

UNION OF ENTREPRENEURS AND EMPLOYERS



PROBLEMS
OF POLISH
ENTREPRENEURS
IN FRANCE



WARSZAWA, JUNE 2021

INTRODUCTION

The stereotype of a Polish plumber

landed on the scrap heap. Unfortunately, only in a metaphorical sense, not literally. When in 2004 Poland, along with 9 other countries, joined the European Union, France was afraid its economic and social model would be ruined. Even though seventeen years have passed, the desire to protect the domestic market has to this day remained actual in France and has been severely affecting Polish entrepreneurs and the single market.

This report is a collection of stories as told by entrepreneurs about the problems they encountered while making business in France. In the first part, we look at these problems from the point of view of individual companies. In the second part of the report, we present selected legal issues that limit the possibilities of cross-border economic activity in France, whereas in the final part of the report, we outline the problem of slander against Polish entrepreneurs in French media.



The aim of this study is not to present a comprehensive picture of the state of affairs. It rather is an attempt to gather materials necessary to start a debate on the problems Polish companies face in cross-border economic activity.

We encountered serious methodological limitations while compiling this report.

Many of the entrepreneurs that we spoke to were afraid to discuss their experiences with French authorities, while others asked for confidentiality. Entrepreneurs feared repercussions in the form of further deterioration of relations with French public authorities or contractors. Therefore, fear is an important factor limiting the availability of data on the problems of Polish entrepreneurs.

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ENTREPRENEURS' STORIES

FOOD INDUSTRY

PROBLEM

FructoFresh is a Polish company established in 2004, with its official seat in the rural commune of Gubin. From the beginning of its activity, it has been operating in the food industry, producing mainly fruit salads.

FructoFresh sells its products in eight European countries: Austria, Belgium, Denmark, France, Germany, Luxembourg, Switzerland and Poland.

Firma FructoFresh (hereinafter “FF”)

has had operations on the French market since 2007. Its problems began just 10 years later when Delifruits, a French competitor, launched a smear campaign against FF. An expert from Delifruits claimed to have found a preservative in FructoFresh products called Velcorin. Velcorin is the trade name for E242, an organic compound is allowed in beverages, but not in food, including fruit salads. Furthermore, it was alleged that FF illegally employed Asian workers.

Both allegations received widespread coverage in French media. **Respected titles such as Le Monde published slanderous articles [1], including one titled “Little North Korean Hands at FructoFresh in Poland” where it was claimed that “since 2004, this Polish fruit salad company has been winning market share by adding banned additives and employing North Korean workers in their factory” [2].**

The case went to court which, by interim measure, prohibited sales of FructoFresh salads on the French market, relying solely on the evidence provided by FF’s competitor. As a result, sales of FF produce in France decreased by 90% and its overall turnover by 50%. During the trial, the allegation of violating labour standards was quickly withdrawn. Asian workers have been employed legally and for many years. Moreover, FF underwent a detailed social audit which did not reveal any irregularities.



[1] https://www.lemonde.fr/planete/article/2017/02/03/les-salades-de-fruits-fructofresh-interdites-en-france_5073971_3244.html.

[2] https://www.lemonde.fr/planete/article/2017/01/26/les-petites-mains-nord-coreennes-de-fructofresh-en-pologne_5069357_3244.html.



As for the use of banned preservatives,

the Polish Sanitary Inspection investigated at the FF headquarters a few days after the introduction of the French sales ban. The investigation showed that no traces of Velcorin were found, and that FF adhered to the highest sanitary standards. The products were also tested by the French distributor who supplied the Polish product to the French market and who also found no irregularities at all. FructoFresh won and was able to resume sales.

Nevertheless, FructoFresh did not have to wait long for another lawsuit. Already in December 2017, the French competitor presented a report by a court expert that FF salads contained methanol, allegedly derived from the decomposition of Velcorin (this substance decomposes into carbon dioxide and methanol in a watery environment). However, the expert forgot to inform the court that methanol occurs naturally in the fruit as a by-product of fermentation and is not harmful to health. Thus, he tried to mislead the court as to the source of methanol.

