



XPO: DELIVERING INJUSTICE



The International Transport Workers' Federation (ITF) is a democratic, affiliate-led federation recognised as the world's leading transport authority. We fight passionately to improve working lives, connecting trade unions from 147 countries to secure rights, equality and justice for their members. We are the voice for nearly 20 million working men and women in the transport industry across the world.

Our principles are:

- to promote respect for human rights, particularly labour rights, worldwide;
- to work for peace based on social justice and economic progress;
- to help our affiliated unions defend the interests of their members;
- to provide research and information services to our affiliates;
- to provide general assistance to transport workers in difficulty.



The European Transport Workers' Federation (ETF) is a pan-European trade union organisation that represents transport trade unions from the European Union, the European Economic Area and Central and Eastern European countries. The ETF represents more than five million transport workers from more than 200 transport unions and 41 European countries. These workers are found in all parts of the transport industry, on land, sea and in the air.



The XPO Global Union Family is a network of unions representing workers in countries where XPO has its biggest operations. Members of the network include:

- ABVV-BTB (Belgium)
- ACV-CSC Transcom (Belgium)
- CGT Transports (France)
- FeSMC-UGT (Spain)
- FGTE-CFDT (France)
- GMB (Britain)
- International Brotherhood of Teamsters (USA)
- Uiltrasporti (Italy)
- Unia (Switzerland)
- Unite (Britain)
- UNSA Transport (France)

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XPO: DELIVERING INJUSTICE

XPO markets itself as a global leader in providing transport, logistics and last mile delivery services. It boasts of a corporate culture grounded in its people, that is revolutionising the way in which goods are transported around the world.

But behind the glossy marketing, are supply chains mired in worker exploitation, a cavalier and even negligent approach to safety that has led to injury and death, and a company where workers who protest against pregnancy discrimination and harassment are met by retaliation.

This report brings together the voices of workers from across XPO's global network. Together, their stories paint the picture of a toxic corporate culture where wage theft, exploitation, gender and pregnancy discrimination, sexual harassment and dangerous working environments are rife.

As their stories show, XPO is a "leading" logistics company that, at the height of the Covid-19 pandemic, could not source masks for its own warehouse workers. A company where workers were told to buy or make their own masks, so they could continue to work to ensure that XPO's supply chains remained unbroken. It is a company that punishes workers for trying to fix safety and cultural issues at their workplace, with union members having shifts restricted to below what was needed to live, just for speaking up.

About XPO

XPO Logistics, Inc. is a top ten global logistics provider of supply chain services to companies around the world. The publicly traded company, led by billionaire CEO Bradley Jacobs, operates in 30 countries, with 97,000 employees and 1,506 locations. XPO boasts a network of 50,000 global customers.¹

The company has two reporting segments: transportation and logistics. XPO's corporate headquarters are in Greenwich, Connecticut, USA, and its European headquarters are in Lyon, France. The company facilitates about 10 million last mile deliveries per year through a network of 5,000 independent drivers and technicians, making it the largest provider of heavy goods last mile logistics in North America. About 90% of the U.S. population lives within 125 miles of an XPO last mile delivery hub.²

XPO is a company that lavishes compensation on its senior executives while, at the same time, its truck drivers spend months sleeping in their trucks, in flagrant breach of EU labour laws. While in the US, they face millions of dollars in class action claims due to the misclassification of their drivers.

From its warehouses to its truck networks, XPO's business model is based on delivering injustice for its entire workforce, down to the very last mile.

This report has been prepared by the XPO Global Union Family, a coalition of unions representing XPO workers globally. We are concerned that the rights, protections and decent livelihoods of XPO's 100,000 workers are being squeezed and traded-in for short-term expansion 'wins' and profit windfalls for management.

The XPO Global Union Family has asked the company repeatedly to meet and resolve the issues in its supply chains at a global level.

To date, XPO has declined to meet.

1. XPO Logistics, "Company Profile Report", May 2020, https://xpodotcom.azureedge.net/xpo/files/s1/XPO_May_2020_Company_Profile-2.pdf
2. XPO Logistics, "Last Mile", August 2020, <https://last-mile.xpo.com/>

Covid-19: Frontline workers' health sacrificed for profit?

XPO transport and warehouse workers have worked throughout the pandemic, ensuring the continuity and security of national and global supply chains. CEO Bradley Jacobs bragged that XPO was built like a "bulletproof tank" and could ride out the virus.

But the workers that have maintained the supply chains that will deliver Jacobs his strong bottom line do not feel so invulnerable to the impacts of the virus. They report feeling scared to go to work, and that the company has failed to take their safety concerns seriously.

At the height of the pandemic, this "leading" logistics company resorted to sharing videos with workers on how they could create their own masks from old t-shirts and rubber bands, because they were unable to source personal protective equipment (PPE). Managers and supervisors told concerned warehouse workers to buy their own hand sanitiser if they had concerns about virus transmission via shared warehouse equipment. While truck drivers continued to work punishing schedules with no access to PPE or sanitation.

The XPO Global Union Family requested a meeting with XPO to discuss the pandemic, to set up a global health and safety forum to protect workers, their families and the communities in which they work. **XPO declined to meet.**

Swindon outbreak: "People are still terrified of the potential of catching Covid"

In July 2020, 64 people tested positive for Covid-19 at an XPO run distribution centre in Swindon in the United Kingdom. At least two of the workers infected had to be treated in hospital. In total, 150 of the 750 employees at the site reportedly had to self-isolate.³

Despite the number of confirmed cases, XPO chose not to quarantine the site and continued operating. At the same time, the company claimed that protecting employees was the number one priority.⁴

Unite the Union said employees were fearful of returning to work and felt they had been kept in the dark. Unite's regional officer John McGookin condemned the

company's lack of action and communication: "Let's be honest, if you've had the number of cases that this site has had in a small town, you'd be seriously thinking of quarantining the site," he said.

"We have no idea why they [XPO Logistics] have not done that. They are not communicating with us."⁵

Mr McGookin told BBC Radio that despite the vast majority of the workforce being tested, employees were still worried about going in to work, reporting that "...people are still terrified of the potential of catching Covid."⁶

UK: workers working in "cradle of disease"

4,000 workers are employed at the XPO/ASOS warehouse in Barnsley, with 500 present at each shift. In March 2020, GMB union surveyed workers at the XPO/ASOS warehouse in Barnsley. **98% of respondents stated that they felt unsafe at work.** Their stories highlighted management failures to:

- Provide them with PPE;
- Ensure social distancing at the entry and exit to the sites, in corridors, locker rooms, and canteens; and
- Provide handwashing facilities and even sufficient amounts of soap.⁷

Respondents reported that when workers had raised the issue of insufficient supplies of gloves and hand sanitiser, a supervisor told them that they should buy their own.

They also reported fears that as their statutory rates of sick pay (only 94.25 British pound sterling (GBP) a week) was not enough to pay bills, colleagues would come to work when sick, putting the whole workforce at risk of contracting the virus.

