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Corporate engagement in fighting corruption and tax evasion

THE COUNTRY REPORT OF FINLAND

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1. Introduction

This is Finland's country report from a project called *Corporate engagement in fighting corruption and tax evasion*, focusing on construction. The project, financed by the Nordic Council of Ministers, includes three partners: Transparency International Latvia (known as Delna and the host organisation), Transparency International Finland (Transparency International Finland) and Beroc (a research institute in Minsk, Belarus). The project consists of three research-oriented country reports (like this), national and tripartite workshops, a final conference in Riga, a joint report in all three languages, and the dissemination of key results.

According to application form NGO-430 national reports should focus on selecting the important sectors where a shadow economy is particularly common. In the application form the construction sector was named as a probable choice, which then was confirmed in the project group discussions. The basic idea of the project is to picture national integrity policies and practices within the chosen sector, and then – by means of empirical research, firm interviews and workshop discussions – assess alternative suggestions for improving the workings of national integrity systems. Finally, the key results and conclusions of the project should be disseminated in all the three languages and in English.

One more aim is networking. The project should contribute to the overall fight against corruption and tax evasion through the project-created networks with a special reference to whistleblowers' protection, which, when working properly, may be one of the most effective ways of decreasing the level of tax evasion and corruption, especially in transition countries like Latvia and Belarus, by making the business environment more healthy and transparent. But whistleblowers' protection is certainly needed in Finland too. According to literature, whistleblowers' protection might also increase companies' involvement in cooperation with the government and in action against the given issues.

Given the limited resources and a very strict timetable, in picturing the existing situation and the latest developments in Finland, we primarily utilise the existing and representative data arising from the relevant Finnish literature. In assessing alternative policy suggestions, we have directly asked some firms for their observations regarding the next possible steps in order to tackle the existing problems. The main Finnish partner in data collection is Suomen Tilaajavastuu Oy, a firm founded for the data delivery and backup of contractors' liability.

The structure of the report is as follows. In chapter 2, we start by picturing the nature and scope of the given research problem. Here we utilise the empirical English and Finnish written literature on shadow economies and corruption, and point out some difficulties arising the conceptual weaknesses of the measurement process. Then we move to the institutional settings of the public procurement process, the legal frame for contracting in Finland and focus on the key development since 2007 with an EU-consistent law on public procurement.

In chapter 3, we focus on some policy suggestions arising from the Finnish discussion targeted against tax evasion and corruption, and test the suggestions' support among Finnish construction firms. Our data consists of feedback from 527 construction firms. In assessing the feedback, we include the comments and arguments from discussions in three workshops, especially the workshop in Helsinki on 23th of March 2017. In chapter 4, we sum up with conclusions and assess the need for further research and action against tax evasion and corruption in public construction in Finland.

2. Discussion

Tax evasion and corruption are forms of hidden crime, in other words the people and firms evading taxes and, for instance, bribing officials do not want to declare their doings in public. The markets for tax evasion and corruption work better the less people know about these problems. In the literature, countries are often presented as two groups: the developed (rich) countries and the developing (poor) countries. In developing countries, market mechanisms cannot bring about the neutrality of competition between firms. In developing countries, the regulation process may be a cause of tax evasion and corruption. In the literature, this is called fiscal corruption (McLaren, 1996).

Fiscal corruption arises from a conflict of interest between tax authorities, governments and the business sector in developed countries too. In the literature, the prevalence of these conflicts is modelled by means of assumptions relating to tax authorities' behaviour. One research line argues that a limited amount of bribery may cause a win–win situation for the government and the business sector (Gauthier & Goyette, 2012). Another research line argues that bribery cuts economic growth in a way, which is multiple to the possible gains of bribery (Fisman & Svensson, 2007).

In the European literature, the shadow economy and undeclared work are the two key concepts of tax evasion (Schneider et al., 2010; European Commission, 2007, 2014). With corruption, we have the same conceptual problem. Corruption, as defined by Transparency International, is the abuse of entrusted power for private gain. It can be classified as grand, petty or political, depending, for example, on how and which institutions are involved. The most-used index, produced by Transparency International, is CPI: the Corruption Perception Index. The index covers most of the relevant countries on an annual basis but only includes one fragment of the given definition, for example bribery in the public sector. All other sectors of the economy and all other forms of corruption are excluded.[1]

To the best of our knowledge, there is no consensus in the literature as regards the size of tax evasion and corruption. The results depend on the country context and the concept of corruption. So, how should it be measured? How should it be compared?

2.1. Shadow economy

In table 1, we open up the concept of shadow economy, with minor clarifications to the taxonomy of Schneider (2012, 2015). In the taxonomy, transactions are *monetary* or *non-monetary* and the type of activity is *legal* or *illegal*. By cross tabulating the nature of transactions and the type of activity we get the basic structure of a shadow economy. In the following we take this taxonomy as a starting point for our analysis. This is because Schneider's taxonomy has taken a prominent role as regards to the discussion of shadow economy and its components.

In Finland, the focus has only been on tax evasion (see the red text in table 1). Besides, during the last five to six years there has been increasing discussion about tax avoidance, especially connected to big international firms' possibilities to disperse their tax treatment and avoid taxes. But all other transactions – illegal or not, monetary or not – are not included in the grey economy, the Finnish parallel to tax evasion. Unfortunately, comparisons based on the size of the grey economy are not possible for a large set of countries. And when it comes to corruption, empirical comparisons are even more difficult to do (Laukkanen, 2013; Laukkanen, 2014).