After three years of legal proceedings, the Commercial Court in Creteil dismissed all charges against FructoFresh and only then the sales ban, imposed as an interim measure, was finally lifted. Nonetheless, the effects of the smear campaign weigh the company down to this day. Despite significant marketing and PR efforts and investments, it is difficult for the Polish producer to regain the confidence it lost. Moreover, French banks servicing FF's accounts refused to run them, which caused serious problems of customer service nature.

REGULATORY SIGNIFICANCE

The relevance of this matter goes beyond the highly specific situation of FructoFresh. This case is part of a wider regulatory issue related to the use of preservatives. Potassium sorbate, also known as E202, is a widely used food preservative historically used in fruit salads. In 2013, the use of E202 in fruit salads was prohibited under regulation 1333/2008. Most member states have correctly implemented this regulation and eliminated the use of potassium sorbate.

The implementation forced FructoFresh and many other companies from the food industry to adapt their production to the new requirements. For FructoFresh, this meant a multi-million dollar investment in R&D. As a result, FF developed a production technology that allowed to launch onto the market a fruit salad with a 14-day-long shelf life without the use of preservatives. In December 2019, FructoFresh obtained a patent for the production of fruit salads with an extended shelf life.





This process could have been different for companies in other member states,

in particular those from France.

The French Direction Générale de la concurrence, de la consommation et de la répression des fraudes (DGCCRF – Directorate General for Competition, Consumers and Fraud Control) in Réponse d'intérêt general n° 2013-57 DGCCRF stated that the use of potassium sorbate in fruit salad is illegal under regulation 1333/2008.

However, as a result of pressure from French fruit salad producers, the decision to ban potassium sorbate was temporarily suspended. Subsequently, the Association des Entreprises de Produits Alimentaires Élaborés (Association of Food Processing Companies) filed a motion to the European Commission for an extension of the license to use sorbates in fruit salads. The Commission rejected this request.



French producers argued that the production of fruit salads without the use of potassium sorbate was impossible. While the patent granted to FructoFresh proved the contrary to be true, it is important to understand the reasons for the opposition of French companies. First of all, French companies believe that producing fruit salads without E202 is impossible, because they produce most of their products outside the EU, in such countries as Turkey or Morocco, where labour costs are much lower than in France. The transport itself from these countries takes 2 to 3 days, which explains the need to use preservatives.

Secondly, ensuring an extended shelf-life without the use of preservatives requires investments in modernisation of production facilities. In the case of France, production facilities date back to the 1980s and early '90s, which in turn increases the costs of the necessary modernisation investments. Thus French authorities allow French companies to build their position through the violation of European law and to the detriment of both consumer safety and the integrity of the single market.

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SERVICES INDUSTRY

PROBLEM

Aterima Work (hereinafter “AW”) is a temporary employment agency based in Poland.

Its activity focuses on three main pillars: temporary work services, legal employment of foreign workers, and recruitment of specialists and managers.

AW was established in 2015 and expanded to France in 2018. The company completely ceased its operations on that market in July 2020.

Over the years 2018-2020, the French L’inspection du travail (Labour Inspectorate) investigated Aterima Work 15 times. This means that, on average, AW was inspected every two months. Initially, the inspectors looked for potential signs of violating labour standards for which they could punish the company. Despite frequent inspections, the inspectors found evidence of any such violations.





Subsequently, Aterima Work was accused of operating illegally,

as it did not have registered business operation in France. These charges were brought in spite of the fact that Aterima Work was legally registered in Poland where it had its permanent official HQ. At the same time, AW did not have any infrastructure or employees in France. Moreover, the turnover achieved in France constituted merely a fraction of the total turnover achieved by the company.

During these inspections, AW faced very high penalties, both in financial terms and imprisonment. Inspectors also threatened to inform both the prosecutor's office and the company's clients that the Polish company was operating illegally. AW's clients never received an official letter from the French Labour Inspectorate. However, individual clients were unofficially informed that AW was operating illegally and that it was facing criminal charges (even though no criminal charges were ever officially presented to AW). As a result of this smear campaign and defamation, the clients decided to end their co-operation with Aterima Work, resulting in financial damage to the Polish company.

Officially, L'Inspection du travail has never completed any of its investigations.

