

THE ROLE OF THE TRADE UNIONS REGARDING MIGRANT WORKERS IN EUROPE

Thazin KHAING MOE*

Abstract

Labour migration in Europe gets bigger and bigger than every century. Migrant workers are entering into EU from third countries and most of them from within EU. Anyway EU shall make the strong and good legislations on the protection of the migrant workers. When the workers face their rights' infringement or violations, they need to have some specific organizations or union to negotiate and stand for them. Trade unions are the main platform for the collective bargaining between workers and employers. But some countries don't give the migrant workers the chance to enter into and participate in the trade unions. My purpose to research about the role of trade union in EU is to find out the rights of the migrant workers in trade unions in EU as it is the big enlargement regions and there are so much great and developed businesses as the incentives of the foreign workers. Most of the workers around the world are interested in working within EU. EU tried to protect their workers in line with their conventions or protocols which are under International Labour Standards. EU has the labour court to solve the cases the workers are facing. But before the step of EU labour court, there is a negotiation between the two sides as a preliminary step.

Keywords: Trade Unions, EU, Migrant workers,

Introduction

EU is an enlarged union that allows free movement within the whole region. Along with being an enlargement of EU, free movement and migration cause EU complicated and as a consequence of the enlargement of EU, regarding free movement and migration it is complicated and confused for EU to make the fair legislation as the EU will endeavour not to lose the rights of native people and make the discretion not to violate the rights of foreign people. Among the free movement, labour migration creates many issues for the EU, including European citizens and the third country citizens who are trying to migrate to work within the EU. It is interesting how it is possible to manage and control the issues

of labour migration. The EU has various kinds of job opportunities for other regions, ASEAN or America or Africa. It makes EU a big migration flows every year and more crowds of workers including migrant workers. Migration flows among EU countries and from the third countries are not easily controlled with the policy and legislation because of the enlarged European Union.

Trade unions have an important role related to the cases of migrant workers. Initially, trade unions are for the workers, but no one notices whether migrant workers can join and get the protection from the trade union or not. I have divided this paper into three chapters to clarify my thoughts about the trade union and the migrant workers in EU. Chapter I says the definitions relating to

* PhD Candidate, University of Debrecen, „Marton Geza” Doctoral School of Legal Studies, Hungary (e-mail: thazinkhaingmoe@gmail.com).

the essence of this paper. Definitions are trade union, migrant worker and collective bargaining and the relevant labour market itself. They are also the key words of this paper. Chapter II provides the history of the trade unions in EU. When I write the article on trade union and migrant workers in EU, firstly, I need to express where the trade union comes from. The history is vital in explaining and comparing the current situation and can make the article clear. Chapter III implies the relation between trade unions and migrant workers. The reason of stating their relation is that some trade unions in the world do not protect or concern migrant workers in relation to their fundamental rights in employment.

Trade union is essential for every workers to negotiate and solve their obstacles. In this paper you can see how much the trade unions is important to the workers. How about for migrant workers do trade unions serve? Because it is the strength for every worker in their employment, they always rely on trade unions.

My hypothesis for this paper is that if trade unions stand strong with migrant workers in equal ways and migrant workers would equally get the protection and the rights, they should be entitled through these organizations; consequently, the alliance between the States would be also supportive.

I applied comparative methods and case study method in this paper, because comparative method is essential to all context and the policies among the States. Furthermore, the case study is effective in

writing and describing the role of the trade union and migrant workers. Therefore, these two methods are very important in my paper.

1. Definitions

Cambridge dictionary says trade union is an organization that presents the people who work in a particular industry, protects their rights, and discusses their pay and working conditions with employers.¹ Labour unions or trade unions are organizations formed by workers from related fields that work for the common interest of its members. They help workers in issues like fairness of pay, good working environment, hours of work and benefits. They represent a cluster of workers and provide a link between the management and workers.² Collin English Dictionary expresses about trade union that it is an organization that has been formed by workers in order to represent their rights and interests to their employers, for example, in order to improve working conditions or wages.³ Moreover, it is an organization, usually in a particular trade or profession that represents workers, especially in meetings with employers.⁴ There is one more definition that states that they are associations of workers and are formed with the intention of protecting the workers against exploitation of the employers and to improve the workers' working conditions.⁵ By seeing the definitions mentioned above, it is clear that trade unions are organizations to protect and

¹ Definiton of Trade Union, Cambride Dictionary, <https://dictionary.cambridge.org/dictionary/english/trade-union>.

