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Eastern European Service Contract Workers in the German Meat Industry—A Case Study in Market Making of a Transnational Labour Market



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1. Introduction

The terms 'global labour market' and 'transnational labour market' are widely used when it comes to account for current social phenomena such as the ever closer integration of China or India with their huge labour forces into the world economy¹, or the off-shoring of specific operations of MNCs to countries with cheap labour forces.² A google search (July 2nd, 2018) for 'global labour market' delivers about 159 billion (!) results, and for 'transnational labour market' another 6,4 million.

In most of the cases, global/transnational labour markets are taken for granted by the media, consulting agencies and other economic actors, as well as many scholars. At the same time, there has been very little research done on global/transnational labour markets as phenomena *sui generis*. It is astounding that the 'global/transnational labour market' has rarely been subjected to theoretical clarification and systematic research. In fact, the vast majority of labour market research today still applies a national frame of reference, and investigates specific national labour markets. This is the research gap that is addressed by the ZiF Research Group 'In Search of the Global Labour Market'.

The present article ties in with a sociological approach question that the national institutional complexes that have been in the center of sociological labour market theories suffice in explaining newly emerging transnational labour markets. In this article, it is suggested that such border-crossing labour markets are differently embedded and structured compared with national ones. On the other hand, truly global labour markets are rarely existent. This is also why, in the remainder of this article, I will use the term 'transnational labour markets' instead of 'global labour markets' because most cross-border labour markets embrace workers competing for a job from only a very

¹ <http://www.economist.com/node/215569.74>

² <http://www.mckinsey.com/global-themes/employment-and-growth/the-emerging-global-labor-market>

limited number of countries. And one challenge for a more sophisticated understanding of transnational labour markets lies in explaining the structures of specific transnational labour markets in this regard.

As one of the fellows of the ZiF Research Group ‘In Search of the Global Labour Market’ I bring in an economic and labour sociological approach. I suggest that scrutinising transnational labour markets best starts with an empirical investigation into specific transnational labour markets and with inductively developing theories on this basis. Yet, transnational labour markets are not at all self-evident. To the contrary: They are improbable to emerge because of a lack of order at the transnational level that is one of the most important non-market prerequisites for markets to function (BECKERT 2009; ASPERS 2011; ENGELS 2009). Moreover, it is a very demanding process to overcome the obstacles that hinder labour to cross borders, not least for example, restrictive border regimes. Therefore, a fruitful starting point to scrutinise transnational labour markets is to identify the ‘conditions-of-possibility’ of specific such markets. The main proposition I am advancing in this article is that powerful *market makers* who organise transnational labour markets and institutionalise the rules of the game are the most important prerequisite for transnational labour markets to emerge.

The article offers an empirical reconstruction of the emergence of one specific transnational labour market, namely the labour market that matches Eastern European workers to jobs in the German meat industry. It draws upon an in-depth qualitative case study conducted during the working phase of the ZiF Research Group ‘In Search of the Global Labour Market’ (2017–2018). For this case study, interviews have been conducted with representatives of one large focal meat producer, one sub-contractor who acts as service provider for the meat producer, several workers from Poland, Rumania, and Bulgaria working at the meat producer’s premises, a representative of the Union for Food, Beverages, and Catering (NGG: *Nahrung-Genuss-Gaststätten*), and of different organisations that belong to the so-called ‘migration industry’—actors and organisations which facilitate workers the border-crossing mobility of workers.

In the remainder of this paper, the process of making this labour market, the most important market makers, and the four different employment regimes under which foreign workers have been recruited to work at the meat producers are empirically reconstructed (section 2). The findings are discussed in section 3. In the conclusion (section 4), the question of what this case study teaches us about the making of transnational labour markets and their specifics compared with purely national labour markets are considered more generally.

2. The case study—Eastern European workers in the German meat industry

In this sub-section, the making and several re-orderings of the transnational labour market that matches Eastern European workers to jobs in the German meat industry will be reconstructed.

The fabrication of the industry of meat production

The making of the transnational labour market that matches Eastern European workers to jobs in the German meat industry is deeply intertwined with the making of meat production as an *industry*. In Germany, slaughtering, meat cutting, and meat and cold cut production has been craft work effected by self-employed butchers until the end of the 1960s. Only during the 1970s a meat industry developed. One reason for this was a change in consumer preferences: With growing wealth in the 1960s, consumers tended to buy cutlets and schnitzel and other premium parts, and no longer bought the heads, the paws, or the tails of slaughtered animals. However, these parts represent a

substantial share of the worth of the whole animal, and ways to utilise and make profit out of them were sought after.

