

Mobility across Borders: Contextualizing Local Strategies to Circumvent Visa and Work Permit Requirements

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Abstract

This article focuses on the structuring capacities of mobility strategies that are oriented towards, and seek to challenge, institutional borders. Positioned within the debate on the role of context in the 'new' economic geographies, and tempted to adopt elements of the Marxist-inspired strategic-relational approach to the geographical study of institutions, it emphasizes the creative entrepreneurial ability of mobile and immobile actors to influence prevailing border contexts. It further aims to continue work on the 'primitive' mobility typical of the early years of post-Iron Curtain economic restructuring by discussing two timely cases. The first is that of the larger bazaars, or open-air markets, in the Polish city region of Lodz. The functioning of these bazaars very much depends on the openness of Poland's eastern border, since many buyers and sellers come from such countries as Belarus, Ukraine and Russia. The prospect of Poland's admission to the Schengen area has had major consequences for its eastern border, and hence for the visa circumvention strategies of the protagonists in the bazaar economy. The second case concerns Polish migrant workers in the Dutch-German Lower Rhine border region. Until recently, the Netherlands denied free movement of labour to citizens of new EU member states, and Germany still does. However, due to a strong demand for cheap migrant labour in the region, Polish workers are able to enter thanks to circumvention strategies at the margins of accounting and labour law. It is argued that the local strategies oriented towards Schengen and the restrictions on free movement are far from 'primitive'. Instead, they imply creative, sophisticated legal and negotiating techniques of a kind that may indeed have structuring effects.

[I]t is at the margins that accounting intersects with, and comes into conflict with, other bodies of expertise (Miller, 1998: 174).

[W]e may take speech acts as the key to the structuration of society (Zierhofer, 2002: 1362).

Introduction

The disappearance of the Iron Curtain in the late 1980s initially enabled citizens of Central and Eastern European (CEE) countries to freely cross national borders that were previously virtually closed. However, as a consequence of the aspirations of some of these countries to become part of the EU, and therewith of the European Internal Market and the Schengen area,¹ this freedom was short-lived. This article aims to scrutinize mobility strategies that are oriented towards the rapidly changing border contexts

1 It concerns the following CEE countries: Estonia, Lithuania, Latvia, Hungary, Poland and Slovakia.

ensuing from EU accession. From a conceptual point of view, we position ourselves within the debate on the role of context in the 'new' economic geographies. Empirically, this article foregrounds Poland because of its pivotal position in the broader mobility debate in the EU. First of all, Poland has to cope with the consequences of the fact that it is going to be one of the gatekeepers of the new eastern border of what some call 'Fortress Europe', cutting off various informal, yet well-established trade ties with its neighbouring countries. Second, Poland is also at the centre of the very often heated debates on East–West labour migration after the most recent enlargement round. Yet, although both of these manifestations of mobility are closely related to post-Communist economic restructuring, they are often treated separately in the literature.

To elaborate a little on this pivotal role, among the requirements of Schengen is the sealing of the EU's outer borders. The introduction in Poland in 1997 of a new Aliens Law, in preparation for the signing of the Schengen agreement, put a sudden halt to the free movement of people across Poland's eastern border, a flow that had flourished since the early 1990s. Within the framework of the Aliens Law, every individual crosser was required to possess a voucher and a legal document stating his/her identity. The law affected mostly Belarusians, Russians and Ukrainians. The other neighbouring countries, due to their own ongoing EU accession processes, and the 'old' members of the EU were exempt from these obligations. In order to diminish the negative impact of this policy, the Polish government — which was especially worried about the decreasing number of visitors from the former Soviet Union — worked out a set of dispensations. These included an arrangement whereby Belarusians and Russians no longer needed vouchers for certain types of journeys (business trips or family visits). By another, Ukrainians who wished to stay in Poland for less than 90 days did not require a voucher either. However, the situation became more difficult in October 2003 when visas were introduced for all travellers from non-EU countries. In order to maintain the profitable influx of visitors from the former Soviet Union, the Polish government again introduced measures aimed at easing border controls. Although Poland's 'liberal' visa policy is currently tolerated by the EU, it will have to be changed when Poland actually joins the Schengen territory, which is due to happen in October 2007 (van der Velde and Marcinczak, 2005).

The accession of CEE countries to the EU has brought to the fore a second type of institutional constraint. Having spent years complying with membership obligations — notably the Copenhagen accession criteria and the *acquis communautaire* — accession countries were on the verge of receiving membership rights as well. The free movement of labour, allowing EU citizens to take on paid employment in another member state, is one of these rights. In early 2004, however, several EU-15 countries restricted labour market access for employees from new member states, fearing mass inflows of cheap labour after enlargement. More specifically, these fears concerned the consequences of mass migration for national labour markets and national welfare states. The Netherlands and Germany, for instance, orchestrated transitional periods during which work permit requirements for citizens of new member states were not lifted, the only exception being for jobs in sectors that were facing specific labour shortages. In the spring of 2006, following EU guidelines, the two countries extended these transitional periods for another year and another two years, respectively. At the EU level, it has been decided that such extensions can be made until 2011, after which member states are obliged to open their labour markets.

We selected two cases in order to examine the interaction of these changing border contexts and cross-border mobility. The first part of the article looks at the functioning of two larger bazaars in the city region of Lodz, Poland.² An analysis of the changing attitudes of buyers, sellers and other beneficiaries in these very international bazaars reveals mobility strategies that seek to challenge the Schengen regime. The second part

2 This case study is largely based on the working paper 'From Iron Curtain to Paper Wall. The Influence of Border-Regimes on Regional Economies and Societies: The Life, Death and Resurrection of the Bazaars in the Łódź-Region' (van der Velde and Marcinczak, 2005).

of this article is set in the Dutch-German Lower Rhine border region.³ We draw on case study research in this important destination area for Polish migrant workers to reveal how the transitional closure of the labour market is confronted with the hiring and employment practices of these workers. We take as a prerequisite that our research findings ought to go beyond the immediate case-specific interests of the regions and strategies highlighted, calling attention to a wider context of European integration and mobility across borders. Before turning to the respective case studies, however, we first discuss the issue of the context of economic action, which, although never marginal to economic geography, has received renewed interest in recent years.