² Definition of Trade Union, The Economic Times ,Glossary, Economic. <https://economictimes.indiatimes.com/definition/Trade-Union>

³ Definition of Trade Union, Collins English Dictionary, <https://www.collinsdictionary.com/dictionary/english/trade-union>

⁴ Definition of Trade Union, Longman Dictionary of Comntemporary English, <https://www.ldoceonline.com/dictionary/trade-union>

⁵ Smriti Chand, Trade Union: Its meaning and definition, <http://www.yourarticlelibrary.com/trade-unions/trade-union-its-meaning-and-definition-trade-union/26118>

represent the workers against losing their rights at their workplace.

The European Convention on the Legal Status of Migrant Workers provides the definition of migrant workers. According to that migrant worker means a national of a Contracting Party who has been authorized by another Contracting Party to reside in its territory in order to take up paid employment.⁶ Migrant workers are defined as people who work in a region or country different from their usual place of residence.⁷ Another definition states that 'migrant workers' is used in a narrower sense to refer to those who migrate from their country of birth to other places for employment.⁸ According to the definitions expressed above, migrant workers are people who are working in a country different from their own country. Their intention is to get more money than in their original country.

Cambridge dictionary states that it is as the system in which employees communicate as a group with their employers to try to agree on matters such as pay and working conditions.⁹ Industrial disputes between the employee and employer can also be settled by discussion and negotiation between these two parties in order to arrive at a decision.¹⁰ Merriam-

Webster dictionary expresses about the collective bargaining as a negotiation between an employer and a labour union usually on wages, hours and working conditions.¹¹ ILO defines it as all negotiations that take place between an employer, a group of employers or one or more employers and one or more workers' organization for determining working conditions and terms of employment, regulating relations between employers and workers, and regulating relations between employers or their organizations and workers' organization.¹² It is prominent of this definition as expressed above that collective bargaining is a negotiation between employers' organization and workers' organization based on their rights and their disputes arisen through the employment.

The Economic Times defines labour market as the place where workers and employers interact with each other. In the labour market, employers compete to hire the best, and the workers compete for the best satisfying job.¹³ According to another definition it is a market which brings together those persons seeking work (the supply of labour) and firms, government and other organizations seeking to fill job

⁶ Chapter I, Article- 1, Definition, European Convention on the Legal Status of Migrant Workers, ETS93–Legal Status of Migrant Workers, 24.XI.1977.

⁷ Nurulsyahirah Taha, How portable is social security for migrant workers? A review of the literature, Definition Concept, P.5.

⁸ Pong-Sul Ahn, Migrant Workers and Human Rights, Out-Migration form South Asia, 2004, p.2.

⁹ Definition of Collective Bargaining, Cambridge Dictionary, <https://dictionary.cambridge.org/dictionary/english/collective-bargaining>

¹⁰ Vaibhav V, Collective Bargaining: Definition Types, Features and Importance, Definition of Collective Bargaining, <http://www.economicdiscussion.net/collective-bargaining/collective-bargaining-definition-types-features-and-importance/31375>

¹¹ Definition of collective bargaining, Merriam-Webster, since 1828, <https://www.merriam-webster.com/dictionary/collective%20bargaining>

¹² International Labour Organization, Part I Scope and Definitions, Article 2 , C154- Collective Bargaining Convention, 1981 (no.154) https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312299

¹³ Definition of Labour Market, The Economic Times, Glossary, <https://economictimes.indiatimes.com/definition/labour-market>

vacancies (the demand for labour).¹⁴ The labour market, also known as the job market, refers to the supply and demand for labour force in which employees provide the supply and employers the demand. It is a major component of any economy and is intricately tied in with markets for capital, goods and services.¹⁵ Another dictionary defines it as the market in which employers look and compete for workers and in which workers look and compete for employment.¹⁶ So labour market means a business place that can give the opportunities of jobs to the workers and fill the vacancies of the employments of the employers. It is a kind of negotiation between the employers and employees to be fair and just in giving the remuneration on the side of the employers and in giving the effort and the skills on the side of employees.

2. Trade Unions in Europe

Every region has developed countries that can offer job vacancies for the workers from other member countries. Mainly, the developed countries can only give job opportunities to the foreign workers, so the workers need the protection of their rights only in their receiving countries and not in the sending countries. When they need to get protection, it will make sure, firstly what kinds of rules and regulations have been promulgated and how they will be protected. Especially, they should have the representative to claim their rights instead of claiming one by one.

Therefore, trade unions are essential to all workers and migrant workers around the world. The EU is a large organization established by so many member states. Free movement of migration is allowed within the EU, which causes labour migration and unfair conditions at the workplaces. The past economic recession created in EU member countries unemployment situations and some human rights violations between employers and employees. The enlarged group of EU had to make a solution for that big issue and tried to give the fair rights relating to the problems of employers and employees.