This led to a division of labour between meat production and cold cut and sausage production: two different industries developed in which the meat producer does the slaughtering, meat cutting, and production of different raw meat products and at the same time acts as supplier of downstream products for the cold cut and sausage industry. This division of labour and the concentration of slaughtering in centralised abattoirs employing wage labour allowed for adopting a taylorist mass production model in the emerging meat industry in the 1970s. The focal meat producer of the present study was a pioneer in this regard. Today, this meat producer is slaughtering more than 25,000 animals per day in its main plant. The plant is equipped with conveyors that carry the slaughtered animals and meat cuts along the production line to the packaging department.

This model of production no longer relies on skilled butchers, but builds on unskilled labour. Each worker only has to do one specific cut or handmove. Hence, through ‘inventing’ and fabricating the *industry* of meat production, the meat producer at the same time also ‘made’ a labour market for unskilled slaughterers, meat cutters and packagers.

With rising demand for the cheap meat products that constituted the output of this mass production model, the meat producer was soon in need of several thousands of unskilled workers. Regarding recruitment of these large numbers of unskilled workers, the meat producer was competing with other industries employing unskilled workers who, however, were offering better pay and working conditions. Meat cutting is an extremely hard and exhausting work that has to be effected at very low temperatures in the workshop. Therefore, the meat producer has been experiencing a pressing labour shortage that could only be resolved by tapping into foreign labour forces. Hence, a transnational labour market was made.

Recruiting unskilled labour for industrialised meat production—The four employment regimes of the transnational labour market in the meat industry

Due to its taylorist production model, the meat producer organises unskilled jobs that can be learned on the job without much training. In this case, thus, we observe job standardisation instead of skill standards that prevail in vocational and professional labour markets.

Yet, how did the meat producer tap into foreign labour forces? Since the fabrication of industrialised meat production, recruitment of unskilled labour from foreign countries has taken place under four different employment regimes:

(1) At the beginning of industrialised meat production the unskilled work has been done by so-called ‘guest workers’ from Turkey. Employment of Turkish guest workers took place under the specific recruitment programme of the German government that—on the basis of bi-lateral government agreements—enabled workers from Italy, Spain, Yugoslavia, etc., and also from Turkey to come to Germany to take up jobs in the German economy. ‘Guest workers’ were employed on regular employment contracts under the German labour laws and German social security provisions, so employment relations were regulated at the host country national level. However, matching took place cross-border under a bi-lateral government agreement, i. e. an international border regime.

(2) During the 1980s, however, with the ‘guest worker’ programme being abolished, the focal meat producer of this empirical case study has further developed its production model in a way that contracting out of slaughtering and meat cutting to foreign service providers became possible. Up to the German law on sub-contracting (BGB § 631 ff.) and regulation against abusive use of sub-contracting, contracting out necessitates that service providers send complete teams of workers with their own foremen to fulfill a clearly defined job on the premises of the main contractor. No mixed teams of service providers’ and main contractors’ employees, and no service providers’ employees

under supervision of main contractors' foremen are allowed. The service provider has to organise the work of his teams and has to take over all employer functions. Therefore, the meat producer had to install separate conveyor belts for the different stages of meat processing that could then be manned with teams from one specific service provider each, and also supervised by them. Service contracts are defined as a specific amount (defined by weight or piece, respectively) of meat to be processed (e.g. to extract the shoulder bone; or to cut schnitzel) in a definite period of time. Therefore, the meat producer had to organise clear cut interfaces between the production stages in order to assess service providers' performance.

Once the production line had been organised accordingly, during the 1980s, the focal meat producer of this study began to contract out slaughtering and meat cutting to teams of Eastern European workers on the basis of contracts for work. These workers were allowed to work in Germany for a limited period of time under bi-lateral contingent agreements that the German government negotiated with several Eastern European countries. Here again, we see the employment relation regulated by national law and social security systems. However, unlike under the 'guest worker' regime, under the contingent regime employment relations were governed by home country regulations. And again, matching took place cross-border and under a bi-lateral government agreement. Hence, contracting out meat processing under contingent agreements represented a second employment regime in the German meat industry, applied from the 1980s through to the beginning of the 2000s.

