

## Opinion of the European Economic and Social Committee on 'Developments in the construction sector in Europe'

(2009/C 27/05)

On 6 December 2007, Ms Margot Wallström, Vice-President of the European Commission and Commissioner for Institutional Relations and Communication Strategy, and Mr Günter Verheugen, Vice-President of the European Commission and Commissioner for Enterprise and Industry, requested the European Economic and Social Committee to draw up an exploratory opinion on

*Developments in the construction sector in Europe.*

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 13 June 2008. The rapporteur was **Mr Huvelin**.

At its 446th plenary session, held on 9-10 July 2008 (meeting of 10 July), the European Economic and Social Committee adopted the following opinion by 57 votes to none, with two abstentions.

### 1. Conclusions

1.1 Contrary to what some might believe, the future of the construction industry will depend less on the public spending it receives (although greater continuity in programming would definitely not go amiss) than on the ability of the relevant authorities to work out a regulatory framework, applicable to all, that ensures maximum transparency in competition and the best use of the potential and know-how of businesses of every size.

1.2 In view of the above, the main recommendations of this opinion are as follows:

- putting in place unified tender procedures by means of regulations as soon as possible; especially in the public sector, such procedures should give clients as broad and clear-cut a choice as possible, so that they can choose contractual tools to suit their needs;
- giving construction professionals regulatory scope to substantially contribute to the challenges of sustainable development: through the use of the overall costs approach, public-private partnerships of all sizes, and financing based on expected performance, both small and large business are ready to meet these challenges;
- improving the construction sector's image to make it more attractive to young people in education so that more of them enter the profession;
- making major efforts to promote training for trades accounting for a substantial percentage of European jobs which are not at risk of relocation;
- promoting sustainable construction activity in the EU;
- maintaining a healthy economic environment and employment conditions in line with people's needs in the countries where they work;
- boosting European competitiveness.

1.3 These are the only ways of preparing for the likely arrival in the near future of competitors from outside Europe.

### 2. Introduction (background)

2.1 In a letter dated 6 December 2007, European Commissioners Margot Wallström and Günter Verheugen requested the EESC to help advance the Lisbon Strategy by undertaking an exploratory opinion in order to examine whether legislation regulating the construction and the business services sector 'form a coherent whole; whether they are geared towards change, both ongoing and forthcoming; and, finally, the extent to which it may be necessary to launch a process of simplification, streamlining and modernisation of the legislation in these areas. It should be clarified that the exercise could extend to any other legislation that has a bearing on the development of the sector (health and safety at work, environmental protection, etc.), and the legitimate interests at the heart of the sector should be integrated into the analysis'.

2.2 Consequently, all the points raised in the request for an opinion must be examined meticulously and systematically, since this is a vast topic and one which had earlier been the subject of several studies carried out by external consultants at the Commission's behest.

2.3 The present opinion, however, will confine itself to those aspects signalled by the requestor, namely changes or simplifications in legislation and rules governing the sector which should be made as part of an impartial and strategic inventory of the construction industry and serve to improve the conditions within which it operates and moves forward.

2.4 To this end, the opinion recaps a few useful facts about the sector to put the construction trades and constraints upon them into context.

### 3. The position of the construction industry in the European economy

3.1 Some figures for the construction industry, which comprises 2.7 million businesses, in the EU-27 in 2006:

	2006
GVA share of GDP	10.5 %
Share of wages in the sector's GVA	54.5 %
Share of the sector's GFCF in total GFCF	50.5 %
Sector's share in total employment of all sectors <sup>(1)</sup>	7.2 %

<sup>(1)</sup> The construction sector accounts for 30.4 % of jobs in industry. Sources: Eurostat and FIEC.

#### 3.2 A few facts

3.2.1 Since the construction sector cannot be relocated, it is an integral part of Europe's future growth and its industrial fabric.

3.2.2 The very nature of what it produces and its need to have fixed bases — deeply rooted in local life — in every country means that it performs a social and civic role which should be kept in mind and fostered.

3.2.3 The construction sector must play an important role in all initiatives bearing on sustainable development:

- since it is a necessary conduit of investment (housing, buildings in general, transport, energy production, etc.) made on this front;
- by adapting its working methods, including those of the materials sector, to the needs and demands of sustainable development.

