

**Bettina Wagner and Anke Hassel**Labor Migration and  
the German Meat Processing Industry:  
Fundamental Freedoms  
and the Influx of Cheap Labor

Germany has historically been known for its strong interest representation for both labor and capital (Hall and Soskice 2001). Trade unions, complemented by works councils, have profited from strong legal rights regarding their participation and consultation in collective bargaining, creating a basis for stable and long-term-oriented cooperation between capital and labor. However, during the last couple of years, investigative journalists have reported increasing cases of exploitation among migrant workers. These workers come to Germany from the new member states of the European Union (EU), receiving wages ranging between €4 and €8 per hour and working shifts of twelve to fourteen hours per day. The meat processing industry, in particular, has been heavily criticized (Grossarth 2013). Companies like Danish Crown even relocated their business to Germany because of the comparatively cheap labor costs (“Deutsche sind billiger” 2010). Consequently, the Belgian government lodged a complaint with the European Commission against the low-wage policy of Germany, claiming that the “undignified practices” (European Parliament 2013) would undermine competition within the EU. In reaction, the German Ministry of Labor has called for common action to find a solution to the problems in the meat processing industry. A major impediment that surfaced in this context was the comparative weakness of social dialogue, not only between companies and labor representatives but also among the different companies participating in the

industry. Based on a study of the meat processing industry and interviews with key informants (employers' organizations, companies, trade unions, and government representatives), this article analyzes the existing structures of labor mobility, focusing particularly on the working conditions of migrant labor. We argue that the nature and practice of social partnership in Germany has hindered the inclusion of migrant workers in the traditional channels of representation and that unions will have to mobilize new resources and go beyond the classical insider orientation to deal with low-cost competition.

### **European Integration and the Role of Social Partners to Ensure Wage Stability and Good Labor Conditions in Germany**

Industrial relations in Germany have traditionally been characterized by a high level of organizational strength in trade unions and employer organizations and a low level of wage differentiation within different industries (Palier and Thelen 2012). Three decades ago, the wage structure in Germany was comparatively compressed, and only the Nordic countries had more egalitarian wages. Firms did not compete for workers by offering higher wages. Comprehensive collective agreement was used instead to provide de facto minimum wages across whole industries. The tight wage structure created incentives for lower-skilled workers to improve their qualifications in order to move up within firms (Hassel 2001). However, the decline in manufacturing employment since the 1970s and the continuously growing service industry, characterized by low levels of labor organizing, are creating a challenge for both employers' organizations and trade unions to coordinate and ensure wage standards. The increase in the mobility of workers and services across the EU, reinforced by EU legislation, has posed additional problems for the interest representation of trade unions and employers' organizations, both of which are known for being nationally oriented and, by definition, represent the interests of their paying members. Firms based in other countries and offering services in Germany are not part of the employers' confederations.

However, in the European common market, the cross-border supply of cheap labor has increased the pressure on domestic trade unions in member states with higher average wages to act. Gumbrell-McCormick and Hyman (2013) claim that, in the context of a changing economic environment and internationalization, unions have to mobilize new power resources to secure their influence on industrial relations. They highlight three power resources:

Firstly, *communicative* or discursive resource refers to the ability to develop an inclusive and democratic society in which unions play an active role. Secondly, *collaborative power* stands for the willingness and capability to find and establish allies with other groups or movements with whom they might share interests or goals. Thirdly, *strategic capacities* are necessary in order to effectively use the increasingly limited resources for action. These complementary powers are especially at stake in relation to labor migration within the EU.

### **Freedom of Movement within the EU**

The free movement of labor and services is one of the fundamental freedoms constituting the EU and the Common European Market. With the aim of establishing common legal bases in all EU member states, various regulations and directives have been put in place, for instance, regarding the coordination of social security systems (EC regulation 883/2004), the mutual recognition of professional qualifications (directives 89/48/EEC and 92/51/EEC), the posting of workers (directive 96/71/EC),<sup>1</sup> seasonal work (directive PE-CONS 113/13), and freedom of movement for workers (directive 68/360/EEC).<sup>2</sup> The position of trade unions within the EU15 member states toward migrant labor was challenged by the EU accession round of 2004, when eight post-Communist countries with significantly lower average wage levels joined the EU. In Germany, the Confederation of German Trade Unions (*Deutscher Gewerkschaftsbund*; DGB) supported the government's motion to temporarily restrict the free movement of labor, claiming that additional preparatory policies were necessary for wage as well as employment protection at a national level to prevent massive wage dumping ("Arbeitsmarktöffnung" 2007).

