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Labour Standards and Migration in the New Europe: Post-Communist Legacies and Perspectives

ABSTRACT ▪ The post-communist New Member States of Eastern Europe have experienced significant forms of labour exploitation, with deterioration in labour standards and the working environment. This is leading to increasing labour force 'exit' on a scale not hitherto anticipated. Migrant workers from the Baltic states, paid lower wages and with poorer working conditions, have been at the centre of a number of high-profile labour disputes in the EU-15. This article uses Latvia as a case study in order to discuss the implications of increasing labour migration for the New Member States and for labour standards in the wider EU.
KEYWORDS: labour migration ▪ labour standards ▪ Latvia ▪ New Member States ▪ post-communism

> If we were to give any advice to Latvia … it would be to invest in people, and that will pay benefits in the long term. (Irish Deputy Prime Minister at seminar 'Does Latvia Follow Ireland's Path? – Migration of Workforce', Riga, 20 January 2006)

> Comments from employers suggested migrant workers were better thought of because they were more likely to be happy with the minimum wage as it was higher pay than in their home countries. (UK Home Office Report, Employers' Use of Migrant Labour, March 2006)

> The main reasons for emigration are low salaries, and a sense of hopelessness and lack of future vision. People leave for a short period of time, initially to earn money, but after having adapted to a new country many do not want to return. (Raita Karnite, Latvian Academy of Sciences, EIROnline report, 26 January 2006)

Introduction

On 1 May 2004 eight former communist countries completed the long road to full European Union (EU) membership. Having left the embrace of the

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Soviet Union for over a decade, they entered the EU with high expectations of the benefits that would derive from access to a single European market. Key expectations were the free and unrestricted exercise of the freedom to compete in the provision of services, the right to travel, to seek residence and to work within the now 25 Member States.

Although, formally at least, each of the new entrants has met the conditions of the *acquis communautaire*, transposing European law into domestic frameworks, the difference in history and perspectives between the new and old Member States cannot be overemphasized. While nearly one in three people in the EU-25 earn less than 75 percent of its average income per head, two-thirds of these live in the New Member States (NMSs) (*Europa*, 2004). So far as questions of labour relations, labour rights and labour standards are concerned, the impacts of enlargement have still to be fully assessed. EU enlargement has simultaneously provided something of a magnet for workers from the East, and presented trade unions in Western Europe with a challenge that is now potentially threatening existing labour standards. Often this threat is described as 'social dumping', as workers from the new Member States are substituted for existing labour at a half, or even one third of the rate paid to their western counterparts.

Problems concerning the preservation of labour standards posed by recent EU enlargement have taken on a peculiarly Baltic dimension, as workers from the three ex-Soviet states of Estonia, Latvia and Lithuania have figured at the centre of a series of labour disputes. These include, most notably, the Laval (or Vaxholm) case involving Latvian construction workers in Sweden, the Viking Rosella dispute involving Estonian labour on Finnish ferries, and the Irish Ferries dispute involving the attempted replacement of Irish workers by Latvian and Lithuanian workers. Each episode at least temporarily disrupted existing social partner arrangements in older EU countries.

Linkages between questions of labour migration and labour standards in the new Europe have been given sharp focus as workers from Eastern European NMSs, facing problems in labour conditions in their home countries, embark upon a large-scale 'exit strategy'. Using Latvia as case study, this article explores the deteriorating labour conditions which the domestic labour forces of Eastern Europe are currently experiencing, in order better to understand the dynamics of labour migration in the enlarged Europe. It is suggested that labour standards in the EU-15 may be subject to increasing pressure occasioned, in particular, by the arrival of 'deteriorated' labour from Eastern Europe. In terms of the debate over a 'race to the bottom' in labour standards in the new Europe, it is useful to ask just how 'low' standards can potentially fall. Latvia provides a pertinent example.