3.2.4 No broad view of the sector as a whole would be complete without mentioning the sector's image, which is still to some extent poor despite the best efforts of the profession over more than thirty years. This is something the opinion should address, because it is reflected in:

- the spirit of the provisions in some countries governing public procurement and the treatment of illegal employment;
- a clear difficulty in recruiting young people (direct attractiveness) and their training (mistrust of building and public works training by the training system as a whole).

3.2.5 The very nature of these trades, in terms of both the needs of clients and the diversity of skills involved, means that the market is extremely fragmented and will remain so for years to come. As a result, there will always be cohabitation between craftsmen, small, medium-sized and large companies.

The notion that this sector is all about big companies that only deal with large projects must be put into context: operations with a unit value over EUR 20 million account for no more than 2 % to 5 % of the total European construction market.

3.2.6 The large European groups that often feature prominently on the world stage are for the most part 'federations' of very locally based small and medium-sized organisations that operate in the same competitive environment as local independent SMEs.

3.2.7 Generally speaking, the large European players in this sector have not evolved on what might be termed the 'American' model, but have managed to sustain and develop their know-how by relying on their own acumen and participating in the conception of projects.

3.2.8 It is thanks to this approach that European businesses have carved out a place for themselves on the world markets. Nor is this model, based on integrating conception and execution, necessarily the prerogative of large groups: it can and must also be applied to companies of all sizes.

### 4. Some basic principles

4.1 The challenge for this exploratory opinion requested by the European Commission must be to propose not only a streamlining of legislation, but also a course of action which:

- ensures true transparency and equality of opportunity in tenders;
- brings about a shift from an outdated culture of mistrust to one of confidence and partnership;
- includes the most economically advantageous bid and overall cost for the lifetime of works;
- guarantees intellectual property rights;
- ensures that minimum conditions of employment are specified in procurement procedures and that checks and penalties are in place for infringements;
- cuts red tape by keeping regulation and procedures to a minimum while maintaining the security aspects and the essential rights and obligations of the contracting parties.

4.2 Except in the case of fluctuations in the volume of markets (which is beyond the scope of this opinion), these various elements that should be incorporated into regulation should enable construction sector players to develop in an orthodox manner and so ensure that a coherent social policy (jobs — security — salaries) is followed and the sector is made more attractive for the various parties concerned (young parents, teachers, etc.).

## 5. Main proposals

5.1 The key areas where we think the relevant authorities should focus their efforts are these:

- unification and simplification of public procurement procedures to ensure both transparency and the best use of resources and powers;
- encouraging innovation with rules to cover, for example, the intellectual property rights of ideas and variants;
- both initial and career-long training of workers;
- contribution to changing the image of this sector, which provides jobs for young people;
- rules in the social sphere to govern both employment conditions and good health and safety practices;
- sustainable development in the widest sense of the term — an area in which construction businesses have a large part to play and fresh responsibilities to assume.

### 5.2 Unification and simplification of procurement procedures

5.2.1 Action could be taken in the following areas:

- transforming legislation on tenders into **regulations** to replace the current directives so that the procedures at European level are truly unified, with a level playing field for competition;
- more systematically preferring the best bid over the lowest bid;
- giving competitive dialogue a more rigorous framework for the contracting entities so that it really is a procedure for getting the best and not a systematic plundering of ideas and intellectual property;
- encouraging a 'from concept to execution' approach that combines company know-how and creative talent from the conception stage;
- making greater use of overall contracts (for construction and maintenance, or PPPs) to meet the challenge of sustainable development and prepare and mount an adequate response to the attempts of some countries to dump on the European market;
- putting in place genuine harmonisation of standards and technical aspects in order to dismantle technical barriers at national level and unify the European market;
- taking into account the needs of SMEs in order to enable them to survive, maintain their staffing levels and so avoid excessive bipolarisation within the sector.

With regard to this list, it should be made clear that the response to calls for regulatory change should not be to impose ready-made solutions but to provide contracting entities with a complete toolbox which they can use in line with their needs.

5.2.2 Taken as a whole, these modifications or adaptations should encourage transparency and a level playing field between

private, public and quasi-public entities and make it quite clear that any funding is conditional on a tender and a formal contract.

