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Winning the battle or losing the war: the impact of European integration on labour market institutions in Germany and Denmark

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ABSTRACT
The European Union (EU) literature sees increasing market liberalization as a challenge for models of national capitalism. EU liberalization, it is argued, erodes national employment regimes and social protection. However, other scholars highlight the ability of national institutions to reinvent themselves. This contribution assesses these claims by exploring an extreme case of labour market pressure driven by EU liberalization. Focusing on the meat production sector, it shows that low-wage labour migration has affected employment conditions in the meat production sector in Germany and Denmark in different ways: dualization has made Germany a destination country for low-wage work; in contrast, union solidarity in Denmark has kept wages high and Danish meat producers have outsourced work to Germany. The underlying industrial relations systems have shaped actors' responses to the use of migrant labour.

KEY WORDS Dualization; European integration; labour market institutions; labour migration; union solidarity

Introduction

The literature on European Union (EU) integration views increasing market liberalization as a major challenge for national models of capitalism within EU member states. Scholars argue that EU liberalization erodes national welfare and employment conditions, including wage levels and social protection. However, other scholars highlight the ability of national institutions to adjust to the challenge and develop new forms of employment conditions. This contribution assesses these claims by exploring an extreme case of labour market pressure partly driven by EU liberalization. The 1993 establishment of the Single European Market allowed for the free movement of workers, which has resulted in cheap labour migration from Eastern Europe. Employment conditions in the meat production sector in Germany and

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Denmark have been affected in different ways. While in 1996, wages for union members working for slaughterhouses in Denmark and Germany were roughly the same (Kristensen *et al*. 1996), wages have since moved in opposite directions: they have increased in Denmark to an average of about €34 per hour, whereas in Germany they have fallen to about half the Danish wage level. Subcontracted East European workers in Germany could make as little as €1.50 per hour until the recent adoption of a minimum wage (Leubecher 2013).

These discrepancies in labour costs pose a major challenge for employment regimes and the welfare states in Germany and Denmark. These differences also indicate that countries follow different pathways when dealing with migrant workers. Both countries are known as high-skill, high-value added economies (Thelen 2014) and, as international wage pressures have intensified, these countries have long since moved away from producing low-end, traditional, manufacturing products such as apparel and consumer electronics. However, the creation of the single European market has been an important driver of change in employment conditions and has elicited distinctly different responses in the German and Danish meat production industry. Different employment regimes have fuelled a process of institutional arbitrage that has led to an increasing relocation of Danish jobs to Germany, where highly dualized labour practices allow for very low labour costs.

Labour market liberalization in the EU is established not only through the freedom of movement principle but also through the freedom of establishment and freedom of services principles that guarantee all EU citizens the right to set up a business and work in other countries on the basis of the hosting member state's labour laws. As citizens of the European Union are free to move and work within its territory, they have the right to establish a business in another member state under the same conditions as residents. Under the freedom of services principle, when companies take up temporary economic activities in other member states, posting of workers offers an option for cross-border economic activities.

According to the Posted Workers Directive (PWD), finalized in 1996, employees hired in one member state and posted to work in another member state do so under the social protection and wages of the sending country, unless specifically regulated by the destination country. These instruments have facilitated labour migration and introduced the potential for vastly different wages for migrant workers within the high-wage countries of Western Europe. Host states receive posted workers temporarily, but have little information about the actual economic conditions and activities in their home countries (Schmidt 2008, 2009). As the EU is characterized by high earnings differentials, the directive offers a framework under which posted workers may work 'side-by-side' with resident workers but are located in a secondary labour market: their work contracts are signed in their home country and their social contributions as well as taxes are also paid there. Therefore, from an economic and a legal perspective, they remain rooted in their home countries. The average gross annual earnings among EU member states ranged, in 2011, from €60,000 in Denmark to €4,600 in Bulgaria (Eurostat 2011). This substantial wage discrepancy gives companies a great incentive to recruit migrant workers for low wages.

We proceed as follows: we start by situating our article in a theoretical debate about market integration and labour standards in the EU that emphasizes the role of institutional arbitrage as a driver of employment conditions. We then present our methodology. Next we explore the response by German and Danish labour market institutions to EU liberalization, focusing on meat production. We conclude with a discussion of the implications of our findings for the future of the European labour market.

Different trajectories of market regulation

The Continental and Northern European welfare states have long been bastions of the social regulation of business and the market. While economically among the most competitive and successful economies in the world, they have been confronted by strong pressure towards liberalization. Some of this pressure stems from the liberalization of the European Single Market and other initiatives to ensure European economic integration. Polanyi argued that society has a long-standing tradition of regulating business if market forces get out of hand (Polanyi 1944). Once the free market attempts to separate itself from the fabric of society, social protectionism is society's natural response (Ruggie 1982). In some spheres, we can observe a Polanyian countermovement to regulation; in others not.

In order to understand the multi-layered European political economy, the key question is how governments respond to EU liberalization pressures and under which circumstances liberalization stemming from the EU and elsewhere is counteracted or embraced. Two different perspectives inform the debate about how best to answer this question: according to one perspective, given the variety of existing capitalisms within the EU, European integration increasingly results in a 'clash of capitalisms', as policies aimed at fostering integration create a scenario in which supranational actors and institutions, such as the European Court of Justice (ECJ), push for liberalization and expand their areas of action and responsibility, thereby eroding the national welfare states (Höpner and Schäfer 2010).

According to these authors, the current phase in the process of European integration is characterized by the Commission-conscious drive for 'modernization' and 'liberalization' towards the Anglo-Saxon model (*ibid*.). Höpner and Schäfer argue that the European Commission strategically promotes the removal of institutions intended to organize national economies, as institutions are perceived as obstacles to the economic union. Regulatory institutions are, hereby, consecutively separated from the economic units no longer under the control of member states. The rationale behind this strategy is to expand the influence and responsibility at the supranational level. In consequence, a clash between national and supranational institutions occurs, as the liberalization process lacks the necessary legitimacy (*ibid*.).

