Fraudulent Contracting of Work: Industrial Cleaning Sector

Exploring the fraudulent contracting of work in the European Union

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Introduction

This report covers the emergence, developments and rationales behind fraudulent forms of employment and contracting work in the Industrial cleaning sector. The research has been developed in the framework of the Eurofound project “Inequalities in working conditions: exploring fraudulent forms of contracting work and self-employment in the European Union” (Eurofound, 2016). The analysis is based on country-specific information from Austria, Finland and Spain as well as from the EU-level sources.

1. Sectoral Background

1.1. Economic background

The European cleaning industry, defined according to the NACE (Rev. 2) class 81.2, covers activities such as services provided by specialised contractors, building maintenance and associated cleaning, cleaning of vehicles of public transport (trains, buses etc.) and airplanes, waste management services as well as disinfection and pest extermination activities. The sector thus includes ‘industrial’ cleaning services rather than home cleaning in the context of private housekeeping services.

Industrial cleaning in the EU-28 has grown steadily over the past decades, employing about 3.6 million people in about 250,000 companies in 2014. This continuous growth is mainly due to outsourcing of services by public and private organisations and companies to professional contractors. Accordingly, the market penetration, defined as the share of cleaning activities contracted out to specialised cleaning companies, has increased from 43% in 1989 to 65% in 2014 (EFCI 2017). Concomitantly, markets have developed towards a more global and integrated service delivery, with the provision of facilities management and support services rather than just simple cleaning services, especially among larger companies.

Nevertheless, despite increasing diversification processes in the European cleaning industry, ‘office’ cleaning activities still represent the bulk of the cleaning market in Europe (ibid.). Overall, the financial crisis appears to have negatively impacted on the sector’s labour market in only some Member States. Negative employment effects during the peak of the crisis were reported from countries such as France, Greece, Italy and Spain, although a direct connectedness of this trend with the economic downturn is hardly provable (Adam 2012). Largely, the industry has been perceived as relatively ‘recession-proof’, although the recent economic downturn has affected it through increased competition; this, in turn, has resulted in falling profit margins and increased pressure on costs. This pressure is perceived tightest by medium-sized enterprises which cannot apply special niche strategies as small companies do. Nevertheless, overall employment in the sector in the EU-28 grew from 3.27 million in 2008 (without Croatia) to 3.65 million in 2015.

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1 As far as country-specific information from Finland and Spain is provided, this information stems from desk research, expert interviews and focus group discussions conducted by the national contributors. Country-specific information from Austria and European-level is drawn on both desk research and information from social partners’ organisations who agreed to be interviewed by the author.
3 Eurostat Structural Business Statistics (SBS)
5 Eurostat Structural Business Statistics (SBS)
In terms of business structure, the European cleaning sector is dominated by SMEs. Whereas Eurostat SBS account around 250,000 companies in the EU-28 for 2014, more than 91% of the sector’s companies had less than 50 employees in 2012. In 2014, 77% of the companies employed less than 10 people (EFCI 2017). However, although a majority of the European cleaning firms tends to be very small, in terms of market share and overall employment, the industry is dominated by a relatively small number of large companies, including some multinational players. Companies employing more than 500 people (that is about 1.4% of all companies) achieved almost half of the total turnover in the industry in 2014 (ibid.).

In a business area with many firms competing for the same bids the lowest bid tends to win the tenders, resulting in competition on labour costs rather than quality of services (Ollus 2016). Moreover, the cleaning industry is a highly labour-intensive sector with labour costs accounting for up to 85% of the total employers’ costs (UNI-Europa and EFCI 2017). For individual enterprises, decreasing labour costs thus constitutes the core strategy of improving competitiveness.

1.2. Employment characteristics and trends

In the cleaning sector, over the past decades the demands for cost-effectiveness have resulted in increased competition, outsourcing and subcontracting. In line with this, work in the cleaning industry has changed in that permanent employment has been replaced by increasingly flexible and temporary jobs. Since cleaning typically involves a high proportion of low-skilled and low-paid employment, an extraordinarily high share of the workforce are (female) migrants, whose job opportunities are frequently scarce due to their lack of language skills and social contacts, their (often precarious) immigration status and, sometimes, their lack of education. The multiple disadvantages migrants face on labour markets deepen their vulnerability, since with tightened competition, some employers will be inclined to save on costs through infringements of workers’ rights, affecting in particular those employee groups with the least power to resist exploitation and misuse (Ollus 2016).

As indicated above, the EU cleaning sector has undergone a process of steady and sustainable growth which is mainly due to an increasing market penetration. This growth has not only induced higher demand for low-skilled employment but also provoked ongoing diversification of cleaning activities towards integrated services that, in turn, has attracted a number of highly skilled cleaning staff, in particular in the field of highly specialised hygiene and cleaning services.

Table 1 below presents an overview of figures on employment and employees in the sector stemming from Eurostat SBS, covering the period 2008-2014 in the EU-28 and those three countries selected for the purpose of this study.

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Austria and Finland – in line with the overall development of the EU-28 – record an increase in sectoral employment/the number of employees in the period 2008-14, due to the fact that many organisations and companies have outsourced cleaning of their premises/offices. The market penetration rates\(^8\) for Austria and Finland amounted to 82% and 70% respectively, in 2014, compared to 65% for the EU-28 (EFCI 2017). In Austria, the number of companies (more than) and the number of employees (almost) doubled in the period 2000-2014. Similar developments have been reported from Finland. In Spain, the impact of the crisis on the overall economy, including cleaning activities, was more severe and sustained compared with most other countries, such that the sector declined in terms of employment since 2009, with a notable upward trend not earlier than 2014 again.

Cleaning is a clearly feminised activity. In 2014, the share of women in the sector’s total workforce stood at around 65% in Austria (Statistik Austria, Statcube: Leistungs- und Strukturstatistik\(^9\)), whereas it stood at around 71% in Finland in 2010 (Adam 2012) and came close to 79% in Spain several years ago (Recio and Godino 2011). This is not only due to the nature of the activities (since, traditionally, cleaning is considered as being a ‘women’s work’ in most European societies), but also to the general characteristic of employment showing that part-time positions (which are prevailing in the sector, see below) are predominantly occupied

\(^8\) market penetration rates: the share of cleaning activities contracted out to specialised cleaning companies,

by women. Moreover, traditional gender-specific role models can still be found in Europe, such that the perception of cleaning as an activity that requires little skills and being a mere extension of women’s daily life is widespread. Nevertheless, it appears that the share of female employees has somewhat decreased over the recent years in some countries (e.g. in Austria from around 70% in 2008 to 65% in 2014). This ensues from the fact that more specialised cleaning services beyond routine maintenance cleaning has gained in importance, where the share of male employees tends to be higher (Sardadvar, Kümmerling and Peycheva 2015). Moreover, a number of male migrant workers have entered the sector’s labour market in recent years.

