

Preventive action on working conditions for posted workers

The example of forestry work

DIRECCTE UT 64

Labour Inspectorate - Southern Landes Interdepartmental Section

dd-64.direction@direccte.gouv.fr

1. Motivations

This file results from work done by the transnational workshop dedicated to agriculture. After the presentation of a control by the labour inspectorate of a logging site, discussions led to formulating two questions, as indicated below.

Works in forest are both very strenuous and dangerous, in particular when they involve cutting down trees, as is the case here. The issue of work conditions is therefore essential for posted forestry workers.

- Is it possible to act upstream from the workplaces by basing this action on the evident need for satisfactory work safety in this high-risk sector? <https://osha.europa.eu/en/publications/e-facts/efact29>
- What preventive solutions can be listed?

2. The present case

Context

The owner of forest land located in Dordogne (in the Aquitaine area of southwest France) wanted to carry out an operation to obtain logs to sell. He contacted Company Y, a service provider and forestry company with two employees headquartered in the Rhône-Alpes region (southeast France). Company Y relies on the local relays of an agricultural operator in the greater southwest (Company N) to meet market needs through subcontracting. The subcontractor is Company A, with eight employees, located in Romania; it was created by a former employee of Company Y.

Observations and follow-up

The control led to the hearing of a Romanian citizen working for Company A, which was in charge of cutting the wood. No posting declaration had been sent to the labour inspectorate services. The CODAF (an operational anti-fraud committee at the department level including the police, the labour and tax administrations and social protection bodies; it is presided by the prefectural administration

and the public prosecutor) took on the case. Hearings with the manager of Company A revealed that company activity was located primarily in France. The manager recruited all employees in Romania but had never worked there.

Prosecution was directed toward requesting the registration of a secondary establishment in France. The amount of fiscal and social fraud involved is estimated to be over 218,000 euros. The heads of Companies Y and N, who are obligated to due diligence, incurred criminal responsibility. The forest owner was exonerated.

3. Supply of service and cost reduction

The wood industry is a macro-industry which covers the chain of participants who grow, cut, transport, cultivate, market and recycle or destroy wood.

Upstream in the industry, forestry operations are characterised, at least in France, by the scattering of logging sites and their different types.

The price of raw materials varies and depends on several factors. These include cutting conditions, in particular constraints (flat or sloped land, smooth or hilly, fragile soil, etc.). It also depends on the type of wood and its value and tree quality.

A forest owner may thus decide to sell standing timber (purchase by a forestry company or a converter) or wood logs after cutting the trees down himself. To obtain a sales margin, it is necessary to work on a just-in-time basis to avoid storage expense and ensure lower cutting costs.

Cutting costs are based on the number of employees and social obligations, as well as the time involved in cutting, its technical complexity and the respect of safety standards (appropriate material, secure workplaces). Cutting activity has currently given rise to the development of a transnational service supply in a competitive environment (Eastern European countries), and it is tempting for both contracting owners and contractors to cut costs with the consequence of an impact on working and employment conditions of workers.

At the same time, the forestry and woodcutting trades in France suffer from a low level of attractiveness because woodcutters continue to be perceived with negative social connotations (“he’s a woodcutter because he can’t do anything else”) and because of the danger of the work. The sector is confronted with a shortage of qualified workers and operating conditions are evolving because of the use of heavy equipment which requires a different type of professional skill, a change in the status of entrepreneurs and an intensifying of the right to estovers which reinforces the presence of people looking for firewood in the forests.

4. Work condition determinants

The conditions under which woodcutters work depend on many different factors.

Work varies with the season

Depending on soil and steepness, it is more or less easy to access the logging site, transport tools and do the work of cutting down trees. In addition, related activities have developed in the face of competition (pruning, opening of corridors through the forest) which generate a greater variety of types of intervention. If the plot is heavily forested, activity can be more difficult (branches tend to tangle when a tree falls, for example). The type of vegetation also has an influence, such as high ferns hiding obstacles on the ground or plants which need to be first cut down. Preparing a worksite thus requires taking into account forest density, which affects the amount of workload.

Although the appreciation of seasons in the forest depends on the individual and can be different at different worker ages, the dry cold of winter is appreciated because physical activity keeps the body warm. Rain interferes with work and makes it less easy to stay warm. Windy weather is a problem because it is necessary to know where the tree crown will fall.

The technical nature of work varies with worksite type and preparation

The economic context mentioned above leads to increasing the scope of intervention and neglecting the preparation of the worksite, with consequently less visibility on the scheduling of activities and a longer workday. The length of the workday also depends on the how often it is necessary to move and how far it is to the worksite; accumulated fatigue can lead to more numerous accidents.

