

Work in progress

Mobility of labour and services across the Baltic Sea after EU enlargement: Nordic differences and commonalities

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1. Introduction

The opening of markets for labour and services between the new ‘low wage’ member states and the old ‘high wage’ member states of the EU and EEA, has stirred debates about the implications of EU-enlargement for employment, migration, skill formation, wages, working conditions, and national regimes of labour market regulation in Europe. The transformation of the EU from basically a club of rich states with fairly advanced welfare and labour regimes to an arena for “globalization in one continent” implies a significant shift in the external conditions for national labour market governance, boding for new forms of regime competition and interpenetration (Brochmann & Dølvik 2005). Never before has there been witnessed such a simultaneous opening of the markets for capital, goods, services, *and* labor among highly developed industrialized countries and underdeveloped, transitional economies. Accentuated by the referenda over the EU constitutional treaty and the strife over the proposed EU directive on mobility of services, these changes have intensified the debate about the future of the European social model, which the British presidency now has made their prime issue. To what extent enlargement will and should propel European convergence towards the continental model of social market economy, towards more Anglo-American style of labour market deregulation (Meardie 2003), or rather will imply increased divergence and polarization of labour markets regimes and outcomes, is thus a key issue in current European debate.

In this paper we will focus on developments in the Nordic countries as regards inward labour mobility and political responses to the rise in service mobility across the Baltic Sea after enlargement. Increased low-cost competition has triggered heated debates and industrial conflict concerning (re)regulation of labour markets and minimum wages in particular in the Nordic countries. Dividing lines here go straight through the employer and union camps. With labour markets that are geographically and culturally closely linked and elaborate labour regimes – but having chosen very different national approaches to the introduction of free movement of labour from EU-8 and the regulation of wages for posted workers – the Nordic countries lend themselves to comparative analyses (Dølvik & Eldring 2005).

In the subsequent sections, we review the main empirical trends and regulatory responses in the Nordic countries, winding up with some tentative remarks as to which extent market integration among the high and low-cost economies around The Baltic Sea has prompted further convergence and/or divergence of labour market regulation in the Nordic countries.

2. Legal ramifications and analytical perspectives

Contrary to their original promises to open up labour markets from day one, all the “old” Member States, except Sweden, the UK, and Ireland, eventually chose to apply a variety of transitional arrangements for the introduction of free movement of labour vis-à-vis the eight Central and Eastern European states (EU-8) until May 1, 2011. As for the posting of workers associated with cross-border provision of services, however, no transitional arrangements apply. This implies that service providers from new low-wage member states can bring their own workers and compete for temporary contracts in the old high-wage states, raising contested questions as regards fair competition, equity, wage dumping and which national regime of regulation that applies. Tensions concerning posting of workers have been brought to higher levels by the proposed EU directive on service mobility, which from the outset was based on the country of origin principle as far as product market regulation was concerned. Although host country working conditions and wage regulations were to be applied, in

accordance with the Posting of Workers Directive (96/71 EC), the proposed directive entailed provisions that might severely curtail host countries' ability to ensure compliance with national terms of employment.

During the preparations for the 1 of May 2004 enlargement of the EU, public debate in the Nordic countries mainly centred on how to deal with a possible surge of labour migration and social tourism across the Baltic Sea, leading to establishment of quite diverse transitional regimes among the Nordic countries. The issue of cross-border service mobility, by contrast, attracted scant attention. Managing multi-regime competition between service providers had yet been the main purpose behind the 1996 adoption of the Posting of Workers Directive, stipulating that certain core host country working conditions should apply, alongside minimum wages determined by statute or generally binding *erga omnes* collective agreements. The Scandinavian countries had no tradition for such regulatory means, however, and as elaborated in section 4 the national patterns of implementation, monitoring and sanctioning of the terms laid down in the directive varies substantially among the Nordic countries.

Whereas the literature on migration tends to focus on supply side factors influencing individual migratory choices, we draw in this paper attention to how changes in the conditions for company manpower strategies after EU enlargement may contribute to shifts in the pattern of labour demand, inward mobility and employment conditions in the receiving countries. By increasing supply and changing the legal ramifications for utilising labour and service providers from new member states with domestic wage levels at some 10-25 percent of the Nordic levels (in common currency), EU enlargement opens new avenues for hiring manpower and production strategies of Nordic companies.

Cross-border labour mobility can take diverse forms subject to very different regulatory frameworks both nationally and in the EU context (Cremers & Donders 2004). Assessing the driving forces, consequences and relevant policy measures, it is thus important to distinguish between the following options for tapping into the sources of labour supply in the new member states:

- (1) Hiring individual job-seekers looking for employment in a Nordic firm;
- (2) Hiring temporary service providers or contractors with posted workers;
- (3) Hiring employees from temporary work agencies nationally or from abroad;
- (4) Hiring independent single-person firms (self-employed) offering temporary services;
- (5) Direct foreign investment, outsourcing and leasing production in new member states.