Aterima Work has never been informed of the outcome of any investigations or the termination of any investigations. Therefore, the inspections continue as a matter of fact to this day. More importantly, however, Aterima Work has never received any administrative decisions or fines. Accordingly, AW has had no grounds to appeal against the actions of the French Labour Inspectorate. Thus, the Polish company was deprived of the possibility to pursue claims, while suffering the consequences. Aterima Work submitted a petition to the European Parliament.

The next stage of the case seems to be bringing proceedings for illegal activity conducted by AW to court. The Labour Inspectorate claims that the case was referred to the appropriate court and the first hearing is scheduled for November 2021. However, the representative of Aterima Work has not been officially informed about the accusations brought against him or the date of the hearing. If the hearing does indeed take place, such procedural violations will undoubtedly have a negative impact on the right to a fair trial on part of the AW representative, which is guaranteed under Art. 6 of the European Convention on Human Rights.



Frequent inspections are a heavy burden for Aterima Work to carry – both in administrative and financial terms.

In order to meet the requirements of the French authorities, a Polish company must have an extensive legal and administrative infrastructure. This leads to an increase in costs as well as to a reduction in the competitiveness of Polish enterprises.

At the same time, it is important to bear in mind the psychological effects and emotional costs associated with these controls. The representative of Aterima Work has been threatened with imprisonment and is now allegedly on trial, which limits his ability to prepare a fair defence. Constant controls created an atmosphere of permanent fear and uncertainty. This harassment led Aterima Work to opt out of providing services in France.

Worse still, despite having ceased all operations in France, the harassment by the French authorities seems to be ongoing.

Droits

L'emprunteur convient de payer toute diminution ou un dédommagement si l'emprunteur peut présenter contre le dédommagement ou en présentant de l'emprunteur d'effectuer les paiements, recours ni constituer un moyen de l'emprunteur aux termes du présent reconnaître que le texte précédent concernant les assurances, notamment

Tous les paiements au titre du prêt de ce dernier à l'emprunteur. Tout paiement au public sera réputé, aux fins du cours duquel le prêteur est ouvert, des intérêts, calculés au taux d'intérêt en défaut, le prêteur peut affecter au contrat chaque paiement reçu du débiteur, y compris les intérêts, de sorte que l'intérêt établi, ou, en cas de retard, les intérêts composés mensuellement.

L'emprunteur s'engage à payer les frais et coûts de la manière suivante :

- a) Les intérêts courus sur le capital emprunté seront exigibles et payés par le 15 du mois de septembre de l'année suivante.
- b) A compter de la date de rajout du capital, les intérêts, calculés à l'annuité, d'un montant de \$ 100,00, seront payés à la première date de versement des frais et des autres dépenses, sur demande, avec l'intérêt, moyennant le taux d'intérêt applicable au contrat relatif à la durée du prêt. Le taux d'intérêt applicable sera le taux d'intérêt en vigueur pour la durée du prêt, tel que pratiqué par le prêteur.

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REGULATORY SIGNIFICANCE

Frequent controls and constant harassment prevented Aterima Work from doing business in another EU member state. While AW is the only company to express its protest against such practices, we know of many others that experienced the same discrimination. These cases may lead to the conclusion that such protectionist practices are actually of a systemic nature.

The conduct of the French Labour Inspectorate undermines the fundamental value at the heart of the internal market, namely the freedom of establishment and to provide services guaranteed by Art. 49 and 54 of the Treaty on European Union. Such barriers to the provision of cross-border services are not only illegal and unfair, but also reduce the competitiveness of the European economy. Moreover, the significance of entrepreneurial freedom in an increasingly connected and digital world will only increase, making such practices cause for even more concern.

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TRANSPORT INDUSTRY

PROBLEM

Firma AB Trans [3]

has been active in the transport industry for over 30 years. It began its business operations in Poland with the purchase of three vehicles. Currently, it also operates in Germany, Austria, the Netherlands, Belgium and France, and has a fleet of several dozen trucks. Furthermore, AB Trans is regularly expanding the profile of its activity, offering new services in the field of servicing and diagnostics. As of now, it employs over 100 people.