This argument is an extreme version of a general trend in the literature that perceives EU integration as a process of 'decoupling' the social dimension from economic integration goals, while enhancing economic integration and liberalization (Scharpf 2002). From its beginning, economic integration through market creation and undistorted competition was at the heart of European integration, while the development of re-distributive social policies remained a national affair. Member states are restricted in their ability to take individual economic decisions, as these might interfere with the already existing economic union.

On the other hand, Moravcsik (1998), and later Schimmelfennig (2013) argue that the economic or institutional preferences of governments depend strongly on the existing institutional strength of their welfare state. If the welfare state institutions in a member state are stable and strong, domestic economic and institutional interests will also influence the state's institutional preferences in the implementation process. Correspondingly, in the absence of strong opposition from institutions, like social partners, member states will choose the liberalization path, using EU law to strengthen the economy.[1]

These perspectives are not mutually exclusive. Both argue that EU integration is processed via national institutions. The key question, however, remains: how much leverage do governments and other actors possess when responding to EU liberalization pressure?[2] In order to understand the evolution of national political economy in the EU context, we need to analyse which interests and institutions inform governments when deciding to protect or expose a sector to liberalization. Labour migration within the EU is a good field for studying institutional adjustment and arbitrage. Migrant labour, in a context of wide social and economic inequality, as in the enlarged European Union, poses major challenges to mature welfare states with highly regulated labour markets.[3]

While EU labour mobility is guaranteed by the EU treaties, member states can pursue their own adjustment strategies beyond decision procedures at the European level. They are not victims of supranational liberalization, but active agents, who can either reinforce liberalizing mechanisms or counteract them. For example, in the Rush Portuguesa ruling, the ECJ clearly stated that:

> [EU] law does not preclude Member States from extending their legislation, or collective labour agreements entered into both sides of the industry, to any

person who is employed, even temporarily, within their territory, no matter in which country the employer is established nor does (EU) law prohibit Member States from enforcing those rules by appropriate means.[4]

ECJ rulings, such as in the so-called Laval, Rüffert and Viking[5] cases (Scharpf 2010), clarify the pressure for member states to protect and support industrial relations regimes in line with regulations created in the course of EU integration. In the absence of these regulations, legal gaps occur which will enforce the process of liberalization. Counter strategies include labour market re-regulation, legal adjustment and redesigning welfare entitlements. Member states also make decisions about the role and influence of the social partners within the implementation process.

In this contribution we investigate how governments have responded to liberalization pressure stemming from EU migration patterns. We focus in particular on why national actors have decided to let employment regulation erode in one case, and why it was upheld in the other. We assume that policy responses by governments are agency-based, but at the same time not completely open. As will be outlined below, the industrial relations systems drive the economic strategies of governments to either embrace liberalization or oppose it.

Methodology

We adopt a case study approach, based on an extensive collection of information and web searches over a period of two years, as well as expert interviews with key actors in both countries (an overview of the eight interviewed experts is provided in Appendix). We pursue a 'most-similar' systems design and focus on Germany and Denmark, which are both highly-regulated, advanced, industrialized economies and referred to as co-ordinated market economies (CMEs) in the varieties of capitalism literature (Hall and Soskice 2001). The countries are considered to have relied on similar mechanisms within the co-ordination of their institutional structure. However, we will show that, irrespective of this theoretical categorization, Germany and Denmark have very different labour market institutions and this is the distinguishing factor in this context.

Germany's industrial relations system has strong insider protection (Hassel 2007). Denmark, on the other hand, has comprehensive trade union involvement and a highly flexible labour market (Campbell and Pedersen 2007; Thelen and Martin 2007). In the wake of labour market reforms during the past few decades, Denmark has managed to maintain a high level of comprehensive co-ordination, while Germany is now seen as more disorganized (Thelen and Martin 2007). Moreover, trade unions in Denmark have been open and inclusive for so-called labour market outsiders and included them into their positioning and industrial relations institutions, whereas Germany does not (Hassel 2015). As migrant workers are generally defined as labour market outsiders, Denmark is expected to opt for strategies that include mobile workers into their labour market system.

We examine the treatment of migrant labour in the meat production industry to explore the dynamics of EU labour market liberalization. Meat production is extremely cost-conscious (Spiller and Schulze 2008), with particularly pronounced external competitive pressures (Refslund 2013), which increases the impact of labour market institutions. Within the European Union, both countries range among the top five countries in pork processing. However, as shown in Figure 1, Germany is the biggest meat processor of pork in the EU.

The meat industry is an extreme case of EU liberalization resulting in severe challenges to the German and Danish labour markets. The sector is known for high cost pressure, bad labour practices and the rampant exploitation of migrant workers. In this industry, we find migrant workers from the poorest member states working in those with the highest average wages in the EU. In Germany, we find a large number of migrant workers in the meat production industry, while this has not been the case in Denmark. Danish wage agreements cover the entire industry, while in Germany collectively agreed wages only cover about a third of the non-subcontracted staff, amounting to less than 10 per cent of all workers in the German meat industry. The other 90 per cent risk precarious employment contracts.

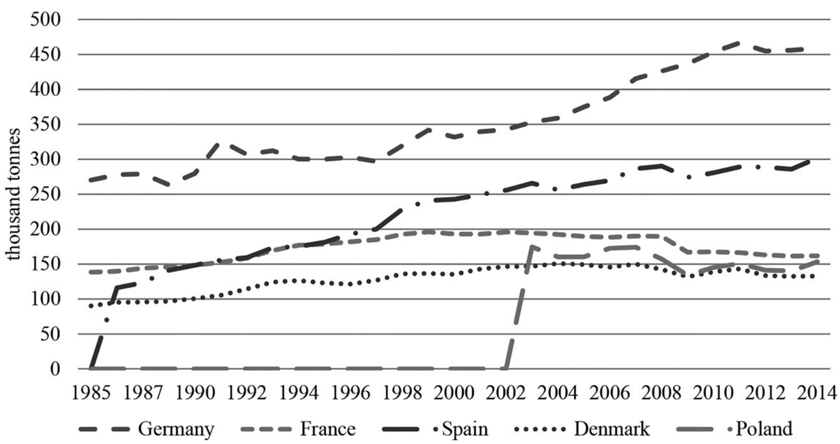

Figure 1. Average amount of pigs slaughtered per month (in thousand tonnes). Top five countries in Europe, 1985–2014. Source: Own calculations based on: Eurostat (2015). Meat production and foreign trade – head – monthly data.

