



19 November 2012

Dear Member of the European Parliament,

BUSINESSEUROPE welcomes the draft EP Employment Committee's report on the Posting of Workers Enforcement Directive. We appreciate that the rapporteur Ms Jazłowiecka (EPP, PL) recognises in it that the introduction of joint and several liability in subcontracting would be detrimental to the development of the single market.

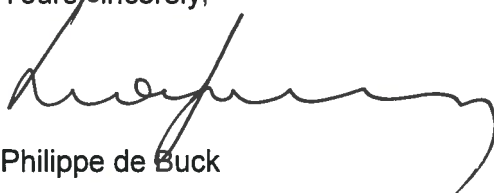
Subcontracting is a widespread and legally sound business practice, which brings significant economic benefits. The use of subcontractors helps companies improve business efficiency, access new markets or deal with a lack of in-house capacity or need for external expertise. It also provides opportunities for SMEs to grow. 36% of EU SMEs in the construction sector are currently engaged as subcontractors.

Establishing joint and several liability in the context of posting of workers would substantially increase costs and risk associated with engaging foreign subcontractors, disturbing the existing level playing field and discouraging companies from doing business across borders.

Moreover, we are convinced that forcing companies to take on a state duty to enforce law is not an effective solution. This would undermine the competitiveness of European companies at a time when all EU policies should foster economic growth and employment. Small and medium-sized companies in particular would hardly have the capacity to verify whether their subcontractors post workers and if so, whether they apply correct wages, social security contributions and taxes in another Member State. And they have no authority to ask for information from the authorities or enforce compliance.

By contrast, BUSINESSEUROPE strongly supports proper enforcement of the Posting of Workers Directive. We fully agree that workers rights should be well protected and any abuse effectively sanctioned. To this end, better information-sharing, cooperation between national authorities to facilitate inspections and improved cross-border enforcement of fines and penalties are where the new Directive can add value. We encourage the European Parliament and the Council to focus efforts on finding agreement on these crucial issues.

Yours sincerely,



Philippe de Buck