At the end of December 2020, the driver of AB Trans was on his way to be loaded in the vicinity of Mulhouse. The mountain road was narrow and covered in snow. As the driver was approaching the hill, a snow-clearing vehicle passed him and, gesturing, informed that the conditions made it impossible to continue driving uphill.



[3] The names and dates were changed at the request of the company.



The AB Trans driver decided to turn back at the first possibility, but snowdrifts made it difficult to manoeuvre. A road service car drove up to another vehicle in the opposite direction. The officer asked if the driver of AB Trans truck was stuck and told him to wait. A quarter of an hour later, the police showed up and demanded to see the driver's license and documents of the driver without providing any legal basis for these actions and refused to return them. A Dépannage JOSSERON tow truck arrived within 1.5 hours. Meanwhile, the sun had melted the snow and road conditions improved. The AB Trans driver stated he was able to leave on his own and did not need towing services anymore. However, the police, without providing any justification for their actions, ordered the driver to follow them to the JOSSERON headquarters.

When they arrived at the JOSSERON parking lot, the policemen using google translate told the driver to "hand over the keys and get out of the car". They immediately turned the keys over to a JOSSERON employee. Thus an unlawful and unjustified confiscation of the AB Trans vehicle took place, the purpose of which was to extort remuneration for the unperformed towing services, worth almost EUR 3,000.

At the same time, the French company with permission granted by the police

refused any access by the Polish driver to his personal belongings or food. Moreover, when JOSSERON employees were leaving for an intervention, the driver of AB Trans was left without access to a warm room or toilets.

AB Trans reported the incident to the police and tried to appeal to a unit other than the authorities local for the JOSSERON headquarters. The reports were ignored. Then, AB Trans turned to the Polish diplomatic channels and obtained legal assistance. As a result of the intervention of the Polish consul and lawyer, AB Trans managed to recover the vehicle – but only two days later and after paying a fee of over EUR 3,200. JOSSERON also informed that there is no appeal procedure and never responded to AB Trans's letter of complaint

Subsequently, AB Trans turned to a SOLVIT Centre, a problem-solving network for the single market. Unfortunately, despite the presentation of all the required documentation and correspondence, the French branch of SOLVIT refused to act, pointing out that no administrative authority participated in the case with which the matter could be resolved by SOLVIT. The actions, or rather negligence, of the French police were not taken into account.

At the end of the day, the French department at SOLVIT advised AB TRANS to take the case to court or to the Civic Rights Ombudsman.



REGULATORY SIGNIFICANCE

The history of AB Trans is testament to more than the JOSSERON business model of piracy. It is proof of silent consent and passivity of the French police who allow for a bold limitation of rights and freedoms on the single market. Stopping the vehicle that was going to be loaded carries certain legal and economic consequences (the so-called contractor's failure to comply and potential penalties). However, one should not forget that, apart from the interests of companies and the single market, at the heart of the story, there was the driver – a man who was *de facto* arrested by a private entity and deprived of access to his personal belongings and food in the winter. Ultimately, such actions may violate fundamental rights as guaranteed by the EU Charter of Fundamental Rights, including the right to human dignity and freedom (Articles 1 and 6 of the Charter) and property rights (Article 17 (1) of the Charter).

Such actions by the French administration may have a deterring effect from engaging in cross-border economic activities. AB Trans suffered severe consequences resulting from the incident related to the failure to fulfil the contract, payment of the remuneration for the non-performance, hotel fee for the driver during the unlawful arrest of the vehicle, and legal assistance. Pursuing one's rights in court involves further financial expenditure, does not guarantee a win and raises the fear of deteriorating relations with public authorities. Therefore, enterprises often give up pursuing their claims.

All of these factors are burdens for businesses and, at the same time, barriers to the free provision of services on the single market.

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REGULATORY ISSUES

The French labour law is one of the most restrictive in the entire EU. A multitude of duties and frequently changing procedures are standard problems that entrepreneurs must face.

More importantly, French legislation contains provisions that directly infringe the fundamental freedoms of the single market.

DEFINITION OF A POSTED WORKER

The definition of a posted worker is essential in this context. The definition contained in Art. L. 1262-3 of the French Labour Law was amended by Art. 94 of Act 2018-771 of 5th September 2018 on the freedom to choose a professional future.