The cleaning workforce is not only dominated by female employees but also characterised by the prevalence of migrant workers. Since national data on the proportion of migrant workers in the industrial cleaning sector are scarce, reference is made to the 2017 EFCI survey to provide estimates on this issue: Accordingly, Austria stands out in terms of the proportion of migrant workers in the sector’s workforce compared to all other European countries, showing a 65% share of immigrant employees in 2014, whereas the European average (as far as data are available) stood at about 40% (EFCI 2017). The corresponding numbers for Finland and Spain are considerably lower, lying at 11% and 17%, respectively. Overall, high proportions of migrant workers are typical in segmented labour markets in sectors characterised by poor pay and working conditions with a labour force divided into largely unavailable domestic workers versus available migrant workers.

This refers to another employment-related issue in the cleaning industry, which is the proliferation of atypical working hours and working times as well as temporary agency work. Part-time work is the most frequent form of working time arrangement in the sector, covering 66% of the sectoral European workforce in 2014 (EFCI 2017). Interestingly, Finland (together with Poland) shows the lowest levels of part-time work in Europe, with a share of about 33% in the sector (ibid.). The corresponding proportions for Austria and Spain stood at 65% and 55%, respectively, in 2014 (ibid.). In Spain, a significant proportion of employment contracts provide for less than eight weekly working hours. Among the group of the so-called ‘stair cleaners’ who are hired by a neighbour community to clean the common spaces of flat buildings, cleaners frequently have contracts for not more than three hours a week (Focus Group Spain). Another issue is the proliferation of special and atypical working hours, which in most countries tend to move outside the central office hours towards the early morning or late night such that cleaning activities do not interfere with the normal functioning of companies and services (Recio and Godino 2011). This holds particularly true of office cleaning, but also applies to commercial premises and buildings with public access. The 2017 EFCI survey reveals that daytime cleaning covered only 30% of the total industrial cleaning services performed in Europe in 2014, whereas the bulk of these services is done during the early morning and the late afternoon/in the evening – a situation which adversely affects the workers’ work-life-balance (EFCI 2017).

As a result of the high level of part-time work, the average duration of work in the cleaning sector is relatively low. The EFCI survey estimates that the average weekly working hours in

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10 By contrast, Ollus (2016) identifies 23% of all industrial cleaners in Finland being foreign workers in 2014, which would make up 6% of the country’s overall labour force. In the broader region of Helsinki, up to half of the cleaners are estimated to come from abroad (Helsinki Times, 27 April 2014).

the industry amounted to about 23 in 2014 in the EU-28, whereas the corresponding figures for Austria, Finland and Spain stood at 30, 30 and 28 hours, respectively (ibid.). Although atypical work should not be directly associated to fraudulent practices, the complexity and variety of employment relationships are explaining factors of fraudulent contractual practices (Eurofound 2016).

1.3. Sectoral industrial relations and social partners

At European level, the European Federation of Cleaning Industries (EFCI) on the employer side, and the Union Network International (UNI Europa) – Property Services Sector on the employee side, participate in the cleaning sector’s social dialogue (Adam 2012). The Sectoral Social Dialogue Committee (SSDC) for the cleaning activities sector, established by the European Commission in 1999, currently focuses on health and safety issues, regulatory issues (such as quality and socially responsible public procurement as well as enforcement of the posting of workers directive), working conditions and standard setting and training. In Austria, industrial relations in the industrial cleaning sector largely correspond to the standard pattern in Austria’s economy, based on obligatory membership for employers in the country’s Federal Economic Chamber (WKÖ) and its relevant sub-units. On the labour side, four different trade unions organise and represent private and public workers in the sector, of which the blue-collar vida trade union is the most important. The sector’s collective bargaining coverage stands at an estimated 95%, whereby almost all employees are covered by multi-employer branch agreements (Allinger 2012).

In Finland, the Real Estate Services Association (Kiinteistöpalvelut ry) is the only employer association in the sector. It concludes two collective agreements in the sector, one with the Service Union United (PAM) concerning workers in the sector, and other one with the Trade Union Pro that represents officials in the sector. While union density is relatively low in the sector, on the employers’ side, sectoral density in terms of employees employed by member companies is about 75%. Through pervasive extension procedures, collective bargaining coverage in industrial cleaning comes close to 90% (Jokivuori 2012).

In Spain, collective bargaining takes place in three sub-sectors: general cleaning of buildings and premises; street cleaning, including refuse treatment and waste disposal; and cleaning of railway tracks and trains. The sector’s bargaining system is highly differentiated, in that national, regional and local multi- and single-employer bargaining co-exists. At all levels the three most important employers’ organisations that participate in collective bargaining are the Federation of Associations of Cleaning Employers (AFELIN), representing mainly small and medium-sized enterprises; the Professional Association of Cleaning Enterprises (ASPEL), representing large enterprises and enterprise groups; and the Association of Enterprises of Public Cleaning (ASELIP), representing enterprises specialised in street cleaning. The most important trade unions are the Trade Union Confederation of Workers’ Commissions (AADD-CCOO), the Services Federation of the General Workers Confederation (FSP-UGT) and the Public Services Federation of the General Workers Confederation (FSP-UGT) (Sanz de Miguel 2012).

2. Fraudulent practices, challenges, drivers and impacts

According to pertinent literature, a huge number of media reports and the expertise of the interviewees and focus group discussion participants, overall employment in the company cleaning sector is characterised by relatively high rates of illicit, undeclared and bogus forms of (self)employment. Fraudulent forms of contracting work identified in the sector can be classified distinguishing the practices used, according to various characteristics: (i) intrinsically legal contractual forms abused for fraudulent purposes; (ii) overtly illicit practices with regard to employment relationships; and (iii) so-called sham creations aimed at avoiding tax and/or labour costs.

2.1 Main fraudulent practices

It is important to note that fraudulent practices reported in the sector go beyond the limited legalistic definition of this term used in Eurofound (2016). Eurofound (2016, 3) considers only those fraudulent practices “simulating a declared contract”, effectively masking a different relationship, as disguising “an underlying ‘hidden’ contract, which corresponds to the actual circumstances of the employment or contractual relationship”. By contrast, this study also takes overtly unlawful practices of employment and contracting into account.

2.1.1 Abuse of legal contractual forms

In the industrial cleaning sector, the abuses of legal employment relationships are concentrated on contractual practices allowing already great flexibility.

