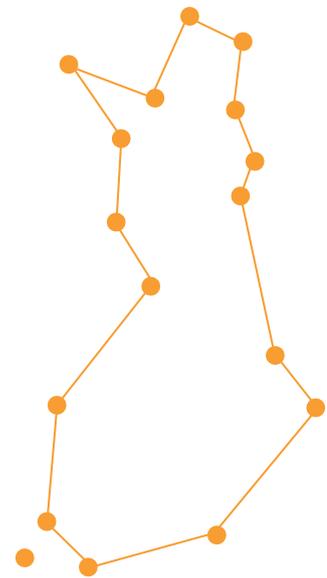




# COUNTRY STUDY



## FINLAND

# Transnational Monitoring and Enforcement of Posted Work: The Case of Finland

---

Rolle Alho, University of Helsinki



This report is based on an interview conducted 24 May 2017 with two representatives of the Finnish labour inspectorate who in their work focus on questions related to migrant workers -including posted workers. The interview was conducted within the Policy Workshop in the Protecting Mobility through Improving Labour Rights Enforcement in Europe (PROMO) project. In addition, Kirsi Kykkö from the The Ministry of Social Affairs and Health provided assistance with the data on labour inspections. The report also makes use of literature covering labour inspections and enforcement.



## Mapping National Enforcement Capabilities

Mapping national enforcement capabilities  
In Finland, labour inspections are performed by inspectors from the Regional State Administrative Agencies<sup>1</sup>. The agencies' mission is 'to promote regional equality by carrying out executive, steering and supervisory tasks laid down in the law'. In relation to that, the goal is to strengthen the implementation of legal protection, access to basic public services, environmental protection, public safety and to provide safe and healthy working and living environment (AVI 2015). The national labour inspectorate models can be categorised into 1) the 'generalist inspectorates' where they have a broad array of responsibilities such as working conditions, health and safety, legal and illegal work 2) 'specialist inspectorates' where their responsibilities include only health and safety/welfare at work (see Walters 2016: 13). The Finnish labour inspectorate belongs to the former category, i.e. the generalist inspectorate. In Finland the labour inspections goal is also to ensure the protection of the workers' representatives.

There are approximately 350 labour inspectors in Finland (Table 1). Furthermore, 'approximately 12' inspectors focus particularly on questions related to migrant workers<sup>2</sup> and one inspector focuses exclusively on posted workers. The number of inspectors focusing on migrant workers – including posted workers – has remained quite stable in the 2010s, however, the number of migrant workers has increased. The amount of workplace inspections has remained relatively constant during the last years. In 2016 the inspectors conducted approximately 28.000 inspections (Table 1). The Finnish labour inspectorate has resources that in a European comparison are high and the quality of protection at work is high according to the Director of The Regional State Administrative Agency for Southern Finland, Kaarina Myyri-Partanen. However, Myyri-Partanen admits that the fines posed to employers who are negligent about their workers' wellbeing are not necessarily high enough in order to have an effect on the employers' behaviour (Palkkatyöläinen 2015).

**Table 1:** Number of inspectors, inspections and labour costs in the Finnish Labour Inspectorate

Main figures	2014	2015	2016
Number of employed persons in the labour market*	2.447.000	2.437.000	2.448.000
Number of inspectors	n/a	n/a	Approximately 350
Average wage of a labour inspector (percentage of national average wage)	n/a	n/a	3.590 euros/month (115% of the national average wage for full time work)
Number of inspections (total)	26.644	28.732	28.325

Source: Email response 13 December 2017 from Kirsi Kykkö (The Ministry of Social Affairs and Health); \*Statistics Finland.

1. The Agencies belong to The Ministry of Social Affairs and Health.

2. Email response 13 December 2017 from Anu Ikonen (OSH Division of the Regional State Administrative Agency of Southwestern Finland).

When encountering posted workers, the labour inspectors first check who their employer is and whether the workers have the legal right to work in Finland. In addition, the inspections include checking posted workers' salaries and working hours, and that the employer has fulfilled his/her legal duties of providing healthcare and a statutory accident insurance. The inspectors always try in the first place to reach a solution to the encountered problems by negotiations with the employers.