As a result of the amendment, Art. L. 1262-3 was replaced by the following excerpt: "a posted worker within the meaning of this title is any employee of an employer who conducts business outside France and who, while habitually working for that employer outside the territory of the country, performs his work on behalf of that employer in a limited period of time on the territory of the country under the conditions specified in Art. L. 1262-1 and L. 1262-2".



It is of key importance

to introduce a requirement of habitual employment with the posting employer. This means that the posted worker must normally be employed by the posting company in his country of origin before the start of the posting period.

The introduction of the new condition therefore makes it impossible to hire a worker for a secondment to France. It also becomes impossible to hire an employee who previously was unemployed or an employee who previously worked for another employer.

A practical effect of the amendment is the de facto ban on the activities of temporary employment agencies posting employees to work in France. For example, a Polish temporary employment agency will not be able to hire an employee to delegate him to work in France. Nevertheless, a French company will still be able to hire on a fixed-term basis to perform the same job.

The aim of the amendment is therefore to protect the French market against the influx of posted workers, and at the same time to distort competition in the single market.

Interestingly, the position presented by France is inconsistent with the Guidelines on the posting of workers, according to which Directive 96/71/EC also applies if the employment relationship arose for the job and did not exist before the posting period. Moreover, Advocate General Henrik Saugmandsgaard Øe in joint cases Vueling Airlines C-37/18 and C-370/17 stated that employing an employee for the purpose of posting does not mean that the employee is not to be subject to the rules of posting. The only necessary condition is the existence of an employment relationship from the beginning to the end of the posting period and the return of the employee to the country of origin after the end of posting.

The aim of the amendment is therefore to protect the French market against the influx of posted workers, and at the same time to distort competition in the single market.



DUTIES OF A REPRESENTATIVE IN FRANCE

Under Art. L. 1262-2-1 of the French Labour Code,

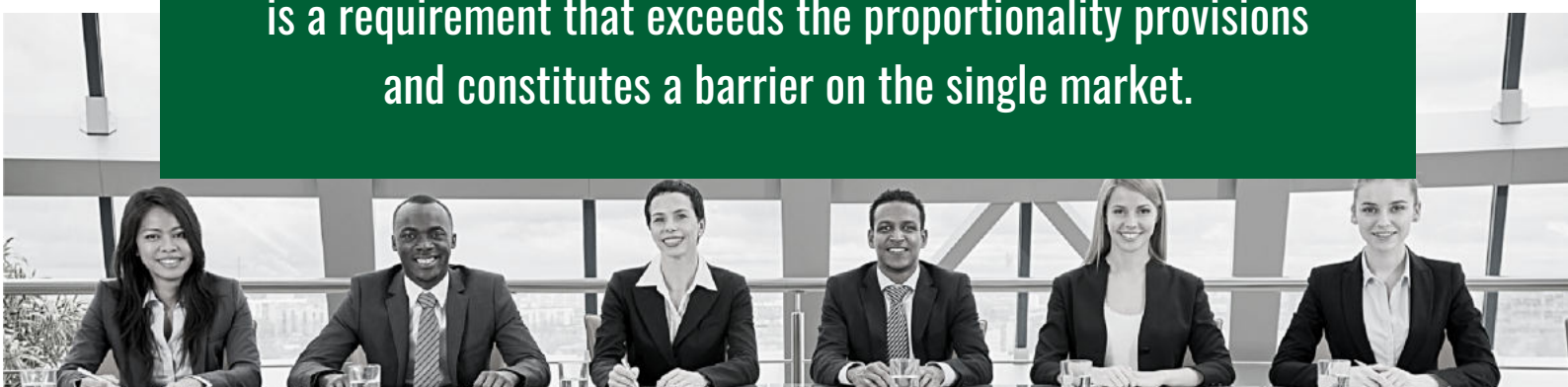
the French legislator obliged companies posting workers to have a permanent representative in France. His task is to act as a liaison officer with the French administration and to provide the authorities with relevant documents throughout the entire posting period.

Art. 9 of Directive 2014/67/EU is essential in this context, as it allows member states to introduce certain administrative requirements necessary for the effective implementation of the provisions of this Directive. Art. 9 sec. 1 (e) provides that member states may require the designation of a person to liaise with the competent authorities in the host Member State in which the services are provided and to send out and receive documents and/or notices, if need be.

