



Aalborg Universitet

AALBORG UNIVERSITY  
DENMARK

## Displaying power, but altering identity

*how Danish unions managed to organize the transnationalised Copenhagen Metro construction project*

Refslund, Bjarke; Arnholtz, Jens

*Publication date:*  
2017

*Document Version*  
Other version

[Link to publication from Aalborg University](#)

*Citation for published version (APA):*

Refslund, B., & Arnholtz, J. (2017). *Displaying power, but altering identity: how Danish unions managed to organize the transnationalised Copenhagen Metro construction project*. Paper presented at SASE 29th annual meeting What's Next? Disruptive/Collaborative Economy or Business as Usual?, Lyon, France.

### General rights

Copyright and moral rights for the publications made accessible in the public portal are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognise and abide by the legal requirements associated with these rights.

- ? Users may download and print one copy of any publication from the public portal for the purpose of private study or research.
- ? You may not further distribute the material or use it for any profit-making activity or commercial gain
- ? You may freely distribute the URL identifying the publication in the public portal ?

### Take down policy

If you believe that this document breaches copyright please contact us at [vbn@aub.aau.dk](mailto:vbn@aub.aau.dk) providing details, and we will remove access to the work immediately and investigate your claim.

## **Displaying power, but altering identity: how Danish unions managed to organize the transnationalised Copenhagen Metro construction project**

*Bjarke Refslund, Aalborg University and Jens Arnholtz, Copenhagen University*

----- DRAFT VERSION – DO NOT CIRCULATE -----

### **Abstract**

Experiences from large-scale European construction projects with highly transnational labour forces have shown that national institutions and unions often are unsuccessful in including the transnational workers in national IR systems. However, this article shows how Danish unions have been rather successful in including and organising the transnational workers on the construction of a city metro ring in Copenhagen. This has happened despite a highly fragmented, transnational workforce and several of the sub-contracting firms initially trying actively to avoid the unionisation of their transnational workforce and to bypass the Danish labour market regulation. The article proceeds to discuss the explanations of the apparent success, which include a combination of multiple factors of which the two most important are the strong political support from the public owner of the construction project and a huge effort by the national union which secured visible gains and improvements for the involved migrant workers.

### **Introduction**

Organizing transnational workers is a key challenge for unions within the European Union (EU). As cross-border labour mobility increases, immobile unionists struggle to find new strategies to engage with mobile workers (Meardi, 2012). Unless they succeed, employers can use unorganised and mobile worker to put pressure on employment conditions in the receiving countries (Wagner and Lillie, 2013). As a consequence, the economic freedoms that were supposed to promote prosperity across the EU are increasingly associated with social dumping and a race to the bottom (Bernaciak, 2015; Woolfson et al., 2013).

In this context, previous research has shown that union do have some success in organising regular labour migrants, especially when such labour migrants settle down and unions retarget their organising strategies at these new groups of workers (Connolly et al., 2014) (Refslund 2017). However as Mussche et al. (forthcoming) have shown, regular labour migration is gradually being displaced by employer-driven posting of workers within the EU. Posted workers are employed in one country, but temporarily send to work in another country. The temporary nature of such postings gives this particular group of transnational mobile workers few incentives to join a union in the host country. Additionally, they are often heavily dependent on their employer while abroad, which furthers their reluctance to engage with the local unions. As such, previous research have shown that union efforts to organize posted workers have had little success - even on long-term construction project were they are most likely to succeed (Berntsen and Lillie, 2014; Lillie and Sippola, 2011; Wagner and Lillie, 2013).

In this article, we analyse a case of union organizing success, namely the Copenhagen Metro City Ring (CMCR). Starting as a disorganised and union hostile construction project, the CMCR experienced a shift towards a rather well organised construction site with a decent union density and shop stewards on every work site. Tracing the processes that lead to this shift, we argue that a combination of 1) a

continuous organizing efforts, 2) a gradual changes in the developers and contractors approach to employment relations and 3) a more selective and effective enforcement strategy by unions where the key elements producing this shift. These gradual changes were further facilitated by presence of labour clauses in the CMCR procurement tender. While there are still problems and challenges on the CMCR and the organizing success was dependent on a number of other factors, we argue that the case gives grounds for hope for union organization of transnational posted workers.

### **unions organization of transnational workers in a fragmented construction sector**

The Eastwards enlargement of the European Union change patterns of labour migration in both quantitative and qualitative ways. Not only did the number of labour migrants increase significantly, but the enlargement occurred in parallel with a trend towards more employer-driven kinds of labour mobility. (Favell, 2008). Consequently, the increasing trans-European labour mobility is challenging unions of the receiving countries in several ways. Some of these challenges have a general nature. First, the sheer increase in the number of labour migrants has implied that unions have had to engage more actively with the issue than before. Especially because most of the new mobile come from countries with lower labour standards and thus have lower expectations about the employment conditions, and not least wages, they are willing to accept (Waldinger and Lichter, 2003). Second, as with all forms of migration, language barriers, differences in culture and dissimilar experiences with unions add to the challenges unionist face when try to organise transnational workers (Friberg, 2012). Therefore, unions often have to renew their organizing repertoire when engaging labour migrants (Alberti et al., 2013) (Connolly et al., 2014). Other challenges are more specific. The increasing trans-European labour mobility challenge unions in numerous sectors (Doellgast et al., 2017; Drahokoupil, 2015), but these challenges are always mediated by the national and sectoral employment relations that migrant workers enter into. For instance, migrant workers simply supplement a labour force already working under precarious conditions in some sectors, while their presence is actively promoting precarious conditions and disorganization in other sectors (Arnholtz and Hansen, 2013). Additionally, the type of migration matters (Engbersen et al., 2013). Both the motives for migrating, but especially the duration of migration has implications for effect of unions organizing efforts. Workers settled in the host country are easier to organize, whereas posted workers and other transient workers are more difficult for unions to engage with because union do not have the time to build trustful relations (Caro et al., 2015; Danaj and Sippola, 2015).

