

EWC guide on sub- contracting

How to improve
INFORMATION and
CONSULTATION in EWCs in the
building, building materials,
cement and woodworking
industry.



European Federation
of Building
and Woodworkers



EWC guide on subcontracting

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EU DIRECTIVES AND REGULATIONS

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Know the issues at stake

In the construction sector, subcontracting is growing rapidly. Outsourcing – the shift of in-house activities to external suppliers – is driven by several motives, ranging from higher specialisation and quality improvements to operational cost savings¹.

Outsourcing often means a complex and fragmented organisation of work, with the engagement of multiple stakeholders. This can lead to cost-saving pressures imposed by the client, wage and social contribution fraud, forms of pseudo self-employment, circumvention of liability rules and the use of dubious firm structures. This is a real threat to workers².

Subcontracting is an enabling factor of fraudulent practices. Multi-level contracting systems tend to compromise controls. Small companies and subcontractors under cost-saving pressures from large contractors may avoid the fulfilment of norms³. Coordination of health and safety at construction sites may be compromised by the many companies involved and the tight deadlines⁴. There is evidence regarding the adverse health and safety effects of subcontracting⁵. Subcontracting is even more difficult to monitor when it is a cross-border process, involving foreign companies and/or posted workers.

1 J. Drahokoupil (eds.) (2015), *The outsourcing challenge: Organizing workers across fragmented production networks*, ETUI.

2 European Parliament (2017), *Liability in subcontracting chains: National rules and the need for a European framework*.

3 Eurofound (2017), *Fraudulent Contracting of Work: Construction Sector*.

4 European Institute for Construction Labour Research (2019), *Mental health in the construction industry*.

5 European Agency for Safety and Health at Work (2012), *Promoting occupational safety and health through the supply chain*.



Perform targeted practices

European Works Councils (EWCs) are crucial for cross-border communication between workers' representatives and consultation with multinationals on subcontracting practices⁶. Subcontracting often enters EWC meetings as a topic of information when the employment situation and prospects are concerned. Central management should provide data and information on the use of subcontracted workers and their social conditions⁷. Especially in construction, subcontracting is a common practice. In every building site there can be numerous subcontracting levels. Subcontracting can also be included in the wide topic of corporate social responsibility (CSR)⁸.

For European Works Councils that want to initiate a dialogue with management it may be useful to:

- ▶ make outsourcing and subcontracting specific topics of information and consultation as well as, when necessary, reasons for convening extraordinary meetings.

▶ Information and consultation on subcontracting in EWC agreements

OUTSOURCING AND SUBCONTRACTING PROCESSES SHOULD BE DISCUSSED PRIOR TO THEIR IMPLEMENTATION.
According to a 2018 European Trade Union Institute (ETUI) survey with more than 1,600 EWC employee representatives across all sectors, 63% of EWC members stated that topics related to outsourcing and subcontracting were raised in plenary meetings in the last three years⁹.

Subcontracting can be addressed in the context of the company's employment situation and trends. This subject is included in more than 60% of EWC agreements¹⁰.

EWC members can ask for information on the use of subcontracted and posted workers and their working conditions¹¹. They should ask why activities are subcontracted and why these activities cannot be performed internally.

Subcontracting can be tackled in discussions concerning corporate social responsibility (CSR).

Many EWC agreements foresee direct CSR for basic working conditions in the entire supply and subcontracting chain¹².

EXCEPTIONAL OUTSOURCING AND SUBCONTRACTING ARE REASONS FOR CONVENING EXTRAORDINARY MEETINGS.
In line with Annex I of Directive 2009/38/EC, EWCs or the Select Committee should be consulted whenever there are exceptional circumstances or decisions affecting the employees' interests in the event of relocations, the closure of establishments or undertakings or collective redundancies.

The 2014 Kinnarps EWC agreement of 2014 introduces an extraordinary information and consultation procedure in case of special circumstances of transnational character, such as organisational changes, relocations, closure of facilities or companies as well as collective redundancies.