Intensified operations lead to the increasingly frequent cutting down of deciduous trees when leaves are still present. This makes work more delicate. Sap present in the tree damages wood quality, which increases difficulty and multiplies maintenance operations on chainsaw chains. To meet volume goals, woodcutters may then decide to do a dangerous disentanglement.

The “cohabitation” of cutting areas with wild animals, hunters and hikers is a source of stress, even if the site has been marked off. Stress is even greater when the worksite is next to a roadway, railway or power line.

In summer, insect bites with itching, allergic reactions or contaminants, which are more or less severe depending on the individual, are another irritant.

Finally, the requirement to systematically use safety equipment rests on an appropriate choice of material (new equipment, personalisation, etc.) to avoid interfering with activity and making work uncomfortable. Workers are often isolated, making it necessary to implement proper alert systems (technical system reliability, telephone network coverage, etc.).

5. Preventive solutions

To ensure effective action, improving work safety upstream thus implies taking into account and including these different factors which negatively affect work conditions.

Which path should be followed?

- **Risk evaluation**

To implement appropriate preventive solutions, an evaluation of risks corresponding to particular conditions and worksite reality must first be carried out. From analysing accident factors, we can see that risk evaluation is often insufficient and/or formal only. It can, for example, fail to take into account geological characteristics (land slope, surface irregularities, bodies of water, springs, etc.) where the trees are found, the health of the wooded area (windfall, dead trees, tangled branches, etc.), the presence of infrastructure equipment (above-ground power lines, quarries, railways, etc.) and biological risks (such as rabies or leptospirosis).

The more this upstream evaluation accounts for worksite specificities, the more useful it is.

- **Organisation and work scheduling at the forest worksite**

Anticipating the organisation of and distance to logging sites is a key point for government authorities, contracting owners and employers.

Worksite organisation should rest on the proper adaptation of the type and scheduling of activities to production goals and the arduousness of work. It should therefore take into account the season, landscape ruggedness, type of work, management of co-activity, scope of employee safety, marking off the worksite to make outsiders aware of its presence, etc.

Conditions of implementation should include the availability of a rescue service. Teams should be stabilised as fully as possible by forbidding isolated work, in particular if means of alert are not operational. Defective material should not be used, and individual protection should be provided.

- **Informing and sensitising companies and workers – the training of forest workers**

Informing forestry employers and employees and making them aware of the situation are also key needs related to work safety. This information concerns both countries which host posted workers and countries which send them for posting.

The same applies to the qualification and training of forestry workers, which is a way for them to acquire knowledge of “the proper way to do things” (respecting safety distances during cutting operations, for example) and learn careful behaviour.

A lack of worker training has been observed whatever the worker’s nationality. However, employees of foreign origin are often familiar with the most common types of forestry work. But without true qualification and initial training, they are more vulnerable if the worksite

becomes more complex. In the absence of legal posting, these employees without social protection must use the amount they receive for food and housing in case of health problems.

In France (with reference to the case presented), new health and safety regulations applicable to forestry worksites went into effect in 2011. These provisions state the contracting owner's obligations (in particular, a formal evaluation of risks in the form of a worksite file with information on the personnel carrying out the work) and subcontracting company obligations (in particular, the organisation of a worksite schedule and the communication of the worksite file to employees).

Although we do not yet have enough distance to evaluate the impact of these regulatory provisions, they offer a framework for intervention by Occupational Health and Safety.

The goals of the "2010-2014 Occupational Health Plan" of the Ministry of Labour mobilise all participants concerned, government authorities, preventive bodies and social partners. More globally, they are a response to the persistence of occupational accidents at forestry worksites (40 serious accidents between 2003 and 2008).

6. Extrapolation to the construction industry

A parallel can be established with the level of accidents in the construction sector, the safety obligations related to the risk of falls from heights and the need for appropriate equipment. Personal Protective Equipment (PPE) is not always systematically available, either at foreign company sites or (less frequently) at French company sites. Upstream anticipation and coordination is crucial to act effectively on working conditions.

In addition, means of action in terms of control and monitoring are more numerous:

- Transparency is greater. Information for the contracting owner on the intervention of a subcontractor is regulated in France and its absence leads to penalties. All participants in a real-estate construction operation are legally bound.
- Administrative services have better knowledge of construction site existence (construction work declaration).

This type of knowledge is more problematic for the forestry sector although here it is mandatory to declare the worksite. Clandestine worksites are found more frequently.

In addition, posting declarations are scarcer.

In addition, control is more difficult because locating forest plots is complicated, and the workers employed are not always present (and even rarely present). Clandestine worksites, which are the ones with the highest rate of accidents, are often not known about until an accident occurs.

The new rules imposed in the forestry sector thus aim to supervise operations more closely and make them more professional in order to leave less room for approximations and risks.

Although this sector is also, and by nature, “isolated,” it is nonetheless essential to provide information to employees in the posting country in order to increase the level of safety requirements.