These categories are not only subject to different regulations of wage setting – the most important distinction being whether home or host country norms apply – but also varying rules concerning taxation and social security. Serving as alternative channels for mobility of labour, with very different cost profiles, it is important to view the development in these forms of migration as interrelated. Whether Nordic companies choose to employ workers from the East, outsource jobs to Eastern service providers, or locate production abroad, is indeed highly contingent on how the national regulatory frameworks, especially as regards wage setting, influence the relative labour costs associated with the various options. Especially in countries with patchy systems of wage regulation for posted workers and transitional rules securing migrants host country remuneration, such as Norway, the cost gap between outsourcing tasks to a Polish service provider and employing Polish workers in house, is likely to boost service mobility rather than labour migration.

How single companies adjust to the increased supply of labour and services depends not only on their perceptions of the external shifts in the regulatory frameworks and labour

cost differentials, but is contingent on their anticipation of changes in the competitive strategies of contending companies. Even small shifts in supply may therefore engender substantial changes in labour demand. If companies believe that some of their competitors are reaping competitive advantage by shifting to low-cost strategies, for example by hiring cheap Eastern service providers, they may feel compelled to follow suit and substitute permanent staff for cheaper external contractors, possibly generating a broader shift in the patterns of competition and labour demand in their markets. The impact of enlargement on employment, wages and inward mobility in a given sector is thus not simply an aggregate function of companies' adjustment to externally given market shifts in supply and costs structures. Both the supply, mobility, and costs of foreign labour is contingent on the interrelated strategic choices of domestic companies, their collective associations, unions, and public regulators as to how the new competitive situation is to be met, i.e. on the demand effects of choices made by domestic actors and policymakers. The complex legal and economic frameworks conditioning these choices, outlined in Figure 1, have revealed significant discrepancies and loopholes in the domestic regulations of the Nordic countries, tempting companies to pursue a range of strategic adjustments in order to reap competitive benefits.

Figure 1. Overview of companies' strategic choices and rules regarding wage setting, taxation and social security contributions for different categories of mobile workers and firms from EU-8.

Strategic choices	Regulations and wage settings	Ordinary wage level	Taxation	Social security
1. Employ EU-8-workers in your own company	EU-directive on free movement and non-discrimination; a) States with transitional provisions (DK, FI, N, I) – national regulations; b) States without transitional provisions: Wages regulated by collective agreements (Sweden), generally binding agreements or (non-discriminatory) personal agreement	Common "national" wages Collectively bargained pay or personal agreements	Host country's tax regulations	Host country
2. Purchase of services from EU-8-company with own employees (posted workers)	EU-directive on posted workers a) if generally binding agreements (FI, Icl, partly N) b) if union enters into collective agreement with company (hengeavtale, S, Dk) c) if no collective agreement or generally binding agreements (N – with some exceptions)	National (minimum) collectively bargained wages <i>EU-8- wages</i>	VAT to host country <i>Other taxes to home country (1/2-1 year)</i>	<i>Home country</i>
3. Purchase of services from EU-8 single person company	EU-rules on free movement of services and the right to establishment a) foreign company without permanent base in the Nordic countries b) foreign company with permanent base in the Nordic countries	<i>Market rate</i>	a) VAT to host country. <i>Other taxes to home country</i> b) VAT and other taxes to host country	<i>Home country</i> Host country
4. Hire EU-8-labour via temporary employment agency	National regulations on labour hiring and temporary employment & EU-regulations on posting of workers a) National agency – transitional provisions and/or collective agreements b) EU-8-agency – same rules as with purchase of services (point 2) (except in DK where transitional rules apply)	"National" wages <i>EU-8-wages / Danish wages</i>	a) VAT and other taxes to host country b) <i>VAT at home</i> , direct taxes to host	Host country Host country
5. Relocate production to EU-8	Direct investments, establishment of daughter companies, leasing production, licensing etc.	<i>EU-8-wages</i>	EU-8	EU-8

Besides distorting competition among different forms of employment relationships, variations in regulatory systems across countries may further affect the volume and composition of migratory flows among potential receiving countries. As indicated below such mechanisms may divert labour migration from countries with strict transitional regimes, e.g. Finland, towards destinations with laxer regimes (such as England, Ireland and Norway). With diverse transitional regimes for labour migration from the EU-8 and very different regulations of wages for posted workers, such mechanisms may also distort competition among companies from different Nordic countries, drawing attention to the lack of common practices and weak policy coordination among the Nordic countries

3. Individual labour migration to the Nordic countries in the wake of enlargement

The EU accession treaties allowed postponing full opening of the labour market for citizens from EU-8 through national transitional provisions in a period from two to seven years. This does not apply to the mobility of services, goods and capital, except for Germany and Austria, which were granted exemptions for the free movement of services.¹

Forecasts of individual labour migration from the new member states to the Nordic countries, as for the rest of Western Europe, were moderate (Boeri and Brücker 2001, Kongshøj Madsen 2003). According to Boeri and Brücker's estimates, net migration from EU-8 to the Nordic countries will only increase from 51 000 to 230 000 in 30 years, with around 100 000 being economically active (probably not including posted workers). Compared to a total Nordic labour force of some 12 millions such numbers appeared negligible, not least in view that the Nordic labour force is supposed to shrink during the coming decades.

