



## **Nordic UDWP, WG Knowledge – Finland**

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## Testing the process indicator

In the previous UDW Nordic project, a common process indicator was constructed for measuring the preconditions for cross-agency cooperation as a means to tackle UDW. The process indicator may help to measure or map the conditions and possibilities for cross-agency cooperation in tackling UDW. With the indicator, key issues that might withhold or hinder cross-agency cooperation can be identified. The indicator consists of 15 items covering three over-arching categories of conditions that are considered important for achieving efficient cross-agency cooperation. The table below shows the total score assessed from the testing of the process indicator. Each category is then elaborated on.

Table 1. The process indicator

Category	Item #	Item	Score 0 = 'No' 1 = 'To some degree' 2 = 'Yes'	Score elaboration or further comment
Governmental framework conditions	1	Is combating undeclared work a stated goal for the government?	2	
	2	Is there an overarching governmental strategy on combating undeclared work?	2	
	3	Are there joint action plans for cross-agency inspections?	2	
	4	Are there joint cross-agency assignments from the ministries?	1	
	5	Is there a regular joint report on activities and effects from cross-agency efforts to combat undeclared work?	1	
	6	Are there national indicators for measuring undeclared work?	1	
	7	Is the legal framework adapted to combating undeclared work (i.e. sanctions)?	2	
Knowledge and intelligence	8	Do the existing legislations enable agencies to share and combine information?	2	
	9	Do agencies share and analyse strategic information?	1	
	10	Are there dedicated cross-agency staff for working with knowledge and intelligence?	2	
	11	Are there joint IT systems to facilitate knowledge and intelligence?	1	
Operative procedures and sanctioning	12	Are there co-located cross-agency inspection teams working together daily?	0	
	13	Are there cross-agency inspection teams which are not co-located but working together on a regular basis?	1	
	14	Are there cross-agency procedures on how to coordinate efficient sanctioning ("tactical sanctioning")?	1	
	15	Are the roles and jurisdiction of each member in the cross-agency teams clearly defined?	1	

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## Category 1- Governmental Framework Conditions

Combating undeclared work is and has been a specific goal for Finnish government. For example, after the enlargement of EU in 2004, Finnish labour inspectorates have had designated inspector vacancies dealing with undeclared work (in Finland we use term “grey economy“ for this). Altogether we have approximately 40-45 inspectors specifically dealing with these issues in Finland.

There is an overarching governmental strategy on combating undeclared work. In 2016, Finnish government made a decision on a strategy how to tackle grey economy and economical crime in Finland between 2016 and 2020. In this decision, it states that a separate steering group in this matter will be established and it will make a separate operative program on how to tackle grey economy and economical crime in Finland – including aims, responsible organisations, timetables and actions in evaluating the effects.

The operational programme of the grey economy and economic crime in 2016-2020 had four projects with sub-projects. Combating undeclared work and the promotion of national and international collaboration is one of them. The key crossgovernmental platform in this matter is the national collaborative network that supports the EU platform for tackling undeclared work. Some of the 2016-2020 actions are still underway such as the introduction of The National Income Register. The Income Register helps combatting the grey economy and undeclared work.

The Finnish Ministry of Economic Affairs and Employment has appointed new steering group on combating the the grey economy in January 2020. The purpose of this steering group is to ensure the implementation of measures set out in the Government Programme and the preparation of other measures necessary to combat the grey economy and economic crime.

There are joint action plans for cross-agency inspections to some extent. From labour inspectorate’s perspective this applies especially to cooperation between labour inspectorates and police administration and to labour inspectorates and Finnish Tax Administration. However, it has to be said that these plans are usually agreed on a general level and their implementation on a field level is often not that well coordinated nor followed up. Recently, there have been lots of discussions between Finnish authorities about developing more structural and coordinated multi-authority cooperation. For example this theme has been touched quite often at the multi-authority meetings of Finnish national collaborative network related to European platform for tackling undeclared work.

There are also to some extent joint cross-agency assignments from the ministries. For example a steering group on tackling grey economy and economical crime has recently made an initiative concerning cross-agency inspections. However, joint cross-agency assignments are still mostly quite new initiatives and therefore their practical implementation still requires more development.

