



Relaunching Collective Bargaining Coverage in Outsourced Services

RECOVER COUNTRY REPORT

OUTSOURCING IN THE NETHERLANDS: CHALLENGES TO TRADITIONAL SECTOR BOUNDARIES

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This publication constitutes a deliverable of the RECOVER project – Relaunching Collective Bargaining Coverage in Outsourced Services.

This project has received funding from the European Commission, DG Employment, Social Affairs and Inclusion under Agreement No VS/2016/0351.

December 2018

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The Sociological Research Centre on Everyday Life and Work - QUIT (Centre d'Estudis Sociològics sobre la Vida Quotidiana i el Treball) is coordinating the research project RECOVER: Relaunching Collective Bargaining Coverage in Outsourced Services.

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Please refer to this publication as follows:

Payton, Noëlle; Keune, Maarten (2018): *Outsourcing in the Netherlands: Challenges to traditional sector boundaries*. Country Report – RECOVER project. [<https://ddd.uab.cat/record/202075>]

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SECTION I

OUTSOURCING, COLLECTIVE BARGAINING COVERAGE AND FACILITY MANAGEMENT COMPANIES

1. COLLECTIVE BARGAINING CHARACTERISTICS AND COVERAGE

Collective bargaining coverage among the overall Dutch working population remains high, consistently hovering around 80% of employees, despite the relatively low and declining organisation rate of trade unions, having reached 17% of the Dutch working population in employment¹. The dominant level of collective bargaining is the sectoral level and coverage follows employer organisation. Coverage is high to an important extent thanks to the extension mechanism: if employer associations party to a sectoral CBA can prove that they covers at least 55% of the workforce in that sector, it may be extended to cover the entire sector by ministerial decree. Extension is common in many sectors and an important incentive for employers to negotiate a CBA: a CBA without extension opens the way for competition on labour costs.

Employees are represented in collective bargaining mainly by three inter-sectoral trade unions: two large federations (FNV being the largest with some 1.1 million members, followed by CNV with around 200,000 members) and a much smaller single union, De Unie. In addition, there is a range of sectoral, occupational, and company unions. Employers are organised by sector, mirroring the dominant collective bargaining structure. Figures on employer association membership are scarce, but traditional sectors are well-organised as evidenced by the widespread practice of the extension of CBAs.

Extended sectoral CBAs are also found in sectors of commonly outsourced services such as transport and cleaning. Outsourcing therefore does not necessarily lead to less coverage. Problems arise where 'new' sectors develop that lack the tradition and institutions for collective bargaining and where employers are doubtful about the prospect of a CBA's extension. In all three activities investigated for this study, we may indeed speak of such a new sector: logistical services (which used to be more integrated with transport or with the producers or sellers of goods), employment services (which used to be a public service), and facility management (which is a hybrid of multiple traditional sectors plus some grey areas).

2. THE EXTENT, REGULATION AND FORMS OF OUTSOURCING

2.1 The extent and forms of outsourcing

Following the definition of outsourcing for this project, outsourcing in the Netherlands is sought

¹ This organisation rate is even lower if the large number of self-employed persons in the Dutch working population are taken account of.

in the organisational decentralisation of processes or functions that are not part of the company's core activities to external suppliers. Offshoring is not considered part of this definition. Outsourcing now occurs both 'first generation', i.e. an activity is placed outside of an organisation which used to do it itself, and 'second generation', i.e. an organisation seeks a new contractor for an already outsourced activity.

There are very few data on the magnitude of outsourcing in the Netherlands. The most relevant data, based on employer surveys, only say something about the share of organisations to have recently engaged in outsourcing, but not the magnitude of outsourcing. Two studies based on different surveys found that 11.9% of surveyed companies had engaged in domestic outsourcing of support services over the period 2001 – 2006 (Möhlmann & de Groot 2013), and 6.7% in the period 2014 – 2016 (Dekker 2016), but differences in definitions makes it impossible to identify a trend.

In a similar vein, data for the 'value of contracted services directly related to turnover' (i.e. transportation and other services) in the private sector between 2009 and 2016 collected by Statistics Netherlands show no clear trend in the development of these costs, remaining roughly the same except for a dip between 2012 and 2014 (CBS 2018a). These numbers however are limited to only a few subsectors². Nonetheless, it is clear that outsourcing is taking place, and considering the cumulative effect of firms outsourcing services at any point in time (except in situations where there is subsequent insourcing), it is likely that the group of outsourced workers as defined in this study is growing.

What the 2013 study does show is the kinds of services most frequently outsourced: ICT services, administrative and management functions, and distribution and logistics. To a lesser extent, marketing, sales and aftersale services, engineering and technical services, R&D, and 'other' services are outsourced (Möhlmann & de Groot 2013). Persons working in occupations in the top three kinds of outsourced services consistently represented around 35% of the working population in 2003 - 2017 (CBS 2018b). This means that outsourced workers can be expected to represent a sizeable chunk of the working population, making it important to study the conditions under which they work. Collective bargaining coverage is particularly interesting because of the dominance of the sectoral level in collective bargaining in the Netherlands and the 'sectoral blurring' that occurs with outsourcing.

2.2 The regulation of outsourcing

In first generation outsourcing, Transfer of Undertaking legislation generally applies, although trade unions have encountered cases in which this was successfully challenged by the employer. When it is applied, workers have the right to choose between continuing coverage under whatever CBA used to apply, but *without* the improvements negotiated after outsourcing, or falling under the newly applicable CBA (if there is one). In all outsourcing, the Combating Fraudulent Employment Act (WAS in Dutch) applies, which holds contracting parties responsible for the correct payment of labour when contractors and subcontractors fail to do so. This applies to wages and social contributions as well as redundancy payments and payments following bankruptcy.

² Extraction of raw materials, industry, energy, water and waste, construction.

In more 'micro' forms of outsourcing such as hiring workers through TWAs and subcontracting self-employed workers, things are somewhat different. TWA workers are covered by a TWA sectoral CBA, which stipulates that wages must be equal to what direct employees in the client company earn. They do not, however, benefit from other conditions negotiated for that company such as a pension plan. Also, many rights only kick in after a certain period of time in the company. As for self-employed subcontractors, CBAs cannot apply because they are entrepreneurs.

3. FACILITY MANAGEMENT COMPANIES

3.1 Definition of FMC in the country

When speaking about facility management companies (FMCs), a broad and a narrow definition are possible. The broad definition includes both companies that offer a single service (e.g. only cleaning) and companies that offer multiple services; the narrow definition is limited to companies that offer multiple services. This can be in a *multi-services provision* model, in which a single company offers the management and execution of diverse services that can be combined in a single contract, or in an *integrated facility management* model, in which a single company is contracted to supply the entire management and execution of all kinds of facility services. In both cases both management and execution of the services are carried out largely by the contracted company's own employees. In terms of activities, the consultancy Twynstra Gudde lists the following services in its facility management (FM) market research report: parking facility maintenance, security, contract catering, integrated facility management, cleaning, textile care, technical maintenance, document services, and waste management (Scholtens 2017). In the following, the focus will be on FMCs in the narrow sense, but the broad definition will be referred to mainly where data is available only at that level.

3.1.1 Regulation of FMCs

FMCs in the narrow sense are a relatively new phenomenon in the Netherlands, the larger ones having developed from companies traditionally focused on one activity such as cleaning or catering. This explains why regulation of working conditions in FMCs by social partners occurs mainly along the earlier-existing sectoral lines: in the sectors cleaning, catering, and security. In these sectors, there is some level of social dialogue on collective agreements, training and education, and particularly in cleaning on socially responsible contracting, which will be elaborated on later. Further regulation applying to the sector as a whole is formulated at the national level, such as labour legislation and the Transfer of Undertakings Act.

3.1.2 The importance of FMCs

According to Twynstra Gudde in its earlier-mentioned report, 62% of FM services (broad definition) were outsourced in 2017, up from 60.8% in 2014 and 59.4% in 2011 (Twynstra Gudde 2014). In 2016 269,417 employees were employed in outsourced FM services, down from 292,999 employees when employment peaked in 2009 (Scholtens 2017). The FMC landscape in both the broad and narrow sense is dominated in terms of employment by a handful of very large companies employing over 5,000 people in full-time equivalents. There are relatively few medium-size companies (employing between 20 and 100 persons), and a large number of small

companies (self-employed and employing up to 20 persons) (CBS 2018c).

Activity	0 (self-employed)	2-20	20-100	100 or more
Security	3070	600	185	25
Cleaning of buildings (interior)	7130	2195	550	65
Specialised and other cleaning	4150	315	225	25
Facility management (multi-services)	655 (most likely consultants/advisors)	130	50	5

Table 1: Number of companies by number of employees, 2018 4th quarter

Source: CBS Statline (Statistics Netherlands) 2018

3.1.3 The representation of FMCs: existing employer organisations

As mentioned earlier, there is social dialogue in three subsectors of FM: cleaning, contract catering, and security. The most important employers' associations are OSB in cleaning, Veneca in contract catering, and the Nederlandse Veiligheidsbranche in security. OSB has 300 members employing some 100,000 people, Veneca has 8 employing some 12,000 people, and the Nederlandse Veiligheidsbranche organises 56 employers³. The five largest multi-service FM companies are members of OSB, and two of these are also members of Veneca.

3.1.4 Social dialogue and collective bargaining

The employers' associations each negotiate a sectoral collective bargaining agreement (CBA) for their own sectors, with two in security, distinguishing between private security services and security services for events and horeca. With the exception of the private security services CBA which was recently (September 2018) renegotiated, all CBAs have been extended. It is likely the latest CBA will also be extended. According to figures from 2016, the cleaning CBA covered some 125,000 cleaners, the catering CBA some 15,000, and the security CBAs some 30,000 in total (Sinnige 2016, Nederlandse Veiligheidsbranche 2018, Eurofound forthcoming). Furthermore, all three associations are involved in the sectoral pension funds for the respective sectors, as well as offering occupation-specific and (in cleaning) language training and education to workers in the sectors.

Although independent, there is some cooperation between the three employers' associations. In June 2017, for example, they submitted a whitepaper to Parliament calling for a Service Pact (Dienstentpact) facilitating the creation and sustenance of employment at the lower end of the labour market (Cornelisse 2017). An example of a more structural cooperative effort is the Responsible Market Behaviour Code (Code Marktverantwoordelijk Gedrag), a code of conduct stipulating guidelines for tendering practices emphasising the importance of service quality and social responsibility over price considerations. Signing the Code is open to both employers in the sectors and their clients in an attempt to address the entire service chain. This Code will be elaborated on in a later section.

³ This number includes a few non-security companies such as vocational education institutions.