Nevertheless the Nordic countries, like most other old member states, saw a marked shift in the political climate from visionary and open attitudes towards enlargement to more focus on potential problems related to opening of the labour markets. Popular concerns about floods of job seekers from the new member states, wage dumping, social tourism etc gained strength, heavily influencing national decisions. In consequence, all the Nordic countries, except Sweden, eventually decided to introduce *transitional rules for the free movement of labour* in relation to EU-8 before 1 May 2004.² Among the Nordic countries, *Finland and Iceland* maintained the same *strict rules* already in force for citizens of third countries. In *Denmark and Norway*, the rules were significantly *liberalised*, allowing search for employment by individuals for a period of 6 months and the right to a residence permit for individuals who have found full-time employment remunerated in accordance with national collective agreements, regulations or with what is customary for the same place/occupation. The official aim of the Danish and Norwegian transitional regimes was thus to secure proper wages and working conditions for migrants, not to restrict inward labour migration. Although

¹ After the first two years, the member states can apply for another three-year period before free movement is introduced. After five years, it is still possible to request a prolongation of two years if a threat of serious disturbances can be documented. Furthermore, a safeguard clause provides the member states the rights to reintroduce restrictions if they experience major imbalances in the labour market.

² Also the Swedish government made a U-turn and proposed quite strict transitional rules, but met opposition from the social partners and was voted down in Parliament.

there was a considerable flow of information and communication between the Nordic governments, the national political processes resulted in quite different regimes.

Based on Boeri and Brücker (2005), the transitional regimes in Western Europe can be classified in four categories, and as we see below, this categorisation further underscores the diversity of Nordic approaches:

(1) *Restrictive access*: EU-8 citizens only have the same rights as third country citizens, and get access to the labour market if there is no available labour supply nationally or from EU-15; Belgium, Finland, France, Germany, Greece, Iceland, Luxembourg, Spain.

(2) *Restrictive access with quotas*: Same rules as above, but with quotas for citizens from EU-8; Austria, Italy, The Netherlands, Portugal.

(3) *General access on conditions*: Regimes which give general access to the labour market if certain national conditions (as regard wages, full time employment) are fulfilled, or/and with some restrictions on access to welfare benefits for citizens from EU-8; Denmark, Norway (and with respect to social rights, Great Britain, Ireland)³

(4) *Free movement* (no transitional regime); Sweden (Great Britain, Ireland)

The motives behind the various transitional regimes have evidently been mixed. In some countries there has been a clear goal to limit the number of labour migrants from EU-8, as in category (1) Finland and Iceland, while in category (3) the emphasis has been on securing proper jobs, preventing wage dumping, discrimination, and short-time employment. The fact that such measures could also serve to limit the numbers of migrants may in some cases not be entirely unintended. Especially among the trade unions such considerations may have been an influencing factor.

So far, we have only scant knowledge about working conditions, wages and the quality of employment among individual labour migrants. The majority of labour migrants are young, often male, and come from Poland and the Baltic states. It seems that most of them tend to fill temporary jobs with limited skill requirements and pay levels, the typical industries being agriculture, construction, food industries and cleaning and other private services.

When it comes to the numbers of individual labour migrants, most countries produce statistics, making it possible to monitor what is actually happening as far as registered and legal labour migration is concerned.

The overall picture is that *there has not been a major flow of individual labour migration from the EU-8 to Western Europe*, but there are significant differences both among countries with transitional regimes, and between these countries and those with no transitional regulations. Among the countries with free movement after 1 May 2004, as of 1 March 2005 UK had registered 176,000 applicants for employment, 1/3 of who were already living in the country (Home Office 2005), while Ireland had received some 60,000 by July 2005⁴. In

³ Boeri and Brücker (2005) placed UK and Ireland in category 3, but may in our view equally well be placed in category 4 as regards labour mobility (in spite of the required registration of job-seekers in UK), while the restrictions on certain social rights in these countries implies a certain deviation from the EU regime of free movement, which stipulates equal treatment as regards social benefits.

⁴ Estimate provided by Department of Enterprises, Trade and Employment, Ireland.

Sweden by comparison, during the same period, roughly 6,000 had been granted residence permits for jobs with duration of more than three months. In the countries with more stringent transitional regimes the registered figures are lower, while Norway, with a fairly open transitional regime, has among the highest figures in Europe (37,000) relative to the size of the labour force. None of the Nordic countries has noted any negative impact of this increased labour mobility on the overall balance in the labour market. Labour migration from the "old" EU/EEA countries has remained stable and moderate, with the highest number here, too, being noted in Norway, where approximately 4,000 *new permits were issued in 2004*.

In light of the different transitional regimes in the Nordic countries one could expect that under otherwise comparable circumstances, Sweden would receive the highest number of migrants, also due to the Swedish labour market being the largest in the region. The size of the Danish labour market could also indicate a higher inflow than to Norway, while Finland and Iceland with their strict transitional regimes would experience less mobility than the other countries. However, we do observe clear deviances from this basis scenario.