Secondary labour markets and exploitation in the German meat industry[6]

Prior to the EU Single Market programme, structural changes in German meat production, such as organizational changes and technological innovations, were beginning to take place. Before the 1980s, the industry mainly consisted of small and medium enterprises, and meat processing and slaughtering used to be handled by slaughter troops in Germany. Groups of self-employed butchers went from region to region to slaughter the animals. However, owing to expansion and new hygienic requirements, employers increasingly preferred subcontracting, which reduced wages and made the profession less attractive (Interview III; Interview V). Instead of upgrading work and pay, employers and subcontractors began to bring in contract workers from Eastern Europe, who had already come to Germany in the 1980s, on the basis of bilateral government agreements. After 1989, these contracts continued for some time, until the EU accession of Eastern Europe, combined with the adoption of the Posted Workers Directive (PWD), enabled a new pattern of labour migration. This pattern is based on subcontractors in the new EU member states who facilitate the posting of workers to German slaughterhouses. Until 2014, subcontractors competing for contracts in slaughtering were not bound by collective agreements in the meat industry, nor by the going industry wage, but could pay home country wages. They also did not have to pay the same amount of social security contributions, which, in Germany, amount to 40 per cent of the gross wage. Meat processing, thereby, underwent a shift from the first to the second labour market, decreasing its attractiveness for native workers (Piore 1979).

The number of native workers constantly decreased during the past 15 years, whereas the number of regular employees with foreign nationality increased. Figure 2 provides an overview of postings by destination countries (from the old EU15 member states, as well as from the new EU12 member states in 2011). In 2011, Germany received a total of 311,361 posted workers from other EU countries.

According to the German National Employment Agency, 143,392 employees were registered as working in the slaughter and meat processing industry in 2013, out of which 21,249 were foreign nationals (see Figure 2 for an overview of regular employees in the meat processing industry in Germany 2002–2013). The data also confirm a constant decrease in the number of those employed in the sector.

However, these figures refer to foreign nationals with regular employment contracts in Germany and do not include posted workers employed via subcontractors, as these workers pay their contributions in their home countries. Data based on the number of A1 forms issued for posting to Germany indicate, moreover, that after construction, meat processing is the second

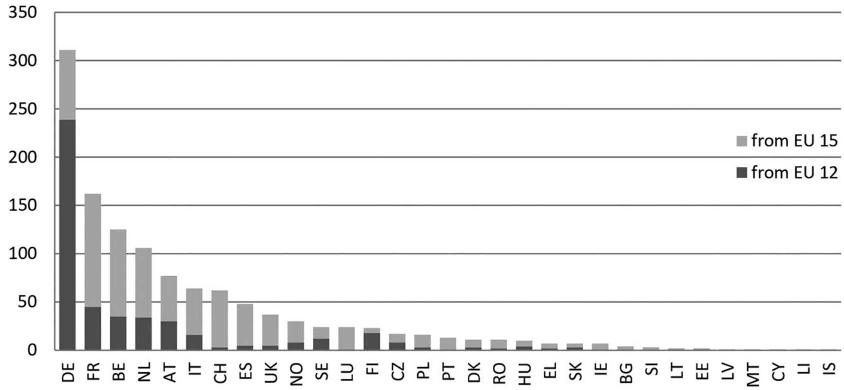

Figure 2. Postings by destination countries, 2011 (in 1,000). Source: EU Commission (2012). Posting of workers in the European Union and EFTA countries: Report on A1 portable documents issued in 2010 and 2011, p. 12. Based on administrative data from EU member states.

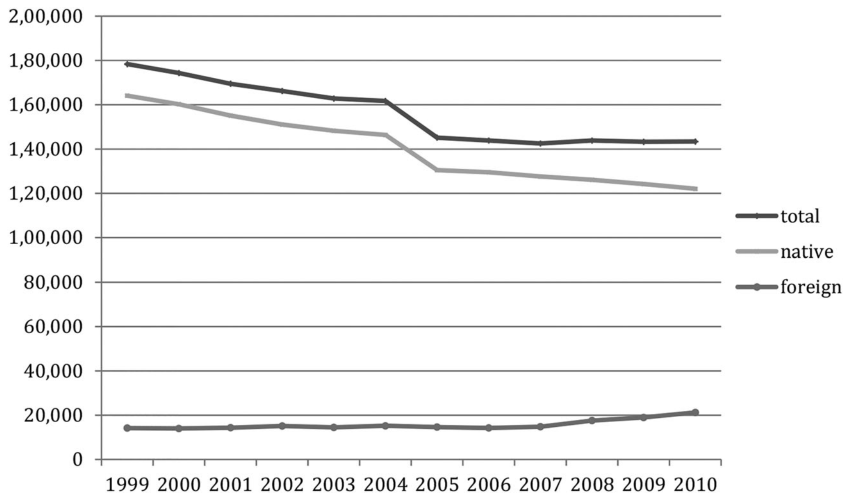

Figure 3. Number of regular employees in the meat processing industry in Germany, 2002–2013. Source: Bundesagentur für Arbeit: Beschäftigungsstatistik: Sozialversicherungspflichtig Beschäftigte Wirtschaftszweigen.

biggest sector receiving posted workers in Germany (Wagner and Hassel 2014).

The main trade union in meat processing (Gewerkschaft Nahrungs-Genuss-Gaststätten, NGG) claims that within the four largest companies in Germany, approximately 69 per cent of all workers are posted, leaving only 31 per cent being regularly employed staff (Brümmer 2013).

According to the employers' organizations, the level of skills required in the industry made workers from post-communist countries particularly attractive for domestic meat processing companies. In comparison to regular employment contracts, posting has been considered a cheaper and more lucrative option, as wage and tax differentials between posting country and receiving country ensure a comparatively high wage from a home country perspective and a cheap wage option for the receiving country (Interview V).

Companies and employers' organizations link the rise of subcontracting to the existing service contract law, according to which certain processes have to be outsourced entirely to subcontractors to prevent violations of the temporary employment act when employing foreign workers (Interview VI). A company cannot mix posted workers, or temporary workers, with regular employees without violating the law. Therefore, slaughter and dismantling has been subdivided into various work steps and outsourced to different companies accordingly (Interviews III, IV).