Following the survey, on the 30 March 2020, warehouse workers walked out of the warehouse protesting that they were unable to follow the government's advice to stay two metres away from other people.⁸

In May 2020, the GMB Union called for the warehouse to be closed down, and a deep clean conducted, after nine workers tested positive for the virus.⁹

3. BBC News, "Iceland Covid-hit depot workers 'afraid to go back'", 31 July 2020, <https://www.bbc.co.uk/news/uk-england-wiltshire-53610084>
4. Ibid.
5. Ibid.
6. Steward, S., "Union rep claims half of workers at Iceland depot are absent but firm denies it", Swindon Advertiser, 3 August 2020, <https://www.swindonadvertiser.co.uk/news/18624098.union-rep-claims-half-workers-iceland-depot-absent/>
7. Butler, S., "Cradle of disease: Asos warehouse staff reveal coronavirus fears." The Guardian, 31 March 2020. <https://www.theguardian.com/global/2020/mar/30/asos-workers-coronavirus-fears-online-fashion-safety-barnsley-warehouse>
8. Santamaria, B., "Asos workers walk out over lack of Covid-19 protection, firm denies it's unsafe", Fashion Network, 30 March 2020. <https://uk.fashionnetwork.com/news/Asos-workers-walk-out-over-lack-of-covid-19-protection-firm-denies-it-s-unsafe,1202851.html>
9. Whitman-Stone, D., "Asos defends hygiene at fulfilment centre after calls for a 'deep clean'", Fashion United. <https://fashionunited.uk/news/retail/asos-defends-hygiene-at-fulfilment-centre-after-calls-for-a-deep-clean/2020051448925>



Before March 19, we did not have masks or gloves, the masks were out of stock. So with colleagues, we went to an Auchan site [supermarket] which is not far to get gloves and wipes to disinfect keyboards and screens that we use daily.¹⁰

David Mondesir, CGT delegate and worker at XPO's Fleury-Mérogis warehouse

France: XPO worker dies after company failures to provide PPE

In April 2020, a 48-year-old employee of XPO's Fleury-Mérogis warehouse died after contracting Covid-19. She had worked for the company for 17 years and died leaving behind two children. A further six employees at the factory tested positive, with one worker infecting his wife and mother (who was later hospitalised).

Prior to these infections, the local union had raised concerns with XPO management that workers had not been provided with adequate supplies of PPE and requested that the company provide temperature checks for workers at the start of their shifts.

The initial response of management was that workers had sufficient protections and that extra measures were not needed. Workers withdrew their labour on 19 March 2020, calling on the company to take action to ensure physical distancing and provide necessary PPE.

It was only after the withdrawal of labour that the company introduced temperature checks and increased cleaning at the site.



"We all want jobs and we don't want to lose our jobs," an employee said. "We want the company to make money, because if they make money, we make money. But I don't believe that they're taking the proper precautions to keep us safe and keeping our equipment safe and providing us things to keep us clean."

XPO employee

USA: Workers afraid they'll lose jobs if they speak up about inadequate pandemic precautions

In April 2020, XPO workers in Kansas City spoke to news reporters about widespread concern amongst workers at XPO's KCK service centre regarding inadequate cleaning at XPO transportation services.¹¹ They spoke anonymously, expressing fear that they would lose their jobs if they went public about their safety concerns. Their concerns included a lack of cleaning of shared equipment, such as trucks and forklifts, and a failure to enforce social distancing in company break rooms.

The International Brotherhood of Teamsters conducted a national survey of workers, regarding XPO's steps to protect workers. On a scale of 1 to 10 (with 1 being terrible and 10 being excellent), 24% of respondents gave the company a score of 1 with regards to their performance on addressing Covid-19 risks. Two thirds of employees gave them a rating below 5.¹² A majority of respondents said they witnessed safety issues or problems on the job related to Covid-19, and a majority said the company was not providing enough information on how to keep safe.

10. Lemoine, S., "The State has given us up for grazing, it has abandoned the little people: the fear and anger of the employees who continue to work." franceinfo., 8 April 2020. https://www.francetvinfo.fr/sante/maladie/coronavirus/coronavirus-l-etat-nous-a-laisse-en-pature-il-a-abandonne-les-petites-gens-la-peur-et-la-colere-des-interimaires-de-carrefour_3904423.html.

11. Alcock, A., "XPO Logistics employees claim the company isn't protecting them from COVID-19 protection [sic]." KSHB Kansas City, 3 April 2020. <https://www.kshb.com/news/coronavirus/xpo-logistics-employees-claim-company-isnt-protecting-them-from-covid-19-protection>

12. XPO Exposed. 2020. "Responses to the recent Safety Survey" Facebook, 6 May 2020. <https://www.facebook.com/xpowearexpo/posts/3109752305748484>

Significantly, 60% of respondents stated that they did not feel safe at work.

To illustrate the poor safety practices at the site, the Teamsters gave the example of a truck that had been quarantined on the orders of a supervisor, as the previous driver had shown symptoms of coronavirus and been sent home. The truck was then wrapped in security tape so that the doors could not be opened, and workers could not enter the vehicle.

The following day, another supervisor ordered that the truck be taken out of quarantine and used. The tape was removed from the truck, the truck wiped down and returned to the XPO fleet to be used by multiple drivers. All of the security tape was then disposed of in an open rubbish bin directly next to tables where drivers take their breaks.



Photo: Sundry Photography stock - adobe.com

Wage theft and exploitation through the misclassification of workers

One of the most exploitative and manipulative ways in which XPO delivers injustice is through the (often illegal) misclassification of workers. In stark contrast to the lavish packages of its top executives, XPO drivers are often significantly underpaid, and unable to access even basic necessities - like accommodation - when on the road.

Europe: subcontracting and the exploitation of Eastern European drivers

In 2018, XPO Logistics Europe sub-contracted 54.8% of its operations. Stichting VNB, the research and enforcement foundation of Dutch Union FNV, has raised serious concerns regarding the extremely exploitative conditions of drivers in XPO's supply chains.

Stichting VNB has conducted substantial research into European road transport supply chains. This research has found that XPO is increasingly relying on Eastern European subcontractors that use non-EU workers to drive trucks in Western Europe. The comprehensive research highlights how drivers are frequently provided with fake documentation to mask their severe, and often illegal, underpayment.

An explosive investigation released by VNB, ITF and IUF on 25 June 2020, highlights how road transport companies are exploiting Covid-19 to further exploit truck drivers, cut transport prices, pay, conditions and health and safety across Europe.¹³

Interviews with drivers have uncovered that the majority of the exploitative practices and additional abuses that drivers have faced as a result of the Covid-19 crisis exist in XPO's supply chain.

This has also been revealed in previous research by VNB, which is detailed in the following case studies. The case studies are based on a combination of driver stories and documentary evidence including work contracts, driving and resting time data and cargo documents.

This pattern shows that these cases are not isolated or unique. VNB researchers have spoken to and interviewed many Eastern European and non-European drivers working for XPO contractors who are in similar situations to those detailed below.¹⁴ The evidence that VNB has gathered demonstrates that XPO's business model is based on the exploitation of drivers and a lack of transparency. Drivers are systematically underpaid and are forced to show false documents to authorities to mislead them. Although the EU regulation of driving and resting time is there to protect drivers, ensure road safety and uphold fair competition, the companies hiring the drivers interviewed break driving and resting time regulations on a daily basis.