Table 1 Issued work permits to individual labour migrants from EU-8 to Nordic countries, in 2003, 2004 and 2005*

	2003 (May-December)	2004 (May-December)	2005 (January – June)
Denmark	776**	2 184	3 719
Finland	6 747	2 169	-
Iceland	230**	515	459
Norway	12 404	20 533	1 6 674***
Sweden	2 097	3 963	2384
Total	22 254	29 364	23 236

*See Dølvik & Eldring 2005 (table 3.1) for specifications of categories and sources.

**January-December 2003

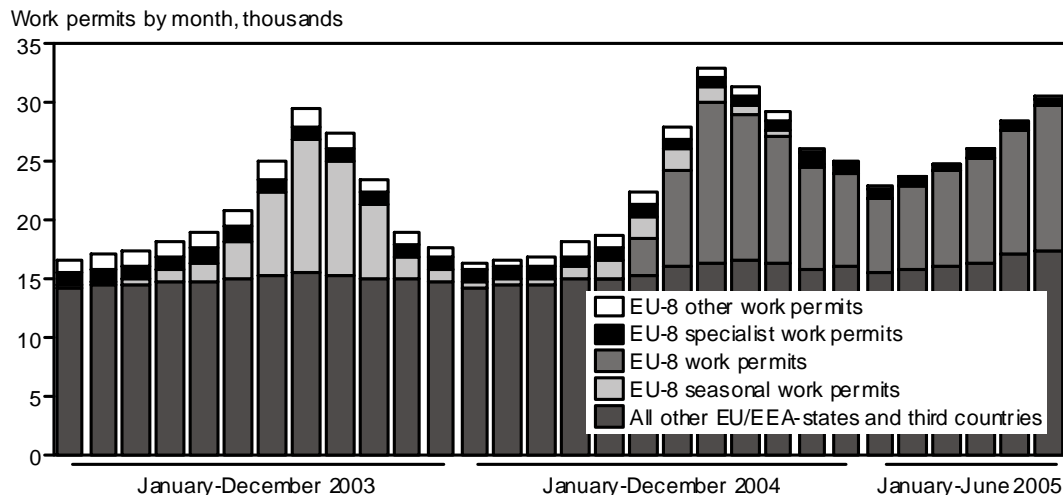
***Including 7 792 renewals.

The Nordic countries have shown surprisingly large differences regarding individual labour migration from the EU-8 after 1 May 2004. Norway issued 20,533 new permits between May and December 2004 - an increase of 40 per cent on a yearly basis. Only 40 per cent of these were for jobs of more than 3 months' duration. Denmark issued 2,184 permits, Sweden 3,963, Finland 2,169 and Iceland approximately 600. In all the Nordic countries with the exception of Finland, this was quite a substantial increase. Norway received roughly 50 per cent of the individual labour migration to the Nordic countries during the first year after enlargement.

Altogether, the Nordic countries issued approximately 18,000 permits for work with a duration of more than 3 months between 1 May 2004 and 31 March 2005, distributed as follows: Norway 9,137, Sweden 4,395, Finland 2,483 and Denmark roughly 1,900. The main trends for the Nordic countries appear to be continuing for 2005, with notable growth in Denmark and Iceland. In Norway, by end of June 2005, almost 17,000 permits had been issued so far during the year - of which more than 8,000 were renewals - a substantial overall increase compared with 2004. The increase accounted for by renewals indicates a certain increase in labour migration of longer duration.

The actual number of labour migrants employed in the Nordic countries at any given point is far lower than the aggregate number of permits issued. Approximately 2,400 individuals from the EU-8 were working in Denmark in May 2005. With the exception of the summer season in Norway, the number of valid permits fluctuated between 6,000 and 10,000 over the course of the past year, as compared with 16-17,000 from the 'old' EU states.

Figure 2 Number of valid work permits in Norway from January 2003- June 2005 (Source: Norwegian Directorate of Immigration)



Relative to total labour migration, labour migrants from the new EU member states have accounted for the lion's share of overall labour immigration in Finland and Norway after 1 May 2004. The proportion is somewhat less in Denmark, while in Sweden more than 2/3 of the registered labour migrants came from countries outside the EU/EEA. In all the Nordic countries, labour migrants from the EU-8 only accounts for a small proportion of the total migrant workforce, the majority of whom are still mainly citizens of the Nordic countries, the 'old' EU member states, and countries outside the EU/EEA. Compared to Boeri and Brücker's forecasts of net labour immigration from the EU-8, the Nordic figures are markedly lower in all the countries but Norway. Even there, however, the net increase of migrants from EU-8 seeking residence in Norway was moderate (some 2000 persons), indicating that the predominant pattern of labour migration is of temporary and short term character (revolving door migration).

Experiences of the transitional regimes in the Nordic countries have been *mixed*. The low figures for Sweden indicate that labour mobility is sensitive to demand. This is also reflected in the figures for Norway, where the transitional arrangements may be characterised as liberal. The low figures in Finland and Iceland presumably reflect the stringent arrangements in these nations, while it is less clear whether the low Danish figures are an expression of lower demand or of the Danish transitional rules being considered stricter than their Norwegian equivalents. In several of the Nordic countries, the interplay between transitional arrangements and problems associated with regulating wage levels for posted workers have apparently contributed to unintended substitution effects, channelling demand towards the provision of services (posted and independent) by EU-companies. Given that the Nordic countries in the longer term will need more labour, the result of such substitution effects and of the failure to coordinate labour immigration policies towards EU-8, may well be that the Nordic region as a whole will attract less labour migrants than they otherwise declare to need.