Mobility across borders: theory and practice

The role of context in the 'new' economic geographies

In spatial and regional science and also in more orthodox accounts of 'the political' in economic geography, the context of spatial behaviour is traditionally assumed rather than made explicit (Scott, 2000). The way that borders and mobility across borders are dealt with within these approaches makes this perfectly clear. When we limit ourselves to an admittedly oversimplified distinction between neoclassical economic and Marxist development perspectives, grand narratives of structure and (self-)determination predominate. Neoclassical models predict factor price equalization through the cross-border mobility of production factors: free flows of trade and labour literally cause interregional or international convergence. Mobility is an option, undertaken by utility-maximizing, free-willed actors. If considered at all, the border here is seen as a discontinuity that increases the marginal cost of interaction (van Houtum, 2000). Marxist-inspired studies, on the other hand, show the persistence of uneven capitalist development, reinforced by all kinds of regulatory and institutional practices. Key to the investigation of the relationship between mobility and development is the spatial landscape proper, which, as a space that generates surplus value, is a product of prevailing power relations (Mitchell, 2001). From a Marxist perspective, mobility is driven by structures, of which borders and socio-spatial bordering processes are indisputably part.

In recent years, many economic geographers — who are referred to as 'new' economic geographers in order to differentiate them from their overly deterministic predecessors and contemporaries — have started to pay more attention to the role of context (Yeung, 2003; 2005; Dicken, 2004). More precisely:

the context in which the multiplicity of identities and logics shapes the social practices of economic actors constitutes the key starting point in most recent studies of new economic geographies . . . context sets the contingent conditions in which economic action can be realized and analyzed . . . Thus the context of economic action becomes a critical component in any economic-geographical explanation (Yeung, 2003: 445).

The space of the region remains an important research interest within economic geography. Yet, gradually, in the course of the last decade, it has come to be regarded less as a research object in itself and more as a cut-out of spatio-temporal linkages between economic actors, as a research lens therefore (Bathelt, 2006). Thus theorizing the region in comparison to other spatial scales, some have advocated a 'heuristic approach', including economic, political and social networks in territorial analysis (Dicken, 2004; Jones and MacLeod, 2004; Bathelt, 2006). Although calls to fully replace a territorial

3 This case study forms part of a doctoral research project entitled 'Between Fear of Masses and Freedom of Movement: Migrant Flexwork in the Enlarged European Union' (Pijpers, 2007).

with a non-territorial (or ‘topological’ or ‘relational’) conception of space are not widely accepted in economic geography, the latter conception:

is not, in itself, in conflict with the fact that, in terms of jurisdictional and regulatory practices, territorial scales of governance remain fundamental to the organization and operation of the global political economy and its constituent parts. *Bounded political spaces matter* (Dicken, 2004: 9; emphasis in original).

In our opinion, such a heuristic approach to spatial scale resonates in several respects with the strategic-relational approach (SRA), a contribution to the wider structure-agency debate that is based on the view that ‘structure and agency are necessarily related ontologically’ (Jessop, 2001: 1125; see also Parker, 2000).⁴ Developed by the sociologist and political scientist Bob Jessop, this approach explicitly values the issue of scale. Whereas dominant structures are often associated with the larger scales, Jessop believes that structurally oriented strategic actions and actors may stem from the local level as well (Jessop, 2001). However, since power is divided unequally between spatial scales, as Yeung (2005) argues in his discussion of ‘relational power geometries’, structures privilege some strategic actions over others. In this sense, structures are strategically selective (Jessop, 2001). We think that the obvious limitations of local actors in regard to power and material resources favour creative entrepreneurship (see also Jessop, 2001). Two entrepreneurial abilities stand out here. In the first place, since spatio-temporal changes in structure and agency are considered to be mutually constitutive in the SRA, the degree of reflexive learning amongst actors is important. The more actors are eager to learn from the intended and unintended consequences of previous actions, the more likely they will be to strategically revise their behaviour (*ibid.*). Second, such actors do not shy away from consultation with associate network actors who are in possession of more advanced knowledge, vocabulary etc., or from confrontation with opposing network actors. This is the ability:

to create and manage the knowledge, vocabulary, procedures, rules, and technologies through which economic activity is conducted (e.g. the globalization of accountancy standards or the development of financial reporting). The creation, legitimization, and adoption of such knowledge, rules, and so on generates power for some actors in networks because they are effectively able to reshape the strategy and activities of other actors in networks (Yeung, 2003: 458).

Hence, our hypothesis in this article is that the entrepreneurial ability to react to or even anticipate changes in institutional border contexts has the potential to (partially) influence these contexts. In empirically verifying this claim, we follow Peter Dicken’s (2004: 19) plea for ‘a revitalization of “regional geography” within a relational framework’. Empirical grounding will enable us to join territorial and non-territorial conceptions of spatial scale in the contextualization of local mobility strategies.