The practice of unfair wage competition is often referred to as "social dumping". "Social dumping" is the term given to the practice of employing drivers from a country with low labour costs and putting them to work in high labour cost countries, but still paying the cheap rates of pay and social security.¹⁵

13. International Transport Workers' Federation (ITF), "Explosive Investigation Exposes Pandemic Exploitation in European Trucking," 25 June 2020, <https://www.itfglobal.org/en/news/explosive-investigation-exposes-pandemic-exploitation-in-european-trucking>

14. <https://youtu.be/Z4LOLVdf4dY>

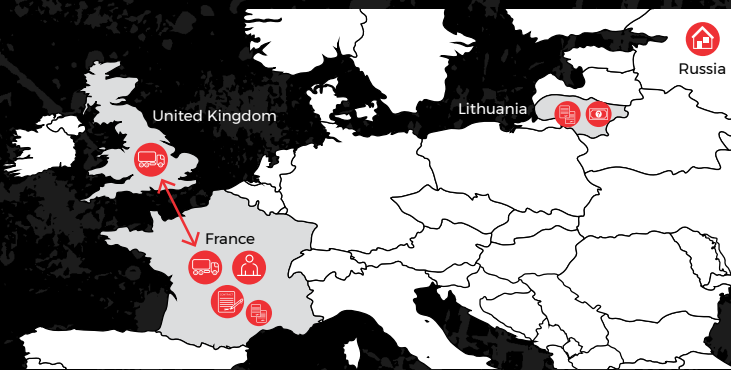
15. Eurofund, "Social Dumping", 19 May 2016, <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/social-dumping>

CASE STUDY 1

XPO's European supply chain is a tangled web of sub-contracting, which leaves drivers in extremely precarious positions. By way of example, the sub-sub-contracting chain looks like this: a company contracts transport to XPO, XPO contracts it to a French sub-contractor and the French sub-contractor then sub-contracts again to a company in Lithuania. VNB interviewed Ukrainian drivers in June 2020. The drivers told VNB that they transport goods from France to the UK and back. The drivers live for months in the cabin of their trucks, do not get paid the agreed Lithuanian salary, and are even given false documents of "Attestation de détachement" in France stating that they get a much higher €10 hourly wage.¹⁶

The drivers told VNB that they had begged their Lithuanian employer to allow them go home but that the company ignored their requests. For their time on the road, the drivers only receive enough money for food – with too little to enable them to leave their trucks in France and go home of their own free will. During the Covid-19 crisis, the drivers had not received PPE from their employer.

CONTRACTING CHAIN OF EXPLOITATION



- Customer need goods transported from France to the UK and back
- Company contracts transport to XPO
- XPO subcontracts French trucking company
- French company subcontracts to Lithuanian trucking company
- Driver contracted and employed by Lithuanian company at bottom of the chain
- Driver from Russia employed on Lithuanian wages, given false "Attestation de détachement" document, working only in Western Europe

CASE STUDY 2

Russian driver Alexsi (name changed to protect his identity) works for a Lithuanian company that does ad-hoc transportation for XPO. Alexsi carries out domestic transport in France for a company that sub-contracts for XPO. Alexsi gets paid a fixed amount of €50 per day, his employer provided him with a French document of "Attestation de détachement" which states he gets a hourly wage of €10.03. The document is false. The making of such fraudulent documentation is illegal. During the Covid-19 pandemic Alexsi explained:

*"The company did not provide any information on how to protect ourselves. I bought my own PPE. The company were only concerned that drivers did not have any contact with people in the office of the company's base when we exchanged our documents."*¹⁷

Alexsi and the other drivers of XPO's sub-contractor are on the road for many months and live – illegally – in their truck cabins.

CASE STUDY 3

Luka (not his real name) is a Ukrainian driver, employed in Lithuania. The company he works for has a fleet of 500 trucks. Although the truck that Luka drives is registered in Lithuania, he only ever works in and from France.

VNB interviewed Luka in June 2020. At that time he had been away from home since December 2019. He had begged his company to release him to go home but they would not send a replacement driver to relieve him. Luka was forced to live illegally in his truck the whole time, isolated and alone. To make matters worse, the company did not pay Luka his agreed Lithuanian salary and made arbitrary deductions from his pay, including 130 euros for a broken step – damage which Luka was not responsible for.

Whilst Luka's truck does not show the XPO logo, his company sub-contracts him to fulfil contracts for XPO France. French law states that French companies have a duty of vigilance and are responsible for regularly assessing the situation of their subcontractors, suppliers and subsidiaries, and preventing and mitigating human rights and labour abuses in their supply chains.

16. International Transport Workers' Federation (ITF), "Pandemic of Exploitation in European Trucking", 25 June 2020, <https://www.itfglobal.org/en/news/explosive-investigation-exposes-pandemic-exploitation-in-european-trucking>

17. Ibid.

CASE STUDY 4

I have a Romanian contract and Romanian wage, almost EUR500 per month. The system lets the employers do anything they want with the salaries - to pay qualified workers the wages of unqualified workers, to work for the minimum wage for your life, and you're going to have a very small pension. This is what I'm trying to avoid.

Silviu worked at a small, XPO subcontractor in Romania. He moved car parts between Spain and Belgium. Although he worked in Spain and Belgium, and never drove trucks in Romania, he received a Romanian wage and Romanian social security.¹⁸

He worked three-month shifts and lived in his vehicle the entire time; sleeping, washing and cooking in and around the cab of his truck. While clearly illegal, he had no other option. When he returned home to his family after three months, he would leave his truck in Spain.

It is forbidden under European law for drivers to take their weekly rest breaks in their vehicle.¹⁹

CASE STUDY 5

Mirek (name changed to protect his identity) lived in Poland and was employed by XPO Poland. He received a Polish wage. Although XPO was processing all labour-related costs through Poland, in reality, Mirek worked in and around France.

Mirek was transported by minivan from Poland to France in order to collect his truck and begin driving. Mirek's habitual place of work was France and he should therefore have been entitled to French wages under EU law. XPO provided Mirek with an 'attestation de détachement', which stated that he was paid EUR9.33, in accordance with the French minimum wage.

Mirek showed VNB copies of his wage slips and Polish contract, which showed an hourly wage of EUR2.50.

CASE STUDY 6

Romanian driver Emilian (name changed to protect his identity) was formally employed at XPO in Romania but only drove his truck in Western Europe. He was brought to Western Europe in a minivan. The non-stop minivan trip from Romania to his truck would take about 24 hours. Emilian never worked in Romania, instead he mostly sub-contracted for XPO in France. XPO had given Emilian an 'attestation de détachement' (certificate of posting) according to French law.

The certificate recorded an hourly wage of 9.33 Euros (EUR) per hour. Emilian stated unequivocally that it was a false document that he was required to show the authorities, and that he could only dream of EUR9.33 being his true hourly wage. In reality, Emilian received a Romanian monthly wage of approximately EUR300. Analysing tachograph data, which detailed how long and how far Emilian had been driving, his hourly rate of pay worked out at approximately EUR1.82 per hour. In addition, Emilian received a EUR50 per diem payment for expenses, which was paid as a lump sum.

European law is quite clear. Per diems are not to be included in a worker's salary. In France, the country in which Emilian did the majority of his work, the law states that these 'expenses' should not be considered part of the salary. The attempt to supplement low wages with the per diem is a cheap option for companies because they do not have to pay tax or social security contributions on these payments.

18. FNV, "Exploitation across Europe in road transport supply chain automotive industry," 11 October 2018, Video, 2:10. <https://youtu.be/Z4LOLVdf4dY>.

19. European Commission, "Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85, Official Journal of the European Union, 11 April 2006. <http://data.europa.eu/eli/reg/2006/561/2015-03-02>

French Legal action: XPO cannot outsource responsibility for its European contractors

While XPO may be able to contract out transport to these drivers, it is not able to outsource responsibility for the labour and human rights abuses in its European supply chains. As legislation like France's Corporate Duty of Vigilance Law makes clear, economic employers are responsible to take measures against abuses along their supply chain - especially where they exercise a degree of control through their commercial relationships.