To understand the contribution of our study, we therefore need to outline some of the specific challenges that unions face when trying to organise posted workers on large construction sites. The European construction industry is increasingly marked by high shares of trans-national labour, high numbers staffing agencies and long, complex subcontracting chains (Caro et al., 2015; Danaj and Sippola, 2015; Wagner and Lillie, 2014). This implies that large-scale construction projects are often characterised by fragmentation of labour processes and ethnical divisions of the labour force (see e.g. Lillie and Sippola, 2011) (EID paper on Norway). Transient migrant workers are typically separated from native workers and seldom have contact with the local unions (Berntsen and Lillie, 2016; Danaj and Sippola, 2015). There are ample evidence in the literature that such fragmentation and ethnical division lead to deteriorating working conditions in particular for migrant workers and posted workers (Flecker, 2010; Lillie, 2012; Lillie and Greer, 2007; Marchington et al., 2005). Furthermore, such transit workers are often sceptical towards unions because their employment often depends on accepting the employers circumventing employment

regulation of the host country (Berntsen, 2016; Lillie, 2016). As such, transnational construction projects with both mobile workers and mobile capital present acute challenges for unions that still are organised along national systems (Altreiter et al., 2015; Crouch, 1993; Lillie and Sippola, 2011).

That said, unions are far from powerless. First, in the North-western part of Europe unions can still draw on institutional resources, when trying to safeguard the migrant workers. National institutions such as collective bargaining, various types of chain liability and extension mechanism are of great importance (Berntsen and Lillie, 2016; Bosch and Weinkopf, 2013) just as labour clauses in public procurement can have a strong impact as well (cf. Jaerhling et al. 2017). Additionally, local union presence and representation structures are also highly influential. Second, research shows that unions can make strategic choices, learn, build capacity and develop new strategies for organizing migrant and transit workers (Eldring et al., 2012)(Refslund, 2017)(Hardy, 2015). Third, even if the large construction project are typically fragmented they often have a longer temporality. This gives unions more time to develop new organising strategies and build trust with the transit workers.

Nonetheless, previous research have shown that even strong unions lack the strength and ability to avoid the circumvention of the industrial relations setting and to successfully organise large transnational construction sites. In a hallmark case study, Lillie and Sippola (2011) found that the Finnish construction unions, despite a powerful position in the Finnish IR-system, were unable to handle the trans-national setting at the construction of a nuclear power plant due to limitations in their traditional tactics (mainly secondary boycott) and severe restrictions in their ability to organise and represent the transnational workforce. These findings have been confirmed in more recent studies of the construction of European Central Bank towers in Frankfurt (Wagner and Lillie, 2014) and the Eemshaven construction sites in the Netherlands (Berntsen and Lillie, 2016). While the Eemshaven study did shown some progress in unions' efforts to safeguarding the working standards of posted workers, the authors argued that this progress only concerned a limited group of workers for a limited period of time.

These rather bleak conclusions have lead some scholars to focus on transnational union cooperation as a more realistic avenue for workers mobilisation in the future (Lillie and Greer, 2007); Hardy 2015). Others have start to focus on the individual everyday tactics workers use to improve their conditions (Berntsen, 2016). While both of these issues are very important, we maintain that traditional organizing by national union is still an important tool for securing decent conditions for transit workers. Studying cases where unions have had success with their organizing efforts is therefore still an important task for scholarly research.

### **The Danish context and Copenhagen City metro ring project**

The Copenhagen Metro City Ring (CMCR) is an expansion of the Copenhagen Metro, which opened in 2007. The construction of the CMCR is a 2,9 billion euro project, which started in 2009 and is scheduled to be finalized in 2019. The main developer is the Metro Company (MC), which also operates the Copenhagen Metro and is publicly own by the Copenhagen municipality, the Danish state and the small Frederiksberg municipality. The main contractor on the CMCR is the Copenhagen Metro Team (CMT), which is a consortium of Italian construction companies. CMT is mainly designing, planning and controlling the production, while hiring various subcontractors for the actual construction tasks. According to CMT, more than 90 subcontractors from 24 different countries are involved in the project, while the Metro Company webpage states that more than 250 different sub-contractor have been active in the construction project. The subcontracting companies can roughly be divided into subcontractors with construction specific

expertise and staffing agencies that mainly provide work force (Mathiassen, 2016: 6-7). The subcontractors are typically paid for a specific task, whereas the staffing companies are paid per delivered hour. The latter often provides manpower to the former, which makes both employment relations and contractual relations hard to disentangle. Additionally, the project consists of underground tunnelling and the construction of 17 metro stations, which implies that workers are scattered out over a considerable number of physical locations. Organising this highly fragmented and internationalised construction project have proven to be a challenge for the local construction workers union (BJMF). To understand these challenges, some important details about the Danish labour market and some changes labour migration has led to, needs to be highlighted.