There is a regular joint report on activities and effects from cross-agency efforts to combat undeclared work especially on higher levels in very generic fashion. These reports do not have often that much to offer from the perspective of concretia and tangible results. In the future the situation might be better as the cooperation between Finnish authorities is developing at the moment.

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There are national indicators for measuring undeclared work to some extent but usually they exist separately inside each administration. Level of indicators vary greatly too between each administration – for example, Finnish tax administration is quite advanced in this matter compared to Finnish labour inspectorates. Indicators of labour inspectorates are usually connected to previous observations on obeying the legislation supervised by labour inspectorates. At the moment, the cooperation between Finnish authorities is developing and deepening – this might bring national indicators in the long run. Furthermore, each administrations' indicators are starting to benefit better other authorities' information.

The legal framework is adapted to combating undeclared work (i.e. sanctions). Quite many Finnish surveillance/enforcement authorities have specific legislation in order to impose specific administrative fines to employers. At the same time, it has to be said that still many sanctions are criminal matters in which the role of police and prosecutors is very important. Due to challenges in criminal procedures, Finnish labour inspectorates have lately tried to have more administrative sanctions available in their surveillance tools. In the latest Government Programme there are entries on criminalisation of underpayment and implementation of tax number in the shipbuilding industry.

## Category 2- Knowledge and Intelligence

The existing legislations enables agencies to share and combine information. Most agencies have legal right to share and combine information – also on a voluntary basis, not just based on a request of another authority. The administrative culture of each organisation in this matter defines quite a lot on how the information is shared on voluntary basis. For example, Finnish tax administration seldom shares any information on voluntary basis. But the most important thing is that there is no lawful excuse on not to share the information.

Agencies shares and analyses strategic information to some extent. However, this usually happens on regional level without any national-level coordination. There is a website where different public authorities introduces their operations in relation to the grey economy. The grey economy and economic crime website content is produced in collaboration with the ministries and public agencies appearing on these pages. Link to the website: <https://www.vero.fi/en/grey-economy-crime/>

In Finland there is an organisation called “Harmaan talouden selvitysyksikkö” (Grey Economy Information Unit) operating under Finnish Tax Administration which collects data from separate authorities' databases and amalgates them into a product called “compliance report” – they are often quite helpful in inspections of labour inspectorates. This information can only be used in inspecting foreign labour, the minimum terms and conditions of employment and the Act on Contractor's Obligations and Liability. The Grey Economy Information Unit produces also different reports and classifications which are mainly public. The Grey Economy Information Unit publishes the public reports and classifications in their website.

Except Grey Economy Information Unit, there aren't any joint IT systems to facilitate knowledge and intelligence (at least from a labour inspectorate's perspective). Finnish labour inspectorate's IT system does not “speak” directly with other authorities IT systems (for example, we have had

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recently challenges interacting between labour inspectorate's IT system and Finnish Tax Administration and Finnish Immigration Service's IT systems).

### Category 3. Operative procedures and sanctioning

There are no co-located cross-agency inspection teams working together on a daily basis. However there are cross-agency inspection teams which are not co-located but working together on a regular basis to some extent. These are mostly operating on regional level and have been established for local needs instead of national-level coordination. These inspection teams are not official even though there is really tightly-knitted cooperation in some smaller Finnish towns between authorities. Still one couldn't talk about real cross-agency inspection teams as this cooperation is without official assignment and usually relies heavily on individual connections instead of organisational connections.

There are cross-agency procedures on how to coordinate efficient sanctioning ("tactical sanctioning") in some situations. For example when labour inspectors dealing with foreign labour or ID badge/tax number requirement are on joint inspections with police. This is done in order to speed up and facilitate sanctioning with minor matters as the normal criminal process can be quite time- and resource-consuming.

Mostly this coordinated efficient sanctioning is only done concerning joint inspections – if each authority is investigating the case independently, it is more probable that they proceed independently with the same case. Still, lots of information are shared between the authorities and this might help to take into account tactical sanctioning.

The roles and jurisdiction of each member in the cross-agency teams are clearly defined to some extent. It depends quite much on the authorities involved and especially on the initiative on cross-agency inspections.