Latvia: Labour Standards in a Neoliberal New Market Economy

Latvia is a small ex-Soviet republic of some 2.3 million persons. It is also the poorest of the 2004 NMSs, as measured by a variety of economic and social indicators (Dennis and Guio, 2003). As in its Baltic neighbours Estonia and Lithuania, the paradigm of neoliberal reconstruction has been actively implemented in the last decade and a half. A World Bank ranking of 155 nations on key business regulation reforms noted that Eastern Europe in general has achieved the highest rate of reform of any region in the world. Overall, Latvia is ranked at 26th in the world in terms of 'ease-of-doing-business', with all three Baltic States commended for their 'remarkable achievement' in achieving a top 30 ranking since the relatively recent introduction of market reforms (World Bank, 2005). Market reform has been a success, at least for the domestic elites who have benefited not simply from the economic gains of privatization, but also from the more recent record rates of GDP growth, albeit from a position of significant absolute decline in the early post-independence period. In the three Baltic states, average GDP growth has been between 6.5 and 8 percent per annum in most recent years, and in the case of Latvia, an extraordinary 13.7 percent in the first quarter of 2006, the highest rate in the EU-25 (Bank of Latvia, 2006). For domestic elites there have also been collusive benefits with western business interests which have been given new investment opportunities, allowing them to take advantage of cheaper labour in Eastern Europe (Bohle and Greskovits, 2004).

Such successes have however been achieved at a price. Significant numbers of the labour force have fallen, or more accurately have been pushed below any threshold of regulatory or collective forms of protection. These workers are submerged in the variously described 'shadow', 'grey' or 'black' economy where casual, contingent, fixed-term or temporary forms of employment of both a legal and semi-legal nature predominate. This economy of 'precariousness' is a major factor in nearly all post-communist Eastern Europe countries, where it is linked to the increasing gap between the 'haves' and 'have-nots' (Rosser et al., 2000). Here 'market forces' are no mere economic abstraction but a daily lived experience of economic and social insecurity (Rajevska, 2005).

Viewed in historical perspective labour conditions in the Baltic states are deteriorating. An ILO labour inspectors' report on the region (von Richthofen, 2002: 15) notes:

> workers' protection has become more and more difficult due to the privatization process and due to learning the rules of market economies. In consequence, this has led to a *drastic degradation of the working environment and a renewed exploitation of the labour force in the Baltics*. (emphasis added)

'Deteriorated' employment conditions or 'downgraded labour', and an accompanying tendency towards labour 'informalization' are interlinked impacts of the arrival of market forces in the 'transitional' economies of Eastern Europe (Castells and Portes, 1989; Heintz and Pollin, 2003; Portes et al., 1989). In strongly neoliberal economies such as Latvia, there has been the rapid erosion of stable employment relations within newly intensified work regimes, in which the discipline of mass unemployment has been an important factor in undermining the organizational capacities and confidence of labour. The result has been to create labour 'flexibility' and workforce compliance, with a consequential downgrading of employment standards in the context of business-friendly regulatory regimes.

Downgrading takes many forms, for example the imposition of bogus 'full-time' contracts, along with secondary or hidden supplementary contracts stipulating the surrender of employment rights, employer resort to various forms of probationary, fixed-term or part-time contracts and the failure to provide written contracts of employment. The use of 'self-employed' status to avoid employer obligations regarding social insurance contributions is common in the Baltic states. The avoidance of social insurance and tax liabilities through payment of minimum wages to employees supplemented by so-called 'envelope wages' is also ubiquitous. Envelope wages can be used as a 'soft' form of 'employee differentiation' aimed at eliminating staff no longer required, without incurring any costs to the employer in redundancy pay (Hazans, 2005). The Latvian State Labour Inspectorate estimates that 28 percent of workers receive 'envelope wages' in the form of supplements to the official minimum wage (LETA, 2004). 'Undeclared work' is prevalent in many sectors of the economy, including public sector healthcare institutions, construction, agriculture and forestry, hotels and restaurants, commercial services and retail. Other estimates of the Latvian workforce receiving under-the-table wage payments range between 15 and 45 percent of total employment, with approximately four-fifths in the private sector and one-fifth in the state and local government sector (*EIROnline*, 2004a).

An indication of the scale of 'undeclared wages is provided in an OECD report which noted an increasing discrepancy (on average about 10 percent) between the wages employers record to social insurance authorities for tax purposes, and those they report to statistical agencies; because many private-sector employers conceal wage levels from the statistical agencies, so that 'official wage statistics are therefore unreliable for the private sector'. Official statistics record that 32 percent of the private employees earn about one third of the average wage. As the OECD suggests (2003: 61):

> this result is not very plausible, considering … that the *public-sector* wage distribution did indeed show the expected bell-shaped normal distribution around the average. Labour force surveys (LFS) indicate about the same

wage distribution in private sectors (although LFS-based wage data are less reliable in other respects).

