

REPORT

for the period 1 June 2010 to 31 May 2015, made by the **Government of Finland**, in accordance with article 22 of the Constitution of the International Labour Organisation, on the measures taken to give effect to the provisions of the

Private Employment Agencies Convention, 1997, No. 181

ratification of which was registered on 25 May 1999.

Observation, 2011

Part V of the report form. Practical effect given to the Convention

According to the Occupational Safety and Health Administration's inspection database, the number of targets under supervision within the private employment service sector on 27/04/2015 was as follows:

Targets under supervision and number of persons in Vera 27/04/2015

		Number of targets	Number of persons
78100	Private employment services	72	498
782	Temporary agency work	1	-
78200	Temporary agency work	1,246	36,283
78300	Other human resource services	127	1,700
		1,446	37,983

Between 1 Jan 2010 and 28 Apr 2015, Occupational Safety and Health Authorities conducted 467 inspections in enterprises under categories 781 (private employment services), 782 (temporary agency work) and 783 (other human resource services). As a result of the inspections, 1,123 guidelines and 115 improvement notices for action were issued.

Articles 11 and 12 of the Convention. Protections for workers and responsibilities of private employment agencies and user enterprises.

Workers employed by private employment agencies are protected in case of insolvency of their employer in the same manner as other employees, and they are also treated equally in terms of statutory social security benefits. Private employment agencies have the same responsibilities as other employers in terms of contributing to pay security and paying social security benefits, as well as a responsibility to provide workers with accident insurance in case of occupational diseases and accidents.

The universally binding collective agreement concerning temporary agency workers:

The collective agreement for the private employment service sector 01/05/2014 – 31/01/2017
Private Employment Agencies Association HPL – Federation of Special Service and Clerical Employees ERTO

Article 13. Cooperation between the public authorities and private employment agencies.

According to the Act on Public Employment and Business Service, the Ministry of Employment and the Economy (MEE) has the right to receive information from private employment agencies. The MEE has not separately collected such information during the reporting period, but rather received information through partnership cooperation.

The objective of the MEE partnership programme is to enhance the customer focus and performance of employment and business services. The cooperation strengthens the functioning of the labour market and promotes the availability of labour for employers and swift employment for jobseekers.

Cooperation between public and private employment services is being increased in line with MEE policies. National cooperation with employment service partners is based on cooperation agreements, determining a common purpose, goals and benefits and backing the start-up of regional/local pilots.

The MEE and Private Employment Agencies Association HPL signed a cooperation agreement on 26 Feb 2015, aiming at improving the effectiveness of employment services and finding more jobseekers jobs through temporary agency work. Through the cooperation, several pilots will be started up for e.g. the long-term unemployed and young jobseekers. The intention is to develop an operating model based on them, enabling the improved utilisation of temporary agency work in the future. The employment and business office (TE Offices) of Uusimaa and Pirkanmaa actively direct unemployed jobseekers into temporary agency work, and a contracting pilot has been started up at these TE Offices, aiming at identifying new ways of preventing prolonged unemployment and decreasing long-term unemployment. The pilot experiments on contracting a service, whose price is determined by its effectiveness. An expansion of the activities will be considered based on experience from the pilots.

As private employment services develop as an industry, especially as regards electronic employment services, the MEE will re-evaluate the cooperation opportunities, roles and tasks between public and private employment services. The better acquainted recruiting and employment service organisations are with each others' services and methods, the more they can build on their strengths together, thereby increasing the effectiveness and customer focus of employment services.

Cooperation between public and private employment services is dictated by the principles of good governance and, in particular, the equality requirement (section 6 of the Administrative Procedure Act). The MEE treats private actors equally, and they can fully participate in the activities. The MEE collaborates with major, certified private recruiting services involved in a broad range of industries. The main criteria of the cooperation are advanced development levels of the agencies' digital employment services and electronic services.

Employment services, jobseeking and recruiting is going digital. Jobs and jobseekers meet online and in social media to an increasing extent. The MEE has started up cooperation negotiations with private recruiting agencies (Oikotie, Monsteri and Duunitori.fi). A pilot has been launched with the TE Office of Uusimaa and Oikotie in May 2015, actively guiding highly educated unemployed jobseekers to use the digital expert profile service of Oikotie.

I Legislation and regulations

Act on the amendment of the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces 1327/2011, entry into force on 01/01/2012

Act on the amendment of the Act on the Contractor's Obligations and Liability When Work Is Contracted Out (496/2012), entry into force on 01/09/2012.

Act on the amendment of section 6 of the Act on the Contractor's Obligations and Liability When Work Is Contracted Out (874/2012), entry into force on 01/01/2013.

Act on the amendment of section 5 of the Act on the Contractor's Obligations and Liability When Work Is Contracted Out (794/2014), entry into force on 01/12/2014.

Act on the amendment of the Act on the Contractor's Obligations and Liability When Work Is Contracted Out (678/2015), entry into force on 01/09/2015.

Translation on Act on the Contractor's Obligations and Liability When Work Is Contracted Out is available as amended by several Acts, including 874/2012 on the following link:

<http://www.finlex.fi/fi/laki/kaannokset/2006/20061233>

II

Article 3 para 2

The act on the amendment of the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (1327/2011) repealed subsection 1 of section 48 of the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (44/2006). According to this subsection, the actor offering private employment services as its main business within the meaning of chapter 4, section 8, subsection 1 of the Act on the Public Employment Service (1295/2002) was obliged to notify Occupational Safety and Health Authorities of starting its operations. Now this notification obligation no longer exists.