4. Free movement of services and posted workers

As regards free movement of services – that is, for posted workers and self-employed individuals offering temporary services – transitional arrangements are as mentioned not

allowed.⁵ None of the Nordic countries have as yet statutory minimum wages. Unless foreign suppliers of services enter collective agreements in the host country or are covered by a generalised collective agreement (*erga omnes*) setting minimum wages, posted employees may therefore work in the Nordic countries with payment – as well as taxes and social security arrangements – in line with the rules and levels applying in their home countries.

Irrespective of the national regimes for labour migration from EU-8, the predominant form of labour mobility into the Nordic countries after enlargement has been posting of workers in the context of cross-border services provision. There are no reliable statistics regarding the movement of services, but in Denmark, for example, the trade unions estimated that the number of posted workers from EU-8 as of May 2005 was around 6000, i.e. nearly three times as many as the number of ordinary employed immigrants.⁶ In addition comes sizeable numbers of self-employed offering services in the private household sector. In Finland, government estimates for 2004 indicated that the volume of posted workers (around 10,000) had increased greatly, and many-doubled the number of migrant workers from the new member states (Sorainen 2005). Similar trends are reported in the other Nordic countries, indicating that many domestic employers regard the lower costs and enhanced flexibility associated with this kind of mobile labour as more attractive than recruiting regular labour migrants in accordance with national terms and conditions.

Discrepant regulatory regimes under pressure

As indicated, the way in which the Nordic countries traditionally have regulated wages and working conditions for posted workers varies considerably. This is also reflected in their implementation of the Posting of Workers Directive (96/71 EC):

- *Finland and Iceland* have a tradition for generalising collective agreements, which accordingly are to be applied for foreign services providers. The responsibility for enforcement is located with the Labour Inspectorates, which report of insufficient capacity and growing compliance problems after enlargement.
- The *Swedish and Danish* actors have, by contrast, always been opposed to this kind of state interference in the labour market and insisted that wage setting is an issue for the social partners alone. They have accordingly relied on the unions' capacity to sign collective agreements with foreign companies in securing that posted workers are granted wages a par with domestic labour. While union density is high – 70–80 percent – such practices have been underpinned by ample union rights to launch industrial action and blockades in cases where the foreign employer refuses to sign. In *Sweden*, this practice has been challenged in the now infamous *Vaxholm case*, where a Latvian construction company subject to union blockade brought the case for the Swedish Labour Court, which has subsequently asked the ECJ to give its assessment before further handling of the case.⁷

⁵ Germany and Austria, however, was in the accession treaties granted the right to postpone introduction of free movement of services. Instead, these countries have seen a strong increase in establishment of single-person firms from the new member states (see several issues of *Der Spiegel*, spring 2005).

⁶ Danish Ministry of Labour, Press Statement 8. juni 2005.

⁷ This issue featured high already in the discussion over EU membership, and a specific protocol was annexed to the Swedish membership agreement, confirming that the Swedish tradition based on collective agreements

- *Norway*, by contrast, has neither had tradition, nor legal prerequisites, for generalising national collective agreements, or – except in the offshore sector – forcing foreign contractors to enter agreements by means of industrial action. Foreign services providers have thus largely been allowed to operate in accordance with the country of origin terms. In 1994, legislation opening for generalisation of agreements in certain cases where it can be proved that foreign labour has been subject to unequal treatment was adopted. This option was never applied – much due to scepticism among the social partners – but has, despite tedious procedures, come under increasing use after 1 of May 2004, especially in the construction sector. Confronted with growing low-cost competition and wage dumping, union voices have proposed a simplified regime for making minimum wages in sector agreements generally binding – reminding of the German *ArbeitsnehmerEntsendegesetz* – whereas employer voices have called for a statutory minimum wage, both implying a path-breaking shift in the domestic mode of labour market governance (Dølvik & Stokke 2005).

Similar suggestions have occurred in other Nordic countries, most pronouncedly in Finland where new statutory procedures are underway, aimed at securing Finnish wages for posted workers not covered by *erga omnes* agreements (Hellsten 2005). In Sweden, the confederations of employers (SNF) and unions (LO) – who during the past decades have ceded all mandates concerning wage bargaining to their member associations – recently signed a framework agreement on the regulation of pay for Posted Workers, further demonstrating the impact of increasing service mobility after enlargement on the Nordic regimes of industrial relations.

Problems in monitoring scope and labour market consequences

The exact volum of services accounted for by foreign providers is as mentioned uncertain, owing to statistical shortcomings. Figures based on official registers by tax and enterprise authorities in fact show only limited inflows of services from EU-8. In Denmark as of May 2005, only 136 service enterprises from the EU-8 had been registered, representing 1/10 of the total number of such enterprises. In Norway, as of March 2005, 390 service enterprises from the EU-8 were registered, with 2,600 employees, a marked increase in relation to one year earlier but still much less than from other EU/EEA- and Nordic countries. The tax authorities report, however, that they believe there to be considerable under-reporting, in spite of rules making registration of all foreign services contracts compulsory being adopted after enlargement.