- ▶ anticipate subcontracting practices by making information and consultation on this topic more efficient and properly interpreting warning signals.

TO ANTICIPATE SUBCONTRACTING PRACTICES, THE FOLLOWING CHECKLIST¹³ CAN HELP:

- Prior to the plenary meeting, the Select Committee should communicate with the EWC members to collect, at the national level, all issues that should be addressed. The EWC coordinator can help with this task.
- Establish working groups as forums of discussion for outsourcing and subcontracting processes and meet periodically to identify issues that can be raised and included in the agenda of plenary meetings.
- During plenary meetings, information should be provided in sufficient detail:
 - Total figures of subcontracted and posted workers split up according to site, products, etc. in order to enable a clearer understanding of the developments within the company and at local sites;
 - figures of the preceding years so that EWC members can make comparisons and determine trends;
 - background information as regards development and insights into future plans and intentions;
 - information concerning the intentions of possible further contracting out;
 - the reasons behind these intentions and the activities concerned, the criteria to be applied for the selection of subcontractors and the content of procurement contracts.
- Information should be distributed sufficiently in advance of the meeting to enable an examination of the material and the preparation of questions and observations.
 - Evaluate if criteria used by management for the selection of subcontractors exclusively

concern lower costs or also qualitative aspects (e.g. the respect of environmental, social and labour standards, the engagement in innovation, the commitment to sustainability and diversity and inclusion, etc.);

- assess if procurement contracts contain specific clauses regarding e.g. the subcontractors' duty to provide workers with training especially on health and safety, adopt measures to contrast possible violations of human rights, periodically notify the client enterprise of their polluting emissions, etc.;
- consider if monitoring procedures on the procurement contract's provisions are envisaged;
- assess management's compliance with EU and national laws (e.g. concerning joint and several liability where it applies, any limitations to the number of subcontractors in a chain, etc.).

- Information not obtained from management can be gathered through alternative channels:
 - E.g. annual reports, press releases, interviews with managers, disclosure of information in compliance with legal requirements, dialogues with European or national/local trade union organisations, visits to local sites, etc.);
 - use alternative sources to cross-check the information delivered in EWC meetings;
 - for instance, according to the Gestamp EWC agreement (metal sector), "the EWC representatives shall have the necessary means to visit workplaces in the country and to meet workers'/employee representatives to discuss issues of a transnational nature exceeding the scope of national representatives. The management will facilitate travel and entry to the facilities".

- ▶ How to get ready for EWC meetings and make consultation on subcontracting meaningful

6 J. Drahokoupil (eds.) [2015], *The outsourcing challenge: Organizing workers across fragmented production networks*, ETUI.

7 European Federation of Building and Woodworkers [2016], *Practical Guide for EWCs on Information and Consultation*.

8 European Trade Union Institute [2015], *European Works Councils and SE Works Councils in 2015*.

9 S. De Spiegelaere, R. Jagodziński [2020], *Can anybody hear us? An overview of the 2018 survey of EWC and SEWC representatives*, European Trade Union Institute.

10 European Trade Union Institute [2015], *European Works Councils and SE Works Councils in 2015*.

11 European Federation of Building and Woodworkers [2016], *Practical Guide for EWCs on Information and Consultation*.

12 See the European Commission's database on transnational company agreements, <https://ec.europa.eu/social/main.jsp?catId=978&langId=en>.

13 GPA-djp (eds.) [2017], *EWC: Fit for Change. Manual on transnational restructuring processes*.

- EWC members should agree on their objectives and the distribution of work and roles:
 - Involve local workers' representatives affected by subcontracting in order to examine the expected results, objectives and work processes (see LafargeHolcim EWC agreement of 2017);

- select and invite internal and external experts, including trade union advisers at national and European level (see, in the food sector, Ardo Group EWC agreement of 2019);
- organise specific training on multinational corporations' strategies.