Abusing zero-hour contracts

Zero-hour contracts allow employers to hire staff without obligation to guarantee a minimum or set number of working hours. The contracts put workers ‘on call’ or ‘standby’ so that they are available for work, even if they may not be given any work at all or they may not know when and how many hours per week they will be working. This means that the employee involved may work full-time one week and not at all another week, depending on the business needs. According to Ollus (2016), such contracts are relatively common in Finland, where 4% of all employees worked on the basis of such an arrangement in 2014. Zero-hour contracts are useful for employers who are subject to notable order fluctuations and need a large pool of flexible workers on demand. The contractual relationship’s characteristic is that the employer only pays for work actually performed.

In Finland, zero-hour contracts do not conflict with labour or social insurance law as such and are per se fully legal; nevertheless, such arrangements may become a question of misuse and exploitation when they are used as mechanisms for demanding labour and reducing rights. Workers in this situation need to be available for the employer virtually any-time at short notice for fear of losing one’s living, residence permit or subsidies (Könönen 2015). As Ollus (2016) reports, in Finland such employment contracts are often used by the employer to facilitate underpayment of wages, avoid the correct record of working hours and overtime, enable inappropriate assignments of employees etc. Such practices of fraudulent use of zero-hour contracts can also be found in the cleaning sector; however, no indication of the frequency of their use in the sector has been provided.

13 These practices correspond to those considered in the Eurofound (2016) study.
**Misusing ‘Work try-out’ contracts**

In **Finland**, the situation of a so-called ‘work-try out’ means that a person is not employed directly by the user company but the employment relationship is regulated by the employment office (TE-keskus in Finnish) for a term of probation. The employer is obliged to inform the relevant shop steward about the engagement of the worker. The duration of a work trial period may not exceed 12 months, with the possibility of a one-off extension by six months in maximum. The work trial may involve five days a week and 4–8 hours a day in maximum.¹⁴

In 2017, the media reported a case of asylum seekers working in a restaurant on the basis of work try-outs; in this case, several regulations such as working time limits were violated, abusing the ‘probation contract’ relationships for the obvious purpose of substituting standard employees by probation workers, and thus to save on labour costs (Yle, 26 May 2017). Such fraudulent practices can also be found in the cleaning sector.

**Abusing part-time work and ‘minimally employed workers’**

In **Austria**, employees whose monthly pay does not exceed a fixed amount (425.70 € in 2017) laid down by law are classified as ‘minimally employed workers’. These workers are exempted from compulsory health and pension insurance under the state scheme, which means that their employment relationship does not establish any insurance against the risks of illness and old age. A case reported in the cleaning industry in 2012 illustrates a practice of abusing this employment form. The employer hired only ‘minimally employed workers’ with the clear intention to save on indirect (social insurance contributions) labour costs. The actual income of the employees was composed of the wage paid by the employer (based on an ‘18-hour working week’ maximum, in order not to exceed the threshold for compulsory social insurance) and of the transfer payment stemming from the statutory unemployment insurance scheme. Furthermore, by offering exclusively minimum employment contracts to the employees, the employer was charged of inciting employees to commit social fraud, since they were urged by the employer to continue to draw from social transfer payments (unemployment benefits, unemployment assistance, etc.) while receiving regular wages (Riesenfelder et al. 2012).

Other types of examples are linked with abuses of part-time contracts. A case reported from **Finland** (focus group Finland, labour inspector interviewed) illustrates the control on working hours exerted by the employer in view to minimise costs but also to control the workforce. Cleaners working on ferries running between Helsinki and Stockholm or Tallinn operated by a big Finnish shipping company are regularly being ‘extorted’ by the employer, in that the allotment of working hours is made contingent on the ‘good conduct’ of the workers. The labour inspector alleged that workers complaining about their working conditions risk not to be given enough working hours to earn their living.

**Disguising permanent standard contracts**

Misusing fixed-term contracts is a well spread practice to avoid hiring permanent workers, mostly on grounds of the alleged or real difficulties to terminate standard employment relations.

Some Spanish cases illustrate fixed-term contracts’ misuse. According to Spanish law, the option of entering into several temporary contracts in a row is restricted, within a period of 30 months, to two contracts signed within 24 months for workers taken on by the same company or group of companies (Article 15, paragraph 5 of the Workers’ Legal Statute). In the cleaning

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sector of Spain, trade unions observe, however, that companies tend to disregard those elements of the law: “We have (…) detected the case of a woman that has chained temporary contracts for 13 years in a big cleaning company” (UGT representative).

Moreover, in Spain trade unions point out that they commonly find frauds associated to the so-called ‘contracts for specific jobs or services’ that can only be used temporarily when carrying out a very specific project or providing a very specific service which does not respond to a structural need of the company. Fraud occurs in relation to the misuse of the causality link associated with these contracts. Thus, they are used to cover permanent or structural needs.

*Temporary contracts used instead of ‘replacement’ contracts*

According to the trade unions representatives (UGT and CCOO), in Spain there is a widespread fraud to use fixed-term contracts such as the ‘contracts for specific jobs or services’ or the ‘contract based on productive needs’ to hire workers with a view of replacing workers with a permanent employment contract during their holidays absence. According to the law, these relationships should be regulated with a ‘replacement contract’. Nevertheless, many cleaning companies tend to hire a single worker for a short-term period of one or two months who can then replace several workers of the company during their holidays. These contracts tend to circumvent core labour law elements, such as the stipulation of detailed working hours: “In 90 percent of the cases these contracts do not specify the working hours or the working days. They just provide the total number of monthly hours” (UGT representative). The purpose of this practice is to use the temporary workers as flexibly as possible.

2.1.2 Overtly illicit practices

These practices focus on reducing labour cost features, by directly limiting wages, or more indirectly, circumventing working time regulations associated with extra pay and misclassifying employees in terms of pay grades.

*Fraudulent payslip (in connection with overtime/extra hours) and underpayment*

As is the case of other European countries, Austria’s industrial cleaning sector, is a low-wage industry. In 2017, the gross minimum pay for the lowest grades stands at about 1,470 €. Since most (female) employees work part-time and overpayment occurs only in some niches of specialised cleaning services, about 90% of the sector’s workers do not get by with their income and thus are dependent from social transfer payments and/or the income of the spouse/cohabitant (AK Wien/vida/IFES 201315). Against this background, frauds in relation to payments and the payslip are of utmost significance to the workforce concerned. According to statistics compiled by the Health Insurance Association of Vienna, in the period from 1 May 2011 to 31 November 2016 there were 37 final adjudications by authorities assessing the statutory offence of underpayment in the whole sector services to buildings and landscape activities according to the NACE (Rev.2) division 81 (disaggregated data for the group 81.2,

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15 http://www.vida.at/cs/Satellite?blobcol=urldata&blobheadername1=content-type&blobheadername2=content-disposition&blobheadervalue1=application%2Fpdf&blobheadervalue2=inline%3B+filename%3D%22IFES%2520A_Ergebnisse_einer_Befragung_von_Besch%C3%A4ftigten_in_der_Reinigung_.pdf%22&blobkey=id&blobnocache=false&blobtable=MungoBlobs&blobwhere=1342611889117&ssbinary=true&site=S03, accessed 14 July 2017
cleaning activities, are unfortunately not available) (LSDB-Statistik 2016\textsuperscript{16}). In their 2016 Black Book (Schwarzbuch Arbeitswelt 2016\textsuperscript{17}), the Chamber of Labour of Upper Austria (AK ÖÖ) identifies three cleaning companies in the province of Upper Austria which were, during recent years, guilty of not having paid full wages for part of their workforce, in particular, in situations of termination of employment relationships, and in all cases with regard to extra work and/or overtime as well as premium pay. The AK ÖÖ – on behalf of the employees affected in the three companies – sued each of them for payment of all unsatisfied claims and reached the payment of arrears worth in between about EUR 40,000 and EUR 125,000.