The repealed subsection 1 of section 48 of the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces has been declared to the ILO as a national monitoring system in line with para 2 of article 3. Nevertheless, the terms and conditions governing the operations of private employment agencies may be deemed appropriately regulated. The legal status of a private employment agency is defined by national corporate law, requiring e.g. registration in a public trade register. The purpose of the Convention is mainly to secure the position of workers and their minimum terms of employment. In principle, the same labour law provisions apply to the terms and conditions of employment contracts of workers using employment services as other employees. Temporary agency workers' minimum wages are also laid down in law. Occupational Safety and Health Authorities enforce the terms and conditions of employment contracts of agency workers as well as those of other employees. Therefore, the working conditions of temporary agency workers and their enforcement shall be deemed sufficiently regulated.

Amendments on Act on the Contractor's Obligations and Liability When Work Is Contracted Out

Reform 1 Sep 2012

The Act on the contractor's liability is applied when a contractor uses temporary agency workers or labour based on a subcontracting agreement. According to the act, the contractor is liable to check its contractual partner's ability to take care of its legal obligations. The provisions also aim to ensure that subcontractors and enterprises leasing labour adhere to their obligations as employers. The established obligations therefore also aim to ensure that minimum terms of employment of subcontractors and temporary agency workers are observed.

The contractor's liability law is generally applied to all industries, however, certain specific regulations, which largely entered into force in September 2012, apply to construction.

The purpose of the contractor's liability to perform checks is to give the contractor as accurate information as possible on whether the contracting party is reliable and whether it acts in compliance with legislation. In line with the 2012 amendment, a contractor in the construction industry will, in most situations, be obliged to request that the subcontractor provide the accounts and certificates required by the contractor's liability act. These include information related to the entry of the enterprise into various registries, pension insurance, tax payment, and the collective agreement or other principal terms of employment applicable. After the amendments, it has also been necessary to check for accident insurance. In construction, these accounts must be also requested from companies with established operations, or when the contractual relationship between the contractor and the subcontractor can be regarded as established.

Efficiency in enforcement of this act was improved through the adoption of a higher fine for negligence in construction activity in 2012. The minimum fine is 16,000 EUR and the maximum 50,000 EUR. This fine can be levied if the contractor has either made an agreement with a party that is barred from conducting business, or is aware that the contracting party has no intention of fulfilling its legal obligations. The Act on Public Procurement was also amended to ensure that, in future, all contracting units referred to in the act shall, within the terms of the construction contract, require that the building contractor comply with the minimum terms of employment. Defined by legislation and collective agreements, the minimum terms of employment address issues such as pay, working hours, and holiday.

Reform entering into force on 1 Sep 2015

The purpose of the reform is to clarify the application of legislation and make it easier for contractors to observe their obligations. The provisions are also being standardised to apply to all industries. There will be specifications to e.g. the contractor's checking obligations and negligence fines. The contractor's obligation to check will expand to occupational healthcare. In addition, the pension security required for workers posted from abroad will be defined in detail.

In future, the contractor can also use the public tax debt register in looking for necessary tax payment information concerning the contracting party. In addition, if a foreign company as a business ID in Finland, besides procuring accounts from the company's domicile, the contractor shall ensure that the company in question is registered in tax-related registers in Finland. In addition, the contractor shall review the company's tax debt details.

As regards pension insurance information, provisions will be added to the law concerning workers posted from abroad. The contracting party shall provide the contractor with an account on the determination of social security before commencing work. The contractor, in turn, shall ensure that the contracting party submits the required information. As regards construction, a provision would be laid down in the law, stipulating that the contractor is perpetually obliged to ensure that the

workers posted by the contracting party have valid certificates on the determination of their social security. A fine for negligence can be imposed on the contractor for neglecting this responsibility.

Both the standard and higher fines for negligence will be increased and the higher fine will be applied to all contracts under the contractor's liability act. In future, the maximum fine for negligence will be 20,000 EUR, and the higher fine will be 65,000 EUR. The gravity of the negligence, among other factors, will be considered in determining the size of the sanctions.

III-V

The MEE has published the following reports and guides

Final report by the working group to examine change trends in the labour market and entrepreneurial activities, particularly from the perspective of the ways in which the labour force is used and ways of working (2015). Summary also available in English:

<http://www.tem.fi/ajankohtaista/julkaisut?C=98033&xmid=5397>

Guidebook for Temporary agency work. The guidebook has been compiled in co-operation with labour market organisations and business organizations (2013). The guidebook is available in English:

<http://www.tem.fi/index.phtml?C=98142&l=en&s=3441&xmid=4976>

Reasons for use of hired labour in companies where staff reduction negotiations have been held (2011). Summary also available in English:

<http://www.tem.fi/index.phtml?C=97983&s=2684&xmid=4624>

VI

A copy of this report has been sent to the following labour market organisations:

The Confederation of Finnish Industries (EK)

The Central Organization of Finnish Trade Unions (SAK)

The Finnish Confederation of Professionals (STTK)

The Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA)

The Commission for Local Authority Employers (KT)

The State Employer's Office (VTML)

The Federation of Finnish enterprises

Statements of the labour market organisations:

Confederation of Finnish Industries EK

As regards the Private Employment Agencies Convention, we are most satisfied with the fact that the Committee is requesting Finland to produce a report on how cooperation between public and private employment services has been promoted and regularly reviewed.

Akava

Please see the statement on C 88.