By comparing public- and private-sector wages according to both LFS and employer surveys, the OECD estimated that around 20 percent of all private-sector employees in Latvia earned more than their employers report (2003). The extent of concealment is also indicated by the fact that declared pay in the private sector is 21.4 percent lower on average than in the public sector, while in sectors where undeclared work is traditionally found, such as the construction industry, the disparity is even greater (32.5 percent) (*EIROnline*, 2004a). In construction, the proportion of employees receiving envelope wages is estimated to reach 40 percent (Sedlenieks, 2005), while 'local economists … believe that the shadow economy in Latvia is 40 percent of GDP or more' (European Employment Observatory Review, 2005: 115). It is this mass of 'down-graded' legal and semi-legal employment which provides one of the key 'drivers' of deteriorated labour standards. Even so-called 'legitimate' businesses will often keep a second set of accounting books, or conduct 'off-book' or 'direct' payment transactions with their employees, sub-contractors and customers to avoid taxation, thus oscillating between criminal and non-criminal behaviour on a regular basis, and increasingly blurring regulatory avoidance with outright criminality (Feige and Ott, 1999).

Deterioration is also manifest in exposure to dangerous and unhealthy working conditions, which employees are unable to refuse without fear of dismissal. Under Latvian legislation, the laws regulating industrial relations relate specifically to employees with employment contracts. Thus if an employee is injured at work, social guarantees may apply only if the employee has a contract. Construction is one of the industries in which employment contracts are most often not concluded with the employees and in which working hour limits are not observed. The result is fatigue, and accidents in the construction sector are disproportionately represented in terms of workplace fatalities (*EIROnline*, 2006b). Moreover, so-called 'self-employed' in construction are excluded from labour protection, while the injuries for this group are not even registered in the official data, thus reinforcing the already significant under-reporting of workplace accidents. A recent upsurge in speculative building activity following EU accession, particularly in the capital city Riga, has led to a sharp increase in industrial fatalities, already more than half as much again in excess of EU15 averages for the last few years. In recent years Latvia has ranked either the worst or second-worst performer in terms of workplace fatalities in Europe, at approximately six per 100,000 employees, approximately 50 percent above EU averages, while serious injury rates are spiralling, exacerbated by weak enforcement and low financial penalties for safety law violations (Woolfson, 2006).

The penalties imposed on employers for violations of labour law are very low (*EIROnline*, 2004b). The maximum fine for employing a worker without a contract is €720, but the average is nearer €100. The maximum fine for an administrative violation of labour laws was increased in 2005 to 1420 Euros, but only for repeat offenders. Until recently, only corporate rather than personal fines could be imposed, although proposed changes in the criminal law will now make owners and managers of enterprises liable if they provide fraudulent information to the state authorities with the aim of hiding illegal activities (European Employment Observatory, 2005). In 2004, of nearly 2000 enterprises inspected by the Labour Inspectorate, about one fifth were found to have employees without a contract. It estimates that 24 percent of employees in the wood industry have no contract, 23 percent in construction, 14 percent in retail trading, eight percent each in agriculture and medicine (State Labour Inspectorate, 2004).

Evidence from social surveys and case studies also suggests excessively long working hours, intensification of work effort, low basic salaries, high levels of conflict in the workplace, gendered wage discrimination and poor working conditions (Antila and Ylöstalo, 2003; *EIROnline*, 2004a; Hazans, 2005). The *Baltic Working Environment and Labour (BWEL)* survey data suggest three-quaters of respondents worked between 40 and 49 hours per week (74.1 percent) and a further one 10, more than 50 hours. One in five claimed a 'considerable increase' in work intensity in the previous 12 months. Half reported overtime working, and of these, one-third for seven or more hours per week. Again, a half claimed that such overtime is only partially, or wholly unpaid (Woolfson et al., forthcoming).

Labour 'flexibility' is an already imposed feature of the Latvian labour market. Again, the OECD notes that the newly introduced employment laws replacing Soviet-era labour codes are 'liberal in the sense that employers are free to dismiss workers if there is not enough work and – with a few exceptions – they have the right to select the workers they want to dismiss according to economic criteria' (OECD, 2003: 58). While expressly prohibited in the new labour code, successive short-term contracts and the dismissal of workers at the end of a probationary period are in fact rapidly developing features of the restructuring of the labour market (Vainovskis and Logins, 2006). Where collective agreements exist, they are rather weak when it comes to securing additional severance pay in the event of dismissals. More likely, union members will not be re-employed. 'Liberal wage-setting laws' (OECD, 2003: 59) also ensure that legal minimum wages are among the lowest in the EU27 (only Bulgaria and Romania being lower) and despite a recent increase of one quarter from January 2007, remain at 40 percent of the average gross monthly wage.