[1] See: http://www.transparency.org/research/cpi/overview

Table 1. A taxonomy of shadow economy.				
Type of Activity	MONETARY TRANSACTIONS		NON-MONETARY TRANSACTIONS	
ILLEGAL ACTIVITY	Trade with stolen and illegal goods, the manufacture and dealing of drugs, prostitution, gambling, smuggling, fraud		The barter of drugs and stolen goods, smuggling etc.; producing or growing drugs for one's own use; theft for one's own use	
LEGAL ACTIVITY	Tax Evasion	Tax Avoidance	Tax Evasion	Tax Avoidance
	Unreported income from wages, salaries and assets	Employee discounts and fringe benefits	The barter of legal services and goods	All do-it-yourself work and neighbours' help

Thus, in Finland, we do not include activity in the black economy and activity which in the first place is free of tax, such as voluntary work, for example when building a house for your son or daughter. And when it comes to taxes, we subtract all legal deductions and legal tax planning. Therefore, the estimated level of tax evasion was five to seven per cent of GDP in 2008 (Hirvonen et al., 2010), in other words around half of what is estimated to be Finland's shadow economy by Schneider (2012, 2015). Besides, the aggressive tax planning of large international companies cause tax losses from 0.43 to 1.4 billion euros (Finnwatch, 2016). This, however, may be just the tip of the iceberg.

According to Hirvonen et al. (2010) annual tax losses from the construction industry are hundreds of millions of euros, consisting of lost value added tax and unpaid or falsely paid wages due to long contracting chains, including the use of foreign labour. Therefore, in the Finnish discussion, construction industries have always been at the top of the list of the suspected industries. In the 2000s, however, many of these problems were tackled with laws like the Act on the Contractor's Obligations and Liability (1233/2006), the Act on the Reversed Value Added Tax Scheme (686/2010), the Act on the Individual Tax Number and Tax Number Register (1231/2011) and the Act on the Obligation to Declare Contracts (131/2014). After these measures the integrity of construction industries has substantially improved (Määttä & Hirvonen, 2015).

But the improvement has been sluggish. In Finland, the grey economy, a synonym for tax evasion, has been tackled by government-authorised programmes since 1996. Many of the above-mentioned changes were already mentioned in the first programme, and, thus, it has taken 10 to 15 years to pass through parliament. The quality of programmes, as well as the political ambition attached to them, has varied a lot. The sixth programme, ending in 31.12.2015, was the first that included a fiscal target, that is to say it aimed to retrieve 300 to 400 million euros of the euros lost to tax evasion. In spring 2016, the government decided – after long uncertainty about whether any new programme is needed – on a new programme, which for the first time included something about corruption. That something was a project against corruption in public procurement.

All in all, the most effective innovation in the work against tax evasion seems to be the Contractor's Obligations and Liability Act (1233/2006). According to an inquiry into 79 foreign labour inspectors, tax officials and the representatives of work pension companies, the act works well with honest contractors but not so well with corrupted contractors (Hirvonen, 2013). The act has brought about broadness, since it covers basically all subcontracting, but less depth, since it is only well-known in the construction sector. Its biggest achievement, however, may be its impact on attitudes towards a sense of responsibility. And it works as a platform for all those firms who utilise the services of our national project partner, Suomen Tilaajavastuu Oy, Finland's largest and most comprehensive register for information stipulated in the Contractor's Obligations Act, aimed at business customers.

2.2 The role of public procurement

In Finland, public procurement is regulated by law. Since 2007 regulation has been based on an EU-consistent Act on Public Procurement (348/2007), the latest renewal of which has just passed parliament (1397/2016). The very meaning of the act has been to foster and clarify cooperation between public officials and to secure all tenders' impartial treatment. The revised act, starting from 1.1.2017, includes the principles of the corresponding EU directive (COM/2011/0896 final) as well as the legal praxis of the European Court of Justice.

Empirical evidence on how the revised act actually works is still very limited. But when it comes to the construction sector, the threshold values remain unchanged. In the acts of 2007 and 2016, the threshold value is 150 000 euros, that is to say, all procurement above this threshold should be put

out to tender. Below that threshold procurement units can do the procurement without an open call for tenders. The key criterion in procurement is overall economic efficiency. It is not necessarily the same as the lowest bid. But if the chosen bid is not the lowest bid, it is always possible that the procurement will be challenged in Market Court. In the case law, however, there are only around 20 court sentences issued under the name of corruption. Thus, most of the sentences go under some other name.

In total, public procurement is around 35 billion euros annually, from which possibly two thirds take place in municipalities. The exact amount is not known since the annual HILMA statistics on public procurement include data on ex-ante costs in around 80 to 85 per cent of notifications. Table 2 shows the total of ex-ante costs in 2008 and 2015, according to the type of procurement. Over time, the number of notifications has only increased a little, while the total of ex-ante costs has more than doubled. The biggest increase has taken place in services: from 4.2 billion to 12.4 billion. But construction is the close second, with total costs of 7.4 billion in 2015.[2] According to Statistics Finland, half of the contracts go to big firms with more than 249 employees.[3]

Table 2. Price-notified public procurement in 2015.

Type	Number of notifications		Ex ante costs in €	
	In 2015	In 2008	In 2015	In 2008
Goods	5 444	6 694	4 055 133 500	1 545 604 578
Services	7 945	6 411	12 382 054 215	4 223 728 006
Construction	4 379	3 473	7 410 896 446	3 754 848 693
Other	148	258	114 924 000	50 382 590

What means do municipalities have do to reach the target of overall economic efficiency? The key players in the procurement process are communal procurement units and their comprehension of the overall economic efficiency. According to the act, procurement units may cooperate in many ways, and, for example, they can do joint procurement. Competitive bidding is open for municipality-owned companies too, given that those companies are treated as if they were private companies. In the bidding process, procurement units can also include some social and even ethical criteria if they are consistent with the nature of the procurement.

