

# Chapter 8

## Union campaigns to organize across production networks in the European telecommunications industry: lessons from the UK, Italy, Sweden and Poland<sup>1</sup>

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### 1. Introduction

The fragmentation of production networks described in the earlier chapters in this book has created a number of challenges for labour unions. On the one hand, worker representatives are charged with maintaining pay and working conditions for their members in large firms or ‘core’ workplaces while preventing job losses via externalization (Hassel 2014). On the other hand, labour unions often seek to organize across production networks, with the aim of extending collective agreements to workers in peripheral jobs or more poorly organized workplaces (MacKenzie 2010; Holtgrewe and Doellgast 2012). In this chapter, we argue that these two kinds of union objectives are increasingly interconnected. As externalization via outsourcing and temporary agency work expands and as bargaining coverage declines, unions find it is necessary to improve the standards of externalized jobs to both prevent the erosion of pay and conditions for their traditional members and expand union bargaining power (Doellgast *et al.* 2009; Benassi and Dorigatti 2014).

Our analysis asks under what conditions unions and other worker representatives are successful in improving or maintaining conditions across production networks, and examines the ongoing challenges they face in accomplishing these goals. Findings are based on four case studies of incumbent or formerly state-owned telecommunications firms in the UK, Italy, Sweden and Poland. These cases are drawn from a 10-country study of restructuring in incumbent telecommunications firms in

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Europe and the US (Doellgast *et al.* 2013).<sup>2</sup> Competition in national telecommunications markets over the 1990s was encouraged by the development of mobile networks and the internet, as well as by changes in the regulation of traditional and emerging market segments. As incumbent telecommunications firms have faced growing competition in increasingly differentiated markets, they have sought to reduce labour costs and increase labour flexibility. One set of strategies for accomplishing this has been to externalize a range of service jobs – including call centre, technician and IT services – to subcontractors, service subsidiaries and temporary agencies.

In Chapter 5, we focused on one widely used externalization strategy: the outsourcing of call centre work. In this chapter, we examine two further strategies, with an expanded focus on call centre and technician workplaces. The first is the use of different categories of contingent work, including temporary agency and freelance contracts. In some cases, incumbent firms outsource jobs to subcontractors, which are then able to further depress pay and conditions through using these kinds of contingent contracts. The second involves the transfer of a group of internal workers to subsidiaries and subcontractors via spin-offs and outsourcing. This often results in the shift of workers to new individual contracts or collective agreements with lower pay and conditions than they formerly enjoyed within the incumbent firm – or in its core business units. Thus, both sets of strategies can be, but are not necessarily, connected to outsourcing to a third-party firm.

Similar to Chapter 5, our cases include detail on the effects these strategies have on job quality. However, our focus in this chapter is on evaluating the conditions for union success in responding to these different forms of externalization. For this reason, we have chosen cases in which unions have succeeded in campaigns to improve or maintain pay and conditions in the face of these employer strategies. In the UK (BT) and Italy (Telecom Italia), we examine union campaigns to secure equal treatment for temporary agency and freelance workers. In Sweden (TeliaSonera) and Poland (Orange Polska) we examine union efforts to

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2. This study included incumbent telecommunications firms from Austria, Czechia, Denmark, France, Germany, Italy, Poland, Sweden, UK, and USA. Findings are based on over 150 interviews, as well as site visits, comparative data drawn from collective agreements and surveys of union representatives, and archival material. Case study findings focused on restructuring in call centre and technician workplaces.

maintain pay and conditions for workers transferred through a spin-off to a service subsidiary or subcontractor.

We find that in all four cases, worker representatives have had some success in improving working conditions or resisting their downgrading, based on creative campaigns within core firms and across firms' production networks. Their strategies have focused on two areas. First, worker representatives have used their historic bargaining power within large firms to negotiate limits on externalization. These strategies have relied both on partnerships aimed at improving the productivity of the in-house workforce as well as organizing strategies and protests targeted at generating additional costs to employers associated with negative publicity and labour conflict. Second, worker representatives have sought to extend collective representation and legal protections to externalized groups of workers. This has occurred via campaigns to organize these workers and negotiate agreements with their employers, as well as through campaigns to close 'loopholes' in national legislation that allow employers to by-pass standard employment protections or equal pay rules.

Findings suggest that successful campaigns have drawn on heterogeneous forms of bargaining power provided by national and sectoral labour market and industrial relations institutions. These institutions can be strengthened by European directives transposed into national law. In some of the cases presented here, directives concerning equal treatment for agency workers and transfer of undertaking rules have encouraged changes to national legislation. However, these laws are proving to be weak without strong union organization in incumbent firms and their subcontractors, subsidiaries and temporary agencies. Ideally, unions need to develop new strategies that mobilize both sets of internal, firm-based and external, institutional resources to succeed in regulating work across interconnected core and peripheral workplaces.

