POLICY BRIEF FRANCE

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.

KEY MESSAGES

- Outsourcing strategies are a key tool to reduce costs and increase the flexibility of work.
- Differences of coverage among internal and external workers that generate, in some cases, labour conflicts.
- Transfer clauses (subrogation clauses) in sectoral agreements are a key mechanism to protect outsourced workers in the case of business transfers.
- The main effects of outsourcing practices in the employment are: workload intensification and a great level of insecurity and instability.
- National and sectoral regulatory mechanisms are fundamental mechanisms in order to reduce this insecurity and to protect outsourced workers.

European
Commission

DEFINING OUTSOURCING IN THE COUNTRY

The outsourcing is increased since the mid-nineties in France. Appeared first in the Anglo-Saxon countries, outsourcing is developing in France for about ten years. After large companies, these are SMEs that are fully involved, and recently the public sector uses it in a renewed form. This growth has been accompanied by a concern about outsourcing, from a managerial point of view and its possible impact on employment conditions[1]. Nowadays, the 27,8% of French companies claim to be involved in outsourcing processes (European Company Survey, 2013).

In recent years, outsourcing in strategic public sectors has increased from privatization processes. Among them, the SNCF, the Post Office stand out, but also the outsourcing of certain services in the national public Administration.

The main reasons for outsourcing are economical and management reasons

The main reasons for this outsourcing are a better economic adjustment (reduction of costs) and greater flexibility in the organization of work. Another reason for outsourcing is the transfer of risk and uncertainty to outsourced workers.

These outsourcing processes refer to core activities of industrial and service companies. But the outsourcing of non-core activities of companies has also increased.

Outsourcing processes have been accompanied by offshoring processes, especially in some services (e.g. IT services and telecommunications) (INSEE).

COLLECTIVE BARGAINING COVERAGE

France is a country with a high level of coverage, in comparison with most of European countries. The general level of coverage is 98% (ICTWSS, 2012). Even so, the dynamics of outsourcing appear related to certain problems in the coverage of the workers involved in them.

One of the problems is the difference in the coverage in the workplace between internal workers and external workers. This situation becomes especially evident when we talk about on-site activities, which generates conflicts based on the demand of outsourced workers to be able to have the same working conditions as internal workers.

Another problem is related to business transfers. In this case, the transfer of a service between the old supplier and the new supplier is covered by the French Labour Code under the article L. 1224-1. From the resolution of conflicts by the French Court of Cassation the concept of "autonomous economic entity" is developed, that forces the new supplier to maintain the same conditions of economic activity and workers. However, the downward trend in the price by clients has generated an increase in the pressure on the suppliers that is transferred to the workers who perform the service. Most collective agreements protect workers from possible changes in working conditions when there is a new supplier, except in some cases such as modification of certain tasks and forced mobility to other workplaces (with certain geographical mobility limits).

---

[1] Conseil Economique et Social (2005). Conséquences sur l'emploi et le travail des stratégies d'externalisation d'activités. Les éditions des Journaux officiels. Hoarau Ch. (2007). Externalisation des services à l'industrie : enjeux du développement des groupes multiservices. Ministère de l'économie, des finances et de l'industrie

FROM SECTORS TO ACTIVITIES: CHANGING FOCUS TO ANALYSE OUTSOURCING

Some of the main outsourced services in France are: IT, cleaning, HR and logistics. Following the criteria of the RECOVER project, we selected cleaning activities (on-site and low qualified activity) and IT services (on-site & off-site and high qualified activity).

Activity 1: Cleaning

The cleaning provides general cleaning services for companies and buildings. We didn't study specific cleaning activities (cleaning in airports, train wagons, hospitals, etc.) that are outside the national cleaning agreement.

The cleaning is one of the activities with the highest outsourcing rate among the complementary services of the companies.

Most of cleaning workers have an open-ended contract, although more than 80% have a part-time job. The 46% of workers in the sector are multi-employees. The workforce is predominantly female (58%), older (38% over 50, compared to 25% in business services) and has a high proportion of foreigners (35%) (INSEE). In the cleaning sector, the workforce is globally unskilled: more than 50% have no diploma (Vbis and VI level).

The main market of cleaning services is private (70-80%), with a high pressure on the price by the clients and with little margin of adjustment by the supplier (less than 3%).

The main form of outsourcing is the hiring of cleaning companies. Among them, the main companies are: specialized companies in the cleaning, multi-services companies and, finally, Facility Management companies. The resource to TAW agencies is minority. The use of the self-employment is reduced to specific cases such as the particular cleaning of isolate offices or households.

The general cleaning collective agreement regulates at the national level and integrates clauses of protection against transfers (Article 7): same conditions of activity contract, remuneration, seniority and holidays. No possible agreements with the previous supplier are maintained. Even so, the agreement does not regulate certain working conditions that are used by the suppliers to adjust the service at the price's client. In case of transfer, the supplier must maintain the same agreed working hours, but can move workers to other work centers (with a geographical limit and always in the same time slot).

Some of the main effects of outsourcing for cleaning workers are:

1) Insecurity in case of new supplier. In case of transfer, workers must sign the new agreement. According to the trade unions, in some cases, workers with very low levels of literacy signed conditions not adjusted to the former conditions. 2) Workload intensification according to the economic demands of the client. Due to the pressure on the part of the clients, many times, the suppliers must reorganize the service. In some cases, this means the displacement of workers and intensification of the work of the workers who remain in the workplace. 3) Risk of loss of quality of service. 4) Division among external and internal workers. The cleaning collective agreement has lower labour conditions than other agreements, generating unequal situations among workers who perform the same service but who are covered by different agreements depending on whether they are outsourced workers or are workers of the client. 5) Problems of communication and articulation of trade unions due to the fragmented workplaces, which hinders their work of representation and communication between workers and their representatives.

