

Article 22 of the Constitution of the ILO
Report for the period 1 June 2015 to 31 May 2018
made by the Government of Finland
on the
LABOUR INSPECTION CONVENTION, 1947 (No. 81)
(ratification registered on 20 January 1950)

Observation, 2016

Cooperation between various authorities is considered an effective method for tackling the shadow economy. Inspectors tasked with the surveillance of foreign citizens, the construction industry and contractors' obligations and liability carry out joint visits at construction sites with the Finnish Tax Authority and the Finnish Centre for Pensions. The sites where enforce visits take place are planned well in advance utilising information from various authorities. During joint inspections, each inspector inspects the site in the scope of their own jurisdiction.

Joint inspections are also carried out in other sectors such as the agriculture and restaurant industries as it has been established that people without the necessary work permits work in these sectors. These joint inspections are carried out together with the Police and the Finnish Border Guard. Joint inspections at construction sites are also carried out with the police.

By combining the jurisdictions of various authorities, the inspections can make the work of various authorities more effective in real time. The occupational safety and health authority are the only authority, who have access to all places where people work. The Police and the Finnish Border Guard on the other hand do not have access to a workplace unless there is suspicion of a crime. The occupational safety and health authority do not have the jurisdiction to check people's identification, which the police and border guard on the other hand do have the right to do. If inspections uncover deficiencies in IDs with tax numbers and worksite worker catalogues, the police may issue a penalty fee for the employer immediately without a lengthy and cumbersome administrative process.

Surveillance of foreign labourers carried out by the occupational safety and health authority targets the employer. It aims to ensure that workers have safe working conditions and terms of employment that are compliant with legislation. Often, unpermitted labour is connected to the trampling of terms of employment, workplace discrimination and human trafficking. On the basis of received feedback, cooperation between authorities does not cause fear at workplaces. Instead, it increases trust in the maintenance of a fair and harmonious labour market and encourages employers to comply with their statutory obligations.

Many of the foreign labour surveillance inspections are carried out without prior notification and surveillance focuses more than previously on employers and industries where violations are likely. Opposition and even aggressive behaviour are expected at this type of inspections. For this reason, the presence of the police and border guard is also useful for ensuring the safety of inspectors.

Occupational safety and health authorities aim to always determine the minimum terms for employment when trying to identify cases of workplace discrimination. Additionally, occupational safety and health authorities provide guidance to workers on their minimum terms of employment. However, occupational safety and health authorities do not oversee the workers' wages or the social benefits they have not received. Workers who have outstanding wages are advised to ask the competent authority for assistance. The Uusimaa ELY Centre is tasked with the centralised responsibility

for handling all pay security matters. Employees are also advised to contact the correct officials in matters related to social security benefits. Occupational safety and health authorities do not have statistical or other data on the wages or social security benefits paid to foreign labourers.

Direct Request, 2016

At the time right after the Regional State Administrative Agencies (AVI) had just been established, occupational safety and health divisions demonstrated some dissatisfaction with the activities of the Regional State Administrative Agencies especially with their administrative and information management services. Starting from the beginning of March 2015, the administrative tasks of the six independent Regional State Administrative Agencies were centred to the Regional State Administrative Agency of Southern Finland. An administration and development services division was established to see to these tasks. The division produces services equally for all Regional State Administrative Agencies. The objective is to facilitate the more flexible and effective use of resources and to safeguard the good availability, quality and expertise of administrative services at all Regional State Administrative Agencies. The Ministry of Finance set the launch of a project for the development of customer-centred activities at Regional State Administrative Agencies (2015-2019) as the administration and development services division's primary task. The main objective of this project is to increase self-service and the use of electronic services according to the national operating model.