Surveys in the construction sector and the mechanical engineering industries in Norway, however, indicate that there are far more posted workers from the EU-8 than ordinary labour migrants, and that the figure is on the rise. Around 1/5th–1/4th of the

and direct union action (if necessary even against foreign enterprises with a collective agreement at home, the so-called *Lex Britannia*) was accepted by the other member states (see Bruun og Malmberg 2005). Similar assurances were given to Denmark by Commissioner Flynn in 1993. The Swedish Labour Court's preliminary judgement in the Vaxholm case in December 2004 confirmed this interpretation and saw no problem in the unions' sympathy actions, whereas the Latvian company (Laval, who returned home and later went bankrupt), supported by the Latvian trade unions and government (with financial support from the Swedish employer confederation, SN) claimed that the actions represented a breach with EU principles of freedom of services and non-discrimination. In the ECJ case, a core issue will probably be whether or not the unions demanded that Laval should pay wages that were above the minimum levels in the Swedish collective agreement.

companies in these industries report using labour from EU-8, mostly posted workers and labour provided by temp agencies. An indication of the magnitude of this kind of labour mobility is that production in the Norwegian construction industry grew by 7,5 percent in 2004, whereas domestic employment only rose by 0,7 percent and wage growth stagnated.

Such figures illustrate the possible benefits of growing mobility of services, enabling domestic companies to increase production and improve flexibility without facing labour shortages and wage inflation, to the joy of consumers. The flip-side, however, seems to be reduced growth in domestic employment, lower intake of trainees, and increased competitive pressures on prices, profit margins and labour costs for domestic sub-contractors. In construction, a grey secondary labour market operating on the fringes of – or entirely outside of – the institutions of labour market regulation seems to be in the making in the Nordic countries. Authorities are concerned that strategic circumvention of the (transitional) regimes for labour migration by exploitation of the grey areas in the interstices between different types of employment relationships – most commonly by camouflaging regular employment relationships as service contracts – is opening for evasion of rules concerning taxes, social security and wages. A side-effect of such practices is reduced demand and employment opportunities for regular labour migrants, since employers find it more tempting to hire cheap posted ‘guest workers’ who can be sent off as soon as the job is done.

Although the scope of strategic circumvention is unknown, there are numerous examples of distortion of competition, wage dumping and violation of labour law, health and safety standards as well as of collective agreements in the context of provision of services. In all the Nordic countries, media have frequently brought stories about Baltic and Polish posted workers being paid only 20-30 percent of the standard rate, working around the clock and being stacked with 10-20 people in single flats, engendering large profits for their intermediaries and customers (see www.faf0/oestforum.no). The activities of fictive letter-box companies, intermediaries, and temporary work and hire agencies have accordingly given rise to substantial difficulties with regard to law enforcement and have prompted political attempts to tighten regulatory loopholes.

Reinforcing internal control and enforcement regimes

In consequence, the external liberalisation of the Nordic markets has revitalised political debate regarding the effectiveness, viability and legitimacy of national means of labour market governance in the extended EU/EEA Single Market. The free flow of services and labour among countries with huge disparities in labour costs and regulatory standards has thus made *revision of national instruments of labour regulation* a major issue. Core issues in this respect are the regulation of minimum wages and procedures associated with outsourcing, sub-contracting and hiring of labour. Indications that some of the operators in the secondary market for services are also engaged in trafficking and *organised international crime*, have given further impetus to strengthening internal *control and enforcement regimes* in working life.

In all the Nordic countries steps have thus been taken to tighten cooperation between the tax authorities, the police, the immigration authorities, the employment services, the labour inspectorate and other relevant authorities, often also involving the social partners. Measures range from

- initiatives to extend the obligation to register foreign enterprises and employees;
- development of manuals that describe the complicated, parallel rules that apply to different kinds of employment contracts;
- introduction of an ID card at workplaces;

- establishment of special police divisions to counteract labour market criminality;
- local co-operation between administrative authorities, police and the social partners;
- new monitoring functions regarding foreign employees and service providers for the labour inspectorate;
- overall responsibility for general contractors;
- review of the information and consultation rights of employees' representatives in cases of outsourcing and sub-contracting, to
- new regulations for public procurement (implementation of ILO Convention 94).

There are also examples of companies and corporate groups that have adopted codes of conduct and/or agreements defining the conditions applying to use of foreign manpower. The interplay between the media, local "watchdogs", the trade unions and the stock exchange seems to imply that the risk of being "caught with one's pants down" – for example by hiring workers without proper work permit, insurance, social security or tax conditions – has encouraged some enterprises to develop interesting local regulatory instruments and CSR-schemes.

Contrary to the widespread prediction that market integration among countries with widely disparate wage levels and regulatory systems would breed deregulation of the labour markets – which may well prove to become true in the longer term – significant counteracting tendencies, including stronger state presence in the labour market, reinvigoration of old corporatist traits, and the introduction of new modes of minimum wage regulations, are notable.