Beating the system: a first wave of ‘primitive’ mobility across borders

The literature that took the disappearance of the Iron Curtain as a changing institutional border context, attributed entrepreneurial ability mainly to those who were mobile across borders. For quite a few people in post-Communist societies, earning or supplementing

4 The assertion that structure and agency cannot be distinguished ontologically (Jessop, 2001) is consistent with the view that context is integral ‘to the subject/object under investigation’ (Yeung, 2003: 445). Hence, the terms *structure*, *agency*, *context* and *conduct* are used by people who hold the same ontological position. Thematically, however, structure in the SRA often refers to conditions of capitalism (Bathelt, 2006), while new economic geographers also regard local entrepreneurial *milieux* as contexts. From our reading of the SRA and the new economic geographies, we have sufficient reason to believe that macro-level institutional-regulatory arrangements such as visa and work permit requirements can be regarded as structure and as context, respectively.

income was so difficult that ‘international commuting became their main source of income and *de facto* their “job”’ (Iglucka, 2001a: 507; italics in original). This phenomenon — shuttle migrants travelling to certain places in order to sell products, and staying there for some days before returning home — has been called ‘primitive mobility’ (Iglucka 1999; 2001a; 2001b). In the same vein, ‘suitcase traders’ or ‘ants’ were the nicknames given to people who carried in their suitcases the products they wished to sell (Sword, 1999). The already available skills needed to ‘survive’ in a Communist society proved to be very valuable here (Pirainen, 1997). In this respect, the literature also points to the post-Iron Curtain entry and survival strategies of East-West migrants (Morawska, 2001; Kosic and Triandafyllidou, 2004). Carrying the legacy of a historically developed inclination to ‘beat the system’, migrant workers actively partook in transnational shuttle communities extending between new and old member states (Morawska, 2001). Strategies used in these communities included, for example, the falsification of visas and the use of the services of smugglers or illegal middlemen. Other people overstayed their student or tourist visas (Kosic and Triandafyllidou, 2004).

Continuing the work on ‘primitive’ mobility by emphasizing local strategies to challenge the Schengen visa regime and the transitional restrictions on the free movement of labour, in this article we analyse mobility across borders from a slightly different angle. Whereas the literature cited above mostly reports on the strategies of those who are actually mobile, in our two case studies we include region-based actors who have a share in mobilizing people but are not necessarily mobile themselves. These may be local entrepreneurs, employers and policy makers, as well as bazaar clients and labour recruiters. However, taking into account to at least some extent the different identities of the economic actors involved in our case studies, we must equally reckon with the possibility that power is divided among them in asymmetrical ways, especially among mobile and immobile actors (Yeung, 2003; 2005; Dicken, 2004).

The empirical material collected in both the Lodz city region and the Lower Rhine border region includes interviews, statistical data and background reports. It is supported by field observation. In particular, the functioning of the bazaars in Lodz is analysed by means of 97 standardized questionnaires. The core of the empirical research in the Lower Rhine area consists of 14 in-depth interviews.

Challenging visa requirements

Bazaar trade in the city region of Lodz, Poland

The present socio-economic situation of the Lodz city region bears a heavy socialist legacy that is closely tied to the textile industry. Although located in the geographic centre of the country since the second world war (see Figure 1), Lodz has always been one of the focal points for textile trade with the former Soviet Union. The large bazaars that came into existence after 1989 might be regarded as the offspring of this textile industry. After the dissolution of the Soviet Union, both traders and buyers kept coming, especially from Belarus and the Ukraine. At the time, this was easy because of Poland’s relatively permeable eastern border. However, this permeability has decreased as a consequence of the Schengen agreement.

The phenomenon of primitive (shuttle) mobility, mentioned earlier, was crucial in the development of the bazaars or open-air markets (Okólski, 1996; Sik and Wallace, 1999). The influx of ‘tourists’ from the former Soviet Union had many positive effects, such as the development of specific sectors of the Polish economy. Foreign demand for textile and leather products was one of the main factors behind the boom in private textile and shoe businesses (Okólski, 1996). These ‘tourists’ proved to be the major stimulus not only for border region bazaars (see also Potrykowski, 1998) but also for markets located in the heart of Poland, like the Warsaw Bazaar (Okólski, 1996) or the Rzgów-Tuszyn textile-trade strip discussed below. It was estimated that by 1998, the large bazaar in the

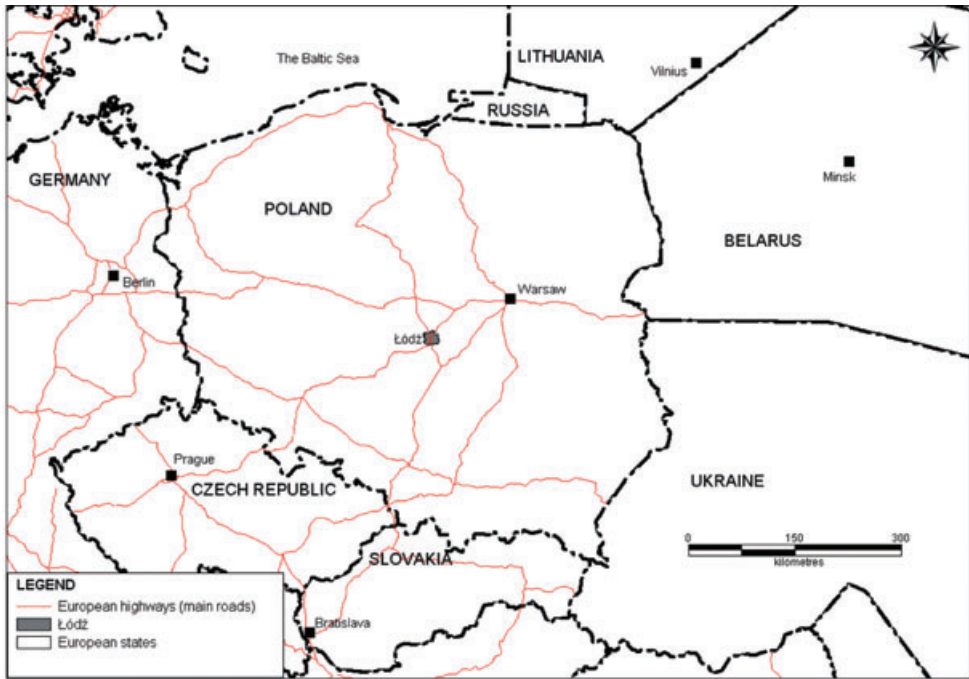


Figure 1 The city-region of Lodz, Poland

Tenth Anniversary soccer stadium in Warsaw accounted for no less than 330 million euros of Poland's exports, and thus at the time was the country's fifth largest 'exporter'. In total, the bazaar economy in Poland provided a living for 130,000 people, both in the markets themselves as well as in ancillary services. In the Lodz region, for instance, budget hotels were built close to the larger bazaars. Also, people living nearby rented out their gardens as parking spaces and made rooms available for traders.

