

New forms of employment

Employee sharing, Luxembourg

Case study 17: Textilcord

Prêt temporaire de main d'oeuvre (sublease of employees), originally devised as a job retention tool, is a form of employment unique to Luxembourg. This case study examines its use by Textilcord, supplier of materials to tyre manufacturers, which subleased employees to another company during a period when it did not have enough work for its permanent staff.

Introduction

This case study is focused on the use of *prêt temporaire de main d'oeuvre* (sublease of employees) as a job retention tool. It is used jointly by private companies and the government of Luxembourg in the framework of tripartite agreements negotiated by social partners.

The study looks at Textilcord, a supplier for tyre manufacturers, a sending company under the sublease of employees scheme. SolarWood (currently Saint-Gobain Solar Systems) was the receiving company. Information was gathered through two interviews with representatives of Textilcord management, one affected employee and one trade union representative. Desk research on relevant legislation and media sources was also conducted.

The case study focuses on a dramatic period for Textilcord between October 2008 and the first months of 2010 during which its turnover fell by 50%. In response, the management of Textilcord negotiated an Employment Retention Plan to avoid forced dismissals with two trade unions, the Independent Trade Union Confederation of Luxembourg (Onofhängege Gewerkschaftsbond Lëtzebuerg, [OGB-L](#)), and the Luxembourg Confederation of Christian Unions in Luxembourg (Lëtzebuerger Chrëschtliche Gewerkschafts-Bond, [LCGB](#)). The plan was approved by the Ministry of Labour, Economy and Social Solidarity Economy.

The social partners signed an Employment Retention Plan that includes workforce adjustments that affect the whole workforce, as part of a plan to reduce production. The measures include:

- reducing the number of employees on short-term and temporary contracts (one employee);
- not replacing staff who retire or resign (seven employees);
- accepting requests for early retirement (no employees);
- offering a financial incentive for voluntary departure (no employees have volunteered for this option);
- putting the whole workforce on short-time working scheme (cutting up to 30% of normal working time);
- changing work organisation (cancellation of a night shift and the weekend shift).

Even after these actions were taken, 15 jobs were still under threat and the plan offered two solutions:

- subleasing employees (two employees);
- offering a training programme for all 15 employees to enhance their employability.

The sublease of employees allows companies to temporarily send their staff to other employers while maintaining the original employment contract. This was made possible by the law of 19 May 1994 on temporary employment and sublease of employees, and it was integrated into the Labour Code under articles L 132-1, L 411-2 and L 413-6 (and their sub-sections). As defined in article L 132-1 of the Labour code, the sublease of employees is limited to companies that are not temporary work agencies. They must have prior authorisation from the Ministry of Labour, Economy and Social Solidarity Economy, on the advice of the public employment agency (ADEM). Subleasing can be done for a limited period of time and under the

following four limited circumstances:

- threat of layoffs or under-employment;
- performance of a casual work (provided that the user company cannot perform it itself and belongs to the same branch of activities);
- company restructuring;
- implementation of an Employment Retention Plan

Every application for subleasing must be submitted jointly by the receiving company and the sending company to the Labour Ministry. If it gives authorisation, it determines how long the subleasing can last and this is generally between six and 12 months.

The sublease of employees has to be included in the negotiation of Employment Retention Plans (Labour Code, L 513-3) and be approved by the Committee on Economic Conditions (*Comité de conjoncture économique*), representing the social partners and the institutions that monitor labour market regulation and employment policies.

Employment Retention Plans are based on a provisional schedule of employment, investment and productivity launched by the management and negotiated with employees' representatives. In the case of the sublease of employees, employees may receive a public subsidy that can be used to maintain employment ('Reemployment Help').

Reemployment Help (*'L'aide au réemploi'*) subsidises employees who lose their job and accept a lower-paid job. The subsidy covers the difference between the new wage and 90% of the former wage in the sending company for up to 48 months, and the sending company finances the remaining 10% up to a maximum of 3.5 times the national minimum wage ([€1,921.03 at January 2014](#)). Any individual who has been laid-off for economic reasons including restructuring, reorganisation measures, bankruptcy or cease of activity can apply for to the public employment agency (ADEM) for this benefit provided their work contract was either permanent, fixed for at least 18 months, or in if they replace someone who is on parental leave (Labour Code 2012).