Apart from the generally skeptical attitude toward migrant workers' access to the German labor market, the most heatedly debated EU legislation has been the so-called Posted Workers Directive. This directive was originally based on the freedom to provide services (Article 56 of the Treaty on the Functioning of the European Union; see European Union 2012: 70); it refers to a process in which one company residing in one member state successfully applies for a service contract in another member state and sends its own workers to perform the task. Within the host country, the contractual arrangements for posting are based on subcontracting. A company in the host country signs a contract for the provision of certain services with a foreign company, which then becomes the subcontractor for a predefined

period. Practices of subcontracting have spread throughout industries and services. Today it is as common to subcontract hotel room cleaning services as it is to subcontract the slaughter of animals to outside firms. Posted workers then work on the premises of the subcontracting firm, but the latter has no management rights with respect to contracted workers.

To facilitate this process, the Posted Workers Directive establishes the minimum requirements to be implemented in all member states regarding the terms and conditions of employment, the applicable social security system, and the health insurance system. The workers keep their initial work contract and remain part of the national security and health system of their home country. However, as the Posted Workers Directive postulates minimum standards, it was up to the different member states to set the nationally applicable minimum requirements regarding working conditions. In the absence of a regulation or statutory minimum wage, workers posted from another member state may be paid the wage levels of their home country. This is significant if we consider the existing wage differentials in 2013, when the average gross wage in Germany amounted to €16.95 per hour, whereas in Bulgaria it was €2.04 per hour (BA 2013).

The system of posting existed long before the adoption and implementation of the Posted Workers Directive, prior to which, bilateral contingency agreements were signed with non-EU countries like Romania or Hungary. Since the 1960s, in cooperation with companies as well as with the country's national employment agency, the German government defined the number of workers needed and developed contingency agreements with the countries supplying labor (Deutscher Bundestag 1994). Based on these agreements, workers fulfilling certain qualifications and criteria received residence as well as work permits for up to three years. According to data provided by the German parliament (Deutscher Bundestag) in 1992, the German government had signed contingency agreements with eleven countries for approximately 116,000 new workers amounting to a total number of 637,000 foreign workers employed via subcontractors. In response to political concerns involving claims that contingencies were misused for factual wage exploitation and hidden temporary and illicit employment, the government reacted by annually restricting the total number of workers to 100,000 and by limiting the contingencies to highly qualified workers (Deutscher Bundestag 1994). In 1996, when Germany adopted the Posted Workers Act (PWA), the translation of the EU directive onto the national level, the number of posted workers decreased to 32,000 (Czommer and Worthmann 2005). The government also defined contractual terms and conditions for

posting as well as the sectors for which collective agreements apply. Posted workers in sectors not mentioned in the PWA, such as in the case of the meat processing industry, can work according to the conditions and pay of their home countries without breaching the law. Finally, it introduced the concept of joint liability (§14)<sup>3</sup>, whereby a German company that signs a service contract with a foreign subcontractor becomes liable for the compliance of the binding working conditions for these workers. This legal aspect, also known as chain liability, is particularly useful in cases of pay dumping or illicit employment within the host country.

### **The Meat Processing Industry in Germany**

From the perspective of both employers' and trade union organizations, Germany's comparative advantage in the meat processing industry on a global scale is its high level of quality and its animal protection standards. The former can only be realized through the employment of highly skilled labor and the compliance with rigorous standards of hygiene. Companies have invested and reinvested intensely to create and maintain this competitive advantage. A side effect of these investments has been the merger of former small companies into a few big players in order to be competitive at national and international levels. Employers' organizations claim that a major problem for this sector is the oversupply of meat and cattle, resulting in a race to the bottom with regard to prices at an international level. Livestock breeding has been much discussed in the last decade, but the focus on work standards is relatively new.