[2] See: https://www.hankintailmoitukset.fi/fi/docs/tilastot/
[3] See: http://tilastokeskus.fi/til/inn/2014/inn_2014_2016-06-02_tau_017_fi.html

Issues like these make it difficult to keep the bidding process transparent and fluent. In many municipalities there are only a few officials working with limited access to tenders' backgrounds and working history data. Thus, questions like those about who really owns the tendering firms, where they pay their taxes, if they have unpaid or unarranged tax debts and if so, the size of the debts, remain open (or close to open) questions. So, the fact that procurement units make very big decisions with both very limited data and with a very strict timetable, suggests a very challenging working environment which is open to inappropriate inappropriate rent seeking, like corruption. In the annual corruption reports of the Finnish Central Criminal Police, these problems have been identified long ago. But, unfortunately, the latest revision of the public procurement act did not change the big picture of the procurement process.

According to Central Criminal Police, corruption crimes consist mostly of the undue use of a power position. And a large part of this takes places in municipalities, and probably especially in small municipalities with opaque and informal decision-making processes. In such municipalities old boys' networks have constituted a lasting and even socially accepted tradition of decision making that is open to a conflict of interests. This was a key finding from the National Integrity System assessment too (Transparency International Finland, 2012). One example of this is double roles, where political decision makers become part of the bidding process through companies owned by their friends, colleagues and relatives. Without access to substantially better background data, it is very difficult to tackle problems like these.

In the case history, the construction sector is well represented.

- Six persons were arrested in May 2012 by order of Helsinki District Court in the investigation of corruption in Helsinki city building contracts.
- Destia, a state-owned company that builds public roads, was examined for alleged treason in January 2013.
- The ex-mayor of the City of Espoo and the director of Espoo's Technical and Environment Services received bribery charges linked to major construction companies in 2010.
- In the Guggenheim Helsinki Plan the director of the Helsinki Art Museum was not neutral in his position according to the Parliamentary Ombudsman investigation in May 2013.
- In 2013 the ex-major of Vantaa was accused of gaining a €500 000 benefit from Forma Futura between 2006 and 2011.

During the 2010s, the process of corporatizing public services has made it even more difficult to recognise conflict of interest. The procurement process is more and more coordinated at the level of consolidated companies, which then operate in a form comparable to private corporations, where the transparency required from public institutions, as stipulated in the Act on the Openness of Government Activities (621/1999), is no longer present.[4] One example of this is the metro construction project from Helsinki to Espoo. The coordination of all contracting and subcontracting was given to a private company, which did not inform the city of Espoo of difficulties with the timetable that had been decided upon, leading to substantial excess costs.

2.3 Topics to be discussed in the project

The act on public procurement and the way it is implemented does not rule out the possibility of tax evasion and corruption. The loopholes are many. Firstly, it is not competitive tendering if some firms can make a 20 to 25 points cheaper bid just because of international tax arrangements. Secondly, the contracts are not transparent to ordinary people, in other words, to the tax payers who finance them. Thirdly, procurement units make their decisions without knowing the tendering firms' real owners, as well as their commitment to societal obligations in their firms' previous working history. Fourthly, there is still a possibility for additional ex-post invoicing on top of the costs given at the stage of tendering. And fifthly, there is no law-based whistleblowing channel with efficient whistleblower protection. Certainly, there are other problems too. But in this project, we focus on these most-discussed topics.

Restricting aggressive tax planning

So far, we cannot verify tendering firms' true tax positions, especially in a case when a contracting firm or some of its subcontractors operate from other EU countries or from countries outside the EU. One concrete means of improving competition neutrality between firms, and of empowering the bargaining position of small and medium-size enterprises, is the transparency of tendering firms' tax positions. Thanks to research on several tax leaks across the world, showing massive tax

[4] Ks. mm. Korruptiorikollisuus 2014–2015. Rikoskomisario Juuso Oilinki, Keskusrikospoliisi, Korruption torjunta. https://www.poliisi.fi/instancedata/prime_product_julkaisu/intermin/embeds/poliisiwwwstructure/31549_Korruptiorikollisuuskatsaus_2014_-_2015_20150623.pdf?9e4314f06c9dd288

evasion by means of aggressive tax planning, the EU, the US and organisations like the OECD were pushed to prepare a holistic kind of a package against aggressive tax planning.

The Anti-Tax Avoidance Directive of the EU proposes six legally binding anti-abuse measures which all Member States should apply against common forms of aggressive tax planning. They aim at ensuring a fairer and more stable environment for businesses by introducing a minimum level of protection against corporate tax avoidance throughout the EU.[5] However, it is difficult to say when and to what extent the suggested means are in use in such a way that public procurement units could make sense of tendering firms' tax footprints. Knowing the conflict of interests between countries and interest groups, it is possible that several more years are needed to reach the given aim. Meanwhile, we need to think of other possible means for avoiding the situation where some firms can tender with a minimum level of taxes compared to their competitors.

Public contract register

According to three laws, the signed contracts should be made public. The Act on the Openness of Government Activities (621/1999) stipulates that all documents which are not declared secret are public. The Local Government Act (365/1999) stipulates that people should be able to verify the use of their taxes. The Act on Public Contracts (348/2007) stipulates that all contracts are public after they are signed. But, in practice, they are not publically available. The paper versions of contracts are filed, and, if you ask, you may get access to the municipality office to read them. Sometimes you cannot even do that. This is strange, since there are no technical difficulties to making them public on the net, as are all the political decisions of municipality councils. On a voluntary basis it is already possible to deliver contracts to the database of the Ministry of the Interior but municipalities seldom do. TI Finland has tried to put forward the idea of an obligatory register but discussion about a public contract register has not yet gained the needed support from politicians.

Extending access to tendering firms' background data

From the technical point of view, the tendering firms' background history could be stored in jointly useable registers, like the Business Information System (YTJ). But for the purposes of public procurement units, access to firm-specific data should be extended with law-based insurances,

[5] See: http://ec.europa.eu/taxation_customs/business/company-tax/anti-tax-avoidance-package_en

firms' balance sheets and applicable collective agreements. The question is how to compile them all in one online register. In the latest programme against tax evasion and economic crime, there is a proposal to create such a register. But is there any preparation going on?