► Anticipation of subcontracting practices via the interpretation of signals from management

EWC MEMBERS CAN MONITOR THE COMPANY SITUATION:

- *Has the company previously contracted out processes or functions?*
If yes, it is highly probable that the company will continue contracting out more processes.
- *Are there any processes that are not working satisfactorily or indicating increasing costs, but for which no corrective measures have been initiated?*
This can be a sign that management wants to solve the problem by contracting out the processes.
- *Which business areas is management investing in, or which areas is management neither investing in nor focusing on improving skills development for?*

IF MANAGEMENT IS NOT INVESTING IN IMPROVING SKILLS DEVELOPMENT, this may be a sign that these processes are going to be contracted out.

- *Are there any labour-intensive operations in the company?*

COSTS related to labour-intensive activities may be lowered through subcontracting, as it allows, especially when no liability in subcontracting chains applies, to externalise risks and responsibilities.

AN EFFECTIVE WARNING SYSTEM RELIES ON RELATIONSHIPS BETWEEN EWC MEMBERS AND REPRESENTATIVES OF NATIONAL AND LOCAL BODIES:

Overcome the "isolated" character of the EWC (i.e. lack of communication, exchange and coordination with local and national bodies of interest representation and workers' participation)¹⁴. Each level of workers' representation gains by combining their access to information and their deliberations on the consequences of restructuring measures.

The European Court of Justice ruled that the meetings of European, central and local works councils must take place in a sequence that enables each level to have the maximum of information that it requires to fulfil its respective role¹⁵.



Management often resorts to outsourcing without good reason. EWCs can make their own analyses to fight bad decisions together with local unions.

¹⁴ European Trade Union Confederation (2016), *European Works Councils assessment and requirements*.

¹⁵ GPA-djp (eds.) (2017), *EWC: Fit for Change. Manual on transnational restructuring processes*.

For European Works Councils that want to take the dialogue with management to the next level

- **evaluate the subcontracting policy and its effects, and contribute to the development of specific strategies and projects.**

► **How to assess the managements' intention to contract out certain activities**

EWC MEMBERS CAN TAKE AN ACTIVE ROLE IN ORGANISATIONAL PROCESSES (including outsourcing and subcontracting) by assessing company intentions, and then trying to contribute to specific strategies and projects:

Demand from central management a detailed explanation of the reasons and objectives of the subcontracting initiative and a justification.

In many occasions, outsourcing or subcontracting are carried out without any precise and measurable goals and despite the existence of valuable alternatives. Moreover, there could be hidden or undisclosed motivations of the employer.

The EWC can use the answers provided by management, own analysis of the situation and the exchange of information and views with local EWC delegates, trade unions and employee representatives in the supervisory board¹⁶.

EWC members may visit affected local sites, as foreseen by the 2016 Eiffage EWC agreement: "Subject to agreement between the members of the select committee and the Chairman of the Eiffage Group, a representative designated by the Select Committee may visit the sites to gather information about the relevant operation"¹⁷.

QUESTIONS TO ASSESS SUBCONTRACTING AND ITS POTENTIAL RISKS¹⁸:

- Has management provided a convincing answer on the strategic significance of the subcontracting practice? Could the company apply alternative internal solutions? For instance, could the network contract provide a valuable alternative?

- After closer examination, does the intended organisational solution seem economically meaningful?
- Do the objectives and targets set by the employer seem realistic?
- What possible impact does the operation have on employment and working conditions all over the supply chain?
- What will be the impact on the competitiveness of the company?
- Which risks has management identified regarding the sustainability of the company? Risks may include fraudulent practices carried out by contractors and subcontractors at the expense of workers, and the subsequent judicial problems.
- What measures to mitigate risks does the company take? For example: Preventive controls on subcontractors, joint and several liability for the payment of wages and contributions in the whole subcontracting chain, periodic assessments of working conditions and the implementation of health and safety measures also via the involvement of trade unions and workers' representatives in local sites, where many contractors operate.
- EWCs can call on the central management to provide each worker performing activities in building sites with a pass for entering the site after checking the contractual conditions applied to his/her employment relationships and that he/she has already received the necessary training on health and safety (according to national norms). The verification of these conditions can be made by social security bilateral funds operating in the building sector as in the case of the "Casse Edili" in Italy¹⁹.



