Like everything else, this anthology has its history. For several years, research has been conducted on truck drivers' changed working conditions at the Center for Labor History at Lund University. During this time, several seminars, workshops and more or less unorganized conversations between different researchers have been carried out. Early in 2017, a number of researchers from different disciplines and countries, professional drivers and trade union representatives, gathered in Landskrona to discuss topics like working conditions and work environment in the trucking industry, field technologies and fleet management, gender and trucking, truck driver culture, truckers in popular culture, etc. at a two-day symposium. Some of the texts presented at this symposium have been collected in the following edited volume. The authors have different backgrounds (truck drivers and researchers), which means that the texts have somewhat different characters and designs.

The overall objective of this edited volume is to discuss how the truck driver profession has changed over time, and how underlying processes are related to changes in the industry of commercial transportation as well as to societal changes in general. The period covered by the articles ranges from the 1960s up to now. One basic idea that connects the included chapters is that changes in contemporary working life consist of a number of interwoven conditions and processes and that these, for example neoliberalism, transnationalism and gender order, can be made visible by focusing on a specific profession from different perspectives.
Truckers
A profession in change
Previous publications in Skrifter från Centrum för Arbetarhistoria:


The picture shows the truckers Djordje Sadiković and to the right Ebbe Bengtsson, representing the Malmö-based hauling firm GP-Last at a truck meet that occurred sometimes in the early to mid-1980s.

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Law and Order or Social Dumping in the Road Haulage Industry?

Annette Thörnquist

– Hi friends, Tommy here from Transport, Law and Order in the Haulage Industry.
– Hello, hello, Jimmy’s here too.
– Yes Jimmy, today something has happened.
– Yeah, indeed something good has happened.
– This is a historical day for the Swedish Transport Workers’ Union. Today, Jimmy and I have signed a posting agreement with a Romanian hauler. This is as far as we know the first time ever. The hauler runs a company in Sweden and has a subsidiary in Romania. He operates around the combi-terminals here and makes some trips to Denmark and Norway.
– Yes, he does 90% combi-transport and 10% cabotage.¹

Introduction

The conversation above is taken from a short video published on Facebook in early February 2019. Tommy and Jimmy are the leaders of the program “Law and Order in the Haulage Industry” (Ordning och reda i åkeribranschen) at the International Department of the Swedish Transport Workers’ Union (Transport). The aim of the program is to prevent and combat low-wage competition and erosion of collective agreements and established labor standards. The arrangement the trade union officers so proudly present concerns a posting agreement applying to the hauler’s company in Romania and a related application agreement² for his company in Sweden. This company – a medium-large company with 12-15 road tractors – is registered in Sweden, but the hauler uses drivers from the Romanian company.

Why then, is this arrangement so important? How can these agreements with a single hauler help to counteract the problems with low-wage competition and social dumping in the Swedish

² In Swedish “hängavtal”.


road freight transport market? To answer these questions, it is necessary to consider the wider national and European context of the problem.\(^3\)

The freedom of movement of goods, services, capital and people are the fundamental four freedoms of the European Union (EU). However, these freedoms have not always been in line with the social interests of individual Member States. The prime aim of the EU and its predecessor, the European Economic Community (EEC), has been economic integration, while social harmonization has lagged behind.\(^4\) This became evident with the southward enlargement of the EU in the 1980s, and even more with the eastward enlargement in the 2000s.

The economic and social cleft between the old and new Member States is a breeding ground for social dumping, as it allows employers to exploit this cleft by “shopping” between applicable regulatory regimes in order to reduce labor costs and gain a competitive advantage (“regulatory arbitrage”).\(^5\) Social dumping refers to “the practice undertaken by self-interested market participants, of undermining or evading existing social regulations with the aim of gaining a short-term advantage over their competitors”.\(^6\)

The freedom of establishment and the freedom to provide services, currently manifested in the Treaty on the Functioning of the European Union (TFEU) (signed in Lisbon 2007), and in the Service Directive (2006/123/EC), shall guarantee the mobility of businesses and services. However, the possibility for EU citizens to start and run enterprises in a fellow Member State has also been used to flag-out companies to low-wage countries, or to establish “letterbox companies” with the purpose of evading fiscal and social obligations in the home countries. Another problem is that EU regulations aimed at protecting the environment and the rights and safety of workers, often have been circumvented or misused.\(^7\) As Magdalena Bernaciak has put it:

Tensions between the existing constraints and the possible short-term benefits of evading them are inherent in the capitalist system of production and accumulation; as a result, social dumping is practiced by different groups of actors in a variety of market settings.\(^8\)

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3 The paper draws on oral information from the Swedish Transport Workers’ Union and the nation-wide industry organization, the Swedish Association of Road Transport Companies, as well as a variety of written material (such as statistics, reports and media material) from these organizations, from the Swedish authorities and from the European Commission. Relevant academic literature has also been used.