In Denmark wages and working conditions are mainly regulated through collective agreements (Andersen et al., 2014). There is no statutory minimum wage or legal extension of the collective agreements. Still, the labour market is highly regulated, with only modest tendencies towards precarious working conditions in some sectors (Grimshaw et al., 2016). The well-regulated nature of the Danish labour market is the result of a highly organised work force, strong unions and persisting multi-employer bargaining. Unionisation and collective bargaining coverage remains high at around 65-68 % respectively 84 % (DA, arbejdsmarkedsrapport). In construction, where most posting occurs the numbers are even higher (Arnholtz and Andersen, 2016). Since there is no statutory minimum wages in Denmark a company without a collective agreement can remunerate at any given level the workers are willing to accept, but the unions have far-reaching prerogatives to achieve an agreement with the company including secondary industrial action involving other firms and workers in the conflict (Eldring et al., 2012). The collective agreements are seen as an agreement between the union and the company, which implies that unions can impose and enforce collective agreements without a single member in a given company. Furthermore, is the Danish labour market characterised by high job mobility implying workers can more easily leave companies offering poor conditions.

However, as in many other countries has the increasing inflow of labour migrants and posted workers from the new EU member states challenged this situation. These mobile workers typically have lower wage expectations, are less able to use the labour market for improving their situation and are seldom unionised, which often means many migrant workers are employed at standards below those set by the collective agreements. unions do furthermore have a hard time imposing collective agreements on companies that mainly employ such mobile workers - especially when it comes to posting companies. Not only do these companies' lack of experience with unions make them more resistant to sign collective agreements, but the temporary nature of their stay in Denmark also makes union pressures less effective. In response, the strong construction unions have lobbied public authorities to put so-called labour clauses into their procurement tenders, requiring (sub)contractors follow the terms set in collective agreements in an effort to avoid under-payment or social dumping in public work (Jaehrling et al., 2017). An increasing number of both public and private construction work in Denmark is subject to labour clauses. This is also the case for the CMCR, which provide the unions with the stronger starting point of claiming the wages and working conditions set in the collective agreements. The unions do not have to start with demanding a collective agreement, unions have been able to focus their energy on organising workers and enforcing the terms set in the collective agreements.

That said, enforcing and organising the CMCR was an enormous challenge for the local section of the general workers union (BJMF). BJMF had a great deal of autonomy vis-à-vis the general workers union and even had their own special collective agreement regarding concrete work. Since most of the construction

work on the metro line consists of concrete work casting the tunnels, stations, shafts etc. BJMF thus had a key role in organising and negotiating the conditions on the CMCR project, and the union organisers working on the metro project were hired locally by BJMF. While BJMF is a very strong and well-organised local section, it has relied heavily on its many militant members to ensure imposition and enforcement of the collective agreement in the Greater Copenhagen area. This practices has worked well for domestic workers, but BJMF have had to adopt new strategies for a highly transnationalised project like the CMCR.

### **Data and methods**

The case study presented here draws on semi-structured interviews conducted with union officials, union organizers, employers' association representatives, labour inspectors, management in different companies on the CMCR and representatives from the Metro Company. In total 15-20 interviews<sup>1</sup> were conducted and appendix 1 supplies a list of interviews. Since the article emphasises the institutional and organisational inclusion of migrant workers and foreign companies in the Danish IR-model as well as in the union, the majority of the conducted interviews are with union officials. Several of these are union organisers with a foreign back-ground, which has enable us to gain important insights from the migrant workers, despite not having interviewed them separately for this project. In addition to the data gathered in the interviews, the analysis is based upon information from the union press, news media coverage including papers and television and government reports mentioning the metro construction project. In particular, a union report on organising the migrant workers on the metro project has provided much helpful insights (see Mathiassen, 2016).

The article presents the findings from a single case study, which in itself can yield important insights (Rueschemeyer, 2003), However, our case is well suited to contribute to the ongoing comparative debate on the organization of transnational workers. Especially because the case shows many similarities with previous studies of large scale construction projects conducted in Finland (Lillie and Sippola, 2011), the Netherlands (Berntsen and Lillie, 2016) and Germany (Wagner and Lillie, 2014). All are large, transnational construction project with a great number of international subcontractors and transnational labour. Furthermore, like the other studies our study is situated in a setting marked by a high degree of regulation. Even if Denmark does not have legal extension mechanism of collective agreements like Finland, Germany and the Netherlands, the use of labour clauses on the metro implies a somewhat similar setting. This allows us to discuss the Danish case in light of these previous studies of transnational large-scale European construction sites.

### **From disorganization and disruption to organization and cooperation**

One of CMT's first acts when arriving in Copenhagen was to bar BJMF from the CMCR construction sites. While the Danish unions do not have a *de jur* access to construction sites, they have over the years gained a *de facto* access, where it is accepted that union officials access construction sites. A rejection of this *de facto* access is typically perceived as a declaration of war from the union's side. That CMT deliberately tried to block the unions' access indicates that the company was not inclined to cooperate with the Danish unions. In fact, union organizers were told by the migrant workers that talking to the union representatives was declared as a ground for being fired by many companies on the CMCR. Additionally, CMT hired a

---

<sup>1</sup> To be updated in the finalised version.

number of subcontractors known among Danish unions for previous violations of collective agreements, or declination of signing a collective agreement in the first place. Despite engaging in a few formal meetings with unionists, CMT seemed to make every effort to show unions that they were not going to be involved in the construction process.

This situation led to a vicious circle of disorganization and disruption. Being barred from the construction sites and having no members among the transnational worker, the union found themselves deprived of the power they usually possess in the sector. Consequently, companies could easily circumvent the collective agreements without fear of sanctions since such circumventions were difficult for the unions to document without the aid of the posted workers. Instead, unions adopted a strategy of cooperation with media. Especially the unions own journal, *Fagbladet*, reported frequently about potential violations and helped dig up evidence. However, the logic of the journalist implied that they would often publish the story before a solid legal case had been built and processed by the union. When these news spread to national media, they became a problem for the publicly owned Metro company, which responded by demanding the offending companies were dismissed from the project, and at least four major companies were dismissed. This caused disruptions in the production schedule. However, while termination from the project was a severe punishment for companies violating the collective agreements, it also entailed that workers were not getting any compensation for the violations of their rights. Instead, they were either fired or transferred to a new manpower company. As such, the incentive for posted workers to come forward and witness against their employer was low, especially because doing so often meant being fired. As a consequence, unions did not get many new members despite their continuous effort to organize the posted workers. In sum, this vicious and self-reinforcing circle implied that the unions' position on the CMCR remained relatively weak, unorganized workers suffered violations of their rights, the developer and main contractor suffered bad publicity and the project was delayed and disrupted due to company dismissals.