How does the company mitigate risks? Preventive controls on subcontractors, joint and several liability for the payment of wages, and the involvement of trade unions are key.

¹⁶ GPA-djp (eds.) (2017), *EWC: Fit for Change. Manual on transnational restructuring processes*.

¹⁷ European Federation of Building and Woodworkers (2016), *Practical Guide for EWCs on Information and Consultation*.

¹⁸ GPA-djp (eds.) (2017), *EWC: Fit for Change. Manual on transnational restructuring processes*.

¹⁹ FILCA-CISL (2018), *Il cantiere D.O.C.: Un nuovo strumento per la regolarità e la tracciabilità del lavoro edile*.

EWCS CAN USE EXTERNAL EXPERTS AND STUDIES TO ASSESS A COMPANY’S SUBCONTRACTING PRACTICES:

- The 2013 Tenaris EWC agreement (metal sector) allows EWC members to conduct a study on a specific subject. They can use external experts for this, and costs must be borne by the company.
- Studies can map previous experiences highlighting possible gaps and room for improvement for future subcontracting practices.

EWC BARGAINING COMPETENCES ON ORGANISATIONAL PRACTICES:

It might be possible for EWC members to reach agreements on organisational practices affecting the European workforce. However, only a few EWC agreements attribute bargaining competences to EWCs²⁰.

Before any negotiation, all national and local unions should support the bargaining initiative of the EWC²¹.

The 2012 Veolia (service sector) EWC agreement envisages joint declarations of method, commitment charters, opinions and memoranda of understandings between central management and the EWC.

The 2015 Gestamp (metal sector) EWC agreement allows transnational negotiations on several matters, including: structure of the Group of companies; economic, financial and social situation; developments in the production, innovation, sales and investment activities; substantial changes in the organisation; introduction of new working methods or production processes; production moves and relocation; mergers, acquisitions and disposals of an international scale or which significantly modify the scope of the Group.

- Temporary workers will only be deployed where there is a short term and/or non-recurring need to support activities outside of normal business needs, and without intent to use temporary contracts to avoid regular employment;
- temporary workers will be given priority when filling permanent positions;
- the principles of equal remuneration for work of equal value and non-discrimination with respect to working conditions shall apply to all workers, whether directly employed by Unilever or through third-party providers;
- a safe working environment and appropriate training shall be guaranteed to all workers regardless of contractual status;
- temporary workers must have the right to freely form or join a union of the worker’s choice without any fear of intimidation or harassment;
- temporary workers will not be employed in any way which would have the effect of restricting workers’ legal access to social security and/or other forms of social protection;

- information concerning levels and specific deployment of temporary workers must be available to trade unions representing Unilever employees.

The Enel Global Framework Agreement of 2013 stresses the application of health and safety protection standards to its subsidiaries, contractors and suppliers, with a procedure to verify if tenderers comply with safety standards.

MIGRANT AND POSTED WORKERS NEED SPECIAL ATTENTION, AS THEY ARE OFTEN EMPLOYED IN SUBCONTRACTING CHAINS: Measures to support this group include dissemination of information leaflets on health and safety in their national languages as well as the organisation of ad hoc training.

The EFBWW provides basic information on working conditions and wages in 40 European countries and in 30 languages: <https://www.constructionworkers.eu/en>

► **negotiate general guidelines on outsourcing and subcontracting.**

► **Transnational agreements on subcontracting**

AGREEMENTS SIGNED BY EWCs CAN COMMIT CENTRAL MANAGEMENT TO DIALOGUE WITH STAKEHOLDERS, including suppliers and subcontractors, so that they align with the social and ethical principles of the multinational company.