As workers' central political actors, trade unions represent workers' interests within the political system of the EU as "intermediary organizations".¹⁷ Although, trade unions in Europe started to develop in the late nineteenth century, it took more time to the industrial conflict and collective bargaining in their institutionalization. Since 1945, the membership development is raised more and more until today.¹⁸ The effectivity of the trade union is high to all workers. The reasons why trade union is being useful and essential to the workers within EU have been stated. Besides co-operation at the national or regional level, trade unions increasingly utilize transnational union structures such as the European Trade Union Confederation (ETUC) and industry-wide European federations to deal with cross-border mobility issues. For instance, the European Federation of Building and Wood Workers (EFBWW) and the European Federation of

¹⁴ Definition of Labour Market, The Free Dictionary By Farlex, <https://financial-dictionary.thefreedictionary.com/labour+market>

¹⁵ WILL KENTON, What is Labour Market?, Economy, Economics, Investopedia, <https://www.investopedia.com/terms/l/labor-market.asp>

¹⁶ Definition of Labour Market, Collins Dictionary, <https://www.collinsdictionary.com/dictionary/english/labour-market>

¹⁷ Martin Seeliger and Ines Wagner, How Trade Union Organizations at the European Level Form Political Positions on the Freedom of Services, MPIfG Discussion Paper 16/16, 2016.

¹⁸ Bernhard Ebbinghaus and Jelle Visser, Trade Unions in Western Europe Since 1945, January 2001.

Food, Agricultural and Tourism Trade Unions (EFFAT) have recently intensified their efforts to combat social dumping practices in the EU and to enforce local labour standards.¹⁹ Therefore, ETUC is an organization, which controls the trade unions in the EU. When we analyze trade unions in the EU, firstly, the European Trade Union Confederation needs to be clarified and initiated as it is the foundation of European trade unions.

2.1. European Trade Union Confederation

Over the years, the European Union (EU) wished to influence their region with the workers. Therefore, the ETUC was started to form for speaking a single voice and taking in EU decision-making on behalf of European workers. Since 2008, Europe's economic and financial crisis and the introduction of austerity policies have reinforced the need for a body to defend workers' interests at EU level.²⁰ Trade unions in EU rely on ETUC consideration and decision and ETUC is for the workers within Member States. If going back to the history of ETUC, European Coal and Steel Community (ECSC) needs to be examined to trace. Under ECSC, the first organization of the affiliates of International Confederation of Free Trade Union (ICFTU) could be created. In 1957, European Economic Community was established through the Treaty of Rome. In 1958, European Trade Union Secretariat could be formed by the meeting of ICFTU's European affiliates. At about the same time the International Confederation of Christian

Trade Unions (ICCTU) set up a European organization. In 1968, ICCTU changed its name into World Confederation of Labour. In 1969, European Trade Union Secretariat was changed into European Confederation of Free Trade Union (ECFTU). The Trade Union Committee for the European Free Trade Area (EFTA-TUC) could be created in 1968. With this organization, the number of the European trade union bodies increased to five the European level trade union bodies. Denmark, the Republic of Ireland and the United Kingdom by 1970s made discussions about six times in the EC and EFTA countries about outcome the decision to establish an entirely new European trade union organization spanning both the European Community and the EFTA Member States and the agreement for a single unified trade union organization at European level. From these discussions, European Trade Union Confederation was established in 1973.²¹

The chief founders of European Trade Union Confederation are Bruno Storti (CISL), Georges Debunne (FGTB), Thomas Nielsen (LO Denmark), Heinz-Oskar Vetter (DGB) and Victor Feather (TUC). The proposal for establishing European Trade Union Confederation was firstly discussed in Frankfurt in June 1971, and the negotiation in a meeting was held in Norway from 5th to 6th of November, 1971. At that time, the drafting of basic principles for the cooperation of EU Member States was created from the first discussion.²² It is the very first effort and effective way to develop the trade unions in EU. Based on the drafting of the basic principle the next step can be

¹⁹ Torben Krings (Johannes Kepler University Linz), 'Unorganisable'? Migrant workers and trade union membership, Conference Paper, September 2014.

²⁰ European Trade Union Confederation (ETUC), 2nd November 2017, <https://www.womenlobby.org/article296>

²¹ European Trade Union Confederation, published by the Trade Union Division of the Directorate-General for Information, European Communities (DG X Information) - 200 rue de la Loi, 1049 Brussels- Belgium.

²² Christophe Degryse and Pierre Tilly, 1973-2013 40 years of history of the European Trade Union Confederation, European Trade Union Institution, 2013, p.19.

made to create developed rules and principles.