However, around spring of 2015 a shift occurred from this vicious circle in direction of a more positive and cooperative environment. Tracing the processes around the metro, we have identified three processes that caused this shift. These are clearly not independent from each other, but neither are they self-evidently linked. They have different temporalities, implicate slightly different actors and involve several strategic choices that could have been taken individually. However, the overall shift from one circle to the other only came about due to all three processes unfolding simultaneously. The three processes are 1) a long-term organising effort by the union, which gradually became more strategic and more orientated towards the workers as a result of a learning process 2) a gradually increasing engagement of the Metro company in matters of collective labour rights enforcement, and 3) a rapid shift in the unions' enforcement effort from targeting all violations to a strategy of building one strong case to display their power for workers and companies alike. In the following, we describe these three processes each in their own right and then show how they came together to cause a shift, borrowing the terms from Doellgast et al. (2017), from a vicious to a virtuous circle of organisation and compliance to Danish IR-standards.

### *Re-organizing organizing*

The unions organising efforts started very early on, with the first Metro-specific organiser being assigned in 2009 before the main contractor had even been hired. A few other organisers were added, as the project came under way. However, the organizing efforts were marked by three challenges. First, as described by Eldring et al. (2012), Danish unions have wide ranging possibilities for enforcing their collective agreements even if they have no members in a company. Therefore, some fractions of the Danish construction unions

are more concerned with enforcement than organizing when it comes to temporary posted workers. While the newly hired organizers were trying to break away from this enforcement-oriented tradition, it constantly lingered in the background when their results were evaluated. Second, the organizing efforts were rather unfocused. As one of the first organizers on the Metro explained in an interview, they basically tried to 'organize the whole Metro at once'. They went from one construction site to the next with small leaflets about the Danish labour market and encouraging the posted workers to join. This method did however not establish the kind of trust often needed when trying to organize vulnerable posted migrant workers without union experience from their home country. Third, while leaflets were translated the organizing officers themselves were Danes and did not speak the major languages on the Metro (Italian, Polish, Romanian and Portuguese). As such, their capacity for communicating with the posted workers was limited. This hampered their ability to inform workers about their rights, but also hindered them from acquiring knowledge about the real concerns of the workers and of potential breaches of the collective agreements. In early 2013, BJMF had only two foreign members out of approximately 230 workers among the major companies (Mathiassen, 2016). During 2013 some of the Italian workers started to join the union and even elected their own shop steward. However, this seems to have happened more due to the encouragement from Danish metro colleagues than as a result of the unions' organizing efforts.

Therefore, despite significant resources being devoted to the organizing efforts the approach was not very systematic. There was a strong element of trial and error in the unions' approach and the unfocused and slightly enforcement-oriented organizing strategy gave only few substantial results (Mathiassen, 2016). In 2014 the organizing strategy started to change as the previous failures became more clear to the union. This coincided with the two main organizers on the CMCR taking part in a course arranged by parts of the Danish union movement that tried to draw inspiration from the US-UK inspired 'organising model' (Arnholtz et al., 2014). This gave the organizers an opportunity to reflect on previous trials and errors and led to several changes in their organizing strategy.

First, they became much more focused – targeting one firm at a time. They started with one of the highly specialized companies, where resistance toward unionism was likely to be less pronounced. This would give legitimacy to union presence on the project and then gradually spread to other companies. Second, they started to show more concern about foreign workers' needs, which are often unrelated to collective agreements and industrial relations, but rather include topics such as taxation, housing problems or problems with proper registration in Denmark. Third, reflections on previous experience increased their awareness of the importance of cultural differences and language skills. Therefore, BJMF started to look for organizers with the same cultural background as the foreign workers. Finally, BJMF started to host introductory courses on the Danish labour market for the foreign CMCR workers. These courses promoted organizing in two important ways. On the one hand, the courses made some of the posted workers 'fall in love with the Danish model' (as one of them put it). On the other hand, workers from different companies and nationalities got an opportunity to talk about common problems during these courses. While only a limited number of workers could participate in the courses, these workers often went back to their colleagues with a renewed sense of what their rights were and how they could defend them. All of these changes had an impact on the organization of the foreign CMCR workers. By the end of 2014, BJMF had increased the number of foreign members in the major companies on the CMCR project to 200 out of the approximately 1200 workers (Mathiassen, 2016).

*Developments at the developer*



The second important factor facilitating the shift is the greater involvement of the public owner the Metro Company in the enforcement effort. Based on the experiences from previous large-scale Danish construction projects (Storebælts Bridge, Øresunds Bridge, the first part of the Copenhagen Metro), the Metro company did not anticipate enforcement problems with the collective agreements. In 2010 the Metro company established a reference group where CMT, labour inspectorate, employers' associations and federal unions representatives (but not BJMF) could resolve problems informally. However, the lack of trust caused by the unions being barred from the construction sites and the general approach of the Italian main contractor implied that the informal dialogue never got under way. In 2013, the Metro Company tried to relaunch this dialog through working groups, but again without much success. Apart from these two initiatives, the Metro Company did not engage in issues of collective agreements and organising. This, however, changed after BJMF exposed that one of the major contractors, Cinterex, were systematically violating the collective agreements. The story was leaked to the press in October 2014 and Cinterex was terminated from the project a few month after. Two months later, the Polish manpower company Kormal was also terminated from the project for violating the collective agreement. Not only did this give bad publicity for the Metro Company, with substantial public pressure on the public owners including the Social democratic mayor in Copenhagen, but the project was also delayed because these companies had to be replaced.