SECTION II

CASE STUDIES: OUTSOURCED ACTIVITIES AND FACILITY MANAGEMENT COMPANY CASE

1. OUTSOURCED ACTIVITY #1: LOGISTICAL SERVICES

1.1 Introduction

Logistical services are that part of the wider logistics industry apart from the transportation of goods. They include services such as rental of warehousing and distribution space, order picking, inventory control, quality control, order management, billing, customs, customer service, freight handling, and tracking and tracing. Recent years have seen a shift in this sector towards higher value-added services, including packaging, repackaging, labelling and assembling, but also more integrated 'supply chain management' services, which refers to organising, managing, and improving processes of the transfer of goods, information, and money between suppliers and purchasers in a broader chain. Part of this is a consequence of the ongoing automation and digitisation taking place in the sector, making activities related to fields such as data analytics and business intelligence more salient (TLN 2017).

Logistical services are carried out mainly under three kinds of organisational configurations. First, companies such as manufacturers, wholesalers and retailers may carry out their own warehousing and logistics, e.g. large supermarket chains (AH, Jumbo), large e-commerce companies (Wehkamp), producers of consumer goods, and car manufacturers. We consider employees carrying out logistical services under this configuration *not-outsourced*. Second, there are companies that offer both transportation and logistical services, and third, there are companies specialising in logistical services. We consider employees working under both latter configurations as *outsourced*, as they carry out these activities for third parties which have contracted these companies to handle logistics and, as the case may be, transportation. The activity of logistical services provision was chosen for this exact occurrence of both in-house execution of logistics and logistics outsourced to companies specialised in transport and/ or logistics.

1.2 Outsourced workers in logistical services

1.2.1 Employment and outsourcing in logistical services

Statistics Netherlands (CBS) collects employment data per industry, and registered 95,000 persons working in the storage and services subsector of the wider transport and logistics sector in 2017. This number had been steadily growing from 60,000 persons in the late nineties, and save a dip between 2008 and 2010, has continued to grow (CBS 2018d). These numbers concern persons working for companies primarily engaged in transport and logistics, which means they concern outsourced workers, as defined for the purposes of this study. The growth in their

number confirms the observations a trade union official interviewed for this study that the specialised logistical services industry has been growing since the late eighties (TU1_Web). Currently, however, there are no clear indications of further increase in outsourcing. Rather, current growth of this industry seems to have more to do with the development of e-commerce. In terms of gender distribution, males clearly dominate the industry with a 5 to 1 ratio in 1995, having shifted to a 7 to 2 ratio since 2015 (CBS 2018d).

Looking beyond outsourced workers alone, a report published for the Ministry of Infrastructure and Environment), states that logistics-related activities accounted for 9.4% of employment in the Netherlands, or 882,000 employees, in 2014 (Buck Consultants International 2017). Of these, 344,000 were employed in transport and the remaining 478,000 (or 5.1% of employment in the Netherlands) in storage, warehousing, and supply chain management, the sub-sector we are looking at in this report. If we subtract the CBS figure of employees in the logistical services industry in 2014 (80,000), we find that 398,000 persons were employed by non-transport and logistics companies while carrying out logistical activities. This means that in 2014, nearly 17% of employees engaged in logistical services activities were outsourced. If anything, this figure may have slightly grown, but not dramatically.

1.2.2 Main client sectors of outsourced logistics

The logistical services sector mainly serves manufacturers of goods, wholesalers, and retailers. Until about thirty years ago these companies carried out their logistical activities almost entirely in-house. Whereas transportation was often outsourced much earlier on, the outsourcing of storage, warehousing and related services has become more common since the 1980s (TU1_Web). The logistical services sector is therefore a relatively new sector. Despite its steady growth, there is still a large share of companies carrying out their own logistics, as illustrated above by the share of outsourced employees carrying out logistical service activities.

The food industry largely carries out its own logistics, especially the large supermarket chains, but also producers and wholesalers. The main reason for doing this in-house is the high rate of turnover of products, particularly in perishable goods, for which the speed of turnover and reliability of logistics are crucial. Companies dealing with these goods thus rather have control over the process. For supermarkets, this includes the way in which transportation carts are loaded so that they can be unloaded most efficiently according to a store's floor pattern. Supermarkets may also work directly with suppliers to cut out the extra step in the supply process, and for example provide suppliers directly with sales information for example to avoid having to place separate orders (Ret_Soc, Sup_Pers). Smaller supermarkets do not carry out their own logistics, but rely on the in-house logistics of their wholesale suppliers.

An important recent exception to in-house logistics in large supermarket chains is the recent outsourcing of the national perishable goods distribution centre (DC) by Albert Heijn, the largest supermarket chain in the Netherlands, which outsourced this DC because they believed the logistics provider would be able to handle the goods at greater speed. In addition, Albert Heijn is in the process of outsourcing another large DC to a specialised logistics company building a fully-automated warehouse. In this case, the most important reason to outsource is the level of expertise required for building a fully-automated warehouse (TU1_DCA, TU2_TL1).

In non-food retail, it is mainly the larger companies that do their own logistics; the others tend

to outsource it (TU2_TL1). Among online retailers, a relatively new but important actor in the field of logistics, several models were found. At one end, there are companies that outsource everything except the strategic and knowledge-intensive activities, contracting companies for logistics, transport, billing, and customer service (e.g. Bol.com). At the other end, there are companies that make it their explicit business model to cover the entire chain, including hiring their own drivers (e.g. Coolblue). And finally, there are companies that fall somewhere in between, doing their logistics in-house but outsourcing customer service, for example (e.g. Wehkamp, one of the older home shopping companies).

It has not been possible to identify general preferences for manufacturers. However, it seems reasonable to believe that the preferences follow the tendencies described for the abovementioned sector: for large companies to handle their own logistics, and for producers of high-turnover products to handle their own logistics.

1.2.3 Working conditions following outsourcing

On both trade union and employer side, interviewees indicate that the main reason for outsourcing is costs: the work can be done cheaper, in no small part of the lack of a sectoral CBA for the logistics sector, which makes it a minimum wage activity with no contributions to pension and other social funds (TU1_DCA, DCB, TU2_TL1, TL2, Ret_Soc, EA_Lab). Although trade unions are of the opinion that legislation covering transfers of undertaking ought to apply in cases of outsourcing, they also find that in some cases it is difficult to apply, and that if outsourcing involves a transfer to a different CBA, workers may be faced with the choice between maintaining coverage under their 'old' CBA *without* profiting from any future renegotiations, or going along with the CBA of the 'new' sector, which in many cases has lesser working conditions (TU1_DCA, DCB). "The workers always pays the bill" (TU1_DCB). Moreover, workers may feel more insecure about their job security after outsourcing, be confronted with greater travel distance in case they are transferred to the new employer, and may be put into lower functions or positions (TU1_DCA, DCB).

1.3 Representation of workers and employers in logistical services

1.3.1 Main relevant social partners

Employees in logistical services are predominantly represented by the two largest Dutch trade union federations. The largest is the FNV, a single union that covers both public and private sectors and is the result of a large merger that took place in 2015. The merger was partially realised in order to facilitate cross-sectoral cooperation between union officials (TU1_DCA, DCB), the significance of which will be discussed later. The second-largest is the CNV, which is roughly speaking a confederation of a public sector union and a private sector union. Logistics workers are represented by the private sector union, CNV Vakmensen (referred to in the remainder of the report as CNV). Besides these two unions, there is a number of much smaller cross-sectoral unions. There are no sector or occupation-specific unions of significance in logistics, nor in any of the major sectors where logistic activities are carried out in-house.

As for union density, all indications are that it is low among logistics workers. Both union officials and employers' representatives interviewed for this research indicated that it is difficult to organise workers in logistics companies (TU2_TL1, EA_Soc, EA_Lab), but also that trade unions have neglected logistics as a new and growing sector of its own (TU1_Web). In the sectors where

logistical services are carried out in-house, the picture is varied. Union density is notoriously low in the commerce sector (including both wholesale and retail), about 6% (Eurofound, forthcoming). However, within retail, workers in the DC's of the two largest supermarket chains (Albert Heijn and Jumbo) are relatively well-organised: between 20 and 25% by FNV alone (TU1_DCA, DCB). These members are predominantly workers with permanent contracts; considering that about half of the workers in the DC's work through temporary work agencies (TWAs), it means about half of the permanent employees are organised by the FNV, and possibly some more by CNV. As for different manufacturing sectors, union density was not further investigated because logistics workers comprise only a small share of the workforce.

On the employer side, the most obvious actor is Transport en Logistiek Nederland (TLN, Transport and Logistics Netherlands). It organises some 5,500 employers in transport and logistics, and negotiates the sectoral transport and logistics collective bargaining agreement (CBA), also known as the TLN CBA. Although the association has members involved in transport, logistics, or both, the CBA only applies to companies that transport goods over the road as their main activity. Most logistics companies therefore fall outside of the scope of this CBA. In the transport sector, there is a long-standing tradition of social dialogue and despite the habitual tension, social partners have managed to recently renew the sectoral CBA, which is normally extended to cover the entire transport sector. Social partners also jointly run the sectoral pension fund for transport and the sectoral association for CBA compliance. TLN currently represents employers in transport employing some 73% of all transport employees, down from 80% in the past (EA_Soc). Logistics employers are organised within the TLN in the 'Logistics and Supply Chains Circle', but have no tradition of social dialogue.

Outside of transport and logistics, there is a plethora of employers' associations representing employers in retail, wholesale and manufacturing, mostly by branch (e.g. textiles, supermarkets, beverages, jewellers, etc.). In food retail, the most significant ones are VGL, which organises the large supermarket chains, and Vakcentrum, which negotiates on behalf of single shop owners and franchisers. In non-food retail the most significant employers' associations are INretail, which organises employers in fashion, sports and interior decoration stores, and VGT, which represents large fashion chains. In both the food and non-food segments in retail, FNV declined to sign the most recently proposed CBA's because they considered the negotiated conditions insufficient. The CBA's were nonetheless signed by CNV and a few smaller unions, and later extended to cover the entire sectors. Besides these larger organisations in retail, there are many more smaller branch-specific organisations for employers in retail and wholesale. Within any given branch, it is common for an employers' association to organise employers representing a majority of the workforce in that branch.

In manufacturing, employers are also generally organised according to branch. In the metal branch, the most important ones are FME and Metaalunie, which organise the majority of employers in the sector. There is a long-standing tradition of social dialogue in this sector, but the most recent round of negotiations for the sectoral CBA stalled in the fall of 2018 and have led to a series of strikes. The food industry knows a number of small branch-specific employers' associations (e.g. in sweet goods and grain products) which are engaged in collective bargaining, but the larger employers tend to negotiate their own CBA's. The process industries are largely unorganised on the employers' side, although there is some social dialogue at company level.