The Vera information system for occupational safety and health enforcement is in full use and functions as a key tool in enforcement work and in the targeting and monitoring of occupational safety and health enforcement. The use of this system has improved the effectiveness and quality of activities. Regional administration's occupational safety and health division has been given versatile tools for reporting and for the operative management of work. More detailed statistical data than previously has been made available on the targeting of inspections and the obligations issued to employers. This can be used in the preparation of legislation and in developing the quality of occupational safety and health enforcement. The reform is visible at workplace in the form of more consistent documentation. Electronic services for employers are under development.

In Finland, occupational accident and illness insurance is part of statutory social security. The employer must, in accordance with legislation, have an insurance policy in place for all employees in case of workplace accidents or occupational illnesses. If an occupational accident, which is not serious or terminal but has led to sick leave, has taken place at a workplace, the employer must notify their insurance company of the accident. Insurance will cover costs resulting from workplace accidents and occupational illnesses. There is no need to notify occupational safety and health authorities of this sort of workplace accidents.

Statistics on workplace accidents are quite comprehensive in Finland, because statistics are produced as a by-product of insurance activities, meaning that statistics include all the accidents and damage for which insurance institutions have paid compensation.

If an employer becomes aware that an employee has an occupational illness, this must be taken into account in how their work is organised. In the case of a single employee, work tasks must be arranged so that the employee is not exposed to the whatever causes the illness or so they are only exposed to an amount that does not cause symptoms. The expertise of occupational healthcare can be utilised in both the planning how work is arranged and in the monitoring of the employee's health. The employer must also take into account the hazards caused by the illness with regard to all their

employees. The factor that has caused the illness must be eliminated or the danger it poses must be minimised to a tolerable level to ensure there will be no new cases of occupational illness or workplace-based illnesses. In addition, the employer must monitor the safety and health-related effects of the implemented measures on work. The expertise of occupational healthcare can be utilised in this work.

The occupational illness form has been developed and in future reporting will be electronic so that it would be done as effectively and easily as possible.

Cooperation with occupational healthcare actors is versatile and implemented during occupational safety and health inspections and occupational healthcare training, where representatives of occupational safety and health authorities take part as lecturers training occupational healthcare physicians and nurses. Additionally, the Advisory Committee on Occupational Safety and Health promotes and develops the cooperation necessary for the implementation of occupational healthcare.

The number of workplace inspections has increased in the 2010s.

	2013	2014	2015	2016	2017
Total number of workplace inspections	22.340	24.145	25.861	25.991	25.084

Inspections are carried out at workplaces of all sizes. For example, in 2017, 56% of inspections took place at workplaces with fewer than 10 employees. The majority of workplaces in Finland are small (fewer than 100 employees).

Number of employees	Share of inspected workplaces 2017
1-4	33 %
5-9	23 %
10-49	35 %
50-249	7 %
250-499	1 %
500-	1 %

I LEGISLATION AND REGULATIONS

Amendments to the Occupational Safety and Health Act (738/2002)

453/2016, Section 52b has been amended:

- A technical amendment that amended the choice of law to meet with the new Act.

927/2017, Section 40a has been added:

- The legislative amendment was related to a legislative project concerning biological factors, in connection with which the obligation to list employees exposed to biological factors that was previously included in a lower provision was brought to the level of the law.

Amendments to the enforcement act (44/2006):

482/2015, Sections 46 and 51 have been amended, section 46a has been added:

- The amendments were related to the reform of legislation concerning occupational accidents, injuries and diseases.

1037/2015, Section 44 has been amended:

- The amendment was related to a more general administrative review of provisions related to appeals in connection with which the provision on appeals in question was specified in, for example, the following ways: information on how a decision by a ministry is appealed by submitting a complaint to an Administrative Court, and the provisions that apply to a leave of appeal when appealing to the Supreme Administrative Court were added.

449/2016, Sections 13, 27 and 54 have been amended

- Valid provisions on issuing and enforcing a directive or a request were specified, when the new Posted Workers Act was legislated.