After these cases, the Metro Company started to change its engagement in the industrial relations. First, the Metro Company forced CMT to replace both its managing director and its HR-manager, who both had been in constant conflict with BJMF and Danish unions more generally. The new director had a more positive approach to the unions and the new HR manager was a former Danish unionist, who regarded unions as partners rather than adversaries. Second, the Metro Company hired an accountant company, Deloitte, to investigate wages and employment condition on the project. Their report revealed problems with collective agreement violations in almost every investigated company and a total lack of knowledge about rights among workers. As a response, the Metro Company started making pamphlets about workers' rights and explaining the Danish IR-model in most of the relevant languages signalling to the workers the important role of the unions in the Danish labour market. Third, the Metro Company hired a new vice director with responsibility for employment relations. She immediately started informal talks with BJMF leadership with the aim of rebuilding trust. unions were not only granted access to sites; the Metro Company provided them with offices and information boards on the construction sites to show workers that unions were legitimate partners on the project, and it is fully acceptable for workers to engage with the union. Furthermore, the new vice director's team starts to revise the Metro Company's procurement material to make enforcement procedures more effective and they have become national standard setters in labour clauses in construction procurement. Within a year, the involvement of the Metro Company changed from a rather passive bystander to becoming an actively engaged participant in promoting and enforcing worker's rights. This made union membership and complaints about collective agreement violations far more legitimate on the Metro expansion.

### *Strategic enforcement*

The shift in the Metro Company's involvement did not come about on its own, nor did it produce a shift in the organisation of the CMCR project by itself. The final important factor in explaining this shift involves a change in the unions enforcement strategy. Traditionally, BJMF had a very tight control of every major and medium size construction site in the Copenhagen area with a strict enforcement of breaches of the

collective agreements. It was, as an interviewee described it, 'part of our identity' (Interview, XX). Initially, BJMF aimed to maintain this situation on the CMCR by enforcing every collective agreement violation they detected. However, being barred from the construction sites, having virtually no members on the project and facing posted workers of diverse nationalities with low incentives to engage with the union made a systematic enforce on the huge and fragmented construction project practically impossible. Most of the union interviewees describe how they were somewhat overwhelmed by the task and send resources in every direction without gaining any valuable results. They manage to use media publicity to get several companies terminated from the project, but this did not improve the general enforcement.

With a new leadership in late 2013 BJMF opted for a more selective and strategic approach to enforcement on the CMCR. Rather than trying to enforce every violation, they would target only a few major company. This was not an easy decision, because a lot of union members and officers saw it as abandoning an important principle. Nor was it an easy strategy to pursue because it involved gradually build solid legal cases by involving workers of different nationalities. However, the organising efforts already made helped build the cases and the trust of workers. The strategy proved successful in a case against Italian manpower company Cipa, which BJMF build during 2014. Both Italians, Romanians and Polish workers gave witness on behalf of the unions and in the Labour Court verdict in March 2015, Cipa was fined approximately 3 million euro for violating the collective agreement. This was the largest fine in the history of the Danish Labour Court. What happened next, however, was of vital importance. BJMF demanded that Cipa should stay and pay (rather than being terminated from the project or declaring bankruptcy). They stressed that if the Metro Company and CMT wanted to establish relations of trust, making Cipa pay would be paramount. BJMF feared that Cipa would leave the country without paying and threatened that this would cause the construction sites to be blocked at the time when large amounts of concrete were to be delivered. Consequently, CMT forced Cipa to stay and pay by threatening to terminate Cipa from construction sites all over Europe. After intense negotiations, Cipa decided to stay and pay, which was a major victory for BJMF.

### *The shift*

The Cipa case had two important implications: First, the case showed the posted workers that Danish unions could help them. Not only did BJMF win the case, but it also used its leverage to get money from the company. For the Cipa workers who were members of BJMF this meant a substantial amount of money and they maintained their job. For none-members, BJMF could have kept the money. In the Danish IR-system are the unions the partners of the collective agreements not the workers, hence the money is judicially the union's. However, BJMF decided to hand-out money to all workers in Cipa, if they joined the union subsequently. This showed the migrant workers that the union were actually on their side, and not a "mafia" as claimed by several companies. Obviously, this gave a significant increase in membership among Cipa workers (from 26 at the start of 2015 to 147 at the end of 2015), but also generally among the workers with union density in the major companies raising from 16 percent at the start of 2015 to 31 percent at the end.

Second, the Cipa case showed other companies on the project that unions were to be taken seriously. In the month after the Cipa verdict, two other companies made settlements for violations of the collective agreements. Furthermore, negotiations were initiated between BJMF and CMT regarding a new local agreement. Many of the collective agreement violations concerned working time. Companies needed great working time flexibility to facilitate the construction process, but this often conflicted with the collective

agreements. Before the Cipa case, most companies simply tried to circumvent the rules, but now a special agreement was made, where BJMF agreed to provide the working time flexibility needed. In return, however, they got a hourly wage increase of 1,3 Euro for all workers on the CMCR, additional overtime compensation and improved conditions for shop stewards leading to a massive increase in the number of shop stewards, including foreign workers, with much better options of actually performing the shop steward function under the new local agreement.