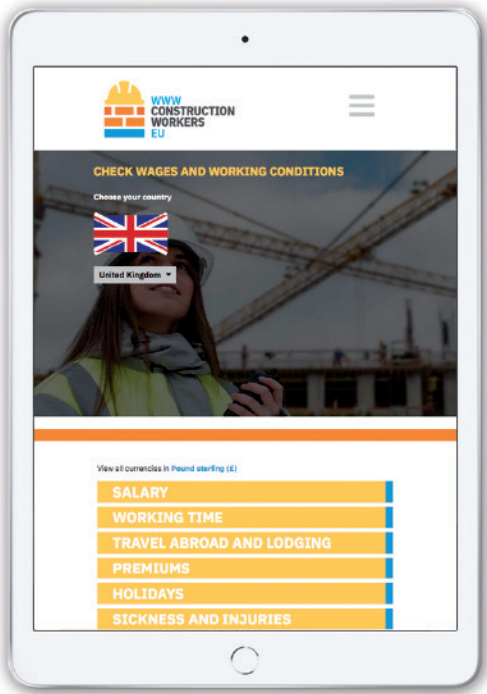
IMPORTANT AGREEMENTS MAY ALSO BE SIGNED ON GLOBAL LEVEL.

The 2008 Solvay Charter on sustainable development and corporate social responsibility highlights management’s commitment to the respect of social, ethical and environmental guidelines among stakeholders and third parties involved.

The 2012 MAN international framework agreement states that rights enshrined in international labour conventions (i.e. human rights, child labour, equal opportunities, freedom of associations, involvement of employees, health protection, remuneration and working time, skills development) apply also to all external suppliers.

The 2013 Enel Global Framework Agreement applies to the entire supply chain, including subcontractors.

