



Preserving operational freedom in hospitality: HOTREC's position on subcontracting

Executive summary

- **Hospitality businesses must be free to decide how to organise their services.** Any other option would hinder innovation, flexibility and productivity, and may even risk business viability.
- **A full chain liability is not proportionate.** National legislation already exists to protect the interests of workers and businesses.
- **No legislation is needed on subcontracting at EU level.**
- To avoid any possible abuse, solutions are found through **enforcing current legislation and encouraging labour inspections.**

Context

HOTREC, the umbrella association of hotels, restaurants, bars and cafés across Europe, represents **47 national associations in 36 countries**. The European hospitality sector consists of **2 million businesses supporting over 10 million jobs**. Almost all our hospitality establishments are SMEs and **9 in 10 are micro-enterprises**, playing an essential role in sustaining local communities. **Tourism and hospitality** are vital drivers of the economy, contributing around **10% of the EU's GDP**.

In recent years, the **sector has shown resilience**¹. However, **EU inflation levels remain high**², while **food and energy costs continue to increase**. At the same time, the **uncertain and turbulent geopolitical situation** deters growth and competitiveness, especially in countries bordering Ukraine. Since the pandemic, the sector continues to face not only **skills shortages**, but also **labour shortages**.

¹ Eurostat, [Tourism statistics: nights spent at tourist accommodation establishments](#), May 2025

² Eurostat, [Annual inflation down to 2.2% in the EU](#), June 2025

HOTREC believes that a **competitive working environment** will create the conditions to **protect employees**, make **businesses thrive**, and deliver **quality service** to clients while allowing **innovation to flourish**. For all these reasons, we support the [Competitiveness Compass](#), the new [EU Single Market Strategy](#), and the [Union of Skills](#) initiative.

I. Subcontracting in hospitality

Subcontracting in the hospitality industry involves **delegating tasks and services to external providers**, allowing accommodation establishments to focus on core operations such as guest experience and management. Some hospitality establishments hire external service providers to take care of some of the following activities:

- **Cleaning and maintenance:**
 - Cleaning of rooms and common areas
 - Laundry and linen services
 - Outdoor areas (e.g. swimming pool)
- **Food, beverage, and entertainment services:**
 - Caterers: organisation of events (banquets, weddings, seminars)
 - Meal delivery or room service via partners or delivery platforms
 - Tourist animation events and entertainment
- **Technical maintenance and services:**
 - Maintenance of equipment (air conditioning, boilers, elevators, etc.)
 - IT maintenance: Wi-Fi network, booking systems, telephony
 - Fire safety and alarm systems: installation and regular inspections
- **Renovation and fittings:**
 - Renovation work or compliance upgrades
 - Gardening and maintenance of green space
- **Security:**
 - On-site security (security guards, personnel)
 - Video surveillance handled by an external company
- **Administrative tasks:**
 - Accounting and payroll management
 - Legal services

There is no predefined number of subcontractors, but generally, given the small size of the companies, it is uncommon to have more than **two levels** of contracting. **Direct contracting is therefore the most typical model:** one subcontractor is involved per service, who is directly contracted either by the hotel or the restaurant to develop a task, in principle in a specialised field.

The use of models with two or more levels of subcontracting (for example in cleaning services) might occur mainly in **larger units** (1% of our companies) or during **periods of high seasonal pressure**, but remains an exception to the general rule of direct subcontracting. For daily-work tasks, it is often the case that hotels and restaurants work with **employment agencies** which provide either **long-term or temporary personnel**. These agencies act as intermediaries.

II. Why subcontracting is fundamental to the sector

Companies in the sector need their **freedom to organise their operations** and adapt to market needs. **Any ban on subcontracting would severely restrict companies'** ability to organise their operations. This is **against Art.16** of the **EU Fundamental Rights Charter**, which recognises companies' freedom to conduct business.

Subcontracting is often used in the sector to **improve efficiency and potentially enhance service quality** by leveraging specialised expertise. It is also used to overcome specific skill needs, manage seasonal fluctuations, ensure business competitiveness, increase productivity and innovate company services.

Any limitation could mean reducing improvement and efficiency, which would have consequences on the quality of the service provided. Ultimately, **businesses would not be profitable and would need to close down**. This limitation would severely affect businesses and employees in the sector.

III. Enforcing existing legislation at EU and national level

Legislation already exists at the EU and national level to regulate subcontracting in the sector³.

a. EU legislation

- **Employer Sanctions Directive** ([2009/52](#)): Stipulates that the contractor of which the employer is a direct subcontractor may be liable to pay financial sanctions in addition to or in place of the employer (Art.8).
- **Temporary Agency Workers Directive** ([2008/104](#)): Aims to ensure that the principle of equal treatment is applied to temporary agency workers.
- **Pay Transparency Directive** ([2023/970](#)): Enters into force in June 2026. Until then, companies will need to adapt and apply the legislation. The principle of equal pay for equal work or work of equal value between men and women (the 'principle of equal pay'), will need to be implemented. For instance, for the same task, both foreigners and locals will be paid equally.

b. National legislation

When subcontracting, the subcontractor company and the main contractor **need to follow their respective responsibilities, according to national legislation**. To better understand the current context at national level, hereafter are examples of existing legislation in Czechia, France, Italy, Portugal and Sweden.

³ It is to note that posting of workers is not significant in the sector (only 1% of the working force). We are therefore not considering the Posting of Workers Directive.

