

Sorry we subcontracted you

Silvia Borelli, Antonio Loffredo,
Claire Marzo and Manfred Walser

Report 2025.02



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european trade union institute

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Abstract

The logistics sector has become increasingly important to the European economy over the past years due to the spread of the e-commerce, which has brought about consumer-driven supply chains and integrated transport into retail. The four country case studies in this volume – covering France, Germany, Italy and Spain – converge in indicating that, despite this growth, **working conditions in logistics have been deteriorating** and consequently the staff turnover is massive. These two tendencies are only apparently contradictory. Indeed, the booming of logistics goes hand in hand with stiff price competition, boosted by the need to deliver goods to end consumers in the shortest possible time at the lowest cost.

This Report demonstrates that in logistics **subcontracting is a prevalent business model** that leads to lower pay and poorer working conditions for the purpose of cutting costs and boosting profits. Moreover, because of their strong market position, the companies belonging to the big logistics and e-commerce group maintain a certain control over smaller companies, temporary work agencies or individuals (especially drivers who they treat as ‘self-employed’), to which they contract out. Therefore, subcontracting has become a strategy for separating power and profits from risks and responsibilities.

Facing the **unsustainability of the current logistics business model**, the Authors claim for a European regulation aimed at reducing the benefits that companies gain through subcontracting in terms of lower responsibility and labour cost reductions. In particular, they advocate that **subcontracting has to be limited**: both what can be contracted out and the length of the subcontracting chain need to be restricted. As a general rule, subcontracting needs to be justified by reasons other than pure profit because, according to national Constitutions and the European Charter of Fundamental Rights, pure profit cannot prevail over workers’ rights.

Introduction

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Silvia Borelli

1. The logistics sector in Europe: an overview

The logistics sector has become increasingly important to the European economy over the past 15 years.² Its importance has increased with the spread of the digital economy, and particularly the e-commerce business model, which has brought about consumer-driven supply chains and integrated transport into retail. The key role of this sector became particularly clear during the Covid-19 pandemic, when logistics employees came to be referred to as key workers, essential to the flow of vital medical equipment and other supplies. The obstruction of the Suez Canal in 2021 and, to a larger extent, the war in Ukraine have also demonstrated the importance of logistics to ensuring that essential goods and services are accessible throughout the world.³ In fact, in the globalised economy logistics ‘represents the backbone of highly complex and globally extended supply chains, which require the efficient, cost-effective and reliable flow of goods and information’.⁴

Logistics is also a key sector in the smooth functioning of the European single market. According to most recent data, in 2024 logistics in Europe was worth 1.16 trillion euros (€).⁵ Germany, France, Italy and Spain represent the four biggest markets in Europe (the EU), with markets worth €286 billion in Germany, €263 billion in Spain, €169 billion in France and €145 billion in Italy.⁶

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1. The title of this report refers to Ken Loach’s 2019 film ‘Sorry We Missed You’, which describes the struggles of Ricky Turner and his family in the gig economy. Ricky is hired to run a franchise as a self-employed delivery driver. The film provides a realistic picture of the challenges faced by workers in last-mile logistics and was a powerful source of inspiration for this report.
 2. According to *Statista*, the logistics market in Europe grew constantly from 2007 to 2021, the only exception being 2020 when the market shrank because of the Covid-19 pandemic (<https://www.statista.com/statistics/639984/logistics-market-segment-volume-europe/#:~:text=Europe%3A%20logistics%20market%20volume%202007-2021&text=This%20statistic%20illustrates%20the%20volume,1.15%20trillion%20euros%20in%202020>).
 3. According to the Treccani Encyclopaedia, ‘Logistics’ means any activity aimed at ensuring the functioning of a system, so that the necessary resources are available in the required quantity, at the required place and time.
 4. Ecorys, Fraunhofer, TCI, Prognos and AUEB-RC/TRANSLOG, Fact-finding studies in support of the development of an EU strategy for freight transport logistics Lot 1: Analysis of the EU logistics sector, Report for the European Commission, 2015, p. 23.
 5. <https://www.mordorintelligence.com/industry-reports/european-freight-logistics-market/market-size>
 6. These data refer to road freight transport in 2023: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Road_freight_transport_statistics

E-commerce is driving growth and transforming freight and logistics in Europe. Consequently, e-commerce companies now feature among the main logistics players.⁷ Amazon is the leading online marketplace in Europe, generating revenues close to €50 billion in 2022.⁸ Its transport division now operates widely in all European Union (EU) Member States.

