

Monitoring contractor liability in the road transport sector, Finland

Title of the policy or measure (in English)	Monitoring contractor liability in the road transport sector
• Country	Finland
• Sectors	All
• What groups are targeted by the measure	<ul style="list-style-type: none"> Contractors (any enterprise or public body that uses temporary agency workers or workers in the service of an employer having a subcontract with the main contractor) (directly targeted) Employees of subcontracting employers and temporary agency workers (indirectly targeted) Customers of the goods transport operators (directly targeted)
• Purpose of measure	Prevention
• Short sentence summarising the measure	<p>To prevent and investigate undeclared work by monitoring implementation of the 2006 <i>Act on the Contractor's Obligations and Liability when work is contracted out</i> and the 2017 <i>Act on Transport Services</i></p> <p>The Act on the Contractor's Obligations and Liability applies to all work performed in any trade or industry, and to both Finnish enterprises and enterprises established abroad that contract work out to temporary agency workers. The Act on Transport Services applies to customers of goods transport companies operating in Finland. This Act compliments the Contractor's Obligation and Liability Act.</p>
Background	
• Background context driving the implementation of the measure	<p>The Act on the Contractor's Obligations and Liability when Work is Contracted Out (1233/2006) applies to all parties contracting work out. Contractors are required to ensure that their partners comply with statutory requirements before signing a subcontracting or temporary agency work agreement. The aim is to promote equal competition between enterprises and to ensure observance to the terms of employment. The monitoring and investigation of statutory requirements applies also to transport services, which have had a higher than average rate of non-compliance with occupational health and safety regulations.</p> <p>The Act helps to reinforce the incentives to fully declare employees. The penalties faced by contractors incentivise careful scrutiny of documentation supplied by subcontractors concerning their employment practices. The Act also incentivises subcontractors to document satisfactory compliance with its requirements as they are less likely to secure contracts with contractors if they do not, or if they have a record of having failed to do so in the past.</p>
• When was the measure implemented?	January 2007 – ongoing

<ul style="list-style-type: none"> Names(s) of authorities/bodies/organisations involved 	Regional State Administrative Agency, Occupational Safety and Health (OSH-agency)
<ul style="list-style-type: none"> Scope of the measure (a pilot project, nationwide, regional wide) 	National
<ul style="list-style-type: none"> Type of (policy) measure 	Other Monitoring of legislation
<ul style="list-style-type: none"> Key objectives of the measure 	<p>General objectives:</p> <ul style="list-style-type: none"> To prevent and investigate undeclared work <p>Specific objectives:</p> <ul style="list-style-type: none"> Promote equal competition among businesses and compliance with statutory terms and conditions of employment Make sure partners comply with statutory requirements
<p>Specific measure</p>	
<ul style="list-style-type: none"> Description of how the measure operates in practice 	<p>According to the Act on the Contractor's Obligation and Liability, before making the subcontract, the contractor must ensure that the subcontractor has submitted the following up-to-date reports: a) the subcontractor's registration in the withholding tax register, b) the employer register and the register of taxable persons liable for VAT, c) the Trade Register extract or a document with comparable content, d) report on tax payment status, e) certificate stating that employee pension insurance has been taken out and that pension insurance contributions are paid up, or a report stating that a payment agreement concerning outstanding pension insurance contributions has been signed, e) report on the collective agreement or principal terms and conditions of employment applying to the work in question, f) report on how occupational health care is provided, and g) certificate stating that statutory accident insurance has been taken out (agreements concerning construction).</p> <p>The Act on the Contractor's Obligation and Liability applies to all parties contracting work out. In 2016 there were about 9 800 establishments in transport in Finland. The total number of personnel was about 150 000 persons of which the number of drivers are 85 000.</p> <p>Specialised inspectors at the OSH agency monitors the Act by carrying out inspections of subcontracting companies and organisations employing temporary agency workers. The OSH agency mainly carries out its inspections on business premises. The inspector investigates that the contractor has obtained the aforementioned reports on the hired-labour companies and subcontractors concerned before signing any agreement.</p> <p>Penalties for non-compliant employers can range between EUR 2 000 and EUR 20 000 while higher fines may also be imposed and can reach between EUR 20 000 to EUR 65 000. In 2016, fines were imposed in 28 cases. Half of these applied to contracts on temporary agency workers. Most of them were related to tax debt or to the absence of the certificate showing the amount of the tax debt as well as absence of employee pension insurances and the payment of them.</p> <p>The Act on Transport Services also contains an obligation on customers of goods transport companies to verify that the transport company complies with statutory requirements. Before arranging transport, the customer or their representative shall verify that the transport operator has the necessary licence or the right to provide transport, and that the transport operator is entered in</p>