It may therefore appear that the French requirement of a permanent representative is not in principle incompatible with the provisions of the directive.

Nevertheless, the proportionality principle contained in Art. 9 sec. 1 explicitly states that member states may only impose necessary administrative requirements. The requirement of a permanent representative in France for incidental transport companies is a considerable barrier and leads to high additional costs. Therefore, it should be stated that the absolute obligation to have a representative on French territory does not meet the proportionality requirements contained in the first sentence of Art. 9 sec. 1 and is a barrier to the single market.

**An absolute obligation to have a representative in France
is a requirement that exceeds the proportionality provisions
and constitutes a barrier on the single market.**



OBLIGATION TO BELONG TO A HOLIDAY FUND

An employer active

in the construction, public or entertainment and art sectors is required to join the holiday pay scheme appropriate for the industry [4]. Then he has to pay contributions on behalf of his employees towards paid and layoff leaves. Subsequently, holiday funds pay the leave benefits to the employees from the employers' contributions. However, employers who belong to some sort of fund or equivalent system in their country of origin are exempt from this obligation.

In Poland, the issue of paid holidays and layoff benefits is regulated by the Labour Code. The employer is obliged to guarantee a paid holiday and a standstill benefit amounting to 60% of the normal salary, which may not be less than the minimum wage.

These benefits are paid directly by the employer.



[4] <https://travail-emploi.gouv.fr/droit-du-travail/detachement-des-salaries/posting-of-employees/article/obligations-of-the-employer-of-posted-employees>.

In the case of employees posted to France

the problem arises to determine the equivalence between the payment of contributions to the fund, which then replaces the employer in the payment of benefits, and the statutory obligation to pay benefits. As a result, a Polish employer posting his employees to France incurs double costs related to holidays and layoff benefits, as he is obliged to pay them under the Polish Labour Code and to pay contributions towards them in France.

Art. 3 sec. 1 (b) of Directive 96/71/EC is essential in this context, as it imposes

the obligation to provide posted workers with employment conditions, including a minimum period of annual paid leave, which are in force in the member state where the work is performed.

However, the Directive does not specify how this right should be guaranteed, thus respecting the differences between the traditions of different Member States – for example between those with a high level of unionisation and those where collective agreements do not play such an important role.

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MEDIA

At the communication level, two major issues should be named: promoting the concept of social dumping and slandering Polish entrepreneurs in the French media.

The concept of social dumping wrongly stigmatises non-French employees.

First of all, the concept is based on comparing the illegal practice of launching products onto the market below their production price with the perfectly legal practice of performing work at a more competitive rate.

Secondly, it implies that the possibility of working in another member state is something forbidden, while in fact it is a fundamental freedom of the single market. Third, social dumping is often used in France as a scapegoat for social problems.

In this context, the report called “The Black Book of Delegated Work – 25 Years of Social Dumping” is an important example⁵. It was created by Identité et démocratie, a French group in the European Parliament.



Social dumping is often used in France as a scapegoat for social problems.

[5] https://francejamet.com/wp-content/uploads/2021/01/Livre_Noir_WEB.pdf.




The report begins with the following statement: “A great social drama is unfolding before our eyes.

In 2020, there will be more than 10 million people living in France in poverty, that is one Frenchman out six”. According to its authors the European Union is to blame, as is “sacrificed the French people to ruthless foreign competition”.

To better illustrate its tone, let us present quotes:

- “It is an undeniable fact that employing a posted worker in most cases is tantamount to keeping one of our compatriots unemployed.”
- “Transport dumping is (almost) ready! On 8th July 2020, the European Parliament adopted the Mobility Package.”
- “We [must] remember that this directive also has disastrous consequences for our welfare system and our pensions: posted workers bring our zero euros to our treasury!”

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The concept of dumping implies that the possibility of working in another member state is something forbidden, while in fact it is a fundamental freedom of the single market.

Slander against Polish entrepreneurs

informs the public François Nicolas Wojcikiewicz, a lawyer from the Quaerens law firm.

In his opinion, the slander campaign builds the image of Polish entrepreneurs as careless and reckless, and creates a climate in which it is easier to justify excessive controls and harassment.