1418/2016, Sections 1, 4b, 13 and 4a have been amended, sections 4c–4f have been added:

- The right of occupational safety and health authorities to obtain confidential information from other authorities and other parties discharging public duties was expanded when the occupational safety and health authority is carrying out enforcement duties related to tackling the shadow economy. Additionally, the possibility for issuing a request was expanded to include the giving of a written notification of lay-off or a written notification on the reasons for terminating an employment contract to an employee.

1446/2016, Section 4b has been amended:

- A provision on the right of occupational safety and health authorities to obtain information from the Financial Supervisory Authority was added to the Act.

926/2017, Section 46b has been added:

- The legislative amendment was related to a legislative project concerning biological factors, in connection with which the obligation to report on certain hazards and accidents that was previously included in a lower provision was brought to the level of the law.

216/2018, Sections 50 and 51 have been amended:

- The amendments are technical in nature and concern the harmonisation of penal provisions that apply to technological equipment used during work with the penal provisions that apply to personal protective equipment and machinery.

II

Part I, Article 20:

Link to the Annual Report of the OSH administration in Finland 2017: https://tyosuojelu.julkaisuverkossa.fi/vuosikertomus_2017_EN/#/article/1/page/1

III – IV

Nothing new to report.

V

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 (SY)

Statements of the labour market organisations:

Joint statement by SAK, STTK and Akava:

In their previous statements, Finnish trade union confederations have highlighted the autonomy of occupational safety and health enforcement and the use of its resources, the amount of inspections and the narrow scope of workplaces they cover, the inspectors' use of work time for workplace inspections, to ease of contacting occupational safety and health authorities, the availability of enforcement data and the late date of their publication as well as the differentiation of activities between Regional State Administrative Agencies. In the aforementioned questions, the Finnish trade union confederations have repeated their previous concerns.

Between 2015 and 2017, the number of inspectors has fallen from 453 to 418. A shorter amount of time is used for inspections at workplaces than previously. Between 2014 and 2017, the time used on inspections was cut from 1.5 hours to 1.4 hours and the overall less time than previously is used on inspections nationally. Operating expenses have also been cut. Human resources for occupational safety and health enforcement are inadequate, and they have continued to decline in recent years. The prevention of the shadow economy, which occupational safety and health authorities have been tasked with is important, but the resources allocated to its enforcement reduce the resources put into occupational safety and health enforcement.

The number of inspections in relation to the number of workplaces is under 10 percent, which means that the occupational safety and health authority does not visit the majority of workplaces for years at a time. The question is, how well do inspections target workplaces where the greatest shortcomings in occupational safety are take place.

Finnish trade union confederations have also expressed their concern on the level of expertise and competence held by occupational safety and health inspectors. The psychosocial loading factors related to work have increased, but none of the inspectors are psychologists or doctors.

Referencing the aforementioned factors, Finnish trade union confederations have stated that the structural changes to Finnish working life and technological development have created new challenges for occupational safety and health and its enforcement. Finding solutions to these will require the development of new enforcement methods that meet with the needs of working life. Finnish trade union confederations are concerned that there will not be sufficient human resources for development efforts without cutting resources allocated for enforcement from what they are at present.

With regard to the compilation of statistics, Finnish trade union confederations have stated that workplace accidents and occupational illnesses are entered into statistics quite comprehensively throughout the country. In order for cases of illness to be included in the statistics for occupational

disease, it must be determined that the employee's exposure to physical, chemical or biological factors in conditions specified in legislation are the primary cause for the illness. Those illnesses that may have been influenced by one's job, but for which the occupation was not likely the primary cause are not included in statistics. In Finland, the term occupational disease is directly linked to social insurance and compensation for occupational diseases in accordance with the Workers' Compensation Act and does not, therefore, cover all illness or injury related to work.