In the following sections, we present findings from the four case studies. We then discuss reasons for the differences in union strategy and outcomes across the cases, and conclude with a reflection on best practices and lessons learned.

## **2. UK and Italy: improving the pay and conditions of agency workers and freelancers**

### 2.1 UK: BT

BT – formerly British Telecom – was privatized by the UK government in 1984, and the market was fully liberalized in 1990. BT negotiates agreements with two unions: the Communication Workers Union (CWU) which represents non-managerial grades, and Prospect which organizes first-, second- and third-line managers and professionals. While both unions' members are affected by trends of externalization via agency work, we concentrate on the CWU as our focus is on the non-managerial workforce.

In the early 1990s, BT began to increase its use of temporary agency workers in many areas of work traditionally performed by permanent employees. At one point in the late 1990s and early 2000s, around 10,000 employees were on temporary contracts across the company, representing 7% of the workforce. These were concentrated in certain areas, with a large number in call centres: one interviewee estimated that 50% of the call centre workforce in BT's retail business unit were in temporary positions at this time. In the mid-1990s, BT set up telemarketing call centres composed entirely of agency workers.

The terms and conditions for agency workers were poor. Many agency workers were paid considerably lower rates than their permanent colleagues, despite carrying out similar work. They received no company sick pay, no paid maternity leave, only statutory annual leave, and had no job security. Agency workers also had a much more flexible shift pattern, meaning that in some areas they worked more during unsocial hours and weekends. Conversions from agency to permanent positions were minimal, with some agency workers having worked for more than ten years at BT.

The CWU had long criticized the growing use of agency workers as well as the poor conditions they were working under. They conducted an internal debate in 2000:

‘... it was a big internal debate about whether we recruited these people or whether we stood up and fought against the strategy of the company, and I think that it came to a point where we had vociferously

tried to oppose the use of agency and it wasn't getting us anywhere. It was becoming so that they were moving so quickly bringing agency people in, and some of these agency people wanted to join the union, that we had to, I suppose, adopt a two-pronged strategy which was to recruit and organize amongst the agency, but to also still deal with BT so as to get these people permanent contracts of employment. So we were not endorsing the use of agency. We were actually going to the company and saying that we wanted these people to be given proper contracts.' (Interview, CWU official, 15/05/2012)

The union mounted a campaign 'Justice for Agency Workers' to organize the agency workers and to work with the temporary agencies to improve conditions. This campaign was successful in increasing membership density among agency workers, which grew to around 50% – a high rate for this group of employees. However, this was lower than membership density among the permanent workforce, which was around 90%. Recruiting and retaining members proved difficult because of the high turnover among agency staff. The CWU developed good relations with the agencies and was successful in gaining recognition agreements in some cases. At the same time, these did not cover pay.

By the mid-2000s, BT had begun to reduce the number of agency workers across the company. One of the reasons for this was that management had begun to recognize that permanent workers provided higher quality customer service. Another was related to downsizing in other areas of the company, and the need to find work for these redeployed employees. For these reasons, and following union campaigns to decrease the share of agency workers, the CWU and BT reached an agreement in 2006 called the Retail Sourcing Strategy. This allowed for no more than 10% of the workforce to be composed of contractors, fixed-term workers and agency workers from 2007. In the same agreement, management committed to a cap of 2,200 jobs in offshored locations in India. As part of this drive, well-performing agency workers in some call centres were given BT contracts, although on a new grade that was 'slightly below' that of the existing workforce. For the individuals concerned, this change implied a salary increase of a few thousand Pounds and employment under a permanent contract. By 2013, around 35% of the call centre workforce were on these new grades.

Also in the mid-2000s, the CWU started to campaign for legislation guaranteeing equal pay and conditions for agency workers in the

House of Commons, as well as at EU level where the United Kingdom was blocking proposed legislation on this issue. In 2008, the UK government reached a tripartite agreement with employer and worker representatives which stipulated that agency workers would be entitled to the same pay as colleagues in equivalent permanent positions after 12 weeks on the job. The government also agreed to the EU Temporary and Agency Work Directive on equal treatment of agency workers, which was passed in 2008 and transposed into national law and implemented in 2011.

The new regulations ensured that agency workers on traditional agency contracts were entitled to terms equal to those of permanent workers concerning pay, annual leave entitlement, breaks and the use of facilities. At the time that the legislation was implemented, 4,000 BT agency employees qualified for equal treatment; while the CWU had over 3,000 members (across BT and other companies) who qualified. Union officials observed that most of these agency employees saw their pay increase, in some cases by as much as 20%.