To begin with, it is worth citing the articles in the Le Monde daily paper about FructoFresh, already discussed in this report, including one entitled “Little North Korean Hands at FructoFresh in Poland” [6]. In these articles, the Polish company was groundlessly accused of illegally employing workers from

North Korea as well as of using banned preservatives in food – both of which turned out to be untrue, which in turn was later confirmed by a court judgement [7].

A notable example is the website Charente Libre – the article “Scourge on the road” published there discusses the risks associated with Polish light trucks: “They never stop, they cross the country without observing any transport regulations. Small trucks, often Polish ones, have become a permanent element of our landscape. And they are being targeted by the police” [8]. The article cites a policeman claiming that the French authorities “keep an eye on these vehicles”, “have been trying to control them to the maximum for years” and “look after them”. The article also notes that “things often end in court”.

[6] https://www.lemonde.fr/planete/article/2017/02/03/les-salades-de-fruits-fructofresh-interdites-en-france_5073971_3244.html.

[7] https://www.lemonde.fr/planete/article/2017/01/26/les-petites-mains-nord-coreennes-de-fructofresh-en-pologne_5069357_3244.html.

[8] <https://www.charentelibre.fr/2020/10/21/les-roule-toujours-dans-le-viseur-des-amendes-et-la-prison-avec-sursis-une-grosse-boite-a-chaussures-dans-le-camion,3662274.php>.



Photo 1: Photograph published by Charente Libre

Then again, an article by Le Progrès, entitled “The death of a Polish driver reopens the discussion about trucks from the Eastern Europe” [9], apart from merely describing the event itself, contains the reactions of readers. Le Progrès quotes one of them: “How many more deaths do we need before our politicians, under European pressure, understand that, in addition to unfair competition, these 3.5-tonne vans running 20 hours a day, not respecting mandatory driving hours, are a threat to our lives?”. We find from this article that other Internet users quickly shared the above-mentioned opinion.

The final example is an article published by the website Actu.fr informing about the punishment of a Polish company by imposing a ban on cabotage in France for a period of one year [10]. Commenting on the article for the Polish journal Rzeczpospolita, Wojcikiewicz noted that in the region where the incident took place, 2,900 heavy goods vehicles were inspected in 2020 [11].

As a result of these inspections, over 640 violations of the law were found, of which 64 concerned cabotage. Nevertheless, it is Polish carriers that are presented to the public as the main threat on French roads, concludes Wojcikiewicz [12].

Photo 2: Article published by Le Progrès

Dimanche 27 septembre 2020

ACTU JURA ET RÉGION 11

JURA Collision

La mort d'un chauffeur polonais rouvre le débat des camionnettes de l'Est

L'accident a eu lieu sur la RN 83, au niveau de l'hôtel des Cèpages à Arbois, vers 20 h 30, vendredi 25 septembre.

C'est un drame de la route de plus, sur une RN 83 malheureusement coutumière du fait, qui s'est déroulé en début de soirée ce vendredi 25 septembre. Il était aux environs de 20 h 30, lorsqu'un petit camion bûché est entré en collision frontale avec un camion porte-véhicules.

D'importants moyens ont été déployés par les sapeurs-pompiers avec six véhicules et dix-huit soldats du feu engagés. Les secours ont procédé à la désincarcération du conducteur du petit camion. L'homme de nationalité polonaise n'a cependant pas pu être réanimé. Le second chauffeur impliqué, qui était au volant du poids lourd avec remorque immatriculé en Allemagne, a été pris en charge en urgence relative par les sapeurs-

pompiers. Il est toujours hospitalisé.

Nuit, pluie et vent

D'après les premiers éléments recueillis par les gendarmes, le petit camion de 3,5 t se serait déporté sur la voie de gauche dans des circonstances qui restent à éclaircir. Les conditions de circulation étaient difficiles ce vendredi soir, la chaussée était particulièrement glissante à cause de la pluie. Les analyses des différents tests de dépistage effectués sur les conducteurs sont en cours. Le parquet de Lons-le-Saunier pourrait choisir, dans les prochains jours, de demander l'autopsie du conducteur décédé.