Czechia

Subcontracting is legislated by the Labour Code, the Civil Code, the Act on Employment, and tax legislation.

- **Labour law compliance:** The contractor is the direct employer and responsible for employment contracts, wages, and working conditions. If the worker is under the control of the hotel or restaurant, this may constitute disguised agency work, leading to sanctions.
- **Wages and liability:** Based on national jurisprudence, if the subcontractor fails to pay wages and the contractor (e.g. hotel) knew or should have known, shared liability may apply.
- **Occupational health and safety:** The subcontractor must train and equip the worker. The contractor must inform workers about specific work-related risks.
- **Taxation and social security:** The subcontractor is primarily responsible. However, in cases of fictitious contracts, the relationship may be reclassified, and the contractor may be liable for unpaid taxes and contributions.
- **Illegal work:** Use of unregistered subcontractors may be classified as illegal employment. Both parties can face financial penalties.

France

Subcontracting is legislated by the Labour Code and jurisprudence.

- **Wages and social contributions:** The subcontractor is the employer and primarily responsible. However, if the subcontractor fails to pay and the host company did not conduct required checks or respond to labour inspector alerts, joint and several liability may apply.
- **Verification obligations:** For contracts above €5.000 (excl. tax), the client must verify:
 - Company registration
 - Certification confirming social contribution compliance (every 6 months)
 - For foreign workers: a sworn statement that all are legally employed
 - Failure to verify may trigger joint liability for: unpaid wages and compensation; unpaid taxes and social contributions; related penalties.
- **Health and safety:** The host company must coordinate risk prevention with all contractors working on its premises. Contractors are responsible for their own employees, but the host may be liable under tort law if harm results from failure to meet legal obligations.
- **Legal actions:** Subcontractor employees may seek compensation from the host if it is proven that a legal breach has caused them harm.

Italy

Robust legal safeguards are already in place. The law ensures **joint and several liability rights** between the client and direct contractor, **protecting workers' rights** without unduly burdening unrelated parties. Legislation includes the payment of wages and social security contributions (276/2003 – Art. 29/2), the payment of VAT and tax (223/2006) – Art. 35/28), and workplace health and safety (81/2008 – Art. 26).

Portugal

Subcontracting is regulated by various rules of the **Labour Code** (e.g. Art. 172-192, Art. 127-128, Art. 334), as well as **health and safety at work** (law no. 102/2009, 10 September). In practice, the service provider (subcontractor) retains full responsibility for labour, tax and social security obligations of its workers, but the contractor (e.g. hotel or restaurant) may be held jointly and severally liable if these obligations are not met, particularly regarding wages and social security.

Sweden

The **subcontractor company is an employer**, who follows the same national legislation as the contracting company. The contractor is responsible for the work environment towards those workers (Work Environment Act (SFS 1977:1160)).

HOTREC considers that **extending liability to all entities in the subcontracting chain** (client, contractors and subcontractors), regardless of their role, **is disproportionate**. Expanding liability beyond direct contractual relationships could **discourage legitimate business partnerships and increase legal uncertainty**, rather than effectively targeting abuse.

IV. Examples of legislation that should be better implemented

It is crucial that principles such as **prohibition of illegal agency work** are enforced. Subcontracted companies need to follow legal agency work procedures. Otherwise, undeclared work might occur.

It is also important that **wages are paid correctly and employees work within legal time limits**. According to HOTREC members' feedback, labour inspections occur, but oversight is limited and enforcement inconsistent, particularly in remote areas or in less formal subcontracting arrangements.

Information on health and safety should be provided in a **more preventive**, rather than reactive way. It may also happen that some hoteliers or restaurateurs are **not aware of chain liability**. **Information from public authorities** is key, for the proper prosecution of the law.

Lack of functional coordination between public authorities (e.g. authorities for working conditions, tax and social security services) jeopardises the detection and correction of non-compliance (such as the lack of formal contracts or omission of contributions).

V. How to avoid illegal practices

Subcontracting can, in some cases, lead to abuse. Most notably, **undeclared work practices**, aiming at circumventing tax and social security payments, **labour crime and other illegal practices**. We strongly **oppose such behaviours** as they are **detrimental to workers and unfair to companies** who apply the legislation.

Solutions to overcome such practices can include:

- **Enforcing existing legislation** at EU and national level
- Encouraging the **European Labour Authority (ELA)** to:
 - Reinforce **labour inspections** at national level
 - Create a **web tool** that provides information on labour mobility and is linked to national websites
 - Develop an **on-demand helpdesk** function to support employees looking for a job in another EU country and employers willing to hire
- Public authorities to inform hoteliers or restaurateurs of their **responsibilities**
- Public authorities to develop and share **guidelines of good practices** for contractors (hotels/restaurants) to:
 - Verify that the subcontractor has a **legal status**, is registered, and is labour compliant
 - Include **clauses in service contracts** that allow audits or documentation of wage and working conditions compliance
 - Select **reputable subcontractors** or agencies that are licensed

Conclusion

When it comes to subcontracting, **existing EU and national legislation are in place and should apply**. A rigid one-size-fits-all **EU Directive** on the topic would bring **extra burden to companies**. This would undermine business flexibility, weaken established national protections, and would not address the root cause of abuse.

HOTREC considers that **employees are better protected** if current EU and national **rules are enforced** and if **collective bargaining agreements** are respected. **Labour inspectors** are encouraged to **enforce existing legislation**.