Gradually, a new organisation of the CMCR materialized. Workers saw the benefit of joining the union, because they got real benefits while maintaining their jobs. Companies understood that while enforcement was selective, they took major risks when violating collective agreements. Therefore, they engaged more frequently in dialog with BJMF or their shop stewards. This dialog meant that problems were handled before they reached the media or the labour court. BJMF would even ignore minor violations if companies corrected them when being made aware of them. As such, the construction process runs much smoother now. In return for this corporative approach, BJMF have gained both real advantages for workers and a stronger foothold on the CMCR through increasing unionisation, but also through the increasing number of shop stewards. Interestingly, both sides are happy with the advantages for the other as well. In BJMF, interviewees explain that letting minor violations slide implies a reduced caseload for the local union officers. Among companies, interviewees explain that they are very satisfied with the new shop stewards, whom they use to maintain dialog with their workers. As such, a much more virtuous circle seems to have been established.

## **Discussion**

The analysis above focuses on processes, which means that the importance of institutional settings, union resources and other factors may seem somewhat neglected. Clearly, such things have also been important for the organising success at the CMCR, and the processes analysed above are all embedded in the institutional setting, including the unions' power resources.

Firstly, while the union movement have been weakened across Europe (Gumbrell-McCormick and Hyman, 2013), Danish unions remain comparatively strong, also in construction. Strong institutional embeddedness and efficient tools such as secondary industrial action gives Danish unions a stronger starting point for including migrant workers in the national IR-model and effectively improve their conditions (Eldring et al., 2012)(Refslund, 2017). Additionally, the high membership rate provides not only effectiveness to the secondary action, but also financial resources to employ organisers and start other initiatives. As such, the courses regarding Danish labour regulation that BJMF held for their CMCR members, which were partially organised and financed by the national level of the Danish construction unions. Furthermore, the local BJMF office drew support from the national union level when building the Cipa case and when putting pressure on the Metro Company to engage more actively with issues of employment relations. So while Mathiassen (2016) is partially right in describing BJMF as a small, local union suffering from a massive workload due to the CMCR, BJMF is also embedded in a strong union movement that have invested many resources in organising foreign workers over the last decade.

Secondly, the institutional setting remains important. One strength of the Danish voluntarist bargaining model is that unions have a strong involvement in both setting and enforcing labour standards. Committed to enforcement of the collective agreements, the unions necessarily have to get involved with the transnational workers and workers will more easily come to understand that higher labour standards are the result of union efforts. The downside of this model is that it has proven very difficult for union to

impose collective agreement on foreign companies – especially if these are here for a short time or operate at small and remote construction sites. As such, the labour clauses that have forced collective agreement on the CMCR companies have been paramount. They have allowed unions to focus on enforcement and organizing rather than start with conflict to get a CA established with every one of the 250 companies on the CMCR.

Thirdly, and related, the time and scale dimensions of the project are important. The fact that the construction project has been running over a period of almost ten years, have given unions time to build up relations with the companies and the migrant workers. Even if the project has had a high turn-over in both staff and companies as the project enter different stages, the long-term time perspective have eased the organizational effort significantly (interviews, Michael, Elo, Palle). Furthermore, the scale of the project has allowed the local union to prioritise the project in their everyday organizing efforts, e.g. by appointing full time staff specifically for the CMRC. For instance, building a legal case such as the Cipa case was mainly valuable to the union because of the many workers involved. As such, the lessons learned by unionist on the CMCR does not easily translated into smaller construction sites, without labour clauses, where the majority of the posted workers in the Danish construction work (Arnholtz and Andersen, 2016).

While power resources, institutions and scale are important, the CMCR case does not diverge much on these parameters when compared to cases of large scale construction projects previously research in Finland, Germany and the Netherlands (Lillie and Sippola, 2011; Wagner and Lillie, 2013; Berntsen and Lillie, 2014). Rather, the key difference seems to lie in the on-the-ground enforcement of regulation and the everyday organising efforts. Unions in all three countries have hired organisers that speak the native language of the largest migrant workers groups, which is a key aspect of the success of the union. Overcoming the language barrier is typically a first-step in building the trustful relation need for the migrant workers to inform the union about the working conditions. Both Finnish, German and Dutch unions have the legal framework for enforcing minimum requirements in particular on wages (also cf. PWD). It is the actually enforcement of these rights, which are lacking either due to restricted union resources or due to the migrant workers being reluctant to contact union for fear of getting fired (Berntsen and Lillie, 2016; Lillie and Sippola, 2011). The options pursued by the Danish unions have proven more successful, and the Danish unions have been somewhat successful in enforcing the existing regulation for the posted and foreign workers, which was very evident in the Cipa-case as discussed above. This is something the Finnish and Dutch unions faced significant difficulties in Olkiluoto 3 and the Eemshaven construction sites, despite the extension of the Finnish collective agreements and *erga omnes* wage setting in the Netherlands (cf. Berntsen and Lillie, 2016; Lillie and Sippola, 2011). And although the Dutch unions had some successes in enforcing their claims this did not always result in any gains for the migrant workers involved, and some of them were eventually fired due to the action taken by the union (Berntsen and Lillie, 2016: 11). Here BJMF have been more successful in building a trustful relation and securing gains for the migrant workers and supporting the workers involved in union activity and labour court cases, e.g. securing some of them a new job afterwards. The union has also applied a broader approach to the migrant workers than they would in traditional union work with native workers. The union staff has helped the migrant workers with non-labour market issues such as taxation, housing issues, residence permits etc. The migrant workers often perceive these issues as their most important challenges, so when the union helps the migrant workers with these issues, it strong promotes the trust towards the union (cf. Refslund, 2017).