Notwithstanding the fact that the position of CEE bazaars within the wholesale and retail system is becoming increasingly regularized, there is still an aura of illegality around them. Many of these open-air markets could be characterized as examples of 'raw' capitalism. This implies that they operate according to certain rules (in that sense they are institutionalized), but for a long time were not really formalized. The traders have to behave in accordance with rules and regulations, such as paying fees for occupying the stalls, but remain largely unprotected by formal laws. Likewise, the fact that the markets, certainly in the early days, operated in what Elster and colleagues (1998) called an 'institutional void', where the state withdrew and the other institutions were not yet prepared to take on a regulatory role, may have contributed to their unregulated character. Huge profits are possible, but so too is failure. Obviously, these voids created ample opportunity for local entrepreneurs to try out and implement all kinds of strategies to attract buyers and sellers, thereby very often acting against what was supposed to be achieved by actually existing regulation.

The bazaars in Tuszyń and Rzgów arose in the early 1990s when local textile entrepreneurs, who desperately wanted to sell their products, settled along the major north-south traffic artery that runs through the two municipalities. Assisted by a growing influx of 'Russian' visitors, the textile producing and trading activities started to flourish. Already in 1993, representatives of the local government along with local businessmen undertook actions aimed at improving existing conditions. First of all the number of bazaar locations was delimited. In the case of the municipality of Rzgów, the local



Figure 2 Stalls at the Tuszyn bazaar

government provided an area, while local businessmen supplied the necessary funds. This led to the creation of a huge apparel market. In other words, a private-public coalition was established. This bazaar is also known as PTAK, after the name of its founder. The Tuszyn bazaars started out differently. For one thing, instead of one market, seven were established. In contrast to Rzgów, in Tuszyn the biggest bazaar (see Figure 2) is on public land and is maintained by the local government, a situation that inevitably influences the flexibility of this venue.

The development of the bazaars in the Lodz region was greatly facilitated by the launch of two organizations, namely the Enterprise Monitoring Department and the Debt Restructuring Department (Walker, 1993). Apart from all kinds of other positive effects, this enabled individual actors to buy assets (especially machines) from liquidated factories to start their own private enterprises. It turned out to be of major importance for the local inhabitants of Rzgów and Tuszyn, since the majority of the new textile entrepreneurs used to be employees of Lodz factories.

The flourishing of the bazaars (as measured by the number of stalls) lasted until 1998; their heyday was in 1995–6. In late 1997, the Polish government introduced stricter border crossing requirements for the inhabitants of former Soviet Union countries in order to fulfil obligations arising from the country's upcoming EU accession. This, according to Iglicka (2001a), immediately affected movement from Belarus and Russia, which in turn affected the sales at big bazaars in central and eastern Poland. This issue led to heavy lobbying at the national level, and Polish traders and manufacturers managed to force the central authorities to lower the costs of tourist vouchers and the amount of money required to enter Poland (*ibid.*). The second 'strike' affecting the bazaar economy occurred in October 2003 when, in accordance with the Schengen agreement, a visa requirement for citizens of former Soviet Union countries was introduced, hindering international travel even more. After the tightening of the eastern border, it was estimated that the turnover of the markets halved. Notwithstanding these unfavourable circumstances, the bazaars are still very important for the local and regional economies. The tax revenues derived from the bazaars constitute a significant share of the revenue of the municipalities.

And after October 2003

As has been noted, a lot has happened since the end of the twentieth century: the accession of CEE countries to the EU, preparation for the admission to the Schengen area of many of these countries, and increased border security regimes and changing attitudes

towards (illegal) immigration. All of these events have implications for the mobility of people, and, as was shown earlier, the market phenomenon very much relies on people being able to travel to the trading places. In order to get more insight into this clientele, a small-scale survey was carried out among the buyers at one of the larger markets in the Lodz region, namely, one of the publicly run open-air markets in Tuszyn. The markets in Tuszyn altogether occupy an area of about 15 hectares, and the traders have about 7,000 stalls at their disposal. The location where the survey was conducted had a little over 1,100 stalls in semi-permanent constructions. A total of 97 customers were approached with a questionnaire while they were visiting the bazaar.⁵

Regarding the citizenship of the bazaar customers, interestingly, only two of the respondents were from countries outside the future Schengen zone,⁶ which indicates the importance of the border regime since 2003. Although we are not able to prove it statistically, it might not be too daring to state that nowadays only a very small proportion of customers come from these countries. Few private cars and small trucks in the surrounding parking lots are recognizable as being from the 'East', although the share of coaches from these countries is still much higher. Of course, this does not automatically imply that the revenues are likewise small. The two respondents from Belarus indicated that the amount of money they spent fell into the highest spending categories, whereas the average for people from the Lodz region was about 300 euros and for people from the rest of Poland 800 euros.

This case study presupposes that the actual introduction of visa requirements influences the functioning of the bazaars. About half of our survey respondents stated that they had not noticed a lot of change. Among those that had seen changes, a small majority rated this change as negative. This tendency is stronger among respondents from the Lodz region. Although we have to be careful in analysing what has changed, it seems that the main change is related to differences in the range of products. This, however, was almost equally often rated as good rather than bad. Among those who indicated that things had changed for the worse, most mentioned the price and the suppliers. Another possible effect is that people are going to other markets, especially to the east of Lodz, closer to the Ukrainian and Belarusian border. However, this cannot be substantiated from the questionnaire. In addition to the bazaars in the Lodz region, the bazaars to the east and west were mentioned about equally often, and since October 2003 the frequency of these visits has hardly changed.