Logistics is also experiencing **concentration into large groups** and a **verticalisation of supply chains**. On one hand, the main players in the sector structure themselves as groups, with several companies operating in logistics divisions controlled by a holding company that determines the strategy for the group as a whole. This makes it possible to develop an integrated transport system, in other words, a coordinated network that combines various modes of freight transport.

On the other hand, these powerful groups engage in widespread subcontracting to other companies. Instead of employing warehouse and delivery workers directly, logistics and e-commerce corporations outsource core operations to smaller companies and to temporary work agencies or individuals, especially drivers, who they treat as 'self-employed'. Because of their strong market position, the client, that is, the company belonging to the big logistics group that is contracting out, maintains a certain control over the main contractor and subcontractors. Because the logistics sector is labour-intensive and highly competitive, subcontracting is usually aimed at reducing labour costs. In fact, in many cases subcontractors pay lower wages, impose worse collective agreements (if any), demand longer work shifts, and so on. The case studies in this volume will demonstrate this clearly. As a result of subcontracting, logistics workers thus become more exposed to vulnerabilities such as poor working conditions, low pay and exploitation. Because of the poor working conditions, labour turnover in the sector is high and this makes it increasingly hard for trade unions to reach, let alone represent workers in logistics. Besides, because of the so-called 'corporate veil',⁹ clients are not liable for violations of workers' rights and other infringements committed by the main contractor and subcontractors. Consequently, subcontracting has become a strategy for separating power and profits from risks and responsibilities. What's more, subcontracting has become a key part of the logistics sector's dominant business model as it is a way of lowering costs and externalising risks. It is worth mentioning that, in order to benefit from the same low-cost and risk-free strategy, contractors often engage in further subcontracting, creating complex networks of subcontracts.

7. The top five companies in the European freight and logistics market are A.P. Moller - Maersk, DB Schenker, DHL Group, DSV A/S (De Sammensluttede Vognmænd af Air and Sea) and Kuehne + Nagel. <https://www.mordorintelligence.com/industry-reports/european-freight-logistics-market>). A list of the top European e-commerce logistics companies is available here: <https://ecommercenews.eu/ecommerce-logistics-companies-europe/>

8. Amazon is also the number one e-commerce company in all the main logistics markets in Europe. <https://gominga.com/insights/top-marketplaces-in-europe>.

9. The 'corporate veil' refers to the fact that a company is legally responsible only for its own actions and does not have any responsibility for the actions of other companies involved in its supply or subcontracting chain.

2. The scope of the research

Subcontracting as a business model can be applied to the transportation and processing of goods at several stages of the logistics process: (i) transportation via trucks to the warehouse or fulfilment centre (the so-called ‘first mile’); (ii) from the warehouse to the delivery or distribution centre (the ‘middle mile’); and (iii) from the delivery or distribution centre to the customer (the ‘last mile’). Last-mile delivery consists of three elements: the distribution centre (warehouses), the delivery vehicle and the receiving point (consumers’ residences or collection points).¹⁰ Because of the sharp increase in e-commerce, this study, commissioned by the European Transport Federation (ETF) and the European Trade Union Institute (ETUI), focuses mainly on warehouses and last-mile delivery and aims at an understanding of the extent to which subcontracting is used, its effects on the workforce and its consequences for trade union activities.

It should be underlined that warehouse and last-mile delivery workers are often managed by algorithm and are under constant surveillance. In fact, the use of new technologies and digitalisation are key tools in the reduction of service costs and delivery times in a highly competitive sector, driven by consumer demand for just-in-time goods. The widespread use of these algorithmic management systems can increase the pace of work and consequently can have negative impacts on workers’ health and safety. Algorithmic management systems also make it easier to control the main contractor and subcontractors, as well as their workers, which further boosts contracting out. Through algorithmic management systems, clients can increase their leverage over the contractors and subcontractors, while risks and responsibilities remain with the latter.