Concerning the role and jurisdiction of each authority the key issue is data sharing between authorities. Generally, it is done quite often as the data sharing issues have been solved to some extent in the Finnish legislation – at least from labour inspectorates' point of view. However, there still are challenges –e.g. the tips received by individuals to labour inspectorates can only be forwarded to police and the prosecution authority if the information gives grounds to believe that there has been a breach of law.

### Currently used risk indicators and data for planning inspections

There is no specific UDW-data as such, all data used comes from each agency's core tasks and operations. From the Regional Labour Inspectorate for Southern Finland's point of view risk indicators and data for planning inspections could be roughly divided in five categories.

Firstly, in Southern Finland we analyse the data collected from previous years' inspections regarding for example foreign labour and Act on Contractor's Obligations and Liability. This data is gathered in separate data collection form and has specified questions depending on which inspection type is in question. If there should have come out some new phenomena and/or the previous year's inspections' areas of focus should be changed, the data collected from each inspection is an essential part of the planning for inspection activities.

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Secondly is the tip-off information that especially the foreign labour team of Southern Finland's Regional Labour Inspectorate receives from other authorities but also the grass-root level e.g. companies and citizens. Inspection team dealing with use of foreign labour in Southern Finland received more than 440 relevant tips in 2019. Most of them came from other authorities dealing with work permit issues. These tips are collected and used at least at some degree as risk indicators for the inspections. Usually the tips are concerning about the minimum terms and conditions of employment and/or the right to work in Finland.

Thirdly is the information that Labour Inspectorates receives from other authorities. One of the main tools are so called compliance reports – product in which Grey Economy Information Unit operating under Finnish Tax Administration collects data from separate authorities' databases. This information can only be used in inspecting foreign labour, the minimum terms and conditions of employment and the Act on Contractor's Obligations and Liability. These compliance reports are used as risk indicators for inspections teams individual inspectors for planning inspections.

Fourthly is the cooperation between different authorities. In Southern Finland, there is a certain kind of joint action group that discusses about current phenomena and makes plans for joint inspections especially in the construction sector. This joint action group meets on average four times a year and has members from the Regional Labour Inspectorate for Southern Finland, Tax Administration and Finnish Centre for Pensions.

Last but not least there is a tripartite cooperation committee that has members from the Department for Work and Gender Equality of The Ministry of Social Affairs and Health, Regional Labour Inspectorate for Southern Finland and the social partners of construction sector i.e. The Finnish Construction Trade Union, The Confederation of Finnish Construction Industries RT and The Finnish Association of Property Owners and Construction Clients (RAKLI). This tripartite cooperation means that social partners are included to the process and can have their say at which sub-sectors of certain field of work inspections should be targeted.

### **Currently used indicators and data for evaluating inspections**

The indicators are the ones coming from the information collected from the inspection data system and the information gathered in separate data collection forms that has specified questions depending on which inspection type is in question. For example one indicator is how many workers without work permit have been met in the foreign labour inspections per year or in how many inspections there has been breaches in the minimum terms and conditions of employment. This data can be easily collected through the labour inspectorates' inspection data system's reporting tool.

Data for evaluating inspections especially in Southern Finland is analysed with the data collected from previous years' inspections regarding for example foreign labour and Act on Contractor's Obligations and Liability. This data is not only used for evaluating inspections but also targeting the coming inspections.

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## Identified methods and success stories of good practices for combatting undeclared work

There are some cross-agency cooperation models which have proved to be quite effective. Possibly the best example of this are the joint inspections between labour inspectorates and police related to special UDW regulations. For example, the police can sanction immediately construction companies in case they have not obeyed certain specific UDW regulation applicable in that sector. This has turned out to be effective inspection model as now there is quick and resource-saving manner in sanctioning. In the past, the labour inspectorates made separate demands for investigation to police on these breaches but in fact police seldom did anything to the cases. Same kind of cross agency cooperation is also quite common concerning foreign labour. At these inspections police can start to sanction employer immediately if foreign worker has been working for an employer without right to work there. This also is an efficient way in supervision as the consequences of disobeying the legislation are imminent.

Other success story is the joint inspections to construction sites that Tax Administration, Finnish Centre for Pensions and Labour Inspectorates have done together for more than 10 years. These joint inspections have enabled more comprehensive controls with less administrative burden to the main contractors. Such inspections are made more than 100 per year. Coordination of the inspections are done in the above-mentioned joint action group.