**Illegal use of piecework rates**

According to the vida representative, in Austria a clearly illegal practice of remuneration can be identified in certain segments of the sector – those are typically niches of highly specialised cleaning services that are clearly dominated by male workers and characterised by relatively high pay levels, such as window cleaning. Employees engaged in such activities are frequently paid on the basis of piecework rates, which are not designated in the sector’s collective agreements, though, and thus unlawful. Generally, blue-collar workers are paid on an hourly wage basis in Austria. The introduction of piecework is subject to co-determination in the strict sense, which means that it requires the consent of the works council in the form of a works agreement; works agreements providing for piecework, however, are unknown in the sector. Such illegal practices tend to damage the workers’ health and make work accidents more likely.

**Circumventing working time regulations (in connection with undeclared work)**

According to national social partners, this form of fraud is widespread in Spain. In some cases, companies circumvent the provision on working time flexibility insofar as the employer freely modifies and adjusts the working time of the workers to the company needs, without respecting the percentage of hours which, according to law, can be irregularly distributed throughout a year (10%).

In other cases, cleaners hired on a part-time basis are required to extend their working time. In Spain, part-time workers can, since the 2012 labour market reform (Law 3/2012), extend their working time, through an agreement with the employer, by 30% (up to 60% if regulated by the applicable collective agreement), performing so-called ‘complementary hours’. Thereby, a notification period of three days has to be respected. Complementary hours are remunerated as normal hours. However, if this limit is exceeded, additional hours are understood as ‘extra hours’, with a higher remuneration. According to trade unions, this regulation is barely respected. Sometimes workers are required to increase their working hours beyond the maximum limits established by law: “We have – in all kinds of companies – found cases of workers who are hired for three daily hours and can even work 13 or 14 hours a day. Then this is paid through wage complements” (UGT representative). In some cases, these ‘extra hours’ are remunerated as such (in cash) but undeclared, which means that the employer does not pay social security contributions for those extra hours.

\textsuperscript{17} https://media.arbeiterkammer.at/ooe/publikationen/arbeitundrecht/B_2016_Schwarzbuch_Arbeitswelt.pdf, accessed 14 July 2017
Irregular classification in a professional category

Practices of companies hiring cleaning workers under professional categories with basic qualifications and then requiring them to carry out activities related to a higher category can be found in Spain. Thus, their work is devalued as these workers receive a wage lower than that they should receive, according to the activities they carry out in practice: “There are cases where a worker is hired under the category of cleaner but then is asked to clean big surfaces with the support of cleaning industry machines. This worker should, based on this, be hired under a category of ‘specialist cleaner’ that entails a higher wage as well as a different health and safety company training or protocol” (UGT representative).

2.1.3 ‘Sham’ creations aimed at avoiding tax and/or labour costs

Finally, business models are also abused, with the aim of avoiding tax and labour costs and benefitting from special social and fiscal regulations.

Subcontracting for the sole purpose of saving on labour costs

Overall, subcontracting is acknowledged as legitimate and appropriate business model in situations when the main contractor is not capable of performing the whole service required on one’s own, but – in order to fulfil particular tasks – needs support by (often highly specialised) companies (EFCI representative). However, subcontracting inherently carries the potential to be used fraudulently, when it is used as effective way for the employer to save on labour costs, shed responsibility and increase flexibility (Wills 2009). Subcontracting chains frequently involve bogus firms (see below) and intricate company interlocking in order to disguise responsibilities, incorrect pay and evasion of social insurance contributions and/or taxes. The subcontracting cleaning companies are typically small enterprises (often owned and managed by an individual) which provide workers and materials for the cleaning job at the worksite. This firm at the lower end of the subcontracting chain usually hires workers to work for the duration of the subcontract only. Jobs offered by this category of enterprises are characterised by insecurity, low pay, lack of safety measures, lack of workplace representation and undue pressure exerted by the employer. Overall, the working conditions in such situations make misuse and exploitation much more likely (see for the situation in Finland, which appears to be similar to that in most other countries, including Austria and Spain, Chukwu 2012). In Finland, subcontracting in the cleaning sector has increasingly emerged as a consequence of outsourcing cleaning services by local authorities and big organisations as well as tightened procurement procedures. A 2012 study (Riesenfelder et al. 2012) identifies such practices also in Austria’s cleaning industry, albeit without providing case examples.

Bogus self-employment

According to Eurofound (2016, 7), “self-employment generally implies the use of one’s own resources and equipment, independence in organising one’s own work and working time, as well as an obligation to deliver a certain result. If these conditions are not present, there may be a misclassification of the employment relationship”. This situation also applies in the EU cleaning industry, when an employer wants to disguise a standard employment relationship of subordination in order to save on indirect labour costs (taxes, social insurance contributions etc.). Such fraudulent practices in relation to industrial cleaning activities mainly occur at the lower end of a subcontracting chain. Unfortunately, no information on the incidence of bogus self-employment in the sector is available for any of the countries. Rather, in the case of Austria, a number of reports on individual cases of illegally/fraudulently classifying an
employee as self-employed can be found. In 2006, the AK OÖ successfully supported a formally self-employed cleaner to sue her ‘employer’ for recognition of a standard employment relationship. In this case of 2006, the Supreme Court of Linz (Oberlandesgericht Linz) argued that the fact that an employee earning an hourly wage of 7 Euro has to provide for the detergents herself cannot be regarded as “a proof of actual economic independence” but has to be qualified as an “indecent practice of passing costs onto the employee by the employer” (APA-OTS webpage18). Another case of systematically misusing cleaning employees as bogus self-employed was revealed in 2016, when the German online-placement agency Helpling withdrew from the Austrian market. This company started its business activities in Austria in 2014 when formally self-employed cleaning staff were placed to private clients in Vienna, providing invoicing activities and customer service (via a call centre in Germany) for an agency fee to be paid by the clients. However, Helpling had to terminate its activities in Austria in 2016, since its business model conflicted with Austrian labour law (allegedly, when monitoring the company, the Public Health Insurance Association of Vienna realised that the company acted not only as online placement agency but de facto as employer) (Kurier, 15 January 201619).