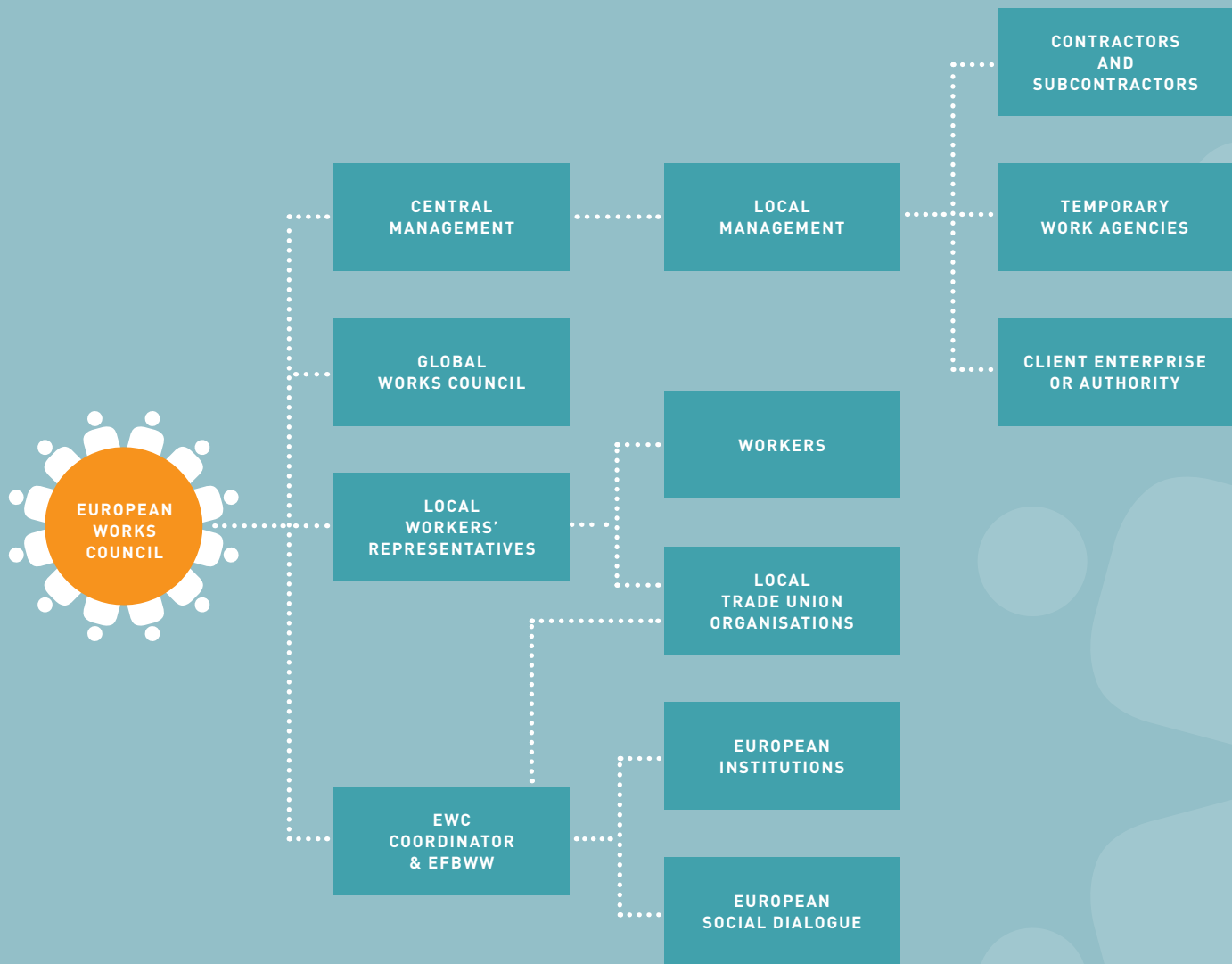
The 2019 Unilever-IUF-IndustriALL Global Union Joint Commitment on sustainable employment lays down principles and procedures concerning the use of non-permanent employment contracts:



The EFBWW provides basic information on working conditions and wages in 40 European countries and in 30 languages. www.constructionworkers.eu/en

20 European Trade Union Institute (2015), *European Works Councils and SE Works Councils in 2015*.
21 GPA-djp (eds.) (2017), *EWC: Fit for Change. Manual on transnational restructuring processes*.

The players



THE EUROPEAN WORKS COUNCIL (EWC) is a body bringing together employee representatives from the different European countries in which a multinational company or group of companies operates. Its aim is to ensure information and consultation for employees on the progress of the business and any significant decision at European level that could affect employment levels or working conditions. The right to establish an EWC applies to companies or groups of companies with at least 1000 employees in the EU and the other countries

of the European Economic Area (Norway, Iceland and Liechtenstein), and at the same time employing at least 150 workers in each of at least two Member States. A request by 100 employees from two countries or an initiative by the employer triggers the process of creating a new EWC, whose composition and functioning is adapted to the company's specific situation by an agreement signed by the management and workers' representatives of the different countries involved.

An important role is attributed to the **EWC COORDINATOR**. In the building, building materials, cement and woodworking sectors, the EWC coordinator is selected by the EFBWW Secretariat in consultation with the EFBWW affiliated organisations with members in the transnational company concerned; the EWC coordinator is usually an officer from an EFBWW trade union based in the country where central management operates. The EWC coordinator acts as a trade union expert for EWC representatives, by encouraging teamwork and positive internal communication, monitoring central management's actions in compliance with the EWC agreement and the law, providing consultancy to EWC representatives and participating in all EWC and Select Committee meetings. The EWC coordinator liaises between the EWC and the EFBWW Secretariat and affiliated organisations involved in the transnational company.