Cooperation between Estonian Labour Inspectorate and Regional Labour Inspectorate for Southern Finland has achieved good practices within the bilateral Cooperation agreement between the two agencies. Thanks to the cooperation there is better understanding of both parties' competence, tasks and key persons. Cooperation has also given understanding in which kind of situations we can and should cooperate so that it is effective. In this cooperation valuable background information has been changed before but also during inspections and this has enabled more effective inspections in both countries. Information is not only shared connected to specific inspection cases but also at more general level. For example, Regional Labour Inspectorate for Southern Finland sends it's inspection data of Estonian companies regularly to Estonian Labour Inspectorate so that they can take this into account concerning their own inspection activities. Fast and effective cross-border cooperation reduces the abuse of regulation – the faster the information moves, the faster we can limit activities of fraudulent companies. Cooperation has encouraged some Estonian companies to obey legislation better in Finland as the fraudulent companies haven't got so much free space to operate as before.

Effective results concerning delivering administrative documents from Finland to Estonian companies in such cases where the company cannot be contacted in Finland or the post office cannot deliver documents in Estonia. The request for delivering documents is done by using IMI-system to Estonian Labour Inspectorate who delivers the requested documents to the Estonian company in question. If they cannot contact the company, then the documents will be delivered using bailiffs in Estonia. Information that one cannot anymore avoid for example negligence fees from Finnish Labour Inspectorate spreads also "through the grapevine".

Cooperation agreement between Labour Inspectorate of Estonia and Division of Occupational Health and Safety of the Regional State Administrative Agency for Southern Finland (Regional

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Labour Inspectorate) was concluded on the 3rd of December 2014 and it can be easily found here: <http://ti.ee/en/organisation-contacts/the-labour-inspectorate/international-agreements/>

One example of good practices in the inspections of foreign labour is how inspection reports are often sent to contractors on the upper levels in the contracting chain. This is done in order to make inspection results more visible and to let the contractors learn more about how their contracting parties have obeyed Finnish compulsory labour law. In Finland inspection reports are mainly public and their public parts are available to anyone.

### **Identified bottlenecks for cross agency cooperation and inspections**

One major challenge is that the cross-agency cooperation is not always done in the most optimal manner from the perspective of targeting inspections. This applies especially to joint inspections with police during national campaign weeks. Many times police has contacted labour inspectorates on rather short notice regarding these inspection weeks and they have wanted to make certain amount of joint inspections – they have done this as they have been advised by The National Police Board of Finland to make joint inspections with labour inspectorates. However, many times Police Administration have not been thinking that much how to target these inspections and it has led to situations where joint inspections have not been planned and targeted in the best possible way. Due to this, in some cases labour inspectorates have started to plan these joint inspections without committing to certain number of joint inspections but instead deciding the joint inspection targets based on substantial need of supervision.

One of the bottleneck is also that coordinated efficient sanctioning is only done concerning joint inspections – if each authority is investigating the case independently, it is more probable that they proceed independently with the same case.

The Finnish Government has identified certain bottlenecks and has issued a resolution on a strategy and action plan for tackling the grey economy and economic crime in 2020–2023. Actions against the grey economy and economic crime will focus on prevention, clarification of powers, improving authorities' access to information, and promoting cooperation between authorities.

### **Summary**

The framework/settings on these matters are on quite good level in Finland and we have not that much restrictive regulations concerning cooperation between authorities. However, the biggest challenges are coming from the lack of national level coordination that would connect high-level needs and requirements with the practical field level. This leads to the situations where approach on joint inspections can vary quite a lot between different Finnish regions.

In general, the joint inspection and other cross-agency activities are still quite often done without national-level vision and implementation.

The strategy for tackling the shadow economy and economic crime in 2020-2023 aims to:

- 1) promote healthy competition between companies and a fair labour market,
- 2) prevent the grey economy and economic crime,
- 3) ensure the ability of authorities to combat the grey economy and economic crime, and

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4) develop measures to combat the grey economy and economic crime and improve cooperation between authorities.

The means to implement the strategy and to strengthen the fight against the grey economy are listed in the 20-point action plan. The plan focuses, among other things, on the prevention of undeclared work. In addition, the aim is to examine new ways for intervening in intentional or grossly negligent underpayment of wages.

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