(3) With the EU enlargements of 2004 and 2007, the freedom to provide services throughout the EU also applied to service providers from the Eastern European acceding countries. However, as Germany applied the '2-3-2 regulation' of the clause on a transition period restricting the free movement of citizens in the EU for citizens of the new member states, workers from the respective new member states could not seek employment in Germany before 2011, or 2014 respectively. Hence, posting of Eastern European workers in the German meat industry under the freedom to provide services—at first from Poland, and then also from Romania and Bulgaria—was gaining momentum. Contracting out meat processing under the posting regime could build on relations established under the contingent regime: For-profit service providers partly had been working as contingent workers during the 1980s and 1990s, and under the freedom to provide services could capitalise upon these experiences and existing network contacts. The majority of contracted workers came from the same countries as under the contingent regime.

Thus, the third employment regime that was applied in the years from 2004 to 2014 was constituted by Eastern European service providers posting workers in the German meat industry under home country employment contracts (see also WAGNER 2015; CZOMMER 2008). Posting in the EU means a "temporary movement of labour between member states with the aim of encouraging more competition in European service markets" (MASLAUSKAITE 2014: 1). Posted workers' employment relations are embedded in the two national contexts of their respective home and host countries. Therefore, WAGNER (2015: 204) states that "[p]osting follows a transnational pattern because the posted workers' employment relationship in the host society is mediated by their employer instead of by the host country". This existence "between labor markets and regulatory systems, outside the jurisdiction of a particular national system" (LILLIE 2016: 40-41), for LILLIE leads to posted workers being "stateless" in the sense that they are "nominally entitled to a set of labor rights, but unable to claim these rights in practice because labor rights, like human rights generally, are exercised via national industrial relations systems, and posted workers are partially outside these systems." (LILLIE 2016: 40-41). This situation has led to highly problematic working conditions in the respective sectors, particularly in the meat industry, characterised by "underpayment, highly flexible working times, employment insecurity, lack of proper work clothes for the cooling chambers and substandard housing arrangements" (WAGNER 2015: 205; see also MASLAUSKAITE 2014).

At this stage, the media, social organisations located in the area where the meat producer is located, and last but not least NGG and DGB, the German Trade Union Confederation, started to 'blame and shame' the meat producer and the service providers alike for the unbearable working and living conditions of workers under this employment regime. They scandalised fraud and exploitation in this transnational labour market and organised pressure on politicians at the local community level, at the level of the Federal States, and at the federal level.

In 2014, a further shift in employment regimes took place. NGG finally succeeded to negotiate a minimum wage with the employer organisation ANG (*Nahrung und Genuss*), that has been declared collectively binding for the German meat industry in August 2014. With a collectively binding minimum wage in place also posted workers working in the German meat industry under the EU Posting of Workers Directive had the right to be paid this minimum wage. Moreover, with the decree to include the meat industry in the sectors that are covered by the German Posting Law also the main contractor liability clause that forms part of this law applies to German meat producers. The clause stipulates that main contractors, in this case the meat producers, are fully liable for the payment of the minimum wage and contributions to social security funds for workers working under their service contracts in cases that any service provider in a sub-contractor chain fails to pay wages or contributions.

Moreover, since 2011 and 2014 respectively, the free movement of persons within the EU fully applies to the new member states from the EU enlargements of 2004 and 2007. Since then, posting is no longer the only possibility to employ workers from these countries in Germany.

These amendments have prompted massive changes in the transnational labour market under review: Since 2014, the focal meat producer of this study forces its service providers to run subsidiaries in Germany and to employ their workers under the German Labour Law and social insurance provisions. For fear of being prosecuted under the main contractor liability clause for wages or social insurance contributions not being paid by foreign sub-contractors, the meat producer has decided that it has more control and a stronger grip on what sub-contractors are doing when they are incorporated in Germany and act under the German law.

Moreover, 'blaming and shaming' by the media and local protest movements, as well as pressure by the government have led to a voluntary commitment to improve the working conditions in German meat production signed by the 6 largest meat producers in 2015. In this document, all signees agree to abolish posting and to contract out meat processing only to service providers who employ their workers under the German employment and social security laws.

Today, all contracted workers at the focal meat producer of the present case study are employed by German employers under the German labour law, social security provisions, and collective agreement for the meat industry. This means that they enjoy the full protection and social security of the German labour law and welfare state. At a first glance, and regarding the legal entities who act as employers, there has also taken place a major shift, because employers today are German firms. Yet, actors involved have not changed. The CEOs of the German subsidiaries that today employ the workers are the same persons who were running the Polish, Rumanian, or Bulgarian service providers under the posting regime.