Restricting additional ex-post invoicing

Competitive tendering is conditional to the given ex-ante costs, which then, in the passage of time, may turn out to be too low, taking into account the "true costs" of the procurement. In such cases, it is possible to charge for the "extra work" that was not anticipated at the stage of competitive tendering. Therefore, ex-post costs may be much more than ex-ante costs, and there are no effective ways of finding out whether the "extra work" was really needed and how big was the difference between ex-ante and ex-post costs. Do we need to restrict ex-post invoicing? If so, how could we do it?

The reinforcement of whistleblower protection

According to United Nations Convention Against Corruption (UNCAC, art. 33) the reinforcement of whistleblower protection should be considered in countries who have ratified the convention. Finland ratified the convention in January 2006 but the question of whistleblower protection and the requirements of a sophisticated whistleblower channel are still open questions. When it comes to tax evasion, supervision is already carried out on the basis of tips from people. Besides, in big firms there are many voluntary systems in use. In 2015 to 2016, there was a tripartite working group assessing the need for a universal whistleblower system, but the work ended without consensus. Could the construction sector show the way by developing a tips system, covering all malpractice, including corruption?

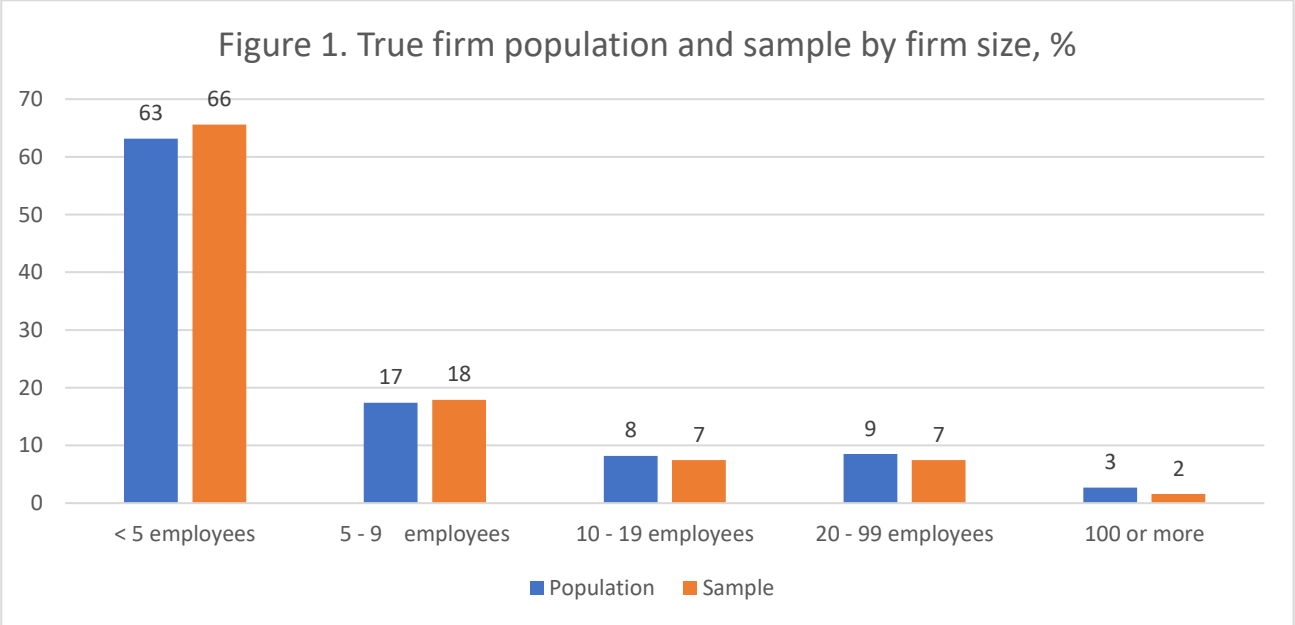
3. The data

We are very thankful to Suomen Tilaajavastuu Oy – a firm founded for the data delivery of contractors' liability – for the use of their register, containing around 50 000 firms operating in the field of construction work. Since the true population of firms was known by firm size, we used sampling by firm size, including data on turnover.[6] Together with our national partner, we

[6] The size classes were as follows: 1: 0–4 employees / €1–199 000 turnover; 2: 5–9 employees / €200–399 000 turnover; 3: 10–19 employees / €400–999 000 turnover; 4–5: 20–99 employees / €1000–9999 000 turnover; 6–7: 100–499 employees / a million or more euros turnover.

prepared a questionnaire on their website, which then was open to be answered for one week. In that time, we received 527 answers to 20 questions and arguments that were then distributed on a Likert-type scale.

What can we say about the sample? Firstly, as depicted in figure 1, the sample is consistent with the true firm's population: all the relative frequencies in the sample are close to real frequencies in the real population. Thus, the sample is a representative case for Finland, at least according to firm size. Secondly, in the case of Finland, the share of small firms with less than five employees consists two thirds of the firms in the sample. Only two per cent of firms have 100 or more employees. This is the way that construction markets operate today, at least in the case of Finland. There are only a few big firms, making room for long subcontractor chains. The final actor at the end of chain is usually a very small firm. Unfortunately, we cannot say anything about the age of firms. But, probably, most of the "micro-firms" do not last long, at least not under the same name and logo.



During the last two years, as depicted in figure 2, 20 per cent of firms have participated in competitive tendering as a prime contractor and 45 per cent as a subcontractor. Those who participated as prime contractors were usually bigger firms, with 20 employees or more. Of the micro-firms with less than five employees, only 12 per cent have participated in competitive

tendering as a prime contractor. Subcontracting, however, is much more equally distributed over firm size. Even for micro-firms with less than five employees, 40 per cent have participated in competitive tendering as subcontractors.