In a candid appraisal of the Baltic States the OECD observes:

> In sum, the predominant forms of wage-setting in the three countries appear quite flexible … While such flexibility is advantageous for business,

> there can be a danger of abuse by less-scrupulous employers if the institutional framework is too weak. Some groups of low-skilled workers, notably in small private firms, are probably in a vulnerable position if their employers are tempted to reduce wage costs more than is legally allowed. (2003: 60)

Employees, afraid of losing their jobs, will characteristically collude to hide any contract abuses: a testimony to the capacity for exploitation where violations are officially tolerated. Such degradation of labour standards are experienced *coercively* as a clustering of labour abuses. A Latvian governmental report describes what it calls a 'low level of legal culture in employment relationships':

> Employers still do not pay sufficient attention to compliance with normative acts regulating employment legal relationships, not concluding labour contracts with employees or processing them incompletely and inaccurately, as well as violating work payment principles. Violations in work payment issues also occur often – overtime work is unpaid, payment rules for a rest period in the working week are violated, wages are not paid on time. (Ministry of Economics, 2005: 36)

Despite EU accession, Latvia today possesses a labour market in which 'employees lack information about their … rights in terms of industrial relations' (*EIROnline*, 2004c). A recent survey of Latvian employees revealed that 15 percent were willing to work overtime hours without pay, 22 percent suggested that the collective agreement was only formality. A further 31 percent of respondents admitted that they would be ready to work without contract, 37 percent said they would work even if social guarantees were not paid, and 38 percent would be ready work without annual holidays (SKDS, 2005). On the other hand, opinion polls since 1996 consistently show dissatisfaction over human rights violations in labour relations at the top of the list (in 2000, 47 percent) (Rajevska and Vanags, 2005).

Trade union density and collective bargaining agreements the Baltic region are also the weakest among the NMSs, with both membership and bargaining coverage in continuing decline. Recent estimates suggest that in Latvia 15–16 percent of the workforce are trade union members, in Estonia 11 percent, and in Lithuania 14 percent (*EIROnline*, 2005a, 2005b, 2006a). As elsewhere in Eastern Europe, the majority of trade union membership is concentrated in the public sector or in the few remaining unprivatized enterprises, while union representation in the new private companies is negligible and fiercely resisted by most employers, including leading foreign investors from Scandinavia who happily bargain with unions in their own countries (*EIROnline*, 2005c; Sippola, 2006). Current trade union members are mostly inherited from Soviet times, and all evidence suggests continuing decline, despite valiant efforts on the part of union organizers in several sectors such as finance and services (Woolfson et al., forthcoming). The pervasive 'low-trust' social environment

of post-communism, in which individualistic solutions to life problems are sought, including those of violations of rights in the workplace, remains a barrier to collective defence of labour standards (Tisenkopfs, 2006). The most 'individualistic' solution of all is that of 'exit'.

The 'Exit Strategy'

Downgraded labour standards may benefit individual employers, but impose costs on Latvian society as a whole. Accession to the EU has at least partially opened doors for East European labour which were once closed, particularly to those EU member states such as Sweden, the UK and Ireland that did not impose 'transitional arrangements'. Against initial predictions of 'no immediate dramatic rises' (European Commission, 2004: vii; Krieger, 2004), there has been a significant outflow of labour seeking higher wages and better working conditions in the EU-15, although the actual percentage of the total European labour force involved is small. Only 1.5 percent of the EU workforce was born in a different Member State from their current state of residence according to Krieger and Fernandez (2006: 16). Recent estimates suggest however that between 50,000 and 100,000 people have emigrated from Latvia in the first 18 months alone following EU accession, at least 2.4 percent of its working population, a figure which could probably be doubled (World Bank, 2006; *EIROnline*, 2006c). How much of this migration is 'legal' or 'documented' is not known. This rate of emigration seems set to continue.