The contract, signed with the subcontractor, is a service contract, passing on the liability for the work and the workers employed. Domestic subcontractors sign a group of subcontracts for the different processes with different, mostly foreign, but also domestic, companies. The wages of posted workers as well as regular employees of subcontracting firms vary between €1.50 and €8 per hour (Leubecher 2013). Apart from pressure on wages, trade unions claim that the predominant systems of subcontracting and the posting of workers have negative long-term effects on the German industry as a whole (Interview II). One of the consequences has been the rapid decline in apprenticeships within the sector. Trade unions and employers' organizations confirm that little investment is made in the training and recruitment of apprentices within the German labour market, thereby increasing the dependency on subcontracting companies, where little is known about intra-company qualifications (Interviews II, III, VI).

Trade unions have demanded co-determination rights for subcontracting strategies in general, as well as regarding the content of the work outsourced to subcontractors (Interview II). Unions are weakly organized, however, and traditionally have not recruited migrant or posted workers. Only two of the four major meat-processing companies have works councils and collective agreements but works councils are not consulted over subcontracting. Collective agreements only cover employees in the main firm, ensuring that their wages are approximately 80 per cent higher than those of employees working for subcontractors. Employers' organizations claim that the meat processing industry in Germany during the past few decades has been characterized by a fragmented structure with little or no communication between the four major companies (Wiesenhof, Tönnies, Vion and Danish Crown). Only after extensive media and government pressure in 2012 and 2013 was a dialogue established between the main companies. However, subcontracting companies were not represented and have not shown any interest in representation by the existing organization (Interviews III, VI).

Recent media and political interest in labour exploitation and cheap labour in the meat processing industry in Germany primarily focused on posted workers working via subcontracting companies in Germany. In response to this public debate, trade unions, employers' organizations, as well as national and regional governments, started negotiations to discuss initiatives to stabilize the industry and restore its reputation. In January 2014, an agreement was reached, introducing a sectoral minimum wage, as of July 2014, starting at €7.75, slightly below the national minimum wage of €8.50, which came into effect in January 2015. The minimum wage is universally binding and also applies to posted workers working for subcontractors. More importantly, the main firms are now liable for the payment of minimum wages in subcontracting companies.

Employer representatives have welcomed the negotiations, as the minimum wage is considered to be a mechanism to stop the price-dumping within the industry. Moreover, the four major companies in Germany are planning to use the signed collective agreement as a legal basis for introducing auditing mechanisms for their subcontractors. Auditing mechanisms are necessary for the general contractors to ensure the compliance of their subcontractors, for which they will be legally liable (Interview V). This initiative is part of a code of conduct which is planned in co-operation with trade unions and the Federal Ministry of Labour, on behavioural and control obligations for subcontractors regarding posted workers' pay, housing and living conditions (Interviews V, VI).

The German case shows how the growth and expansion of the meat industry has taken place along with little or no labour protection. The biggest firms have few permanent employees who are covered by collective agreements or paid above average wages, complemented with a large number of migrant and posted workers on very low wages. The employers' organization is weak, because subcontracting companies are not part of collective agreements. Meat processing firms benefit from the structure of subcontracting within the industry and the supply of posted workers. The adoption of the minimum wage and collective agreement signals the limits of the liberalization and deinstitutionalization strategy of the last decade.

Maintaining standards: the Danish case[7]

Denmark offers the same high wage level to all employees in the meat industry but this increasingly comes at the cost of the viability of employment, as outsourcing to Germany continues. Denmark is an example of a small open economy (Katzenstein 1985), where a dynamic export economy is coupled with a collectivization of risks. Most Danish workers belong to unions and are covered by collective bargaining agreements, reached through corporatist institutions. However, there is no minimum wage set by law, and collective agreements are not generally applicable. For a worker, the only way to be covered by a collective agreement, and thereby be entitled to a minimum wage, is to join a company that has signed a collective agreement. The union for meat production workers (Nærings- og Nydelsesmiddelforbundet, NNF) demands that all workers in Denmark receive the union-agreed wage (Interview VII).

Between 2008 and 2012, private, salaried jobs in Denmark declined by 10.7 per cent (Elmer 2013). The meat industry has experienced a particularly steep drop in employment. In 2014, overall employment in the meat production industry in Denmark was estimated to be about 40,000 (Refslund 2013). In 2012, employment in slaughterhouses declined to only 7,053 workers from 14,300 in 1997 (Table 1). During a nine-month period in 2009 alone, the largest meat producer, Danish Crown, laid off more than 2,500 workers (Refslund 2013). In 2012, only two pig slaughterhouses were left in Denmark: Danish Crown accounts for about 80 per cent of all slaughterhouse jobs in Denmark (worldwide turnover was about DKK52 billion – about €7 billion), while Tican manages the remaining 20 per cent (Refslund 2013). Recently, in January 2014, Danish Crown made a decision to move 472 jobs – about 5 per cent of the remaining slaughterhouse jobs left in Denmark – to Poland and Germany in order to take advantage of the lower wages in these two countries (Andersen 2014).

The decline in meat production employment in Denmark is a fairly recent development. At the beginning of the new millennium, slaughterhouses were scrambling to attract workers. Denmark enjoyed almost full employment and slaughterhouses were not seen as attractive places to work. The sector had the most workplace accidents of any sector in Denmark (Refslund 2013) and the work is very physically demanding, with a high degree of stress. In the early 2000s, Danish Crown won substantial fame in Denmark for instituting new programmes, supported by government subsidies, to attract workers with other problems than unemployment. It hired workers who had previously been on welfare for as long as 15–20 years, workers with substance abuse problems, mental illness or those who were recent immigrants to Denmark (Kirkelund and Kolbech 2005; Knudsen and Brown 2014). Many employees of Danish Crown became involved in supporting the new workers and helping them make the transition from social welfare to regular work. The programmes were highly successful, and most new recruits stayed with Danish Crown on regular contractual terms after the initial state subsidy ended (Kirkelund and Kolbech 2005).

However, in the last decade, employers have outsourced production to Germany and Poland where wages are much lower. Table 1 provides an

Table 1. Overview of hourly wages and employment in Danish slaughterhouses, 1997–2012.