In response to the changes, apart from activities undertaken at the national level, the local private-public coalitions have implemented their own initiatives, turning this unfavourable situation to the better. In order to trace these strategies, in-depth interviews were carried out with the mayors of Tuszyn and Rzgów and the management of PTAK. Based on these interviews, the conclusion can be drawn that the character of visits and purchasing habits has changed since 1997. In particular, there are now only around 20 coaches coming from the former Soviet Union, whereas over 40 such coaches used to come in the market's heyday. What is more, usually only the driver and a few passengers are on board; the seats that were formerly occupied by shoppers are currently filled with textile products on the return trip.

Along with the changing behaviour of the customers, the Rzgów bazaar has implemented several new strategies. The first is related to activities devoted to helping citizens of former Soviet Union countries cross the Polish border. Several innovative actions are noteworthy. First of all, residence permits are quite easily issued in order to maintain informal contacts between local entrepreneurs. Second, the PTAK bazaar has its own computer database comprising the names of regular (preferred) clients. Being on this list entitles one to obtain a visa much faster and without any additional problems.

5 The authors thank the geography students from the University of Lodz who did the actual questioning.

6 Two respondents were from Belarus, two were from EU countries and one was from Israel; one refused to answer. The remaining 91 were from the Lodz region (45) and the rest of Poland (46).

However, utilizing this facility obliges one to shop exclusively at the PTAK bazaar. It therefore acts as a kind of loyalty programme. To reinforce its exclusiveness as a shopping destination, PTAK cooperates with the company that provides transport from the border to the bazaar and, at the same time, ensures that clients do not visit any of the border zone markets.

The second strand of activities involves intensive marketing, such as PTAK commercials on the internet and Russian television and in the press. In addition, there are billboards welcoming 'tourists' as they cross the eastern border. The respondents indicated that this strategy has proved quite successful, even since visas were introduced in October 2003. Along with this strategy aimed at attracting former customers and traders, the PTAK management is also in the process of converting the bazaar into a more regular shopping mall, in order to attract not only more Poles but also, eventually, people from other (western) countries.

The situation of the Tuszyn bazaar is different, due partly to its being in public ownership. This, on the one hand, inevitably restricts the scope of possible activities. Only small-scale projects have been implemented, such as providing cheap meals for coach drivers, giving discounts when hiring a stall, and implementing different operating hours to create an almost 24/7 operation. On the other hand, the Tuszyn municipality, being responsible for its inhabitants at large, has also tried to protect the local economy. One initiative in this respect is joining the Association of European Textile Collectivities in 2005, a deliberate initiative to protect local textile production.

In short, all sorts of micro-coalitions are built and micro-strategies pursued in order to counteract the negative outcomes of the retightening of Poland's eastern border. And, in so doing, they to some extent challenge the very *raison d'être* of the border regimes that have been implemented.

Challenging work permit requirements

Polish migrant labour in a Dutch-German border region

Despite the transitional arrangements on the free movement of labour, citizens from new member states (and especially Poles) have been employed as seasonal labour migrants in the EU-15 for over a decade now. In 2004, the Netherlands hosted an estimated 34,000–53,000 Polish labourers (ter Beek *et al.*, 2005). Over 300,000 Poles worked in Germany during this same year (Versantvoort *et al.*, 2006). The Dutch-German Lower Rhine border region (Figure 3) has been a destination area for Poles since the mid-1990s too. Most of them took up open-field, mushroom and glasshouse cultivation jobs previously taken by housewives, high-school students and, occasionally, Irish and Portuguese nationals. Of old, Polish employment in the Lower Rhine area is strongly associated with the seasonal cultivation of asparagus in May and June of each year (see also de Bakker, 2001).

Although there are varying accounts of how the onset of this migration of Polish workers to the region came about, the establishment of contacts between individual agricultural employers and 'German Poles' seems to have played an important role. This somewhat confusing term refers to people from parts of Poland that formerly belonged to the Prussian empire, notably the provinces of Opole and Silesia. By German law, these people are considered to be Germans if they are able to prove German ancestry, and as such they are eligible for a German passport. Despite the transitional restrictions placed on citizens of new member states, these workers from Poland, because they are regarded as German citizens, have admission to the various EU labour markets. The recruitment of German Poles in the region is organized by efficiently competing labour market intermediaries. It is estimated that of the 20,000 German Poles in the Netherlands, 10,000 work and reside in the Lower Rhine area (Zuidam and Grijpstra, 2004). Furthermore, in 2004, between 1,500 and 4,000 work permits for seasonal agri-jobs were

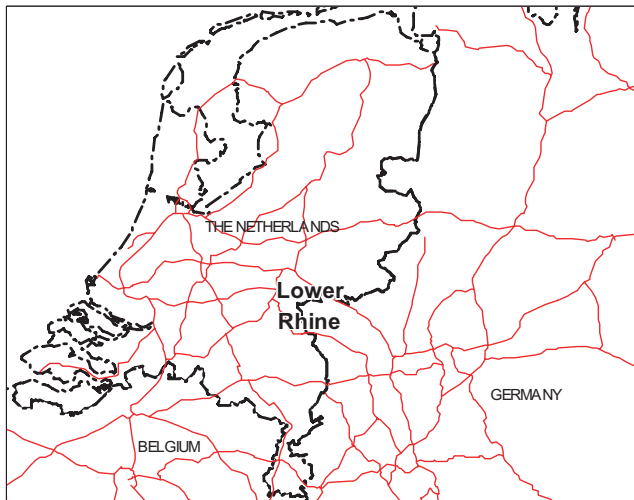


Figure 3 The Lower Rhine border region, the Netherlands/Germany

issued in the Dutch part of the Lower Rhine region to Poles. The figure does not include Poles who hold a German passport.⁷ Another 500 to 1,400 people were allowed to enter without work permits: open-field harvest work in spring and summer is among the jobs/sectors exempt from transitional restrictions.⁸

Today, Polish migrant workers are employed in several sectors of the regional labour markets in the Netherlands, notably in logistics, construction and the packaging industry. Yet, the Lower Rhine is still a highly appropriate area for research on Polish employment in the EU-15. A large number of labour market intermediaries are headquartered in the region, housing their employees in local camp grounds, trailer parks, former monasteries and asylum centres, and even on a disused British Royal Air Force base in the municipality of Weeze on the German side (see Figure 4). Each day, company cars and vans drive people to and from their working locations. Also, several municipalities on the Dutch side have joined forces in the project Work and Housing of Foreign Employees, which aims to reduce illegal employment, improve housing conditions and intensify law enforcement. In the three years of its existence, the project has successfully attracted the attention of policy makers at the national level and in that sense functions as a benchmark project for other regions.