Labour shortages are already becoming significant, not only in construction and lower-skilled sectors, but also in teaching and public administration, producing identifiable 'skills shortages and bottlenecks' (Central Statistical Bureau, 2006b; World Bank, 2006). The nursing and medical professions and other high qualification sectors have experienced particularly significant losses of personnel (EMN Synthesis Report, 2006). A study based on the *EuroBarometer* survey notes that better-educated Latvian men and women in the ages 25–34 are 'four times more likely to migrate to another EU Member State than equally well-educated men and women in the same age group from the Czech Republic, Hungary, Slovakia and Slovenia' (European Foundation, 2006). Similar or even higher figures are reported for neighboring Poland, Estonia and Lithuania, which together with Latvia are classed as 'high mobility potential' NMSs (European Foundation, 2006). This research suggests that there are distinct reasons why individuals wish to emigrate, with 'work-related factors' such as higher household income (59 percent compared to 37 percent average for the EU-25) and better working conditions (57 percent compared to 36 percent average for the EU-25) featuring top of the list of expressed priorities

(Krieger and Fernandez, 2006). Overall, 7.4 percent of Latvians interviewed were prepared to move to another EU country (Krieger and Fernandez, 2006). In the words of the Riga office of the International Organization for Migration, 'workforce emigration has taken from Latvia almost the same number of people as deportations under Soviet occupation' (quoted in *EUbusiness,* 2006).

The exit of labour is creating a 'secondary' reinforcing migration in the region, as workers from other former Soviet countries are recruited who are willing to work for even lower wages and under poorer conditions than their Baltic counterparts. Renooy et al. (2004: 145) describe what they call a 'chain migration of labour from the East to the West', involving migrants from the less-developed neighbouring states of the former Soviet Union. VP Market, a Baltic supermarket chain, has announced its intention to hire staff from neighbouring Belarus (*Economist*, 2005). The managing director of an association of Latvian construction contractors, Marcis Nikolajevs, is quoted as saying that companies are being forced to import building workers, not just from other parts of the former Soviet Union, but are considering flying in temporary workers from as far away as Ghana. 'We used to be a proud people', Nikolajevs bemoaned, 'this migration is a national tragedy' (Bilefsky, 2005). Such secondary migration flows may produce further social tensions, not least over sensitive 'ethnic balance' questions in countries like Latvia, where an uneasy relationship with the significant Russian minority of 29 percent already exists, nearly half of whom are without Latvian citizenship ('non-citizens') (Mežs, 2007). Current government policy towards the developing crisis of human resources, in line with prevailing neo-liberal preferences, appears to be one of 'no policy' in terms of managed migration – except insofar as inflows from other parts of the former Soviet bloc to replace departed labour are 'not to be encouraged', even in sectors such as nursing and medicine which are facing severe shortages (EMN Synthesis Report, 2006).

The negative consequences of this labour exodus for the social fabric of Latvian society have been eloquently recorded in investigative articles and at least one novel on the impact of rural depopulation and the rupturing of family ties, dramatized in 'mushroom orphans' brought up by grandparents of departed migrants (Bilefsky, 2005; Muktupavela, 2003; Sweeney, 2006). Laima Muktupavela's novel of an itinerant mushroom picker in Ireland records that life for the emigrant may replicate the gross exploitation suffered back home, especially for those in poorly regulated areas of the economy, like horticulture. This picture is seemingly confirmed by a recent study of abuses of migrant labour in Ireland from the Irish Labour Relations Commission (Hyland, 2005).

Yet the adoption of an 'exit strategy' by tens of thousands of workers from the NMSs is both an understandable and an inevitable consequence of

the desire to find a better working life, and to escape the adverse nature of the working environment at home. The Latvian State Employment Agency has conceded the importance of low levels of pay and the 'not uncommon practice for companies to employ workers illegally, or officially pay them the minimum salary thus decreasing their level of social protection' in prompting workforce exit. In a rare instance of public candour, a representative of the agency admitted that 'employers in Latvia are not ready to motivate their employees and give them good working conditions. This is the main reason why our citizens are looking for jobs in other European countries' (Akule, 2006: 15).

