages. The fact that German has combined solidaristic assistance with exclusion might be proof that. However, it is interesting that the unions have created permeant structures like fair mobility and made it a funded state. The

contrast with the Norwegian strategies implies that the considerable resources are not spent only out of self-interest. At least, it shows that unions might not be strictly interpreted as representatives' institutions that only maximise preference. The Norwegian case relates more to the traditional notions of unions as stipulated in the framework. Respondent emphasised that the most important measures are to ensure that more posted workers are organised in the union, although this is challenging.

**Table 8.3: Main organisational strategies**

	<i>Germany</i>	<i>Norway</i>
<i>Usage of strategy</i>	Medium	Limited
<i>Typical channel</i>	Organising Legislative	Organising
<i>Measures introduced</i> <i>Strategies pursued</i>	Establishment consultancy centres for posted workers Funding Fair Mobility through the federal budget Simplifying the measures of becoming member	Traditional organising (limited success)
<i>Explanation for success</i>	Financial resources to visit and involve posted workers. Linguistic and cultural competence in the fair mobility centres.	Norges Arbeidsmandsforbund has established a good reputation with posted companies
<i>Explanation for failure</i>		Mobility of workers and the small and companies and employment relations makes it difficult to organise

## **8.4 Explanatory factors**

The previous paragraphs have discussed some of the explanatory factors in relation to the usage and variation of the strategies by the unions. Therefore, the following paragraphs will only briefly summarise the evidence that answers the secondary thesis issue; "What explains trade unions choice of strategy?"

One explanatory factor that unions highlight is political cooperation with social democratic run cities or regional governments. The union points out that the left parties have been more accommodating to their strategies than the right parties. The political explanation is emphasised more strongly in Norway than in Germany. Trade unions emphasise the cooperation of social democratic regional authorities as vital in introducing exclusionary strategies that restrict posting. As discussed above, this is interesting given the political science literature on EU integration effects. The alliance with social democrats at the local and regional levels indicates that the EU's oversight has made trade unions shift their attention from the national to the lower political level.

Unions have promoted exclusion strategies in alliance with left-wing governments at the local and regional levels. Unions perceived this development as a setback in influence compared to previous years. Under the current political situation, trade unions have to lobby every region or municipality to protect their members. The regional procurement models provide coverage of protection compared to national regulations, in previous years where unions had a more decisive influence over the national legislation. All unions emphasise that an equalisation strategy like generalisations where the whole country's labour market is protected from wage pressures is the most critical measure to avoid wage pressures.

The first assumption in the theoretical chapter was that the EU weakens the probability of introducing exclusion since it violates free movement. The evidence in the two cases partially supported this assumption. Exclusion through prohibiting temporary employment and restricting chains has been attempted to a high degree in both cases. ESA attempted to prohibit the procurement models of Oslo that limit subcontracting chains. Unions asserted that the EU's concern drove the government position against several of the union's proposals. However, the

right-wing government supported the unions in the lawsuit against ESA. The evidence suggests that EU institutions tried to stop exclusionist strategies from unions but do not always succeed.

German unions stated a more positive view on the EU's institutions contributions. IG-BAU Stated the EU as the supportive actor compared to the government and the employer. In the case of the PWD, it was the German transposition that was disappointing. Unions were more pleased with the original proposal from the EU. However, both unions maintain that the conservative governments could have done more within EU regulations to protect the labour market from low-wage competition from posted work. The analysis has identified that the central governments and the trade unions in Germany and Norway have contradictory views on possible room for manoeuvres under EU law on free movement in the single market. A caveat here is that the government's positions in the two countries have not explicitly been investigated but touch upon up by studying their reaction to unions' proposals.

The second assumption came from the literature that neo-corporatism (Schmitter and Lebruk) was corporatism. The first of the two claims were that unions that took part in a high degree of consultation had a greater chance of excluding exclusion. The unions maintained that consultation with the government does not necessarily lead to instillments of their strategies. Trade unions often felt the government feared the EU institutions' sanctions. Unions emphasised that the government were more responsive to the demand of employers. Although unions do not emphasise consultation as decisive, several examples of meeting with the state and employers have resulted in union strategies being implemented. For example, the union supervision project of the LO coordinator in Norway emerged from dialogue meetings facilitated by the Ministry of Labour. In the meeting, both industrial parties were present and found a solution. Likewise, German unions were heard on getting a surplus pay for work at the weekends applicable for posted workers through consultation with the government.

