



Members of the European Parliament Committee  
on Employment and Social Affairs

4 February 2009

Dear Member of the European Parliament,

On 11 February, the European Parliament Employment Committee is going to vote on the draft report “on the social responsibility of subcontracting undertakings in production chains”. With this letter, BUSINESSEUROPE wants to inform members of the Employment Committee about its views on the proposals made in the draft report.

**I. European legislation introducing liability rules for subcontracting undertakings would be harmful**

According to BUSINESSEUROPE, all companies taking part in a subcontracting chain should comply with labour legislation. However, subsidiary liability is not an appropriate solution to ensure this.

Companies cannot and should not assume responsibilities of public authorities to verify the application of labour laws by other companies. The main contractor is not in a position to monitor compliance in practice. It is the duty of all sub-contractors to ensure compliance with relevant labour laws when dealing with their employees. Where this is not the case, labour inspectorates and/or other appropriate public bodies should be responsible for enforcing compliance in practice.

A European legal instrument covering wages, social security contributions and taxes, as proposed in the draft report, is totally unacceptable. First, such European legislation would clearly undermine the subsidiarity principle. Nineteen countries have not seen a need to develop liability rules. It can therefore be assumed that most Member States will not understand the added value of European legislation in this area.

Second, the draft report does not give evidence that a European legal instrument would help to ensure compliance with labour laws in practice. It would however create red tape for companies and therefore harm Europe’s competitiveness, which is more needed now than ever before in the context of the financial and economic crisis.

In a cross-border context, improved administrative cooperation between Member States and better information to workers and employers regarding the rights and obligations stemming from the Posting of Workers Directive are needed to ensure that working conditions are respected with regard to posted workers.



## **II. Enhancing knowledge and better exchange of information should be the priority**

A recent study by the Dublin Foundation has shed light on regulations and practices on the issue of liability in subcontracting processes in eight Member States in one sector of the economy, namely the construction sector. No information has been gathered regarding the situation in the nineteen Member States which have no liability rules.

More research is therefore needed to gain a clearer picture of the situation in all Member States and in all sectors before trying to identify appropriate remedies.

In addition, Member States should better inform each other in order to understand the reasons why they have different rules, for example regarding personal scopes of liability rules, which encompass in different countries the whole chain, a part thereof, or are limited to the direct subcontractor.

## **III. The draft report should not address other social responsibility issues**

The draft report also includes a number of highly problematic proposals aiming at ensuring the social responsibility of subcontracting undertakings in production chains.

In particular, it asks for new European legislation on social labelling. It calls on public authorities to develop legal provisions excluding undertakings from public procurement where they infringed labour laws. It encourages multinational companies to adopt transnational agreements to protect labour standards in multinational enterprises and their subcontractors, and emphasises the need for companies to sign up to codes of conducts, standards and guidelines drafted by international organisations such as the OECD and/or the ILO.

BUSINESSEUROPE believes that such far reaching proposals should not be made in this report. These issues need to be discussed and debated with other European institutions and stakeholders separately so that appropriate solutions can be identified for each one of them.

Based on the above, we kindly ask you to support amendments n°8, 14, 23, 30, 33, 42, 47, 51, 53, 61 and 64 when the Employment Committee votes on the draft report on 11 February.

Yours faithfully,

Philippe de Buck  
Director General