General characteristics of sublease of employees at Textilcord

Textilcord, located in Steinfort, Luxembourg, processes synthetic fibres such as polyester, nylon, aramid, hybrid fibres and rayon. Textilcord has special expertise in dipping industrial fabrics, which is why all well-known tyre manufacturers purchase dipped tyre-reinforcement fabric from Textilcord. The company also manufactures a wide range of yarns and fabrics used in material rubber goods.

Since 2011, Textilcord has expanded its production of lifting bags, flexible containers and pumping pipes. Its turnover is about €50 million. However, the economic and financial crisis that considerably affected the automotive market led to a dramatic decrease in production. As Textilcord production is mainly used for the middle-value and high-value segments of the automotive industry, it was deeply affected by the drop in demand for such cars. Between October 2008 and July 2010, production decreased by about 50%.

In the spring of 2014, the company had a workforce of 163 employees, including 24 temporary agency workers. Of those 163 employees, 33 are white-collar workers and the remainder blue collar workers. Only six are women. About 40% of the workforce live in Luxembourg, the rest are cross-border commuters mainly from Belgium. Ten years ago the plant had 200 employees.

The site was created in 1965 and belonged to tyre manufacturer Uniroyal. When the German tyre manufacturer Continental took over Uniroyal in 1979, Textilcord provided all the tyre production sites for the group. In 1997, the site was sold to the Austrian company Glanzstoff Industries. Glanzstoff Industries has three production sites; one in the Czech Republic (Glanzstoff Bohemia), one in Italy (Sicrem) and the last at Textilcord in Luxembourg. It also has a worldwide distribution network and leads in the production and processing of high-tenacity viscose filament yarns for technical and textile applications.

For the scheme to sublease Textilcord employees, the receiving company is Saint-Gobain Solar Systems (formerly SolarWood Technologies SA). SolarWood Technologies was a start-up created in November 2007 that produced solar roof tiles. In 2008 it had 15 employees – its staff had grown to 60 by 2009 when the French group Saint-Gobain bought a 30% equity share in the company. In January 2010, after the company's founder died, the Saint-Gobain group acquired the remaining 70% of the capital and changed the company name to Saint-Gobain Solar Systems. According to the last annual report of the group Saint-Gobain, the workforce of Saint-Gobain Solar Systems SA Luxembourg settled at 37 in 2012.

Employees at SolarWood Technologies were mainly unskilled workers producing roof tile sized solar panels. The interviewed employee, the second employee subleased from Textilcord to SolarWood, is a blue-collar production worker. He is 34 years old and has been with Textilcord for 14 years where his main task is to manipulate and change spools of thread and cable that are used for tyre manufacture. At SolarWood, his tasks were very different as he had to cut solar panels or fix electronic boxes.

Design and implementation process

The main goal of the subleasing of employees is to redeploy redundant employees, reduce layoffs and avoid the negative social consequences of unemployment.

For the management, the aim was to avoid forced dismissals and to maintain a relationship with employees in the hope that they could be reemployed as soon as production increased. It was also seen as a way to keep skills within the company. In September 2009, the management of Textilcord and its employee representatives, its works council (*délégation du personnel*) and representative from both unions (OGBL and LCGB) began to negotiate an Employment Retention Plan to avoid forced dismissals in the framework of a social plan.

According to the management, Textilcord had already used subleasing in 2007, reducing the number of employees affected by collective dismissal for economic reasons through a social plan negotiated with employees' representatives and unions. In all, 16 jobs were lost and, through the subleasing of employees, eight employees were reemployed elsewhere. Seven were dismissed, not wishing to do the nightshifts and Sunday work required by the receiving company. When further job cuts were needed in 2009, the earlier experience was seen as positive and worth repeating when negotiations began on an Employment Retention Plan.

The Employment Retention Plan was agreed between the management of Textilcord and employee representatives from the company and by trade union representatives from the two main Luxemburgish confederations, OGBL and LCGB. Its provisions for subleasing were opened to the whole workforce on a voluntary basis, in the hope that if enough volunteers came forward, there would be less need for short-time working. The agreement was signed on 23 December 2009, after about three months of negotiations.