The development of the European road freight transport market in recent decades is a striking example of these tensions. With this insight, based on experiences gained in real life, the Swedish Transport Workers Union decided to launch the project “Law and Order in the Road Haulage Industry” in 2015. Two years later, the project was made a permanent part of the trade union’s International Department.

The Swedish road freight transport industry for hire or reward consists of several sub-sectors, including specialized transport for different industries and operations, as well as non-specialized break-bulk cargo and container transport. Long-haul trucking accounts for around one-fourth of the industry.9 As in most other counties, the Swedish road freight transport industry consists mainly of small companies, while forwarding agencies (which traditionally have a strong position in Sweden) are large actors, including several multinationals, such as DHL, DB Schenker and DSV. Haulage companies without employees make up over 40% of the registered companies.10 The barriers to entry are low, which implies a significant risk of oversupply. This concerns non-specialized transport in particular, using truck tractors pulling trailers and containers.11 It is mainly in this part of the industry, where drivers are more interchangeable than in other sectors, we find low-wage competition and social dumping. This sector includes long-haul trucking, as well as port-trucking around the big sea ports, and so-called combined transport around the inland centers for multimodal carriage. Along with the increase of foreign trucks carrying out cabotage – and even more combined transport – the problem has begun to spread into the sector for scheduled goods transport as well.12

International transport carried out by Swedish haulers has strongly declined in the wake of increasing international competition in the liberalized and enlarged European road freight transport market. In 2016, international transport accounted for 8% in terms of ton-kilometers (or 2% terms of ton).13

Deregulation and market liberalization

The Swedish road freight transport industry has a comparatively long tradition of deregulation and market liberalization. The process of liberalization started with the introduction of a new Transport Act in 1963. This was over 20 years earlier than the vast majority of the other European countries. Most quantitative restrictions to market entry were lifted in the 1960s. After some years of delay due to an economic downturn in 1967-1968, and public concern over the social and environmental effects of increasing road freight transport, the liberalization process continued by

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9 Oral information from the Industry Director of the Swedish Association of Road Transport Companies, September 2018.
10 Statistics Sweden, 2018, Företagsregistret (The Company Register).
11 In Swedish, “dragbilsbranschen”.
12 Oral information from the Industry Director at the Swedish Association of Road Transport Companies, April 2018; Oral information from the leaders of “Law and Order in the road haulage industry”, Swedish Transport Workers’ Union, November 2018; Annette Thörnquist, False (Bogus) Self-Employment in East-West Labour Migration: Recent trends in the Swedish construction and road haulage industries. TheMES, Themes on Migration and Ethnic Studies, No. 41, Linköping University Electronic Press.
the mid-1970s. At the same time, quality control increased in order to improve road safety, work safety and environmental protection.\textsuperscript{14}

Like most countries in the Western World, Sweden had regulated the growing road transport market in the early 1930s in order to prevent unfettered competition, which was an immediate risk during the international depression. The aim was also to protect the rail transport sector. Strict regulations based on bilateral agreements and quotas governed the transnational European road freight transport as well, and cabotage (domestic transport operations carried out by non-resident haulers) was prohibited.\textsuperscript{15} In Europe, this structure remained largely in place until the mid-1980s, despite the fact that the Treaty of Rome (the Treaty behind the creation of the EEC) prescribed a free common road goods transport market to be implemented by the end of the 1960s at the latest.\textsuperscript{16} Moreover, road freight transport increased rapidly after World War II along with the strong economic growth and increasing international trade. However, most Member States preferred to keep the existing system, which included a certain amount of flexibility. The exception was the United Kingdom (UK), which underwent an even more radical liberalization process in the 1960s than Sweden.\textsuperscript{17}

It was not until the mid-1980s (with the establishment of the EU Single Market close at hand) that the process of deregulation and market liberalization started in earnest in Western Europe. The economic crisis in the 1970s was a contributing factor, but the immediate reason was that the European Parliament had taken the Council of Ministers to the European Court of Justice (ECJ) in 1983 for not implementing the common transport policy required in the Treaty of Rome. Along with the formal establishment of the EU in 1993, the intra-Union road freight transport market was deregulated as well (Regulation EEC No 881/92). Cabotage was now allowed, but a quota system was to regulate the distribution of cabotage licenses between the Member States until 1998 (Regulation EEC No 3118/93).\textsuperscript{18}

With the eastward expansion of the EU in 2004 and 2007, and the introduction of transitional restrictions on the free movement of labor from the new Member States, the European Parliament and the Council decided to clarify and harmonize the rules on cabotage. This resulted in the current Regulation on cabotage issued in 2009 (EC No. 1072/2009).