However, the legislation included a clause known as the ‘Swedish Derogation’, which allowed a temporary work agency to be exempted from the requirement of equal treatment on pay provisions if it offers an agency worker a permanent contract of employment and pays the worker between assignments, or during the periods where they are not working and where there are no suitable assignments. Agencies immediately began to exploit this ‘loophole’ in the legislation. In February 2011, prior to the implementation of the agency regulations in October, Manpower advised the CWU that they would be trialling ‘pay between assignments’ (PBA) contracts for agency employees at BT. By 2013, these had become the ‘default contract’ for this group of workers. Union officials observed that agency workers were required to sign these contracts without being advised of their implications – particularly that they were ‘contractually and legally signing away their rights to equal treatment on pay’ (Presentation, CWU official, 21/11/2013). As a result, pay gaps began to increase again, with agency workers in call centres paid between £2 and £4 less per hour than similar permanent workers at the same locations. In addition, the proportion of agency workers in the call centres began to increase. For example, in 2013, BT employed 3,050 agency workers in its UK call centres, compared to around 8,000 permanent employees (Interview, CWU official, 17/10/2013).

The CWU initiated a new campaign after the passage of the UK legislation called ‘Closing the Loopholes: Justice for Agency Workers’. This campaign had several objectives, including securing amendments to the UK Agency Regulations closing this PBA and other loopholes; raising the profile of agency issues among CWU members and encouraging agency members to become active in the campaign; raising political awareness and support; engaging and working with the TUC and the global union UNI; and giving ‘consideration to challenging the UK Agency Regulations within the European Commission’ (Presentation, CWU official, 21/11/2013). In January 2013, the CWU organized an ‘Agency Action Day’, in which agency workers at a number of BT call centres demonstrated against low pay and inequality of treatment. In September 2013, the TUC made a formal complaint to the EC that the UK government had failed to properly implement the Directive, citing evidence – provided in part by the CWU – that tens of thousands of agency workers were being paid less than permanent staff doing the same job. This conflict was ongoing at the time of writing.

## 2.2 Italy: Telecom Italia

In Italy, the former state-owned operator Telecom Italia held a monopoly in the fixed-line market until the late 1990s, when legislation liberalizing telecommunications was passed in compliance with EU directives. The three main unions at both Telecom Italia and in the Italian telecommunications sector are: 1) the SLC (Communication Workers’ Union), affiliated with the former communist confederation CGIL; 2) FISTEL (Union for Press, Entertainment and Telecommunication), affiliated with the Catholic confederation CISL; and 3) UILCOM (Italian Labour Union for Communications), affiliated with the socialist confederation UIL. These unions are joint signatories to both a company agreement with Telecom Italia, and a sectoral agreement with the employers’ association ASSTEL.

Telecom Italia started outsourcing call centre work during the 1990s. One of these subcontractors was Atesia, which became (in)famous because most of its workers were on freelance, or so-called ‘co.co.pro’, contracts. ‘Co.co.pro’, or ‘freelance’ project-based work, was introduced by law (*Pacchetto Treu*) in 1997 and was regulated by the Biagi law up until 2015. The definition of a ‘project’ as well as of the degree of autonomy is very loose, thereby allowing companies to abuse these

contracts.<sup>3</sup> When employees are employed under a co.co.pro contract, there are no obligations for the employers at the end of the ‘project’ and the social contributions amount to the half of those for standard work contracts.

These contracts at Atesia were characterized by low levels of pay – mainly based on performance – and social contributions that were lower than those set by the sectoral collective agreement. One union representative observes:

‘In call centres there is a legal fiction which allows the company to do it [use co.co.pros]. I (as the company) can say that you are formally – in reality, you are dependent and come every day for 6 hours in order to earn your monthly wage – but formally the call centre can say that you are a co.co.pro who organizes her time autonomously and make a certain amount of hours available for providing certain services. Thus, there is a completely different situation between law and reality, between what really happens and what’s written in the contract that should happen.’ (NIDIL/CGIL representative, 14/06/2011)

In the early 2000s, Atesia workers started mobilizing against this practice. With the support of the unions, they organised a series of demonstrations and succeeded in getting media coverage. In 2005, in the wake of these protests, union representatives and Telecom Italia management negotiated an agreement with the aim of improving the precarious employment conditions of Atesia workers. Telecom Italia purchased 20% of Atesia, and then integrated the workers into its subsidiary Telecontact under permanent contracts. The agreement also prescribed the transition of around 4,000 freelancer contracts for workers remaining at Atesia into standard contracts. Even so, Atesia continued to employ many workers on project-based contracts who did not benefit from the telecommunications sector agreement applied to the subcontractor’s permanent workers.