**Bogus companies**

Bogus companies are usually established to circumvent social insurance contributions that would be due in the case of regular standard employment contracts. They can often be found as a link in a subcontracting chain (see above). This form of social fraud has been a problem in Austria for many years now, in particular, in the construction sector, but also – according to several reports (Riesenfelder et al. 2012, Reindl-Krauskopf et al. 2012, Meissnitzer 2015) – in many other sectors, including the industrial cleaning industry. Bogus companies are firms without assets (letter-box companies) that only serve the purpose of registering employees with social security institutions without any intention of paying taxes or social security contributions. The registration of the company is usually done by ‘straw persons’, often with false identities. These bogus firms operate in the following manner: companies are founded, employees are registered and when the contract has been finished, the starting capital has disappeared, the managers have resigned, and the company declares bankruptcy before the authorities or the social insurance institutions can intervene. Taxes and social security contributions thus remain unpaid. The objective of this practice is social fraud (Allinger 2013). This form of organised fraud causes huge damage (for the social insurance institutions and the tax authorities), in particular, in the construction sector, but can also be found in the industrial cleaning sector. In turn, employees’ claims related to the employment relationship to such a bogus company are usually (in the case of the employer’s insolvency/bankruptcy) satisfied by the Insolvency Wage Guarantee Fund (Insolvenz-Entgelt-Fonds). However, this is only possible if the employees affected can show an employment contract or at least working time records. In a case involving two closely linked cleaning companies in the Greater Vienna area which exclusively hired foreign workers recruited in eastern Hungary, part of the workers were paid in cash; allegedly, they received 600 Euro per month in cash for a de facto full-time job, which is far too little. When the employers, obviously bogus companies, overnight disappeared, the workers approached the Chamber of Labour of Lower Austria (AK NÖ), in order to get support for claiming their due. However, since they were – for whatever reason – not willing to reveal neither their identities nor any documentary evidence. However, since they were – for whatever reason – not willing to reveal neither their identities nor any documentary evidence.
Evidence, the AK NÖ could not intervene, such that the workers’ claims remained unsatisfied (Riesenfelder et al. 2012).

**Intentional non-fulfilment of cleaning contract**

Competitive pressure does not only entice employers to cut labour costs directly affecting the income/working conditions of employees in the sector, but may also make them adopt a strategy of deliberately disregarding parts of their service obligations towards the client. This kind of fraud thus directly affects the client rather than the workers employed. Failing to fulfil parts of the cleaning contracts means that some tasks as agreed upon in the service contract are not performed by the cleaning company, in that – for instance – the frequency or intensity of services is not delivered as agreed upon. Such strategies of fraudulently reducing the efforts are only possible because cleaning services are often performed during peripheral working times without control by the client. According to the Vida representative, in Austria non-fulfilment of part of a cleaning contract is frequently budgeted by the cleaning company when applying for a cleaning service (following an invitation to tender/procurement procedure), in order to be competitive. Hence, non-fulfilment of (part of the) cleaning obligations usually does not mean less work for the employees involved and therefore does not entail any advantages for them, since the tendering company (winning the contract) often calculates less personnel than actually required to fully perform the service.

It is likely that this list of fraudulent forms of employment and contracting in the European cleaning sector (with particular emphasis on three countries) is not exhaustive. In particular, fraudulent practices in relation to the posting of workers are likely also to occur in the cleaning sector; nevertheless, as they are particularly tricky to identify given the sector’s specificities they were not dealt with as such in this report. Indeed, not any case of fraud in the context of posting could be clearly assigned to the cleaning sector and – moreover – cleaning activities performed immediately after the construction of new buildings are – in the strict sense – not part of the cleaning sector (the cleaning teams are usually part of the construction worker unit. Overall, cross-border mobility of workers in the cleaning sector of the three countries scrutinised appears to be quite limited. The vast majority of migrant/foreign cleaning workers employed in Austria, Finland and Spain are supposed to be permanent residents, even though with often insecure residential status; however, in the border areas of these three countries, for instance in the eastern part of Austria, quite a number of daily or weekly commuters from neighbouring countries working as cleaners in Austria can be found (Vida representative).

### 2.2 Main drivers and enabling factors

Fraudulent practices in the industrial cleaning sector reflect the principal objective – reducing costs: they build on exploiting opportunities offered by the cleaning sector workers’ profiles (vulnerability, lack of control) and technical features.

**2.2.1 Drivers: Seeking reduction of costs**

**Through direct actions on labour costs:**

Cleaning is a highly labour-intensive industry where labour accounts for up to 85% of total costs (UNI-Europa and EFPI 2017; Recio and Godino 2011). Therefore, the criterion of labour is a crucial element for competition as there is a direct relationship between the height of labour costs and competitiveness. In Spain, as stressed in the focus group, with the crisis
pressures to reduce prices have been even higher, being therefore a potential factor explaining expansion of fraudulent practices or abuses in this country.

Furthermore, the European cleaning industry has been characterised by increasing outsourcing of services during the past decades, resulting in more and more procurement procedures and tendering. According to the EFCI representative, many public and, in particular, private organisations in Europe continue to award contracts for cleaning services purely on price rather than taking quality and social aspects into account. For the public sector, Austria has still not transposed the EU Directive on Public Procurement (2014/24/EU)20, and it remains unclear whether cleaning activities will be covered by the amendment to the national Procurement Act realising the ‘best value’ rather than the lowest cost principle as established by the EU Directive. For Spain, a Deloitte study commissioned by the sector-related employer organisation ASPEL highlights that the features of the public administration tendering system contribute to abuses and irregularities for giving prevalence to the price over other criteria such as the quality of services. As the cost of the service plays an essential part in determining the company that wins the contract, companies are forced to reduce prices, generally transferring this pressure to the workers by worsening working conditions (Moreno et al. 2014).

**Via Business strategies**

**Subcontracting** – when used as effective way for the employer to save on labour costs and to disguise responsibilities (by involving bogus firms etc.) – has to be regarded as a main factor enabling fraud. Fraudulent practices in the cleaning sector in relation to subcontracting chains have been reported from Austria (Riesenfelder et al. 2012) and Finland (Chukwu 2012).