Year	Hourly wage DKK	Employment
1997	168	14,300
1998	177	14,200
1999	182	14,400
2000	188	13,700
2001	197	13,900
2002	205	14,300
2003	213	13,900
2004	217	13,000
2005	223	12,000
2006	227	10,900
2007	240	10,700
2008	251	10,000
2009	255	8,600
2010	256	7,800
2011	258	7,510
2012	259	7,053

Source: Landbrug and Fødevarer (https://www.lf.dk/Tal_og_Analyser/Aarstatistikker/Statistik_svin/Tidligeres_statistikker.aspx).

Table 2. Dismissed Danish Crown workers (1,675) and their subsequent career paths.

Category of activity	Total number of workers	Percentage
New employment in food sector (remain in NNF union)	583	35
New employment (not in the meat industry)	603	36
Other (including education)	232	14
Retirement (including early retirement)	158	9
Unemployed	93	6
Other	6	0
Total	1675	100

overview of the hourly wages in Danish slaughterhouses and the number of workers employed there from 1997 to 2012.

In contrast to Germany, labour migration and subcontracting have not played a role in Danish slaughterhouses because of the structure of industrial relations in Denmark. The slaughterhouse workers' union to this day continues to organize nearly 100 per cent of all slaughterhouse workers. Slaughterhouse workers, therefore, have enjoyed a favourable position *vis-à-vis* employers, since there were no non-union factory alternatives to slaughtering animals in Denmark.

While the high level of union membership has traditionally been a core union strength, the option to move production to cheaper locations within the EU is fast eroding the union's traditional power. Facing a declining number of slaughterhouse workers, the NNF has explored new ways that the union can stay relevant, including working proactively to prevent social dumping (Interview VII). In recent years, for example, the NNF has sought to organize Polish colleagues working in Denmark. NNF has hired a 'bro-bygger' ('go-between'), Jurek Okipny, from Poland who has worked to make sure that Polish employees in Denmark join local NNF union chapters. This attempt has been a major success. Polish members of the NNF have stayed organized, and more workers have joined (Interview VII). In addition, one of the new union representatives (tillidsrepræsentant) of the NNF is Polish (Arbejderen 2012).

The employers' association (Slagteriernes Arbejdsgiverforening) has campaigned for lower wages and taxes in Denmark, arguing that without economic support meat production will be completely outsourced. The Agriculture and Food Council, which represents the farming and food industry of Denmark, including businesses, trade and farmers' associations, has consistently made the point that in order for the industry to remain competitive, labour-intensive production needs to be outsourced, while those parts of the industry that can be made more efficient through automation should remain in Denmark. While employment has faced a steep decline, the number of pigs slaughtered in Denmark has remained more or less unchanged (Interview VIII).

In 2013, government ministers and union representatives supported the proposal for a wage cut to finance an increased production of pigs (Politiken 2013). Furthermore, Danish politicians have also supported the adoption of a minimum wage in Germany as a way to level the competitive playing field. Facing a high degree of job loss, the NNF has openly supported lowering taxes for the food industry as a way of reducing production costs. The NNF maintains that it is important to focus on fighting social dumping rather than focus on adjusting (lowering) the Danish wages for slaughterhouse workers (Van Gilse 2013). The union suggested that adjusting the taxes imposed on the food industry would be a better solution than lowering Danish wages (Damgard 2012; Schwennesen 2012; Van Gilse 2013).

In the autumn of 2013, the union, together with the employers' association, began to consider new approaches to improving productivity in Danish slaughterhouses (Interview VII). The union proposed a wage cut of 6.4 per cent (about DKK25,000 before tax/year). The savings in wages would be set aside in order to help establish a foundation that would finance the slaughtering of three million more pigs for the next four years. Farmers would also invest in the foundation, and thus both union and employers would finance productivity gains (Danish Crown is a co-operative owned by farmers). An agreement between NNF and the Confederation of Danish Industry (DI) was finally presented on 3 June 2014 consisting of the following key elements: (1) the agreement to save the site required a cut in production costs of DKK25 million per year; (2) management would commit to investing in new technology; (3) the agreement included the establishment of an Employee Investment Company (EIC) to provide funding for investments. The EIC is a new legal construction that receives tax exemptions for investments and makes it possible for workers to get a return on their investment. Investments can be between 5 and 10 per cent of workers' income, with a limit of DKK35,000/year. The investment should run at least three years and was intended to provide social partners with an alternative to pure wage reductions. Worker contributions are equivalent to 3.5 per cent of gross earnings and can come from the so-called Free-Choice account (fritvalgskontoen) in the collective agreement, which may be used for extra vacation, pension or wages. Workers will get some money back once the goal of DKK25 million in cost reductions per year has been reached – but no earlier than 2017. In addition to this agreement, the central government set aside DKK1.3 million to invest in the plant. A 90 per cent employee majority subsequently supported the agreement. However, meat production employment has continued to decline and NNF membership is at an all-time low. In fact, in 2016, NNF will decide whether to merge with the Metal Workers Union (Dansk Metal 2015).

While meat production employment has nearly disappeared in Denmark, the Danish labour market model remains successful in re-employing former meat production workers. For example, Danish Crown laid off 632 workers in 2012, and one year later, 95 per cent of the workers had found a new job, had begun retraining for a new profession or had retired (Arbejderen 2015). NNF provided data from five Danish Crown plant closures, as well as data on approximately 1,675 workers employed in previously closed plants.[8] The closing of a Danish Crown production facility takes place step-by-step so workers have some time to adjust and look for other work, enter an education programme, plan for retirement, etc. While 36 per cent had found new employment outside the broader food industry, 35 per cent had found employment elsewhere within it. Fourteen per cent were pursuing a new career path, including entering an education programme, and 9 per cent had retired (including early retirement). Only 6 per cent of the dismissed workers remained unemployed. Table 3 illustrates the career paths of these 1,675 dismissed Danish Crown workers.