Overall, comparing the findings from the CMCR project with previous cases like Olkiluoto 3 and Eemshaven projects, there seem to be a progress in the extent to which the unions succeed in

including the migrant workers, which mainly is explained by the on-the-ground enforcement of the regulation and the organisational effort made towards the migrant workers.

When emphasizing the differences in union action and everyday engagement, it could be argued that we are missing the importance of the public ownership of the project. We clearly acknowledge the importance of public ownership, both with regard to the use of labour clauses in the procurement materials for the CMCR and in the swift removal of subcontractors continuously violating the regulation. Furthermore, the Metro Company did take an active role in promoting dialogue between the union and the contractors from the onset of the CMCR process. In particular, the active and enhanced application of ILO94 based labour clauses in the later phases of the project, safeguarding that the contractors have to follow the terms and wages set in the collective agreement (Jaehrling et al. 2017) is of importance. This is very helpful for the union since this forces any reluctant companies to acknowledge the IR model, and the union does not have to spend time and resources to secure a collective agreement, but can focus on the enforcement and recruitment. However, the shift in the Metro Companies approach described above did come about in part due to trade union action. Both negative media coverage and delays were of key importance for the Metro Company's changing approach, and both of these things were the results of union actions. Other successful efforts towards migrant workers have also utilised public pressure through media channels (Berntsen and Lillie, 2016; Lillie and Sippola, 2011; Wills, 2008). The main public contractor are typically most vulnerable for this type of public pressure (Danaj and Sippola, 2015: 227), which was also the case in the Copenhagen metro, although private developers can also be affected by negative publicity and delays. So, while we should clearly acknowledge the independent effect that public ownership has had on the improved organisation of the CMCR, we should also note how unions use public ownership as a strategic leverage point. The union would strategize on when to use the media as a source of pressure (Interview, Elo). Not least the responsible politicians are vulnerable towards media attention discussing issues of social dumping in terms of occupational health and safety and wage dumping.

### **Conclusion:**

Large-scale construction projects have been challenged by the fragmented labour process, many different contractors and a transnational workforce. Nonetheless has the Danish union movement managed to secure both good compliance with labour market regulation, in particular collective agreements and to unionise a significant share of the transnational workers on the Copenhagen Metro City ring construction project. This has been achieved through an encompassing organisation effort, developed over time, and strategic enforcement of the collective agreement, in particular in a breakthrough labour court case against a large manpower company, which showed the foreign workers the union were on their side. In particular the fact that the union decided to share the penance pay with workers, who only joined the union afterwards. This gave the migrant workers high confidence in the union.

However, explaining the outcome one have to look at the interaction among several factors. Other important factors include the active ownership of the public owners, partly based in political will, including the active application of labour clauses, media coverage and the scale and scope of the project. All in all, these factors led to the employment relation in CMCR project moved from what initially can be described as a vicious circle to a virtuous circle (cf. Doellgast et al., 2017). Hence, the foreign contractors have experienced that they cannot easily bypass the Danish regulation and enduring strong construction unions. Overall, and despite some enduring issues, the Metro project has become to be understood as a

success story in the Danish union movement, where both foreign subcontractors and migrant workers have arrived at a better understanding of the Danish IR-regulation (cf. Mathiassen, 2016).

### References (to be completed)

Jaehrling et al. (2017) *Combating or whitewashing precariousness? Socially responsible procurement practices in Denmark, Germany and the UK*

Mathiassen, Jakob (2016). *Gennembrudet*. Report for the Danish construction unions on the organisation of the Copenhagen metro project.

Refslund, Bjarke (2017) *When strong unions meet precarious migrants: Building trustful relations to unionise labour migrants in a high union-density setting*.

Arnholtz J and Andersen SK. (2016) *Udenlandske virksomheder og udstationerede arbejdstagere i bygge- og anlægsbranchen*, København: FAOS, Sociologisk Institut, Københavns Universitet.

Arnholtz J and Hansen NW. (2013) Labour market specific institutions and the working conditions of labour migrants: The case of Polish migrant labour in the Danish labour market. *Economic and Industrial Democracy* 34: 401-422.

Arnholtz J, Ibsen CL and Ibsen F. (2014) Importing low-density ideas to high-density revitalisation: The 'organising model' in Denmark. *Economic and Industrial Democracy*.

Bernaciak M. (2015) *Market Expansion and Social Dumping in Europe*. London: Routledge.

Berntsen L. (2016) Reworking labour practices: on the agency of unorganized mobile migrant construction workers. *Work, Employment & Society* 30: 472-488.

Berntsen L and Lillie N. (2014) Hyper-mobile migrant workers and Dutch trade union representation strategies at the Eemshaven construction sites. *Economic and Industrial Democracy*.

Connolly H, Marino S and Lucio MM. (2014) Trade union renewal and the challenges of representation: Strategies towards migrant and ethnic minority workers in the Netherlands, Spain and the United Kingdom. *European Journal of Industrial Relations* 20: 5-20.

Eldring L, Fitzgerald I and Arnholtz J. (2012) Post-accession migration in construction and trade union responses in Denmark, Norway and the UK. *European Journal of Industrial Relations* 18: 21-36.

Engbersen G, Leerkes A, Grabowska-Lusinska I, et al. (2013) On the Differential Attachments of Migrants from Central and Eastern Europe: A Typology of Labour Migration. *Journal of Ethnic and Migration Studies* 39: 959-981.

Favell A. (2008) The New Face of East-West Migration in Europe. *Journal of Ethnic and Migration Studies* 34: 701-716.

Friberg JH. (2012) Culture at work: Polish migrants in the ethnic division of labour on Norwegian construction sites. *Ethnic and Racial Studies*.