1.3.2 Challenges to employer and employee organisation and representation

Employers: lack of tradition

As described earlier, logistical services have only recently, in the last thirty years or so, started to form a sector of their own, separate from the producers or sellers of the handled products, and even more recently separate from integrated transport and logistics companies. This means there is no formal employers' association for this activity, the only collective body being the more or less informal 'Logistics and Supply Chains Circle' within the TLN. This also means there is no tradition of social dialogue, nor an institutional infrastructure among collective actors targeting this activity: all collective institutions in which TLN takes part (CBA, CBA compliance, social fund, pension fund) target transport rather than logistics. One trade unionist also indicated there is low trust among logistics employers (TU2_TL2). Most importantly, however, the difficulty and reluctance among employers to negotiate a sectoral CBA for logistics is an important reason for not organising, and will be elaborated in a later section.

Employees: temporary contracts and fragmentation along the service chain

The importance of tradition is also found on the employee side, and is illustrated by the long-standing and successful tradition of social dialogue in its neighbouring sector: transport. Even though transport workers are theoretically more difficult to organise than logistics workers who see each other every day on the work floor (TU1_Web), the transport sector is traditionally better-organised on both sides and has been able to maintain sustainable industrial relations, which includes logistics as long as they are divisions of transport companies. The logistics companies *not* part of a transport company were called a "no man's land" (TU1_TL, Web). Similarly, trade unionists have a better view on working conditions among larger companies handling their own logistics, but the outsourced logistics for the smaller non-food companies are called an "invisible world" (TU2_TL1). Interviewees identified the move away from in-house logistics and the separation of logistics from transport companies as developments the union has not acted upon sufficiently: they have created a new and growing subsector, but unions have not mirrored the developments in their own structures because it traditionally fell under other sectors. "We must reconsider our scope," according to a transport and logistics union official (TU1_TL), and "we can't pretend part of the sector doesn't exist" (TU1_Web). Union structures, which adhere to older, more traditional sectors, have therefore fallen behind on sectoral developments in the economy.

Another challenge to organising employees is that the majority of workers in the logistical services, both outsourced and in-house, particularly in warehouses, work on temporary contracts up to two years or through temporary work agencies (TWAs)⁴. By doing so they avoid the legal obligation to offer workers a permanent contract after two consecutive years of employment, the annual wage increases stipulated in the transport and logistics CBA (in case the company is bound to it), the payment of redundancy fees, and contributions to a pension fund (TU1_DCA, DCB). The temporariness of workers' presence in the companies make it difficult for trade unions to organise them, illustrated also by the fact that most union members in the supermarket DC's are permanent employees, not TWA workers (TU1_DCA, DCB). TWA work

⁴ One large logistics company was said to hire 80% of its workers in warehouses through TWAs, employing mainly Polish workers (TU1_DCA). In the DC's of the largest Dutch supermarket chain, 50% of workers were said to work through TWAs (TU1_DCB).

poses a further challenge to organising, because the trade union's main strategy for organising workers is through workers who are already members of the trade union. TWA workers, even if they are members, are registered as TWA workers and the union does not know where they are working. It is therefore difficult to call upon them for an organising drive at a particular location (TU1_DCB). Literature has further pointed to the difficulty for unions to represent workers dispersed along a value chain (e.g. Doellgast 2012, Holtgrewe and Doellgast 2012, MacKenzie 2009). In the words of one trade unionist, "you more and more often find yourself sitting at the wrong table" when trying to address working conditions somewhere in the supply chain, because ultimately the direct employers are not the ones with the most influence over working conditions, but rather the party they were contracted by (TU1_Web).

1.4 Collective agreements and bargaining coverage in logistical services

1.4.1 Coverage of in-house vs. outsourced logistical workers

Bargaining coverage for logistics is truly a mosaic. In-house workers are covered by different sectoral CBAs including two different metal manufacturing CBAs, the supermarkets (or VGL) CBA, one large retail CBA for retailers in fashion, sporting goods and interior design (the INretail CBA), numerous sectoral CBAs for particular branches of retailers and wholesalers, and a plethora of company-level CBAs the process industries and manufacturing. Where both sectoral and company-level CBAs are lacking, workers are not covered. Because of the fragmentation in coverage it is difficult to estimate which share of the in-house logistical workforce is covered, but it is likely the majority. Coverage is especially high in retail, both food and non-food, because of the extended sectoral CBA's, VGL and INretail being the largest ones.

Conversely, when it comes to the outsourced workers, it appears only a minority is covered. Workers are only covered if they fall under one of five company-level agreements (CEVA Logistics, DHL Logistics, DSV Solutions, and Profcore, and one that has not been renegotiated since 2014: Damco Netherlands) or the sectoral Transport and Logistics CBA negotiated by the employers' association TLN. As mentioned earlier and contrary to what the name suggests, this CBA covers companies that have transportation of goods as their main activity. Workers in logistical services are only covered as long as they work for a transport company with a logistical services division. These tend to be the larger transport and logistics companies, but there has been a trend for these companies to split off their logistics division into a separate legal entity, thereby avoiding the applicability of the TLN CBA (EA_Soc, TU1_Web). This means that by now only very few logistical workers are covered by the TLN CBA, or "almost nothing" (TU2_TL2). Even adding workers covered by a company CBA, it is safe to say that the majority of outsourced logistics workers is not covered by a CBA, which means only minimum wage applies and there is no pension fund⁵.

1.4.2 A hierarchy of CBAs covering logistical workers

Considering that there is no sectoral CBA for logistics as an activity because it does not comprise a sector as traditionally defined for collective organisation and collective bargaining, the default regulation for this activity is minimum wage and what is further stipulated in labour legislation.

⁵ Pension fund coverage in the Netherlands is often linked to CBA coverage.

It is furthermore a low-skill activity with high pressure on costs, especially in situations of outsourcing and tendering, and in e-commerce because of consumer-driven pressure (TU1_TL, Web, TU2_TL1, TL2, EA_Lab). Nonetheless, as indicated above, large swaths of the logistics workforce are covered by CBA's. The table below shows, roughly speaking, per sector which regulations (CBA's, informal company protocols, and legislation) tend to stipulate the best working conditions for logistics workers⁶. The regulations covering outsourced workers are in italics. What this shows is that in general, outsourced workers are worse off compared to in-house workers in manufacturing, wholesale, and food retail, but can be better off than in-house workers in non-food retail and e-commerce because of the low standards of the INretail CBA.

Manufacturing	Wholesale	Food retail	Non-food retail	E-commerce
In sectors <i>with</i> sectoral CBA's: 1a. Company CBA's 1b. Sectoral CBA's	In sectors <i>with</i> sectoral CBA's: 1a. Company CBA's 1b. Sectoral CBA's	1. Albert Heijn DC CBA 2. Jumbo DC protocol 3. VGL CBA ^a	1. <i>TLN CBA^b</i> 2. <i>Company CBA's for logistics companies</i> 3. INRetail CBA	1. Company protocols 2. Home shopping CBA ^c 3. <i>TLN CBA^b</i>
In sectors <i>without</i> sectoral CBA's: 1. Company CBA's	In sectors <i>without</i> sectoral CBA's: 1. Company CBA's	4. <i>TLN CBA</i> 5. <i>Company CBA's for logistics companies</i>	4. <i>Minimum wage</i>	4. INretail CBA 5. <i>Company CBA's for logistics companies</i>
In both: 2. <i>TLN CBA</i> 3. <i>Company CBA's for logistics companies</i> 4. <i>Minimum wage</i>	In both: 2. <i>TLN CBA</i> 3. <i>Company CBA's for logistics companies</i> 4. <i>Minimum wage</i>	6. <i>Minimum wage</i>		6. <i>Minimum wage</i>

Table 2: Hierarchies of regulations governing logistical workers' working conditions by sector, based on interviewees' points of view

Note: regulations in italics cover outsourced workers.

a. Except for drivers; they are better off under the TLN CBA (TU2_TL1).

b. Only applicable if: transport and logistics together in one company.

c. This CBA expired in 2012, but the minimum laid down in the last round is still valid, which means that companies bound to it through membership of the organisation that negotiated it must still adhere to that minimum.

1.4.2 Challenges to collective bargaining coverage

Gaps and clashes

Outsourcing itself is not necessarily problematic for workers' CBA coverage: in transport for example, a service that is almost entirely outsourced, outsourced workers are *by default* covered by the TLN CBA because it is extended to cover the entire sector. In logistical services, however,

⁶ It is a rough sketch of the situation because of the variation in the levels of working conditions between individual company CBA's and sectoral (or rather: branch) CBA's within manufacturing in wholesale. It is therefore possible, for example, that the branch CBA in one branch within manufacturing is better than a company CBA in another branch within manufacturing, or that one company CBA of a logistics company is better than the INretail CBA.

where a sectoral CBA does *not* exist, outsourcing can easily cause a CBA coverage gap (i.e. no coverage at all), because logistical workers will not be covered by whatever CBA applies to the contracting party, nor any other CBA unless the contracted company is part of a transport and logistics company with TLN coverage, or a logistics company with its own CBA. The latter two cases only apply to a minority of the companies in the sector, and a shrinking minority at that because of the trend to split off logistical services into a separate legal entity, and the expiration of one of the company CBAs in 2014.

Outsourcing can also lead to a CBA clash, as multiple or no CBAs may apply along an outsourced service chain. A good example is Bol.com, a large Dutch online retailer which itself employs about 1000 predominantly high-skilled persons covered not by a CBA, but their own working conditions protocol. As an online retailer, it does not fall under a CBA because there is no sectoral CBA that applies specifically to online retailers⁷. Bol.com has outsourced its entire logistics to Ingram Micro, which are not covered by any CBA. Call centres are also outsourced, but there was no sectoral CBA in effect between May 2012 and November 2017, which meant during that period that only employees hired before May 2012 still benefited from what had been negotiated in the expired CBA (though without annual wage improvements). Finally, transport is outsourced to a number of large transport companies, which either fall under the TLN CBA or under a company CBA, as is the case for PostNL. As for the transport companies, a significant share of the drivers are covered by no CBA at all, as they have been contracted as self-employed drivers by the transport companies. Along this service chain, we therefore find both gaps and clashes. Collective bargaining along such a chain is challenging, because successfully addressing working conditions in one company along the chain may lead to a detrimental compensation of the cost increases in other companies along the chain, or that the company in which the working conditions have improved is cut out of the chain in favour of a cheaper competitor (TU1_Web, TU1_DCA, TU1_DCB).