National trade union federations and European trade union federations are included in the ETUC. European trade union federations are organizations of trade unions within one or more public or private economic sectors. They represent the interests of the workers in their sectors at the European level, principally in negotiation. All trade unions related to member federations always connect to each other. The negotiation shall be made with employer organizations.²³ With the Constitution of ETUC, European trade union federations are the main organizations standing for the workers and the real responsibility in serving for the ETUC. Social dialogue is often made in the case of the worker affairs to get human and workers' rights. It is an effective way to solve the problems of worker affairs. Without social dialogue or negotiation, the confederation cannot go on and can miss the correct way. Therefore, the ETUC cooperation for the trade unions in Europe is essential to take part into the organization. Its vital service is to take into consideration the workers' rights.

European Trade Union confederation (ETUC) has a long history and is still active nowadays. It was 1973 when the ETUC was started to be created. On the other hand, it was after the Second World War when Western Europe was being rebuilt again and it was the period of the origin of the ETUC.²⁴ Rebuilding of Western Europe was a kind of

attempt to develop economies that allows the free movement of labour migration. The ETUC currently has 89 member organizations from 39 European countries. By establishing the ETUC, trade unions can participate in the role of labour migration management and be a kind of effort to the solution between the workers and employers. The ETUC's statute identifies its aims as representing and promoting the economic, social and cultural rights of the workers on a European level and strengthening democracy in Europe.²⁵ The main purpose behind the creation of the ETUC was to build a lobbying organization to counter the increasing activity of multinational companies in the European market.²⁶ The objective of the ETUC is the interest of the workers in Europe and to maintain an important social dimension in the EU that protects the interests of all citizens.²⁷ The ETUC believes that workers' consultation, collective bargaining, social dialogue and good working conditions are the keys to promote innovation, productivity, competitiveness and growth in Europe. In consulting, collective bargaining, social dialogue and good working condition, ETUC plays an important role in pointing out the solution and making decision between workers and employers.²⁸

The ETUC cooperated with the European Commission in the legislation that leads the ideal framework for labour regulation, but the unionist from the sectoral federations criticized as they favor the national legislative area.²⁹ On the side of

²³ ETUC Constitution, https://www.etuc.org/sites/default/files/publication/files/ces-congreccs_2015-statuts-uk-ld_def_1.pdf.

²⁴ Christophe Degryse and Pierre Tilly, p.13.

²⁵ Willy Buschak, The European Trade Union Confederation and the European industry federations, <http://library.fes.de/library/netzquelle/english/eugew/history/pdf/buschak.pdf>

²⁶ Martin Seeliger and Ines Wagner, Workers United? How Trade Union Organizations at the European Level Form Political Positions on the Freedom of Services, p.5.

²⁷ Level Three, Trade Unions and Europe, Study Guide, English for European Trade Unionists, p.5.

²⁸ European Trade Union Confederation (ETUC), 2nd November 2017, <https://www.womenlobby.org/article296>

²⁹ Martin Seeliger and Ines Wagner, How Trade Union Organizations at the European Level Form Political Positions on the Freedom of Services, MPIFG Discussion Paper 16/16, 2016, pa2.

unionists who highlight the national legislative area, they disagree the legislation at EU level or international level. Nevertheless, the EU is a big organization that is formed by many Member States and has to legislate at EU level by considering on both the developed and the less developed countries. When the national legislation is led within the EU, it is sure that it is not fair and perfect that the legislation is based on the nation-state.

Migration and refugee flows, European crisis and its aftermath, environmental issues and post-Brexit political concerns are recent events and problems of trade unions in Europe. But trade unions in Europe can show the real and good consequences not only at the national and transnational level. After the formation of the ETUC, several guidelines of the ETUC emerged that can develop the labour migration situation. Those guidelines are a number of milestones in his historic journey.³⁰ In fact, it is too hard to stand and serve in the cooperation with the ETUC, since the 39 European countries have the ideological diversities in accordance with their tradition, their economic sectors and other reasons. However, they can greatly cooperate within European unions by their provisions and steps.

3. Trade Unions and Migrant Workers in Europe

Since trade unions are European organizations, the workers from European Member States can be given the protection of their rights with the reason of the regional integration between Member States. Free movement of labour migration is an important part of European organization in developing their economies and financial affairs. By allowing free movement of

labour migration, European Union can be entitled their shared interests with the growth of their regional economies and can share their workers in the requirement of the vacancies of the factories or industries. It is a solidarity of an enlargement of the European Union, that affects the harmonization of the rules and regulations with regard to labour migration. Therefore, there are no big issues in respect of workers come from EU Member States. With the great contracts, the great interests, the full rights like the given citizens, they can more safely work in the employment than migrant workers, who come from non-European countries.