A sociological investigation team was dispatched to Ireland to survey Latvian citizens now resident and working there, in response to growing concerns over the domestic impact of emigration. Their findings quoting Latvian migrant workers go to the heart of the matter: 'I am not afraid to talk with my supervisor which was the case in Latvia. Here [in Ireland] there is trust, and confidence in the employee. And so the work is better done in such an atmosphere.' Another respondent recounted, 'in Ireland we live a life which is "human worthy" – we can afford not always to be thinking of prices and about unpaid wages' (Indãns et al., 2006, my translation). Whether this official soul-searching can alter what seems to be the current exploitative approach adopted by the new business classes of Latvia remains to be seen. The current Latvian government seems reluctant to acknowledge the scale of the issue or to develop new public policy options. One of the few critical commentaries on the current situation suggests that the 'problem of emigration in Latvia is far more serious than the Latvian government cares to admit' (*EIROnline*, 2006c):

> [it] insists that emigration facilitates the improvement of labour force quality, as emigrants can learn a language, master skills, earn money and return home more economically better-off. The fact that many emigrants engage in unskilled jobs that frequently do not correspond to their level of education, and that they do not wish to return home, has never been addressed by the government.

The ongoing nature of labour force exit is now 'reinforcing already strong inflationary pressures and complicating euro adoption plans', threatening the sustainability of previous economic growth in the longer term (World Bank, 2006: 35). While domestic wage levels are rising under the pressure of growing labour shortages (Central Statistical Bureau, 2006a), worker outflow has resulted in job vacancies outnumbering the number of applicants in economically active areas for the first time (*EIROnline*, 2006d). Combined with drastically falling population, these trends suggest that sooner rather than later the drain of 'human resources' will become a key challenge for Latvia if not also for its NMS neighbours.

Labour Conflicts Post-Enlargement

While migration from the NMSs may not be significant in absolute numerical terms, at least viewed in a pan-European context, the qualitative impacts may be more substantial. Yet the view of the European Commission is typically reassuring: 'expected mobility from the three Baltic countries and Poland is significantly higher than that from the rest of the Member States, but this is unlikely to pose major and lasting challenges for the labour markets of the receiving countries' (2006: 17). This development is even portrayed as 'welcome news' since migrants display a 'relatively high degree of adaptability and flexibility' (European Commission, 2006: 233).

However, contra the Commission's sanguine view such mobility has also introduced labour market frictions. Incoming Eastern European labour is a potential threat to labour standards not just in terms of collectively bargained wages but also in terms of safety and health at work. Ireland, the favoured country of destination, again suggests a contemporary example. The annual report of the Irish Health and Safety Authority notes:

> The changing nature of Ireland's workforce and the increasing number of non-English speaking workers also poses a different challenge to the way in which the Authority does its work … to ensure that the entire workforce will clearly understand the various safety and health risks, entitlements and precautions applicable to them. (2006a: 5)

There were 73 deaths in Ireland in 2005 as a result of work-related accidents, as against 50 in 2004. In the construction sector, in which many migrant workers are to be found, the increase was from 15 fatalities to 23 (Health and Safety Authority, 2006a). In an attempt to address this problem the Authority has produced a series of web-based leaflets and an 80-page pictogram guide for Polish construction workers in their native language (Health and Safety Authority, 2006b). With further eastward enlargement in 2007 and other accessions on the horizon, mobility impacts on working environment standards are likely to become matters of increasing concern.

More immediately, a number of high profile disputes have thrown into relief the potential for destabilization of previously orderly industrial relations frameworks, including established social partnership arrangements. The conflict in late 2004 and early 2005 between a Latvian construction company, Laval un Partneri, employing low-cost Latvian labour in Sweden, and the Swedish trade unions seeking to preserve collectively bargained rates of pay, was the first significant post-enlargement clash over labour standards and the freedom to offer services on a cross-border basis. This dispute also provided an opportunity for Swedish employers to attempt to prise open previous voluntary arrangements in national collective bargaining in order to undermine organized labour

(Woolfson and Sommers, 2006). The Laval dispute (or Vaxholm case) is currently before the European Court of Justice (ECJ). It has proved a watershed both in legal and industrial relations terms, provoking a boycott and continuing blockade of the construction site in Stockholm, and mass demonstrations by Swedish trade unionists. The ECJ will, for the first time, be asked to rule on whether the right to take industrial action as promoted in the EU Charter of Fundamental Rights is compatible with the freedoms of the internal market.

