



## Relaunching Collective Bargaining Coverage in Outsourced Services

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### RECOVER IN BRIEF

Funded by the European Commission DG Employment, Social Affairs and Inclusion and involving 5 European partners, the RECOVER project analyses whether and how the growth in outsourcing and subcontracting is triggering coverage problems for workers in these outsourced services. The project will accordingly compare cases of collective bargaining coverage gaps in outsourced services at sectoral and company level in six countries.

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#### Editorial

### DIVERGENCE OF OUTSOURCING IMPACT OVER COLLECTIVE BARGAINING: SECTORS, ACTIVITIES AND OCCUPATIONS

The increasing erosion and fragmentation of employment relations has generated several standard employment models. The progressive process of flexibilization in the labor market drives to the fragmentation of employment regarding collective bargaining, access to employment and the employer-employee relation. The outsourcing is one of the most representative phenomena in this regard. Therefore, it is worth paying attention to the effects it may have on collective bargaining mechanisms and, specifically, on coverage as a tool to protect outsourced workers.

In addition, it seems that the sectoral and the activity are main scenarios to find regulatory mechanisms both guaranteeing coverage and protecting employment conditions of outsourced workers. However, outsourcing forms

like self-employment does not allow its application. In this sense, the study of the phenomenon of outsourcing shows that it is essential to focus its analysis and its regulation taking into account not only the sector but also the activity and main occupation of these outsourced workers. Taking these aspects into account, it is worth pointing out which are the strategies and recommendations that are extracted from the different national studies in order to improve the coverage of collective bargaining in cases of outsourcing in order, ultimately, to improve the working conditions of these workers. These strategies are generally of a regulatory nature, although some point to aspects of an organizational nature, while others take a non-legal institutional path.

### **CLEANING ACTIVITIES IN ITALY, FRANCE AND SPAIN**

In Ital, France and Spain, there is a predominance of multi-employer bargaining within the cleaning activity, with a relevant role of collective agreements signed by the major (most representative) sectoral workers representatives and employers' organizations (e.g. in Italy they cover about 65% of the sectoral workforce).

The employment terms and conditions set up by the cleaning sector collective agreements are often less generous than those set up (for cleaners) by collective agreements covering other sectors (e.g. public administrations, railways, banks, etc.). In addition, in Italy the so-called «pirate agreements» are affecting the activity. These are sectoral collective agreements signed by poorly representative employers and workers' organizations and characterized by worse working conditions negotiated and mainly applied by small private companies. However, the new rules on public procurement (following the EU directive on this field) discourage the application of pirate agreements, although these rules are still not implemented.

Moreover, in both countries tis increasing the incidence of cases of non-compliance of collective agreements and non-application of any kind of collective agreements (i.e. companies and workers uncovered by collective bargaining). Concretely in Italy, there is a weaker presence of company-level collective bargaining (also in medium-large firms). The causes for this scenario include:

- High fragmentation of the sector, employers and employers' organisations;
- High dispersion and isolation of cleaners;
- Low union workplace coverage;
- Lack of extension mechanisms of collective agreements;

- «Enforcement gaps» (gaps in inspections, sanctions; gaps in knowledge about rights, fear to loss the job, etc.).

### **Social partners' strategies**

Social actors within the activity have developed a variety of strategies and initiatives regarding outsourcing within the sector, with many similarities across both countries within the sector:

- Campaigns (denouncing abuses, unfair behaviours, etc.).
- Cooperation with public institutions with labor inspection.
- Proposals of certification forms (attesting the observance of regulation, the application of "good" Collective Agreements, etc.).
- Lobbying government to complete/strengthen regulations for outsourcing to other companies.
- Addressing "third parties", the public procurement is a key target through social clauses, abandoning cost as the major selection criterion, etc.
- Proposals for regulation of prices (France).
- Agreements with public administrations (above all with some municipalities and regions) (Italy).
- Reducing the "invisibility" of cleaners (dispersed, isolated) and the enforcement gaps, increasing their voice possibilities.
- Campaigns (organising, public assemblies, demonstrations, media campaigns, etc.)