However, the EU has many migrant workers earning in their regions because of job opportunities for the third countries. In this paper, migrant workers mean the ones from non-European countries. To what extent does the EU give the rights to the migrant workers when they work within EU? This question is a very important and interesting question for them. When they face the infringement of their rights from the employment, it has to point out whether ETUC or trade unions can represent them to claim their rights or not. The chapter will show how to connect the advantages or disadvantages of participating in trade unions, and my theoretical point of views.

3.1. Three dilemmas relating to trade unions and migrant workers

Basically, three dilemmas for trade union and migrant workers have been theorized by some authors and articles in EU. The three dilemmas are the following:

1. Should trade unions resist employers' efforts or cooperate in recruiting workers from abroad or not?

³⁰ Andrea Ciampani and Pierre Tilly (eds), National trade unions and the ETUC: A history of unity and diversity, European Trade Union Institute, Brussels, 2017.

2. Should migrant workers be regarded as an integral part of the trade union rank and file and therefore be actively recruited as members with the same rights as any other worker?
3. Should trade unions exclusively represent the common interests of native and migrant workers, treating all workers the same way? Or should they develop targeted policies and strategies that care to the special interests and needs of migrant members?³¹

The above questions can establish the solutions connecting to the issues between trade unions and migrant workers. These are the real problems for European Union although; the trade unions' rights are different in every Member State. Critically, the problematic issues can be confronted in every developed country and region received so many foreign workers in their employment industries or factories.

The first dilemma is concerned with the resisting employers' efforts or recruiting workers from abroad. Rinus Pennix and Judith Roosblad express that if trade unions do cooperate, it could depress wages of union members and trade unions' bargaining power might be weakened. In addition, economic growth would be slow.³² In times of plentiful national supply of labour, trade unions are likely to oppose the recruitment of migrant workers; while in times of labour shortages, unions will probably be more willing to cooperate.³³ The recruitment of workers from abroad adds not only to the quantitative supply of labour but also brings about qualitative changes in the workforce. As labour migration became permanent and 'guest workers' transformed into ethnic

minorities, there has been a certain convergence in union attitudes insofar as they increasingly aimed to recruit migrant workers into unions and eventually also recognized the need for some special policies tailored towards the needs of migrants.³⁴ Trade unions can resist employers in recruiting foreign workers when the employers need the laborers for their labour supply. Trade unions may be the main platform to recruit workers from abroad and internally and to negotiate between the workers and employers. But it is not the best way to solve the problems between the workers and employers. Since the objective of trade unions is to represent the workers in the case of the violation of their rights in the employment. In resisting employers' efforts, trade unions cannot serve the workers to get fair and just working conditions in the employment, as it has to help the employers in recruiting workers and resisting for their benefits. According to Rinus Pennix and Judith Roosblad's commentary, the economic growth can be slow by cooperating with the employers in recruiting. On the other hand, if trade unions cooperate with them in the way of not taking care of bargaining power, it will not be the organization for the workers' favour to represent their complaint. Furthermore, as the workers' rights will be violated and got their rights properly, the labour supply will be bigger and bigger and the economic expansion will be gradually affected. Therefore, for this dilemma, it is better that trade unions should not participate in the recruitment of the foreign workers not to lose their rights in the employment.

³¹ Stefania Marino, Rinus Pennix and Judith Roosblad, Trade unions, immigration and immigrants in Europe revisited: Unions' attitudes and actions under new conditions, European Work and Employment Research Center, University of Manchester, UK, 2015.

³² *Ibidem*.

³³ Stefania Marino, Rinus Pennix and Judith Roosblad, Trade Unions and Migrant Workers (New Contexts and Challenges in Europe), 2017, ILERA Publication Series, ILO, p.4.

³⁴ Torben Krings, *Ibidem*.

The second dilemma is whether migrant workers should be regarded as an integral part of the trade union rank and file and therefore be actively recruited as members with the same rights as any other worker or not. Rinus Pennix and Judith Roosblad state their comment about that question that on the formal ideological level, none of the unions excluded migrant workers, but the practice of inclusion differed markedly across the seven countries. Firstly, the degree of organization of migrant workers turned out to be much more determined by structural (national) characteristics of the trade unions than by characteristics of migrants themselves. Secondly, being a member of the union does not always mean having the same rights.³⁵ From my point of view, migrant workers should be regarded as an integral part of trade union rank as they need to get and claim their rights through trade union and it is better than their right to organize. Integration of trade unions rank causes the native workers not in favour of their special rights than migrant workers, which may be high wages or good opportunities for jobs. In case the migrant workers are members of trade unions, they will get the common rights together with the native workers. Every country can give the special rights only to the native workers and not to migrant workers. It is globally a formative norm no one can deny. Therefore, migrant worker should be allowed to be members of trade union, but on the other hand, they should accept the traditional norm and try not to lose their human rights and not to face the infringement of their rights from the employment. If migrant workers are not allowed to be members, in case there are some problems, they cannot claim their rights, they cannot get the opportunities and

to accept the precarious jobs, that they cannot get the fair salary fully from the employers. To get the workers' rights, trade unions need to have the right to organize migrant workers or to have right to participate in trade unions. Finally, if migrant workers even cannot be members of trade unions, they should get the right to organize themselves. This way, they should be accepted as the representatives of the migrant workers in trade unions, not as members. By participating in the negotiation of trade unions, the native workers and migrant workers will not lose their rights.