Les « petits camions » de l'Est mis en cause par les internautes

Les lecteurs du site internet du Progrès ont été nombreux à réagir à cet accident survenu sur la RN 83. « Combien de décès faudrait-il encore avant que nos po-



Les sapeurs-pompiers n'ont pas pu réanimer le conducteur du camion de moins de 3,5 tonnes. Photo Progrès/Benoît FAIVRE

litiques, sous pression européenne, comprennent que, en plus d'être une concurrence parfaitement déloyale, ces camions de moins de 3,5 t roulant 20 heures par jour, non soumis aux réglementations des heures de conduite comme nos routiers trico-

loires, sont un danger pour nos vies », écrit l'un d'eux. Son commentaire est rapidement validé par plusieurs autres internautes. Ce n'est pas la première fois qu'un « petit camion » est impliqué dans un accident similaire sur la RN 83. À titre d'exemple,

en mars dernier, un véhicule du même type avait quitté sa voie de circulation à Poligny avant d'entrer en collision avec un camion-citerne. Un blessé avait été hélicoptéré au centre hospitalier de Besançon.

Benoît CHAMPOMIER

[9] <https://www.leprogres.fr/faits-divers-justice/2020/09/27/la-mort-d-un-chauffeur-polonais-rouvre-le-debat-des-camionnettes-de-l-est>.

[10] https://actu.fr/faits-divers/centre-val-de-loire-apres-plusieurs-infractions-a-la-legislation-une-societe-polonaise-de-transport-routier-sanctionnee_39213837.html.

[11] <https://logistyka.pl/transport/12731-polski-transport-jest-regularnie-oczerniany-we-francji>.

[12] <https://logistyka.pl/transport/12731-polski-transport-jest-regularnie-oczerniany-we-francji>.

CONCLUSIONS



Polish entrepreneurs face enormous problems in France.

Failure to respect obligations under EU law and fundamental freedoms manifests itself in various forms, but it affects entrepreneurs and the single market in the same way.

The history of FructoFresh shows how the French authorities allow domestic companies to build their economic position in violation of European law and to the detriment of both consumer safety and the integrity of the single market. The French labour inspection intimidated the representative of Aterima Work to such a degree that he resigned from conducting business operations in France.

While, on the other hand, the case of the unlawful arrest of the AB Trans vehicle shows how severe the inactivity of uniformed services in the face of problems of Polish companies can be.

French authorities allow domestic companies to build their economic position in violation of European law and to the detriment of both consumer safety and the integrity of the single market.



The French labour law is one of the most restrictive.

Entrepreneurs struggle with an enormity of requirements and frequently changing procedures. However, some of the requirements of French legislation go beyond mere formalities. The definition of a posted worker as a matter of fact prohibits the activities of foreign temporary employment agencies in France. An absolute obligation to have a representative in France is a requirement that exceeds the proportionality provisions, the purpose of which is to impose additional burdens on foreign companies. On the other hand, the obligation to belong to a holiday fund is another example of imposing additional costs on foreign companies and ignoring the provisions of European law. At the same time, articles slandering Polish entrepreneurs create a climate in which it is easier to justify excessive controls and harassment.

The definition of a posted worker as a matter of fact prohibits the activities of foreign temporary employment agencies in France.

Apart from tangible consequences that Polish entrepreneurs must bear,

the single market, which is to say the entire European Union, suffers from such practices. Today, the European community is at a special moment in time. On the one hand, we are fighting for economic recovery after the coronavirus pandemic. On the other, we must face the growing power of China.

Strategic programmes such as the Recovery Plan and far-reaching political reforms at the European and national level aim to help us respond to these challenges. It therefore seems that there is no place in Europe today for practices that limit the single market, and the removal of barriers should be considered a necessary condition for restoring and maintaining European prosperity.



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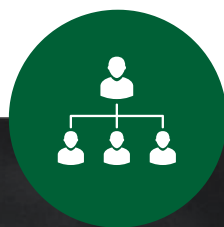
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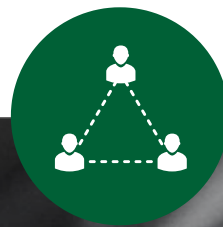
580 000

employees
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15

regional
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20

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