5. Consequences and strategic responses – tentative concluding remarks

Overall, the increased supply of labour and services in the wake of enlargement has probably had positive economic effects in the Nordic countries, and the national labour markets have generally demonstrated good capacity to absorbing inward labour flows. By alleviating bottlenecks in some parts of the labour market, lowering price pressures and increasing production capacity, enhanced mobility has apparently made a positive contribution to the Nordic economies. In Norway, which has seen the largest share of inward labour and service mobility, domestic employment growth has in spite of a strong economic recovery been sluggish and unemployment sticky, posing questions as to whether a shift in companies' manpower strategies is taking place.

Contrary to concern about rising 'social tourism', there have to date been no reports of increased demands on the benefits and social services sector in the Nordic countries, reflecting that the main bulk of labour mobility is of short term, revolving door character. The main problems that have arisen are associated with certain areas and sectors with high demand pressures, particularly the construction and building sectors and certain parts of the service sector, where a secondary market for labour and service providers operating at the fringes of national regulations may seem to be in the making. In addition to the immediate problems this can have in terms of safeguarding health, the environment and safety at workplaces, increased growth of such submarkets may exclude serious companies, inhibit regular labour migration, and result in negative pressure on national norms with regard to wages and working conditions.

The diverse Nordic (transitional) regimes for labour migration from EU-8 have contributed to very *different patterns of migration*. In Finland and Iceland, where the transitional arrangements are strict, have received very modest numbers of EU-8 applicants for work permits. Also Sweden, with free movement, and Denmark with a quite lax transitional regime

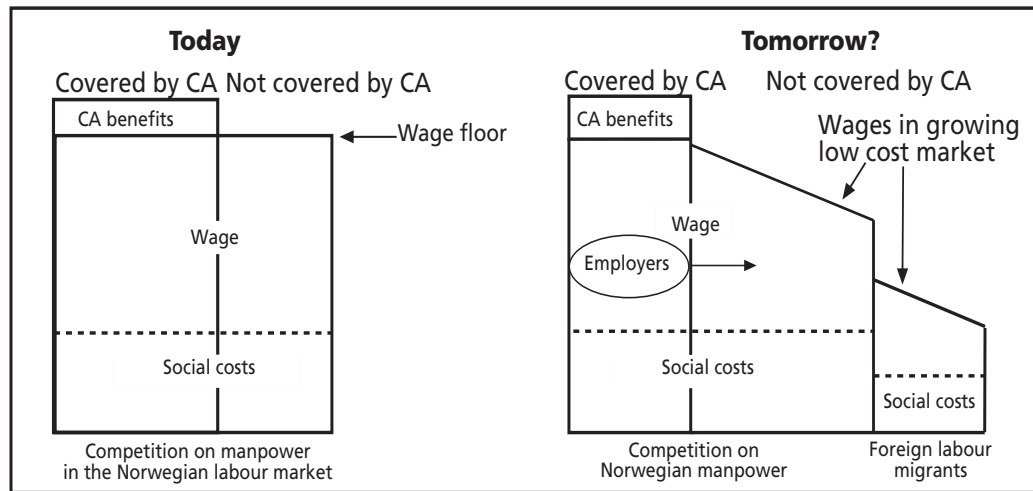
have received quite moderate inflows, whereas Norway with a similar regime as Denmark has accounted for around half of total labour migration across the Baltic Sea. The differences between the latter Scandinavian countries underscores that migratory flows are not simply a function of supply factors and institutional access, but are strongly influenced by *labour demand* as well as established *migratory routes and networks*. Norway has for at least a decade received sizeable flows of seasonal workers from Poland and the Baltic states, leading to development of employer contacts, information and migratory networks which evidently have contributed to the recent growth in labour mobility. As regards equal treatment, it seems that most EU-8 labour finding jobs in the ordinary Nordic labour markets, in contrast to many posted workers, are receiving proper wages and working conditions.

As pointed out by Boeri and Brücker (2005), the variety of transitional arrangements for individual labour migration in western Europe have engendered substantial *diversion effects*. Less attention, however, has been paid to the interrelations and diversion effects between different forms of mobility and employment relationships. As pointed out above, the vast differences in regulatory frameworks, taxation and labour costs associated with hiring individual migrants, posted workers and employees offered by temp agencies, have in all the Nordic countries created *significant substitution effects*. In Finland, the ministry of labour estimated that the overall inflow of labour mobility had remained largely stable during 2004, but that a huge shift towards posted workers from mainly Estonia had replaced regular labour immigration from EU-8 and other countries. A similar surge in posting of workers is reported from Iceland, where the transitional arrangements are strict. This applies to a large extent also to the Nordic countries with (almost) free movement of workers – Sweden, Denmark and Norway – indicating that the expansion of *service mobility to a certain extent is independent of transitional regimes*, albeit the substitution effects tend to be stronger in the countries with limited access for EU-8 citizens to the ordinary labour market. Still, taking also into consideration the experiences in Austria and Germany, where restrictions on service mobility have been accompanied by sharp growth in the *establishment of single-person companies* from EU-8, there are clearly strong *interaction effects* between the regulations and dynamics pertaining to the various forms of labour mobility.