On 1 October 2019, the Global Union Family served formal notice on XPO Logistics Europe under the French Corporate Duty of Vigilance Law.²⁰ This was the first time that the legislation had been used against a global transport company.²¹

The Law calls on the company to apply due diligence to address human rights abuses in its supply chain. The Global Family demanded XPO fulfil its obligations - including conducting a thorough mapping of its supply chain and consultation with unions regarding how it was identifying and ranking risks. The company responded only with a defensive statement that they believe they adequately fulfil their obligations.

XPO again declined to meet unions, ignoring all offers of union assistance and collaboration to help them fulfil their obligations, as well as all questions asked seeking reassurances about measures taken under the law.

USA: Wage theft through misclassification of workers as contractors

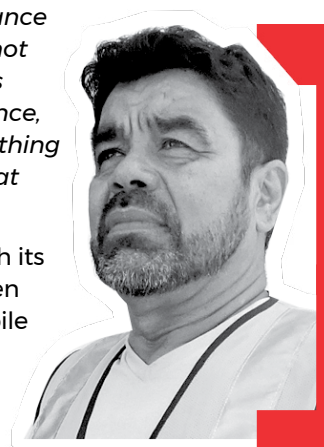
XPO and its subsidiaries have faced repeated legal and enforcement agency action for wage theft due to the illegal misclassification of their drivers as independent contractors rather than employees. Approximately 280 drivers at XPO and its subsidiaries in Los Angeles allege that they have been misclassified, along with approximately 90 drivers in XPO's San Diego facility.²²

The practice of misclassifying workers is not only illegal, it is also immoral, as it denies workers the healthcare benefits that they would be entitled to as direct employees. The Teamsters union in the USA has received reports that drivers have had to go outside the USA to access affordable healthcare, as they do not qualify for employee cover.

In 2018 and 2019, state and federal courts issued two final judgments against XPO in the claims of 12 individual drivers, ordering XPO to pay over 3 million US dollars (USD).²³ There are a further 27 pending wage claims against XPO for a combined estimated liability of USD1.9 million. The legal cases that XPO lost or settled due to this exploitative business model of illegally misclassifying workers has led to pay outs to drivers of at least USD10.8 million since 2015.²⁴ XPO driver Jose Herrera, was awarded USD279,415.83 for illegal deduction.

Even though they are clearly in control of my work, XPO refuses to give me the same rights as their employee drivers in other divisions. That means that I have no worker's compensation if I get injured on the job or disability insurance if something happens to me. And that's not all - XPO deducts their business expenses from our paychecks, like truck maintenance, repairs, and fuel. They charge us for everything - and the government has confirmed what I've always known: It is illegal.²⁵

Despite losing these cases, XPO continues with its drive to "uberise" freight. Since 2019, it has been promoting the features of its "Drive XPO" mobile app, an online work platform. Drivers bid for work through its "XPO Connect" marketplace, which currently covers the company's truck brokerage, managed transportation, and last mile logistics business units.²⁶



20. International Transport Workers' Federation (ITF), "Transport giant served notice under duty of vigilance law in landmark legal move," 1 October 2019, <https://www.itfglobal.org/en/news/transport-giant-served-notice-under-duty-vigilance-law-in-landmark-legal-move>

21. Ibid.

22. International Brotherhood of Teamsters, "Drivers Employed by XPO Logistics Ruled Misclassified by CA Labor Commissioner," 20 April 2017. <https://teamster.org/news/2017/04/drivers-employed-xpo-logistics-ruled-misclassified-ca-labor-commissioner>

23. Justice for Port Drivers, "Regulatory Action and Litigation at XPO Logistics," 5 November 2019.

<https://justiceforportdrivers.org/wp-content/uploads/2019/11/XPO-regulatory-action-and-litigation-summary-110519.pdf>

24. Justice for Port Drivers, "Regulatory Action and Litigation at XPO Logistics," 29 May 2019.

<https://justiceforportdrivers.org/wp-content/uploads/2018/09/XPO-regulatory-action-and-litigation-summary-52919.pdf>

25. AJOT, "XPO Logistics' misclassified drivers awarded nearly \$1 Million," 21 April 2017.

<https://www.ajot.com/news/xpo-logistics-misclassified-drivers-awarded-nearly-1-million>

26. DC Velocity, "XPO extends freight marketplace to last-mile service," 3 April 2019.

<https://www.dcvelocity.com/articles/20190403-xpo-extends-freight-marketplace-to-last-mile-service/>



Photo: Sundry Photography stock - adobe.com

Spain: hunger strike against the misclassification of workers as contractors

Jesus Abad Perez was a driver who went on hunger strike for three weeks because XPO misclassified him as self-employed. He explained to Spanish media that he was paid by the kilometre, and had to find money for truck rental, insurance, fuel, tolls and other costs through the cooperative to which he belonged.²⁷ In reality, his self-employment was fake because XPO was his only employer.

XPO does not just undercut wages and conditions by misclassifying workers, it also keeps workers on precarious and labour hire contracts, on lower conditions than permanent employees, in breach of collective agreements.



Last month I earned 1,400 euros - and what's left after I've deducted all those costs is what I live on.

Jesus Abad Perez

In 2018, at XPO Marchamalo Warehouse only 54% of workers were on permanent contracts despite the collective agreement on the site mandating that at least 75% of the workforce should be on permanent contracts.²⁸ Some of the workers have been on "temporary" contracts since 2013.²⁹

XPO has not attempted to remedy this situation in compliance with Spanish labour law, and according to the latest survey of the Marchamalo site, the situation has gotten worse.³⁰ As of July 2020, only 51% of the workforce were employed on permanent contracts, out of a total workforce of 2,066.³¹ Furthermore, as workers hired through staffing agencies are not included in the data, the true number of precarious workers is much higher.

27. International Transport Workers' Union (ITF), "Women's Wellbeing at XPO", 13 June 2018, <https://www.itfglobal.org/en/reports-publications/womens-wellbeing-xpo>

28. UGT Collective Agreement Company Survey 2018

29. XPO warehouse worker, Spain

30. UGT Workplace Survey 2018

31. UGT Workplace Survey carried out July 2020



I'm on the road now for 130 days, it is illegal I live in and around the cab of my truck with no access to facilities. I'm begging my company to go home but they simply ignore my request.

Ukrainian driver, sub-contracted to XPO France

Italy: subcontracting and the downgrading of contracts

About 90% of XPO workers in Italy are employed via external, contracting companies and temp agencies.³² In 2019, the union Uiltrasporti intervened when XPO hired workers and classified them, wrongly, as apprentices. Thanks to union intervention, the workers were re-hired as regular employees and placed on the correct grade with the right salary.

Subcontracting of labour and the downgrading of contracts has become such a problem that unions have introduced clauses into the national collective bargaining agreement for logistics, to protect working people and limit the ratio of contracted work compared to direct employment.

UK: Failure to pay pension increases

As the examples above show, XPO has persistently and systematically used the misclassification of contractors to undercut the wages and conditions of the workers who keep its transport and logistics network running. However, being an XPO direct employee does not give you immunity from wage theft. XPO delivers wage injustice to its permanent workers as well.

In September 2018, Unite the Union began receiving complaints from XPO workers who had suffered irregularities in their pay. In some cases, they were not paid at all.³³

In 2019, Unite members threatened strike action over missing pension contributions. According to the union, members had pension payments deducted from their pay packets, but the money was not credited to their pension fund.³⁴ XPO UK workers also received letters from the UK government tax office advising them that they had not paid enough tax, as XPO had failed to deduct tax contributions in line with its corporate responsibility. This left workers having to repay money to the tax office.