Activity 2: IT activities

IT activities include a wide range of different activities: computer programming, computer systems and software consultancy, maintenance of computer systems and

applications, management of computer systems. Some of the professions related to these activities are: software development engineer, computer production engineer, IT security manager and system engineer.

Outsourcing of IT activities is the support of the information system of the client by an IT service supplier, with or without transfer of client resources workers and infrastructure), with or without relocation.

Initially, it was a management mode of computer operation, and then the monitoring of application maintenance. With the formalization of activities, some companies have tried to outsource their whole information system. In many cases, these outsourcing practices became to offshoring practices since nineties.

Nevertheless, employment in the digital sector in France has grown more strongly from 2009 to 2014. The 94,6% of IT workers have open-ended contracts. Women represent the 29,7% of workers in the digital sector. The 58% of workers have a qualification of managers.

IT companies are mainly small and medium-sized: 72,8% employ fewer than 10 employees compared to 81,3% for all sectors. However, the digital sector is characterized by a larger share of companies with 100 or more employees (3,7%) than all sectors (1,7%)[2].

One of the main characteristics of the sector in relation to outsourcing is the high competitiveness among suppliers under different outsourcing practices. Under the main practice, workers of an IT supplier than gains an economic contract develop their activity on the client site (*salariés chez clients*). But there are other outsourcing practices more related to the individualization of work: self-employment and intermediation companies (*portage salarial*).

The national collective agreement that regulates IT activities (SYNTEC agreement) is an especial agreement, that includes a wide range of different professions (informatics, engineers, scientists, consultants, HR managers, conventions & exhibitions, translators, etc.). It is one of the most recent collective agreements and one of the agreements that includes a greater number of workers involved: approximately one million of workers (INSEE).

In the case of intermediation companies (portage salarial) it also exists a national collective agreement since 2017 that regulates these practices.

Some of the main effects of outsourcing for IT workers are: 1) Workload intensification. 2) Health and safety problems. 3) Risk of division among internal and external workers, but with a less intensity than other outsourced activities, due to the smaller differences among the SYNTEC agreement and other collective agreements. 4) Risk of loss of loyalty by outsourced workers in relation to their supplier company. 5) Individualization of workers and working conditions.

FACILITY MANAGEMENT COMPANY

In France, the market of Facility Management is still very small. Although the first contracts of Facility Management contracts began in the nineties, it is not until after mid-2000 that the FM market develops. These companies (Total FM) compete with multi-technical companies (technical maintenance, maintenance of buildings, energy management) and multi-services companies (hygiene, cleaning, reception, catering, security, courier services). According with some studies about Facility Management, in 2012 the proportion of companies that contracted a FM supplier oscillated between 8% and 10%[3].

The main challenge of the French Facility Management companies is to respond to the service offered taking into account the increasingly aggressive economic demands from clients. This situation generates, in some cases, situations of adjustments of the organization of

[2] « Le secteur du numérique et ses métiers », Statistiques, études et évaluations avril 2016 in http://www.pole-emploi.org.

[3] ARSEG & SYPEMI (2013). Externalisation et environnement de travail : état des lieux et bonnes pratiques. ARSEG (2015). Environnement de travail : Quel modèle d'externalisation dans votre entreprise ?

the service, generating conflicts with outsourced workers.

There is no specific collective agreement for Facility Management companies. Therefore, their processes are regulated under the different national collective agreements in France.

RECOVER PROPOSES…

For the French case, the existing regulatory mechanisms, both the collective agreement and the transfer clauses seem to be acceptable mechanisms to guarantee the coverage of the workers involved. It is true that formulas such as self-employment are outside of these mechanisms, but it does not seem to be the most used formula. In some cases, conflicts over outsourcing are more related to the failure of these mechanisms than to the fact that this phenomenon is not sufficiently regulated.

It does not seem to observe joint actions between social partners, assuming that the existing regulatory mechanisms are sufficient to manage outsourcing practices and its effects on employment.

RESEARCH TEAM

- Joan Rodríguez,

This policy brief is based on the final phase of the RECOVER project and is available on the RECOVER website,

http://pagines.uab.cat/recoverproject/en/content/national-policy-briefs

PROJECT IDENTITY

PROJECT NAME

Relaunching Collective Bargaining in Outsourced Services – RECOVER

PROJECT COORDINATOR

Dr. Oscar Molina

Universitat Autònoma de Barcelona
Sociological Research Centre on Everyday Life and Work – QUIT
Campus UAB, C/ de la Fortuna
08193 Bellaterra - Spain
E-mail: oscar.molina@uab.cat

CONSORTIUM

- Centre d'Estudis Sociològics sobre la Vida Quotidiana I el Treball (QUIT)
  Universitat Autònoma de Barcelona (Barcelona, ES)
- Amsterdam Institute for Advanced Labour Studies (AIAS)
  University of Amsterdam (Amsterdam, NL)
- Institute of Public Affairs (IPA) (Warsaw, PL)
- Durham University Business School
  Durham University (Durham, UK)
- Università degli Studi di Teramo (Teramo, IT)

EUROPEAN COMMISSION

DG Employment, Social Affairs and Inclusion

FUNDING SCHEME

VP/ 2016/004/0030 – Improving expertise in the field of industrial relations. GA VS/2019/0351

DURATION

January 2017 – December 2018 (24 months)

BUDGET

EU contribution: EUR 306584,95

WEBSITE & SOCIAL NETWORKS

Webpage: http://pagines.uab.cat/recoverproject/en