According to estimated data from the German Food, Beverages, and Catering Union (*Gewerkschaft Nahrung Genuss Gastsätten*, NGG; Brümmer 2013), in 2001 175,007 workers were regularly employed in the meat processing industry, 6,000 of which were posted. In 2012 the amount of regularly employed workers had dropped to 142,313, 40,000 of which were posted. The NGG has recently claimed that the four biggest companies in this sector in Germany employ approximately 16,562 workers. Out of those only 5,110 are directly employed by German firms, and the remaining 11,342 are posted workers employed by subcontractors.

The meat processing industry has existed in Germany for centuries, but restructuring and expansion, particularly in the last three decades, has resulted in an increasing demand for highly qualified labor for a few large companies. Germany is the number one processor of pork in Europe, with fifty-eight million animals slaughtered and processed per year (Chemnitz and Benning 2014: 20). As working in this profession is comparatively diffi-

cult and has lost its social status, the slaughterhouses have encountered problems recruiting skilled workers. The government proposed contingency agreements and the subcontracting of posted workers as a solution to the growing labor supply needs. A German meat processing company typically signs a contract for a specific processing entity—or a group of dismantling processes—with a foreign company, and then the foreign firm sends its employees to perform the work. This system now dominates the entire industry.

The first media reports on working conditions within the meat processing industry (e.g., Leubecher 2013) confirmed instances of subcontracting and reported that workers, posted predominantly from Romania and Bulgaria, were receiving piece-rate wages of €1.31 per slaughtered pig in Germany. According to the reports, the subcontractors were subdividing the shifts according to nationalities, leaving the day shifts to Germans and the night shifts to Romanian and Bulgarian workers (Grossarth 2013). In cases of work-related accidents, workers were sent home and replaced within a day, and little or no labor-protection standards were respected. Workers on day and night shifts were not allowed to communicate with each other or exchange information on wages or working conditions. Before being posted, workers were promised wages ranging between €1,200 and €2,000 a month and were told that the firm would pay for their housing, work tools, and uniforms. However, once in Germany, housing, uniforms, and tools would get deducted from workers' wages, reducing their pay considerably. As most large companies are located in rural areas, workers are often accommodated in former military barracks with group rooms and shared bathrooms (Grossarth 2013). Posted migrant workers accept these conditions because they plan to stay and work temporarily in Germany, while keeping their families and private life in their home country. Yet, in this way, they become more vulnerable to labor exploitation; given their temporary perspective, they do not learn the language, do not familiarize themselves with the applicable laws, and, thus, remain isolated.

The service contracts signed with subcontractors specify unit prices per processed entity, the time frame for realization, and the liability agreements for tools and labor employed in order to realize the service. An overview of the latter two are passed on entirely to the subcontractor, preventing the main contractor from having any control over working conditions. Information on work time, pay, or working conditions stays within the subcontracting company. In other words, controls to prevent, or actually uncover, infringements of labor exploitation are contractually excluded. Only under

increasing government pressure has the national employers' organization succeeded in both initiating preliminary talks between the top four meat processing firms and finally including them as members. Although the main subcontracting firms based in Germany were also invited, they have not been present at the talks.

### **Social Partners**

The NGG, the trade union responsible for the meat processing sector, has been criticized for ignoring the problems and for the low level of union membership in the industry (Grossarth 2013). The trade union has confirmed that, given the constant decrease in regularly employed workers, its membership and influence in the industry is fading (pers. comm. with trade union representative, November 2013). Trade union and works councils also have very limited rights regarding subcontracted services. Works councils do not have the right to co-decide on subcontracting. As a result, the trade union has little power to intervene in these institutionalized systems of labor exploitation. The union's main demand, therefore, has been a minimum wage and equal pay for all employees, those employed directly or through subcontractors. The unions have also demanded the inclusion of the meat processing industry in the Posted Workers Act in order to enforce joint liability.