Despite the rapid development of e-commerce logistics in Europe, transport policy is lagging behind. The upshot is an increasingly unregulated sector and poor, even indecent employment and working conditions. Public authorities have failed to plan adequately and lack the capacity to oversee the sector and manage its expansion. This is also a consequence of the neoliberal policies pursued in the EU single market and the accompanying pressures to deregulate the sector.

Furthermore, legislation on subcontracting is still missing in the EU, although many studies clearly demonstrate that ‘subcontracting is often used to reduce costs and increase profits, leading to lower pay levels and poorer working conditions’.¹¹ A regulation on subcontracting has also been demanded by several European

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10. Huria A., *Facilitating Trade and Logistics for E-Commerce: Building Blocks, Challenges and Ways Forward*, Washington, World Bank, 2019, pp. 65 ff.
 11. Ecorys, HIVA-KU Leuven, Spark Legal and Policy Consulting, and wmp consult (2023) *Study supporting the Monitoring of the Posting of Workers Directive 2018/957/EU and of the Enforcement Directive 2014/67/EU – The situation of temporary cross-border mobile workers and workers in subcontracting chains*, Directorate-General for Employment, Social Affairs and Inclusion, 2024, p. 6.

trade unions,¹² as well as by many members of the European Parliament.¹³ The present research is intended to provide additional evidence on the impact of subcontracting on working conditions in a specific sector, namely, warehousing and last-mile delivery. Despite its rapid development, it is still underexplored.

The present study concerns the four biggest logistics markets in the European Union: France, Germany, Italy and Spain. For each country, the legal aspects of subcontracting in warehousing and last-mile delivery, as well as the working conditions and the trade union activities in these sectors are examined. The analysis deals with the different forms of legal and illegal labour exploitation to which subcontracting has given rise, and several initiatives organised by the main national trade unions to address these adverse practices.

3. Methodology and structure of the research

This study aims at understanding subcontracting in logistics and its impact on working conditions and trade union activities in four European countries (France, Germany, Italy and Spain) from a legal/political and labour/industrial perspective. The four country case studies have been developed through desk research and 11 interviews with trade unionists, labour inspectors, lawyers and other experts. The legal analysis is grounded on existing databases on regulation and case law. Relevant literature has also been taken into consideration. Quantitative and qualitative data on logistics have been collected and examined based on secondary data sources. In several cases, however, no data and figures were available on subcontracting in last-mile delivery and warehouses. As a result, it has sometimes been difficult to gauge precisely the amount of work and services contracted out, the number of subcontracting companies, their turnover, the number of workers employed by contractors and subcontractors, and their contracts of employment.¹⁴

Notwithstanding these data limitations, the effects of subcontracting on working conditions and trade union activities have been described by numerous decisions of the national courts, as well as by reports of labour inspectors and studies produced by trade unions.

The country case studies have been structured as follows.

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12. ETUC, *Securing Workers' Rights in Subcontracting chains*, 2019; EFBWW, ETF, EFFAT, *Subcontracting chains and intermediaries! Stop Exploitation*, 2024, <https://www.efbww.eu/news/efbww-effat-etf-launch-joint-campaign-to-limit-subcontracting-an/4097-a>
 13. Borelli S., *Subcontracting: Exploitation by design. Tackling the business model for social dumping*, study for The Left in the European Parliament, 2022; J. Danielsson, M. Angel, G. Bischoff, E. Heinälüoma, M. Maij, E. Regner, K. Van Brempt, M. Vind, *Breaking the chains: subcontracting in the EU*, Social Europe, 2024.
 14. The lack of data on subcontracting is one of the main outcomes of the study produced at the behest of the European Commission (Ecorys, HIVA-KU Leuven, Spark Legal and Policy Consulting, and wmp consult (2023) *Study supporting the Monitoring of the Posting of Workers Directive 2018/957/EU and of the Enforcement Directive 2014/67/EU – The situation of temporary cross-border mobile workers and workers in subcontracting chains*, Directorate-General for Employment, Social Affairs and Inclusion, 2024.

Analysis of the context: this section concerns market structure and employment in logistics. It presents the main quantitative data related to the dimension of the logistics market and its trends, the number and turnover of logistics companies, and the structure of the logistics groups operating in the relevant country. This section also examines which forms of subcontracting are present in last-mile delivery and how subcontracting is used in the warehouse segment of logistics. Finally, data are presented on employment in the sector and on precarious work contracts exploited by logistics companies. The country case studies also investigate the presence of third-country nationals in last-mile delivery and warehouses.