Non-payment of annual wage increases, and miscalculation of pension contributions were also the subject of dispute in Scotland where over 700 GMB union members voted by a majority of 97.8% to move a full industrial action ballot. The Bellshill and Eurocentral sites service around 70 of the UK's supermarket chains. The GMB accused the company of growing negligence of workers' terms and conditions.³⁵

32. Data collected by Italian union Uiltrasporti in August 2019

33. Unite the Union, "XPO logistics must get its 'house in order' as workers face weekly 'pay lottery' misery", 12 September 2018. <https://unitetheunion.org/news-events/news/2018/september/xpo-logistics-must-get-its-house-in-order-as-workers-face-weekly-pay-lottery-misery/>

34. Unite the Union, "Strike threat by Unite into 'missing' XPO workers' pension contributions," 16 May 2019. <https://unitetheunion.org/news-events/news/2019/may/strike-threat-by-unite-into-missing-xpo-workers-pension-contributions/>

35. GMB Scotland, "Strike Action Looms at XPO Logistics over 'Shameful List' of Attacked on Staff Conditions," 21 May 2019. <https://www.gmbscotland.org.uk/newsroom/strike-action-looms-at-xpo-logistics>

Health and Safety violations create dangerous work environments

XPO's pandemic response highlights serious shortcomings and a cavalier approach to worker safety. It is indicative of a broader culture of poor - and sometimes illegal - safety practices. Within their European road networks, Eastern European drivers live in their vehicles while travelling for months at a time, as low rates of pay make it prohibitive to do otherwise. While across their warehouse networks there is a pattern of workplace injury and even death.

XPO's UK warehouses have been described in the UK press as "dark satanic mills", in stark contrast to the sleek and modern distribution centres seen in XPO's publicity materials.

"Dark Satanic Mills": XPO's UK warehouses

GMB Union reports that it has received numerous complaints regarding safety at XPO's UK warehouses. At the XPO/ASOS warehouse unsafe practices included:

- Timed toilet breaks;
- Invasive security checks; and
- Exhausting production targets.

An investigation by Member of Parliament Iain Wright called the conditions exploitative and questioned whether the company had broken the law regarding the use of "flex" clauses in contracts, which allowed shifts to be extended or reduced for two hours.³⁶ Additional hours are not paid, but banked, and offset "as soon as reasonably possible". Workers are given limited notice of changes to their shift, with some workers reporting that they are often only advised in the middle of a shift of the need to perform additional hours. Workers have little opportunity to refuse changes to their shifts, with XPO stating that "persistent non-attendance for flex hours may result in disciplinary action".³⁷

[XPO/ASOS] are making millions while workers are literally being taken away in ambulances.

Neil Derrick,
GMB Regional Secretary³⁸

If there's a peak period where they have tons of work, they actually say, 'Don't go to the toilet, stop drinking water, don't go to the toilet.' If you go, they come and ask you, 'You were offline one minute - where did you go?' They are like, 'Work, work, work, don't ever stop.' Which is really hard.³⁹

ASOS/XPO worker

This investigation also found that workers were given a "pick" target of 160 items per hour and a "pack" target of 170 items per hour.⁴⁰

The site received forty-five ambulance callouts in one year. A nearby supermarket warehouse of a similar size made eight calls.⁴¹

At this same site in 2018, a 20-year-old worker was killed when she was hit by a car in the car park after her night shift. The GMB had previously raised concerns about the car park, which it had described as a "death trap", due to cars coming off a dual carriageway into 5MPH regulation.⁴²

36. Thomas, E. & Titheradge, N., "Asos warehouse contracts 'exploitative' says committee chair MP." BBC News, 7 October 2016. <https://www.bbc.com/news/business-37483334>

37. Ibid.

38. BBC News, "JD Sports and Asos warehouses like 'dark satanic mills.'" BBC, 7 May 2019. <https://www.bbc.com/news/uk-england-48186516>

39. Lott-Lavigna, R., "ASOS, Boohoo and the Fast Fashion Workers Fighting to Unionise", Vice, 3 March 2020. https://www.vice.com/en_uk/article/jgevq8/asos-boohoo-and-the-fast-fashion-workers-fighting-to-unionise.

40. Ibid.

41. BBC News, "JD Sports and Asos warehouses like 'dark satanic mills.'" BBC, 7 May 2019. <https://www.bbc.com/news/uk-england-48186516>.

42. Lott-Lavigna.



They [XPO] just want to cut corners all the time, they don't invest in any improvements, such as better equipment that would make our jobs safer, they just don't want to spend any money, they put so much pressure on us to get the work done, they don't care how it's done or at what risk to staff.

Worker at XPO warehouse, Spain.

Spain: persistent failures to act on safety hazards

In interviews with the Spanish union UGT, workers at the XPO warehouses in Guadalajara reported feeling unsafe due to a variety of issues, including:

- Failure to extend health and safety training to all workers;
- Failure by XPO to ensure that workers are putting OHS training into practice;
- A lack of investment in essential repairs;
- A failure to act when safety hazards are identified, even when those hazards are escalated to the Labour Inspector; and
- Machinery and the warehouse in disrepair.

These issues are described by Spanish XPO warehouse workers, these are their testimonies:

"So far, nothing has happened to me, but there's an accident waiting to happen any day... The pallets are loose and sometimes they fall. I mean, I've witnessed goods falling off a pallet placed high up. We've only received some basic training courses and the company doesn't bother to check if we're putting what we've studied into practice, they don't do anything at all. In fact, the labour inspectorate told them to change it and they haven't."

"I am an accident prevention delegate- and, to be honest, we always have to report problems to the labour inspectorate, the company doesn't invest a single euro... We are always in danger because of the state of the machinery, which is regrettable."

"When it rains on the loading bays ... the coverings don't offer us protection. When we're loading and it's raining down on us, water falls on the loading bay and, on many occasions, the trucks don't have a safety chock, others lose air pressure while being loaded and you end up falling over - it's happened to me many times. Some [workers] haven't received training, me included. They told us we were going to get an hour a day of training, but only four of five people have completed the course to date."

"In the racks area there are loose pallets high up, badly positioned... This is constantly brought to the company's attention, but they do nothing."

"With regards to accident prevention, any problem that is reported is just a bother to the company. In fact, in the racks area, on the floor, there are some holes that are dangerous for the machinery, because of the goods. I think we've been reporting them since the summer, and we reported the issue again two months ago. They tell us that they're still working on the budget and so on. The area ought to be sealed off."

Together issues indicate systemic failures by XPO to invest time and money into OHS to minimise the accident rates at the site.



USA: Workers made to work in high heat

XPO's Memphis, Tennessee warehouse was the subject of multiple health and safety breaches. Workers reported being made to work in temperatures exceeding 100F (37C) and complained the heat and humidity were making it hard to breathe.⁴³ In one instance, Linda Neal, a 58-year-old worker, complained of feeling unwell. Supervisors denied her permission to leave early, and she collapsed on the warehouse floor and died of a heart attack.⁴⁴

In Buffalo, New York, federal regulators imposed the maximum allowable fine on XPO after two workers were crushed to death by over 3629kg of countertop material.⁴⁵

EU: Drivers living in their trucks for months

XPO's European trucking network profits off the exploitation of sub-contractors. A significant proportion of drivers are Eastern or non-European and are dispatched to Western Europe with false papers and paid in accordance with Eastern European wages. These drivers work in Western Europe for continuous periods of six to eight weeks, without returning home. Over this period, the drivers live illegally in and around their vehicles. The sites where they sleep have no proper wash or toilet facilities, and drivers will cook their food in the back of their trailer on small camping stoves.