The many Poles who followed their German-Polish fellow villagers to the Lower Rhine area often depended on obscure labour subcontracting practices. Illegal employment among Poles in the regional agriculture used to be very high in the early years: 50% is the most modest guess (see also Curfs *et al.*, 2001). However, all interview respondents identified a slow decrease in illegal Polish employment over the last couple

7 We refer to people who have only a Polish passport as 'Poles', and to people who have both a Polish and a German passport as 'German Poles'.

8 The institution that issues work permits in the Netherlands does not keep track of the regional distribution of work permits. For that reason, a minimum and a maximum number of work permits and 'free' entries were estimated by multiplying the total number of work permits issued to Polish seasonal workers in agribusiness with land use percentages. The Dutch part of the Lower Rhine has 10.2% of the total open-field surface in the Netherlands. Of this area, 32.3% is used for Dutch asparagus cultivation and another 30.8% is used for mushroom cultivation, which also traditionally employs many Polish workers.



Figure 4 Housing facilities at Weeze airfield

of years.⁹ The most important reason for this is the enhanced coordination between especially the Dutch sector organization for agribusiness and the government body in charge of issuing work permits, which has effectively lowered bureaucratic thresholds for agricultural entrepreneurs to apply for and indeed get work permits for citizens of new member states. In addition, much stronger authority has been assigned to the labour inspectorate. Until 2004, employers had the opportunity to postpone the actual payment of fines by means of legal procedures. In these circumstances, employers calculated the costs and benefits of breaking the law, weighing cost advantages and fines against the perceived chance of getting caught (see also Mosselman and van Rij, 2005). Since 2004, the labour inspectorate has been empowered to impose fines of 8,000 euros per person immediately upon encountering illegal employment at the workplace. Hence, the loss incurred by individual employers may be substantial.

Fieldwork results indicate that, today, there is a remarkable mutual dependency of labour input and labour reward. To some extent, Polish employees have an active role to play in the regional labour market dynamics. The keyword here is motivation, which according to all interview respondents is lacking among the majority of Dutch and German workers, who refuse to accept temporary open-field work and other jobs that are similarly considered hard, dirty and underpaid. Partially as a consequence of existing inequalities in labour reward and labour conditions, Polish employees currently outperform Dutch employees in terms of availability and productivity. German Poles are particularly in demand. According to the spokesman for the agricultural employers' organization, 'the pool of German Poles is drying up in the sense that they're here but they don't come to the agricultural sector anymore. They're very calculating: they know that they're wanted and can find work without problems' (interview, 2005).

And after May 2004

As mentioned above, a common and also openly visible strategy to circumvent the transitional labour market restrictions is the employment of German Poles, the majority of whom are recruited by labour market intermediaries. Negotiating contracts between

⁹ However, according to the latest assessments, citizens of CEE countries account for no less than 40% of the total of illegally employed persons in the Netherlands as a whole (Mosselman and van Rij, 2005).

employers and employees, and often arranging transport and housing as well as social events during evenings and weekends, these intermediaries constitute the nodes in formal migration networks that are currently in place between certain communities in southern Poland and municipalities in the Lower Rhine area. Notwithstanding a commitment to the well-being of their workers, as private enterprises the intermediaries aim to realize a competitive advantage by lowering the total labour cost involved in the recruitment and employment of German Poles. In a nutshell, this entails that they benefit from an incomplete switch that people make between social security systems. Poles who engage in cross-border labour mobility partly leave the Polish social security system and partly enter the Dutch one. This raises the question of which system is to receive payments for taxes and social security, and within what time-frame after the worker's arrival. By convention, net pay consists of gross payments plus overtime reimbursements minus nationally specified deductions for taxes and social security. Together with national labour law, these determinants make up what an expert on cross-border work called the 'national circle of the insured' (interview, 2005). They are inextricably bound up: roughly, increases in social security payments are geared to decreases in taxes. However, precisely for this reason, there is hardly any synchrony between country-specific systems (Essers and Willems, 2005). Things become even more complicated in the pending case of circular short-term mobility. Labour market intermediaries and individual employers who genuinely attempt to organize Polish employment well, are thus hindered by long-standing institutions created to protect native workers. Simply put, the national circle of the insured does not really allow for short-term cross-border mobility. Those actors, whether Dutch, German or Polish, who know their way around this web of rules and do not shy away from it, have the potential to realize substantial cost advantages that outweigh the extra effort.

Two years after the Dutch decision not to lift work permit requirements for Poles and hence not to open the labour market, they are entering by means of sophisticated mobility strategies that circumvent the work permit requirements. These strategies draw on legal frameworks other than the free movement of labour and are therefore highly difficult to control by labour market authorities. For example, benefiting from the ongoing liberalization of services in the European Internal Market, self-employed Poles are entitled to offer their services in the Netherlands to Dutch clients without needing a work permit (ter Beek *et al.*, 2005). In 2005, a total of 2,600 Poles registered with the Dutch chamber of commerce as self-employed, more than from any other country. They are mostly active in construction, agriculture and cleaning services (Kamer van Koophandel Nederland, 2006). Another, very infamous, circumvention strategy is the so-called 'Poles construction'. Originating in the agricultural sector, the Poles construction entails Dutch employers selling the right to harvest their produce to subcontractors from Poland, who become formally entitled to carry out this work as a service. In reality, however, the employers remain at the workplace, supervising. In this way, a conventional employment relationship is maintained in which the overwhelming presence of the employer in some cases means that the workers have to accept underpayment and long working hours, including weekends, early mornings and late evenings. Besides agriculture, the Poles construction is found in the building and meat industries. Several interview respondents described this way of hiring as an example of 'modern slavery'.