Reconstruction of problematic cases in the sector: through a literature and media review, consultation of case law databases and interviews with logistics experts, the main problems faced by workers and unions in the sector are pointed out. There is a focus on the use of algorithmic management systems in logistics, in order not only to prove whether and how it increases labour exploitation, but also to clarify whether and how it strengthens the client's control over their contractors and subcontractors. The reconstruction of the problematic cases aims at achieving a better understanding of the consequences of subcontracting when this business model seeks to lower labour costs and increase profits. It also seeks to present the main forms of legal and illegal labour exploitation that trade unions and public authorities face.

Legal analysis of the subcontracting chain and working conditions in logistics: this section presents the regulation of subcontracting and the working conditions of logistics employees. First, the legal analysis covers the limitations (if any) on contracting out and the length of subcontracting chains, also taking into consideration public contract law where Member States are obliged to take 'appropriate measures to ensure that [...] economic operators comply with applicable obligations in the fields of environmental, social and labour law established by Union law, national law, collective agreements or by the international environmental, social and labour law provisions' (Article 18 of Directive 2024/24).

The legal analysis then considers regulation of the employment relationships of workers engaged by the main contractor and subcontractors. As subcontracting is a strategy aimed at externalising risks and responsibilities, the chapters on respective countries also examine legal tools for reconnecting the employer's liability to the person(s) that benefit from the workers' performance (namely, the client and the contractor), such as the substantive definition of the employer and joint and several liability. The section also presents the working conditions of subcontracted workers in order to demonstrate whether and to what extent they differ from those applied to workers directly hired by the client.

The legal analysis also covers other aspects that exacerbate workers' vulnerability, such as the regulation of precarious contracts of employment and self-employment, migration law and the boundary it can create between third-country nationals and their employers, as well as the job instability generated by short-term subcontracts.

Finally, the regulation of algorithmic management is examined to verify whether some algorithmic management systems are forbidden; whether they can be freely exploited; or whether their use should be negotiated with trade unions and/or worker representatives with regard to what data can be collected through them, and so on.

The role of trade unions: this section analyses the role of trade unions and workers' representatives in monitoring and regulating subcontracting in the countries covered in this study. First, the country case studies take into consideration whether and to what extent worker participation at company level can control and limit subcontracting: *are the worker representatives informed and consulted on work and services that the company intends to contract out? Do they have a list of the company's subcontractors? Are they informed about the number and working conditions of the subcontracted workers?*

Moreover, this section deals with collective bargaining practices directed at controlling subcontracting and limiting its negative impact on workers, as well as negotiations that foster re-internalisation of subcontracted workers.

Finally, this section presents, where available, incidences of strikes and other trade union actions organised to denounce and contest the severe forms of labour exploitation entailed by subcontracting.

Access to justice and enforcement legislation: this section concerns controls and inspections carried out by national authorities on logistics subcontracting chains and on the main infractions that have been detected. Evidence is provided on the fact that subcontracting makes the exercise of control very complicated and time-consuming. The study also aims at verifying whether controls are past-oriented and whether they are able to prevent subcontracting from being extended indefinitely, due to companies' volatility, as many scholars have criticised.¹⁵

Another aspect examined in this section is access to justice. Here, too, the case studies explore an aspect emphasised by previous research: the fact that workers struggle to access justice and often give up claiming their rights either because the process is too costly and/or takes a long time, or they risk losing their job or even being deported in the case of third-country nationals.¹⁶ Finally, remedies and sanctions are presented in the case of violations of workers' rights, and evaluated with regard to whether they are proportionate, effective and dissuasive according to the Court of Justice of the EU (CJEU) case law.

Taking into consideration the outcomes of the country case studies, the study's overall conclusions point to general challenges in the logistics sector and problems caused or exacerbated by subcontracting in particular. The conclusions of the report propose a set of recommendations aimed at limiting the negative effects of subcontracting on working conditions, strengthening the presence and role of

15. ETUC, Securing Workers' Rights in Subcontracting chains, 2019.

16. See n 15 above.

trade unions and worker representatives along the entire subcontracting chain, and fighting the widespread forms of legal and illegal labour exploitation in the warehousing and last-mile delivery sectors.

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