In Spain a relatively new phenomenon can be observed especially affecting the working conditions in the cleaning industry, by frequently triggering, according to the labour inspectorate, abuses and frauds. So-called ‘multi-services companies’ (empresas multi-servicios), emerging as a consequence of the growth of externalisation and outsourcing practices in several activities. These enterprises are not specialised in any particular segment of business activity but offer a great range of services (integral service), thus offering different services such as cleaning, call-centre services, etc. As opposed to temporary work agencies, they are not subject to specific legislation or collective bargaining. While temporary work agencies (TAW) have to pay the same wage levels as those applying in the user company due to the equal treatment principle, multi-services companies can pay lower wages. Partially for that reason, a decrease in the number of TAW and a continuous increase of the multi-services companies has been observed (UGT 2016). According to UGT (2016), cleaning services account for the highest business volume of multi-services companies, representing 34% of total turnover of multi-services companies in 2015.

According to the labour inspector interviewed, multi-services companies have been playing a growing part in the cleaning sector, in particular in the region of Madrid, since 2012. This trend is related to outsourcing strategies followed by (larger) hotels. In some cases, the hotels have externalised cleaning services that were previously hired through direct employment contracts. In other cases, hotels are replacing TWA by multi-services companies. Fraudulent practices perpetrated by these companies have been reported in relation to the misuse of ‘contracts for specific jobs or services’ instead of offering standard employment relationships

Fraudulent Contracting of Work: Industrial Cleaning Sector

...of unspecified duration, wrongly classifying workers as (cheaper) cleaning staff when they are actually doing other jobs (e.g. so-called ‘head maids’) as well as infringements of working time regulations (and remuneration provisions where extra hours are not recorded or recognised by the employer) (labour inspector interview).

2.2.2 Enabling factors: Lack of control possibilities and technologies

Difficult monitoring by clients
Cleaning activities, in particular office cleaning, often remains ‘invisible’, since they are predominantly performed outside the usual periods of occupation of the premises that are cleaned. The reluctance of clients to accept daytime cleaning remains predominant in most European countries, including Austria and Spain (EFCI 2017). As a consequence, monitoring of the cleaning services by the clients, in particular with regard to the actual working hours performed, is often not possible. Hence, the lack of monitoring by the client may, to some extent, explain abuses and frauds associated with the circumvention of working time regulations.

Weak position of (migrant) workers
Virtually all experts of the European cleaning labour market agree that many cleaning workers have to be regarded as particularly vulnerable, since they lack both market (as largely unskilled workers they may be easily replaced, with poor chances to find another job) and organisational power (low unionisation rates, often no works council) and they are less likely to be acquainted with their rights. Moreover, in most countries, the residential status of migrant workers, who are numerous in the sector, is often linked to a regular and steady employment relationship. Therefore, cleaning workers will be less inclined compared to most other workers to denounce their employer in case of infringements of their rights, exploitation and misuse (vida representative for the Austrian situation; Ollus 2016 for Finland; focus group for Spain). This holds, in particular, true of immigrant cleaners, since they risk, in case of their dismissal, not only to lose their job but often also their residential permit.

Technical opportunities
Moreover, with regard to the use (and possible misuse) of zero-hour contracts in Finland, the issue of technological innovation and the development of new technical devices has been raised. Accordingly, the spread of zero-hour contracts is explained by new possibilities for the employers to distribute working hours and jobs as well as monitor the worker, the workflow and work progress via mobile phones (equipped with special software).

2.3 Impacts
The variety of fraudulent practices show negative impacts for workers in several respects, such as pay, working time flexibility, work-life-balance, social security, health and safety etc. On the business side, fraudulent practices tend to distort competition to the detriment of law-abiding companies.

Impacts on pay: Lowering pay, practices of underpayment
Various ways are used to organise underpayment of the workers. Firstly, with regard to working hours, the circumvention of working time regulations either in terms of disregarding limitations to flexibility or extending working hours, usually impedes the work-life-balance of the worker and frequently entails incorrect remuneration/underpayment of extra hours.
Workers tend to lose control over their time and face problems to conciliate working and living responsibilities. They also see their work devaluated in those cases where extra hours are not paid correctly or recognised. If extra work is remunerated in cash but not declared to the relevant social insurance institutions, this has an impact on their social security rights, since the employer does not contribute for those hours to the social security system. Cases of fraudulent payslip (often in connection with extra hours) and underpayment in an anyhow low-pay sector have also been recorded in Austria. Such practices may translate into situations where the workers affected do not manage to make a living, in particular after retirement. In Finland, the occurrence of so-called zero-hour contracts in the sector means that the workers concerned de facto work on an on-call duty. According to Ollus (2016), such employment contracts are often used by the employer not only to fulfil his/her need for flexible work, but also to facilitate and disguise underpayment.

Secondly, fraud in relation to the irregular classification of workers in terms of occupation means that the workers are employed under professional categories that require only basic skills but actually appointed for activities requiring higher qualifications and related to higher pay grades.

In multi-services companies, as they have emerged during recent years in Spain, cleaning workers are increasingly offered ‘contracts for specific jobs or services’ instead of standard employment contracts. Moreover, as previously mentioned, these companies tend to wrongly classify workers assigned to hotels as cleaners even when they provide services falling within the category of ‘head maid’. As a consequence, workers are covered by the collective agreement for cleaning of buildings and premises instead of the lodging collective agreement, the latter providing for higher wages as well as stricter and more specific health and safety regulations.

**Broader impacts**

In multi-services companies, frauds have two consequences: workers receive a lower wage and are not covered by the specific health and safety evaluation and protocols that are associated to ‘head maid’ activities. Eventually, according to the labour inspectorate, multi-service companies tend to increase the work intensity. Thus, workers are forced to work quicker (i.e. clean more rooms in the same time period) and under more stressful conditions than before hotels outsourced those activities.

As far as subcontracting is concerned, firms at the lower end of the subcontracting chain tend to hire workers to work for the duration of the subcontract only. Jobs offered under these circumstances are regularly characterised by insecurity, low pay, lack of safety measures, lack of workplace representation and undue pressure exerted by the employer. Overall, the working conditions in such situations, which have been reported for Austria and Finland, make misuse and exploitation much more likely (Chukwu 2012). This is also related to the fact that effective monitoring of the working conditions in subcontracting chains is difficult.

Overall, it is important to note that frauds do not only affect the individual workers immediately concerned by the practice, but have a broader impact on the entire sector. Fraudulent practices tend to fuel the ‘race to the bottom’ in the cleaning industry and thus to further worsen the anyhow problematic overall working conditions in the sector.

**Impacts for businesses**

As for the employer side, the EFCI representative holds that any fraudulent practice for the benefit of an individual company inevitably leads to unfair competition, to the detriment of all those companies respecting all rules and legislation and relying on quality cleaning services based on professional ability and respect for social aspects and good working conditions of the employees.
3. Combating fraudulent contracting of work and employment

3.1 Sectoral regulations and social partner initiatives and measures at EU level

The main instrument at EU level is the global action on public procurement applying among others to cleaning companies.