A circumvention strategy typical of the Lower Rhine area is actually facilitated by the Dutch-German border and by the fact that Poland has bilateral taxation agreements with both the Netherlands and Germany. Like all citizens of European countries that have this arrangement, Polish migrant workers are not liable to pay Dutch or German income tax if they work only a maximum continuous period of 183 days. Anticipating this restraint, a number of large entrepreneurs in the region have established new production sites in Germany in order to be able to move groups of workers around between the Dutch and German sites once the 183-day limit is within sight in either country. This allows the people to work year-round without having to pay taxes, so the company saves on labour costs. A telling example in this regard is the innovative reuse of second world war

bunkers on the German side for mushroom cultivation by a large mushroom producer. The consequence is that most workers stay for several years if not longer, alternating short returns to Poland with much longer periods in the region. This observation resonates with the argument generally accepted in the literature on contemporary Polish out-migration: that speaking in terms of 'either' permanent 'or' shuttle migration is flawed, for most workers maintain strong social bonds with their home base while working abroad (see also Iglicka, 2000; 2001a; 2001c). Aleksandra Grzymała-Kazłowska (2005) speaks of 'lasting temporariness' in this respect.

Provided they can afford it, intermediaries and employers often call in the help of consulting and law firms specializing in accountancy and tax advice. Building on a stock of detailed knowledge acquired over the years, these firms are well equipped to identify loopholes in the tax, social security and labour laws that concern Polish employment. A Lower Rhine-based respondent from a firm that operates worldwide explained that for him the question is always:

How can I maximally with the Dutch legislation at hand and all the possibilities and facilities that it offers, how can I optimally make use of it in order to . . . create a maximum net-revenue from those Poles . . . against the lowest possible labour cost (interview, 2005).

Although this respondent refused to go into detail because, as he asserted, 'then the chef divulges his recipe', he underlined the frequency with which specific questions about labour market entry are asked (interview, 2005). In order to provide tailor-made answers to these questions, his firm had created an in-house 'Eastern Europe Help Desk'.¹⁰

Accounting and law advice 'at the margins' is always to some extent at odds with law enforcement activities conducted by labour inspectors. Since the labour inspectorate's main task is to find and fine illegal employment, contrasting opinions with regard to the validity of accounting practices or legal constructions are widespread. Inspectors are experienced enough to suspect cases of, for example, the Poles construction, which in their view is an unlawful evasion of work permit requirements. However, since employers object by arguing that the Poles construction is a legal construction within the realm of freedom of services, this suspicion needs to be proved in court. This is the space where the labour inspectorate as a key implementing organization of migration policy confronts creative entrepreneurs, who are represented by consultants, who are in turn represented, in particularly complicated cases, by specialist lawyers. When the labour inspectorate wins, workers are labelled 'illegal'; when the inspectorate loses, the entrepreneur sets a standard for other employers, labour market intermediaries or self-employed migrant workers.¹¹ A labour inspector explains:

Well, they live off every lawsuit, so when, at some point, they stand before a judge and the judge does not accept certain things, then they often learn how to circumvent that, or to arrange it in a different way. In that respect, it is increasingly difficult [for the labour inspectorate to succeed in court] (interview, 2005).

Hence, the grey area between legal and illegal Polish employment is negotiated and judged in the courtroom.

Meanwhile, in outsourcing the production factor labour in full to intermediaries, or at least this part of the bookkeeping to consulting firms, employers lose touch with the process of hiring Polish workers. According to one employer, a consequence of the growing importance of sophisticated accounting and legal knowledge is that 'the one who monitors the legal matters of the business and makes the payments, those constructions with Poles, he also gets a large share. And he binds himself to the

10 For those who cannot afford to pay for expensive legal services, EURES consultants occasionally organize small-scale information seminars that provide basic legal assistance.

11 Initially, these cases are taken to regional courts and only at a later stage, after one of the parties decides to appeal, to national courts.

employers' (interview, 2005). As Polish employment is still formally restricted but widely in demand, it becomes very much a legal matter centred on the small print. Power transfers from small entrepreneurs to larger employers, based in the region yet producing for the international (European) market, and above all to specialist consulting and law firms, some of which are local branches of international service providers.

Conclusion

By undertaking two case studies, we have examined local mobility strategies that are oriented towards changing institutional border contexts in Europe. The EU enlargement process has produced a remarkable discrepancy with regard to accession rights and duties. Whereas new member states are unconditionally obliged to secure their outer borders according to the Schengen agreement, free movement from East to West across internal borders is temporarily restricted, at best limited to specific jobs or quotas. Continuing the work on primitive shuttle mobility in the aftermath of the 1989 events and during the early years of post-Communist economic restructuring, the first case concerned the bazaars, or open-air markets, in the Polish city region of Lodz on their way to a new balance between buyers and sellers. The second case identified mobility strategies that challenge the work permit requirements for Polish workers in the Dutch-German Lower Rhine border region.

