

European Federation
of Building
and Woodworkers



**Grant application under Budget Heading 04.03.01.08
Industrial relations and social dialogue**

**Call for proposals 2020 - VP/2020/001/0071
Support for social dialogue**

**Better Functioning of the
European construction labour Market
FELM**

Lead applicant: EFBWW

Co-applicant: FIEC

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1. Introduction and goals of the project

The European Social partners of the construction industry have established one of the first European Social Dialogue Committees. Over the years the European social partners have continuously re-affirmed their long-term commitment to develop sustainable industrial relations at EU-level.

Recently (in 2020) the EFBWW and FIEC adopted their multiannual work program for the construction industry covering a four-year period (2020-2023).

Within the multiannual commitment the European social partners of the construction have strongly emphasised the European labour market challenges linked to the increased number of third country national companies and workers.

The long-term EFBWW-FIEC work program states the following:

g) Third countries companies on the EU construction market

Today within the European construction industry market, we observe a stronger presence of construction companies from third countries, visible either via the takeover of European companies or through biddings in European tender procedures.

EFBWW and FIEC will assess the impact and consequences of the increased presence of construction companies from third countries, in particular state-owned companies, on the European construction market. A particular emphasis should be on creating a level playing field between the EU and non-EU companies. The analysis will include an assessment and possible joint recommendations.

h) Third country posted workers on the EU construction labour market

We observe an increasing number of posted workers from third-countries entering into the EU and in particular in the construction industry. This could possibly pose concerns and challenges in terms of creating a fair level playing field as regards equal treatment, the enforcement of labour law, social protection and social rights (OSH, working conditions, etc.), etc.

FIEC and EFBWW will examine the current situation and developments and assess their impact on the construction industry and on industrial relations in the countries concerned. Where needed the EFBWW and FIEC will also discuss and propose needed solutions.

For some years now, we have been observing a significant increase in the number of non-EU (also known as 'third-country') companies and workers in the construction sector, with more and more companies and workers from countries such as China, Ukraine, Venezuela and the Philippines on our construction sites.

At present, most of these companies and workers seem to be working in Central and Eastern European countries, where skilled, qualified construction workers are currently in very short supply, but cases have also been observed in Western EU countries. One example for this is the posting of construction workers from Western Balkan countries such as Bosnia and Herzegovina, Serbia and Kosovo via Slovenia to Austria and other EU countries. Also many Ukrainian workers are employed in Poland, the Baltic countries and on several occasions posted to other EU countries

This new trend has created some significant new challenges for the European and national social partners of the construction sector.

Firstly, there is the question of how and under what circumstances non-EU construction companies are securing certain public contracts. It is extremely difficult to get reliable information about the tender procedures and about whether non-EU construction companies (often State-owned companies) compete on a level playing field with EU construction companies. This problem has already been observed on various occasions, when abnormally low bids of third country national companies were submitted for public contracts. Based on this evidence the problem is of particular importance when private construction companies have to compete with state-owned third national companies.

Secondly, there is a risk that workers from non-EU countries are vulnerable to social exploitation and even human trafficking. It is not always clear under what circumstances and conditions these workers are employed, how their social protection is arranged, which employers are actually responsible for them, and so on. In this context, we also observe an upsurge in the number of third-country workers being posted to other European countries. In some cases, it seems as if structures, agents, intermediaries ... are set up specifically to play an active role in this process. The lack of transparency and the increased risk of social exploitation and vulnerability are particularly serious problems for this category of workers.

However, the above has not gone unnoticed. The European Commission, the employers in the European construction sector (FIEC), the ETUC and other European federations (such as the transport and agricultural sectors and others) have observed similar trends. Consequently, the problem is also addressed in the multi-annual work program of the European social dialogue for the construction sector.

Within the European Committee of experts on posting of workers, the challenges of posted third country national workers also received special attention (ECPW – Note No. 01/2020). The current project application will closely liaise with the ongoing discussions of the ECPW.

2. Specific objective(s) and link to the call for proposals

The proposed project application is fully in line with the topics of specific interest defined in the call for proposals VP/2020/001. The main objective of the project is to assess a specific (social and economic) European labour market challenge linked to the increased number of third country national companies and workers on the European labour market of the construction industry.

There is currently a lot of anecdotal information available on this topic, but this information cannot always be verified objectively. In other words, currently we do not have enough insight to be able to determine whether we should/can come up with a joint (or individual) response or see which additional compliance and/or policy measures are required at national and/or European level.

The project will have a twofold approach. On the one hand, the project will focus on the business challenges, on the other hand on the workers' challenges. In order to understand this we also need a broad and detailed picture on how third country companies and workers access the European labour market. Therefore, the project will also focus on Public Procurement tendering, migration practices and posting practices. Within the existing EU legislative framework several legal instruments will be assessed, examples are the Public procurement Directive 2014/24/EU, the posting of workers Directive 2014/67 and 2018/957, the migration of non-EU workers such as the Intra corporate Transferees Directive 2014/66/EU, the seasonal workers Directive 2014/36/EU

The project will conduct a mapping on an evidence based desk-top research, direct interviews and a fact finding mission. The available information will be completed with several case studies. During this phase the acquired information and knowledge from other projects on similar and/or related topics as well as the ongoing discussions within the European Committee of Experts on Posting of Workers, will be used according to the needs.

