

MODERN SLAVERY IN MODERN EUROPE?

An ETF account on the working and living conditions
of professional drivers in Europe

"Every worker has the right
to working conditions which
respect his or her health,
safety and dignity."

(legally binding Charter of Fundamental
Rights of the European Union, Art. 31)



RESPECT 
FOR PROFESSIONAL DRIVERS!

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Acknowledgement:

We would like to thank the following ETF affiliated members for their contribution to this publication:
3F (Denmark), ACV-CSC Transcom (Belgium), BTB UBOT (Belgium), FGTE-CFDT (France), FNV
Bondgenoten (The Netherlands), NSZZ Solidarnosc (Poland) and UNITE the UNION (Great Britain).

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FOREWORD

In a time when smart tachographs and intelligent transport systems become a day-to-day reality for the road transport sector, when lorry dashboards get the look and feel of an oversized computer and professional drivers are expected to master advanced technology, there are countries in Europe where the driver's job fails to be considered a skilled occupation!

In an Europe where policy makers declare their full commitment to promoting jobs and addressing the shortage of drivers, more and more professional drivers work away from home for uninterrupted periods of up to 3 months, are subject to dubious employment schemes that block their access to social and labour rights and benefits, spend their nights and week-ends in their lorries or in substandard accommodation such as improvised barracks, feed on canned food, have no access to basic facilities such as toilets and showers, and drive around Europe on dumping wages.

In 2008, the ETF and its member organisations started a series of interviews with professional drivers in an attempt to collect practical evidence on their working and living conditions. The interviews targeted non-resident drivers (drivers working from a country other than their own). In 2012, assisted by external experts, the ETF carried out a more elaborated survey, to consolidate the existing data. In total, during the period 2008 – 2012, the ETF and its member organisations interviewed approximately 1000 professional drivers. Most of them were interviewed in improvised parking areas where migrant drivers congregate to spend their week-ends. The result of this 4-year work is too alarming for the sector and too shocking for a Social Europe.

By means of this booklet, the ETF intends to break the silence around what has been referred to as a pocket of modern slavery in modern Europe: the working and living conditions faced by professional drivers. The ETF intends to get the political machinery on the move and push for legislative measures to improve the situation of these professionals. We intend to get the business back on track, to meet their obligations and provide their workforce with decent workplace conditions.



This publication is to be handed out - starting with October 2012 - to high rank representatives of the European Commission, to Members of the European Parliament, to governments of the EU Member States and to the wide public. Along with it, the ETF will hand out a manifesto containing demands and solutions meant to have an immediate positive impact on the sector's attractiveness, on drivers' health and safety, on fair competition, on public safety on European roads, on society as a whole.

This publication is one way to say to decision makers:

RESPECT for professional drivers!

Act against degrading jobs and working conditions in Road Transport!

WHO ARE THE COMPANIES?

The most common way to start one's "lucrative" business in the road transport sector is by opening letter box companies in EU Member States with lower social protection, lower labour standards and lower wages. The practice has spread widely in the last few years, particularly as 12 new Member States joined the European Union.

By opening letter box subsidiaries in one of these countries, a company could save up to 90-95% on wages and even more on social contributions.

The letter box practice is only a part of the chain of dubious contractual relations that revolve around labour in road transport. Operators, subsidiaries, recruitment agencies, all based in different Member States, participate in a cross-border system that is difficult to control and clamp down and that encourages social dumping on large scale.



Breaching the law: One immediate solution to eradicate this phenomenon is the full enforcement of Regulation (EC) 1071/2009 on access to occupation of road transport operator¹. The Regulation entered into force 3 years ago. However, letter box companies exist and proliferate. Neither the EU Member States nor the European Commission make any sustained effort to enforce and run controls in line with this regulation. By operating via letter box companies, operators circumvent this regulation.

1) Article 5 (c) requires companies to conduct effectively and continuously their operations in the Member State in which they are established, with the appropriate administrative and technical equipment and facilities.



“Innovative” employment schemes (I)

Polish drivers operating in the Netherlands and recruited by a haulage company based in Poland point out that the employer had them sign two employment contracts, one in Polish and one in Dutch. The two versions of the contract are not identical: the Dutch version follows closely the contractual practices in the Netherlands and contains less demanding clauses for the employee than those found in the Polish version, in particular with regard to working hours. In effect, according to the drivers’ testimony, it is the Polish employment contract that is applied in practice.