For policymakers these dynamics should be taken stronger into account, suggesting that *more comprehensive approaches* are needed to facilitate desired labour mobility. A particular *paradox*, in a context where Nordic policymakers are struggling hard to create a more inclusive labour market, is that the discrepancy between strictly controlled labour migration and free flow of weakly/patchy controlled labour mobility in the context of services provision, seem to propel forms of work characterised by fluid and unstable employment relationships, poor working conditions and low pay. The *winners* in this game are clearly domestic employers and consumers who enjoy lower costs and prices, the *losers* are most likely the weaker and most vulnerable groups in the labour markets. In order to avoid bifurcated segmentation of the labour market as well as preventing xenophobia, the answer is hardly to restrict inward mobility. A more feasible approach would probably be to create a *more level playing field* between different kinds of mobility and employment relationships, implying that posted workers are secured the same conditions and pay as domestic workers. A more coherent approach towards the regulation, monitoring and enforcement of different kinds of work would also *prevent growing inequalities* along lines of ethnicity, nationality and skills, and *counter the erosion of domestic institutions* of collective organisation and regulation which is likely to evolve if the current growth in the secondary market for services is continued.

As demonstrated in the UK and the US in the 1980s, growth in the supply of unorganised, low-cost companies may contribute to swift shifts in employers' inclination to organise and enter collective agreements (Traxler 1998). A sudden growth in foreign low-cost suppliers, of having to compete for workers in the same national labour market, may have significant impact on the strategies of host country companies as to collective organisation and pay policies. A stylized illustration of the possible effects are sketched in the figure below:

Figure 3. Model of potential effects of increased low cost competition on wages and collective agreements (CA) in exposed sectors



(Dølvik, Eldring, Ødegård 2005)

So far, the evolving picture is ambiguous both in terms of social outcomes and strategic responses. On the one hand, the external liberalisation of the markets for labour and services has clearly greased parts of the Nordic economies, increasing flexibility and production capacity but also altering the terms of competition in several product markets. Dumping of wages and working conditions has in some industries exerted downward pressures on labour costs and working conditions, challenging domestic sub-contractors and existing modes of regulation. Such deregulatory tendencies have, on the other hand, prompted quite wide-ranging initiatives and deliberations on how to adapt and renew inherited instruments of labour market governance. Besides efforts to tighten up internal control and enforcement regimes, implying a stronger state presence in the labour market, significant changes has been launched with respect to the regulation of wages and working conditions. Debates over establishment of *erga omnes* procedures and introduction of minimum wages, either at the national statutory level, or through generalisation of collective agreements at industry level, may indicate that quite part-breaking innovations in national industrial relations are in the making.

In some respect such tendencies point towards a certain Nordic convergence with continental European traditions, in other respects they tend to imply increased divergence among the Nordic labour regimes. While Finland, Iceland and Norway appear to be adopting continental variants of minimum pay systems, the social actors in Sweden and Denmark seem determined to bolster their legacy of autonomous regulation by collective agreements. Yet, also in these countries voices are heard arguing that the associations of unions and employers are not equipped to handle wage regulation in the increasingly fluid, international markets for services without a helping hand from the state.

Worth noting is, furthermore, that coalitions and divisions in these debates often cut across traditional demarcation lines. For example in Norway, employer associations representing a high share of domestic sub-contractors and delivery firms – who often fear being priced out of competition – tend to side with their union counterparts in demanding general application of collective agreements, whereas employer associations dominated by large contracting companies tend to view the increased supply of cheap foreign service providers as a welcome source of flexibility and improved competitiveness. Voices on the employer side, both in Norway and Sweden, have also questioned the established principle of equal pay for equal work at the cite, suggesting that this implies disguised social protectionism aimed at keeping posted workers from EU-8 out. Among the unions there are also diverse views on the introduction of *erga omnes* practices in Norway, which until recently was considered utterly at odds with the legacy that wages are solely a matter for the social partners, not the state.

So far, the predominant responses conform to the logic of re-nationalised corporatism. Yet, the encountered difficulties in enforcing labour regulations in fluid trans-border markets have also raised awareness of the *need for improved coordination and exchange of knowledge and experience across countries*. Besides stepping up cooperation on Nordic level, the governments and unions showed increased engagement in influencing the proposed services directive of the EU, which in its original version would have severe implications for the capacity to apply national terms and conditions. Nordic governments and unions have also intensified their efforts to develop cooperation with their counterparts on the other side of the Baltic Sea. And some unions, especially in construction, have been quite active and successful in recruiting and providing practical support to posted workers from the EU-8. Whereas Nordic actors have often tended to view the struggle over the social dimension of the Single Market as a process with limited relevance for their domestic situation, the enlargement of EU has thus made the stakes involved visible and concrete also at the home ground. Overcoming the stark lack of coordination of labour market governance in the extended Single Market of the EU/EEA is yet a long uphill struggle. In the shorter run, it seems most likely that even the close Nordic countries are not prepared to pursue a common approach with respect to the phasing out or continuation of the transitional arrangements for labour migration from the EU-8.

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