For the (few) remaining meat production workers in Denmark, wages and working conditions have remained attractive, in contrast to the situation for workers in Germany. However, the preservation of the Danish industrial relations system has come at a high cost, as more than half the workers in the Danish slaughterhouses have lost their jobs. Nonetheless, the Danish labour market system has proven its value, as dismissed workers have been re-employed. In addition, Danish trade unions have chosen a much more inclusionary strategy towards foreign workers. They have ensured the host country principle for posted workers and created paths for trade union inclusion of migrant workers. At the same time, trade unions have not chosen to focus on sector specific protection and to prevent the meat industry from leaving the country at all costs. Instead they have focused on the protection and reintegration of their members into the labour market.

Discussion and conclusion

The Single European Market – along with other market pressures, such as organizational and technological innovations – interacts with domestic labour market models to distinctly shape different employment conditions in Germany and Denmark. Referring back to our theoretical discussion about the role of domestic institutions, we can identify key factors that shape the different responses in our two cases. EU reforms have contributed to the rise of the secondary labour market in Germany. A key reason is that national industrial relations have been both segmented and weak in this particular sector. Before 2014, collective agreements in the meat production industry only covered 10 per cent of meat production workers. As Thelen (2014) has argued, industrial relations in Germany are characterized by dualization, which involves a zero-sum choice between defending the interests of labour market insiders or taking up the cause of labour market outsiders. Labour market institutions are conducive to job creation, but at the cost of employment conditions that include social protection. Rather than being seen as a story of weakness and erosion, the German story can also be interpreted as an economic strategy of firms exploiting access to low-cost labour.

The sector as a whole has benefitted from low wages and has expanded based on the existing structures of subcontracting and outsourcing. Through relocation and concentration of production, Germany has now established itself as a major meat producer in the EU. Ironically, the opening of the Eastern European market, where meat production was primarily located in Hungary and Poland, did not lead to the outsourcing of German meat production to Eastern Europe. Instead, German business was able to combine its high technological standards and industry experience with a business model that relied on cheap labour from Eastern Europe. The PWD has facilitated an employment regime which allows for different wage and employment tiers within the same production facility in a high-wage country. Posted workers, who work for East European subcontractors, have minimal contact with German employment conditions. They pay no taxes or social insurance in Germany, nor are they part of the German co-determination systems. Even though they can be posted for several years to the same slaughterhouse, they are not part of the German employment regime.

The inclusive strength of Danish trade unions prevented Danish firms from establishing a similar regime, although union protection resulted in major job losses, and these jobs are not likely to return to Denmark again. However, the Danish labour market model has, so far, generally proven itself to be successful, as most former meat production workers have managed to find new forms of employment. The Danish aim of full employment (and low-wage inflation) rests on high job turnover and low job tenure. Active labour market measures, such as vocational training and retraining, are key ingredients in the Danish flexicurity model, and this mix still seems to work (Campbell and Pedersen 2007; Ibsen 2015).

In contrast, German trade unions were not in a position to stop slaughterhouses from outsourcing their jobs to subcontractors. Access to skilled workers from Eastern Europe gave slaughterhouses a cheaper alternative to making jobs more attractive. In addition, owing to their primary focus on a decreasing number of insiders during the last decades, German trade unions were not powerful enough to have a voice in negotiations about the increasing use of foreign workers, until today. The collective agreement, signed in 2014, cannot be interpreted as a change in power, but more as a reaction to the increasing governmental pressure and public attention to the topic.

The restructuring of the European meat production industry can be seen as a prime example of how a European market, combined with the opportunity to post workers, potentially opens up a process of cost competition, based on institutional arbitrage. Subcontractors from Eastern Europe have major cost advantages. However, abusive practices of posted workers are common and have triggered the adoption of an enforcement directive by the EU's Council of Ministers (EU Commission Directive proposal: 2014/67/EU). Most importantly, the enforcement directive makes key standards in host countries mandatory for posted workers and includes a provision on general liability for subcontractors. The proposed changes may fall short of changing abusive practices, as these practices entail many advantages for businesses and countries alike. Cost competition through posted workers and large welfare disparities between European member states put welfare states under substantial pressure. It is important to remember that it is not just Danish meat production jobs that have been relocated to Germany; French and Belgian jobs, in particular, are also moving there (Peter 2013). Often the relocation of jobs to Germany from Denmark, France and Belgium takes place in the form of subcontracting. Migrant workers who are engaged in subcontracting can be employed in almost all industries, and this approach is also being used in the care industry (in particular in the care of the elderly), hotel and restaurants (cleaning) and the construction industry. Since 2015, Germany has set a floor for all workers by introducing a national minimum wage. In comparison to Denmark, with average wages of approximately €34 per hour in meat processing, Germany will be in a better position to keep the meat industry based on cheap wages. However, we also note that meat production is different from services such as the care industry, hospitality, cleaning and construction, as such services are consumed where they are produced. Meat consumed in Denmark does not have to be produced there. Jobs in hospitality, care, etc., are likely to remain in Denmark and Germany respectively – the question is what conditions, such as pay, these jobs will offer.

Institutional arbitrage is facilitated by the use of subcontracting and the lack of enforcement of national labour standards within member states. The example of Denmark shows that these mechanisms are institutionally defined and that the increasing use of subcontracting can be avoided. As the comparison of Denmark and Germany shows, the regulation of the scope of institutional arbitrage within the EU, and the conditions under which it takes place, remain under the partial control of member states. While liberalizing EU initiatives, such as the PWD, have introduced tools for cost competition, member states can choose whether or not to exploit them. Denmark has an institutional context of high levels of solidarity and has only liberalized its welfare system at the edges, while Germany has moved much more towards dualization (Hassel 2014; Thelen 2014). Our analysis implies that these different institutional configurations attract different kinds of production models: low-cost slaughtering has found an institutional niche in the German institutions that allows for large pools of labour market outsiders and migrant workers, whereas Denmark is likely to lose this economic activity.