	<p>the VAT register. A contract may not be concluded unless the conditions are fulfilled or if the transport customer knows that the other party to the contract does not intend to meet their statutory obligations as an employer.¹</p> <p>Police or Customs will impose fines on infringements related to ordering a transport service. However, if the Act on the Contractor's Obligations and Liability is applied to the transport service then no notification will be made of an infringement, no charges will be filed, and no penalty will be imposed, and a negligence fee of the said Act may be issued.</p>
<ul style="list-style-type: none"> • What resources and other relevant organisational aspects are involved? 	<p>The occupational safety and health division is responsible for enforcement of the Act on the Contractor's Obligations and Liability when Work is Contracted Out nationwide. The OSH Southern Finland is coordinating the work of inspectors specialised in monitoring compliance to the Act. There are 31 inspectors at 11 offices all over Finland working full-time to monitor compliance.</p> <p>Roadside Police and the Customs at the borders supervise compliance with customers' obligation concerning goods transport, to make sure that the transport operator complies with the requirements in the Act on Transport Services. There is also joint monitoring on the roadside by Police and the OSH-Agency.</p>
<ul style="list-style-type: none"> • What are the source(s) of funding? 	<p>National funding</p>
<p>Evaluation and outcome</p>	
<ul style="list-style-type: none"> • Has the measure achieved its objectives? 	<p>According to the inspectors of the OSH Agency, the legislation has fulfilled its objective and prevented undeclared work in the transport services sector. In the main, subcontractors and employers of temporary agency workers have fulfilled the requirements of the Act.</p>
<ul style="list-style-type: none"> • Assessment method (including indicators used to measure its impact), and the outputs and outcomes achieved 	<p>In 2016 the OSH agency conducted about 28 300 inspections of which 3 150 were in the transport sector. In 2016, 248 inspections were carried out in relation to monitoring adherence to the Act of Contractor's Obligation and Liability in transport service. Non-compliance with the Act was discovered in 197 cases. The internal reports and statistics of the OSH Agency show that the incidence of non-compliance increased until 2015 and then fell slightly in 2016-17. The number of non-payment of fees has dropped since 2013. This indicates the tendency for employers to put things in order after the inspection. Based on OSH Agency inspectors' perceptions, in the transport sector, the level of knowledge of the law has risen since the OSH inspectors increased the number of inspections. The inspections began in the construction industry and there was a similar effect on the rise in awareness of the law in these other trades and industries too including the transport sector.</p> <p>The impact of the legislation and monitoring is international. One outcome of the monitoring of legislation was that foreign freight companies did not know that the law also applied to them, even when only part of the transport journey occurred in Finnish territory.</p> <p>The OSH authority's work in the transport sector is ongoing as according to the latest internal report of the OSH Agency, the level of non-compliance in this sector requires continued intervention.</p>

<ul style="list-style-type: none"> • What are lessons learnt and the key conditions for success? 	<p>From the point of view of the OSH Agency, a key challenge that arose concerned assessing whether or not the Act should apply to particular road freight vehicles or not, depending on the length of time those vehicles spent in Finland. The related challenge was access to the relevant documentation from other countries concerning the company responsible for the contract for services. Contractors found that the level of information demanded was high.</p> <p>From the perspective of the OSH Agency, the monitoring carried out under the Act is very effective in terms of controlling undeclared work. The OSH Agency has noticed how the overall the level of awareness of the law has risen in the transport sector during the past couple of years.</p> <p>The main issue with this legislation is the costs of putting in place the requirements (or prevention activities) necessary to participate in work contracts in order to prevent UDW. As a result of the Act, the transport undertaking needs to ensure that the subcontractor or the temporary agency workers' companies fulfil the requirements as laid down in the Act. For example, before the Act entered into force, not all partners provided occupational health care services. Now, the contractor must ensure that occupational health care services are provided by their subcontractors before the contract is concluded.</p>
<ul style="list-style-type: none"> • Level of transferability (e.g. other countries/groups/sectors) 	<p>The model of prevention is transferable to other countries. Some factors required to ensure the transferability of the practice include ensuring that similar legislation is implemented and applies to all trades and industries and not only to the transport sector; ensuring that full-time and trained inspectors are used to monitor compliance so that the legislation is more likely to succeed; ensuring the sufficient penalties apply to reduce the likelihood of non-compliance occurring; and to introduce the necessary agreements with other countries to ensure required and relevant information is exchanged between countries.</p>
<p>Additional information</p>	
<ul style="list-style-type: none"> • Contacts 	<p>Aino-Maija Alstela, Senior Specialist, The Ministry of Social Affairs and Health Email address: aino-maija.alstela@stm.fi Telephone: +358 295 163 568</p>
<ul style="list-style-type: none"> • Useful sources and resources 	<p>Information on Act on the Contractor's Obligations and Liability: http://www.tyosuojelu.fi/web/en/black-economy/contractor-s-obligations-and-liability; https://tyosuojelu.julkaisuverkossa.fi/tilaajavastuulaki_EN/#/article/1/page/1; https://www.finlex.fi/en/laki/kaannokset/2006/en20061233.pdf https://tyosuojelu.julkaisuverkossa.fi/tilaajavastuulaki_EN/#/article/2/page/1-1; Act on Transport Services: https://www.finlex.fi/en/laki/kaannokset/2017/en20170320.pdf</p>
<ul style="list-style-type: none"> • Metadata and key words for online search 	<p>Finland; contractors' liability; subcontracting employers; temporary agency workers; road transport sector; Contractor's Obligations and Liability when Work is Contracted Out; non-compliance; occupational safety and health; OSH; specialised investigators; monitoring compliance; prevention activities; statutory obligation; conditions of employment; contract work</p>

ⁱ The checks need not be carried out if the contracting party is the central government, a local government, a joint municipal authority, the region of Åland, a municipality or a joint municipal authority in the Åland Islands, a parish, a federation of parishes, the Social Insurance Institution or the Bank of Finland; less than three months have elapsed since a similar check for the same contracting party was previously carried out or the contractual relationship between the customer and the contracting party may be regarded as established as a result of transport services provided earlier during the current year, in which case the checks shall be carried out once every calendar year.

The customer or their representative are also exempted from the duty to carry out the check if the agreed price of transport is less than EUR 500 excluding VAT in transport contracts concluded within three months, or if the remuneration for a subcontracting agreement on transport within Finland is at most EUR 10 000 excluding VAT.

There is also an obligation for a brokering and dispatch service company to ensure that the transport operator has the necessary taxi, passenger, or goods transport licence under the Act on Transport Services.