“Innovative” employment schemes (II)

A group of Romanian drivers interviewed at the beginning of 2012 told the interviewing team that they had been recruited via an employment agency based in Romania, but on behalf of a haulage company based in Cyprus where tax regime and rules applying to social security contributions were a lot more advantageous. The drivers in question had never carried out transport operations in Romania, let alone in Cyprus, although the lorries used by the company were registered in Cyprus. They mainly work in the Netherlands, Germany, France and Belgium.

WHO ARE THE DRIVERS?

Non-resident drivers, working from a country other than their home one. Most of them are Eastern Europeans recruited to work in the Western part of Europe. Most of them joined the profession with the hope to gain a decent salary and offer a better future to their families. Most are recruited via complex, dubious cross-border employment schemes. This prevents them claim rights and benefits they are entitled to: unpaid leave, unpaid wages, healthcare and medical insurance, unemployment and pension.

They can be found in big numbers, spending their daily and weekly rest time on concrete platforms that can hardly be called parking areas, next to ports or main hubs. Vulnerable and totally dependent on their employment situation, most of them are forced to work on the fringes of the law.



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ON WHAT CONDITIONS?

Non-resident truck drivers = ‘imported’ labour!

Drives are organised around business needs. They are transported by minibuses or low cost flights from their home country to the country they are supposed to work from. Usually, they spend from 3 to 12 weeks in the ‘host country’. In the best of cases, they will be allowed to take the minimum rest time provided by law. In terms of working and driving time, they will be exploited to the maximum. They will live in rough conditions, having no contact with society and with structures that may assist in case of problems. Contributing to their isolation are language barriers and the fear of losing their job. At the end of their work cycle, they will be sent home for periods of 1 to 3 weeks.

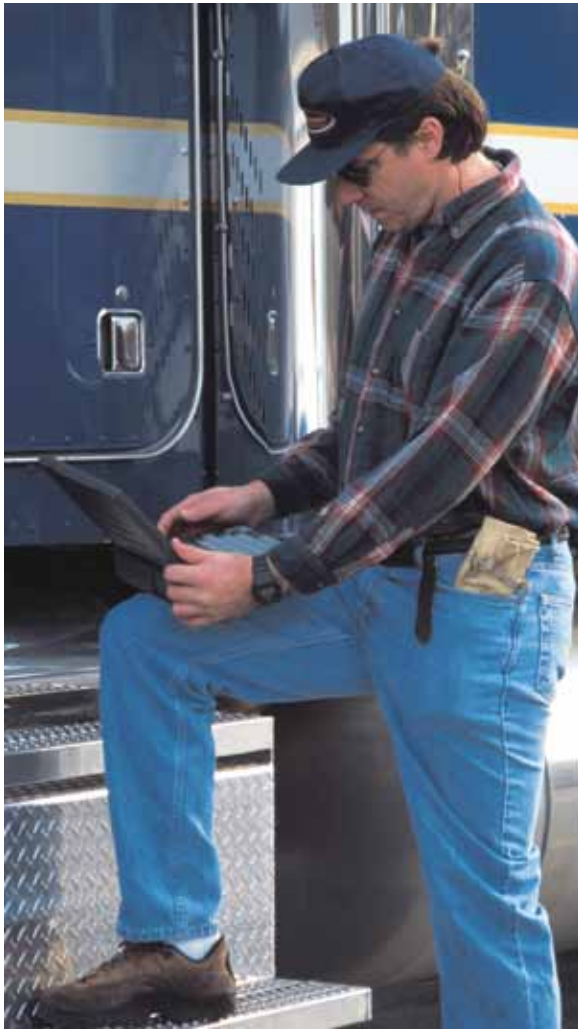
Approximately 60% of the drivers interviewed by the ETF spent between 3 - 12 weeks away from home.



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Sporadic contacts with their families



Most of the drivers keep in touch with the families via mobile phones but with some rare exceptions, they have to cover the costs of personal calls even though a number of drivers are provided with company phones. The more fortunate drivers – a very small proportion - have a portable computer on board their lorries, communicating with their families - here again on their own expense - via internet.



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Living in overcrowded barracks – a risk for life!

Belgium, Wingene, 1st of April 2012: 2 Polish drivers died and 4 were wounded when the barracks they lived in caught on fire. In total, 11 drivers lived there. The habitat inspectorate had come down to inspect the site but had been denied access.

Living in barracks – in a Social Europe, is this how drivers must live?