Hence the evidence shows that involvement in tripartite consultation had a positive role in introducing equalisation strategies. Trade unions asserted that neo-corporatist involvement is essential but not sufficient for their success with exclusionary strategies. The findings indicate that political cooperation with left-wing parties mattered more than the inclusion in



consultations. The fact that Norwegian trade unions had support from the conservative government in the lawsuit from ESA does not weaken this finding. Norway has been governed by a right-wing minority government and has on several occasions been pressured by the opposition and the majority in the parliament to follow unions demands. Most famously, the social-democratic opposition and the christen democrats made the government accept unions exclusionary strategy of restricting the temporary agency industry against prime minister Solberg strong objections.

The last claim from the theoretical chapter that low involvement leads to organising strategies. German unions indicate that the wage differential in the German construction sector required an immediate response. The wage situation was the primary rationale for establishing fair mobility centres. A tentative assumption is that unions in countries led by right-wing governments who are more responsive to the employer side will focus on the organisation. On the other hand, if social democratic parties lead the country, there will be a higher probability of exclusion and equalisation strategies. The association between right-wing governments in neo-corporatist societies and lack of equalisation and exclusion is an indicative assumption based on the unions stated. This thesis has studied cases classified as neo corporatist and coordinated market economies. Hence the result does not say anything about the absence of consultation. The specific should be the topic for further, more explanatory research.

## 9. Conclusion

The primary research question of the thesis is the following: "What have been the dominant strategies used by trade unions in Germany and Norway in response to the wage competition from EU posted workers in the construction sector?".

Unions have set minimum contract clauses through cooperation with left-wing legislators at the local level. The evidence suggests that exclusion is the most dominant strategy in both cases. Unions have wanted to restrict posted workers access to the construction sector because of the insufficient state legislation restricting wage exploitation. The main form of exclusionist strategy has been to restrict the links of subcontractors by installing procurement laws in regions and municipalities. The equalisation strategy is the second most used strategy by Norwegian unions. German unions indicate that the organisational strategy has been used to a similar degree. Through cooperation with the national firms, Norwegians unions have succeeded in installing union representatives as supervisors in large construction projects where posted workers are employed. Trade unions in Germany reported that employers had opposed their equalisation strategies.

Lastly, the thesis has identified significant variation in usage of the organisational strategy in the two countries. German unions used the organisational strategy extensively. They have established eleven consulting centres in the most prominent construction regions. The centres provide posted workers legal and political support by advisors who speak the language of the posted workers. Norwegian unions have not focused on assisting posting workers to the same extent as the German unions. If one is to rank the different types of strategies from the theoretical framework, the order would be the following: the most dominant strategies in both cases are exclusionary strategies. While German unions have used both equalisation and organisation as their second most used strategies, Norwegian unions have predominantly used equalisation.

The secondary research question of the thesis is the following: "What factors do trade unions indicate as influential for their choice of strategy?". Unions mentioned the importance of cooperation with left-wing regional and local governments. Unions describe this as influential

in introducing restrictive procurement models. The Norwegian unions gave the influence of the left-wing government more importance compared to the German unions. The role of employers was given different explanations in the two cases. Norwegian unions have cooperated with construction employers to install equalisation measures in large construction projects. German unions state that employers have blocked their attempts to equalise wages through legislation. Lastly, the evidence strengthens the assumption from the theoretical chapter that EU courts have reduced the likelihood of union choice exclusionary strategies. Both unions indicate that they had to make sure their strategies did not provoke the EU courts. The clearest example of how the EU intervened was the EFTA surveillance authorities lawsuit against Oslo in 2019.

## **9.2 Implication for future research.**

To conclude, I would like to present some recommendations for further research in political science. This evidence from this thesis indicates that the EU's monitoring of national protectionism has made the regional and local political level a more relevant channel for trade unions. To my knowledge, the regional and local political area is not discussed as a vital level of analysis in the comparative industrial relations literature on trade union research. . Future research on trade unions in comparative politics might note that unions gave the intermediate political level a prominent explanatory role. Future research might therefore gain on studying trade unions strategies by focus more on intermediate analysis level

This thesis shows that regional and local governments have been the principal political area where unions have directed their exclusionary strategies. The change in the political level where strategies are directed demonstrates how EU integration has changed the political organisations of trade unions. Multilevel governance analysis has been vital in the study of EU integration. The evidence from this thesis suggests that the multilevel framework be also applied to trade unions research in industrial relations. The previous research has shown that the sectoral difference internally in a country is significant for trade union research (Hardy, Eldring and Schultzen 2012). However, the cross-regional differences seem to be just as crucial for trade union choice of strategies.