The unions mobilized around the issue of co.co.pros and call centres, bringing it to the attention of the public.<sup>4</sup> By so doing, they were able

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3. The recent labour market reform – called the ‘Jobs Act’ – re-defined more precisely the characteristics of the project-based work in order to reduce the number of co.co.pros by January 2016. We do not discuss these reforms in detail because the new regulation started applying only after the end of our fieldwork.

4. See, for example, the demonstrations on 20 October 2007 (RSU Almagora 2007) and on 19 September (Vespo 2008).



to successfully lobby the government. The 2007 Financial Act improved the social security of *co.co.pros*, increasing employers' pension contributions and introducing the right to maternity and sick leave. In addition, two legal ordinances came into force in 2006 and in 2008, intended to limit the use of these contracts – the 'Circolari Damiano' or Damiano Ordinances. The first ordinance prescribed that inbound call centre agents should be offered permanent contracts because the work did not reflect the characteristics of an 'autonomous project'. When the first Damiano ordinance was passed, Atesia asked the confederal unions to bargain an agreement stabilizing the employment conditions of only part of the *co.co.pros* instead of all of them, because some call centre agents – such as those working at Atesia – were outbound. However, the confederal unions refused the compromise.

The confederal unions pushed then for the second ordinance, which concerned outbound call centre agents, as it was difficult to distinguish in daily practice between inbound and outbound agents. Sometimes outbound agents were even assigned inbound activities so that the company could continue using the project-based contracts.<sup>5</sup> The second ordinance does not require the stabilization of the employment conditions of outbound *co.co.pros* – as did the first ordinance for inbound call centre agents – but it requires some evidence of 'autonomous work' when they are employed on project-based contracts. The Damiano ordinance gave call centre and telecommunications companies one year to bargain the transition from atypical to permanent contracts with unions, giving labour and management sufficient time to figure out the best arrangements with a view to limiting the cost burden on the company as much as possible. The outcome was that Atesia stabilised the employment conditions of all *co.co.pros* (around 6,000). Unfortunately, it started hiring *co.co.pros* again right afterwards, a practice contested by the unions through strikes.<sup>6</sup> Although with ongoing contracts, Atesia was forced to transition the majority of its workforce onto permanent contracts. This created new challenges associated with responding to varying demand levels common to the subcontractor sector. However, the unions have sought to work with management to find alternative solutions to provide flexibility: for example, in October 2012 unions and management signed an agreement on short-time work arrangements in order to avoid redundancies.

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5. See, e.g. Cobas Almaviva (2008).

6. See, e.g. Bonaccorsi (2008) and Infoatesia (19.02.2008).

Parallel to these developments, the unions sought to reduce the use of agency work within Telecom Italia's call centre subsidiary, Telecontact. In contrast to the UK, agency work is relatively well regulated in Italy, as legislation has been in place since the 1990s guaranteeing temporary workers the right to equal pay and equal treatment. The social partners also established a special fund for unemployment benefits and for training: when agency workers have a permanent contract with their agency, they are entitled to 800€/month and to attend vocational training classes while they wait for their next contract. However, equal pay refers to the wage levels set in the collective agreements; thus, agency workers do not benefit from company-level agreements, which include social benefits and variable pay.

The collective agreement negotiated with Telecontact at the time it was established in 2001 permitted 30 per cent of the workforce to be employed on temporary agency contracts. This was much higher than in other areas of the company. In 2008, the unions negotiated a new agreement to shift 300 of the company's agency workers onto permanent contracts. By 2012, there were no agency workers in the call centre subsidiary.

### 2.3 Comparison

In both the Italian and UK cases, unions faced similar challenges, associated with uneven or incomplete application of laws intended to ensure equal treatment of different categories of temporary work. The unions concerned used a combination of strategies focusing on two areas. First, they used lobbying, social partnership and protest to change or enforce national legislation extending protections to these contingent workers. Second, they sought to mobilize both their traditional members and newly organized groups of temporary workers within 'core' firms to negotiate limits on temporary employment contracts and improvements in conditions for temporary workers.

These strategies had varied success – and depended on heterogeneous forms of bargaining power. In Italy, the unions relied on the mobilization potential of their numerous members within Telecom Italia and on their political leverage with the government. This was further bolstered by public support in the wake of the Atesia 'scandal,' which was widely covered in the media due to a large extent to union mobilizations. In the

UK, the CWU was successful in limiting the numbers of temporary workers and gaining improvements in pay and conditions via application of equal pay rules. However, campaigns to close the loophole created by the ‘Swedish derogation’ are ongoing, and their success will likely depend on either support from the European Commission or a change in the current government – which has proven unwilling to date to review the temporary agency regulations.