The third dilemma is whether trade unions should exclusively represent the common interests of native and migrant workers, treating all workers the same or they should develop targeted policies and strategies that care about the special interests and needs of migrant members. The second dilemma's answer will decide if the third dilemma will be moved forward. The inclusion of migrant workers in the trade unions can continuously and critically keep thinking about the third dilemma. The special versus general treatment dilemma manifested itself most clearly in the internal organization of trade unions. The awareness that it was difficult for migrant workers to be properly represented within the union organization has in many cases led to special commissions and secretariats, but generally, they have remained marginal within the unions. In all countries, trade union policies towards immigration and migrants proved to be influenced by national contextual factors such as the public discourse, institutional arrangements, legislation, etc.³⁶ National contextual is an important role in criticizing the third dilemma according to Rinus Pennix and Judith Roosblad. There is no need to develop for the special interests of migrant

³⁵ Stefania Marino, Rinus Penninx and Judith Roosblad, *Trade Unions and Migrant Workers (New Contexts and Challenges in Euorpe)*, 2017, ILERA Publication Series, ILO, p. 5.

³⁶ Stefania Marino, Rinus Penninx and Judith Roosblad, p. 6.

members in the trade unions. Nevertheless, migrant workers and native workers should be treated in the employment although native workers shall get the special rights migrants do not get. However, under human rights laws, all the workers have to be equal in the employment. It does not mean in the public or out of the employment. If migrant workers have high skills supporting to the jobs to get the best interests of the employment, they should be given the common interest, such as the salary, job positions, the same bonus for overtime, etc. Eventually, migrant workers should get the right to participate in the trade unions and get the common interest in conformity with their skills. They should not get the same rights out of the employments in comparison to the native workers.

The three basic dilemmas are essential questions for establishing the good perspectives in European trade unions. They were started and pointed out by Rinus Pennix and Judith Roosblad as real and fundamental questions. In order to build the systematic and influential trade unions, negotiations will be made between the authorities and initiatives based on these three dilemmas. If migrant workers are not allowed to be members of trade unions in the second dilemma, the third dilemma cannot be moved forward. Consequently, the second and the third dilemmas are connected to each other and the third dilemma relies on the second one. The very great thing is that migrant workers should be able to participate in the trade unions as the representatives of all migrants, which does not mean that they should get the equal rights and interests comparable to the natives. Regarding the native workers, we can state that they are European citizens working within the boundaries of Europe.

Therefore, they have to get the protection of their full rights under the conventions, laws and regulations of EU region.

In fact, migrant workers' unionization rates invariably are slower than that of native workers. In general, across Western Europe, trade unions have lost their significant influence over the last 25 years, or at least it seems that they are severely weakened. Migrant workers who may be in greatest need of union representation because of their vulnerable status lag behind local workers in their rate of unionization. The gap between the unionization rates of the locals and the migrants is one reflection of the extent to which the incorporation of migrant workers into the labour market, and their acquisition and exercising of certain economic and social rights, remains problematic.³⁷

From a trade union perspective, the best way to ensure that pay and working conditions are protected is to get migrant workers organized. Trade unions face multiple challenges at the beginning of the twenty-first century, including economic internationalization, the rise of the service sector, new forms of 'atypical' employment and an erosion of collective forms of activism.³⁸ Until today, trade unions' obstacles do not seem going forward the easy way in the case of the affairs of migrant workers. Since the twenty first century, the trade unions cannot decide to recruit, make the migrant workers organized and facilitate in the collective bargaining.

Migrant workers are also human beings and have the right to organize under Human Rights Laws. Especially, they face discrimination at several workplaces more than based on gender, sex, ethnicity, religion, etc. Most migrant workers have to work 3 D jobs, so a lot of rights are being failed without getting the chance to claim.

³⁷ Anastasia Gorodzeisky and Andrew Richards, Trade unions and migrant workers in Western Europe, European Journal of Industrial Relations, 2013, <http://ejd.sagepub.com/content/19/3/239>.