Less prominent, but equally contentious has been the *Viking Rosella* ferry conflict. This dispute, during late 2005 and early 2006, is part of an attempt by Finnish ship-owners seeking to deploy replacement East European labour for Finnish seafarers. The Viking company announced its intention to re-flag its vessel, the *Rosella*, in Estonia and to replace the Finnish crew with cheaper Estonian labour. The dispute is also due for consideration by the ECJ, having previously been adjudicated in the English courts (Davies, 2006). The Finnish seafarers union had enlisted the support of the International Transport Federation based in London, in imposing a global boycott of the company. Like the Laval case, the *Viking Rosella* dispute highlights the question of the extent to which trade unions in the EU-15 may be able to use industrial action to resist what they perceive to be 'social dumping' arising from employment of lower-cost Eastern European labour, in this latter case, under the freedom of establishment principle of the internal market. The legal outcome of both these disputes will be closely observed both by European employers and the European trade union movement.

A third conflict, the Irish Ferries dispute, also in late 2005 and early 2006, involved the substitution of Irish workers by East European labour on cross-channel ferries between the UK and Ireland. While not subject to adjudication in the ECJ, this episode raised important concerns over labour standards, threatening to destabilize the much proclaimed Irish social partnership agreement.

The bare facts are that the company attempted to pay off 543 unionized workers from its key Britain–Ireland routes and replace them with cheaper Eastern European workers, mainly Latvian and Lithuanian, at much lower wages rates, reportedly half the Irish minimum wage of €7.65 per hour. While the majority of the current workforce was prepared to accept an offer of voluntary redundancy, a small core of the original crew was not. The trade unions, arguing that the company had breached a previous agreement on outsourcing and an undertaking to maintain normal staffing on its Irish Sea routes until 2007, drew a proverbial line in the sand. The company claimed that major cost-savings were necessary to compete against lower-cost airline traffic, rejected an Irish Labour Court ruling that it was in breach of employment agreements, and made clear its determination to press ahead with the changes, including re-flagging its vessels to Cyprus (RTÉ, 2005).

The dispute dramatically escalated after Irish Ferries sent security guards aboard the *Isle of Inishmore*, along with up to 70 East European workers. The security guards boarded the ship at Rosslare in Ireland dressed as passengers, but changed into their uniforms in the toilets as the vessel approached Pembroke Dock in Wales. Crew members seized control of the vessel, as officers and engineers followed anti-piracy routines and barricaded themselves in a control room. Irish Ferries said the new workers were there to familiarize themselves with the vessel and their roles, and that the security personnel were there to ensure the continued access of company staff and port officials (*BBC News*, 2005). Another vessel, the *Ulysses*, which was due to go from Holyhead to Dublin, was also held in dock. Within days the dispute had widened, with Dublin port workers voting to support Irish Ferries staff and refusing to handle any Irish Ferries ships. Meanwhile, on 3 December a rally was held at Pembroke Dock in support of the *Isle of Inishmore* crew, supported by the Wales Trades Union Congress (WTUC). At this point, crew members had already barricaded themselves aboard for nine days. On 7 December the WTUC organized a second rally, in support of the *Ulysses* crew at Holyhead.

Some measure of the national outrage in Ireland generated by the dispute was revealed when the Irish Congress of Trade Unions (ICTU) called a national day of protest on 9 December under the theme 'A Threshold of Decency'. In a turnout that exceeded all expectations, the ICTU claimed that an estimated 80,000 to 100,000 people joined the march in Dublin to protest against 'displacement' of Irish workers, the lowering of labour standards and the exploitation of migrants. Some 50,000 to 75,000 more supporters took to the streets in protests in Cork, Galway, Limerick, Waterford, Athlone, Sligo and Rosslare harbour, in what were the largest mass demonstrations in Ireland since at least the 1970s (ICTU, 2005).

The eventual legally binding settlement of the Irish Ferries dispute was a compromise. These included the agreement for Irish Ferries to proceed with the outsourcing of labour and re-flagging to Cyprus, but the trade unions were able to claim at least a partial victory, in that the rates for the new crew were to be at Irish minimum wage levels. The terms and conditions of the remaining Irish crew were protected for at least a temporary period, and the crew members from Eastern Europe would have the right to seek trade union representation (Sheehan, 2006a). Less than a year after the dispute ended, the majority of the nearly 500 existing permanent unionized staff had been replaced by lower-cost agency crews. The Seamen's Union of Ireland (SUI) lost representation among the new workforce and the number of unionized onshore staff was also reduced by three-quarters, while Irish Ferries secured labour cost savings amounting to approximately 11.5 million euros per year (Sheehan, 2006b). However, the real significance of these conflicts, and others similar to these which have taken place since EU enlargement, is that they have brought trade

unions in the EU-15 face-to-face with the challenge they confront in preserving existing standards of employment in the altered context of the new Europe. In so doing they have also tested the strength of employers' commitment to the preservation of previous ordered frameworks of negotiation and social partnership agreements.