The agreement was sent on 5 January 2010 to the Committee on Economic Conditions for approval, and then to the Ministry of Labour, Economy and Social Solidarity Economy for signing. The Committee visited the company before the application was approved on 3 March 2010. Management interviewees say that the ministry automatically approves such measures when social partners have managed to reach agreement. The need for official approval is aimed solely at preventing abuse of the Employment Retention Plan, and seeking approval is a formal process that allows the company to start implementing or preparing measures before receiving the Ministry's final approval.

The Employment Retention Plan guarantees employees that their wage will remain the same, and the cost is shared by Textilcord and the receiving company. The receiving company has to pay the full wage for the job filled to prevent social dumping. However, although the company asked the public employment service ADEM for the reemployment subsidy to bring employee's wages up to 90% of those earned at Textilcord, it received no answer. The reason, according to Textilcord's managers, is that even the public employment service may not be familiar with the subsidy.

As a result, Textilcord financed all of the difference between the salary paid by the receiving company and that paid by Textilcord. For example, if the normal wage paid by SolarWood for a job done by a subleased employee is €1,700 and the employee's wage at Textilcord was €2,300, Textilcord will invoice SolarWood for €1,700 and will pay the extra €600 to maintain the affected employee's wage. Without this, employees would probably not agree to take part in the sublease of employees scheme.

Textilcord published a list of employees affected by the plan and informed them individually. The management then started to negotiate the Employment Retention Plan with social partners. Once the negotiation started, and before receiving the agreement of the Ministry of Labour, the management started to identify potential receiving companies. It sought and received names of companies looking to increase their workforce from the Committee on Economic Conditions. According to the management, this gave limited help and the Committee suggested making contact with the public employment service (ADEM), although this also provided limited help.

Textilcord made contact itself with several companies including Hyosung, CFL Cargo and SolarWood. Only SolarWood agreed to receive affected employees. Textilcord sent employee profiles to SolarWood's HR

department. It interviewed selected candidates and chose two employees who matched the company's needs. Textilcord and SolarWood concluded an agreement from 1 December 2009 to 30 September 2010.

The application for sublease of employees was submitted jointly by the receiving company and the sending company to the Labour Ministry after it had been shared with the employee representative bodies of both companies (*Délégation du personnel*). Both these bodies must be consulted and their advice has to be forwarded to the Ministry of Labour before it gives its approval.

Affected employees interested in the sublease of employees scheme attended a meeting with the unions to learn about the scheme and their rights before deciding whether to join it. They also had an interview with their HR department to be told about the legal framework of subleasing of employees. The interviewed employee said he was also aware that he could have help from a reemployment subsidy if he had to stay in the receiving company after the subleasing period ended and Textilcord was not able to reemploy him. He also explained he was made welcome by the receiving company and had good relations with the other employees and his new line manager.

Employment contracts are agreed between Textilcord, the receiving company and the subleased employee in the form of a lease contract (*convention de prêt*). The contract establishes that the subleased employee remains employed by Textilcord during the sublease period and is subject to that company's collective agreements, social protection and procedures, but is also subject to the user company's authority, work organisation and holiday rules. In the case of a conflict, malpractice or misconduct, sanctions are to be decided by the user company and enforced by Textilcord. The contract can be terminated without notice during the trial period or with one month's notice thereafter if the user company considers that the subleased employee does not fit. In this case the employee would return to their previous position at Textilcord.

Textilcord is responsible for the management of employment contracts. Being the legal employer of the subleased workers, it supervises the payroll and continues to pay the employees their previous salary and is responsible for deducting and paying social security contributions and taxes. Textilcord charges the receiving company for the sublease on the basis of the salary agreed with the user company, plus social security contributions and taxes. Textilcord is thus responsible for the negotiation and control of the wage offered by the user company.

At the end of the agreement between both companies, two options are possible. The first and most desirable option is that the employees return to Textilcord. This was the wish of both the company and the employees, and Textilcord expects an increase in production and so hopes to maintain its workforce. The second is that employees are hired directly by the user company, becoming part of its workforce. In this case the contract with Textilcord would end and the employee would sign a new employment contract with the receiving company. The employee interviewed for this case study was aware that wages were lower at SolarWood and that if he was to be hired there on a permanent employment contract, he could obtain financial support during four years through the reemployment subsidy, but would then have to accept a lower wage if he stayed.