However, as presented by Kahmann (2006), the general challenge for trade unions will be to find a strategy for action in their relationships with the government, employers' organizations, and even their own members that will not only ensure their survival but increase their influence in the sector. With regard to their relationship with the government, the persistent media attention on working conditions within the meat processing industry has been advantageous, as it has created pressure on the government to act. The decision to introduce a minimum wage for the entire industry can be considered a first success (BMAS 2014). However, given the low presence of trade union members and works councils in subcontracting companies, the risk of unlawful employment practices remains difficult to control or report.

Unions are increasingly aware of the necessity of including posted workers in trade union structures. In the past, increasing competition at the workplace engendered suspicion and hostility between domestic and foreign workers. Now, trade unions are aware of the need to mobilize their communicative resources: they recently started to recruit Romanian-speaking personnel in order to overcome the language barrier, and they are collaborat-

ing with advisory offices for migrant labor (Empen 2012). While the efforts made by the unions are important, we contend that the main problem remains the failure to recruit subcontracting companies into employers' organizations, leaving the majority of workers unprotected.

The European Parliament adopted a directive on the enforcement of the former Posted Workers Directive in April 2014 (see European Commission 2014). The aim of the directive is to resolve the problems experienced after the implementation of the Posted Workers Directive involving illicit employment, the question of liability, and information for posted workers. The implementation procedure at the national level will start soon, and it will be up to the actors on the different national levels to influence the change within the PWA through the enforcement directive. On July 1, 2014, the minimum wage for the meat processing industry will come into force, and it will be added to the list of industrial sectors covered by the PWA. Therefore, the minimum wage will apply to all workers in this sector, regardless of where they signed their contract. This is a major change, as the minimum wage will apply to the entire industry, not just the 25–30 percent of regular employees. In addition, §14 of the PWA, which regulates the issue of joint liability, will also hold for the industry. This might encourage employers to put more pressure on subcontractors to join the employers' organization, since an absence of subcontractor representation in the social dialogue would mean that the main contractor would be responsible for ensuring compliance.

## Conclusion

The case of the German meat processing industry indicates how, in the absence of both social partners and strong legal provisions, an industry has grown and created a competitive advantage based on wage dumping and poor working conditions. Falling trade union membership rates and the absence of comprehensive employers' organizations have created a situation in which European legal frameworks have offered loopholes at the expense of migrant labor. Only through broad media coverage, in combination with political pressure, was a social dialogue achieved, resulting in a minimum wage and inclusion in the PWA.

Moreover, the union has slowly started to adopt measures to activate the classic resources of power to protect workers in Germany. This is necessary not only to protect the migrant workers but also to ensure decent standards of



work for the domestic labor force that is possibly at risk of being replaced by mobile labor. The inclusion of the meat processing industry into the PWA does not in itself ensure that the situation will change completely. The construction industry, which has been included in the PWA from the very beginning, has suffered from a shift from employment contracts to service contracts with firms and posted workers that now hire self-employed individuals—workers who no longer fall under minimum wage regulations because they can decide, on an individual basis, their own pay and working conditions. It remains to be seen if the meat processing industry will encounter the same pitfalls.

### Notes

- 1 Directive 2014/67/EU, a directive to enforce 96/71/EC, was voted on by the European parliament in April 2014 and was welcomed by the European Commission on May 13, 2014 (European Commission 2014). The text of 2014/67/EU is available at [www.eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32014L0067](http://www.eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32014L0067).
- 2 COM (2013) 236, 2013/0124/COD, a proposal for an additional directive on measures to facilitate the exercise of rights conferred on workers in the context of their freedom of movement was issued in 2013.
- 3 The full text is available at [www.gesetze-im-internet.de/aentg\\_2009/BjNR079900009.html](http://www.gesetze-im-internet.de/aentg_2009/BjNR079900009.html).