And when it comes to contracts, the picture depicted in figure 3 remains two-parted. In subcontracting the most successful firms were of medium size, that is to say that they had five to 99 employees. The highest figure (60 per cent) goes to firms with 10 to 19 employees, and the smallest to firms with 100 or more employees. This is quite the opposite for prime contracting. Prime contracting increases almost linearly from the smallest to the biggest firms. During the last two years, only seven per cent of micro-firms and 44 per cent of big firms (with 100 or more employees) have had contracts as the prime contractor.

In relative terms, as a relative share of contracts from tenders during the last two years, the results are depicted in figure 4. The results suggest that only one per cent of micro-firms' tendering rounds are successful, in other words they lead to prime contractor contracts. But as firm size increases, the probability of getting a contract increases up to the size class of 20 to 99 employees (which has a 21 per cent probability). But when it comes to subcontracting, the differences between size classes are smaller. As the firm size increases from less than five employees to 10–19 employees, the probability of subcontracting increases from 13 to 32 per cent, after which the probability comes down, being only six per cent within the biggest firms.

We do not know why the probabilities go like this. But, on the other hand, there is no basis to argue that this is a false pattern (i.e. only present in the sample and not in the true firm population). As long as these results are not falsified, we argue that this pattern reflects the true economics of scale in Finland. Most work is done through subcontracting, where the size is not such a competitive factor as it is in the case of prime contracting. Probably this pattern suits the long supply chains with tens of firms. On the other hand you can often find one big firm organising the whole project and taking care of the liabilities set for the subscriber over the whole supply chain. In the latest act, from the 2000s, it is usually assumed that main contractors as well as subscribers have full or close to full foresight over the whole supply chain. But is this really the case with wages and salaries, where each and every firm is only responsible for its own taxes? In the Dutch model, wages and salaries are taxed in a way that the subcontractor chain takes responsibility for its functional integrity (Tervahartiala, 2010; Eurofound, 2013).

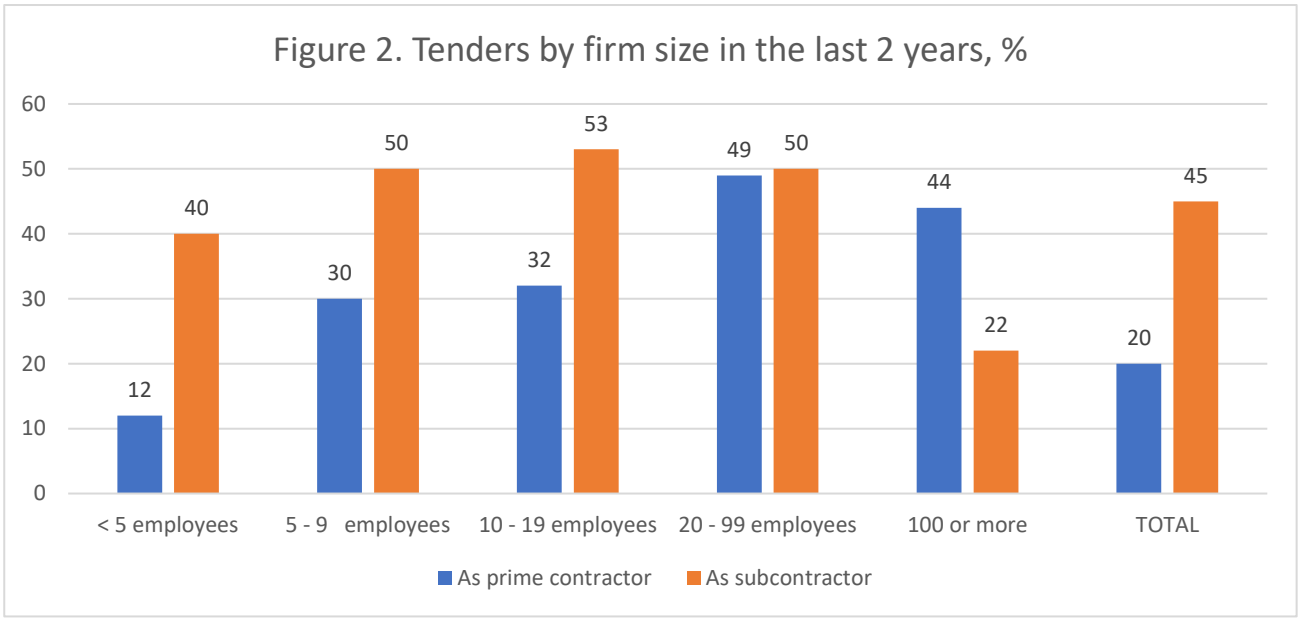


Figure 2. Tenders by firm size in the last 2 years, %
60
50
40
30
20
10
0
12
40
30
50
32
53
49
50
44
22
20
45
< 5 employees
5 - 9 employees
10 - 19 employees
20 - 99 employees
100 or more
TOTAL
As prime contractor
As subcontractor