There are at least two further instances of CBA clashing within a company. As mentioned earlier, a large share of the workers active in logistical services (both in-house and outsourced) work through TWAs. For such workers, there is a potential CBA clash because they are not covered by whatever CBA may apply, but the temporary agency workers' CBA. Although a number of conditions are worse (e.g. pension provision), their wages must conform to whatever applies to their directly employed colleagues in the warehouse. This means minimum wage for workers in outsourced activities where there is no CBA, and higher wages for in-house and outsourced activities where a CBA does apply. Another example is when a transport and logistics company splits off its logistics branch into a separate legal entity. Logistics workers previously covered by the TLN CBA will retain their coverage (though they will not profit from improvements negotiated later), but newly hired workers are not covered.

No desire for a CBA without extension

In the Netherlands, organising employers is the logical first step towards collective bargaining, because CBA coverage follows employer organisation; not employee organisation. A CBA applies to all employees of an employer who is member of the employers' association party to the CBA. The CBA may be extended by ministerial decree to cover the entire sector if it meets the legal

⁷ Even though another online retailer has chosen to fall under the sectoral retail CBA.

representativeness criterion: the employer association (or associations) must represent employers together employing at least 55-60% of the workforce in that sector. The associations must thereto submit a formal application for extension, including proof of the share of employees covered within the sector. In a sector in which the minimum wage is the norm, it is difficult if not impossible to convince employers to voluntarily organise and bargain to set above-minimum wage standards, as long as there is no guarantee that the CBA will be extended to cover the entire sector. In the words of a representative of employers' association TLN: "it's hard to compete with absolute freedom" (EA_Lab). It is therefore safe to say that logistics employers will not engage in collective bargaining unless they are quite sure that the resulting CBA will be extended.

Interestingly enough, there have been attempts in the past to organise employers in logistical services, and a number of large logistics employers in particular have shown interest in organising (TU1_Web, EA_Soc, Lab). However, these attempts were thwarted by the difficulty to guarantee the extension of a potential future sectoral CBA. First of all, it is difficult to come up with a satisfying definition of the sector; one that is sufficiently broad to cover the diverse activities carried out in the logistical sector without infringing on already-existing sectors. The difficulty arises from the activity being carried out in so many places that already have some form of CBA coverage: e.g. in wholesale, ports, airports, etc. (TU1_Web, EA_Lab). If the newly defined logistics sector infringes on these sectors, it may cause problems for those sectors' representativeness, which makes social partners on both sides wary and reluctant to engage in what may be come "endless discussions about what falls under [the logistics sector] and therefore: is it representative?" (TU1_Web). The second problem is of a more practical nature, which is that currently the logistics employers are not organised, and therefore there are no reliable data on how many workers they represent, making it difficult (and costly) to prove representativeness even after a satisfying sector definition has been formulated (EA_Soc).

High pressure on labour costs

It has been mentioned before that outsourcing decisions are driven in the majority of cases by cost considerations. This means competition between logistics providers is highly cost-driven. In a minimum wage, labour intensive activity, this puts high pressure on labour costs. What is particular about outsourcing, however, is that logistics providers not only compete with each other, but also with their clients: if the services of logistics providers become more expensive than could be done in-house, client companies will in-source these activities again (Ret_Soc). This high pressure on costs further fuels logistics employers' reluctance to organise and bargain for working conditions that may make their services more expensive than in-house logistics.

CBA flight

The existence of a relatively good CBA may also have downsides. The large supermarket chain Albert Heijn for example has a relatively good CBA specifically for its DC's (see table 2) which was negotiated during a period of economic upturn and labour market shortage which gave trade unions an edge in bargaining. Such a CBA with relatively high wages and other conditions, especially compared to the 'no man's land' of minimum wage in logistics in general, may, however, incentivise employers to avoid it. This can be done in several ways. First, employers can hire fewer workers under these conditions by hiring workers through TWAs, which negatively impacts job security and adds challenges for trade unions to organise employees.

Second, employers may revert to outsourcing (TU2_TL1, TL2). And third, employers may unilaterally abandon the CBA. This is what was done at Jumbo, the second-largest supermarket chain in the Netherlands. Until recently it also had a CBA specifically for its DC's, inherited from supermarket chain C1000, a company Jumbo took over. Following an unsuccessful round of renegotiations and subsequent strikes at the Jumbo DC's, Jumbo refused to renegotiate the CBA, thus falling back on the general VGL CBA for the supermarket branch. Trade unionists explained the difference between Albert Heijn, which still voluntarily maintains its CBA, and Jumbo, which has unilaterally pulled out of theirs, as a difference in tradition: Albert Heijn, they claim, is more rooted in the Dutch social dialogue 'polder model', and is more susceptible to societal pressure because of its long-standing prominence on the Dutch retail scene (TU2_TL1, TL2). Finally, a clear example of CBA flight is found in the transport and logistics companies splitting off their logistics departments in order to avoid the TLN CBA.

CBA-shopping

In the mosaic-like landscape of CBA's potentially covering logistical activities, one would expect significant scope for CBA-shopping, and indeed there are several examples. The first is Coolblue, a relatively new e-commerce actor which sells electronic goods. It has a deliberate strategy of handling the entire chain: from marketing and sales to customer service and distribution, including transport and logistics. For CBA coverage, they have self-identified as a retailer, which makes them fall under the INretail CBA, which in terms of working conditions only trumps *no* coverage and minimum wage (see table 1). If they had outsourced drivers in particular, they would have had better conditions under the TLN CBA. Another example is the online shopping channel of Albert Heijn: activities in the DC's for online shopping are arguably the same as in regular DC's, but have been put under the general supermarket (VGL) CBA, which covers shop personnel, rather than Albert Heijn's own (and better) DC CBA (TU2_DCA). Albert Heijn argues that workers in the online shopping DC's prepare deliveries to customers, not to stores, and therefore do not fall under the scope of the DC CBA which existed prior to the online channel being developed, therefore does not mention the online shopping DC's, and therefore does not apply (TU1_DCA).

1.4.3 Strategies deployed by social partners to solve coverage problems

Cross-sectoral approach to the entire service chain

In order to address working conditions along the entire outsourced service chains of online retailers, trade union FNV has set up a project in which trade union officials across the traditionally defined sectors cooperate with each other to cover the entire chain, an example of sectoral blurring in union strategy. For this case this includes union officials from Commerce, Transport, and Commercial Services. A crucial facilitating factor for such cooperation was the merger of many of the unions of the former FNV trade union confederation into one FNV union. Under the previous circumstances, discussions about who participates, who takes the lead, who is responsible, who pays for what, etc. would have stranded such a project before it ever got off the ground (TU1_DCA, DCB).

In practice, cooperation across sectors means that attempts are made to organise workers on the shop floor along the chain, and thus try to put pressure on both the direct employers in the chain and the contracting party at the top of the chain. This can also be done through coalition-building between the trade union and employers lower in the chain to put joint pressure on the

prices being set by the contracting party at the top of the chain, if direct employers argue that they are bound to the conditions set by the contracting party. It is also this party, which is usually the most high profile, the “sexiest” and the most well-known among the general public, which is targeted in publicity campaigns, as they are also the ones most concerned with their public image (TU1_Web, DCA, DCB).

Part of a strategy of addressing the entire service chain can build on the Combating Fraudulent Employment Act, abbreviated to WAS in Dutch and in force since 2015. This piece of legislation makes contracting parties responsible for the adherence to applicable CBA’s and minimum wage legislation lower down in the chain. Although not yet applied in logistical services, it has already proven successful in the parcel delivery segment of the transport sector. The strategy consists of conducting random checks among subcontractors of large parcel delivery companies such as DHL and PostNL, and simultaneously writing so-called ‘WAS letters’ to these large companies, calling them out on their responsibility to ensure adherence to the relevant standards among their subcontractors. This responsibility includes setting tariffs in such a way that adherence is possible. These companies have shown to be responsive to this strategy for two reasons. First, they are wary of negative media attention for their own sake as well as for the sake of it reflecting badly on their main customers (like the popular Bol.com). Secondly, the redundancy costs of the bankruptcy of an underpaid subcontractor will also be claimed from those higher up in the chain based on the WAS; costs which they wish to avoid (TU1_Web).

Mirroring the structure of the economy

One important challenge faced by the trade unions is the emergence of a ‘new’ sector that used to be integrated in other sectors, but has now become a sector of its own lacking the traditions and institutions for social dialogue it used to be covered by. As interviewees pointed out themselves, the unions have not been sufficiently responsive to this development, failing for a long time to target the new sector separately. This realisation came a few years ago and in the meantime an investment plan has been formulated to target logistics as a sector: focusing on the larger companies, mapping service chains, and designating staff to focus on logistics apart from transport (TU1_Web, TL). Similar to the project addressing the entire service chain, it is an attempt by the trade union to overcome institutional inertia and mirror its own structures and organisation to the structures and organisation of the economy.

Pre-outsourcing social dialogue

Another example of a strategy addressing outsourcing is the ‘Consultation on employment developments protocol’ agreed on in negotiations parallel to those of the Albert Heijn DC CBA, prior to the final decision to outsource the DC’s mentioned earlier on. This Protocol, agreed on by Albert Heijn and the unions CNV and FNV, sets out some guidelines on outsourcing decisions. It begins with stipulating that outsourcing decisions must be driven primarily by quality considerations, not working conditions. It further establishes information rights for unions and works council (which are mostly a reconfirmation of existing legislation) and sets out obligations for the employer to do everything to protect workers’ working conditions in case of outsourcing. More interestingly, perhaps, it states that outsourcing must, in principle, be done to companies covered by a CBA negotiated by CNV and FNV. This would exclude many logistical service providers in the ‘no man’s land’ of this activity and ensure CBA coverage. The success of this Protocol was experienced by one union official as limited; although a fairly elaborate Social

Framework (or redundancy plan) was elaborated for permanent employees affected by the outsourcing decisions, he was under the impression that there were some differences in interpretation of the protocol and was critical of the extent to which quality considerations were the primary driver of the outsourcing decision (TU1_DCA).

2. OUTSOURCED ACTIVITY #2: ACTIVATION SERVICES

2.1 Introduction

Activation services are services aimed at the re-integration of inactive persons (e.g. persons receiving social or unemployment benefits, persons at risk of becoming unemployed, persons with limited work capacity, etc.) into the labour market. Such services include for example job-search coaching, competence assessments, training and education, mediation between employers and prospective employees, etc. They are mostly provided by highly-educated persons with tertiary education or an equivalent level of skills gained through experience. The market for activation services is a young market in the Netherlands and only came into being following the complete privatisation of activation services by the government in 2001.