Furthermore, this thesis has identified that the central governments and the trade unions in Germany and Norway have contradictory views on possible room for manoeuvres under the EU's principle of free movement. The strategies of the governments in the two countries have not explicitly been investigated but only touched upon by studying their reaction to unions' proposals. However, the evidence suggests a gap between what governments perceived as the room for manoeuvres under EU law and the expectations from trade unions. Therefore future research should examine the government's strategies and their perceived room of manoeuvre from the position of governments. The description of governments strategies to protect their labour markets under EU law will provide a more precise description of the drivers of the mechanism of labour market liberalisation under the EU single market.

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## **List of interviews**

Respondent 1 (R1): Anonymous representative from LO. Interview by author. Digital interview. October 16, 2020.

Respondent 2 (R2). Anonymous representative from Fellesforbundet. Policy advisor in central level. Interview by author. Digital interview. January 27, 2021.

Respondent 3 (R3). Anonymous representative from IG-BAU, Policy advisor central level. Interview by author. Digital interview. February 15, 2021.

Respondent 4 (R4). Anonymous representative from Fellesforbundet, Local level Oslo. Interview by author. Digital interview. February 9, 2021.

Respondent 5 (R5). Anonymous representative from Fellesforbundet, Local level Bergen. Interview by author. Digital interview. February 16, 2021.

Respondent 6 (R6). Anonymous representative from Fair Mobility, Consultant. Interview by author. Digital interview. March 15, 2021.

Respondent 7 (R7). Anonymous representative from IG-BAU, Central leadership. Interview by author. Digital interview. February 26, 2021.

Respondent 8 (R8). Anonymous representative from Norsk Arbeidsmandsforbund, Policy advisor central leadership. Interview by author. Digital interview. March 12, 2021.

## Interview Guide

**Opening statement:** Have you received a consent form? Do you agree to participate in this research? My thesis investigates the strategies trade unions have used towards EU service mobility in the construction industry. The aim is to explore your views toward this group of workers and learn more about your strategies.

1. Can you tell me a bit more about your role in the union?
2. How long have you been working for the union?
3. From your perspective, what are the advantages/disadvantages of labour migration from the EU operating under the freedom of services?
4. Does this form of labour migration differ from normal labour mobility? If yes, in what way?
5. If labour migration poses some challenges for the union, how are the unions trying to respond to these challenges?
6. Can you tell me about the unions stated politics towards this group of workers? (Legislative proposals, political strategy documents).
7. How would you describe the union's contact with posted workers? (If suitable, ask for concrete initiatives towards this group, recruitments, information-sharing etc.)
8. What consequences have the presence of posted workers had for the members of your union?

9. Do you have any knowledge of the opinions of the average member on this issue of posted workers?
10. (If applicable) You mentioned government policy. Does this mean you think national governments have much influence on the conditions of posted workers?
11. How do you experience your contact with the government on this issue?
12. Do you have a European strategy? Do you have contact with European lawmakers?
13. What do you consider to be the most central policy regulations for this group?
14. Could you describe the union's views on temporary agencies?
15. Could you describe your union views on the extension of collective agreements?
16. The PWD was established to secure fairness when it comes to posed work. In your opinion, how well has it worked?
17. What is your view on the Services directive?
18. Did you play an active role in the implementation of PWD? (Potentially: How? What were your goals? Were you listened to?)
19. What are your hope for the future when it comes to government policy and regulation of posted workers?"
20. Is there anything important about the topic of posted workers that we haven't covered yet that you would like to say?