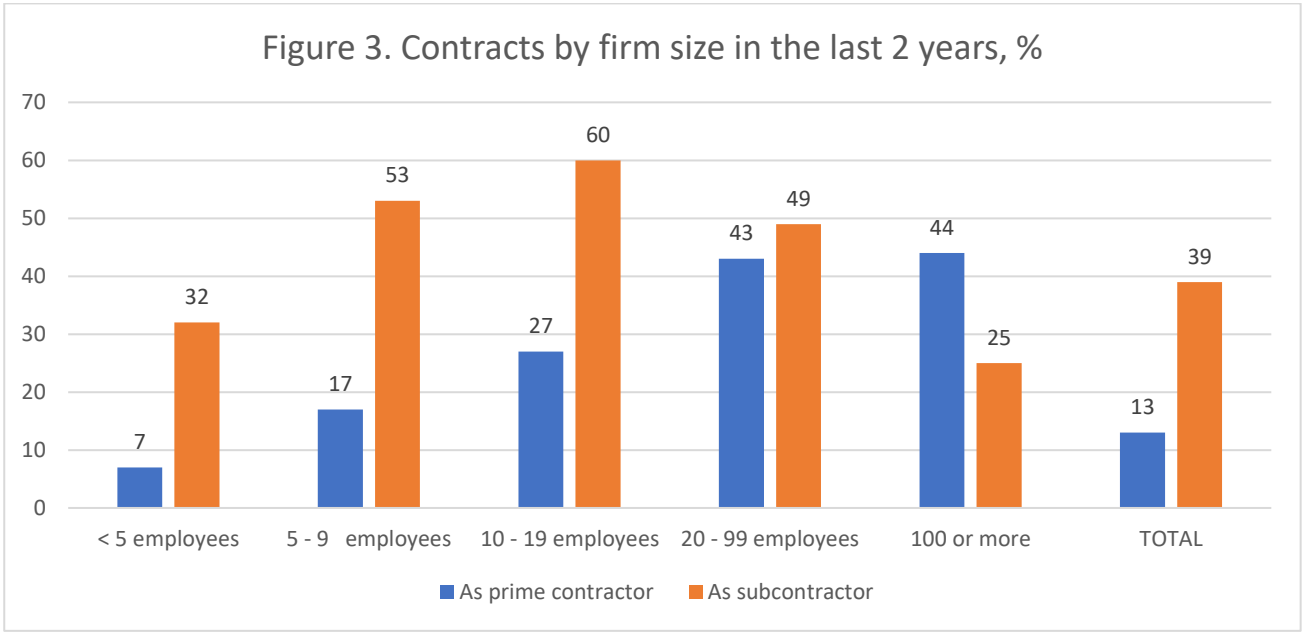


Figure 3. Contracts by firm size in the last 2 years, %
70
60
50
40
30
20
10
0
7
32
17
53
27
60
43
49
44
25
13
39
< 5 employees
5 - 9 employees
10 - 19 employees
20 - 99 employees
100 or more
TOTAL
As prime contractor
As subcontractor

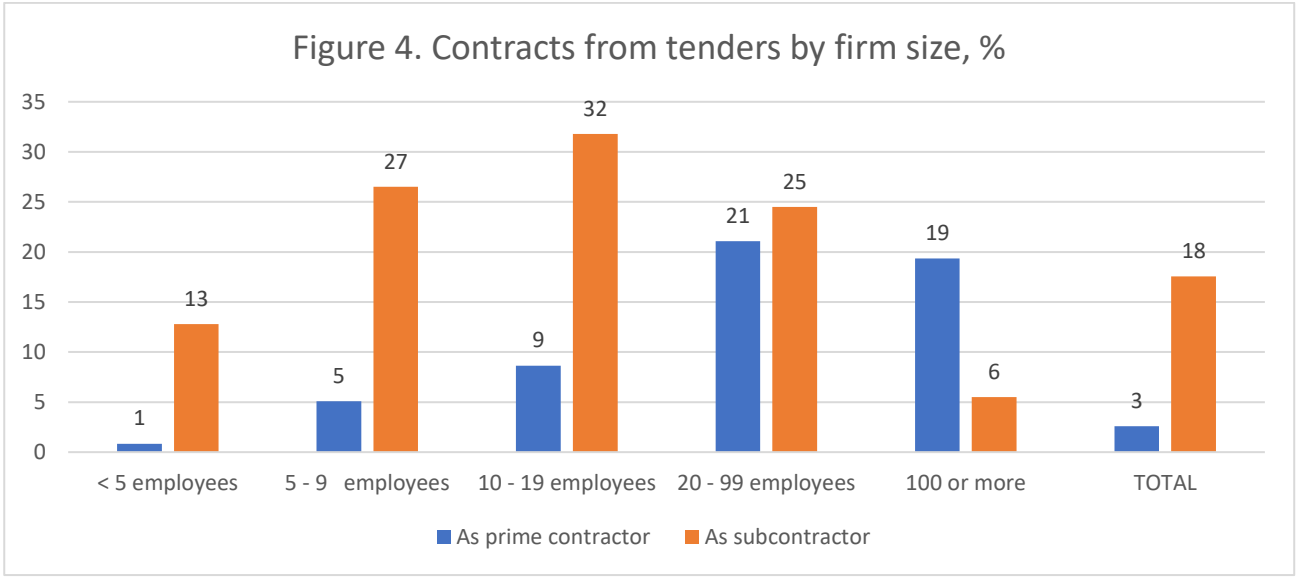
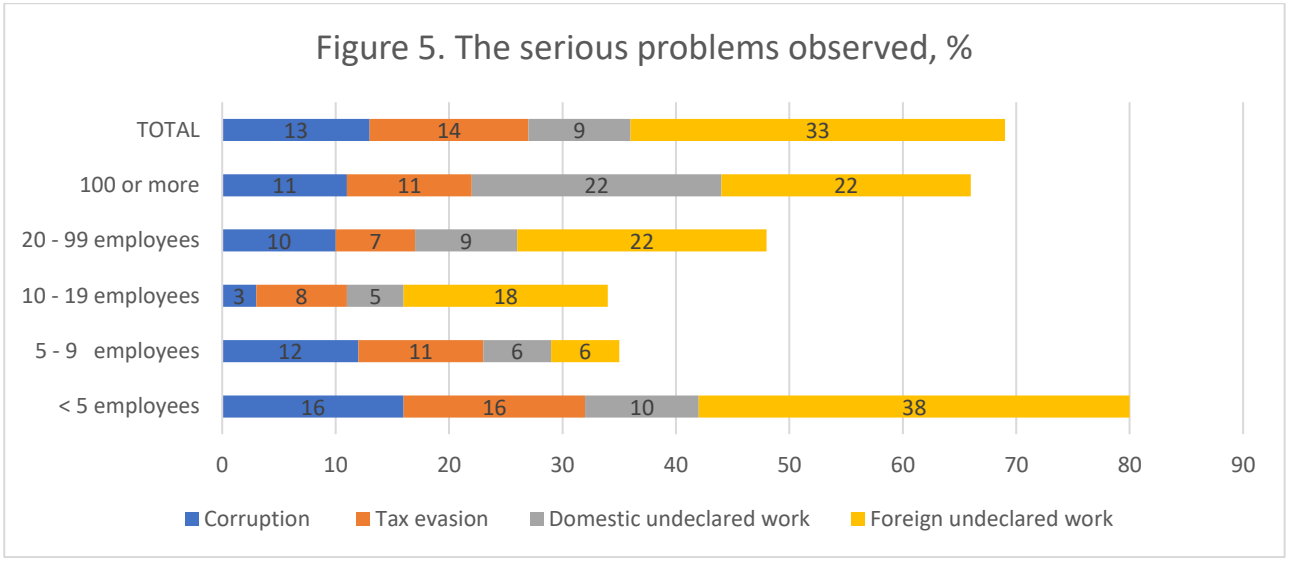