In this case study, the sublease of employees ended before the end of the agreement signed between Textilcord and SolarWood. After about four months, Textilcord's production increased and the company asked SolarWood if it would agree to return its two employees. As it happened, the group Saint-Gobain bought SolarWood and the new owner decided to reduce the workforce. The new management agreed to stop the subleasing as one way to achieve this. Both parties were therefore happy to end the subleasing of the employees before its official end in September 2010.

Working method, processes and procedures

The subleasing measure was included in the Employment Retention Plan concluded between the social partners. The administration of the sublease was managed and facilitated by the HR manager of Textilcord who, together with the director of the plant, identified potential receiving companies.

The HR manager had to contact the Committee on Economic Conditions and ADEM to identify companies and to obtain information on the measure. When the potential receiving company was identified, the HR manager of Textilcord had to explain to the HR manager of SolarWood how the scheme worked since they were unfamiliar with it.

The sending employees were still managed by the Textilcord HR department. They also stayed on the sending company's payroll. However, a number of conditions related to the job actually performed by the subleased employee, including working hours, working conditions and job description, were decided by the receiving company.

The precise positions filled by subleased employees do not correspond to fixed job descriptions. The profiles of the subleased employees are used to match them with work that needs to be done at the receiving company at the time. Both subleased employees in this case study worked in completely different jobs than those they had at Textilcord, although both jobs were production-related positions. The interviewed employee had stable work: he worked on the construction of solar panels and installation of electrical motors on solar panels. The HR managers of both companies coordinated the scheme throughout its lifecycle to closure, when Textilcord needed to recall its employees and SolarWood decided to reduce its workforce. The coordination process required continuous exchange prior to its launch, and was smooth and required little effort from then onward.

External support

None of the managers interviewed said they had received direct external support for the implementation of the policy. As for the practical implementation of the policy, Textilcord provided administrative and legal support for the receiving company because it was not familiar with the sublease of employees scheme. Textilcord management said the company felt 'alone' while managing this tool and it had the responsibility of explaining the scheme without any support from the public employment services or Labour Ministry officials.

According to Textilcord management, it was difficult to identify companies that needed to recruit workers because the Committee of Economic Conditions and the Ministry keep closer tabs on companies that have economic problems than on those that need to increase their workforce. The union representative believed that the Committee does also know of companies that are expanding, but Textilcord's management said that, in practice, a company in economic difficulties that needed to find a receiving company had little help from public authorities.

Outcomes and effects

Local economy

Given the small scale of the employment retention policy at Textilcord, which affected just 15 workers out of a total of 160 employees, it is difficult to gauge the consequences for the local economy. Stakeholders (HR, management and unions) agree that this is a good way to maintain skills within a company and to avoid dismissals. However, according to union representatives, this one measure could not help where an industrial economic slump had led to plant closure or reduction in investment.

Participating companies

Textilcord saw subleasing as positive, largely because it costs less than dismissal. The estimated cost for laying off an employee aged 35, married and raising two children, with nine years of seniority in the company and receiving €3,000 monthly income would be between €30,000 and €70,000, according to Christian Jungers of law firm Allen & Overy ([presentation](#) given in December 2009).

Subleasing employees cost Textilcord about €870 per month (for 40 hours per week), far less than the cost of an extra-legal dismissal allowance, and the scheme also made it possible to remain on good terms with employees and trade unions. In terms of HR management, such a tool, according to the director, is useful for ensuring that no employee will be fired without an individual solution being found for each. It is also a way to withstand economic difficulties while maintaining a skilled workforce.

For private firms like SolarWood, the main effect is that by subleasing, it can have access to qualified workers without any recruiting effort and associated costs. Two weeks' training was needed when the subleased employees started work – particularly on health and safety issues. But Textilcord's employees did not increase their labour costs since Textilcord topped up the difference.

However, a potential problem was that SolarWood employees' wages were significantly lower than the topped-up wages of the Textilcord employees, which could have led to tensions between employees at SolarWood. Textilcord did not mention such tensions during the interview.

