

Directive 2009/52/EC of the European Parliament and of the Council
of 18 June 2009 providing for minimum standards on sanctions and
measures against employers of illegally staying third-country nationals

Article 8

Subcontracting

1 Where the employer is a subcontractor and without prejudice to the provisions of national law concerning the rights of contribution or recourse or to the provisions of national law in the field of social security, Member States shall ensure that the contractor of which the employer is a direct subcontractor may, in addition to or in place of the employer, be liable to pay:

- a any financial sanction imposed under Article 5; and
- b any back payments due under Article 6(1)(a) and (c) and Article 6(2) and(3).

2 Where the employer is a subcontractor, Member States shall ensure that the main contractor and any intermediate subcontractor, where they knew that the employing subcontractor employed illegally staying third-country nationals, may be liable to make the payments referred to in paragraph 1 in addition to or in place of the employing subcontractor or the contractor of which the employer is a direct subcontractor.

3 A contractor that has undertaken due diligence obligations as defined by national law shall not be liable under paragraphs 1 and 2.

4 Member States may provide for more stringent liability rules under national law.