



SOCIAL DUMPING IN RAIL



SOCIAL DUMPING IN RAIL - WHAT WE ARE TALKING ABOUT

Definition : Social dumping occurs when businesses abuse the opportunities offered by the free movement within the single market to undercut or evade existing labour standards and regulations, or to take unfair advantage of loopholes in the legislation, gaining competitive advantage over bona fide companies. Some employers hire the least protected workers with the cheapest salary and inferior working conditions to increase profit margins while preventing or reducing the collective representation of workers, geographically illustrated by the phenomenon of delocalisation/offshoring.

At sectoral level social dumping is visible when employers reduce their personnel costs by using (agency) temporary workers, subcontracting, bogus self-employment, non-organised workers and precarious contracts, among others.

The railway sector is experiencing an increasing number of unfair practices that are becoming more extended and frequent with the establishment of an internal market and more and more railway undertakings competing with each other. The following social dumping practices at European cross-border level and at national level are already observed in the rail sector.

1. Within **competitive tendering of rail public passenger services**, competition among the bidders often takes place on the basis of labour costs and competent authorities generally choose the lowest price offer which results in a general downgrade of the social conditions, also effecting the incumbent companies, and in job insecurity.
2. Unfair competition between railway companies takes place by **non-respect of working, driving and rest time rules**, having the drivers work for longer working hours without proper rest, exposing drivers to possible abuses and jeopardising safety. There is more and more evidence available. This social dumping practice is a particular problem in cross-border services because of missing rules and instruments for cross border monitoring and enforcement.
3. **Wage dumping** is increasingly observed in cross-border operations. Drivers and on-board staff with lower wages are working on the network of countries with higher wages to their home country conditions. This concerns freight and passenger transport and initiates a downward spiral with wages in the “high cost” country being put under pressure. In a next step railway companies are establishing subsidiaries or buy rail companies in a “low cost” country and then operating services in their home country with staff from a “low cost country” working under lower conditions and thus endangering jobs.
4. The common practice of **outsourcing** of e.g. cleaning services, catering services, on-board staff in night trains, track and rolling-stock maintenance and the increasing use of **temporary agency workers** even on a permanent basis, e.g. train drivers, train shunting

operators, train inspectors or on-board staff, creates precarious working conditions, precarious work contracts and is increasingly used as a method for cutting costs to the detriment of quality training, decent working conditions and it jeopardises safety.

5. **(Bogus) self-employed workers** have to take care of their social security, health insurance, etc... and collective bargaining agreements do not apply to them. The risk of employment lies with the workers themselves. In the rail sector self-employed train drivers offer via internet their services to one or more railway companies. This practice, which is expected to grow in the future, can pose problems not only in terms of social dumping but also in terms of railway safety. Apart from the problem of monitoring and respecting driving and rest time rules and other working conditions, there is also the problem of ensuring that the driver is properly trained on the safety system of the company using the driver. Issuing the additional driver certificate has to be done by the railway company the driver is working for. Consequently, problems arise when the same driver works for more than one company.
6. The so-called **Train Driver Directive 2007/59/EC** does not state a minimum duration of the training for the drivers: the result is that the differences between the countries and the companies are considerable, varying from a few weeks to 8 months. All practitioners confirm that a serious professional training to become a qualified train driver is not possible in a few weeks or even a few month. Again, for cost cutting reasons safety is jeopardised and the good practices of companies that invest in high quality training for their drivers is endangered.
7. With the establishment of an internal market for rolling stock maintenance services through the ECM system (**Entities in Charge of Maintenance**¹) we observe considerable quality differences between the maintenance performed by the different ECM workshops. Companies cut costs by executing the maintenance in countries with lower salaries but it becomes a social dumping fact when lower costs are based on insufficiently trained and qualified personnel in the maintenance workshops.
8. Also the lack of European rules on qualification and quality training for safety relevant railway professions other than locomotive drivers creates unfair competition between companies investing in high quality training and companies saving in training. It is not true that only companies are liable in the case of accidents and thus bearing the risk; also operational railway staff with safety task thus as on-board staff, train inspectors or dispatcher, is liable and threatened to be sent to criminal courts. Proper training is essential.

¹ See Regulation EU/445/2011