EU Directive on Public Procurement (2014/24/EU)

The European Union has developed an extensive legislative framework with regard to public procurement, with the Directive on Public Procurement (2014/24/EU) as the main legal tool (see above). Although it is a generally applicable legislative measure, the directive is particularly important to the sector. This is because it provides for a positive legal framework and facilitates the selection of quality cleaning services in public tendering, since it stipulates that the quality award criteria are to be based on the principle of the ‘most economically advantageous tender’ (‘MEAT’) putting more emphasis on social aspects, environmental considerations and innovation rather than solely considering the lowest price (UNI-Europa and EFCI 2017). Article 67 of the directive stipulates that

“The most economically advantageous tender from the point of view of the contracting authority shall be identified on the basis of the price or cost, using a cost-effectiveness approach, such as life-cycle costing in accordance with Article 68, and may include the best price-quality ratio, which shall be assessed on the basis of criteria, including qualitative, environmental and/or social aspects, linked to the subject-matter of the public contract in question.”

The directive took effect from April 2016 in the Member States. Some countries, such as Austria, are still not applying the new rules. Although the EU Commission has already threatened to initiate infringement proceedings in this regard, the Austrian legislator has not yet managed to transpose the new EU rules into national law.22

The European social partners, UNI-Europa and EFCI, have welcomed the Directive on public procurement, considering the new rules as an important step forward to ensure quality cleaning services.

EU sectoral social partners’ initiatives

The European social partners, UNI-Europa and EFCI, have welcomed the new public procurement rules as an important step forward to ensure quality cleaning services.

EU social partners’ guide ‘Selecting Best Value’

In the light of the Directive on Public Procurement (2014/24/EU), the sectoral European social partners, UNI-Europa on the employee side and EFCI on behalf of the employers, have jointly developed and released (May 2017) a guide for both private and public organisations awarding contracts for cleaning services. This guide is the result of a series of joint UNI-Europa and EFCI initiatives on the issue of tendering and procurement, including the


22 According to recent media reports, in the most recent Austrian draft bill on public procurement, the cleaning sector is excluded from the circle of business activities where the ‘MEAT’ principle must be applied (Der Standard, 26 June 2017).
'Responsible Procurement Declaration for the Cleaning Industry’ of 2016 aimed at promoting the ‘Cleaners Charter: Responsible Contractor Policy for the Cleaning Sector’ drawn up by UNI-Europa in order to support responsible and quality procurement tendering.

The ‘Selecting Best Value’ guide is aimed at assisting public and private buyers in their tendering process, in order to give priority to quality services rather than to award contracts purely on price or cost. It highlights the advantages for all stakeholders, of including quality and social aspects in the procurement process and stresses:

“Whereas quality of cleaning services is determined by technical merit and professional ability, social aspects include the respect for collective agreements and good employment conditions. Both the quality and social aspects represent two sides of the same coin. If these are not taken into account, unfair competition between companies and social dumping of employees is likely to be the rule.”

**Joint EU social partners’ positions regarding the participation in a European Platform to tackle undeclared work**

UNI-Europa and EFCI have released several joint position papers during the recent years as a response to the European Commission decision proposal and the EMPL-Committee draft report establishing a European Platform to enhance cooperation in the prevention and deterrence of undeclared work. In these papers, the sectoral European social partners explicitly refer to the occurrence of illegal and fraudulent employment practices in the cleaning sector and the necessity to tackle them. They emphasise the need for improving the cooperation between Member States’ different enforcement authorities and to organise the exchange of best practices within this envisaged platform. Therefore, they welcomed the intention to set up such an EU platform and claimed to be involved in it together with other European social partners of labour-intensive sectors with a high incidence of illegal and fraudulent employment practices. As they formulated in a 2014 position paper:

“(...) membership of the European social partners of the cleaning industry in the platform is indispensable. As one of the labour intensive industries, being particularly affected by undeclared work, we strongly demand to be amongst those sectors that will be represented in the platform.”

The European Federation of Cleaning Industries (EFCI) is an observer, among other European social partners and other organisations, participating in the European platform against undeclared work.

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24 ‘Joint position by the European social partners of the Cleaning Industry regarding the European Commission decision proposal and the EMPL-Committee draft report on establishing a European Platform to enhance cooperation in the prevention and deterrence of undeclared work’, see: http://ec.europa.eu/social/main.jsp?catId=521&langId=en&agreementId=5384, accessed 14 July 2017

25 DECISION (EU) 2016/344, Article 2 (Composition of the Platform)
3.2 Sectoral legislation at national level fighting fraudulent practices

No legal measures in the area of preventing or tackling fraudulent practices specifically targeting the industrial cleaning sector have been enacted in Austria, Finland and Spain. However, at least in Austria and Finland some laws can be found addressing the issue of fraudulent forms of contracting work and employment that take effect also in the cleaning sector.

In Austria, since 2011, specific legislation to combat underpayment and social fraud has come into force, initially as amendments to existing labour law and since January 2017 as a separate law (Anti-Wage and Social Dumping Act, Lohn- und Sozialdumping-Bekämpfungsgesetz, LSD-BG26). This legislation aims at securing equal labour market and pay conditions for all employees, domestic and foreign workers, securing a level playing field for all companies in a sector by guaranteeing fair competition with regard to pay, preventing cutthroat competition on the labour market through wage dumping practices and safeguarding the employers’ due levies and social insurance contributions. For this purpose, the law entitles the authorities and social security institutions to search all relevant working time records, payrolls and other recordings of a company. In the case of infringements in relation to correct pay, levies and social insurance contributions committed by the employer, the authorities concerned have to impose a fine (see also the webpage of the Health Insurance Institution of Vienna, WGKK27).

In addition, some other legal measures have been implemented in recent years in order to tackle social fraud practices in Austria, which have mainly (but not exclusively) occurred in the construction sector. During the recent years, two laws have been passed that make the subcontracting of bogus companies more difficult. The 2009 Customer Liability Act (AuftragnehmerInnen-Haftungsgesetz) targets construction companies subcontracting work to other companies, while the 2011 Social Anti-Fraud Act (Sozialbetrugsbekämpfungsgesetz, SBBG28) aims to remove the unfair competitive advantage of some market players over others.

The Customer Liability Act stipulates that construction companies that are subcontracting work to other companies are liable for the fulfilment of the subcontractors’ social insurance contribution obligations. It was hoped that this way, bogus companies would not be considered as subcontractors anymore. The law was enforced on 1 September 2009. On 1 January 2011, the customer liability was extended to companies engaged in the cleaning of objects (buildings), or rather, the subcontracting of cleaning work. The customer is liable for all contributions and levies that the subcontracting company is to pay to the Austrian health insurance providers in the range of 20% of the provided wages at the maximum (Allinger 2013). Similarly, through the framework of the SBBG, customers’ liability was extended to wage-dependent levies. This means that if work is being subcontracted to another company, the customer is liable for all wage-dependent levies that the subcontracted company is to pay, up to a maximum of 5% of the rendered wages. This came into place on 1 July 2011 (ibid.).