THE EUROPEAN FEDERATION OF BUILDING AND WOODWORKERS (EFBWW) is the European Workers' Industry Federation covering building, woodworking, forestry and allied industries and trades. It is a member of the European Trade Union Confederation (ETUC). European trade union organisations represent workers at the European level. There are both cross-industry and sectoral European trade union organisations. The ETUC is the major trade union organisation at the European level, representing workers from different sectors.

EUROPEAN SOCIAL DIALOGUE is a forum for discussions, consultations, negotiations and joint actions involving organisations representing the two sides of industry (employers and workers) at EU level. It is either a tripartite dialogue involving the public authorities, or a bipartite dialogue between the European employers and trade union organisations. It takes place at cross-industry level and within sectoral social dialogue committees. For the construction sector, the organisations involved in European social dialogue are the European Federation of Building and Woodworkers (EFBWW), the European Construction Industry

Federation (FIEC) and the European Builders Confederation (EBC). For the woodworking sector, the EFBWW's counterpart is the European Confederation of woodworking industries (CEI-bois), the European Furniture Industries Federation (EFIC) and the European Panel Federation (EPF).

At the cross-industry level, the organisations involved in European social dialogue are the ETUC, the Confederation of European Business (BusinessEurope), the European Centre of Employers and Enterprises providing Public services (CEEP), the SMEunited, the Council of European Professional and Managerial Staff (Eurocadres) and the European Confederation of Executives and Managerial Staff (CEC).

CENTRAL MANAGEMENT is the management of the Community-scale undertaking or, in the case of a Community-scale group of undertakings, of the controlling undertaking. Its location can be either inside or outside the European Union.

THE GLOBAL WORKS COUNCIL is a group of employee representatives established in a transnational company on a voluntary basis, either through a transnational agreement or as a result of a decision by the employer. It may be created either as a separate body from the EWC, or as an enlargement of an existing supranational body, such as the EWC. No legal standards govern the creation of Global Works Councils at either international or European level.

LOCAL WORKERS' REPRESENTATIVES encompass workers' representatives, works councils or union delegates from the different European establishments and/or undertakings of a multinational company or group of companies. In the field of outsourcing and subcontracting, they might have relationships with representatives of workers employed by external companies operating in the same site.

LOCAL MANAGEMENT is the management of the different European establishments and/or undertakings of a multinational company or group of companies.

WORKERS are the whole European workforce employed by a multinational company or group of companies. In subcontracting chains, workers employed by external companies, either posted, subcontracted or hired by a temporary work agency, contribute to the execution of a project, along with internal employees.

LOCAL TRADE UNION ORGANISATIONS represent workers in the different European countries and territories where a multinational company or group of companies operates.

EUROPEAN INSTITUTIONS set the legal and policy framework on subcontracting and related issues. Social partners are involved in a consultation procedure with the European Commission, prior to the submission of policy proposals on social topics. Social partners may limit themselves to providing the Commission with an opinion or recommendation on the subject in question or, per Article 155 TFEU, they can start negotiations on the matter themselves, thus undertaking the so-called “autonomous route” in an effort to reach agreements. Agreements concluded at the EU level shall be implemented either in accordance with the procedures and practices specific to management and labour and the Member States (i.e. via national affiliates of the EU-level social partners) or, in matters covered by Article 153 (i.e. social matters for which the EU has regulatory competence), at the joint request of the signatory parties, by a Council decision on a proposal from the Commission.

CONTRACTORS are those companies to which the execution of a work is assigned by a client company or investor. **SUBCONTRACTORS** are those natural persons or legal entities, to whom the execution of all or part of the obligations of a prior contract is assigned. They are responsible to contractors and not the client.

TEMPORARY WORK AGENCIES conclude contracts of employment with workers, in order to assign them to user undertakings to work there temporarily under their supervision and direction. They are considered as subcontractors, since they can provide workforce to the user undertaking²².

THE CLIENT ENTERPRISE OR AUTHORITY represents the start of the subcontracting chain. It may be either a private company or a public authority starting a project (e.g. a building project) by hiring a principal contractor, who in turn hires different subcontractors to carry out specialised task.

