

EN
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Answer given by Mr Schmit
on behalf of the European Commission
(28.11.2024)

In the implementation report¹, the Commission identifies challenges linked to long subcontracting chains and indicates some good practices to overcome these challenges in case of posting of workers under the posting of workers directive². The good practices include limiting the number of levels in subcontracting chains, but also extending the subcontracting liability to the full chain and enhancing cooperation between Member States to facilitate inspections and tackle abusive practices.

The uptake of these good practices will be increased with the support of the European Labour Authority by organising Peer Learning Dialogues between Member States to allow for mutual learning.

As regards legal certainty, the recommendation of limiting the number of levels in subcontracting chains, has been made in the context of the posting of workers directive³, and is covering only situations falling under the scope of the Directive, which mainly concern service provision contracts between two companies⁴.

¹ Commission report of 30 April 2024 on the application and implementation of Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (COM (2024)0320) - <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM:2024:0320:FIN>

² <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A31996L0071>, OJ L 18, p.1-6;
<https://eur-lex.europa.eu/eli/dir/2018/957/oj> OJ L 173, 9.7.2018, p. 16–24.

³ Directive 96/71/EC as amended by Directive (EU) 2018/957 regulates a situation where an undertaking established in one Member State in order to provide services post workers to another Member State. The directive applies to all sectors and undertakings, with the only exception of the seagoing personnel of merchant navy undertakings.

⁴ The recommendations were not made in the context of the Public Procurement Directive.