However, according to the law the inspectors are obliged to inform the police about certain crimes. If the inspectors, for example, encounter migrant workers –including posted workers– who do not have right to work in Finland they have to report them to the police without consideration. Some of the posted third country nationals in Finland, for example, do not have the legal right to work in the country. Accordingly, for such workers a contact with the labour inspectors can mean losing one's job. In addition, as long as they earn more money in Finland than in their homecountry –even if the salary is not according to the Finnish collective agreement– they do not have much motivation to make complaints. (Interview 2017)

In addition to the labour inspectors, trade unions are responsible for overseeing the generally binding collective agreements. Shop stewards play an important role in a vast number of Finnish workplaces. There is no national minimum wage defined by law in Finland; the wages are determined in generally binding collective agreements for each sector. (e.g. Alho 2015)

As regards migrant workers and posted workers, labour inspectors collect information on whether the minimum legal standards are met at the workplace. If there is negligence from the employers the inspectors give written advice or instructions to the employers. However, it is not in the inspectors' competency to claim unpaid wages in the case

the employer is unwilling to pay the agreed wages (Interview 2017). This means that the employee has to take personal legal action or contact his/her trade union if (s)he is a member. In such cases the inspectors can only assist in providing information to the employee. In the case the employer is financially unable (e.g. in the case of bankruptcy) to pay the wages the employee can turn to 'Palkkaturva', which is a state provided wage security-system.

The authorities are not particularly monitoring the use of posted workers as such, but migrant workers and all workers in general. According to the interviewed inspectors, posted workers can be found at almost every construction site in Southern Finland. There is also a considerable number of posted workers in the shipyards. According to one of the interviewed labour inspectors more and more Ukrainians are posted to Finland through companies established in a CEE country (like Estonia or Poland) –even if they do not always have the legal right to work as posted workers in Finland.

### Transnational Cooperation

The Southern Regional State Administrative Agency / division of Occupational Safety and Health has signed an agreement with the Estonian Labour Inspectorate. This is due to Finland being the Estonians' main country of emigration and posting. There have also been inspector exchanges between Finland and Sweden and Finland and Germany. These exchanges have built up personal contacts. Another source of transnational contacts and information exchange between inspectors are different (EU-funded) projects. The Regional State Administrative Agency of Southwestern Finland, for example, has been involved in EURODETACHMENT project<sup>3</sup>.



3. <http://www.eurodetachment-travail.eu/Default.asp?rub=&lang=en>

As a critical remark, one of the interviewed Finnish inspectors pointed that the transnational contacts are limited to a very small number of inspectors and the concrete benefit of the transnational co-operation in terms of everyday work is not always clear. A key barrier for transnational co-operation according to the Finnish inspectors is that the authorities do not always know, which authorities are in charge of labour inspection issues in the other European countries. The Regional State Administrative Agency for Southwestern Finland is the Internal Market Information System (IMI) liaison office for the posting module and other regional divisions use IMI for posting purposes as well (Table 2).

The two Finnish labour inspectors we interviewed did not find the IMI a particularly useful tool in the exchange of information among authorities in the EU countries. The main problem according to the Finnish inspectors was that they have not received the information (e.g. data about the working hours or salaries) they have requested via the IMI. According to the inspectors they send only around 20 requests per year via the IMI. The posted workers' companies are very mobile and using the IMI for gathering information after the company in question has left the country is not a viable option.

**Table 2:** Developing mutual cooperation / „architecture“ of cooperation

IMI – Liaison office(s)	Other institutions involved in posting in IMI	- How many requests – sent/received	Mutual enforcement of sanctions (following the ED)	What are the <b>bilateral agreements</b> the labour inspectorate has? Are there any „ <b>joint inspections</b> “ (cross-border)?
Southwestern Regional State Administrative Agency	<p>All regional divisions of Occupational Safety and Health</p> <p>(IMI not used to send requests on social insurance matters. The authorities mentioned above do not handle social insurance issues)</p>	<p>Requests regarding posted workers:</p> <p>in 2016: sent: 15 received: 3</p> <p>in 2017: sent: 8 received: 13</p>	-	<p>The Southern Regional State Administrative Agency / division of Occupational Safety and Health has an agreement with the Estonian Labour Inspectorate on cooperation and information exchange. These authorities can perform inspections in own territory and exchange the information more efficiently. The Finnish Labour Inspectorate does not have any cross-border inspections on a regular basis but during an EU-project (European Project of "Enhancing administrative cooperation through coordinated transnational actions" 2016-2017) Finland participated with member states in joint inspections.</p>

Source: Anu Ikonen/ The Regional State Administrative Agency for Southwestern Finland / Division of Occupational Safety and Health, email response 13.12.2017.



