Challenges for regulating working conditions in the German parcel market

Andreas Schumann, 20th Königswinter Postal Seminar, 14.11.23
Instructions
How are you feeling right now?

I am doing very well ...

4.5
Which group would you categorise yourself in?

- Legislators: 2
- Administration: 1
- CEP Company: 3
- Consultancy firm: 5
- Other: 9
Challenges for regulating working conditions in the German parcel market

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Market shares throughout the CEP-Market

- DHL
- UPS
- DPD
- Amazon
- Hermes

24 companies (80 % revenue)

12,000 SME (companies 20 % revenue)
Critical topics

- Illegal employment
- Misuse of social benefits
- Undeclared work
- Violations of minimum wage law
- Working time violation
- false self-employment
- Unauthorised temporary employment
- Violations of employment protection
- low-wage sector
- lack of collective bargaining
- lack of works councils
- Self-employed bogus self-employment / temporary employment
- reduce Subcontractors, subcontracting chains
- reduce inferior forms of employment
Critical topics

Violations

- Illegal employment
- Misuse of social benefits
- Undeclared work
- Violations of minimum wage law
- Working time violation
- False self-employment
- Unauthorised temporary employment
- Violations of employment protection

Desirable

- Low-wage sector
- Lack of collective bargaining
- Lack of works councils
- Self-employed bogus self-employment / temporary employment
- Reduce Subcontractors, subcontracting chains
- Reduce inferior forms of employment
Which parties are responsible for the deficiencies in the market or should correct them?
## Results of the customs audits

<table>
<thead>
<tr>
<th></th>
<th>Minimum wages offences</th>
<th>Lack of work permit</th>
<th>False self-employment</th>
<th>Withheld social security contributions</th>
<th>Immediate obligation to report social insurance</th>
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Results of the customs audits

447 negative control results for 5000 controls = 9% of these

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<td></td>
<td>39%</td>
<td>8%</td>
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88% in focus
COMPATIBILITY OF A DIRECT HIRING
REQUIREMENT IN THE DELIVERY OF
PARCELS WITH CONSTITUTIONAL
AND UNION LAW

VEREINBARKEIT EINES
DIREKTANSTELLUNGS GebOTS
IN DER PAKETZUSTELLUNG MIT DEM
VERFASSUNGS- UND UNIONSRECHT

Dipl. Jur. Anneliese Kärcher
Prof. Dr. Manfred Walser, LL.M.
At what rate of established violations should a ban on the use of subcontractors be discussed as a possible solution?
map of the laws

Postal Act
licence or notification obligations
parcel deliverers protection act
EU Mobility Package II
Working time recording
Undeclared Labour Act

Working Hours Act  Supply Chain Due Diligence Act (LKSG)
EU-Minimum Wage Directive  Minimum Wage Act
Whistleblower Protection Directive  Works Constitution Act
Collective Labour Agreement Law
Critical topics | update existing regulations

- Violations
  - Illegal employment (not in focus)
  - False self-employment (not in focus)
  - Misuse of social benefits
  - Undeclared work
  - Violations of minimum wage law
  - Working time violation
  - Unauthorised temporary employment
  - Violations of employment protection

- Working time recording - see EU Mobility Package II
- LKSG - implementation of human rights due diligence obligations
- Act to Combat Undeclared Labour - establishing cooperation with customs following detected violations
- Further development of licence and notification obligations - Parcel Carrier Protection Act - Prequalification - with a focus on critical topics
types of regulation

unregulated market

voluntary commitments

regulated self-regulation

state regulation
  rules
  prohibition

results - Blacklist
Cooperation with customs
  Documents, Suspected cases

Define test criteria – prequalification & certification
✓ Ensure billing of all hours
✓ Implementation of immediate social insurance notification
✓ Risk assessment, company doctor
✓ ....
Fair CEP compliance label voluntary (as in the UK)

- Regular proof of implementation of legal requirements via audits e.g. voluntary use of digital tachograph for time recording
- Monthly data audit incl. traffic light system

Advantages for honest companies: less controls
types of regulation

unregulated market

voluntary commitments

regulated self-regulation

state regulation

rules

prohibition

Supply Chain Due Diligence Act

EU-Minimum Wage Directive

Whistleblower Protection Directive
What are the best approaches to improving working conditions in the parcel market?

1st: Fair CEP Compliance Label
2nd: Cooperation with customs
3rd: Supply Chain Protection Act
4th: Recording of working hours
5th: Development of prequalification
6th: Ban on subcontractors
The LAE CEP Index shows the current price development on the German CEP market on a monthly basis. Mit seiner Hilfe wird mehr Transparenz im Paketmarkt hergestellt.
#freeCEP

Ban on subcontractors
stop it!

BdKEP

for a free CEP market