Also, as reported by several interviewees, fraud and exploitation of workers are still prevalent in this labour market. Contracted workers are still uninformed about their rights and lack a sufficient command of German that would allow them to become informed and claim their rights. Moreover, most of them seem to be reluctant to consult the information centers and helplines of the union and of other social organisations for fear to be fired when their employer learns about this.

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The interviewee from the meat producer of this study put it like this (interview P: 6-7). He refers to the VEZG – Vereinigung der Erzeugergemeinschaften für Vieh und Fleisch e.V. (Association of Cattle and Meat Producers) who issues a weekly price recommendation to which all members are expected to stick.

3. Discussion

Co-‘production’ of industries and labour markets

The presented case study shows that labour markets do not develop independently from the sectors in which they are embedded. To the contrary: The case study shows that the making of the transnational labour market scrutinised here went hand in hand with the fabrication of the industry of meat production. The meat producer became the main ‘maker’ of this transnational labour market because it had developed a production model that depended on large numbers of unskilled workers who were willing and able to submit under a taylorist work regime and accept the extraordinary hard and exhausting working conditions and poor wages that the meat producer had on offer. Such workers could neither be recruited in the home area of the meat producer nor in the larger German labour market. Therefore, the meat producer had to tap into foreign labour forces and to organise a transnational labour market that matches Eastern European workers to the jobs that the meat producer was offering.

While matching theory predominantly focuses on skills, the present case study sheds light on the importance of industries and their production models that rely on specific modes of using labour power. Matching in this perspective then does not only refer to a fit of worker and job with regard to skills but also more broadly with regard to being willing and able to accept the wages offered and bear the working conditions (see also PIORE 1979).

Moreover, production models are embedded in the broader development of value chains. In this case, the meat producer has not only developed a taylorist production model for itself, but also contributed to the development of a value chain in which large retailers who distribute the huge amounts of cheap meat products that constitute the output of a mass meat production are in the position to put much pressure on the producer. On the other end of the chain, farmers who fatten pigs in huge numbers and ‘produce’ them in a standardised manner so that they fit into the standardised production line of the meat producer have built a “price cartel”³ that does not allow the meat producer to play out his own buyer power against them. As pigs cannot be transported over long distances, the meat producer cannot switch to suppliers from afar. Therefore, by developing the industry of mass meat production as a non-intended consequence the meat producer has contributed to create a situation in which it is squeezed between the price cartel of the farmers and the huge buyer power of a handful of dominant retail chains. Given the tight connections and couplings of the elements of this value chain as well as the huge financial investments of the meat producer in its production model, this represents a log-in situation that delimits the dynamics in the respective labour market. The meat producer could not switch to an economy of scope and quality production that would allow for offering skilled jobs, paying higher wages and improving working conditions. Instead, the meat producer is sticking to the taylorist path and—in this logic—planning to substitute as much labour power with technologies, i.e. robots, as possible. In packaging and minced meat production automation has already gained momentum.

Power, counter power, and the scales and modes of strategising

Notwithstanding the described log-in situation, the focal meat producer still is the most important “profiteer” (AHRNE et al. 2014) and by far the most important and powerful organiser of this labour market. Even though the meat producer is not legally the employer of the workers, the firm is the actor that has the largest impact on the quantitative and qualitative demand for labour power. Moreover, the meat producer defines the main conditions and factors impacting on the working conditions and wages of the workers: The meat producer prescribes the conditions and prices for service contracts, and defines the service contracts in a way that they put enormous pressure on sub-contract-

tors to reduce labour costs as the only ‘skrew’ they can turn in order to secure profits. The meat producer also does not open competitive biddings, but offers ready-made contracts to service providers who may take it or leave it. Yet, most of them have to accept the contracts as they only have this one client. By this, the meat producer defines the room for manoeuvre of service providers with regard to wages and working conditions.

The meat producer also prescribes the legal and regulatory frameworks under which its service providers may employ workers. It was the meat producer who organised and enforced the different employment regimes described above and, since 2014, forced service providers to run subsidiaries in Germany and to employ their workers under the German Labour Law and social insurance provisions.

As earlier research has already shown, NGG as the responsible union has hardly been able to counter this power (WAGNER 2015). It is also important to note that contract service workers are not subject to representation by the works’ council of the meat producer. Under the posting regime, contracted workers remained in their home countries’ wage and social security system with no statutory or generally binding minimum wage in the German meat industry in place. For a long time, no collective agreement has been negotiated in the meat industry because employers were reluctant to do so and employers’ associations in the industry were fragmented or virtually non-existent (WAGNER 2015; CZOMMER 2005). Since 2014, however, there is a collectively negotiated minimum wage declared generally binding by the government. This has prompted a major re-ordering of the transnational labour market in question.