### References

- “Arbeitsmarktöffnung: DGB warnt vor Lohndumping.” 2007. *Spiegel Online*, July 25. [www.spiegel.de/wirtschaft/arbeitsmarktoeffnung-dgb-warnt-vor-lohndumping-a-496358.html](http://www.spiegel.de/wirtschaft/arbeitsmarktoeffnung-dgb-warnt-vor-lohndumping-a-496358.html).
- BA (Bundesagentur für Arbeit). 2013. “Arbeitsmarkt in Zahlen: Beschäftigungsstatistik” (“Opening the Labor Market: The DGB Warns against Wage Dumping”). [statistik.arbeitsagentur.de/Statistischer-Content/Statistik-nach-Themen/Statistik-nach-Wirtschaftszweigen/Generische-Publikationen/Beschaeftigung-nach-Laendern.pdf](http://statistik.arbeitsagentur.de/Statistischer-Content/Statistik-nach-Themen/Statistik-nach-Wirtschaftszweigen/Generische-Publikationen/Beschaeftigung-nach-Laendern.pdf).
- BMAS (Bundesministerium für Arbeit und Soziales). 2014. “Der Mindestlohn kommt” (“The Minimum Wage Is Coming Along”). Press release. German Ministry of Labor, April 2. [www.bmas.de/DE/Service/Presse/Pressemitteilungen/mindestlohn-kommt.html](http://www.bmas.de/DE/Service/Presse/Pressemitteilungen/mindestlohn-kommt.html).
- Brümmer, Matthias. 2013. “Arbeitnehmerentsendung in Deutschland und den Niederlanden” (“Posting Workers in Germany and the Netherlands”). Presentation at workshop: Transnational Workers in Germany and the Netherlands, Hans-Böcker-Stiftung, Düsseldorf, April 2.
- Chemnitz, Christine, and Reinhild Benning, eds. 2014. *Fleischatlas: Daten und Fakten über Tiere als Nahrungsmittel (Meat Atlas: Figures and Facts about Animals as Food)*. Berlin: Le Monde Diplomatique/TAZ Verl.- und Vertriebs-GmbH.
- Czomer, Lars, and Gerogand Worthmann. 2005. “Von der Baustelle auf den Schlachthof: Zur Übertragbarkeit des Arbeitnehmerentsendegesetzes auf die deutsche Fleischbranche” (“From the Construction Site to the Butcher: On the Implementation of the Posted