## Specific issues regarding cross-border regulation of posting

Although it is not difficult to find posted workers in Finland, according to the interviewed inspectors, the Finnish labour inspectors have difficulties in gaining correct information regarding the working conditions of the posted workers and reaching the representatives of posted workers. The companies and their employees are highly mobile and the inspectors' methods lag behind and resources are limited. The posted workers often tell the inspectors what their employers have said that they should say as regards wages and other working conditions. A common problem is that the posted workers are paid less than what their skill level would demand according to the collective agreements. There is sometimes a lack of trust towards the inspectors from the posted workers' side. Posted workers are often afraid of losing their jobs if they talk to the authorities about their work-related problems. The posted workers have little motivation to make complaints regarding their salaries as long as they are higher than in their country of origin –even in situations where their wages are lower than stipulated in the Finnish collective agreements. (Interview 2017)

State authorities and trade unions offer online information in most common foreign languages to migrant workers. The information covers a broad array of issues related to employment rights and social security issues. (Alho 2015) There is also a national website targeted to posted workers that is currently being improved (Interview 2017). It is however unclear to what extent this information reaches the workers, and to what extent they can make use of the information due to their weak bargaining position in relation to the employer. Previous research concerning the situation in 2011, for example, showed that information provided by the state authorities rarely reaches temporary migrant workers (Alho & Helander 2016). In the Finnish case, the problem of letter box companies

used for posting is visible especially in the case of companies established in Estonia (e.g. Alho 2015). The Finnish Construction Trade Union has the legal right to use boycotts against employers who do not respect Finnish collective agreements and has been active in boycotting Estonian and Polish companies that have entered the Finnish labour market (ibid.).

## The Enforcement Directive

The Enforcement Directive was implemented in Finland in June 2016. However, it only applies to new postings after that time period, which the labour inspectors found complicated in terms of overseeing. Under the new act, every foreign company that posts workers to Finland must submit a notification before the work begins to the occupational safety and health authorities (Table 3). The obligation to submit an advance notification entered into force on 1 September 2017. Among other issues, the notification must contain the identification data, contact details and foreign tax ID of the undertaking that posts the workers, including the number of workers that are posted. As from 1 September 2017, the occupational safety and health authority can order an undertaking to pay a penalty fee if the notification has been neglected or is incomplete. Under the new Posted Workers Act (447/2016) the penalty fee shall be no less than EUR 1.000 and no more than EUR 10.000<sup>4</sup>. This is according the labour inspectors the main issue that will change.

4. <https://www.tilajavastuu.fi/en/rel/posting-workers-finland-duty-report/>

**Table 3: Notification/registration system in Finland**

Notification (when, to which institution, what form)	Information required	How it is used for controls
<p><a href="https://www.tyosuojelu.fi/web/en/employment-relationship/posted-worker/reporting-duty/form">An electronic form: https://www.tyosuojelu.fi/web/en/employment-relationship/posted-worker/reporting-duty/form</a></p>	<ul style="list-style-type: none"> <li>•Identifying details of the company, contact information, foreign tax identification number and information on the responsible persons of the posting company in the country where the company is established.</li> <li>•Identifying details and contact information of the contractor</li> <li>•Identifying details of the company and the contact information of the builder and the main contractor for companies in the construction sector</li> <li>•Estimated number of posted workers</li> <li>•Identifying details and contact information of the postings company’s representative in Finland or information indicating why a representative must not be selected.</li> <li>•Starting date of the posting of workers and the estimated duration of the posting</li> <li>•Place where the work will be carried out</li> <li>•Branch in which the worker will work.</li> </ul>	<p>Used for selecting posting companies for inspections: used during special controls of posting in the last quarter of 2017</p>

Source: Anu Ikonen/the Administrative Agency Southwestern Finland / Division of Occupational Safety and Health, email response 13.12.2017.