Despite the privatisation, developments in the activation services market are still highly dependent on public policy decisions and public budget allocations because public actors remain largely responsible for the provision of these services, which then may or may not be outsourced to private actors. This activity was chosen for this study because of this dependence on public policy, the public sector heritage, and its relative youth in the private sector. Since private companies engaged in this activity are nearly always contracted by another party which must meet its labour market activation responsibilities (whether it be a public body or an individual employer), we may speak of outsourcing for virtually all services provided by private companies in this sector.

2.2 Outsourced workers in activation services

2.2.1 Activation services landscape: providers and clients

Employment services in the Netherlands are provided by three main types of actors. First, the Public Employment Agency (UWV) provides services to recipients of disability or sickness benefits and to a lesser extent to recipients of unemployment benefits. The UWV is a so-called independent administrative body, which means it is a public body charged with executing specific tasks. It falls under the responsibility of the Ministry of Social Affairs and Employment without being an integral part of it, and is dependent on the Ministry for its budget. Its main responsibilities are the management and distribution of disability benefits, sickness benefits and unemployment benefits, registering applications for social security benefits, and evaluating individuals' ability and disability for work. It is only secondarily responsible for providing activation services to recipients of disability benefits and to a lesser extent recipients of unemployment benefits. Secondly, municipalities are responsible for providing activation services to social benefits recipients, young disabled persons and persons with limited work capacity. For some of the latter group the municipality is responsible for sheltered workshops. Each municipality is autonomous in formulating policy for the provision of these services, which

means they may provide the services themselves or outsource them, as well as deciding how much of the social budget to allocate to these services. For its social budget it is dependent to an important extent on the central government and partially on its own tax raising. Many municipalities collaborate in the provision of social services including activation services in regional collaborative bodies, which have varying degrees of formal status.

Thirdly, private companies provide activation services to employers who purchase services for their employees, to the earlier-mentioned public bodies that purchase services for their respective target groups, and to a limited extent directly to individuals, although this is likely to be limited to individual career coaching-type services, rather than services aimed at activation. Employers are important purchasers of activation services because of legislation making them responsible for the re-integration into the labour market of employees who become sick or partially work-incapacitated during the first two years of sickness or disability. Services provided by the public bodies tend to focus on mediating between employers and prospective employees and improving individuals' chances on the labour market through services typically including vocational guidance, job search courses, counseling and monitoring to assist the unemployed in their job search and job placement, whereas private suppliers offer a wider range of services, from medical services to career development advice. A large number of private companies further exist that support employers in preventive work, i.e. designing working conditions policies for sustainable participation in the labour market.

2.2.2 Employment in activation services

At the end of 2017 the UWV employed 18.157 persons, or on average 16.520 per month in full time equivalents. The majority by far had permanent contracts, and about 8.6% were on temporary contracts. The UWV furthermore makes use of temporary agency workers only to a very limited extent. The division specifically for providing employment services employed 5,093 persons to the amount of 4,436 in full time equivalents, mainly as job coaches for the disabled (TU_UWV). The municipalities employed a total of 155,960 persons in 2015, or 137,020 in full time equivalents (Gardeniers et al. 2016). Only a fraction of these were frontline workers involved in providing activation services, approximately 4500 (Timmer 2014). Because municipalities autonomously formulate and execute their social policies, there is both variety in the extent to which municipalities provide their own services or outsource them, and fluctuations in these policies over time. Neither the national association of municipalities (VNG) nor the association of municipal social policy directors (Divosa) collect data on the extent to which municipalities have their own employees provide activation services. It is therefore difficult to estimate how many municipal employees are currently engaged in providing activation services.

It is also very difficult to estimate employment in the private companies. It is a very broad and diverse company population with variation in size, service provision (from broad ranges of services to niche services), and dominant clients (UWV/ municipalities/ employers). In 2011 the Council for Work and Income (RWI), a tripartite advisory body to the government on labour market issues, published a study on the activation services market, partially based on survey research among nearly 900 companies in this sector. In terms of size of the sector, it found that the number of private providers increased enormously following the privatization, doubling between 2004 and 2008 to nearly 2000 companies. That number dropped sharply afterwards,

due to a 'shake-out' effect following fierce competition, mergers, and a drop in demand because of public budget cuts (RWI 2011, BrAss_dir). In terms of company size, 31% of survey respondents (companies) concerned self-employed, 45% employed 2 to 14 persons, 12% employed 15 to 49 persons, and 12% employed 50 persons or more (figures for 2009). Half of the respondents stated that at least half of their revenues came from the UWV, 11% of the respondents got at least half their revenues from municipalities, 13% from employers, and 26% did not have a dominant client type (Veldhuis & Veerman 2011). In terms of services, most companies offered a broad range of services, whereas a minority of companies focused on for example job coaching, training, social activation, or supporting employees on sickness leave (RWI 2011).

This paints a picture for 2010 of a diverse sector dominated by small and medium-sized enterprises (SMEs) with a handful of large companies (mainly temporary work agencies with an activation services division, e.g. Randstad). This is still the case in 2018 (UWV_dir, BrAss_dir), although the number of companies has most likely decreased further due to the severe budget cuts for activation services paid for by the government. This is confirmed by the fact that Blik op Werk, an independent quality control and knowledge institute which provides certification to companies providing labour market re-integration services, currently has a list of 525 certified service providers and service providers in the application procedure. In 2011 there were 544 certified providers, with an additional 200 companies in the application procedure for certification (RWI 2011), amounting to roughly 30% of the companies at the time. To estimate current employment in the sector, let us presume that the currently certified 525 companies still constitute 30% of the companies in the sector, amounting to 1750 companies. If we apply the same shares of company size as found in 2009, this would imply 543 one-person companies, 210 companies employing 50 or more persons, and 997 companies employing between 2 and 49 persons. Taking 26 as the average employment in SMEs and 50 in the large companies (since it is likely, if the large companies are indeed the temp agencies, that only a minority of their employees are engaged in providing employment services as understood in this study), this results in an estimate of 37,000 persons working in this sector. Based on all the available estimates, employment in activation services can be estimated at 0.5% of total employment in the Netherlands in 2016, with a likely decrease having occurred since then.

2.2.3 Development of outsourcing in activation services

The dual roles of the public bodies as both purchasers and suppliers of employment services is something which grew over time. Until well into the 1990s, the predecessors of the UWV (mainly the benefits administrator and the activation services provider, the "Arbeidsvoorziening (Labour provision)") had a monopoly position in providing activation services. In response to high numbers of unemployment and disability benefits recipients, a severely critical report on the functioning of the social partners-led disability and unemployment benefits system, and in the spirit of neoliberal ideas about market efficiency, it was decided that the entire system comprising the benefits administration and the activation services ought to be privatised. The Labour Party objected however, and finally only the activation services were privatised in the late 1990s culminating in a completely competitive activation market in 2001, making the UWV responsible for the administration of benefits and purchasing the activation services for these benefits recipients from private suppliers. It did however retain a limited function as intermediary between jobseekers and vacancies (Sol 2001, UWV_dir). The formerly public

activation service provider, the Arbeidsvoorziening, became Kliq, a newly formed private enterprise. Its employees lost civil servant status, but according to the UWV interviewee who was closely involved in the process, the unions were able to negotiate a generous safety net. When after four years Kliq went bankrupt, whoever was unable to find employment in the private activation services sector (either in one of the new private companies or in their own business) was able to regain a civil servant position (UWV_dir).

Shortly after the privatisation of activation services, in 2004, a major reform in social policy accompanied by large-scale decentralisation of the responsibility to formulate and implement policy in several domains of social policy to the municipal level meant that municipalities became responsible for providing social security benefits and providing activation services to their benefits recipients, young disabled persons and persons with limited work capacity. For about a year they were required to purchase these services on the market, but this requirement was abandoned under pressure from municipalities (UWV_dir), which led to municipalities increasingly using their own staff and departments to provide employment services, outsourcing only 45% of these services to private parties not related to the municipality in 2010 (RWI 2011). In addition to outsourcing these services to private actors, municipalities also outsource social services, including activation services, to regional bodies and collaborations between municipalities⁸. There exists some variation in the forms taken on by these collaborative efforts, from formal so-called public bodies (*openbaar lichamen*) with legal status (which means they can employ their own employees), joint purchasing of services on the market, outsourcing services to larger municipalities, and the establishment of both for-profit enterprises and non-profit associations as sheltered workplaces. There also exist mergers between municipal executive bodies and sheltered workplaces. These collaborations are peopled by employees of municipalities, new recruits from outside municipalities, and even contracted through payrolling-type enterprises (van Dodeweerd et al. 2013, van Dodeweerd & Timmerman 2015, e-mail communication Divosa research process manager Sept. 2018). In 2015, 66% of Dutch municipalities collaborated in some form on the provision of social services, of which 95% collaborated on the provision of work-related services (this is not limited to activation services, but most likely concerns sheltered workplaces in many of the cases) (van Dodeweerd & Timmerman 2015). Because of the wide variety in collaborative forms, it is impossible to estimate how many employees are involved in these bodies.

The developments in the allocation of public responsibility and budgets for activation services were accompanied severe budget cuts in the field of activation services provided by both the UWV and municipalities, cutting the budget for these services by half over the course of a couple years (RWI 2011). For the municipalities, the decentralisation in 2004 was accompanied by a significant budget cut for social benefits and activation services, which put pressure on municipal budgets. The consequences for service provision varied, however, according to municipalities' preferences and overall financial situations. It did mean that when the obligation to purchase services was abolished in 2005, some municipalities started to provide these services themselves rather than outsourcing (BrAss_dir). As for the UWV, the budget for the provision of activation

⁸ Which services are actually provided in such a regional public body varies between the regional bodies, and may or may not include: administration and provision of benefits, support for disabled persons, administration and management of sheltered workplaces, and debt assistance (van Dodeweerd et al. 2013).

services was eliminated in 2012. It therefore decreased its own service provision to benefits recipients, emphasising mainly online services to those on unemployment benefits and personal services for employers in one stop shops ('werkgeverspleinen'), and significantly limited the situations in which private services may be purchased from 2011 onwards (UWV 2011). However, following the insight that certain groups were not being adequately served through online support alone, this policy was revised by adding an annual amount of € 70 million to the UWV's budget starting in 2018, to be spent on "personal service provision". Reflecting on these developments, the UWV interviewee described how budgets and priorities for the UWV change according to movements of economic cycles, differing perspectives between consecutive governments on the role of government, and perceived political needs and priorities. "Yes," he states, "we are a political instrument" (UWV_dir).