Alternative: living in their lorries

While being away from home, and when barracks are not available (!), non-resident drivers live in the lorries which are assigned to them. Week-ends in lorries and improvised parking areas are common place for them.

Breaching the law: Regulation (EC) 561/2006 (Art. 8.8) forbids drivers to spend their weekly rest in the lorry. Companies are responsible to provide means for decent accommodation but as most of the drivers are paid a mere 300€ fix amount per month, they are not in the position to cover accommodation costs.

Approximately 95% of the drivers interviewed by the ETF take their breaks and rest periods – week-ends as well - in their lorries.



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Bad quality of sleep leads to fatigue and implicitly to road accidents

Generally speaking operators will cover access fees to secure parking areas only for carriage of valuable goods. Hence, only a few drivers and lorries enjoy the privilege, occasionally. Lorries parked along the roads are part of the familiar European landscape. Others are less visible, but not more fortunate, as they are tucked away for the night in improvised parking areas. In many cases drivers are made responsible for the integrity of the cargo. This is communicated verbally to them by the company or is part of their labour agreements. Hence, at night, drivers have to interrupt their rest to regularly patrol their vehicles. Bad quality of rest is one of the main causes for drivers' fatigue.

Fatigue kills drivers, and other road users!

Approximately 80% of the drivers interviewed by the ETF stated that fatigue was a problem but they would not report it as they were afraid to lose their job.

Working on dumping wages

Official sources² show that in 2006 the difference in drivers' annual pay varied from 29,000€ for Belgium to 1,800€ for Bulgaria. However, in practice, drivers from the new Member States are generally paid a fix amount of about 300€, the rest of the pay coming from daily subsistence allowances (on average 40€ per day of driving), pay per kilometres driven or per on-time delivery. All social contributions due by the employer are thus calculated in relation to the fix monthly rate of 300€, a gross disadvantage for the professional drivers! The ETF interviews revealed that, with this system, the driver's pay rarely exceeds 1,000€ per month. The non-resident drivers are not paid for the weeks they spend at home, as part of their work scheme. Consequently, the pay composition of a professional driver in question is 30% fix monthly pay safeguarded by the contractual obligations, and 75% in DSAs and / or other 'incentive'-related schemes. These payment systems impact directly on their social benefits as only the fix monthly salary (300 €) will be taken into account when calculating these benefits.

Breaching the law: By forcing non-resident drivers to work on pay and conditions of their country of origin, companies circumvent the Rome I Regulation 593/2008/EC. According to this if a worker performs his employment duties in several contracting Member States, the law of the Member State where the worker habitually works for his employer should apply.

In terms of wages, 95% of the drivers interviewed by the ETF considered themselves discriminated on basis of their nationality.

2) Shortage of qualified personnel in road freight transport", study by the European Parliament (2009)



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No right to paid leave!

Approximately 25% of the drivers interviewed by the ETF were not paid for their annual leave.

Approximately 95% of drivers said their employment contracts entitled them to paid holidays but in fact they were not paid for the weeks spent at home.

To remind the reader, all interviewed drivers were subject to work organisation schemes involving 3 to 12 weeks of work alternating with 1 to 3 weeks of time off.

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Pay per kilometres driven – profit for business, fatal for drivers and for road safety

!!! Approximately 60% of the drivers interviewed by the ETF were paid by driven kilometres. The going rate is 10€ per 100 kilometres driven !!!

Breach of the law: Regulation (EC) 561/2006 (Article 10) forbids the pay per kilometre should that have a negative impact on road safety.

10€ per 100 kilometres driven: is this safe enough for the European roads?

Working above the law limits

Working time is paid time. To reduce even further labour costs, certain operators resort to various practices:

- using technology to closely monitor their drivers to the point that drivers have to justify every minute taken away from the vehicle, including breaks;
- instructing the drivers not to register loading / unloading as 'other work', so this is automatically counted as break or rest time and therefore not reflected in the wage.

Breach of law: By monitoring drivers to the minute, operators are in breach with individual privacy rights. The driver has the right to use his / her breaks and rest time as they wish.

By instructing drivers not to register loading / unloading as 'other work', operators are in breach with Directive 2002/15/EC on working time for professional drivers.

The average daily working time of the interviewed drivers pointed to 11.5 hours, while the average working week was of 57.5 hours, for the entire duration of their stay abroad.

Approximately 80% of the drivers interviewed by the ETF were not paid for loading / unloading activities, being asked not to register it as 'other work'. They are however responsible with supervising the loading / unloading activities.