More importantly, however, social partners and governments can play a key role in deciding how to employ migrant workers in their industries. Trade unions in Denmark have been actively involved in the inclusion of so-called labour market outsiders, even after the displacement of the meat industry. German trade unions have largely neglected migrant and mobile labour and have failed to play a decisive role in the protection of their labour market. Here, the PWD has been used as a means for liberalization in the industry. Moreover, the German government, if it decided to do so, could improve the oversight of subcontracting, limit its use and facilitate the level of corporate restructuring supervision through works councils and trade unions. The decision to turn a blind eye to the conditions of posted workers is not the fault of supranational liberalization but a strategic government decision to position itself as a major meat producer within the EU. Rather than a clash of capitalisms, this describes a process of economic and institutional specialization in a wider economic arena. European economic integration fosters competition between national institutional systems. The result is specialization, not convergence, towards a liberal model. Germany and Denmark continue to use their national institutions to improve their comparative advantages as they see fit. The political economies within Europe thus show rich, national variation on how to respond to the liberalization policies of the EU.

Notes

1. European integration scholars have argued that a high degree of misfit between the existing institutional regulatory traditions and the new, imposing European

rules, suggests more problematic adjustment procedures (Börzel 2000; Duina 1997; Martinsen 2015).

2. We know about national variation when it comes to the implementation and compliance with EU directives (Falkner *et al*. 2004). In this contribution, we are interested in the response by national institutions.
3. Migration in itself poses fiscal pressures and threats to solidarity that can dampen enthusiasm for welfare compensation and spark calls for welfare retrenchment (Burgoon 2012). However, these studies have focused on migrants that benefit from welfare services. In this contribution, we focus on labour migrants.
4. Case C-113/89 Rush Portuguesa v. Office national d'immigration (1990).
5. These three decisions by the European Court of Justice refer to the following cases: C-341/05 Laval un Partneri Ltd v. Svenska Byggnadsarbetareförbundet, Svenska Byggnadsarbetareförbundets avd. 1, Byggettan, Svenska Elektrikerförbundet [18/12/2007]; C-346/06, Rechtsanwalt Dr. Dirk Rüffert v. Land Niedersachsen, U. v. 3.4.2008, Slg. 2008, I-01989; C-438/05 The International Transport Workers' Federation and The Finnish Seamen's Union v. Viking Line ABP and OÜ Viking Line Eesti [11/12/2007].
6. This section is based on empirical evidence collected using in-depth, qualitative interviews with representatives from labour, employers and government representatives that were carried out during the period October–December 2013.
7. This section is based on empirical evidence collected using in-depth, qualitative interviews with representatives from labour, employers and business representatives that were carried out during the period August 2013–November 2015.
8. These plants were Danish Crown Esbjerg (closed in August 2012); Danish Crown Fårvang (closed in January 2014), Danish Crown Holstebro – Cows (closed in March 2012); Danish Crown Holstebro – Pigs (closed in 2009) and Danish Crown Skjern (closed in June 2014).

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References

Andersen, P.B.. (2014) 'Danish Crown lukker to fabrikker og fyrer 472' (Danish Crown closes two factories and lays off 472 workers)', *Politiken*, 16 January, available at http://politiken.dk/oekonomi/virksomheder/ECE2183811/danish-crown-lukker-to-fabrikker-og-fyrer-472/

Ansvar, F. (2009) 'Danish Crown spekulerer i løndumping.'

Arbejderen (2012) 'Fødevarearbejdere til kongres Internationalt pres på Danish Crown (Food Workers Congress: International pressure on Danish Crown)', *Arbejderen*, available at http://arbejderen.dk/arbejde-kapital/internationalt-pres-p%C3%A5-danish-crown (accessed 27 September).

Arbejderen 2015. 'Fyrede slagteriarbejdere har fået job (Fired slaughterhouse workers have found jobs)', *Arbejderen*, available at http://www.arbejderen.dk/fagligt/fyrede-slagteriarbejdere-har-f%C3%A5et-job (accessed 8 August).

Börzel, T.A. (2000) 'Improving compliance through domestic mobilisation? New instruments and effectiveness of implementation in Spain', in C. Knill and A. Lenschow (eds), *Implementing EU Environmental Policy. New Directions and Old Problems*, Manchester: Manchester University Press, pp. 222–250.

Brümmer, M. (2013) 'Arbeitnehmerensendung in Deutschland und den Niederlanden', in *Workshop: Transnational workers in Germany and the Netherlands*, Düsseldorf: Hans-Böckler-Stiftung.

Burgoon, B. (2012) 'Partisan embedding of liberalism: how trade, investment, and immigration affect party support for the welfare state', *Comparative Political Studies* 45: 606–35.

Campbell, J.L. and Pedersen, O.K. (2007) 'The varieties of capitalism and hybrid success: Denmark in the global economy', *Comparative Political Studies* 40(3): 307–32.

Damgard, P. (2012) 'Overdrevet fokus på de danske lønninger! (Excessive focus on Danish wages!)', NNF, available at https://www.nnf.dk/nyheder/2012/januar/overdrevet-fokus-paa-de-danske-loenninger (accessed 23 January).

Dansk Metal (2015) 'En enig hovedbestyrelse har besluttet, at forbundets ordinære kongres i efteråret 2016 skal tage stilling til en mulig fusion med Dansk Metal (A unanimous executive committee has announced a decision on a possible merger with Danish Metal during the federation's annual congress in autumn 2016)', NNF, available at https://www.nnf.dk/nyheder/2015/juni/fusionsplaner-med-dansk-metal-sat-i-bero/ (accessed 10 June).

Duina, F.G. (1997) 'Explaining legal implementation in the European Union.' *International Journal of the Sociology of Law* 25(2): 155–79.

Elmer, D. (2013) 'DA's Nyhedsbrev Agenda "Kommuner har mistet i tusindvis af provate jobs"', available at http://www.agenda.dk/2013/11/massivt-fald-i-private-job/ (accessed 18 November).

Eurostat (2011) 'Earnings', available at http://ec.europa.eu/eurostat/web/labour-market/earnings.

Falkner, G., Hartlapp, M., Leiber, S. and Treib, O. (2004) 'Non-compliance with EU directives in the member states: opposition through the backdoor?' *West European Politics* 27(3): 452–73.

Hall, P.A. and Soskice, D. (2001) 'An introduction to varieties of capitalism', in P.A. Hall and D. Soskice (eds), *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage*, Oxford; New York: Oxford University Press, pp. 1–68.

Hassel, A. (2007) 'The curse of institutional security: the erosion of German trade unionism', *Industrielle Beziehungen* 14(2): 176–91.