15. Focus group interview, May 2017

16. Previous version of the Working Conditions of Employees Posted to Estonia Act:  
<https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/530102013107/consolide>

17. [https://www.ti.ee/fileadmin/user\\_upload/failid/dokumendid/Meedia\\_ja\\_statistik/Truекised/Toolahetus\\_ENG.pdf](https://www.ti.ee/fileadmin/user_upload/failid/dokumendid/Meedia_ja_statistik/Truекised/Toolahetus_ENG.pdf)

18. <http://www.ti.ee/est/avaleht/>



---

## Conclusions

In 2002 Wolfgang von Richthofen, in his book, Labour Inspection. A guide to the profession categorised Finland as a country with a high-performance inspection system. Despite this, it is reasonable to conclude that the labour inspectors and trade unions representatives encounter considerable problems in protecting the rights of the posted workers also in Finland. According to one of the interviewed inspectors' estimate the salaries of posted workers are in 'over 90 %' of the cases on a lower level that they should be according to the collective agreements. There is often a fear among the posted workers towards their employers, which hinders them from defending their rights. According to the Finnish inspectors there is an increasing demand for deeper transnational co-operation between the authorities as the current co-operation is far from effective enough in protecting working conditions. However, the Finnish (Southern Regional State Administrative Agency / Division of Occupational Safety and Health) and Estonian labour inspectors have established institutionalised cross-border contacts (official bilateral agreement) as there is considerable amount of cross-border mobility of workers and companies from Estonia to Finland.

- 
19. <http://www.ti.ee/en/organisation-contacts/the-labour-inspectorate/posted-workers/registration/>
  20. <https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/513072017009/consolide>
  21. <http://www.ti.ee/est/organisatsioon-kontaktid/tooinspektsioon/lahetatud-tootajad/registreerimine/>
  22. <http://www.ti.ee/est/organisatsioon-kontaktid/tooinspektsioon/lahetatud-tootajad/registreerimine/>



---

## References

Alho, R., & Helander, M. (2016). Foreign seasonal farm workers' strategies at the margins of the Finnish welfare state. Available at: <https://www.degruyter.com/view/j/njmr.2016.6.issue-3/njmr-2016-0020/njmr-2016-0020.xml>

Alho, R. (2015). Inclusion or exclusion? trade union strategies and labor migration. PhD thesis. Faculty of Social Sciences, University of Turku. Available at: <http://www.migrationinstitute.fi/fi/node/1839>

AVI (2015). Finnish Regional State Administrative Agencies' website. Available at: <https://www.avi.fi/en/web/avi-en/#.Wc41B0wZNp8> (29.9.2017).

Interview (2017). Focus group interview with two representatives of the Finnish labour inspectorate (and representatives of Danish, Estonian and Norwegian inspectorates), 24 May 2017, Helsinki.

Palkkatyöläinen (2015). The magazine of the Central Organisation of Finnish Trade Unions, 17.02.2015. Available at: <https://www.sak.fi/aineistot/uutiset/tarkastaja-tutkii-kaikki-paikat-11.1.2017>.

Ricthhofen, W. (2002) Labour inspection. A guide to the profession. ILO: Geneva. Available at: [http://www.oit.org/wcmsp5/groups/public/---ed\\_protect/--protrav/---safework/documents/publication/wcms\\_108665.pdf](http://www.oit.org/wcmsp5/groups/public/---ed_protect/--protrav/---safework/documents/publication/wcms_108665.pdf)

Walters, D. (2016) "Labour inspection and health and safety in the EU", in HesaMag #14 Labour inspection: a public service in crisis.



# solidar

Rue du Pascale 4-6  
1040 Brussels  
Belgium  
T +32 2 500 10 20  
F +32 2 500 10 30

Twitter: @SOLIDAR\_EU  
Facebook: SOLIDAR  
[www.solidar.org](http://www.solidar.org)  
[solidar@solidar.org](mailto:solidar@solidar.org)



This country study has been written by:  
Rolle Alho, University of Helsinki

Published and disseminated by: SOLIDAR

This publication has been written for the project “Protecting Mobility through Improving Labour Rights Enforcement in Europe (PROMO)”, VS/2016/0222. It has received financial support from the European Union programme for Employment and Social Innovation (EaSI) (2014-2020). For further information please consult: <http://ec.europa.eu/social/easi>. The information contained in this publication reflects only the authors’ views and does not necessarily reflect the official position of the European Commission. The Commission is not responsible for any use that may be made of the information it contains. The country reports are based mainly on local workshop(s) and/or interviews done in 2017 in which the knowledge and opinions of labour inspectors and other officials involved in monitoring and enforcing national rules related to the Posting of Workers Directive were solicited.

SOLIDAR is a European network of membership based Civil Society Organisations who gather several millions of citizens throughout Europe and worldwide. SOLIDAR voices the values of its member organisations to the EU and international institutions across the three main policy sectors; social affairs, lifelong learning and international cooperation.



Funded by the  
European Union