Conclusion

This article has examined the deterioration of labour standards in post-communist society, focusing on Latvia as a 'worst case' example. In the wider context of European enlargement, migrant labour from NMSs is offering to work at wages and under conditions that potentially erode collectively bargained standards in the EU-15. While Latvia has been the focus of this analysis, neighbouring NMSs have also contributed significantly to post-accession labour migration and seem likely to do so even more in the future.

Paradoxically, the issues raised by the industrial disputes described above came into focus during the 2006 'European Year for Workers' Mobility', the objective of which was to promote the free movement of labour in the EU (*Europa*, 2006). As the future of the 'transitional arrangements' limiting labour inflows into the EU-15 are reviewed, the issue of regulating migration in a way that does not leave open the door to dangerous xenophobia will grow in importance. So far only the UK, Sweden and Ireland have avoided use of the 'transitional arrangements' (though four other members of the EU-15 removed their restrictions after two years). In Ireland, an opinion poll for the *Irish Times* conducted in the aftermath of the Irish Ferries dispute, suggested that 78 percent of voters wanted to reintroduce work permits for workers from NMSs, while 41 percent thought there are enough foreign workers in Ireland and no more should be admitted (*Irish Times*, 23 January 2006). Both Ireland and the UK have imposed restrictions on migration from Bulgaria and Romania following their accession in January 2007.

The Irish Ferries conflict has been only the most high profile of a number of recent disputes in Ireland involving migrant labour. Prominent trade unionists have begun to warn of Ireland being 'at the crossroads between racism and harmony' as a result of the fear and insecurity created by the exploitation of migrant workers (SIPTU, 2006). Major Irish unions such as the largest union, SIPTU, are now actively working with migrant labour by employing native Lithuanians and Latvians as union organizers, and exposing cases of gross abuse of immigrant workers. One of the positive signs on the public demonstrations in support of the Irish Ferries workers was the presence of Lithuanian, Latvian and Polish solidarity banners.

At regional Nordic–Baltic level and at pan-European level, new cooperation is also developing between organized labour in the old and new

Member States. Finnish trade unions have opened an office in Tallinn to provide information to Estonian workers about their rights and opportunities. Trade unions in Ireland, UK, Sweden and Finland are now also working more closely together with their Latvian, Lithuanian and other East European counterparts. The European Trade Union Confederation (ETUC) and International Confederation of Trade Unions (ICTU) are also lending support to affiliates in the NMSs. However, positive as these developments are, without a significant intensification in international trade union cooperation and organization, the potential erosion of labour standards in the enlarged Europe is unlikely to diminish, particularly with further eastward enlargement.

What are the prospects of securing of a common floor of labour standards in line with EU Charters and norms? The case of neoliberal Latvia with the outflow of its 'pre-adapted' and 'pre-flexibilized' labour offers little ground for optimism. The troubling possibility exists that there will be no upwards 'ratcheting' of labour standards in the more neoliberal of the new market economies, as Sabel et al. (2000) advocate within the 'global workplace'. Effective enforcement of protective labour regulation is an area where both domestic and European institutions have proved rather weak, while the independent collective resistance of organized labour and its civil society allies, is compromised both by legacies of the previous regime and by over a decade of tripartite involvement in painful post-communist economic reconstruction. Thus, for their part, trade unions in Latvia have developed little countervailing capacity to confront manifold abuses of employees.

Paradoxically, it is the weakness of organized labour, and its overall inability to provide serious resistance to capital's downwards drive on labour standards, that may lead to temporary improvements for a narrow elite within the workforce, as Latvian employers attempt to retain their increasingly disaffected qualified employees. 'Management by fear' and gross exploitation may be increasingly replaced by other more 'subtle' human resource concerns. One real prospect is the further segmentation of the workforce between those workers, mainly younger, white-collar and skilled, with access to more favourable and secure working conditions, and those who lack such advantages – the overwhelming majority of the workforce – further fracturing social solidarity. For employers this is perhaps good news, but for workers' labour standards in both the new and the old Member States, rather less so.

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