### **3. Sweden and Poland: avoiding declining pay and conditions associated with spin-offs and subcontracting with employee transfer**

#### 3.1 Sweden: TeliaSonera

The largest competitor in the Swedish telecommunications industry is TeliaSonera – formed in 2002 through the merger of the former Swedish state-owned monopolist Telia and the former Finnish state-owned Sonera. Sweden’s telecommunications market was one of the earliest to liberalize in Europe, with far-reaching reforms promoting competition coming into force in the mid-1990s. TeliaSonera’s workforce is represented by two major unions, the blue-collar Swedish Union for Service and Communications Employees (SEKO) and the white-collar Unionen, as well as by several smaller unions in the academics and professionals confederation SACO. These unions were joint signatories to a corporate-level agreement with TeliaSonera and to a sectoral agreement with the employers’ association Almega IT Employers.

Similar to most incumbent telecommunications firms, Telia, and then TeliaSonera, established a range of subsidiary companies for different business lines, and later spun off a series of business and support services. In each case, there was no renegotiation of collective agreements or change in terms and conditions of employment: ‘they move all their working conditions, salaries, everything, right over to the new company, because they use the same collective agreement’ (Interview, SEKO official, 28 May 2012). The most significant ‘events’ involved the establishment and sale of subsidiary companies responsible for internal services and for installation and network maintenance activities between 2001 and 2007 – which affected close to 11,000 employees – most of whom were over time transferred to subcontractors.

In 2001, Telia formed two separate business units or 'Groups' made up of business areas that they planned to sell off as 'non-core' businesses. First, Telia formed the 'Telefos Group', made up of 9 formerly internal businesses in the 'business services' area with 5,600 employees – or 17% of Telia employees. The venture capital firm Industrikapital purchased 51% of the Telefos Group in 2001; and each individual company was sold between 2001 and 2007. Second, Telia formed the 'Orbiant Group', made up of six companies with 5,400 employees responsible for network maintenance and the installation and servicing of customer equipment. Flextronics purchased 91% of the shares in the Orbiant Group in 2001, and the remaining 9% in 2002. Then in 2005, Altor purchased a majority stake in Flextronics Network Services, with the two companies merging under the name 'Relacom'.

The creation and sale of subsidiary companies in the Telefos Group and Orbiant Group described above was the most significant case of outsourcing at Telia/TeliaSonera. As a result of these sales, close to 11,000 employees were moved to subcontractors between 2001 and 2007. After that time, TeliaSonera purchased nearly all of its technician services from these subcontractors.

According to a union official, the local trade unions were closely involved at all stages of outsourcing, and were able to reach favourable agreements easing staff transfer and retraining:

'All these persons, they were moving from Telia to the new companies. And they looked after it so everyone would have a job after they... when Telia sold it, all the people had these possibilities. But if they worked for TeliaSonera and were moved to this new company, and they don't want to move to this new company, they had special solutions for them. For instance, early retirement, they had possibilities to be educated. And they also could receive money to go out of the Company and have two years...for instance two years of payment.' (Interview, SEKO official, 28/5/2012)

Under Swedish transfer of undertaking rules, pay and basic employment terms and conditions specified in collective agreements were protected when employees were moved to the Telia-owned companies, and then when the companies were sold to third parties. Thus, the collective agreements moved with employees – under Swedish law, employees continued to be covered by agreements for one year following a transfer

of ownership, after which they could be moved onto new agreements (but with the same basic pay scale, pension rights, etc.).

Some aspects of employment conditions and benefits changed, despite the formal portability of past terms and conditions. According to union representatives who had experienced the move from Telia to the subcontractors, pensions gradually became less generous, work content became narrower and opportunities for advancement shrunk. However, at the same time, there were no direct concessions associated with outsourcing: 'We are not the same technicians that we were ten years ago. But in principle we have the same pay, it is not different in that way' (Interview, SEKO official, 10/5/2012).

Following the outsourcing of these jobs, there was then further fragmentation of 'production networks' as subcontractors replaced permanent contracts with temporary contracts. In 2005, the temporary staffing agency Manpower launched 'Manpower Network Services,' and the subcontractor Relacom downsized its staff – many of whom got jobs at Manpower and then were sent back to Relacom as agency employees on temporary contracts (Geary *et al.* 2010). This appears to be a model that all of the companies have followed. A union representative from one subcontractor estimated that 25-30% of their workforce was employed through temporary agencies (Interview, SEKO official, 10/5/2012). Another union official interviewed worked for a temporary staffing company through this arrangement, but was posted almost exclusively to her former employer: '[Subcontractor] let me go, and then I took a job with [staffing company] who rented me back to the company that sacked me' (Interview, SEKO official, 9/8/2011).