**Cabotage, combi-transport and social dumping**

As mentioned above, the Roman hauler carried out mainly combined transport operations in Sweden, and to some extent also cabotage. The trade union officers emphasized in their presentation of the posting agreement that the hauler, who had run the haulage company in Sweden for a couple of years, had gradually adapted the Romanian drivers’ wage level to the minimum wages in the Swedish collective agreement. Nevertheless, signing a posting agreement that regulated wa-

\textsuperscript{16} Treaty establishing the European Economic Community, signed on the 25th of March 1957, Articles 74-84.
\textsuperscript{17} Kritz 1976; Bayliss 1998.
ges and working conditions for non-resident drivers performing domestic transport temporarily in Sweden was a big step forward for the Transport Workers’ Union.

Both cabotage and combined transport have often been fraught with labor abuse and social dumping. According to the Regulation on cabotage, carriers who hold an EU Community license, which allows them to perform international transport operations in the EU, may carry out three domestic transport journeys in a host Member State within a seven-day period after the international transport. The primary aim of the Regulation is to reduce empty journeys and thus protect the environment and save transport costs. However, the Regulation has also been used for quite other purposes than to protect the environment. In practice, loopholes in the Regulation have made it possible for haulers to operate for longer periods in a host country without formally violating the cabotage rules, as long as they cross the national border once a week. This strategy, which has been discussed in terms of “big cabotage” or “systematic cabotage”, illustrates how non-resident carriers may act as domestic haulers in Western and Northern Europe by rotating their trucks continually between two or more countries, making three cabotage trips in each of these countries, and actively contributing to the downward pressure of transport prices. The fieldwork carried out by the leaders of “Law and Order in the Road Haulage Industry” confirms the prevalence of this practice.

Combined transport refers to the intermodal transport of goods between Member States under certain circumstances. The Council Directive on Combined Transport (92/106/EEC) states, among other things, that the goods must be moved by rail, inland waterway or maritime transport at a distance of more than 100 kilometers as the crow flies, and truck transport concerns the initial and/or final legs of the journey within a given distance. All haulers in the EU who have formal access to the occupation and to the market for goods transport between the Member States have the right to carry out the road haulage legs, which can also include crossing of a border. As with the policy on cabotage, the European Commission promotes combined transport for economic and environmental reasons; the idea is to reduce road freight carriage in favor of water and rail transport.

Like the Regulation on cabotage, however, the Directive on combined transport has been widely used as a “legal” way to undercut prices and wages, as well as to circumvent the rules on cabotage. It has become more and more common that haulers from low-cost EU Member States – or haulers in high-cost countries with subsidiaries in low-cost countries – hire parking stands and set up networks of bases in Western and Northern Europe, from which they operate more or less permanently. The drivers used in this system come from the newer EU Member States in the former Eastern Bloc, or from low-wage countries outside the EU, and they are paid on the basis of the wage level in their home countries. They work in periods, and the haulers – or labor market intermediaries – regularly transport them to and from the host countries. Many of these drivers


21 This distance is defined as: “between the point where the goods are loaded and the nearest suitable rail-loading station for the initial leg, and between the nearest suitable rail unloading station and the point where the goods are unloaded for the final leg, or; within a radius not exceeding 150 km as the crow flies from the inland waterway port or seaport to loading or unloading”.

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work under extremely precarious conditions, living in the trucks for months.  

According to the leaders of the program “Law and Order in the Haulage Industry”, these practices have increased dramatically in Sweden in recent years. One of their main tasks is to map out the prevalence of haulers carrying out combined transport or cabotage on a permanent basis in Sweden. Since the companies do not have a permanent establishment in the country, the haulers can evade tax duties as well. In other words, the union officers explore how haulers generate dumping of transport prices and wages by formally conforming with liberal EU regulations, but at the same time manipulating these regulations. The Swedish Transport Workers’ Union, as well as the European Transport Workers’ Federation (ETF), therefore strongly emphasize that haulage companies carrying out combined transport and cabotage on these terms must be immediately registered in the host country and comply with the tax duties required there. Moreover, drivers working temporarily in a host Member State, under an employer without a permanent establishment in this country, must be registered as posted workers, and are thus entitled the same rights to payment and working conditions as other posted workers.