Figure 4. Contracts from tenders by firm size, %
35
30
25
20
15
10
5
0
1
13
5
27
9
32
21
25
19
6
3
18
< 5 employees
5 - 9 employees
10 - 19 employees
20 - 99 employees
100 or more
TOTAL
As prime contractor
As subcontractor

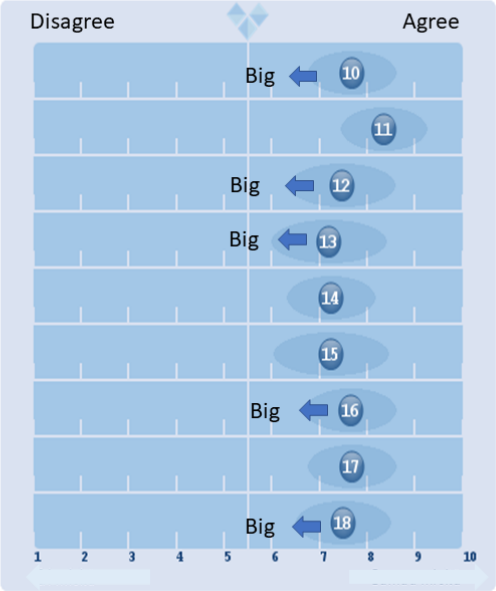
Figure 5 shows the relative share of firms with observations of serious problems with corruption, tax evasion, domestic undeclared work and foreign undeclared work. What do the results suggest? Firstly, they suggest that micro-firms have more observed problems than other types of firm. Among micro-firms, the biggest share of problems (38 per cent) arises from foreign work. But when it comes to corruption and tax evasion, micro-firms are overrepresented there too, at least a bit. Secondly, the results suggest that the share of serious observed problems is smallest in firms with five to 19 employees. Unfortunately the data does not tell us why. Thirdly, the results suggest that in big firms with 100 or more employees the share of observed problems is high too (i.e. as high as it is in micro-firms) if foreign undeclared work is excluded. Fourthly, the results suggest that foreign undeclared work is a serious problem within the biggest firms too. And finally, the results suggest that in firms with 100 or more employees, domestic undeclared work is also a serious problem.



Finally, we asked firms to respond on the following eight suggestions in figure 6, arising from the Finnish discussion described in chapter 2.3. The arguments were distributed on a Likert-type scale, where 1 refers to *total disagreement* and 10 to *total agreement*. The neutral point, where the firm does not actually take a stance, is then 5.5. The results are depicted in figure 6, where the circled suggestion numbers show the average stance and the arrows point to the average stance of big firms (with 100 or more employees). If there is no arrow, the stance of big firms is close that of all firms (i.e. in those cases, size does not matter so much).

Figure 6. What should be done?

10. Big international firms can submit lower bids because of their lighter real taxation.
11. Communal procurement units should have register-based means for checking the tendering firms' compliance with their societal obligations.
12. It should be possible to restrict ex post invoicing beyond what originally agreed in the phase of competitive tendering.
13. There is a need for a public net-based contract register, containing all the relevant information.
14. The needed regulation already exists. Therefore, the focus should be on correcting the faults still existing in the implementation of the existing regulation.
15. Long subcontracting chains create a problem, and they should be shortened.
16. Competitive dialogue restricts the transparency of tendering and often leads to a consultant-dominated tendering process.
17. There should be better whistleblower protection in order to restrict malpractice.
18. Whistleblower protection as such is not enough. There should be a law-enforced reporting channel, also giving protection to those who reported upon.



When it comes to sample averages, they all are on the *agree* side of the figure, most so with suggestions 11 and 10 – stipulating that "communal procurement units should have register-based means for checking the tendering firms' compliance with their societal obligations" and that "big international firms can submit lower bids because of their lighter real taxation" – and least so with suggestions 13, 14 and 15 – stipulating that "there is need for a public net-based contract register, containing all the relevant information", "the focus should be on correcting the faults still existing in the implementation of the existing regulation" and "long subcontracting chains create a problem, and they should be shortened." All the other suggestions, like 17 and 18 regarding better whistleblower protection, are to be located somewhere in between these two polarities.

However, the differences between sample averages are so small that we need to look at the results according to firm size. In doing so, we can see that firm size matters quite a lot, especially in suggestions 10, 12, 13, 16 and 18, showing that big firms are less in agreement with these suggestions than smaller firms are. For some suggestions this makes sense, while for others it is difficult to judge why bigger firms do not actually take a stance. In suggestion 10, where restrictions for tax avoidance possibilities are suggested, it is understandable that big firms, who do more tax planning than others, cannot see it as a problem.