Having gained accession to the EU and awaiting admission to the Schengen area, Poland saw its eastern border become more closed. A study of the management of the two Lodz bazaars revealed two quite different reactions to this process. The privately run PTAK bazaar actively and almost aggressively started to campaign in Belarus, Ukraine and Russia, with all means available including collaboration with the local government. Furthermore, they also diversified by transforming the bazaar into a 'normal' shopping mall, thus increasing its attractiveness to potential clients from the Lodz region and eventually perhaps even from other (Western) countries. These strategies can be characterized as *ex ante* and proactive. Partly because it is run publicly, the conglomerate in Tuszyn on the other hand seems to be more *ex post* and reactive. Fieldwork done at the Tuszyn bazaar strongly suggests that the number of buyers from the East has greatly diminished. Hardly any customers from the former Soviet Union were encountered. Those who still come have changed their strategy in that they buy greater quantities. It is hard to tell whether this strategy of buying larger quantities has compensated for the loss of clients, but it might not be too daring to state that the reinforcement of Poland's eastern border has had far more consequences for the flow of people than for the flow of goods.

In the Dutch-German Lower Rhine border region, increased institutional coordination, tougher law enforcement and the rise of private labour market intermediation have enhanced the working conditions and therewith the visibility of Polish employees in the regional economic landscape. At present, Poles are generally known as motivated employees, a reputation that partly explains their current popularity in a variety of sectors. Both labour market intermediaries and German Poles have come to regard open-field cultivation as a side rather than a core business. Work permit requirements for Poles, as well as constraints concerning the duration of tax-free employment, are overcome by quasi-legal circumvention strategies. Further comparative research on the consequences of institutional borders for the interregional division of labour in the EU is required, but the idea that people merely go to where labour markets are open is misleading to say the least. The findings of this second case study suggest that national labour laws, national taxation and social security systems, and accompanying bureaucracies are more likely to complicate mobility across borders than be temporary constraints on free movement. This is particularly so for circular, short-term mobility across borders.

The role of context — which is cherished by economic geographers who aim to de-essentialize the rather fixed identities ascribed to economic actors in neoclassical and orthodox Marxist development perspectives, and to inquire after their relations with various places — encouraged us to investigate the mobility strategies of both mobile and immobile actors. We found that these strategies are creative and, especially in the case of challenging work permit requirements, far from primitive. In sum, one can say that since 1997 the former Iron Curtain has been gradually replaced by paper walls consisting of visas, invitations, declarations, work permits, residence permits, tax return forms, reimbursement request forms, collective wage agreements, pay slips and so on. In addition to written language, spoken language plays an important role in challenging visa and work permit requirements. This includes persuading local policy makers to cooperate, buying or consulting a particular mobility strategy, and defending this strategy, or an accusation of unlawful behaviour, in court. As such, this spoken language, this ability to convince, becomes more important in providing a precedent for similar cases on the margins of entry, residence and labour law and those of accounting. Yet, the eagerness to learn reflexively from experiences with primitive mobility, using up-to-date expertise, greatly helps in finding ways to circumvent paper walls. Possessing an entrepreneurial attitude is crucial. In Lodz, the ‘stronger’ bazaar traders will survive, while the small ‘ants’ will be confronted with virtually impassable barriers again and most probably will ‘die out’. In the Lower Rhine area, labour market intermediaries and ancillary services take over the organization of Polish employment from the actual employers. Despite improvements in working conditions, especially for German Poles and self-employed Polish migrant workers, the paper walls, designed in national languages according to national standards, serve to create competitive advantage. Within the network of the economic actors involved, ultimately this advantage is likely to benefit the large employers, the large intermediaries and the large service providers most. Hence, also in a less spatially deterministic and more relationally open-ended perspective in which the space of the region provides a research lens, power inequalities are very much part of the context of economic action.

Although we did not present clear-cut evidence of border contexts being (partially) transformed by mobility strategies stemming from the local level, we do not want to withhold the following anecdote from our readers. In early 2006, the Dutch parliament debated the issue of whether or not to extend the transitional restrictions with regard to labour migration from new member states. In this debate, the Deputy Minister of Social Affairs and Employment pleaded for the government to open the labour market. His main argument was not that the Dutch economy would profit from this; rather — throwing in the towel, so to speak — he clearly expressed his inability to enforce the existing measures. This, in our modest opinion, is an example of the reflexive reorganizing capacities of what used to be considered a largely responsive agency.

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Résumé

Cet article s'intéresse aux capacités structurantes des stratégies de mobilité qui visent et défient les frontières institutionnelles. S'inscrivant dans le débat sur le rôle du contexte dans les 'nouvelles' géographies économiques, ce travail tend à adopter certains axes d'une approche stratégique-relationnelle d'inspiration marxiste. Ce faisant, il souligne l'aptitude créative et entrepreneuriale dont font preuve les acteurs mobiles et non-mobiles pour influencer sur les contextes frontaliers existants. De plus, à partir de deux cas, il cherche à pousser l'étude de la mobilité 'primitive', propre aux débuts de la restructuration économique qui a suivi la disparition du Rideau de Fer. Le premier cas concerne les grands bazars (ou marchés de rue) de la région urbaine polonaise de Lodz, dont le fonctionnement dépend beaucoup de l'ouverture de la frontière polonaise à l'Est, de nombreux acheteurs et vendeurs venant de pays comme la Biélorussie, l'Ukraine et la Russie. La perspective de l'entrée de la Pologne dans l'espace Schengen a eu de sérieuses conséquences sur la frontière orientale, donc sur les stratégies de contournement des visas pratiquées par les acteurs de ces marchés. Le second cas porte sur les travailleurs migrants polonais dans la région frontalière germano-hollandaise du Rhin inférieur. Jusqu'à ces derniers temps, les Pays-Bas refusaient la libre circulation de la main-d'œuvre aux citoyens des nouveaux États membres de l'UE (l'Allemagne persiste quant à elle). Cependant, compte tenu de l'importante demande en main-d'œuvre migrante bon marché dans la région, les travailleurs polonais peuvent entrer grâce à des stratégies de contournement à la limite de la réglementation comptable et du droit du travail. Les stratégies locales à l'égard de Schengen et des restrictions à la libre circulation sont loin d'être 'primitives'. Elles exigent au contraire des techniques juridiques et de négociation à la fois créatives et élaborées, et peuvent tout à fait avoir des effets structurants.