However, her terms and conditions did not change significantly following transfer: her collective agreement with the agency required it to pay temporary workers the same salary as colleagues doing similar work within the subcontractor. The union was also able to negotiate a new collective agreement at this subcontractor in 2010-11 in response to concerns with the large number of employees made redundant and then re-hired through temporary staffing agencies: 'the new rule is that after a while when you've been laid off, if the company needs a worker, they need to ask you first.' At other subcontractors, there was an agreement stating that the company could not hire temporary agency workers until 9 months had passed after layoffs; and within that time period, employees who were laid off had to be re-hired if there was a need for additional staff.

Temporary employees also had some degree of job and salary security, as they were on ‘permanent contracts’ with their temporary agency and received 90% of their salary during the time when no work was available in their area – again based on a collective agreement. This is equivalent to the ‘pay between assignments’ contracts discussed in the UK case study above – introduced as part of the ‘Swedish derogation’ in UK law. However, these contracts were more effective in preserving equal conditions in the context of strong collective agreements. In effect, this meant that the agency shared some of the risk of business fluctuations or seasonal changes in labour demand with the employee.

TeliaSonera also outsourced call centre work, though to a smaller extent. Several interviewees noted that call centres were viewed as a ‘core’ area of the business and therefore kept in-house. One union official estimated that around 2,000 call centre employees had been outsourced in 1998-1999 (Interview, SEKO official, 27/6/2012). However, over time the company reduced outsourcing, and by 2014 TeliaSonera had stopped subcontracting any of its call centre work in Sweden. In addition, in the early 2010s the company was using over a thousand temporary agency workers. While these workers were more flexible, labour costs were similar to the internal workforce due to high collective bargaining coverage and equal pay rules. The union succeeded in convincing management to convert most of these employees to permanent contracts as well: ‘we said, employ them in-house instead. I think they, the management, decided to do that because they noticed that the quality that they get from the employees was bigger if they are employed by us.’ (Unionen representative, 27/10/2014)

### 3.2 Poland

Telekomunikacja Polska was the incumbent telecommunications firm in Poland. In the early 2000s, France Telecom acquired a controlling stake in the company, which is now called ‘Orange Polska’. Around 20 unions are active at Orange Polska. Two representative industry-level unions are the largest: the National Section of Telecommunications Workers (SKPT) of the national Solidarity organisation, and the Federation of Unions for Telecommunications Workers (FZZPT) of the national OPZZ. In 1998, the main unions negotiated a multi-establishment agreement at national level, which inter alia covers all direct Orange Polska employees.

Spin-offs with employee transfer to subcontractors were one of the most prominent forms of downsizing at Orange Polska. The EU Transfer of Undertakings Directive was transposed into Polish law, stipulating that pay and benefits under an employee's former collective agreement must remain in place for at least 12 months. However, bargaining coverage and union density are lower than, for example, in Sweden. Thus, typically after the 12-month period, transferred employees would be shifted to different – often less favourable – terms and conditions.

At Orange Polska, many spin-offs involved non-core activities. The first spin-off in 1997 involved building administration and cleaning services, with subsequent ones affecting drivers, couriers, security services, accounting and remote computer maintenance. These services are now performed by third-party subcontractors. In many cases, the affected former Orange Polska employees transferred to the outsourcing partners. Two spin-offs – of technician services in 2002 (a proper spin-off) and of call centres in 2010 (a subsidiary creation) – will be discussed in depth to illustrate the process.

Network services were spun off in 2002, with 6,000 service technicians transferred to external companies. As part of this spin-off, the union negotiated a programme 'Work for the worker': in return for standing orders from Orange Polska, these external companies agreed to employ former Orange Polska employees on indefinite contracts and to guarantee them work for 1.5-3 years, depending on the region of Poland. The new employment contracts were individually negotiated by workers who took a wage cut of 15% on average. However, Orange Polska paid fairly generous financial inducements (on average 20 thousand zloty). The decision to move was voluntary, but if technicians decided not to move, they would be made redundant. The majority of affected employees took the opportunity to leave because the terms offered went far beyond what is required by Polish law.

Some unionists expressed pride in this agreement: 'The conditions for the workers I think we managed to negotiate well, as far as Polish conditions go.' (Interview with two union officials, 07/04/2012). However, these measures were only temporary. According to one unionist, 'After the employment guarantees expired, there were further wage cuts and redundancies in many companies that took over workers.' (Email communication with a union official, 11/10/2012). According to another, the transitional period 'was a camouflage, window-dressing. Because the

employer survives these 18 months and then he can do as he pleases, so it was only for a while' (Interview with two union officials, 17/04/2012).