27 http://dienstgeber.wgkk.at/portal27/wgkkeportal/content?contentid=10007.724482&viewmode=content, accessed 14 July 2017
Initially tailor-made for the construction sector, the SBBG applies to all sectors where subcontractors are engaged.

For Finland, the Act on the Contractor’s Obligations and Liability when Work is Contracted Out (1233/2006) could be identified, which aims at counteracting the negative social effects of subcontracting chains. This law obliges the contractor to check that the documentation of the subcontractor fulfils certain requirements, which, however, only concerns the first level of a subcontracting chain (Ollus 2016). This means that the law is not appropriate to prevent fraud in longer subcontracting chains (Ollus and Jokinen 2013). In order to help the contractor to check whether the potential subcontractor fulfils all statutory requirements, a webpage called tilaajavastuu.fi provides necessary information on that potential partner, if the latter has joined the so-called ‘Reliable Partner Service’ hosted on that webpage, including information on fulfilment of tax and social security contribution obligations. By joining the Reliable Partner Service, the supplier permits the information on the fulfilment of these obligations which is then available to all potential clients free of charge. Both the Act (1233/2006) and the ‘Reliable Partner Service’ are most important to the construction sector, but, in principle, apply to all sectors where subcontracting can be found, including cleaning.

3.3 Sectoral social partners’ initiatives at national level

Beyond legislative measures to combat and prevent fraud in the sector, also ‘soft’ measures are worth mentioning.

In Austria, an image campaign in order to make the cleaning activities and the workers involved more visible was initiated by the employers’ organisation ‘Vienna Guild of Monument, Façade and Industrial Cleaning’ (which is a regional subunit of the WKÖ). In 2010 and 2011, the guild launched a series of media and advertisement campaigns in Austria, including radio spots and poster advertising. The aim of this campaign was to make cleaning work more visible, accentuate its importance to society and professionalism and thus contribute to improving its image (FORBA 2012). Organised labour, although not actively involved, appreciated the initiative. Furthermore, workers’ representatives hoped that the campaign organised by the employers’ organisation could contribute to shift cleaning working hours from the periods outside office hours to daytime and thus to reduce working time arrangements mainly based on split shifts (morning and evening cleaning with large breaks during daytime). However, according to the Vida representative, in this respect the campaign appears to have not been successful.

In Finland, a citizens’ initiative, involving also trade unions, called ‘Operation steady job’ was organised recently. This campaign called for the abolition of zero-hour work contracts and gathered the 50,000 signatures required to be dealt with in Parliament. Although this initiative did not achieve the objective of a new legislation that prohibits employers offering workers zero-hour contracts, it has nevertheless triggered a broader discussion on the issue and has been put on the political agenda.

In Spain, frauds associated to multi-services companies started to be discovered through some denounces but, especially, by means of a regional labour and social security inspectorate

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campaign on ergonomic risks in the ‘head maid’ sector. In this campaign, trade unions’ health and safety prevention delegates of a particular hotel informed the labour inspector of these fraudulent practices, as several ‘head maid’ workers hired as cleaners were not following the health and safety protocol of the hotel (labour inspector interviewed). Social partners’ measures that can contribute to attenuate negative effects associated to public tendering and outsourcing practices are related to the subrogation right regulated in the national collective agreement. The right to subrogation or assignation of staff guarantees that the workers of the cleaning services will remain in their jobs if the contracted company changes. This principle is compulsory and contributes to minimising the impact of changes in contract on the job security of workers (Moreno et al. 2014).

More globally, the fight against fraudulent contracting work practices is advanced for instance by ASPEL and its members, as a key issue to work jointly on with the Spanish authorities. Beyond the social partners’ organisations, specific groups have been developed to specifically address the issues face by workers in the sector. For instance, in Spain an association was founded in 2016 representing the interests of so-called ‘head maids’ (cameraras de piso), who provide cleaning and other services in the hotel and tourism sector. This association, called ‘las kellys’, claims to restrict outsourcing practices in hotels, to improve the quality of work for ‘head maid’ workers and to increase the resources of labour and social security inspectorates in order to prevent fraudulent practices in the sector.

4. Key policy pointers

Breaching the ‘race to the bottom’ and competition on ‘wage only’ path in the sector.

Using Public procurement to this goal

First of all, monitoring enforcement of the European Directive on Public procurement.

In order to breach this ‘race to the bottom’, the provision of outsourced cleaning services needs to be regulated through innovative contract awarding.

At European level, the EU Directive on Public Procurement (2014/24/EU) constitutes the main legal instrument in this respect, since it provides for a positive legal framework facilitating the selection of quality cleaning services in public tendering. Transposing the directive into national public procurement regulations implies that award criteria such as social aspects, environmental considerations and innovation will be strengthened to defeat the only ‘costs’ argument.

Secondly, developing a culture of share responsibility

Awareness-raising campaigns to support responsible and quality procurement tendering among private clients should also be initiated at national level, in a way analogous to the 2016 ‘Responsible Procurement Declaration for the Cleaning Industry’ signed by the European social partners.

32 See above, 1.3 Sectoral industrial relations, Spain for the social partners’ organisations signing the sectoral collective agreement, p.5.
**Developing Liability rules**

National regulations should determine the conditions for cleaning companies and subcontracting firms to be liable for the fulfilment of all social law obligations, in particular with regard to correct pay, social insurance contributions and wage-dependent levies. In order to effectively prosecute non-compliance, the respective authorities should be staffed accordingly.

**Empowering workers**

*Developing sector professionalization*

All experts agree that the sector’s *professionalisation*, which requires the development of formal vocational training and of real career developments for the employees, with the prospect of full-time employment, would be an effective means to combat fraudulent practices. It would help counterbalance the lack of labour market influence and organisational power of cleaning workers, currently particularly *vulnerable in terms of abuse and exploitation*.

*Developing a collective voice*

Cleaning workers usually do not belong to the core target group of employees to be represented by traditional trade unions. Therefore, new forms of *organisation* may be an avenue for marginalised workers to represent their interests vis-à-vis the business side as well as authorities.
5. References


[http://www.walqing.eu/fileadmin/walqing_SectorBrochures_1_Cleaning.pdf](http://www.walqing.eu/fileadmin/walqing_SectorBrochures_1_Cleaning.pdf)


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The European Foundation for the Improvement of Living and Working Conditions (Eurofound) is a tripartite European Union Agency, whose role is to provide knowledge in the area of social, employment and work-related policies. Eurofound was established in 1975 by Council Regulation (EEC) No. 1365/75, to contribute to the planning and design of better living and working conditions in Europe.