The ultimate aim of the project will be to formulate possible joint recommendations on how to improve the functioning of the European construction market (in line with the Multiannual work program of the European social partners of the construction industry).

3. Project implementation

The project will promote the European Social Dialogue at national level, while at the same time encourage national social partners to be stronger involved in the European Social dialogue of the construction industry.

Ensuring a proper gender balance at the meetings of the European sectoral social dialogue committee of the construction industry, is a continuous challenge, and this will also be the case for this project.

The aim of the project is to conduct (1) a study, (2) collect case-based evidence, (3) present and discuss the findings and (4) ultimately propose possible joint recommendations.

This project application will also be linked with the approved EU project application on decentralized thematic social dialogue meetings (DESOCO – VS/2020/0014). At the European Sectoral Social Dialogue Committee – working group “employment” of 28 May 2020, the European social partners of the construction industry agreed that one decentralized thematic meeting would deal with the challenges of the increased number of third country national companies and workers in the construction industry.

(1) STUDY

- The project will try to determine how many non-EU construction companies are currently active on the European construction market and find out how they have access to the EU construction market. The data will be broken down by country of destination, country of origin, construction activity and contract type where possible.
- The project will also try to find out how many non-EU construction workers are currently employed in the EU. These data, too, will be broken down further.
- The project will conduct a critical analysis of the current European framework and, where appropriate, of the national legislative, administrative and practical framework allowing the employment of third-country worker, and will suggest specific recommendations at European

level to tackle the problems observed. By doing this the existing national industrial relations systems and autonomy will be respected.

(2) SPECIFIC CASE STUDIES

- To gain a clear insight into the situation, the project will identify and examine several, specific cases in depth. These cases will cover non-EU companies working in the European construction sector, non-EU workers employed in the European construction sector and non-EU workers posted from one EU country to another EU country.

(3) INTERNAL DISCUSSIONS AND EVENTS

- All of the project findings will be discussed at least twice, at two European seminars:
 - The first seminar will be for the EFBWW and FIEC affiliates only. Its primary purpose will be to discuss and approve the findings and the potential recommendations. It will be a one-day seminar for around 50 participants, with the necessary arrangements being made for interpretation (5 languages) and travel/accommodation (Austria/1 night).
 - The second seminar will have a much wider target audience, including other European employers' and workers' federations, European policymakers, the ETUC and Business Europe, and experts. Its purpose will be to present and discuss the findings and the proposed measures and actions. It will be a one-day seminar for around 100 participants, with the necessary arrangements being made for interpretation (5 languages) and travel/accommodation (Brussels/1 night).

(4) POSSIBLE CONCLUSIONS AND RECOMMENDATIONS

- The discussion of possible recommendations will take place in various phases of the project:
 - Once the study and cases have been completed, the Project Management Steering Group (PMSG) will discuss and possibly elaborate draft conclusions and recommendations.
 - The draft conclusions and recommendations will be presented for information and further discussion at the first seminar, open to the affiliated organisations of EFBWW and FIEC;
 - After the first seminar, the PMSG will elaborate final draft conclusions and recommendations integrating the remarks, observations and new elements provided at the seminar.
 - The final draft conclusions and recommendations will then be submitted to the internal bodies of EFBWW and FIEC. If possible (depending on the timing), the final draft conclusions and recommendations will be validated at a meeting of the European Sectoral Social Dialogue Committee of the construction industry.
 - The final conclusions and recommendations will be presented and disseminated at the final seminar.

4. Work plan and timetable of activities

The work plan of the project will be divided in two major phases:

- **Phase 1: Data and evidence collection**

This part will be conducted during the first 16 months of the project.

The PMSG will select one or several external experts who have demonstrated a specific knowledge and experiences to assess labour market and internal market challenges. The study will be based on desktop-findings, existing and ongoing projects, national and European studies and experiences and cases. In order to obtain reliable information, the expert(s) will be obliged to conduct several face-to-face interviews with national experts.

The first 8 months of phase 1 will be dedicated to the study part of the project

The project management steering group (PMSG) will define and clarify the Terms of Reference of the study.

The last 8 months of phase 1 will be dedicated to assess specific cases, as described earlier. The steering group will select the cases based upon a recommendation from the affiliated members of the project partners (EFBWW and FIEC) and the selected expert(s).

In order to obtain as much information as possible the selected expert(s) need to conduct several field visits and should focus their work as much as possible on evidence and facts.

- **Phase 2: Discussions and possible joint recommendations and conclusions**

The second phase of the project (between 16th and 24th month) will be dedicated to assess and discuss the existing findings of the study and the cases studies. This will be done during a one day seminar for the affiliated members of EFBWW and FIEC. The selected expert(s) will actively support the event by presenting the findings and results of the study and the cases studies.