### The case of Chambermaids in Spain

Although Chambermaids develop an activity wider than cleaning itself, it is appropriate to compare the study of the outsourcing within this occupation in Spain in relation to cleaning activity in France and Italy. The situation of this activity is paradoxical: while the tourism business (and specifically hotels) has improved in recent years, the employment situation of chambermaids has worsened, above all due to the consequences of the increasing of outsourcing practices within hotels. Around 80% of chambermaids are outsourced in the Spanish hotels sector, a figure that was much lower before the crisis. The Facility Management Companies are the predominant form of outsourcing.

A sectoral national collective agreement covers the hotels sector and chambermaids occupation, working as general framework for agreements at regional and local level. However, it is common for chambermaids to be covered by the cleaning sectoral agreement (generally with worse conditions to the hotel agreements) or by company agreements, especially usual in the case of facility management companies. Currently this situation is denounced and being evaluated in the courts because the law requires workers to apply the agreement of the main company, so the court must decide whether the main company is the company that employs or in which the activity is developed. However, the business representation recognizes that there are companies in the sector that have not acted correctly.

Main initiatives within social partners to deal with outsourcing impact over chambermaids are:

From employers' organisations:

- To develop outsourcing practices exclusively when the company seeks flexibility and not cheapening costs.
- To improve the mechanisms that allow greater functional versatility.

From workers representatives:

- To establish in the Hotel Sector Agreement that those central activities cannot be outsourced (e.g. chambermaids).
- The development of a Seal of Quality of Fair and Socially Responsible Hotels.

### SECURITY ACTIVITIES IN THE UNITED KINGDOM AND POLAND

The outsourcing process had broken up the collective bargaining framework for prison workers in the UK. However, both the union and employer could see advantages in harmonizing these terms and conditions: the national recognition agreement in the private prisons has simplified the negotiation process than with public sector, arguing austerity impediments.

Yet whilst there are groups of outsourced workers not covered by a collective agreement, the workforce divide is not simply between those who have been outsourced and those not outsourced but is much more fragmented. Employees bargaining rights depend upon a number of factors: when they joined the service, the prison they work at, whether that prison is public or private, and if that prison, on an individual level, has sufficient union members to gain recognition and subsequently bargaining rights.

Coverage of trade unions in the security services sector is low, and collective bargaining coverage is virtually

none. The majority of the companies in this sector are small, so there are legal barriers to organizing the workforce. There is also fierce price competition. Employment conditions are to a large degree precarious, with very low wages; overtime work; and civil-law contracts. There are only two single-employer collective agreements within the security activities in Poland, highlighting the low coverage and the high fragmentation and lack of coordination of the collective bargaining system in Poland.

### **Strategies to solve coverage problems**

In the UK, many social partners understand that if coverage problems are defined as the fact that not all prison officers are employed on the same terms and conditions, this is not a significant problem. Strategies to address coverage problems varied between public and private sector trade union representatives also. Employer representatives did not appear to consider coverage problems a significant issue since contract terms and local pay and conditions were also important influences. In contrast, all employee representatives considered important the harmonization of terms and conditions across the sector. Anyway, trade unions main challenge seems to be the mobilization of employees in outsourced services instead of to launch initiatives themselves. In Poland, there are not strategies directly addressing coverage problems by social partners. The issue is undertaken indirectly, through the implementation of an organizing strategy and putting pressure on employers to recognize trade unions at the enterprise level.

### **IT ACTIVITIES IN FRANCE AND ITALY**

The representation of IT workers in Italy is highly fragmented: Several collective agreements cover the activity according to the economic activity trajectory of each company (engineering, telecommunications, trade and services agreements, etc.) although they may develop currently the same activity. In addition, the representation of workers shows a similar fragmentation with several federations of traditional trade unions, structures for workers with non-standard forms of employment and professional associations.

In contrast, France is characterized by a highly regulated scheme: one collective agreement covering the activity at national level including a wide range of profiles (SYNTEC agreement: NCA for Technical Consultants, Consulting Engineering Firms and Consulting Firms). Trade unions and employers organizations are systematized around this collective agreement, including also professional associations of workers. In that regard, it is relevant to highlight a national collective agreement for intermediation companies.

One of the main common effects of outsourcing for IT workers is the workload intensification. In Italy, it lacks an adequate regulation of smart work processes, problems of working time, fair compensation, etc. In the case of France, there is a problem concerning the addition of tasks not included in the service contract, adding the negative effects of intensification consequence of deadlines.