³⁸ Torben Krings, *Ibidem*.

By establishing the organization of migrant workers, the claim can be done through their representatives. It means that trade unions are the only chance for them in participating as members of it. As mentioned above if they are allowed to be members of trade unions, the natives will lose their rights and not favour than the migrants. Therefore, two organizations into trade unions will be split between migrant workers and native workers. Each organization represents for each member and getting the good bargaining from trade unions.

3.2. Migrant Workers and ETUC

The ETUC have been working together with Union Migrant Network for the migrant workers. Union Migrant Network was launched in 2015 and comprises a network of trade union contact points across the EU. A network assists migrant workers to support integration into the world of work and into host communities, and to promote equality, fairness and non-discrimination. Although, migrant workers can get the chance to take part under the Network, several challenges for trade unions can still be found. The factors, that migrant worker are working in some informal sectors and have difficulties with their language; culture and community, there are challenges for trade unions in their efforts.³⁹ It is hard to overcome these challenges within a short time. It will take a long time to pass the difficulties by making social dialogue. Social dialogue causes trade unions stronger in the negotiation with the employers's and workers' organizations. The apex bodies of trade unions at national and international levels should, in their role

as social partners, continuously engage with, and seek to influence national and global policy in relation to migrant workers. Support from trade unions and consultation with employers and workers' organizations in Spain led to the adoption of new rules (in April 2005). Without the support of social partners, no government could risk embarking on such a major operation.⁴⁰

The European Trade Union Confederation (ETUC) adopted a proactive position in March 2005. One of the key elements of proactive approach for migrant workers is the following :

“To provide for a clear legal framework of equal treatment in working conditions for all lawfully employed third country nationals as compared to nationals, and respect for the host country's rules and regulations and industrial relations system.”⁴¹

By reviewing this approach, we can know the ETUC agenda for migrant workers. It is clear that this approach establishes for working condition to get a clear legal framework of equal treatment. Nevertheless, migrants are still facing the inequality in the working conditions. Thus, the question is whether the ETUC can stand or give the right to equality for all workers, natives and migrants.

4. Conclusion

In this paper, I have expressed the topic of trade unions in Europe and migrant workers. Migrant workers in Europe do not mean EU-citizens from European Member Countries, but just all the workers coming from the countries, which are not European countries. EU-citizens are regularly

³⁹ European Trade Union Institute, HesaMag Magazine, Migrant workers in Fortress Europe, Special edition with ETUC insert, file:///C:/Users/DELL/Downloads/HesaMag_20_Migrants_EN_Special_edition_ETUC_EN.pdf.

⁴⁰ International Labour Office, Geneva, In search of Decent Work – Migrant workers' rights:, https://www.un.am/up/library/Search%20of%20Decent%20Work_eng.pdf.

⁴¹ *Ibidem*.

employed as employees or workers. This paper intends to think about critically how to connect European trade unions and migrant workers. Regarding the migrant workers, we can state that they are weaker in getting their rights than native workers. Moreover, they cannot get the collective bargaining fully about their employment rights contrary to native workers.

European Trade Unions Confederation is standing for the interests of workers relating to the labour market and their employments' rights, by negotiating with the employer organizations or by creating social dialogue. It has two federations, national trade union federations and European trade union federations. The main federation is European trade union federations, which are open to all the national trade unions to cooperate. The ETUC has developed some milestones and good consequences in the cases of work affairs, economic sectors, political diversity, ideological diversity, etc. For the European Union, this institution makes to be fair referring to the working conditions and wages. Nevertheless, the vital responsibility of the ETUC is to protect the interests of the native workers. The stand for migrant workers is still weakened despite the adoption of the proactive position for them in May 2005.

The labour migration inflows get bigger and bigger these days. Being rather big, the crucial fact to do is to make protection of all the migrant workers within their region. How can the migrant workers be protected? Firstly, they need to get the right to organize and the right to participate in the organization of workers. Secondly, they should be enrolled as the members of trade unions in Europe. Thirdly, they should be entitled to the rights of negotiation, fair rights to participate like native workers,

although, they cannot get the same rights like natives.

I stated in chapter II just about the nature of the trade unions in Europe, including the European Trade Union Confederation. The reason why I stated it is that only trade unions in Europe can support and help in the efforts of collective bargaining of migrant workers. Therefore, the trade unions' agenda needs to be transparent. There is no specific provision of the Constitution of the ETUC to support the migrant workers. It cooperates with Union Migrant Network for the interests of migrant workers. Their effort about migrants is still not strong enough.

