

Change a long time coming for subcontracted slaughterhouse workers

Germany's new Occupational Safety and Health Inspection Act, passed in December 2020, has banned subcontracting in the meat industry, a practice that was exploited on a large scale to hire migrant workers on less favourable terms and conditions. In an industry that has long been dogged by harrowing tales of working conditions, a mass outbreak of Covid-19 in a meatpacking plant became a catalyst for reform. The Act is an important milestone for the sector not just in Germany but across Europe, where pressure along the supply chain has created similar problems in multiple countries.

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↳ Many factors make abattoirs particularly susceptible to transmission.
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"On the killing beds you were apt to be covered with blood, and it would freeze solid; if you leaned against a pillar, you would freeze to that, and if you put your hand upon the blade of your knife, you would run a chance of leaving your skin on it."

Upton Sinclair's classic American novel *The Jungle*, the story of an immigrant family from Lithuania working in the abattoirs of Chicago, was published in 1906 to both critical acclaim and public outrage due to its unflinching portrayal of the dire conditions in a meat industry dominated by big business and rife with exploitation and unsanitary practices.

Fast-forward over a century later, to June 2020. A mass Covid-19 outbreak in a meatpacking plant in the North Rhine-Westphalia region of Germany drags the issue of working conditions in the meat industry into the spotlight once again. More than 1500 workers, out of a 7000-strong workforce, test positive, leading to lockdowns of the nearby districts of Gütersloh and Warendorf and a lot of bad publicity for the plant's owner, the Tönnies Group. Tönnies is a behemoth in the German meat industry, far surpassing its closest competitors Vion and Westfleisch in workforce size, market share and turnover (7.3 billion euros in 2019, according to the company).

Many factors make abattoirs particularly susceptible to transmission, even in the best of conditions. "They stand shoulder to shoulder, sweating due to the hard work," says Johannes Specht, head of collective bargaining at the Food, Beverages and Catering Union (NGG), which represents meat industry workers in Germany. "They breathe deeply, it's air-conditioned and cold." However, it soon became clear that workers were labouring in circumstances that were far from "the best of conditions". In fact, what also helped the virus to spread so easily was the fact that many of them were living together in cramped quarters and travelling to the plant together in shared cars or public transport. Why? Because they were migrant workers, primarily from Romania, Poland and Bulgaria, hired indirectly by "subcontracting agencies" to work at the slaughterhouse. Suddenly, *The Jungle* didn't seem like ancient history anymore.

"This is not just a German but a European problem."

An open secret

Germany is renowned for its strong industrial relations system. Yet over the past few decades, companies in the meat sector have managed to find holes in the fabric of this system by hiring workers under various "alternative" forms of contract, such as sub-contracted, temporary agency and posted work. Official information about the incidence of contract workers in the meat industry is only available for some companies, but Specht estimates that in 2020 some 30-35000 workers (around one third of the meat industry workforce) had a precarious status, in some plants accounting for up to 80-90% of the workforce.¹ Specht explains the implications of this: "Tönnies is not at all responsible for any of their working or living conditions. [The company's] line is: 'My main workforce is not mine'. Covid-19 put a spotlight on the situation."

It became clear from multiple research and investigative reports that subcontracting in this sector had become a business in itself.² In their work on this topic, researchers Dorothee Bohle and Cornel Ban discovered this system to be sustained by a vast and complex "archipelago of recruiters". Bohle, professor of social and political change at the European University Institute, explains how "almost mafia-like subcontractors recruit and channel people to more powerful middlemen," who have contracts with the large German companies. In fact, "mafia-like" is a term that often comes up in interviews in reference to what Ban, associate professor at Copenhagen Business School, calls the "understudied actors of big meat" – from German multinationals to small-time recruiters in Romanian villages. In Bohle's words: "everybody benefits".

Such a system of precarious contracts made the monitoring of conditions and accordance with labour law that much more difficult. One of the biggest problems was working time: according to trade union sources, workers had often been found to be working 10, 12, even 16 hours a day. The next and related issue was pay. Despite the introduction of a statutory minimum wage in Germany in 2015 (currently €9.35, which is already lower than other western EU countries), unpaid overtime and unjust subtractions from salaries for living and travel costs meant that these workers were often earning far below what they should have been. This migrant, casual workforce was also to a great extent blocked from workplace representation. As Armin Wiese, NGG Detmold-Paderborn managing director and officer responsible for the Tönnies

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plant, explains, "The subcontracted workers could not participate in the [works council] election [with some exceptions]. As a result, these employees were not seen as part of their own workforce and therefore less responsibility was shown towards them." This, combined with "language barriers, a large fluctuation, and the poor experience of eastern European workers in their homelands with trade unions," made this mobile workforce a difficult group to organise. Finally, the problematic health and safety situation was further exacerbated by a low rate of workplace inspections, which were critiqued for often being announced in advance, giving the employers time to prepare.