The reliability of statistics is also influenced by the fact that some workplaces have given feedback on how so-called substitutive work is being used to embellish the amount of sick leave taken due to accidents, and this in turn improves accident statistics. Finnish trade union confederations deem it essential that accident statistics comply with reality also in this respect and that inspectors intervene in workplaces where any such activity is observed. In addition, the Finnish trade union confederations have drawn attention to the point that occupational healthcare does not provide comprehensive reports on cases of occupational illness to the occupational safety and health authorities. If there is no information available on occupational illnesses, it is difficult to implement more effective preventive measures even in cases where there would be sufficient time to do so. In addition, according to a study by the Finnish Institute of Occupational Health, a diagnosed occupational illness seldom leads to any changes to working conditions or practices at a workplace. The phenomenon is illustrated by information according to which the occupational safety and health authority examined only 44 cases of occupational illness in 2017. This number is far too small.

The occupational safety and health administration have last undergone reforms in 2010 with the State regional administration reform. Even so, the occupational safety and health administration is yet again the focus of administrative reform as we transition to the administrative model for a single national occupational safety and health authority. Finnish trade union confederations have expressed their concern on whether enforcement is harmonious and equal throughout the country and on maintaining the activities and operating conditions for regional occupational safety and health committees.

The promotion of workers' health and safety and the prevention of accidents are the primary means for occupational safety and health. Setting punishments for negligence has proved to generally prevent violations. Finnish trade union confederations feel that the penalties laid down for occupational safety and health violations in currently valid legislation are too mild with regard to their general prevention and not proportional to other violations that pose a risk to life and health.

The Federation of Finnish enterprises (SY):

The implementation of the Convention in Finland comprises, in large part, of the provisions contained in the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces as well as the activities of the occupational safety and health authorities. National legislation and the activities of authorities should be deemed to fulfil the obligations contained in the ILO Convention.

The occupational safety and health authority's jurisdiction and the means of surveillance the authorities have at their disposal are sufficient and appropriate. Around 26,000-29,000 inspections are carried out each year as is stated in the occupational safety and health administration's annual report. The number of inspections must be kept significant. Approximately 60,000 directives and 8,000 re-

quests are issued each year on the basis of occupational safety and health inspections. If an employer neglects to comply with a request, the occupational safety and health authority can use stronger supervision measures.

It is important to note that employers, especially those in micro-enterprises, do not usually neglect to comply with the standards for occupational safety and health on deliberately. Non-compliance is often due to a lack of understanding or skills. For this reason, it is a good idea for the occupational safety and health authority's approach to be a guidance-based as possible. This is indeed often the case and the reason why authorities issue such a large number of directives. In addition to enforcement, the activities of authorities should focus on ensuring that employers know how to act in compliance with the law.

Occupational safety and health inspections should first and foremost be carried out on the basis of risk assessments meaning inspections should be targeted to those areas where negligence is prevalent or where the risk of negligence is otherwise highest. Inspections should not systematically target companies on the basis of their size and industry. However, inspections should not target the same company repeatedly without reasonable grounds.

The Confederation of Finnish Industries (EK)

The Confederation of Finnish Industries feels that Finland's occupational safety and health enforcement is of high quality and comprehensive and that the resources allocated for enforcement are good. Occupational safety and health inspectors are independent and autonomous and carry out their work according to the objectives set during the tripartite process focusing their inspections on those sectors and companies in which the parties have determined there are risk factors. Enforcement has been focused, for example, in sectors in which there is a greater likelihood of shadow economy or in which a large number of people are employed in so-called atypical employment relationships. Although the number of inspectors has been cut in recent years, the number of inspections has increased. Quality has also improved and enforcement has been effective as, for example, the number of issued directives has steadily grown. It can thus be said that the number of inspectors is sufficient and enforcement has successfully focused on those areas where there have been problems.

However, the Confederation of Finnish Industries has noted that, over the past few years, corporate fines have been imposed more and more often for occupational safety and health offences and violations. Prosecutors have now asked for very large corporate fines, and courts have been more likely to hand down sentences on these. The Confederation of Finnish Industries does not feel that this serves its purpose and feels that the practice is unreasonable.