NGG has been able to gain in power by extending the scales and modes of strategising (see also WAGNER 2015). The union continuously was pushing employers to negotiate a collective agreement for the meat industry, but started to combine this with two other strategies: At the local level, NGG started to collaborate with other actors from civil society, like local protest movements and local branches of welfare organisations. These actors coordinated activities that were targeted at ‘blaming and shaming’ the meat producer who came ‘under fire’ as a bad corporate citizen.

At the level of the Federal State and the Federal Republic, NGG and DGB joined in putting pressure on politicians. The latter then were pressuring the large German meat producers to improve wages and working conditions (see DGB 2017).

Hence, union organisations, the state, and NGOs, were gaining in power and importance as market makers due to multi-scale and multi-mode strategising. They have succeeded in initiating a major re-ordering of the transnational labour market in question.

However, while the legal and social situation has much improved, the actual working and living conditions of Eastern European workers in the German meat industry have not changed that much: Interviewees report continuing fraudulent and abusive behaviour of service providers towards their workers. They expect them doing overtime without paying the due premiums. Working hours of about 60 hours per week are no exception but the rule. Workers are still not aware about their rights, e.g. to elect a works council, and if they were, they were reluctant to do so for fear to lose their job. No service provider covered by this study had a works council. Workers who still claim their rights, e.g. with the support of the union NGG, are pushed by their employers to refrain from complaining and threatened to be fired (see also DGB 2017).

4. Conclusion

The case of the transnational labour market that matches Eastern European workers to jobs in the German meat industry is interesting in itself—at least from a German point of view—as it is characterised by sub-standard wages and working conditions as well as by employment practices that are

taking place in a legal limbo to say the least. It does not only undermine German labour and wage standards, but also entails the emergence of a new deprived underclass in the regions where large meat producers are located.

Yet, the case study also allows for some more general and theoretical insights into the specifics of transnational labour markets compared with national ones: Transnational labour markets are embedded in a complex and multi-layered set of institutions. While the nation-state certainly continues to be of major importance also as institutional context for transnational labour markets, not least because through its border regime it regulates access of foreign labour forces, transnational labour markets are also embedded in transnational institutional settings like, in this case, the EU.

Yet, these institutions do not 'make' transnational labour markets. Actors are needed who create and enact these institutions. An actor-centered perspective on transnational labour markets, their emergence, structure and functioning as applied in this article has proven very fruitful in capturing these actors and their strategising in this regard. A labour market analysis that concentrates on the actors who 'make' a labour market first of all reveals that employers and/or employees may not be the main actors in a labour market. While most (labour) market definitions presuppose a two-sided or dual exchange relation with competition at least on one side of this relation (WEBER 1972), the present case study shows that things may be much more complex with third or even more parties involved in the exchange. In this case, more parties get involved by differentiation of the employer role. Employer functions such as defining jobs, recruiting workers, deciding on modes of and issuing contracts, negotiating wages and working conditions, providing workplaces, working equipment and tools are distributed among different sorts of actors, namely the meat producer, the sub-contractor, and in some cases also specialised recruiters.

Secondly, the actor-centered approach of the present case study also reveals the power relations in the labour market. As has been shown, in this case the meat producer—even though formally not party in the labour power exchange proper—is the most powerful actor constructing and shaping this transnational labour market. A stress on power relations as a constitutive element of markets helps to uncover the extraordinary power asymmetry as the main structural feature shaping the functioning, dynamic and outcomes of this transnational labour market.

Given the lack of pre-existing and stable institutional orders at the transnational scale and the many obstacles that they have to overcome, transnational labour markets in order to emerge need powerful market makers who organise them. In the case of the meat industry which is a highly concentrated sector with only a few but very large producers, the latter have assumed this function. In other cases, like elderly and health care either state agencies, like in the case of the Philippines (CHOY 2003), or for-profit recruiters (BLUDAU 2015) act in this regard. Also temporary agencies can function as market makers (SHIRE et al. 2018; IMAI 2009; PECK et al. 2005). Further research, therefore, should take a comparative perspective and systematically explore different types of 'makers' of transnational labour markets and the impact of these different types on geographical structures, wages and working and living conditions in these markets.

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