In 2010, the customer service call centres for both mobile and fixed line business units were spun off to the subsidiary Orange Customer Service (OCS). Unlike the situation with technician services, OCS remained fully owned by Orange Polska. Several waves of tough negotiations were associated with this spin-off, and the union SKPT led a collective dispute. Following this dispute, the unions succeeded in extending the terms of the collective agreement for Orange Polska to the new subsidiary. Transferred employees received a two-year employment guarantee and no reduction in their salary. A similar pension scheme was also introduced, which constituted a gain for the former mobile business unit employees. One unionist described the negotiations:

'When the new company [OCS] was founded it did not offer workers anything except for the things that are by law offered to employees that move to another company, for example, it sets a period of employment. ... This new company initially did not offer anything. Only these negotiations that the unions undertook have led to these successes that [union official X] mentioned.' (Interview, union official and works councillor, 15/02/2012)

Orange Polska managers stressed that these provisions went far beyond what is required by law: 'This is important for us, a rather large group of people. We would like to carry this out in social peace, we want to be fair, we offer this, this and this, and that we will keep' (Interview with four TP managers, 10/07/2012). Union representatives interviewed attributed this success to high membership density and union strength in the call centre area. One unionist commented on the difference in union strength between technicians and call centre employees:

'Technicians are a very fragmented group who are not all located in the same place. Especially since the network services were spun off in 2002, there have been fewer technicians who would put up a resistance to the company's restructuring plans. ... Conversely, there was definitely concern about the call centre employees, because there any walkout would be very noticeable for the company, because customers could not be served completely. It is the customer's only contact with the company. So there was a concern, so perhaps these protests, which took place then [when OCS was spun off in 2010] led to the



company ... fulfilling all these demands. And it fulfilled them, all of them were fulfilled.’ (Interview, union official, 19/04/2012)

### 3.3 Comparison

The Swedish and Polish cases are interesting to compare, because there was a similar development in both whereby technician work was outsourced, with existing staff transferred to subcontractors, while call centre work was kept in-house. First, we see different outcomes in the technician area. At TeliaSonera, subcontracted technicians for the most part preserved their pay and conditions over time, even when they were shifted to temporary agencies. This can be largely attributed to encompassing collective bargaining institutions, as well as the ability of well-organized unions in temporary agencies to negotiate provisions improving job and earnings security for their members. At Orange Polska, technicians had some protection under transfer of undertakings rules, as well as a favourable job security agreement negotiated by the unions. However, they experienced wage cuts of 15% associated with being transferred to new employers, followed by more significant reductions in pay and conditions after an 18-month transition period.

Second, we see similar outcomes in the call centre area – but for different reasons. At Orange Polska, the union successfully opposed downgrading of pay and conditions associated with moving call centre work to a separate subsidiary, using mobilization of a well-organized member base in an area that was strategically important for the company. At TeliaSonera, call centre work was shifted in-house and temporary agency workers were moved onto permanent contracts in cooperation with the union, but also for broader strategic reasons concerning service quality.

A comparison of these cases shows that unions again faced similar challenges – here associated with maintaining employees’ pay and conditions during and after their transfer to different employers or subsidiaries. Transfer of undertakings rules in national legislation provided a starting point for and some leverage in union negotiations over the terms of employee transfer. However, similar to the UK and Italian cases, successful union strategies relied on member mobilization ‘across production networks’ to use these resources – here across increasingly disintegrated networks of subsidiaries, subcontractors, and temporary agencies. In

Sweden, more encompassing collective bargaining institutions covering these networked workplaces provided a substantially stronger resource for unions in maintaining pay and conditions after employee transfer, as well as arguing for the re-internalization of call centre jobs.

## 4. Conclusions

Past research has asked why unions adopt more or less inclusive strategies to organize and represent externalized workplaces or worker groups, as well as under what conditions these strategies succeed or fail. Theorists examining trends of labour market dualism have argued that unions in many ‘coordinated market’ or social European countries focus on protecting the working conditions of the core workforce, relying on traditional, institutionalized sources of bargaining power while neglecting new groups of service workers or those on contingent contracts (Palier and Thelen 2010) – possibly at the long-term expense of working conditions for their own members (Eichhorst 2014). Other researchers argue that unions in a range of institutional settings increasingly seek to organize externalized groups of workers, as their core membership shrinks or comes under threat from the expansion of outsourcing to lower wage sectors and workplaces (Taylor and Bain 2003; Heery 2004; Gumbrell-McCormick 2011; Tapia and Turner 2013). However, these studies have shown that unions have uneven success in accomplishing these goals, despite numerous examples of innovative campaigning, organizing, and partnership approaches.