- Workers Act in the German Meat Processing Industry"). IAT-Report. Institut für Arbeit und Technik Wuppertal.
- Deutscher Bundestag. 1992. "Missbrauch ausländischer Werkvertrags- und Saisonarbeitnehmer, Lohn und Arbeitsrechtsdumping und verstärkte Verfolgung illegaler Beschäftigungsverhältnisse durch die Bundesanstalt für Arbeit und die Hauptzollämter" ("Abuse of Foreign Contract and Seasonal Workers' Wage Rights and Labor Dumping and Increased Persecution of Illegal Employment by the Federal Institute for Labor and the Main Customs Offices"). Drucksache 12/3299. [dipbt.bundestag.de/doc/btd/12/032/1203299.pdf](http://dipbt.bundestag.de/doc/btd/12/032/1203299.pdf).
- Deutscher Bundestag. 1994. "Antwort der Bundesregierung auf die Kleine Anfrage der Fraktion der SPD: Zutreffende Besteuerung der in der Bundesrepublik Deutschland tätigen osteuropäischen Werkvertragsarbeitnehmern" ("Answer by the German Government Regarding the Request of the SPD: The Valid Taxation System for Eastern European Service Contract Employees Working in Germany"). Drucksache 12/7784. [dipbt.bundestag.de/doc/btd/12/077/1207784.pdf](http://dipbt.bundestag.de/doc/btd/12/077/1207784.pdf).
- "Deutsche sind billiger: 600 Dänen verlieren ihren Job" ("Germans Are Cheaper: Six Hundred Danes Lose Their Jobs"). 2010. *Hamburger Abendblatt*, March 24. [www.abendblatt.de/wirtschaft/article1433372/Deutsche-sind-billiger-600-Daenen-verlieren-ihren-Job.html](http://www.abendblatt.de/wirtschaft/article1433372/Deutsche-sind-billiger-600-Daenen-verlieren-ihren-Job.html).
- Empen, Jochen. 2012. "Zum Umgang mit Werkvertragsarbeitnehmern in Schlachthöfen und konkrete Beratung vor Ort" ("On the Handling of Service Contract Employees Working in Slaughterhouses and the Concrete Support on the Spot"). *Faire Mobilität*, November 16. <http://www.faire-mobilitaet.de/veranstaltungen/konferenzen/++co++7d6ebdf0-358d-11e2-a0f1-00188b4dc422>.
- European Commission. 2014. "Commission Welcomes Council Adoption of Posting of Workers Enforcement Directive." *European Commission*, May 13. [ec.europa.eu/social/main.jsp?langId=en&catId=471&newsId=2066&furtherNews=yes](http://ec.europa.eu/social/main.jsp?langId=en&catId=471&newsId=2066&furtherNews=yes).
- European Parliament. 2013. "Subject: Complaint of social dumping filed against Germany by Belgian Ministers." *Parliamentary Questions*, April 12. [www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+E-2013-004208+0+DOC+XML+Vo//EN](http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+E-2013-004208+0+DOC+XML+Vo//EN).
- European Union. 2012. Treaty on the Functioning of the European Union. *Official Journal of the European Union*, C 326: 47–390. [eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN).
- Grossarth, Jan. 2013. "Das billige Fleisch hat seinen Preis" ("Cheap Meat Has Its Price"). *Frankfurter Allgemeine Zeitung*, April 15. [www.faz.net/aktuell/wirtschaft/wirtschaftspolitik/lebensmittel/arbeitsbedingungen-auf-schlachthoefen-das-billige-fleisch-hat-einen-preis-12148647.html](http://www.faz.net/aktuell/wirtschaft/wirtschaftspolitik/lebensmittel/arbeitsbedingungen-auf-schlachthoefen-das-billige-fleisch-hat-einen-preis-12148647.html).
- Gumbrell-McCormick, Rebecca, and Richard Hyman. 2013. *Trade Unions in Western Europe: Hard Times, Hard Choices*. Oxford: Oxford University Press.
- Hall, Peter, and David Soskice. 2001. "An Introduction to Varieties of Capitalism." In *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage*, edited by Peter Hall and David Soskice, 1–68. Oxford: Oxford University Press.
- Hassel, Anke. 2001. "The Governance of the Employment-Welfare Relationship: The Cases of Germany and the UK." In *Comparing Welfare Capitalism: Social Policy and Political Economy in Europe, Japan, and the USA*, edited by Bernhard Ebbinghaus and Philip Manow, 146–70. London: Routledge.

- Kahmann, Marcus. 2006. "The Posting of Workers in the German Construction Industry: Responses and Problems of Trade Union Action." *Transfer: European Review of Labour and Research* 12, no. 2: 183–96.
- Leubecher, Marcel. 2013. "Deutschland ist Europas Schlachthaus" ("Germany Is Europe's Slaughterhouse"). *Die Welt*, July 7. [www.welt.de/wirtschaft/articlen18425725/Deutschland-ist-Europas-Schlachthaus.html](http://www.welt.de/wirtschaft/articlen18425725/Deutschland-ist-Europas-Schlachthaus.html).
- NGG (Nahrung-Genuss-Gaststätten). 2014. "Endlich! Mindestlohn für die Fleischindustrie vereinbart!" ("Finally! Minimum Wage in the Meat Processing Industry!"). Press release. [www.ngg.net/branche\\_betrieb/fleisch/flugblaetter\\_zu\\_tarifabschluessen/fleischwirtschaft-mindestlohn-bundesweit/fleischwirtschaft-mindestlohn-bundesweit.pdf](http://www.ngg.net/branche_betrieb/fleisch/flugblaetter_zu_tarifabschluessen/fleischwirtschaft-mindestlohn-bundesweit/fleischwirtschaft-mindestlohn-bundesweit.pdf).
- Palier, Bruno, and Kathleen A. Thelen. 2012. "Dualization and Institutional Complementarities: Industrial Relations, Labor Market, and Welfare State Changes in France and Germany." In *The Age of Dualization: The Changing Face of Inequality in Deindustrializing Societies*, edited by Petra Emmenegger, et al., 201–25. Oxford: Oxford University Press.