The same goes for suggestion 12, where restrictions on ex-post invoicing – mostly used by big prime contractors – are suggested, and suggestion 16, where restrictions on the so-called

competitive dialogue – which also favour big prime contractors – is suggested. But why big firms do not support a law-enforced reporting channel for whistleblowers, as suggested in suggestion 18, or the need for a public contract register, as suggested in suggestion 13, needs to be discussed, since one could argue that reforms like those would finally benefit the big firms too.

In the Helsinki workshop, with around 35 interventions from Finnish researchers, business men and civil servants, the role of big firms was discussed. All in all, after presenting the previous results, the discussion can be summed up in the three following topics:

The nature of problems. There is no general understanding of the nature of corruption and tax evasion in the given context. Most speakers accepted the idea of structural corruption, arising from the expansion of construction industries in the 1970s, with very close relations between big construction firms and political parties. Some argued that during the last 20 years the situation has changed and become much better thanks to the wide government-led programmes against the grey economy and economic crime. But big companies probably still benefit from schemes, especially from non-transparent tax avoidance schemes. Besides, in the passage of time, the exceeding of budgets in big construction projects has not disappeared by making use of law-based contractors' liability. There is still a way to go before attaining true and transparent liability.

The need for new regulation. Most speakers underlined the need for effective regulation against corruption and tax evasion. In the case of tax evasion, the regulative framework exists and also works as a mean of prevention. What we need then is more support from the register-based control systems in qualifying the tendering enterprises ex ante, before decision making. But, in the case of corruption, we cannot show a clear advancement in regulation. The need for an act on corruption and an act on whistleblowing were discussed in a positive way. None of the discussants were strongly against an act on whistleblowing but many spoke strongly for the acts.

The need for a cooperation platform. Some speakers supported the idea of a common cooperation platform for future discussions, as wished for in the project application form. And, in case such a platform is constituted, it should work in close cooperation with Suomen Tilaajavastuu Oy, Finland's contractors' liability firm, and other institutions like Finland's anti-corruption network and NGOs like TI Finland. Besides, the forms of cooperation between institutions are not clear enough. Some speakers felt that they were working too much on their own. And to some speakers

it was somewhat surprising to hear from others of existing possibilities and achievements of which they were not aware.

4. **Conclusions**

Country comparisons on hidden crime, like tax evasion and corruption, are difficult to do. Here we chose not to do any country comparisons as regards to the size of the shadow economy, which – to the best of our knowledge – would possibly have led to arbitrary results and, finally, biased conclusions. Instead, we focused on the Finnish discussion and the necessary regulatory framework needed to tackle problems like corruption and tax evasion. In the Finnish discussion, the suggested policy interventions vary from restrictions on international tax avoidance schemes to the empowerment of register-based control services in municipalities.

In the empirical part, we tested construction firms' understanding regarding the suggested policy interventions by means of a net-based inquiry conducted with a representative sample of Finnish construction firms. The answers from 527 firms suggest that corruption and tax evasion exist in Finland too. The sample firms and their representatives consider that corruption and tax evasion constitute a serious problem in public construction projects.

We found that smallest micro-firms, usually operating as subcontractors, report more problems, which often are connected with the use of foreign undeclared work. Micro-firms also see more need for counteraction. We conclude that this must be connected with the way subcontracting is organised in construction markets. Subcontractor chains may constitute of tens of firms under the prime contractor. Thus, what happens at the end of the subcontractor chain is not necessary known to the prime contractor nor the subscriber, such as the procurement unit of a municipality.

Knowing this, we asked what should be done in order to mitigate issues like tax evasion and corruption. All in all, the focus seems to be on moving from new laws against corruption and tax evasion to register-based means of checking, in real time, how things actually are. Besides, it seems evident that the long subcontracting chains restrict transparency, especially in the case when subcontracting crosses national borders, as is the case with foreign work, subcontracted by Finnish firms.

The most supported suggestions for the next steps to be taken are as follows:

- Better means for checking the tendering firms' compliance with their societal obligations (like checking their knowledge of possible tax debts and other possible malpractice).
- Restrictions on tax avoidance schemes (utilised by big international firms and firms operating in many countries).
- Restrictions on ex-post invoicing beyond what was agreed upon at the stage of competitive tendering (and possibilities to compare ex-ante and ex-post costs at project level).
- Whistleblower protection and a law-enforced reporting channel for malpractice.
- Restrictions on so-called competitive dialogue (between big firms and communal procurement units).

Why firms voted like this is a matter of further discussion. The given data only shows the stances taken by the firms in the sample, not the reasons behind the stances. In the Helsinki workshop discussion, a national platform, possibly connected with Suomen Tilaajavastuu Oy (Finland's contractors' liability firm) and its data delivery services, was suggested. The platform should include prime contractors and subcontractors, subscribers from the state and municipalities, representatives from labour market organisations and NGOs, working for open public contracting and transparency. Considering the reported budget exceeding in big public construction projects, the suggested cooperation platform should be of primary interest for communal taxpayers too.

The key finding of this report suggests that firm size matters. The bigger the firms are, the less they support restrictions on ex-post invoicing, a net-based contract register, restrictions to competitive dialogue and a law-enforced reporting channel for whistleblowing. Is this simply because of their dominance over smaller firms and subcontractors, needs to be clarified in future work too? Anyway, empowerment of the micro-firms' position in competitive tendering should be included in the national action programme against tax evasion and corruption.

Finally, it is important to continue the work on a multi-country basis. In the Riga, Minsk and Helsinki workshops it was made clear that mutual understanding of the nature of the discussed issues, as well as the possibilities to challenge them, is a joint effort that utilises all participating countries. Another good example of such a common challenge is transparency in the use of foreign labour. As long as national controls stop at the borderline and international controls are weak, it is very difficult to get good results without joint effort form participating countries.

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