The rules of the game

EU SOCIAL DIALOGUE

The EFBWW and FIEC reached the following joint declarations and reports:

- **Joint position: towards a level playing field in the European construction sector**, on February 27, 2015
- **Joint report on social identity cards in the construction industry**, in October 2014
- Joint statements on enforcement of posting directive, respectively in **2011**, **2012** and **2013**

The website <https://www.constructionworkers.eu/en> was developed by the EFBWW as a result of a project co-financed by the European Commission. The website provides information on wage, working conditions and the rights of building workers in 40 countries. It is available in 30 languages and includes contact information of national trade unions offering assistance and support.

EU DIRECTIVES AND REGULATIONS

The freedom of movement of workers is enshrined in Article 45 of the **Treaty on the Functioning of the European Union** (TFEU). Labour mobility within the Single Market raises the issue of protecting workers in subcontracting chains. The following are the main legislative provisions in this field:

- **Directive 92/57/EEC** on the implementation of minimum safety and health requirements at temporary or mobile construction sites. It establishes the obligation for the client or the project supervisor, in any construction site on which more than one contractor is present, to appoint one or more coordinators for safety and health matters and to ensure that a health and safety plan is drawn up, before work starts. The project supervisor and, where appropriate, the client shall take account of the general prevention principles set out in **Directive 89/391/EEC** – OSH “Framework Directive” and ensure that also employers and self-employed persons working on the site apply those principles.
- **Regulation (EC) 883/2004** on the coordination of social security systems establishes in Article 12 that a person employed in a Member State, who is posted by the employer to another Member State to perform work shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such work does not exceed 24 months and that he is not sent to replace another person. Article 13 states that a person who normally pursues an activity as an employed person in two or more Member States shall be subject to either the legislation of the Member State of residence (if he

²² European Parliament (2017), *Liability in Subcontracting Chains: National Rules and the Need for a European Framework*.

pursues a substantial part of his activity in that Member State or if he is employed by various employers based in different Member States) or the legislation of the Member State in which the registered office or place of business of the undertaking or employer employing him is situated (if he does not pursue a substantial part of his activities in the Member State of residence). [Regulation \(EC\) 987/2009](#) lays down the procedure for implementing Regulation (EC) 883/2004.

- [Directive 2008/104/EC](#) on temporary agency work aims to ensure that the principle of equal treatment is applied to temporary agency workers.
- [Directive 2009/52/EC](#) provides minimum standards on sanctions and measures against employers of illegally staying third-country nationals. It states that at least the contractor of which the employer is a direct subcontractor may be liable to pay financial sanctions and any back payments in addition to or in place of the employer. In specific cases, other contractors may be liable to pay financial sanctions and back payments in addition to or in place of an employer of illegally staying third-country nationals.
- [Directive 2014/24/EU](#) on public procurement establishes procurement rules in the Single Market.
- [Directive 96/71/EC](#) on the posting of Workers in the framework of the provision of services: Lately, Directive 2014/67/EU was approved to strengthen the application of the Posting of Workers Directive, by addressing issues related to fraud, circumvention of rules and exchange of information between Member States.

- More recently, [Directive 2018/957](#) amended the Posting of Workers Directive, by: introducing the principle of equal treatment between posted workers and workers in the Member State of posting, regardless of the law applicable to employment relationships (Article 5); stating that posting undertakings shall guarantee to posted workers all the constituent elements of the remuneration rendered mandatory by law, regulation, administrative provision, erga omnes collective agreements or collective agreements concluded by the most representative employers' and labour organisations at national level, in the Host State; establishing a maximum duration for posting of workers (18 months); extending the application of the principle of equal treatment regulated in Article 5 also to temporary work agencies that hire out workers to user undertakings based in other Member States as well as when workers are posted to other Member States by their user undertakings.



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