In that sense, several health and safety problems are affecting to outsourced IT workers (e.g. technostress, burn-out and exposure to electromagnetic fields). The isolation of those workers is common, affected by high mobility among workplaces (client facilities), generating a high fragmentation of workers in the same workplace.

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## Social Partners' Strategies

The strategies and initiatives to deal with the effects of outsourcing over collective bargaining institutions, and particularly over coverage, varies depending on the country due to their diverse systems:

In Italy the debate is focused on the self-employment, regarding the adequacy to add those economically dependent workers in collective agreements. In other regard, Unions structures promotes the creation of spaces of experience-sharing about online platforms, social media and new media for a better regulation and the launch initiatives to "lobby" about the situation of IT services.

In France, initiatives are mostly linked to the intensification of workload and isolation of workers. The main initiatives are focused on the promotion of a new labour contract in order to define better tasks, workload and resources. Also, some strategies are related to the challenge of the work by deadlines that increases workload and generates psychosocial risks. Specifically, in relation to collective bargaining, unions highlight the need to improve the articulation of the union action for the effective application of the national collective agreement.

## **OUTSOURCING DYNAMICS IN PUBLIC SERVICES: HEALTH CARE IN POLAND AND UNITED KINGDOM; EMPLOYMENT SERVICES IN THE NETHERLANDS**

The collective bargaining system patterns are similar in Poland and the United Kingdom once mainly they are individual and single-employer negotiation models

represent them. Health services are not an exemption: currently in Poland, only company-level collective bargaining exists, with practically a non-existent coverage of outsourced workers. Industrial relations in this sector are complicated for the ambiguous position of employers (ultimately, the state) regarding employment relations; and the particular attitudes of the major occupational groups within the activity, with little attempts to exercise coordinated pressure. Considering this pluralistic nature of industrial relations, outsourced workers find it very hard to reach out to trade unions (until recently, trade union regulations excluded people without contracts of employment from union membership).

Regarding the elderly care outsourced workers in the UK, it is very difficult for trade unions to solve coverage problems (i.e. in cases of employee transfer to other companies). In fact the sheer number of private care firms and the rapid fluctuation of staff in this sector complicates any initiative by trade unions to establish sector-wide wages and working conditions via collective bargaining. The abolition of the two-tier code had also directly affected these employees since collective agreements could not be extended from the local authority to the outsourced private firm.

## Strategies to solve coverage problems

In contrast with other countries and sectors, UK unions argue that the best way to raise working conditions of employees in the sector and to bring them under a collective agreement is to re-insource care services back into the public sector in order to develop long-term care plans. Unions often sought to do this by exercising political influence at the local and national level, drawing out the wider implications of outsourcing in terms of removing income from the local economy and

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contributions to inequality and the gender pay gap because of the high number of women working in this sector. In regards to the polish case, no strategies that directly address coverage problems have been undertaken. The issue is addressed indirectly through the implementation of organizing strategies and putting pressure on employers to recognise trade unions at the enterprise level.

## The privatization pattern of public services: activation support in Netherlands

In relation to the analysis of outsourcing effects in health services, it is worth to pay attention to other case of public service in Netherlands once sharing similar dynamics regarding privatization practices. Activation services refers to the re-integration of inactive persons (e.g. persons receiving social or unemployment benefits) into the labour market. Despite its privatization, developments in the activation services market are still highly dependent on public policy decisions and public budget allocations.

There is no sectoral collective agreement for employment services, mainly because it is a relatively new sector dominated by small and medium firms (including companies that provide very diverse services) and the lack of union activity. In the case of employees

of large temporary agencies, they are only covered in case there is a company collective agreement. In the best case coverage would be 28% (all employees of large companies covered), but it is likely it to be much lower.

Regarding strategies deployed by collective actors, unions fought for protection and continued collective agreement coverage for the employees transitioning from the public Arbeidsvoorziening to the private Kliq. But, after this private organization was disbanded, so were union efforts to continue social dialogue. So far no significant efforts at organization or representation of workers in this activity have been developed. On the employer side more efforts were found that have improved mainly working conditions and job security (though not collective bargaining 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.

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