Textilcord managed the employment contracts and payslips involved, relieving SolarWood of the administrative burden, and yet the receiving company did not lose control of working conditions (working hours and holidays) or the choice of who was to be employed. The receiving company was said to have been

happy with the two employees and ending the subleasing was linked only to strategic change within the company.

A further advantage for a receiving company is that a subleasing contract can be ended at any time without dismissal costs.

Employees

For the employees, the main outcome was the continuity of their career and employment and a stable salary that was not affected by the restructuring. Employees did not have to face interruptions in their employment and were provided with a guaranteed level of salary which maintained their previous conditions. As mentioned by the management of Textilcord, the device is 'transparent' for the employees. They received the same salary, the employer paid the same social contributions and they maintained their seniority within the company.

The interviewed employee saw the subleasing mechanism as a security measure. If his job at Textilcord did end, he would have been able to stay with SolarWood with the guarantee of receiving 90% of his former salary for at least a further four years with the reemployment subsidy from ADEM. Even if he could not stay with SolarWood, ADEM would still have provided the subsidy if the employee had found a new job which was less well paid. The employee said his concern about losing his job lasted only a week, at which point he learned of the subleasing scheme and realised that it would provide him with job security, at least in the medium-term. Given that SolarWood's premises were near the Textilcord plant, even his daily journey to work changed little.

Strengths and weaknesses

For all partners, the main strength of the sublease of employees is that it brings flexibility to HR management without having to compromise the well-being of staff. The receiving company benefits most from this flexibility, since the sublease is a much less demanding form of employment than traditional hiring. Textilcord assumed most of the workload linked with administrative procedures and authorisations.

The scheme has two main weaknesses – the sublease of employees can only work if potential receiving companies are in the same area as sending companies, and during the economic and financial crisis of 2009-2010, only a few companies were able to increase their workforce. Apparently SolarWood had increased demand for its products but, in 2009 and 2010, it was difficult to find other volunteer companies that were in a position to hire employees from Textilcord.

Textilcord management also points out that it is not widely known that employees can be subleased in this way. There is not enough information about how to do it, and a company wanting to use the scheme may have to explain how it works to potential receiving companies. Textilcord's management believe it would be useful to increase awareness and build a network between companies to make it easier and faster to find receiving companies.

For the subleased employees, the main strengths of the sublease mechanism are increased job security, continuation of employment and maintenance of income. The guarantee of the same wage is seen as a key advantage to the employees involved. The sublease provides job security if the employee is not hired by the receiving company. The sublease may also make it possible to acquire new skills. The employee interviewed for this case study welcomed the change of job and the new tasks he was asked to do.

Future plans

At the time of writing, in the spring of 2014, Textilcord was doing well and did not expect to sublease employees in the short-term. Its turnover had increased by about 58% since 2009 and the company had recruited 10 employees in 2013. However, the company says it would use this measure again if it became necessary.

Commentary

The sublease of employees appears to be an efficient tool to safeguard both employment and the interests of companies. It provides efficient alternatives to layoffs for both employees and employers where there are temporary economic difficulties. The tripartite management of the procedure, with the involvement of

employees' representatives from both companies and from the two main unions, ensures an efficient monitoring of the policy and prevents any potential abuses. It seems that there is a strong trust between the government and social partners. When the latter agree on a plan or a measure, the government is likely to approve it.

The main weakness is the capacity to identify companies that might receive subleased employees, and lack of awareness about the scheme. Stronger public/private partnership is needed to share information on job opportunities within the private sector in Luxembourg, even beyond the borders, for example in the *Grande région* (the 'Greater region' is composed of Luxembourg, Wallonia (Belgium), Saarland (Germany), Lorraine (France), Rhineland-Palatinate (Germany) and German-speaking community of Belgium) in order to enlarge job opportunities. Another weakness is the availability of positions during an economic downturn that affects the whole economy. However, the sublease of employees appears to be an efficient response to short-term difficulties.

Information sources

Websites

Service information et presse du gouvernement luxembourgeois (undated), (Official information website for the Grand Duchy of Luxembourg), available at www.luxembourg.public.lu

Inspection du travail et des mines (undated), 'Le prêt temporaire de main d'oeuvre', available at <http://www.itm.lu/home/faq/ddt/disposition/pretemporaire.html>

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