### 5.3 Innovation and intellectual property rights

5.3.1 What sets the construction sector apart is that everything it produces is a 'one-off'. This is why we should have European legislation that protects intellectual property and recognises the special nature of the ideas to be protected, namely that they are conceived for a particular tender and will not necessarily be systematically reproduced. Specific legislation should be put in place at European level to protect technical ideas in the competition process and establish rights to protect tenderers.

### 5.4 Training

5.4.1 A point commonly made by construction professionals in most Member States is that in general the needs of the sector are only very poorly met by most national educational systems, at all levels of training. In view of this, while relations need to be improved between the trades and education systems at national level, there should also be an impetus at European level, for instance by:

- supporting legislation on training to promote building and public works in Europe (recognition and equivalence of certification of training at all levels);
- helping to improve skills levels by promoting lifelong learning. As the sector is known to be under pressure, it has a poor image among young people and a hierarchical gap in its career structure. It badly needs know-how, since construction jobs have come to require qualifications, even high qualifications, and a solid knowledge base. This should subsequently be enhanced by businesses giving their staff access to further training and thus opening up careers to them;
- extending an Erasmus system for various levels of training in building and public works throughout Europe by taking advantage of the pool of accumulated experience, small though it is (with ESF support, in the following three sectors: painting, stone cutting, and the renovation of old buildings);
- promoting European universities for building and public works trades and recognising a European title of craftsman;
- promoting training facilities for project managers in Europe so that the public and private clients of companies have a better knowledge of contracts and what companies actually do;
- developing facilities to provide European inter-company further training;
- promoting European qualifications (e.g. languages).

### 5.5 Health and safety regulations

5.5.1 Current regulations have had a very beneficial and very profound influence on working methods in the construction sector. Nevertheless, it would be good to:

- encourage the pooling of best health and safety practices;
- combat illegal work by action throughout Europe (such as consultation and networking of data bases, ID passes and systems to identify workers), and by introducing penalties and appropriate fiscal measures such as reduced-rate VAT;
- facilitate the implementation of the REACH regulation;
- facilitate the flow of workers without social dumping (accepting the formalities already in place in the Member States in relation to secondments) and enable European workers to return to their country of origin;
- ensure that fines can be enforced throughout all EU Member States;
- accept the conditions of the country where the work is done as the basis for any form of employee mobility.

### 5.6 Sustainable development

5.6.1 As suggested above, those in the construction sector have a very considerable role to play in meeting the challenges that face the world today, including climate change. They are ready, within an appropriate framework of regulations and incentives, to assume this responsibility and bring their added value to the European market. They are also prepared to pass on their know-how in the field to other corners of the world where, as we know, the efforts that need to be made are both enormous and crucial if all their benefits are to be felt by everyone.

5.6.2 To achieve this, it would be good to:

- introduce an overall costs approach (for the duration of the investment) in the rules for European public tenders, and define a concept of best bid, perhaps involving a sustainable development criterion. This could enable contracting entities to take comprehensive account of the sustainable development dimension in their choice;

- encourage PPP procedures, which by their very nature integrate conception, execution and maintenance and could therefore be the best way of making the most of the overall cost concept;
- redeploy some forms of financial support by concentrating them, in all Member States, on the huge task of energy infrastructure renovation;
- encourage large-scale renewal projects embracing public works and buildings;
- promote development and recognition of environmental districts (creating a Community label, financial incentives, etc.).

5.6.3 In both the construction and the transport sectors, if construction businesses are given a chance to participate throughout the 'concept-implementation-maintenance' process, they can make a decisive contribution, particularly in terms of ensuring financing for the requisite activities, in their capacity to manage overall costs and finance investments for future energy-saving measures.

### 5.7 SMEs in the construction sector

5.7.1 The problem of SMEs in the construction sector — unlike in others (see point 3.2.5 above) — is not really one of access to this or that kind of market.

5.7.2 This is why those in the sector quite rightly see no justification in the quota approach thought up by some and rejected by the European authorities. Moreover, the figures mentioned by the various parties are in reality far exceeded in all European countries.

5.7.3 The issue of SMEs, other than matters covered by the Small Business Act, should, rather, be regulated with:

- smart solutions for the transfer of enterprises;
- models for funding or for sharing services or financing which create a level playing field without distorting competition, particularly in terms of SME access to complex operations (PPPs and sustainable development);
- solutions geared to facilitating SME access to standardisation and norms.

Brussels, 10 July 2008.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

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