## Appendix Coding of the empirical data

### German case

Name	Description	Files	References
<b>Equalising strategies</b>	<b>Trade unions works to equalize wages. Either through collective bargaining or state regulation that introduce of minimum wages pr other legislation that avoid wage pressures.</b>		
DGB about the transposition		1	1
DGB want further remuneration components to be applied to posted workers		1	1
Unions want equal wages and working condition between posted and host workers		6	18
Wants to extend the concept of remuneration		2	4
<b>Exclusionist strategies</b>	<b>Trade Unions will work to restrict service workers access to the national labour market. Through lobbying for restrictive legislation that makes posting more costly and difficult</b>		
Demands of registration for posted companies	<b>IG-BAU want stricter registration</b>	1	5
Judicial strategies	<b>Unions suing posted companies on behalf of posted workers</b>	1	1
Limit chains of subcontractors		7	9
Make posting more difficult		6	14
Scandalising cases of exploitation	<b>Tactic to make companies pay workers.</b>	2	2
Use public procurement to demand better conditions		4	9
<b>Organizing strategies</b>	<b>Trade unions try to assist posted workers. Either through membership recruitment or assisting through migrant specific assistances services.</b>		

Name	Description	Files	References
Examples of assisting posted workers (non-members)	<b>Examples assistance that the union has provided to posted workers who are not members of the trade union</b>	3	10
Migrant specific measures to better organise posted workers	<b>Concrete examples of measure that union has used to organise posted workers. Simplify the membership fee. Learning the language</b>	4	17
Recruit posted workers to the union		2	6
<b>European collaboration with other trade unions</b>	<b>IG-BAUs collaborate with Slovenian counterparts on checking whether the posting is legal (A1-certificates</b>	5	11
<b>Explanations for choice of strategies</b>		0	0
Strength of employer side is an important explanation for failure	<b>IG-BAU indicate that employer organisation strength in construction is vital</b>	2	5
Extended CBA has avoided wage dumping	<b>Trade unions representatives stresses the importance of the possibility to extend the collective bargaining agreements</b>	6	17
Political parties do not matter		1	1
PWD has been important to avoid social dumping		2	2

## Norwegian Case

Name	Description	Files	References
<b>Equalising strategies</b>	<b>Trade unions works to equalize wages. Either through collective bargaining or state regulation that introduce of minimum wages pr other legislation that avoid wage pressures.</b>		

Name	Description	Files	References
Reinstate collective lawsuits	<b>Fellesforbundet want to reinstate the agreement with collective lawsuits.</b>	<b>1</b>	<b>2</b>
Trade unions should decide to extend collective agreements.	<b>The decision should not be blocked by the members of the tariff board.</b>	<b>3</b>	<b>3</b>
<b>Exclusionist strategies</b>	<b>Trade Unions will work to restrict service workers access to the national labour market. Through lobbying for restrictive legislation that makes posting more costly and difficult</b>		
Demands of registration for posted companies		<b>1</b>	<b>3</b>
Leadership wants to uniform local leaders on temporary agencies	<b>LO want to create instructions for the local level on prohibiting the temporary agencies.</b>	<b>1</b>	<b>1</b>
Limit chains of subcontractors		<b>7</b>	<b>9</b>
Make posting more difficult		<b>6</b>	<b>14</b>
Make temporary hiring more difficult		<b>4</b>	<b>13</b>
Use public procurement to demand better conditions	<b>Introducing local legislation/procurement laws.</b>	<b>4</b>	<b>6</b>
<b>Organising strategies</b>	<b>Trade unions try to assist posted workers. Either through membership recruitment or assisting through migrant specific assistances services.</b>		
Organising through the local clubs		<b>2</b>	<b>4</b>
Positive to the free movement of labour		<b>3</b>	<b>3</b>

Name	Description	Files	References
Recruit posted workers to the union		2	6
We need labour migration		1	1
Posted workers should have permanent employment		2	4
<b>Explanatory factors</b>			
Concrete strategies	<b>Concrete initiatives on strategies towards service mobility</b>	6	25
Explanation for failure		2	5
Extended CBA has avoided wage dumping	<b>Trade unions representatives stresses the importance of the possibility to extend the collective bargaining agreements</b>	6	17
Internal division in the unions	<b>Quotes that reveal the differences within the trade union</b>	6	10
KS reluctant to procurement	<b>Norwegian association of local and regional authorities (KS) has been reluctant to introduce procurement laws on a national level. This hade made it more difficult</b>	1	1
Political parties do matter	<b>Answers that indicate the importance of the political parties' position</b>	8	16
PWD has been important to avoid social dumping		2	2