Chapter III expresses the discussion of three dilemmas well-known in Europe. As the first dilemma, trade unions should take part in recruiting migrant workers because it can make migrants to negotiate between workers and employers in the future easily. My opinion on the second dilemma is that migrant workers should be taken into consideration as the members of the trade unions because the support of the trade unions is very essential to them in the collective bargaining without losing the fundamental rights in the employment or working conditions. In addition, for the third dilemma, equal treatment between native workers and migrant workers needs to be considered carefully. The current age is concerned with the social diversity, solidarity between member countries and regional integration. It is natural to favour the native workers in the employment regarding wages. The rights of migrant workers will be less than the natives' as they are not from any member countries of European Union. However, the negotiation, participation and the right to organize into trade unions should be allowed and not favoured only to native workers.

References

- European Trade Union Institute, HesaMag Magazine, Migrant workers in Fortress Europe, Special edition with ETUC insert, file:///C:/Users/DELL/Downloads/HesaMag_20_Migrants_EN_Special_edition_ETUC_EN.pdf
- International Labour Office, Geneva, In search of Decent Work – Migrant workers' rights:, https://www.un.org/library/Search%20of%20Decent%20Work_eng.pdf
- Anastasia Gorodzeisky and Andrew Richards, Trade unions and migrant workers in Western Europe, European Journal of Industrial Relations, 2013, <http://ejd.sagepub.com/content/19/3/239>.
- Stefania Marino, Rinus Penninx and Judith Roosblad, Trade Unions and Migrant Workers (New Contexts and Challenges in Europe), 2017, ILERA Publication Series, ILO.
- Willy Buschak, The European Trade Union Confederation and the European industry federations, <http://library.fes.de/library/netzquelle/english/eugew/history/pdf/buschak.pdf>
- Martin Seeliger and Ines Wagner, Workers United? How Trade Union Organizations at the European Level Form Political Positions on the Freedom of Services.
- Level Three, Trade Unions and Europe, Study Guide, English for European Trade Unionists.
- European Trade Union Confederation (ETUC), 2nd November 2017, <https://www.womenlobby.org/article296>.
- Andrea Ciampani and Pierre Tilly (eds), National trade unions and the ETUC: A history of unity and diversity, European Trade Union Institute, Brussels, 2017.
- European Trade Union Confederation, published by the Trade Union Division of the Directorate-General for Information, European Communities (DG X Information) - 200 rue de la Loi. 1049 Brussels- Belgium.
- Bernhard Ebbinghaus and Jelle Visser, Trade Unions in Western Europe Since 1945, January 2001.
- Christophe Degryse and Pierre Tilly, 1973-2013 40 years of history of the European Trade Union Confederation, European Trade Union Institution, 2013.
- ETUC Constitution, https://www.etuc.org/sites/default/files/publication/files/ces-congrece_2015-statuts-uk-ld_def_1.pdf.
- Torben Krings (Johannes Kepler University Linz), Unorganisable? Migrant workers and trade union membership, Conference Paper, September 2014.
- The Free Dictionary By Farlex, <https://financial-dictionary.thefreedictionary.com/labour+market>
- WILL KENTON, What is Labour Market?, Economy, Economics, Investopedia, <https://www.investopedia.com/terms/l/labor-market.asp>
- Collins Dictionary, <https://www.collinsdictionary.com/dictionary/english/labour-market>
- Pong-Sul Ahn, Migrant Workers and Human Rights, Out-Migration from South Asia, 2004.
- Wikipedia, the Free Encyclopedia, https://en.wikipedia.org/wiki/Collective_bargaining.
- Cambridge Dictionary, <https://dictionary.cambridge.org/dictionary/english/collective-bargaining>
- Vaibhav V. Collective Bargaining: Definition Types, Features and Importance, Definition of Collective Bargaining, <http://www.economicdiscussion.net/collective-bargaining/collective-bargaining-definition-types-features-and-importance/31375>
- Merriam-Webster, since 1828, <https://www.merriam-webster.com/dictionary/collective%20bargaining>
- International Labour Organization, Part I Scope and Definitions, Article 2 , C154- Collective Bargaining Convention, 1981 (No.154)

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312299

- The Economic Times, Glossary, <https://economictimes.indiatimes.com/definition/labour-market>
- Collins English Dictionary, <https://www.collinsdictionary.com/dictionary/english/trade-union>
- Smriti Chand, Trade Union: Its meaning and definition, <http://www.yourarticlelibrary.com/trade-unions/trade-union-its-meaning-and-definition-trade-union/26118>
- European Convention on the Legal Status of Migrant Workers, ETS93–Legal Status of Migrant Workers, 24.XI.1977.
- Nurulsyahirah Taha, How portable is social security for migrant workers? A review of the literature, Definition Concept

Reproduced with permission of copyright owner. Further reproduction prohibited without permission.