Hassel, A. (2014) 'The paradox of liberalization – understanding dualism and the recovery of the German political economy.' *British Journal of Industrial Relations* 52(1): 57–71.

Hassel, A. (2015) 'Trade unions and the future of democratic capitalism', in P. Beramendi, S. Häusermann, H. Kitschelt and H. Kriesi (eds), *The Politics of Advanced Capitalism*, Cambridge: Cambridge University Press, pp. 231–258.

Höpner, M. and Schäfer, A. (2010) 'A new phase of European integration: organized capitalisms in post-Ricardian Europe', *West European Politics* 3(2): 344–368.

Ibsen, C.L. (2015) 'The role of mediation institutions in Sweden and Denmark after centralized bargaining', *British Journal of Industrial Relations* 54(2): 285–310.

Katzenstein, P.J. (1985) *Small States in World Markets: Industrial Policy in Europe*, Ithaca, NY; London: Cornell University Press.

Kirkelund, O. and Kolbech, R. (2005) *Corporate Social Responsibility i Danske Virksomheder*, Copenhagen: Beskaeftigelsesministeriet (Danish Department of Labor).

Knudsen, J.S. and Brown, D. (2014) 'Why governments intervene: exploring mixed motives for public policies on CSR', *Public Policy and Administration*, doi:10.1177/0952076714536596.

Kristensen, B., Kristensen, A.R., Strandskov, J. and Handelshøjskolen, Å. (1996) *Den danske slagterisektors konkurrenceevne i europæisk belysning: en konkurrentundersøgelse : delrapport 2: en analyse af slagteriselskabernes konkurrenceevne og økonomiske resultater: en europæisk sammenligning (The competitiveness of the Danish meat production sector in a European perspective)*, Denmark: Institut for Udenrigshandel.

Leubecher, M. (2013) 'Deutschland ist Europas Schlachthaus', *Die Welt*, available at http://www.welt.de.

Martinsen, D.S. (2015) *An Ever More Powerful Court? The Political Constraints of Legal Integration in the European Union*, Oxford: Oxford University Press.

Moravcsik, A. (1998) *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht*, Ithaca, NY: Cornell University Press.

Peter, L. (2013) 'Belgium protests over German low pay in EU complaint', *BBC News*, available at http://www.bbc.com/news/

Piore, M. (1979) *Birds Of Passage: Migrant Labor And Industrial Societies*, Cambridge; New York: Cambridge University Press.

Polanyi, K. (1944) *The Great Transformation: The Political and Economic Origins of Our Time*, Boston, MA: Beacon Press.

Politiken (2013) 'Sass Larsen: Jeg havde håbet på Danish Crown-ja (Sass Larsen: I had hoped for a 'Yes' from Danish Crown)', available at http://www.http://politiken.dk/oekonomi/arbejdsmarked/ECE2078904/sass-larsen-jeg-havde-haabet-paa-danish-crown-ja/ (accessed 17 September 2013).
Refslund, B. (2013) 'The increasing impact of Europeanisation and migrating labour on the Danish labour market', paper prepared for the conference *Work, Employment and Society* at the University of Warwick, Coventry, 3–5 September 2013.
Ruggie, JG. (1982) 'International regimes, transactions, and change: embedded liberalism in the postwar economic order', *International Organization* 36(2): 195–231.
Scharpf, F.W. (2002) 'The European social model: coping with the challenges of diversity', *Journal of Common Market Studies* 40(4): 645–70.
Scharpf, F.W. (2010) 'The asymmetry of European integration, or why the EU cannot be a 'social market economy', *Socioeconomic Review* 8(2): 211–50.
Schimmelfennig, F. (2013) 'Liberal theory and European integration', in R. Friedmann, K. Oskanian and R. Pacheco, (eds), *After Liberalism? The Future of Liberalism in International Relations*, Pardo: Palgrave Macmillan, pp. 253–269.
Schmidt, S.K. (2008) 'Competing in markets, not rules: the conflict over the Single Services Market', in C. Joerges and P.F. Kjaer (eds), *Transnational Standards of Social Protection: Contrasting European and International Governance*, Oslo: ARENA Report Series, pp. 31–54.
Schmidt, S.. (2009) 'When efficiency results in redistribution: the conflict over the Single Services Market', *West European Politics* 32(4): 847–65.
Schwennesen, T. (2012) 'KONGRES LO-støtte til kamp mod afgifter og social dumping', NNF, available at https://www.nnf.dk/nyheder/2012/september/kongres-lo-stoette-til-kamp-mod-afgifter-og-social-dumping (accessed 25 September).
Spiller, A. and Schulze, B. (2008) *Zukunftsperspektiven der deutschen Fleischwirtschaft: Verbraucher Märkte, Geschäftsbeziehungen*, Göttingen: Universitätsverlag Göttingen.
Thelen, K. (2014) *Varieties of Liberalization and the New Politics of Social Solidarity*, New York: Cambridge University Press.
Thelen, K. and Martin, C.J. (2007) 'The state and coordinated capitalism: contributions of the public sector to social solidarity in post-industrial societies', *World Politics* 60(1): 1–36.
Van Gilse, E.M. (2013) 'Erstat lønnedgang med afgiftsstop (Replace pay cuts with tax stop)', NNF, available at https://www.nnf.dk/nyheder/2013/januar/erstat-loennedgang-med-afgiftsstop/ (accessed 23 January).
Wagner, B. and Hassel, A. (2014) 'The relationship between wage differentials and posting of workers within the European Union - is there an institutional explanation for EU labour mobility?', SASE 26th Annual Conference, Northwestern University and the University of Chicago, available at https://sase.org/2014—chicago/sase-26th-annual-conference-theme_fr_173.html.

Appendix: interview list

Interview I – Danish Crown Management.
Interview II – Trade union representative, Lower Saxony.
Interview III – Employers' organization representative, Lower Saxony.
Interview IV – Ministry of Labour, Lower Saxony.

Interview V – Vion AG Management.
Interview VI – National Employers' Organization, Germany.
Interview VII – Danish slaughterhouse workers union (Nærings- og Nydelses-middel Forbundet).
Interview VIII – Danish Agriculture and Food Council (Landbrug og Fødevarer).