2.3 Collective representation and collective bargaining coverage in activation services

2.3.1 Social partners and CBAs covering public providers

Among the two kinds of public providers, the UWV and municipalities, coverage is nearly 100%. UWV employees fall under the UWV collective agreement negotiated between the UWV on the one hand and the trade unions FNV, CNV Vakmensen, De Unie, and NOVAG on the other. The first three unions are national-level, cross-sectoral unions, whereas the fourth is a branch-specific union for insurance doctors. UWV employees do not have civil servant status, but the conditions stipulated in the UWV CBA (e.g. for wages and holidays) are still quite similar to the public sector CBA, the UWV having originated in the public sector and still being entirely reliant on the Ministry of Social Affairs for its budget. Wage developments were however more favorable for the UWV during the four years in which the public sector had no wage increases (TU1_UWV). The HR director at UWV suspected working conditions were better in at least a part of the private sector because of the necessity to compete for workers with the UWV, but the trade union official bargaining with the UWV doubted the existence of this competition since most of the work done at UWV is *not* in providing activation services. Nonetheless, both interviewees agree that the UWV CBA has very decent standards and moreover, employees enjoy a high degree of job security (TU1_UWV, UWV_dir). As for the small number of temporary agency workers, they fall under one of two sectoral collective agreements for temporary agency work, depending on the agency used.

Employees of municipalities are all covered by the nationally negotiated collective agreement for municipalities, negotiated by the Association of Dutch Municipalities (VNG) and the trade unions FNV, CNV Overheid and CMHF. The first two are national-level, cross-sectoral unions, and the latter is the umbrella organisation for eight sectoral unions (mostly public and semi-public sectors) for white-collar workers. The situation is a little less straightforward in the public and semi-public collaborative bodies jointly set up by municipalities for the provision of activation and other social services. Most of the formal collaborative entities were said by some trade union officials to be covered by the CBA for municipalities (TU1_Mun, TU1_UWV), although it is more likely that they voluntarily follow it (TU2_Mun1): collaborative entities (*gemeenschappelijke regelingen*) are not formally mentioned in the Municipalities CBA, and a research manager at Divosa stated on the basis of a quick informal survey among employees in such bodies that there appears to be some scope for choice. Although municipal employees who

have been contracted out to these bodies are directly covered by the Municipality CBA, there are cases in which they work alongside colleagues without civil servant status. In case of a merger between a (joint or single) municipal executive organ and a sheltered workplace, several sectoral CBAs may apply: the Municipality CBA for municipal employees, the sheltered workplace CBA, the social work CBA, or a sectoral CBA related to the activities carried out in the sheltered workplace (e.g. the food and beverage sectoral CBA) (e-mail communication Divosa research process manager Sept. 2018). According to one informant, civil servants are increasingly being replaced by employees without civil servant status, as civil servants tend to be more expensive (TU2_Mun2). This may however only apply to a subset of the collaborative bodies in which municipalities provide social services.

2.3.2 Organisations and CBAs covering private providers

So far, trade unions have not targeted employees in the private activation services market. Similar to the logistical services, there are no organisational structures or dedicated trade union officials targeting employees in this activity (TU1_UWV). This was only the case as long as Kliq, the privatised activation branch of the formerly public service, existed, for which unions negotiated a CBA. After it went bankrupt and its employees either went back into the public sector or were dispersed among the many private providers, trade unions did not actively target this sector.

On the employer side, there exist two relevant employer associations representing temporary work agencies and one branch association representing companies in activation services, career development services, and workplace health and safety services. It was founded as Borea soon after the privatisation of activation services, then specifically targeting the companies involved in activation services purchased by the UWV, municipalities, and to a lesser extent employers. Its primary function was to collectively represent the branch's interests vis-à-vis the UWV and the government, addressing issues arising from the tedious and often problematic tendering procedures and lobbying for supportive policy and budget allocation at government level. A secondary function was to improve the level of quality of activation service providers. The market was completely unregulated at its inception, which meant anybody could enter the market regardless of experience and qualifications. The branch therefore initiated a certification process which led to the 'Blik op Werk' hallmark, placed under a separate association. In 2009 Borea merged with the branch association for companies involved in workplace health and safety services and took on the name Oval. Oval now holds its members up to its own certification standards and lobbies with service purchasers to include Oval membership as a condition for applying for contracts (BrAss_dir, UWV_dir). Oval now has some 130 members, of which between 80 and 100 provide activation services, often alongside other services. These 80 to 100 members cover an estimated half of the market in activation services. They include the larger players such as temporary work agencies with an activation services branch and several large specialised players. Of the 130 members, the majority (some 80 members) can be considered small and medium-sized enterprises (SMEs). Self-employed are not members of Oval (BrAss_dir). Oval does not function as an employers' association and is not involved in collective bargaining. As for the temporary work agencies, they are represented by two employers' associations involved in collective bargaining, the ABU (representing the larger ones) and the NBBU (representing SMEs). Their main task however is to negotiate the CBAs for TWA workers working for the TWA clients.

There is no sectoral collective agreement for employment services, mainly because it is a relatively new sector dominated by SMEs, includes companies which provide very diverse services, has high turnover in terms of companies being established and perishing (RWI 2011), and the lack of union activity. The self-employed by definition fall under no collective agreement. Employees of large temp agencies are only covered in case there is a company collective agreement, which is the case for the Randstad Group. As for the rest, employees would only be covered in case of a company collective agreement, which is almost non-existent because of the small company size, or if they are part of a company covered by the sectoral care CBA or sectoral social services CBA, which only applies to a handful of companies (BrAss_dir). Therefore, in the best case coverage would be 28% (all employees of large companies covered), but it is likely it to be much lower. So far there has been little widespread interest in a sectoral activation services CBA. The diversity of members (from large TWAs to specialised SMEs, and widely varying combinations of offered services per company), the existence of company CBAs for TWAs, and the coverage of a handful of companies by the sectoral care or social services CBAs are likely inhibiting factors.

2.3.3 Challenges related to outsourcing

Challenges to working conditions and job security

Private activation service providers generally rely on temporary assignments from UWV, municipalities and employers for their income. Especially during the early years, when UWV was the sole purchaser of these services and entirely reliant on annual tender cycles, this meant that companies experienced severe fluctuations in the amount of available work depending on whether or not tenders were won, which was translated into fluctuations in the workforce and therefore low job security for workers in the sector. The sudden inception and growth of the sector also meant that it was entirely unregulated, anybody could start a company, and players emerged that “didn’t treat their people well” (UWV_dir). Moreover, the severe dependency on the UWV and municipalities in the early years, with 90% of companies depending solely on these players (BrAss_dir), the fluctuations in work also closely followed fluctuations in government budget allocation for these services. The situation has now improved to an estimated 60% of services being contracted by private employers, and 40% by UWV and municipalities (the majority lying with UWV). In this sense, the branch has clearly matured, spreading its risk between different types of clients (BrAss_dir).

Besides dependency, the use of tendering has also been experienced as problematic from the start. It implies a heavy administrative burden for applicants and especially in the early years, communication and procedures were lacking and tendering happened on an annual basis, causing much insecurity for companies from year to year. Although the UWV abandoned tendering in 2016, many municipalities and larger employers still continue to use tendering. The continuity has improved somewhat because of longer contract durations (BrAss_dir, UWV_dir). Tendering does have the tendency, as seen especially in the workplace health and safety branch, to put pressure on costs (BrAss_dir). The extent to which this affects the activation services branch seems limited, but it is a danger seen in many outsourced services.

Challenges to collective organisation

As we have seen in the logistical services, there are no organisational structures in the trade unions targeting the private activation services as a sector. There are no union officials

responsible for this activity, no efforts at organising workers, and obviously no collective bargaining (TU1_UWV). This may be somewhat surprising considering that it originated in the public sector, but is probably best explained by the fact that Kliq, the one private enterprise that directly succeeded the public Arbeidsvoorziening, quickly went bankrupt, leaving a highly fragmented young sector behind (UWV_dir, BrAss_dir). Furthermore, the dominance of SMEs in this activity, the high share of self-employed, the diversity of players (in terms of both size and offered services), and the high turnover of companies complicates organisation on both employer and employee sides. Also, as also seen in logistical services, the lack of a social dialogue tradition and institutions inhibits its development.

Challenges to CBA coverage

From this study we may conclude there are three spheres of service provision with decreasing levels of CBA coverage. The first sphere is that of public provision, in which services are provided by direct employees of UWV or municipalities. Among these workers there is 100% coverage and hardly any CBA clash (the exception being the small number of TWA workers employed by UWV and any municipal employees hired through payrolling arrangements, who are also covered by the TWA CBA). The second sphere is found in the wide variety of collaborative forms found among municipalities. Here the vast majority appears to be covered, but there are instances of CBA clashes and there are indications that the share of civil servants will eventually be phased out in favour of employees not covered by the Municipality CBA because of the higher costs associated with the Municipality CBA. The third sphere is the private sector, in which there is very little CBA coverage, limited to those covered by Randstad Group's company CBA, possibly some company CBAs in specialized providers (though none have been found), and a handful of companies falling under the sectoral CBA's in the care and social services sectors. Considering the lack of social dialogue structures and limited interest so far in a new sectoral CBA for activation services, there are no indications that this situation will improve in the near future.

2.3.4 Strategies deployed by collective actors

During the transition period from public service provision to private service provision, unions fought for protection and continued CBA coverage for the employees transitioning from the public Arbeidsvoorziening to the private Kliq. They succeeded to a significant extent, as Kliq retained its own CBA. After its swift bankruptcy however, the unions only succeeded in providing protection for these employees, having negotiated the possibility to fall back on civil servant status, but did not succeed in continuing CBA coverage in the newly privatised sector. From this we may conclude that at least for this activity, the public sector heritage was only of use as long as there was organisational continuity. After the organisation was disbanded, so were union efforts to continue social dialogue. So far no significant efforts at organisation or representation of workers in this activity have been developed. Although the public sector is mostly covered, there may be increasing blind spots in the collaborative bodies in which activation and other social services are provided. In the private sector, the little coverage there is may be threatened if the large TWA Randstad Group decides to place its activation services branch in a separate legal entity, as has happened with logistics divisions in the transport and logistics sector, although no indications have been found that the company has any intentions of doing so.