Living like this takes its toll on the drivers.⁴⁶ Driving for long periods leads to physical exhaustion, and isolation from friends and family leads to depression. For some, the severe impact on their mental health has led to substance abuse. All these factors put the driver and other road users at risk of accidents.⁴⁷

43. Silver-Greenberg & Kitroeff.

44. Ibid.

45. Prohaska, T.J., "OSHA fines Lockport warehouse for workers' deaths as widows sue DuPont." The Buffalo News, 23 December 2018.

Transport Topics article January 23, 2019: <https://www.ttnews.com/articles/xpo-accepts-violation-fatal-accident-involving-granite-slabs>

46. FNV, "Exploitation across Europe in road transport supply chain automotive industry." 11 October 2018. Video. <https://youtu.be/Z4LOLVdf4dY>.

47. VNB, ITF, IUF, 2020, Pandemic of Exploitation in European Trucking, https://www.itfglobal.org/sites/default/files/node/resources/files/VNB_ITF_IUF_Report_FINAL.pdf

Pregnancy discrimination, gender discrimination and sexual harassment

XPO also delivers injustice through gender-based discrimination and sexual harassment. The company has previously denied lighter shifts to pregnant warehouse workers - ultimately resulting in their miscarriage. In their Spanish warehouses, workers speak of strict gender segregation of roles, with women restricted to particular areas of the company. While in the UK, the company's gender pay gap continues to increase, putting lie to management claims that it is working to reduce the gap.

USA: Discrimination on the basis of Gender and Race

On 19 June 2020, a federal court decided in favour of an African American woman's appeal to proceed with her case against XPO, holding that the company may have discriminated against her when dismissing her in contravention of its own policy. She alleges that XPO rules were applied differently to her because of her race and gender.⁴⁸

The worker was dismissed after one incident of having to leave work early in what the Court called an "inherently female" emergency due to menstruation-stained clothing.⁴⁹ She also presented evidence that three male employees, in separate instances, had also left their shifts early without permission and received only warnings or reminders to comply with policy.

Judge Gregory Phillips of the U.S. Court of Appeals for the 10th Circuit accepted her argument that the dismissal was contrary to XPO practice, and quoted the testimony of XPO's own HR representative that there would usually be a discussion and two warning letters.

The final outcome of the case will be decided in a lower court, but the Judge said that "the record would allow a jury to find that XPO ignored its practice of not immediately firing employees who left work early and that this disparate treatment was driven by discrimination."⁵⁰ He added that a jury would consider the fact that she tried to inform management of why she left early, and the possibility of company retaliation, noting that the dismissal took place only three days after she made a separate complaint of discrimination for being essentially banned from working in a team with men.



48. FreightWaves, 'Appeal of dismissed Black XPO employee succeeds, case can move forward', 18 July 2020, available at <https://www.freightwaves.com/news/dismissed-black-xpo-employee-prevails-in-discrimination-suit-on-appeal>

49. Mann v. XPO Logistics Freight, Inc., No. 19-3085 (10th Cir. June 19, 2020).

50. Ibid



USA: miscarriages after workers refused lighter duties

In 2018, XPO announced a new pregnancy policy. The policy announcement followed an explosive front page story in The New York Times in October 2018, which detailed painful stories of pregnancy discrimination, miscarriages, sexual harassment and dangerous conditions for women working at a Verizon Fulfillment Centre operated by XPO in Memphis, Tennessee.⁵¹ This article, and others like it, sparked Congressional scrutiny into XPO's working conditions from nine U.S. Senators and 97 members of Congress.⁵²

While the new policy appears progressive on paper and seems to be a large improvement of the former policy, it has significant shortcomings in practice. Significantly, the policy lacks any oversight or enforcement mechanism. In an effort to address this, XPO workers engaged in collective bargaining across the U.S. and have prepared and presented management with a pregnancy policy clause for the collective agreement that would better protect workers. XPO has repeatedly refused to include this clause.

If this clause was included in a collective agreement, the company would have to negotiate any changes to the policy with workers and their elected representatives. Furthermore, violations of the policy could be grieved, arbitrated and enforced. In the absence of this type of enforcement, pregnant XPO workers remain vulnerable.

The "progressiveness" of the order, and trust in the company to fulfil the spirit of the policy, was undermined by XPO's almost contemporaneous announcement that it would close the Memphis warehouse where the workers featured in the New York Times article miscarried, in a move that Senator Blumenthal from XPO's home state of Connecticut said, "reeked of retaliation".⁵³

The approximately 400, low-wage, predominately African American women workers were told that they could apply for other XPO jobs in the area. However, they were told they could not receive any severance pay without first signing a "gag" agreement promising not to discuss conditions at the facility.

In addition to the pregnancy discrimination and miscarriages described above, workers had accused male supervisors at the facility of sexual harassment. Workers have told Teamster Union that the same men accused of the sexual harassment continue to work for XPO today.

When questioned about the conditions at this Memphis warehouse, XPO repeatedly refers to an independent investigation conducted by Tina Tchen (now CEO of Times Up). However, no report from the investigation's findings has ever been seen. In fact, according to a June 30, 2019 segment on John Oliver's Last Week Tonight, XPO commented that no written report was ever produced.⁵⁴

51. Silver-Greenberg, J. & Kitroeff, N., "Miscarrying at Work: The Physical Toll of Pregnancy Discrimination." The New York Times, 21 October 2018. <https://www.nytimes.com/interactive/2018/10/21/business/pregnancy-discrimination-miscarriages.html>

52. Kitroeff, N., "XPO Logistics Will Close Warehouse Where Some Pregnant Workers Miscarried." The New York Times, 14 February 2019. <https://www.nytimes.com/2019/02/14/business/xpo-verizon-warehouse-pregnancy-discrimination.html>

53. Kitroeff, N., "XPO Logistics Will Close Warehouse Where Some Pregnant Workers Miscarried." The New York Times, 14 February 2019. <https://www.nytimes.com/2019/02/14/business/xpo-verizon-warehouse-pregnancy-discrimination.html>

54. Oliver, J., "Warehouses: Last Week Tonight with John Oliver." HBO, 30 June 2019, video. <https://www.youtube.com/watch?v=d9m7d07k22A>



With regards to women, there is only one female manager in the whole company, who is a middle manager, and all the rest are men. Right now, in our shift, for example, there are five team leaders and only one is a woman. There are jobs that are only assigned to men, just for being men, and only men are considered. Women, in the end, are used only for more precarious jobs.

XPO warehouse worker, Spain

Spain: gender segregation and discrimination

In a 30-page report entitled Women's Wellbeing at XPO, the Spanish union FeSMC-UGT documents significant and systematic gender discrimination in the XPO warehouses in Guadalajara.⁵⁵ The report found for example that women were paid less than men, denied the same opportunities for promotion as men, and that women who became pregnant did not have their temporary work contracts renewed. XPO also made it difficult for women to take leave for personal and family matters, which they are entitled to under Spanish law.

The law in Spain requires XPO to negotiate a Gender Equality Plan, which should consider issues including equal access to work, time off for family responsibilities and provide disaggregated employment data. UGT has been trying to negotiate a decent equality plan with XPO for over a year. It has refused to sign the current plan presented by XPO due to major shortfalls, and has accused XPO of "surface bargaining", to give the impression of complying with their legal requirements, without delivering anything of substance. By contrast, UGT has signed equality plans with other logistics companies.