Feeling the pressure

According to Thorsten Schulten, head of the collective agreements archive of the Institute of Economic and Social Research (WSI), things weren't always this way: "Up until the 1990s, we had branch-level collective agreements, so there was relatively high coverage. But then the whole system changed." The German meat industry began to rely heavily on labour from eastern

1. For more information on the structure of the German meat industry and its workforce, see Erol S. and Schulten T. (2021), WSI Report 61, p. 9.
2. See Solomon E., Hopkins V. and Vladkov A. (2021) "Inside Germany's abattoirs: the human cost of cheap meat", *Financial Times*, 8 January 2021.

Europe, first via bilateral quota agreements with individual countries, before these were rendered unnecessary by the EU enlargements of 2004 and 2007. The Posted Workers Directive (1996) gave workers and agencies the "freedom to provide services" in another EU country, while remaining under the labour law and social security system of their home country³. In the absence of a statutory minimum wage in Germany (until 2015), this also meant workers could be paid the (far lower) pay rates of the sending country. In 2015, German firms agreed to stop using posted workers, instead turning to subcontractors based in Germany — now migrant workers were employed according to German law, but critics maintained that unlawful practices on the part of subcontractors, together with these large companies' abdication of employer responsibility, meant that abuses continued. Schulten is adamant: "The German meat industry has been following a wage dumping strategy and been very successful at it. The whole business model relies on cheap labour." In his view, the reinstatement of industry-level bargaining is a vital element to achieving true reform.

But this is not just about Germany. After a reflective pause, the NGG's Johannes Specht comments: "Trade unions in many countries are very interested in what is happening here because Tönnies was putting pressure not only in Germany but also in other countries because it was the number one producer. The NGG was even sometimes blamed because slaughterhouses elsewhere kept being closed down." This is something that Enrico Somaglia, deputy general secretary of the European Federation of Food, Agriculture and Tourism Trade Unions (EFFAT), would concur with: "A very negative process has developed around Europe, because to remain competitive, in other countries the sector had to launch similar processes like subcontracting. Our affiliates complain a lot because a lot of jobs have been lost due to the unfair competition in Germany." This process has been further intensified by the development of large retail chains with greater bargaining power, which demand cheap meat and a lot of it; Bohle points in particular to the influence of such German discounters as Aldi

→ **Wiebke Warneck,**
EFFAT's Political
Secretary for the food,
drink and tobacco
sector. Photo:
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and Lidl, which she calls a "special breed" due to their emphasis on bargain prices. In this chain of pressure to maximise profits and drive down labour costs, the sector's firms, workers and trade unions across the continent all feel the heat.

According to the "Meat-up Ffire" report, an EU-financed research project on the pork value chain, compared to Germany, several other meat-producing countries, particularly in northern Europe, have maintained higher labour costs and wider collective bargaining coverage in this sector. In Denmark, for example, a very high unionisation rate and an absence of subcontracting has kept slaughterhouse workers, both native and migrant, better protected. But such an industrial relations landscape is, unsurprisingly, not always seen as the most "favourable" environment for big business. Multinationals such as Danish Crown (Denmark) and Vion (the Netherlands) have moved many of their facilities to Germany over the years. In Belgium, where the labour costs in the industry are also comparatively higher and a binding industry-level agreement is in place, companies also began to relocate or subcontract activities to Germany. This actually culminated in a formal complaint about unfair competition and social dumping from the Belgian economy and employment ministers to the European Commission in 2013. In Italy, meanwhile, where the sector is more fragmented into smaller businesses, trade unions are facing issues of "bogus co-operatives" and what EFFAT calls "collective bargaining dumping" — meaning the application of less favourable collective agreements than those in the meat sector through subcontracting to

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"multi-service" companies. These are just some of the ways that companies are trying to compete in a highly competitive European (and global) context. In the words of Somaglia, "The meat sector is facing major challenges everywhere in Europe."