The case study findings presented in this chapter show that successful union strategies to regulate pay and conditions across production networks depend on organizing and mobilizing members both within core firms and across externalized workplaces. Increasingly, maintaining job quality for core workers and the bargaining power of their unions depends on extending collective bargaining and legislated employment protections to peripheral worker groups. In all four cases examined here, unions sought to accomplish these dual goals using a range of strategies. We argue that variation in outcomes was due not to union enthusiasm or reluctance to pursue these strategies, but rather to differences in unions’ success in accessing and developing two sets of resources: encompassing labour market institutions and member mobilization across core and peripheral workplaces.

First, encompassing national and sectoral labour market institutions were crucial resources for unions in extending terms and conditions from ‘core’ to ‘peripheral’ worker groups and employers. In the cases examined here, these institutions included national legislation and collective agreements that required equal pay and conditions for temporary workers or those transferred to subsidiaries and subcontractors. Among the four cases discussed above, Sweden demonstrates the highest coverage of collective bargaining at sectoral level and across externalized workplaces. Collective agreements set equal pay for temporary workers and agency workers employed by subcontractors. This broadly prevented TeliaSonera’s strategies of outsourcing, temporary agency work and spin-offs from being associated with downgrading of pay and conditions. Unions at subcontractors and temporary agencies were then able to build on existing agreements to further strengthen pay and conditions through collective bargaining with these external firms.

By contrast, national regulation and sectoral bargaining in the other three country cases were weaker or characterized by loopholes allowing employers to circumvent encompassing rules. In the Italian and UK cases, despite implementation of the EU Directives on equal pay for agency and fixed-term workers, national labour market regulation allowed employers to hire certain categories of contingent workers at lower pay rates. In Italy, employers used freelance contracts to circumvent the equal pay regulation. In the UK, the transposition of the EU directive on agency work into national law allowed companies to pay lower rates if they offered permanent contracts with pay between assignments. In both cases, unions were involved in campaigns that succeeded in strengthening collective bargaining and labour market institutions – although in the UK, employers were able to exploit further loopholes to again differentiate pay between permanent and temporary workers.

A second important set of resources unions drew on as they sought to improve pay and conditions across production networks was their capacity to mobilize members across core and peripheral workplaces. In the telecommunications industry, unions are best able to organize strikes and campaigns within incumbent firms, due to their history of high union density and often militant unions. Orange Polska’s union used bargaining power from a well-organized membership base in the call centres to oppose plans to differentiate pay and conditions via the creation of subsidiaries. Unions also used residual power in the technician area to negotiate agreements providing better terms for workers transferring to

subcontractors than those required by national law. In both the UK and Italy, unions negotiated formal limits on the use of temporary agency work within the incumbent telecommunications firms. In these two cases, unions also organized temporary agency workers, building up mobilization potential beyond their core workforce.

Ideally, unions need both sets of resources to challenge management's attempts to differentiate pay and conditions by moving work to more poorly regulated sectors and workplaces: encompassing labour market institutions and the capacity to mobilize members across increasingly heterogeneous production networks. Unions face many challenges as they seek to develop and access these resources. We have focused on cases in Europe, in which unions enjoy residual institutional bargaining power at national and sectoral level, as well as additional leverage to strengthen national laws through the process of transposing EU directives. In countries or regions with lower union density and weaker labour market institutions, these challenges are even greater. We have also focused here on the externalization of work to temporary agencies or third-party subcontractors located within the same country as the core 'client' firm. The already substantial difficulties faced by unions in regulating work across production networks within these countries is significantly exacerbated when work is moved across national borders, via offshoring; or handled by subcontractors relying on workers posted from other countries. Certainly in the telecommunications industry, firms are able to offshore or 'nearshore' an expanding range of service jobs – including, most visibly, call centre work.

While unions have varying capacity to access the institutional resources discussed in this chapter, the case studies have broader lessons for unions as they seek to develop new sources of bargaining power in distinctive institutional settings. One implication of our findings is that the national context remains an important level of action for unions as they seek to improve pay and conditions for externalized groups of workers. Union campaigns to mobilize across national borders in multinational firms and their networked subsidiaries, subcontractors, and temporary agencies can also benefit from incorporating different levels of action into their strategies. Bargaining power in MNCs, as in incumbent service firms, depends on success on two fronts: both seeking to close the loopholes in national institutions, as well as mobilizing workers across organizational boundaries to challenge the segmentation strategies of firms.

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