In the Zara online work centre there is a clear typecasting. Depending on the gender of the worker, a person is predetermined to go to a specific department. And then there's total reciprocity between the department and gender of the manager – 95% of the workforce in the packaging area is women.

XPO warehouse worker, Spain.

Italy: failure to produce equality report

XPO is in breach of article 46 of the Equality Code in Italy. The article requires that any company with more than 100 workers must publish a detailed report on equality at least every two years. XPO has not produced an equality report and has ignored demands from the union to address this violation of the law.⁵⁶

UK: Growing gender pay gap

The 2019 XPO UK Gender Pay Gap report admitted to a significant increase in the gender pay gap for the company's supply chain and bulk operations, the latter reaching a 29% difference between men and women.⁵⁷ This is in stark contrast to pledges that the company had made in 2015 to reduce its gender pay gap to 10% by 2016.⁵⁸

Unite the Union had initially raised concerns the previous year after the XPO report demonstrated that women working in its transport business were paid on average 14% less per hour than their male co-workers.⁵⁹

55. International Transport Workers' Union, "Women's Wellbeing at XPO." 13 June 2018. <https://www.itfglobal.org/en/reports-publications/womens-wellbeing-xpo>

56. Senato della Repubblica, "Constitution of the Italian Republic." 2018. https://www.senato.it/application/xmanager/projects/leg18/file/repository/relazioni/libreria/novita/XVII/COST_INGLESE.pdf

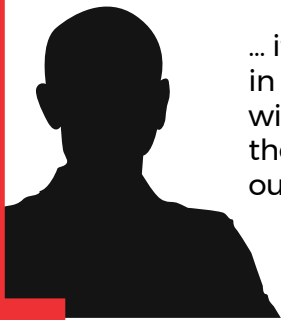
57. XPO UK Gender Pay Gap Report, April 2019, available at https://xpodotcom.azureedge.net/xpo/files/s12/2019_UK_Gender_Pay_Gap_Report.pdf

58. United Nations, "XPO Logistics Europe 2016 Communication on Progress." United Nations Global Compact, 20 May 2016. <https://www.unglobalcompact.org/participation/report/cop/create-and-submit/active/239201>

59. Unite the Union, "Exploitation of Workers at Logistics Giant XPO Under Microscope Today." 16 April 2018.

Union-busting

XPO has actively resisted engagement by the Global Union Family. In the countries where it operates, it has actively engaged in union busting and the harassment of union members. Breaching workers' freedom of association is just another way that XPO delivers injustice. Any company that actively works to discourage its employees from joining a union is not serious about upholding workers' rights.



... it is the Company's position that it can best achieve a competitive position in the transportation and logistics industries by remaining union free. XPO will do everything legally possible to remain in that position and to convince the Company's employees that they have no need for representation by an outside party.

Philosophy on Labour Unions, XPO's USA employee handbook

USA: "extraordinary" opposition to worker organising

XPO Logistics maintains an aggressive anti-union stance in the USA and has even resorted to unlawful measures to intimidate workers and undermine their efforts to form unions and bargain for improved working conditions.

Since 2014, workers in the USA have filed a total of 120 unfair labor practice (ULP) charges with the National Labor Relations Board (NLRB) against XPO. ULP charges allege that XPO has violated the National Labor Relations Act.⁶⁰

In response to workers' efforts to form unions at XPO, company management and paid anti-union consultants told employees that the company would never agree to a contract with the union, and there was therefore no point in their forming a union. In 2015 and 2016, XPO paid three anti-union consultants a total of USD1.3 million.⁶¹

In addition, managers and supervisors told workers that they would not receive annual wages increases, interrogated and engaged in illegal surveillance of workers, and suspended - and even fired - workers, who were union members.

Workers have voted to form unions at seven XPO facilities. In these facilities, the company has used numerous tactics to delay and undermine bargaining, and no contracts have been reached. In four of these unionized facilities XPO unlawfully withheld annual wage increases while giving them to non-union employees in other facilities. XPO subsequently paid over USD500,000 in back pay to these workers.

In August 2018, a former acting general counsel of the NLRB, Lafe Solomon, concluded:

In my experience, the sheer number of unfair labour practice charges filed and complaints issued by NLRB regional directors against XPO, resulting in numerous board decisions and settlements, are extraordinary and outside the norm of employer opposition to its employees' organizing efforts, and evidence XPO's intent to flaunt its obligations under the NLRA to deny its employees their right and ability to form and join a union.⁶²

60. Solomon, L., "Report and Analysis of the NLRB Case Against XPO," August 30, 2018.

61. Committee on Workers' Capital, "XPO Logistics Shareholder Resolution," 10 May 2017, <https://www.workerscapital.org/xpo-logistics-shareholder-resolution>

62. Solomon.



XPOLogistics

Spain: union members overlooked for promotion

Union members report feeling discriminated against due to their union affiliation. Union members are overlooked for promotions, kept on insecure contracts (instead of being converted to permanency), and have their hours restricted.

"Just being a union member or works council member is an obstacle to getting promoted."

"There is union-related discrimination. As members of the works council we see that our rights are not respected, or that they are only partially upheld. In terms of contractual improvements, we get left behind, whereas other workers who have just joined see that their contracts are improved. We can't make any headway for the mere fact of being a union representative."

"They place a lot of restrictions on us, even to the point of being denied an increase in working hours, since most of us are on part-time contracts, or less than full-time... requests are made several times, in writing."

Workers and Union Representatives at XPO warehouse, Spain



Photo: Sundry Photography stock - adobe.com

Switzerland: ignoring workers' legal right to collectively bargain

In Switzerland, amidst the Coronavirus pandemic, XPO announced the entire closure of its warehouse in Geneva.⁶³ Swiss Labour law allows workers the right to collective bargaining for their redundancy. XPO refused to negotiate with the workers' union UNIA and instead insisted on individual negotiations, despite the majority of workers belonging to the union and evoking their legal right for the union to negotiate their collective dismissal. In June 2020, the 32 workers went on strike to protest the closure and the refusal of the company to honour their basic labour rights, after 3 weeks of industrial action the company finally gave in and complied.

63. Herranz, S., "XPO Logistics: unacceptable violation of employees' rights." L'Événement, 20 May 2020. <https://www.evenement.ch/articles/xpo-logistics-violation-inacceptable-des-droits-des-salaries>.

CEO Jacobs: An overvalued CEO for an undervalued workforce

*XPO's failure to align executive pay with the company's overall performance has resulted in excessive payouts that are not in the best interest of shareholders. The New York State Common Retirement Fund will be holding XPO's directors accountable for failing to align pay with performance, and we encourage shareholders to support our proposal asking XPO to consider ESG issues like worker safety when determining executive compensation.*⁶⁴

Thomas DiNapoli, New York State comptroller

The stories of exploitation and illegality outlined above, describe a company with little regard for delivering justice to the workers who are the basis of its business. This is further underscored when we compare the pay and conditions of its workers to those of its CEO, Bradley Jacobs.

Taking into account the provisional value of his long-term incentive plan (LTIP), in three of the last four years, Jacobs' annual compensation was in excess of USD20 million. In 2019, it was worth over USD26 million.⁶⁵ Using this figure, Jacobs was paid eight hundred times the median XPO worker's salary (USD 33,162).

In fact, Jacobs' pay is more than double the median CEO pay at peer companies.

Proxy advisor Glass-Lewis has recommended against Jacobs' compensation every year from 2014 to 2020, while proxy advisor ISS recommended against in 2017, 2019, 2020.⁶⁶ In advising investors to vote against CEO compensation, ISS noted that CEO Jacobs' compensation was more than three times that of his peers and had increased nearly 200% over the past year.⁶⁷

In three of the past four years, a third of investors have rebelled against CEO Jacobs' compensation.⁶⁸ This result is even more significant, when one takes into account that Jacobs controls nearly 18% of XPO's voting power.

