

# Plans to combat fraud in the construction sector

Bart Tommelein, the Anti-fraud State Secretary, detailed his policy plans against fraud in the construction sector during the meeting of the Commission for Social Affairs of February 11, 2015. Based on the preliminary report of the Commission, the following resolutions have been proposed:

## I. Combatting social fraud

The State Secretary proposes the following initiatives:

- Social fraud hotline: to better organize the collection of information on social fraud, the State Secretary pleads for a single point of contact or a social fraud hotline. Trade unions, employers or simple citizens can signal social fraud or unfair competition through this hotline to the social inspection services, which will then be able to use them to proceed in an organized manner.
- Measures at different levels:
  - At national level, simpler and more transparent procedures to control social fraud should be contemplated;
  - At the level of Benelux and beyond (i.e. Belgium, the Netherlands, Luxemburg, France, Germany and Austria), social dumping should be tackled;
  - At European level means of control should be developed to fight against unfair competition and social fraud. Unfair competition in the construction sector should be addressed in the first place.
- Fusion of inspection services: the possibility of a fusion between the different inspection services should be contemplated. However, this would not mean that the number of inspectors would decrease. The government would even have approved the deployment of additional inspectors on the field.
- European recovery procedure: the State Secretary declares that he would really be in favour of a European recovery procedure of social security contributions. If a person is employed in Belgium on secondment, it would then be possible to collect in Belgium unpaid (foreign) contributions and send it to the country of origin.

Finally, reference was made to a recently signed cooperation agreement between the federal SIOD

(Social Intelligence and Investigation Service) and Flanders' Public Governance Department (this organization notably coordinates the construction and real estate projects of the Flemish government). The SIOD will now check that tenders are not assigned to businesses that do not comply with the social legislation. To enable these controls, Flanders' Public Governance Department will provide the SIOD with a list of its contracts of more than € 8,500.00.

## 2. Presence registration

Electronic presence registration is currently mandatory on temporary or mobile construction sites where works are carried out on real-estate properties worth more than € 800,000.00. The Secretary of State considers that we aim at a general presence registration on all sites.

## 3. False self-employment

In the period between July 2013 and November 2015, it appears that 155 cases of false self-employment in the construction sector were established by the inspection services. The Secretary of State would like to evaluate the Works Relation Law in order to fight more effectively against false self-employment. The aim would be to make the law easier and more transparent, so that inspections can be performed more smoothly.

## 4. Enforcement policy – joint and several liability for wages

In 2014, a European enforcement directive was adopted providing measures for a better enforcement of the EU rules on the secondment of workers (including health and safety at work, minimum wages...). The objective of the Secretary of State is to already convert this directive into Belgian law in the coming months, and well before the deadline of June 18, 2016.

The State Secretary pointed out that in this context, the Belgian legislation already meets in many ways the Enforcement Directive, notably through the Limosa declaration and the joint and several liability for wage debts.

Regarding this joint and several liability, it was announced that since the enactment of the legislation on September 1, 2013, (only) 45 official notifications of joint and several liability were issued by the social inspection services. In the case of such notification, the contractual relationship would in most cases be immediately discontinued. In this way, the law would primarily have a deterrent effect. A dialogue would then also be initiated with the construction industry to see how the system of joint and several liability for wage debts can further be elaborated, maintained, or adjusted.

We now have to wait and see which of these plans will actually be transformed into law. We'll keep you posted on this topic.

For more information on this specific subject, please contact Laura Sol & Sara Cockx (the authors) and Gwen Bevers (head of department).

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