**Posting of drivers – a controversial issue**

The Posting of Workers Directive (96/71/EC) also applies to the road transport sector. In practice, however, it has been considered difficult to implement the Directive on drivers working internationally. Moreover, the Member States have interpreted the Directive in various ways. The introduction of Directive 2014/67/EC on the enforcement of the Posted Workers Directive (96/71/EC) was an attempt to clarify regulations and facilitate enforcement. As regards the road freight transport sector, however, the implementation of the Directive also illustrated the problems of enforcement and controls. According to the Directive (Chapter IV, Article 9), as well as the Swedish Posting of Workers Act revised in 2013 (SFS 2013:351), employers posting workers for more than five days must register at the applicable administrative authority in the host country and designate a contact person. However, few foreign haulers operating temporarily in Sweden have followed the requirement to register. In contrast to the Netherlands, Belgium and France, for example, drivers carrying out cabotage have not been defined as posted workers in Sweden unless there is an agreement between the employer and the recipient of the transport services, and all other criteria of cabotage are fulfilled.

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23 “Permanent establishment” refers to “fast driftsställe” in Swedish.

24 “Law and Order in the Haulage Industry”, online video Facebook, 2018.


The Posting of Workers Directive has been further reviewed and revised in recent years. Through an amendment of the Directive adopted in the European Parliament in May 2018, posted workers were entitled to be paid on the basis of the applicable collective agreement in the host country, in accordance with the principle “equal pay for equal work in the same place”. However, the Parliament decided to exempt the road transport sector from this rule, until the European Commission’s proposals on posting of drivers included in the so-called Mobility Package (a major revision of the social regulations in the road transport sector) was approved.28

This decision, as well as the concrete proposals on posting, cabotage and drivers’ rest periods presented in the “Mobility Package”, caused massive protests from ETF and the national member unions.29 The Commission suggested that drivers of international transport (except for transit transport), who worked at least three days a month in a host country should be entitled the same rights as regards payment as other posted workers. Concerning cabotage, the Commission proposed free cabotage over a period of five days following the international transport operation.30

As regards drivers’ weekly rest periods, the rules in force allowed that the normal weekly rest of 45 continuous hours could be reduced to 24 continuous hours every second week. However, the Commission proposed two 24-hour weekly rests over a four-week period: in contrast to the regular weekly rest of 45 hours, EU law allows drivers to take the reduced weekly rest in the cabin as long as it has suitable sleeping facilities.31 Opponents regarded the proposal as a concession to profit interests. According to the ETF, as well as the Swedish Transport Workers’ Union, the proposed change would only mean more crowded parking areas with drivers from Central and Eastern Europe and from the Balkans living in the trucks for weeks, as well as more problems with fatigue and increasing accident risks.32

In the summer of 2018, the EU Parliament rejected all these proposals (including several amendments).33 By the end of the year, the EU Ministers of Transport agreed on a set of new proposals, which gained more acceptance among the trade unions. Among other things, the Ministers suggested that cabotage, as well as the road legs of combined transport, should be subject to the posting rules. The proposed rules on drivers’ rest periods were about the same as before.34

In January 2019, however, the Transport Committee of the European Parliament only came to a compromise on cabotage. This meant that the previous rules on cabotage should remain, but a truck should not be allowed to start a new cabotage trip in one and the same country until after

31 The prohibition against weekly rest of 45 hours in the vehicle is not quite clear, and it is often systematically violated.
a five-day waiting period. The proposals on drivers’ weekly rest periods and posted drivers’ pay-
ment were rejected. As the trade unions were not satisfied with the proposal on rest periods, the
President of the ETF’s Road Transport Section, Roberto Parrillo, welcomed the outcome of this
decision and concluded that the Members of the European Parliament had, in fact, “voted against
all attempts to make drivers sleep in their cabins for weeks and work for longer without rest”.

Hence, when the Swedish Transport Workers’ Union concluded the posting agreement and
the related application agreement with the Romanian hauler in early February 2019, the highly
controversial issue of the payment and working conditions of drivers on international transport
operations had been postponed indefinitely.

The importance of the agreements with the Romanian hauler

Why then, is the posting agreement and the related application agreement between the Swedish
Transport Workers’ Union and the Romanian hauler, so important? How can this arrangement
help to make a difference with regard to the problems of low-wage competition and social dum-
pling in the Swedish road freight transport industry? The agreements are of great principle impor-
tance in at least three respects.

First, the agreements acknowledged the Romanian drivers on cabotage and combined trans-
port operations as posted workers. As shown above, the question of whether or not drivers should
be regarded as posted workers was still an apple of discord in the EU as well as in Sweden in
February 2019.