In recommending and voting against XPO's executive compensation, proxy advisors and investors have not only focused on its value, they have also highlighted the "complexity" and "gaming" of long-term performance awards. The 2016 LTIP, for instance, vested on the basis of an adjusted cash flow per share⁶⁹ measure that received a considerable boost from the company's multi-billion-dollar share repurchase program – a buyback that was clearly not envisioned when the award was granted.⁷⁰

Calculations indicate that Jacobs would have forfeited USD21 million, the entire fourth and last tranche of the award, if the company had not repurchased 21% of its shares in 2019. The award's all-cash payout structure also enabled Jacobs to benefit from the temporary stock bounce associated with the company's aborted review of strategic alternatives, netting him nearly an additional USD3 million in cash.⁷¹

CEO pay is a crucial litmus test of corporate culture. When compared to worker pay, it is a marker for the sharing of opportunity, risk, and when necessary, sacrifice. In short, it symbolises a company's values. On this note, it is perhaps telling that on July 31, 2020, in the midst of the pandemic, XPO granted CEO Jacobs a new long-term incentive award that could, if certain performance targets are met, pay out up to \$80 million in cash over the next four years.⁷²

64. Corporate Secretary, "XPO Logistics shareholders reject exec comp proposals", 21 May 2020, <https://www.corporatesecretary.com/articles/shareholders/32113/xpo-logistics-shareholders-reject-exec-comp-proposals>

65. For the purposes of the calculation, we have used the Total Compensation reported in the Summary Compensation Table, with the exception that CEO Jacobs' LTIP awards are valued following the method used by proxy advisory firm, Institutional Shareholder Services (ISS). This method derives a grant date value for the award by multiplying the number of shares underlying the award by the closing stock price on the grant date. We recognize that the company uses a Monte Carlo simulation model to value the awards granted in 2017 and 2019, arriving at lower valuations to the ones used here. Under our methodology, CEO Jacobs received USD26.4 million in total compensation in 2019.

66. Docoh, XPO Logistics PX14A6G 2020 Letter to shareholders, Change to Win Investment Group, 4 May 2020, <https://docoh.com/filing/1166003/0001377739-20-000021/XPO-PX14A6G>

67. International Brotherhood of Teamsters, "Proxy Advisory Firm Slams XPO CEO's Pay, Backs Teamster's Labor Practices Proposal", 1 May 2017, <https://www.prnewswire.com/news-releases/proxy-advisory-firm-slams-xpo-ceos-pay-backs-teamsters-labor-practices-proposal-300448938.html>

68. Based on the percentage of votes cast "For" or "Against" the company's Say-on-Pay proposal voted upon in 2017, 2019 and 2020, and as disclosed in the company's Securities Exchange Commission ("SEC") filings. Abstentions are excluded from the calculation.

69. Ibid, p. 51.

70. Ibid; XPO states on page 51 of the 2020 Proxy Statement that the accretive impact of any buyback would be "reasonably offset" by the higher interest expense associated with the debt incurred to fund the repurchase. The mechanics of how buybacks can boost per-share based profit measures, even if it does incur higher interest expenses, is explained by the consulting company McKinsey & Co. See also: Ezekoye, O., Koller, T. & Mittal, A., "How share repurchases boost earnings without improving returns." McKinsey & Company, <https://www.mckinsey.com/business-functions/strategy-and-corporate-finance/our-insights/how-share-repurchases-boost-earnings-without-improving-returns>.

71. Pound, J. "Shares of XPO Logistics soar 15% after announcing possible spin-offs." CNBC, 15 January 2020. <https://www.cnbc.com/2020/01/15/shares-of-xpo-logistics-soar-15percent-after-announcing-possible-spin-offs.html>; Note: On January 15, 2020, XPO announced it was exploring strategic alternatives, including a potential sale of a number of its business units. News of the review pushed shares 15% higher to USD95.53 as of the close on Jan 16, 2020. On February 19, 2020, the day on which the final tranche of the 2016 LTIP was paid out in cash, but at the prevailing market price, shares closed at USD97.47, having continued to trade at the higher level following the announcement of the strategic review. Using the pre-announcement stock price of USD82.82, we estimate the award would have paid out approximately USD3 million less had the sale process not been announced.

72. United States Securities and Exchange Commission, "XPO Logistics, Inc. Quarterly Report on Form 10-Q For the Quarterly Period Ended June 30, 2020 (page 37)," June 2020, <https://www.sec.gov/ix?doc=/Archives/edgar/data/1166003/000116600320000047/xpo-20200630.htm>

XPO stop delivering injustice: it's time to meet with unions

Unions representing working people at XPO are greatly concerned that XPO's business model is based on exploitation, illegal underpayments, and a callous approach to safety. It is a corporate culture that punishes workers for exercising their rights and delivers injustice to its entire workforce and supply chains, with serious gender equality issues specifically issues of sexual discrimination and harassment.

The ITF, ETF and XPO Global Union Family are dedicated to protecting standards for workers and to ensuring respect for labour rights, whether in the face of further aggressive merger and acquisitions or XPO's recent tactical U-turn to increase share prices instead through spin-off or sale of parts of the company.

Repeated demands for dialogue to discuss workers' concerns have received poor responses. ITF general secretary Stephen Cotton has sent direct requests to meet Bradley Jacobs, but XPO refuses to meet at a global level with trade union representatives.

The XPO Global Union Family are not willing to stand by and wait while working people pay the price for XPO's dangerous working practices and exploitative business model.

The Global Union Family demand that XPO stops delivering injustice and:

- Urgently sets up a global health and safety forum with unions to enable joint working on the COVID-19 crisis and other serious health and safety issues.
- Engages in good faith with the local unions on the ground in every country in which it operates and works together with them to fix issues reported by workers.
- Responds to invitations to meet with the XPO Global Union Family to discuss, negotiate and establish labour protocols to protect workers' rights at the global level, including agreement to research, design and implement gender action programmes to ensure gender equality and women's empowerment in XPO workplaces.

- Complies with all mandatory reporting as required by national laws in the various states in which it operates globally (including national Gender Equality Plans), as well as the principles laid out in the UN Global Compact.
- Carries out due diligence measures throughout its supply chain, including all suppliers and subcontractors with which it has an established commercial relationship, as required under the French Corporate Duty of Vigilance Law.
- Is fully transparent with respect to its supply chain and carries out a thorough and detailed mapping of its supply chain with corresponding details about each of its operations. This mapping of its supply chain must be accessible to workers and other stakeholders of the company.
- Ends its anti-union culture. No discrimination should be exacted in relation to union involvement, and the fair and legitimate exercise of labour rights as protected by international law.
- Undertakes a robust selection and/or search process for a director to serve as the independent chair of the Board.
- Reforms its executive pay to better align management's incentives with sustainable human capital management practices, such as the inclusion of pay metrics that account for the safety and wellbeing of workers, and to eliminate rewards for financial engineering.

It is clear that the ITF and its partners are ready to work with XPO to solve the problems detailed in this report: it's time for XPO to meet with unions.



Help hold them accountable

Do you work with or do business with XPO?

Do you have a story about their behaviour?

Share your story, and help the ITF hold XPO to account.

If you would like to share your experience working or doing business with XPO, you can anonymously contact us via:

Email: expose_xpo@itf.org.uk