A new chapter?

However, the wind could finally be blowing in the right direction for those pushing for reform. In December 2020, the Bundestag (German parliament) passed the Occupational Safety and Health Inspection Act (*Arbeitsschutzkontrollgesetz*), which immediately banned subcontracting in the meat industry (with a further ban on temporary agency work as of April 2021), as well as obliging the electronic recording of working hours and introducing a minimum workplace inspection rate, amongst other measures.

But will it be enough? Despite celebrating this watershed moment, unions still have many concerns, and not without cause. After all, hopes have been falsely raised before. Enrico Somaglia remembers, "In 2015, German companies committed to not using posted workers anymore. And in

3. See Rasnača Z., Bernaciak M. (eds) (2020) Posting of workers before national courts, Brussels, ETUI.

the same year, we had the introduction of the minimum wage in Germany. And we all thought, 'Ok now in Germany, it's over. There is no exploitation anymore.' But then they started with subcontracting."

The fear now is that companies will find ever-inventive ways of evading this new law. Before it was even passed, Tönnies was reported to have founded 15 subsidiaries with fewer employees. While there is still much debate about whether this action would be successful or was even intended to circumvent the lower employee threshold for the contract ban — Tönnies declared that this did not disprove its intention to hire employees directly — the NGG remains on guard. Meanwhile, the vast network of intermediaries studied by Bohle and Ban will most likely not be disappearing into thin air. As Bohle points out, "Where these major players are, these middlemen also own part of the real estate that is then rented to migrant workers. So they cannot disappear from there." And the companies themselves could start moving more facilities to other countries. In September 2020, there were reports of Tönnies planning a €75 million investment in a new pork-processing plant in Spain. Finally, as is clear from all of the above, working conditions in the meat industry is not just a German but a European problem, meaning that European solutions may be required. Bohle is certainly convinced of this: "[These practices] are going to be reproduced in other countries

unless there is really a European re-regulation of these working relations."

And this is exactly what EFFAT is fighting for. The organisation published "10 demands for action at EU level" which include "regulating the use of subcontracting in the meat sector" and "instituting a system of full chain liability covering both cross-border and domestic situations", "a legally binding EU instrument ensuring decent housing for all mobile workers", and "the urgent introduction of a European Social Security Number" to make it easier to perform checks on pay and conditions. In light of the chronic problem of ineffective workplace inspections, EFFAT are also calling for the greater empowerment of the European Labour Authority to carry out cross-border inspections. On this point, Wiebke Warneck, EFFAT's Political Secretary for the food, drink and tobacco sector, emphasises the importance of looking at the bigger picture: "Generally speaking, we don't have enough controls throughout Europe — the first big cut of labour inspectors came with the financial crisis. And it's not just an issue in meat. It's not just an issue in Germany."

Infamy has long dogged this industry, peaking at various moments in history, often due to consumer, environmental or animal welfare concerns. Sinclair's novel was a catalyst for the introduction of new food safety legislation in the United States.⁴ But the writer felt frustrated that his focus

4. The Pure Food and Drug Act and the Meat Inspection Act, 1906.

on working conditions went largely unaddressed, famously declaring: "I aimed for the public's heart, and by accident hit it in the stomach." This is a form of "dirty, difficult and dangerous" labour that we prefer not to speak of, that we outsource to the most vulnerable in our society who take on the burden of intense physical and psychological strain that it can involve. The enforcement of truly effective measures to protect them could mean a moment of reckoning for the entire industry. ●



FURTHER READING

Campanella P. and Dazzi D. (eds.) (2020) *Meat-up Ffire: fairness, freedom and industrial relations across Europe: up and down the meat value chain*, Milano, FrancoAngeli.

EFFAT (2020a) *Covid-19 outbreaks in slaughterhouses and meat processing plants: state of affairs and demands for action at EU level*, Brussels, European Federation of Food, Agriculture and Tourism Trade Unions.

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Erol S. and Schulten T. (2021) *Renewing labour relations in the German meat industry: an end to 'organised irresponsibility'?*, WSI Report 61, Düsseldorf, Institute of Economic and Social Research.

Wagner B. and Hassel A. (2015) *Labor migration and the German meat processing industry: fundamental freedoms and the influx of cheap labor*, *The South Atlantic Quarterly*, 114 (1), 204-214.

↓ Enrico Somaglia,
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