During the one day seminar there will be an opportunity amongst the participants and experts to discuss possible recommendations.

Following this internal discussions the project management steering group will propose draft recommendations, which will be submitted to the respective internal bodies of the EFBWW and FIEC for validation.

In order to ensure a broader dissemination and multiplier effect of the project results a broader seminar will be organised in Brussels. The aim of this seminar is to inform all relevant EU and national partners and organisations about the project findings and the recommendations.

Timetable of activities

| Day | Action | Objective |
|--------------|--|--|
| January 2021 | PMSG 1 Brussels / 1 day English | Inform PMSG of the project Discuss TOR of the study phase of the project Discuss TOR of the experts to be selected Discuss the involvement of the affiliated EFBWW and FIEC members |
| January 2021 | PMSG (virtual meeting) English only | Validation of the two TOR |

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|-------------------------------|---|---|
| January – February 2021 | Formal tendering procedure for the external experts | Public selection of the external experts |
| February 2021 | PMSG 2 Brussels / 1 day English | Choice of the selected experts Discussion on : Methodology, actions of the study phase |
| February – June 2021 | Study phase by the experts, with regular updates with EFBWW and FIEC | |
| June 2021 | PMSG 3 Prague / 1 day English/Czech | Presentation of the study deliverables Discussion on the case-studies First preparations of the first seminar |
| June – December 2021 | Case study phase by the experts, with regular updates with EFBWW and FIEC | |
| January 2022 February 2022 | PMSG 4 Italy / 1 day English - Italian | Presentation of the case study deliverables Discussion draft recommendations Organisation of the first seminar |
| January 2022 May 2022 | EFBWW and FIEC secretariats | Preparation first seminar Austria |
| May 2022 | First seminar Austria | Presentation study Presentation cases Presentation and discussion draft conclusions and recommendations |
| June 2022 | PMSG 5 Brussels / 1 day English | Follow-up of the first seminar Final draft conclusions and recommendations |
| June 2022 October 2022 | Internal consultation EFBWW and FIEC | Final draft conclusions and recommendations |
| November 2022 | PMSG 6 Brussels / 1 day English | Finalization conclusions and recommendations Finalization deliverables Communication and dissemination strategy (common, EFBWW and FIEC) Organisation second seminar |
| December 2022 | Final seminar Brussels | Presentation study Presentation cases Presentation and discussion conclusions and recommendations Discussions EU policy makers Discussions national policy makers Discussion social partners |
| December 2022 | PMSG 7 Brussels / 1 day English | |

5. Activities to be subcontracted

The following tasks in relation to the action will be subcontracted:

A. External expertise:

A substantial part of the work will be conducted by one or more expert(s). The main tasks of the expert(s) will be:

- To conduct the study part of the project
- To assess specific cases studies
- To support the work of the project management steering group
- To produce an intermediary report after the first phase of the project
- To assist with the elaboration of the possible recommendations
- To assist with the preparation of the two foreseen seminars

For this the experts need to attend the meetings of the project management steering group (max 2 persons), attend the planned seminar and conduct the required field study trips to collect factual evidence.

The foreseen budget for the expert(s) is 350 Euro X 150 days = 52500 Euro (VAT included)

B. Interpretation

The work of the project will be in English.

However for the following actions interpretation will be provided:

- PMSG in the Czech Republic (English-Czech)
- PMSG in Italy (English-Italian)
- First seminar in Austria (English, French, German and two additional languages)
- Second seminar in Brussels (English, French, German and two additional languages)

In order to ensure a smooth functioning of the work of the expert(s) and the PMSG a dedicated budget of 4000 Euro will be reserved for specific interpretation needs.

C. Translation

The working language of the project will English.

- In order to ensure a good functioning of the work of the expert(s) and the PMSG a dedicated budget of 5000 Euro will be reserved for specific translation needs.
- The essential meeting documents of the first and second seminar will be provided in five languages
- The final delivery (report) will be made available in French, German and English (max 100 pages)

D. Organizational services

- Accommodation and travel arrangements for the members of the PMSG meetings and the participants of the two seminars.
- A lump-sum accommodation and travel budget of 5000 Euro for the experts to conduct field-related activities
- Interpretation equipment for the meetings of the PMSG and the two seminars
- Meals for the meetings of the PMSG and the two seminars
- Edit and layout of the final publication

E. Promotional material

In order to strengthen the visibility of the action a specific promotional budget will be allocated to the project. This budget will be composed of a budget of 7,000 Euro for the PMSG to promote the overall action of the project: logo, banner at the seminar,... and a budget of 2 X 4.000 for the EFBWW and FIEC. Each organization will be able to use the budget to develop own actions to increase internal awareness of the action and the results. EFBWW and FIEC will provide a detailed justification on how this budget was used.

Brussels, 18 June 2020

Tom Deleu
EFBWW General Secretary