

Preventing Labour Exploitation in Public Tendering and in Subcontracting

Across several private service sectors in Finland — including cleaning, property services, private security, and the tourism and restaurant industry — subcontracting structures create significant risks of labour exploitation. These risks include wage theft, forced entrepreneurship, bogus self-employment, and unsafe working conditions. Similar patterns are visible across the EU.

Public procurement as a critical risk area

Finland's current Public Procurement Act enables harmful competition based on working conditions, especially in labour-intensive service contracts. At worst, it creates favourable conditions for labour exploitation. Underpriced bids and poor working conditions are insufficiently restricted, allowing companies with a history of labour violations to continue winning tenders. Public procurement legislation should therefore require contracting authorities to reject clearly underpriced tenders. Any operators that have violated environmental, social or labour obligations laid down in legislation or collective agreements should be excluded from procurement. Today in Finland, for example, companies previously caught paying unlawfully low wages can still participate in — and win — public tenders.

Limitations of national legislation

Contractor liability must be developed so that purchasing services or using temporary agency labour cannot be used to outsource or evade employer responsibilities. Finland's Contractor's Liability Act requires compliance checks only before signing a contract and only for the direct partner. There is no obligation to monitor compliance during the contract period or across subcontracting chains.

This allows exploitation to remain hidden in lower tiers, temporary agency work and posted work. A contracting entity may claim compliance with collective agreements while simultaneously pressuring subcontractors to cut costs. The final link in the chain may be a self-employed worker with no employment rights and no awareness of being classified as an independent contractor. Workers may be pressured into self-employment, paid below collectively agreed wages, or exposed to health and safety risks — particularly in cleaning and private security. Inspections show rising risks of exploitation and bogus self-employment also in tourism and restaurant industries.

To effectively address these challenges, EU-level legislation is essential. Harmonised rules would strengthen worker protection, ensure fair competition, and prevent exploitation in both private and public procurement also in Finland.

Key legislative measures needed at EU level to address labour exploitation in subcontracting chains

- **Strengthening contractor liability through real responsibility for employer obligations:** Contracting entities must be liable for ensuring that all employers in the chain comply with collective agreements and labour law throughout the contract period.
- **Extended verification obligations:** Oversight must cover subcontractors at all levels, not only the direct contractual partner.
- **Defining high-risk sectors:** Member States should identify high-risk sectors in cooperation with trade unions.
- **Limiting subcontracting chain length:** In high-risk sectors, subcontracting should be limited to two tiers to reduce opacity and prevent exploitation.
- **Prohibition on outsourcing core tasks:** Companies must not win tenders based on compliant wage structures and then outsource the entire work to subcontractors paying below-standard wages.

Key legislative measures needed at EU level to address labour exploitation in public tendering

- **Strengthening of the social clause in Directive 2014/24/EU:** The current rules leave legal uncertainty about whether promoting good working conditions in public procurement is permissible. Legal clarity is needed, explicitly recognizing collective agreements concluded with trade unions as valid social criteria. Violations of environmental, social or labour obligations should result in exclusion from the procurement procedure. Compliance with labour laws and the relevant collective agreement should be a mandatory condition of the contract.
- **Prohibition of lowest-price tendering in service contracts:** Tenders for service contracts should not be selected based solely on the lowest price. A mandatory minimum weighting for quality criteria should be introduced to ensure awards based on the best price-quality ratio.
- **Mandatory rejection of clearly underpriced tenders:** Contracting authorities must be required to reject any tender for a service contract that is clearly underpriced.

Service Union United PAM is the second largest trade union in Finland. We represent people working in private service sectors. Most of our members work in retail, the hotel, restaurant and leisure industry, property services and security services. Two thirds of our members are women.

Contact: Advisor for international affairs Tiina Huotari tiina.huotari@pam.fi, Service Union United PAM, Finland www.pam.fi/en, EU Transparency Register: REG 057684598913-65