Second, the parties also showed that it was possible to conclude a posting agreement with an
Eastern European company that entitles drivers performing these forms of transport “the same
wages for the same work in the same place”. Thus, both parties were prepared to set an exemple
that aimed to counteract the exploitation of the economic and social cleft between East and West
in the enlarged EU.

Third, as the collective agreement entitled the drivers a monthly salary including the social
protection implied in the agreement, it also eliminated the possibility to use bonuses, such as dis-
tance-based pay and allowances, in order to evade social security contributions (for the employers)
and income tax (for the workers).

Normally, drivers from the newer Member States in the former Eastern Bloc are paid in accor-
dance with the very low statutory minimum wages in these countries, and on top of that distance-
based pay and allowances that are not subject to tax and social security contributions in their
home countries. There are considerable differences in the east-west divide as regards forms of
payment of international drivers. While the share of the gross salary consisting of travel allowan-
ces and other components not subject to social contributions was 10-23% in older Member Sta-

36 In April 2019, the Members of the European Parliament voted that foreign drivers within the country in which they
are working should be paid the same as domestic drivers doing the same work, and that the posting rules should
apply to cabotage and to cross-border transport operations (with some exceptions).
37 Alessio Sitran & Enrico Pastori, Social and working conditions of road transport haulage. Policy Department B:
Structural and Cohesion Policies, Brussel: European Parliament, 2013; Haidinger, 2017; European Transport Wor-
kers’ Federation (ETF), Modern Slavery in Modern Europe? An ETF account on the working and living conditions
of professional drivers in Europe, Brussels, 2013.
tes, such as Luxembourg, Germany, Belgium and France, the share in Poland, Lithuania, Romania and Bulgaria was 61-76% (in 2016). It is difficult not to regard this as a way of systematically evading taxes and social security contributions. Accordingly, it also means that drivers paid on these terms are poorly protected by social insurances such as sick pay and pensions. Moreover, allowances are paid only during working hours, making the workers even more vulnerable.

As regards payment based on the distance travelled or the weight carried, Regulation (EC) No 561/2006 “on the harmonization of certain social legislation relating to road transport” states that this form of payment is not allowed “if that payment is of such a kind as to endanger road safety and/or encourages infringement of this Regulation” (Article 10:1). This Regulation has been interpreted in various ways, and it has been frequently circumvented in order to gain a competitive advantage.

Thus, the agreements with the Roman hauler also highlight the need for a structural change in the way drivers from the newer EU Member States, or from other low-wage countries, generally are paid when working in the West. It is not known from the negotiations whether, and if so, to what extent the hauler had used allowances and distance-based pay previously. What is clear, however, is that after negotiations with the trade union officers, the hauler considered that having a collective agreement served the interests of both the company and the drivers.

The leaders of “Law and Order in the Haulage Industry” concluded their presentation of the agreements in the Facebook video by saying:

Now Jimmy and I will approach another hauler, who does business in Sweden in exactly the same way as the Roman hauler, using drivers via his company in the home country. There is no reason why this guy shouldn’t sign a collective agreement as well.

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38 Comité National Routier, *Comparative study of employment and pay conditions of international lorry drivers in Europe*. CNR European Studies, Paris 2018.


40 Oral information from the leaders of “Law and Order in the Road Haulage Industry”, 15 February 2019.

References


Comité National Routier, Comparative study of employment and pay conditions of international lorry drivers in Europe. CNR European Studies, Paris 2018.


European Transport Workers’ Federation (ETF), Modern Slavery in Modern Europe? An ETF account on the working and living conditions of professional drivers in Europe, Brussels 2013.


European Parliament, Committee on Transport and Tourism, Report PE 615.504v02-00 A8-0206/2018.


Scharpf, Fritz W., The Asymmetry of European Integration or why the EU cannot be a “Social Market Economy”, KFG Working Paper Series, No. 6, Kolleg-Forscherguppe (KFG), Berlin 2009.


Videos

“Exploitation across Europe in road transport supply chain automotive industry”, FNV Vakbond, online video, 2018. Available at: https://www.facebook.com/FNVonline/videos/472538059913814/UzpfSTE1MDk1ODc0NDk2MDU4NToxOTg5NDM1NDg0NDQ2MjI2/?q=fnv%20vakbond.

“Law and Order in the Haulage Industry”, Swedish Transport Workers’ Union. Online video Facebook, 2018. Available at: https://www.facebook.com/Transportsordningochreda/videos/583593105424707/?q=ordning%20och%20reda%20i%20%A5keribranschen&epa=SEARCH_BOX