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Skipping the compulsory 45 minute break?

About 60% of the interviewed drivers stated that they were often in the impossibility to take the 45-minute break legally required after a driving period of 4.5 hours.

Reasons are lack of parking areas along the European roads, but also the bad journey planning by the transport operator.



No access to hot food

Approximately 80% of drivers interviewed by the ETF cooked and ate their own food in the lorry. This involved heating up tinned food on improvised cookers. 25% had hot food only 2 – 3 times per week, 10% only had hot meals during week-ends and another 10% never ate hot food.

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No access to sanitary facilities

All interviewed drivers stated that they were spending most of their rest time in parking areas with no access to sanitary facilities.

When parking to rest in better equipped parking areas, they could rarely afford access to shower or toilets, considered to be too expensive for their possibilities.

What lays scattered behind the lorry in the picture are bottles of urine...

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Nowhere to go when getting ill!

Being 'on the road' most of the time, working from countries other than their own and being subject to complicated employment schemes, most of the time lorry drivers do not have prompt and adequate access to healthcare.

“Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all the Union’s policies and activities.”

(legally binding Charter of Fundamental Rights of the European Union, Art. 35)



Getting ill: an unthinkable situation that most of the times catches drivers on a wrong foot and brings to surface a number of questions: “what are my healthcare rights and where do I go to claim expenses?”.

For drivers employed by an employer from another country, via an employment agent based somewhere in Europe, to work in Western Europe, it is almost impossible to determine who bears responsibility for their medical care. Drivers often find out – too late though – that employers do not actually pay healthcare contributions or medical insurance, even if law and labour contracts bind them to do so.

Approximately 40% of the drivers interviewed by the ETF cover more than 75% of their health care costs.

Complex, dubious employment schemes prevent drivers' access to social security systems

The more complex the employment scheme, the easier it is for the employers to circumvent their social obligations and the more difficult for the drivers to find out who in their employment chain is responsible for these contributions. This was precisely the case of the Romanian drivers recruited by the Cyprus-based haulage company.

"Everyone residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with Union law and national laws and practices."

(legally binding Charter of Fundamental Rights of the European Union, Art. 35)





“Every worker has the right to protection against unjustified dismissal, in accordance with Union law and national laws and practices.”

(legally binding
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Union, Art. 30)

They had enough! - Polish drivers employed by Norbert Dentressangle went on a 18-day strike over low pay and poor working conditions

In January 2012, 350 Polish drivers members of NSZZ Solidarnosc employed by trucking firm Norbert Dentressangle walked out on a 18-day strike in protest over the company's refusal to start negotiations with the union on a collective bargaining agreement. The drivers had seen no pay rise for four years. They already receive considerably less than drivers from other countries. They also denounce deplorable working conditions, such as poor quality of rest, poor sanitation and nutrition when away from home on long-distance journeys. When the NSZZ Solidarnosc insisted on collective bargaining negotiations in July 2011, the company was reported to have intimidated workers, threatening them with dismissal. By February 2012, twenty-nine workers were dismissed in the aftermath of the strike.



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A final touch – the Trieste case!

The Trieste port case shows how illegal practices can flourish right under the eye of the law enforcer. Trieste is a free zone port, in other words a quick and less controlled way of access into the EU. In recent years Trieste has been associated with a practice that has outraged the local community as well as the ETF, ITF and local trade union organisations. In brief, trailers are brought into the port by sea and attached *sur place* to motor vehicles that are waiting in the port area. The vehicles are all registered in

non-EU countries. They are manned mainly with Turkish drivers who are brought in by low costs flights or by sea and made to wait in the port till they are assigned a lorry. This may take days. In the meanwhile, the drivers are forced to hang around, sleep wherever they can, and live in appalling conditions amongst others with no access to sanitary facilities. The drivers are recruited in their home country and their paperwork (visa, contracts) is dealt with on the way to Trieste. They do not know what the duration of their contract is but they normally work on basis of a 3 month visa. According to drivers' testimonies, 60% of trips seem to be (illegal) cabotage, mainly within Italy, while the rest is international transport with the EU. They are paid only per day of driving.

In March 2008 and January 2010 the drivers went on strike blocking the port for days in protest against their living conditions in the port area. The above described situation is as per March 2011. To collect data about Trieste, approximately 250 drivers had been interviewed by the ETF member organisations from Italy within a span of 3 months.



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