On the employer side more efforts were found that have improved mainly working conditions and job security (though not CBA coverage), as a corollary of improving the tendering

procedures and continuity of work for actors in the private sector. These efforts were largely initiated by the branch association but targeted at purchasers and public policy actors; resulting improvements can therefore be seen as the result of a collaborative effort, much as will be seen later in a major initiative in the facility management services. In activation services, the most important improvement was the abolishment of tendering by the UWV. The UWV has chosen instead for a form of constant tendering, which means service providers can constantly apply for becoming party to a framework agreement (UWV 2017), after which they may be selected by the UWV to provide services in individual cases. This allows for more SMEs to apply, which spreads the consequences for workers in the sector as the loss of a contract does not lead to a high number of workers risking redundancy. Moreover, UWV unilaterally defines an hourly tariff, which means competition on costs is not possible. The quality of the service provision is constantly monitored during the service provision and contracts are ended upon low performance. This means that there is actually competition on quality and not on costs.. Moreover, in the UWV's framework agreement, there is a provision for situations in which clients are judged no longer to benefit from continued services and the services are discontinued, without the contracted service provider to suffer financial consequences (UWV 2018: 23).

Another effort by the branch association is to improve the quality of services and, as a corollary, working conditions, is to lobby with UWV, municipalities and employers purchasing activation services to require membership of the branch association, which means they meet certain quality criteria including some criteria regarding employment behaviours. This has the additional advantage for the branch association that it would improve the added value of membership as it improves companies' chances of winning contracts. This requirement has not yet been adopted by UWV (which applies its own, less stringent, criteria), but the branch association has seen some success with individual employers and municipalities (BrAss_dir). Again, this effort does little to nothing to improve CBA coverage, but has the potential to improve working conditions and job security.

3. FACILITY MANAGEMENT COMPANY

3.1 Introduction

We selected a facility management company as a case study to study how outsourcing is evolving more and more from a practice in which companies offer single services to client companies towards the offering of complex multi-services packages, especially to larger companies and organisations. The case study concerns FMC, a Danish multinational that started out as a cleaning company over 100 years ago. Today this company is active in over 50 countries in the world and has over 500,000 employees.⁹ FMC is one of the largest multinationals in the world in terms of employees and a global leader in industrial cleaning and facility management. We study subsidiary companies of this multinational in all six countries involved in this research project, to be able to identify general trends in facility management company strategies and

⁹ Early December the company announced that it will end its operations in a number of countries where its profit margin is below average, which will likely bring down the number of employees by 100,000.

labour relations as well as the way these work out in particular national contexts.

The Dutch subsidiary of FMC was established through the acquisition of a cleaning company, a strategy the company has followed in many other countries. At the moment, the company employs some 6500 employees in the Netherlands, which is small compared to, for example, the UK (43,000), Spain (30,000) or France (22,000). Employee numbers have been fluctuating quite a bit in recent years following changes in strategy and divestments of certain activities (see below). Turnover of FMC was 252 million Euro in 2014 and 236 million Euro in 2017.

From originally being a cleaning company, in the past 10 years or so the company has diversified the types of services it offers to clients, including catering, handyman, receptionists, etc.) and has been transforming itself into a facility management company.

For this case study we interviewed two members of senior management as well as a representative of one of the employers' organisations FMC belongs to and a trade union official dealing with cleaning and related activities.

3.2 Business strategy and organisation

In terms of business strategy, FMC follows the global strategy of the company. The global company formulated the objective of becoming the best services provider in the area of integrated facility services. This concerns, as stated on the company website, "...an integral facility management solution for our clients in which (FMC) is responsible for the management and the coordination, organisation and supply of the daily services." Such an approach means that FMC intends to take care of all support type of services and activities in the client organisation, allowing the latter to focus on its core business. In this way, FMC offers options for cost reduction, to strengthen the client's competitiveness and to help it to achieve its strategic goal. Cost reduction is however not supposed to be simply the result of being cheap and using cheap labour, but rather of being more integrated, offering quality and efficiency.

At the same time, FMC continues to offer single services as well. In fact, in most countries single services, and especially cleaning, make up the lion share of the company's turnover. Integral facility management is, for now, largely a vision for the future or an aspiration that the company little by little tries to fulfil.

This is also the case in the Dutch subsidiary. The Dutch management considers that the "simple" outsourcing of cleaning or catering is a shrinking type of outsourcing that most companies have already been through. It has been reorienting the company's activities more and more towards larger customers where it sees more options to indeed become an integrated instead of a single services provider. These may be larger private companies or public sector organisations like ministries, universities and others.

Often it will enter the client company as a single service provider to then use this foothold to start offering broader packages of services, catered to the need and wishes of the client. It offers a range of services like cleaning, catering, hospitality, handyman, etc. Recently also the maintenance of technical installations has become part of the package. Furthermore, it offers services that it does not perform itself but subcontracts to other companies, including security, pest control or gardening.

The new strategy instigated the company recently to make a drastic move and to sell an important part of its cleaning activities oriented towards small and medium-sized businesses to a cleaning company that specializes only in cleaning. This operation included hundreds of employees and 70 clients. It illustrates the focus on larger clients and integrated facility management. Also, the management does not see this cleaning company anymore as competition; it considers that it is active in another market that is not of interest to FMC anymore.

Still, for now FMC is organized in various legal entities according to the main activities. It has a cleaning Ltd, a catering Ltd, a care and clean Ltd (for cleaning in the care sector). It also has an integrated Ltd for the management that coordinated the employees in the various other Ltd's. This structure is the result of the fact that the various activities of the company fall under the respective sector collective agreements, which regulate much of the wages and working conditions (see below). The main activity of a company determines the collective agreement it belongs to. FMC sees this structure for the time being as inevitable because of the dominant role of these sector collective agreements. At the same time, it is in clear contradiction with the move towards integrated facility management. Where it offers multiple services to a client, the persons it employs that work at the client company pertain to different Ltd's and fall under different collective agreements. This requires a lot of coordination efforts and leads to complicated human resource management challenges, including differences in wages and working conditions among its employees.

Moreover, it creates obstacles for the creation of better jobs for the employees. Cleaning work is often fragmented and offers few hours per week. The trade union complained that for FMC, full time work is of 25 hours a week for a cleaner, which is clearly too short to earn a decent living. Both the union and FMC see that integrated facility management offers opportunities in this respect. It makes it possible to have employees perform more than one task: the cleaner who also does catering or the receptionist who also does security. This on the one hand makes it possible, at least in theory, for the employee to work more hours per week and to improve his or her earnings. For the union, facility management can in this way help to reach the objective of providing fulltime jobs to the workers that want them. Also, it may make work more varied and therefore more interesting or less repetitive and demanding. Moreover, it may allow for greater horizontal mobility: when there is less work in cleaning the cleaner may become a caterer or something else within the same company. In this way, it may not only increase working time but also improve job security for the employees (although it does not solve the problem of the lack of vertical mobility options however). Belonging to different Ltd's and collective agreements makes this type of mobility or combining of functions more complicated.

3.3 Employment structure

FMC is mainly active in the low skills part of the labour market. Its main activities are still cleaning and catering which have limited requirements in terms of education and training. This is also reflected in the wage levels, which hover between 100 and 120 percent of the minimum wage for most of the workforce. With the growth of integrated facility management some higher skilled activities like maintenance of technical installations are likely to gain importance but for now they are very small.

Many of the workers of FMC have a permanent contract. This is facilitated by the arrangements that companies that win cleaning or catering contracts take over (most of) the employees of the previous contractor. Few have a full-time contract though and small part-time contracts are one of the key problems for workers in this type of activities. They may lead to low earnings and fragmented working time. Also, especially cleaning work is physically demanding and it is hard to keep it up until the pension age. This is one of the reasons why trade unions are interested in the integrated facility management phenomenon, since it promises variation of work, also in terms of the physical burden of it.

3.4 Collective bargaining and workers' representation

3.4.1 Role of collective bargaining levels: company-level *versus* sectoral collective agreements

FMC is an active member of the Entrepreneurs' Organisation Cleaning and Company Services (OBS), the main employers' organisation for the cleaning and window cleaning branch. Recently, a new employers' organisation (Cleaning is a Profession, SIEV) was established for the sector, oriented towards small and medium sized enterprises. OBS organizes some 300 members covering some 70 percent of the cleaning sector employment. With cleaning still being its main activity, OBS is the main employers' organisation FMC is pertaining to. It uses its membership of OBS to actively influence the collective bargaining process.

On the workers' side, of the cleaning workers, some 10 percent is a trade union member, 8 percent belonging to the largest trade union confederation FNV and 2 percent to the second-largest confederation CNV. Although membership is low, both the employers and the government recognize them as the legitimate workers' representativeness in the sector. The employers want a peaceful sector and are happy to have a counterpart with whom to jointly regulate the sector. The government extends the agreements the OBS and the two unions make to the entire sector, giving it a 100 percent coverage. This is a common practice in the Netherlands, where the general coverage of collective agreements has been around 80 percent for many years. In the catering sector the situation is similar, also with a collective agreement signed by the two unions plus a third one (De Unie, since 2017 part of the union confederation for professionals VCP), with the Association of Dutch Catering Organisations, the main employers' organisation of the sector. But also related sectors like security services, where FMC does not play a direct role itself, have similar collective agreements. Indeed, the part of the economy and labour market where FMC is active is regulated by a web of, mainly sector, collective agreements.

From the perspective of FMC, these collective agreements first of all establish equal conditions for the companies operating in the cleaning, catering and related areas. They create a level playing field in which wage standards are set collectively and prevent downward competition based on workers' pay. Rather, they should create an environment in which competition is based rather on efficiency and quality than on low pay. This is not entirely the case since there are a number of companies active that do not respect the collective agreements. However, FMC itself argues, and also the trade unions confirm, that the company is "one of the good ones", meaning that it respects the law and the collective agreements that apply to it. From the perspective of the workers this "level playing field" is less relevant since it also does not necessarily lead to

better wages. As mentioned before, wages are between 100 and 120 percent of the legal minimum wage.

A second very important effect of the collective regulation in especially the cleaning sector (but also in catering) is that the collective agreement sets out detailed rules for the taking over of workers when contracts are tendered and a new company takes over a certain client. When a company wins a contract, it will have to take over many of the workers active at the new client from the previous contractor, depending on how long they had been working for this previous contractor. It has to offer them the same level of wages and working conditions. For the workers this creates an important level of job security in a context in which contracts between client and service companies are often only for a few year and with a tendency of getting shorter. So losing a tender often does not mean the workers lose their jobs.

For FMC it means that it does not run the risk of having to dismiss large numbers of workers in case it loses a contract. For the same reason, it can offer its workers permanent contracts in a turbulent market, since these contracts will be taken over by the company winning a tender. Indeed, this system allows companies to a certain extent to operate as a good employer in a very uncertain market. FMC wants to reduce this type of uncertainty by becoming an integrated facility management company that offers horizontal mobility options rather than rights of transfer to another company. But still, it benefits hugely from the collective regulations as long as it operates largely along sectoral lines.