Lillie N. (2016) The Right Not to Have Rights: Posted Worker Acquiescence and the European Union Labor Rights Framework. *Theoretical Inquiries in Law* 17: 39-62.

Lillie N and Sippola M. (2011) National unions and transnational workers: the case of Olkiluoto 3, Finland. *Work, Employment & Society* 25: 292-308.

Meardi G. (2012) Union Immobility? Trade Unions and the Freedoms of Movement in the Enlarged EU. *British Journal of Industrial Relations* 50: 99-120.

Mussche N, Corluy V and Marx I. (forthcoming) How posting shapes a hybrid single European labour market. *European Journal of Industrial Relations* 0: 0959680117708374.

Wagner I and Lillie N. (2013) European Integration and the Disembedding of Labour Market Regulation: Transnational Labour Relations at the European Central Bank Construction Site. *JCMS: Journal of Common Market Studies*: n/a-n/a.

- Waldinger R and Lichter MI. (2003) *How the Other Half Works: Immigration and the Social Organization of Labor*, Berkeley: University of California Press.
- Woolfson CA, Fudge J and Thornqvist C. (2013) Migrant precarity and future challenges to labour standards in Sweden. *Economic and Industrial Democracy*.
- Referencer fra Zotero (noget overlap)
- Alberti G, Holgate J and Tapia M (2013) Organising migrants as workers or as migrant workers? Intersectionality, unions and precarious work. *The International Journal of Human Resource Management* 24(22): 4132–4148.
- Altreiter C, Fibich T and Flecker J (2015) Capital and labour on the move: the dynamics of double transnational mobility. In: Drahokoupil J (ed.), *The outsourcing challenge. Organizing workers across fragmented production networks*, Brussels: ETUI, pp. 67–88.
- Andersen SK, Dølvik JE and Ibsen CL (2014) *Nordic labour market models in open markets*. European Union Institute.
- Berntsen L (2016) Reworking labour practices: on the agency of unorganized mobile migrant construction workers. *Work, Employment & Society* 30(3): 472–488.
- Berntsen L and Lillie N (2016) Hyper-mobile migrant workers and Dutch union representation strategies at the Eemshaven construction sites. *Economic and Industrial Democracy* 37(1): 171–187.
- Bosch G and Weinkopf C (2013) Transnational labour markets and national wage setting systems in the EU. *Industrial Relations Journal* 44(1): 2–19.
- Caro E, Berntsen L, Lillie N, et al. (2015) Posted migration and segregation in the European construction sector. *Journal of Ethnic and Migration Studies* 41(10): 1600–1620.
- Crouch C (1993) *Industrial Relations and European State Traditions*. Oxford: Clarendon Press.
- Danaj S and Sippola M (2015) Organizing posted workers in the construction sector. In: Drahokoupil J (ed.), *The outsourcing challenge*, Brussels: ETUI, pp. 217–236.
- Doellgast V, Lillie N and Pulignano V (eds) (2017) *Reconstructing solidarity: Labour unions, precarious work, and the politics of institutional change in Europe*. Oxford: Oxford University Press.
- Drahokoupil J (ed.) (2015) *The outsourcing challenge. Organizing workers across fragmented production networks*. Brussels: ETUI.
- Eldring L, Fitzgerald I and Arnholtz J (2012) Post-accession migration in construction and union responses in Denmark, Norway and the UK. *European Journal of Industrial Relations* 18(1): 21–36.
- Flecker J (2010) Fragmenting labour: organisational restructuring, employment relations and the dynamics of national regulatory frameworks. *Work organisation, labour & globalisation* 4(1): 8–23.
- Grimshaw D, Johnson M, Rubery J, et al. (2016) *Reducing Precarious Work - Protective gaps and the role of social dialogue in Europe*. European Commission project (DG Employment, Social Affairs and Equal Opportunities VP/2014/004, Industrial Relations & Social Dialogue)., European Work and Employment Research Centre, University of Manchester, UK.

- Gumbrell-McCormick R and Hyman R (2013) *unions in western Europe: Hard times, hard choices*. Oxford: Oxford University Press.
- Hardy J (2015) Explaining 'varieties of solidarity': labour mobility and unions in an enlarged Europe. *Transfer: European Review of Labour and Research* 21(2): 187–200.
- Lillie N (2012) Subcontracting, Posted Migrants and Labour Market Segmentation in Finland. *British Journal of Industrial Relations* 50(1): 148–167.
- Lillie N and Greer I (2007) Industrial Relations, Migration, and Neoliberal Politics: The Case of the European Construction Sector. *Politics & Society* 35(4): 551–581.
- Lillie N and Sippola M (2011) National unions and transnational workers: the case of Olkiluoto 3, Finland. *Work, Employment & Society* 25(2): 292–308.
- Marchington M, Grimshaw D, Rubery J, et al. (2005) *Fragmenting work : blurring organizational boundaries and disordering hierarchies*. Oxford: Oxford University Press.
- Refslund B and Sørensen OH (2016) Islands in the stream? Challenges and resilience of the Danish industrial relations model in a liberalising world. *Industrial Relations Journal* 47(5–6): 530–546.
- Rueschemeyer D (2003) Can One or Few Cases Yield Theoretical Gains? In: Mahoney J and Rueschemeyer D (eds), *Comparative historical analysis in the social sciences*, Cambridge: Cambridge University Press, pp. 305–336.
- Wagner I and Lillie N (2014) European Integration and the Disembedding of Labour Market Regulation: Transnational Labour Relations at the European Central Bank Construction Site. *Journal of common market studies* 52(2): 403–419.
- Wills J (2008) Making class politics possible: organising contract cleaners in London. *International Journal of Urban and Regional Research* 32(2): 305–323.