This raises the issue of what FMC sees as the ideal situation in terms of collective agreements. The present situation of sectoral collective agreements forces the company to organize itself along sectoral lines, hindering the integration into a true integrated facility management company. The packages of employment conditions differ between the various sector agreements and they are also connected to different occupational pension funds. At the same time, it offers the instrument of the takeover of workers when contracts are won or lost, which allows the company to hire workers without the fear to have to dismiss them in case a contract is lost.

FMC management would prefer to have its own company collective agreement covering all its activities and allowing differentiation according to the wishes of the clients. In this way, it would not have to request dispensation from sectoral agreements. It could define basic conditions and add elements according to the specific activities. This would also be more attractive for the employees. A sector agreement for facility management companies would be more complicated since it is very hard to define the borders of such a sector and in practice there are only 3 or 4 other companies like FMC in the present market. For the moment, a company collective agreement seems unlikely however because of the strong position of the sector agreements and because of the advantages they offer in terms of the taking over of workers.

3.4.2 Problems with respect to CBA coverage of outsourced workers in client companies

With the ongoing diversification of the activities of FMC, it faces more and more problems in terms of the coverage by sector collective agreements. There are for example no such agreements for handymen, gardeners, movers or receptionists. This is one of the reasons why the company also has its own working conditions packages for these groups, one for these types

of workers and two for administrative and management staff. However, the large majority falls under a sector agreement and less than 10 percent under the own company arrangement.

Also, with the scope of work of its employees increasing, coverage problems appear. If a cleaner performs also non-cleaning functions, the latter are generally not covered by the cleaning collective agreement. But the worker working at a company doing primarily cleaning fall under the cleaning agreement. The agreement is adapting job descriptions and expanding the types of functions it covers (e.g. it now includes the house master function) but only slowly. Unions and employers in the cleaning sector have agreed to review this issue every five years. With a facility management sector agreement not likely to emerge any time soon, this problem is likely to get bigger in the future. According to a representative of the OBS, for now the various sectors are very keen on maintaining their own identity and construct walls around their own agreement. However, he argues, this will have to change at some point considering that the practice is increasingly different. Hence, more dialogue between the various agreements and possibly common arrangements may occur in the future.

A quite different problem related to coverage of the cleaning agreement that has emerged in recent years is that there are a number of employers who do not want to bargain with the FNV anymore because of the strikes, protests and other actions it has developed since 2010 in the context of collective bargaining processes. The employers' organisation tries to keep both the employers on board and tries to convince the FNV to moderate its actions to avoid the danger of the collective agreement collapsing. They jointly set up a trajectory of renewal of social dialogue and of building trust, including more frequent contact and starting to tackle thorny issue long before the actual bargaining process starts. Considering that a new agreement was recently signed, for now this problem seems to be a minor one.

A further coverage issue considers the possibility of insourcing by companies and public sector employers. This can be related to the cost of the cleaning services offered and OBS warns that these have to be contained, to avoid clients from organizing cleaning themselves again out of cost considerations. It can also be related to the image of the sector as providing (too) low quality employment. This may lead to insourcing out of normative considerations. The main example of such insourcing is set by the government which announced in 2014 that it would gradually insource cleaning and encouraged lower government and the private sector to do the same "because cleaners belong [to the organisation] too". The image thus created and sustained of cleaners excluded from their workplace organisations, working under poor working conditions (high stress, low wages, flexible contracts), threatens the coverage of the collective agreement. According to OBS this image is inaccurate and must be corrected, but according to the unions it does reflect reality. In spite of these different view, the employers and unions did agree on a code of conduct, involving not only the employer and employee representatives, but also the clients. The code emphasizes quality as an aspect of tenders that must be at least as important as the price and aims to improve the working conditions of workers.

SECTION III

CONCLUSIONS AND POLICY RECOMMENDATIONS

1.1 Conclusions

Outsourcing in itself does not need to be problematic for collective bargaining coverage. Transportation of goods, for example, is a service that has a long history of being outsourced, but also has a sectoral collective bargaining agreement (CBA) that is habitually extended to cover the entire sector. This means outsourced truck drivers are by definition covered by a CBA, whereas truck drivers employed for example by a chemical processing company without a company CBA are not. This does not mean there are no problems, however. In this study we encountered numerous examples of CBA 'gaps' and 'clashes', related in differing degrees to the phenomenon of outsourcing.

First of all, we encountered several employer strategies that lead to lower CBA coverage. For a company, coverage by a sectoral CBA is determined by the activity that accounts for the largest share of profits. One strategy we encountered is for companies to split up their activities into several legal entities, e.g. into transport and logistical services, which removes the logistical workers from the scope of the transport CBA. Another example is 'CBA shopping', in which a company self-identifies with a sector with low CBA standards, or identifies new groups of workers as falling in a category with lower CBA standards. Finally, hiring workers through temporary work agencies (TWAs) or subcontracting self-employed workers allows employers to avoid coverage of CBAs. These strategies, however, are not restricted to situations of outsourcing.

A problem more closely related to the outsourcing phenomenon arises from the fact that outsourcing is not seldom motivated by costs. In non-organised sectors in which only minimum wage applies, there is very little incentive for employers to negotiate anything above it, which would harm their ability to compete. Cost pressures are intensified by the temporary nature of outsourcing contracts, providers having to tender or renegotiate contracts periodically. Not only are they competing against their competitors in these situations, but also against their clients' ability to insource more cheaply.

The pressure on costs only exacerbates more institutional barriers to collective bargaining in relatively 'new' sectors that have been developing partially as a result of outsourcing. Trade unions lag behind in organisational structure and resources being targeted at these sectors. Also, social partners are often reluctant to identify a new sector for collective bargaining as it might impinge on already existing sectors, putting at risk their ability to extend sectoral CBAs.

1.2 Policy recommendations

One promising strategy employed by the largest Dutch trade union is for union officials to cooperate along supply or service chains. This helps to identify the most powerful party in a chain to negotiate with, which is usually the end user of the services, as they ultimately set the prices and are generally more sensitive to public pressure. In some cases it has also allowed for

coalition-forming between unions and employers in the chain to jointly put pressure on end users. One way to do this is calling out the end user on the WAS: large client companies have proven to be responsive because they are weary of negative media attention and they wish to avoid costs they would incur if a contractor or subcontractor goes bankrupt. Legislating such responsibility therefore has significant potential to affect tariff-setting and improving working conditions.

A more collaborative approach was found in the formulation of a Code for Responsible Market Behaviour. It is a voluntary code of conduct initiated by the social partners in the cleaning sector, together with a number of large public and semi-public clients, to counter the pressure on costs. It sets out guidelines for both contractors and contracting parties to stimulate socially responsible tendering and contracting practices. In its first 7.5 years of existence, it has been signed by nearly 1400 signatories, including companies in FM and its constituting sectors, client companies, trade unions, and advisors and brokers in FM. Its strengths are its comprehensive reach, addressing the entire service chain, and the collaborative effort across sectoral boundaries. Its main weaknesses are the lack of a legal status, the only available sanctions for breaking the code being public shaming, and the limited availability of control mechanisms.

This study has shown how sectoral CBAs, especially habitually extended ones, have a strong path-dependency effect as they consolidate sectoral boundaries in their own definition of the sector: trade unions organise their organisational structure around them and the extension requirements make social partners reluctant to redraw the borders of a sector for fear of no longer meeting the requirements. This inhibits both redrawing existing sectoral lines and defining new sectors, which means that newly emerging sectors in the economy are vulnerable to CBA-lessness. This was seen in logistical services, activation services, and the integrated FM services. In order to address the rigidity of these sectoral lines, it may be useful to reconsider the requirements for extension, making it easier, for example, to apply for extension, or allowing for exemptions for subsectors without affecting the representativeness of existing CBAs. This may also remove some of the reluctance of employers to organise new sectors for fear of not achieving an extension.

What the above examples have in common is that in order to improve CBA coverage in a setting in which the sectoral level of collective bargaining is dominant, it is necessary for social dialogue institutions to mirror the emerging structures in the economy. When new sectors emerge out of privatisation, outsourcing, specialisation (splitting up activities into different legal entities), or new economic activities (e.g. e-commerce), social partners can more effectively approach them if their own organisational structures and instruments (such as the Code for Responsible Market Behaviour, hallmarks, and any other instruments) address the actual structures and employment relationship as they exist in the market, rather than adhering to traditional sectors. Finally, CBAs in frequently outsourced sectors would be well-advised to address the temporary nature of most contracts, for example by including employment protection clauses, or include stipulations for temporary and TWA workers who are frequently hired as the employers' response to the temporary nature of contracts.

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Appendix A: Interviews

Logistical services

Position	Organisation	Date of interview	Pseudonym
Union official, distribution centres supermarket A	FNV (largest Dutch trade union, intersectoral)	30 Jan. 2018 (00:43:59)	TU1_DCA
Union official, distribution centres supermarket B			TU1_DCB
Union official, transport and logistics	FNV	2 Feb. 2018 (00:57:28)	TU1_TL
Union official, project webshop A			TU1_Web
Union official, transport and logistics	CNV (second largest Dutch trade union federation, intersectoral)	2 Feb. 2018 (01:02:31)	TU2_TL1
Union official, transport and logistics			TU2_TL2
Social affairs secretary	Detailhandel Nederland (DN), lobby organisation of Dutch retailers	31 Jan. 2018 (01:15:00)	Ret_Soc
Manager Personnel and Organisation			Sup_Pers
Social committee secretary	Transport en Logistiek Nederland (TLN), employers' association in transport and logistics	22 Feb. 2018 (00:55:10)	EA_Soc
Team coordinator Personnel and Labour			EA_Lab

Activation services

Position	Organisation	Date of interview	Pseudonym
HR director	UWV	24 Sept. 2018 (00:48:22)	UWV_dir
Director	Oval (branch association for employment service providers)	25 Oct. 2018 (00:53:47)	BrAss_dir
Union official, municipalities	FNV (largest Dutch trade union federation, intersectoral)	11 Sept. 2018 (telephone) (00:20:00)	TU1_Mun
Union official, UWV		26 Sept. 2018	TU1_UWV

		(01:03:45)	
Union official, municipalities 1	CNV (second largest Dutch trade union federation, intersectoral)	9 Oct. 2018 (00:30:00)	TU2_Mun1
Union official, municipalities 2		25 Oct. 2018 (01:05:49)	TU2_Mun2

Facility management company

Position	Organisation	Date of interview
Manager labour conditions	FMC	28 Nov. 2017 (01:01:54)
Manager sourcing and inclusion		
Head of labour conditions	OSB (branch association for cleaning companies)	21 Sept. 2017 (01:03:04)
Union official, cleaning sector	FNV	2 Nov. 2017 (01:27:44)