



Newsletter #2 of the EU-Project SPLIN

Co-enforcement of labour standards in construction and the maritime sector – first findings from case study research

SPLIN conducts research on strategic and innovative practices of social partners and labour inspectorates to improve the efficiency of enforcing labour standards, especially in sectors with an inclination to non-compliant employer behaviour. Two approaches were chosen: *Co-enforcement actions*, defined as ongoing coordinated efforts of labour inspectorates and social partners to jointly enforce labour standards and a *Transnational trade union enforcement action*, defined as coordinated efforts led by a transnational trade union to develop and enforce labour standards, implemented in cooperation with national and local trade unions.

Co-enforcement in Construction

Findings from Spain, Poland and Austria display bogus self-employment, underpayment, breach of OSH regulations as comparably widespread fraudulent practices in construction. To effectively detect and pursue such non-compliant behaviour, social partner (institutions) in cooperation with public authorities such as labour inspectorates developed joint activities, prepared legislative acts and intensified institutional cooperation.

In **Asturias (Spain)**, two sectoral social partner institutions, COPREVAS (Comisión de Seguridad y Prevención de Riesgos Laborales y Contratación) and FLC (Fundación Laboral de la Construcción des Principado de Asturias) play a key role as partners in co-enforcement. Concretely, delegates are endowed with competences to inspect alleged bogus self-employment and compliance with OSH standards on construction sites in Asturias. Was the cooperation with public authorities initially

rather informal, social partners strategically engaged with them by institutionalised communication, joint trainings, and privileged information sharing about construction companies and finally concluded a formal cooperation agreement in 2017.

In **Austria**, the Construction Workers' Holiday and Severance Payment Fund (BUAK), received 2011 wide reaching responsibilities in implementing a key law to combat fraudulent employment practices, the so called “Anti-Wage and Social Dumping Act”. They include the right to inspect wages at construction sites, verify suspected cases of wage and social dumping and denounce cases to the district authority. BUAK is a long-standing social partner institution with high industry expertise; it was a novelty in Austria that such an institution was endowed with enforcement competences when it comes to issues of underpayment and wage inspection.

In **Poland**, a country with rather weak social partner tradition, three relevant co-enforcement agreements were enacted in the construction sector, namely the Agreement for Safety in Construction (ASC), the Agreement on Minimum Wages in Construction (AMW), and the Agreement for Occupational Safety at the Operation of Cranes (AOSOC). The three agreements provide an autonomous response to fraudulent practices in the construction sector in an area where neither collective labour relations nor public institutions are able to deliver acceptable standards. The agreements involve both representatives of employers and employees, and the Polish Chief Labour Inspector played a significant role in initiating and /or supporting these agreements.



Transnational trade union enforcement action in the maritime sector

The implementation of the ITF (International Transport Workers' Federation) - Inspectorate network was researched in Finland, Spain and Poland. The ITF-inspectors monitor the payment of wages and other social and employment conditions on vessels. They also take action to enforce ITF policy. One cornerstone of its policy is the ITF-campaign to end the flags of convenience (FOC) system in the maritime sector. The FOC system is a long-standing practice consisting of registering a ship in a State other than that of the shipowner in order to circumvent regulations and reduce costs. The underlying formal agreements that are inspected include collective agreements and the ILO maritime labour convention (MLC). To efficiently enforce them, a sustainable cooperation between ITF inspectors, the unions and other authorities such as Labour Inspectorates and Port State Control is a key factor. As a transnational union-operated and employer-financed enforcement action where unions act as inspectors, the ITF-inspectorate network is a unique response to combat fraudulent employer practices in a genuinely transnational industry.

First conclusions

Construction and maritime shipping are industries, where employment has become "fissured" following the prevalence of business models such as the "flags of convenience" and the introduction of various employment forms such as posted work, civil law contracts or solo self-employment. Such employer practices are likely to undermine labour rights associated with standard employment. Labour standards have declined and are more difficult to enforce. SPLIN took a closer look at co-enforcement actions, where (institutions of) social partners take on inspectorate roles or where an intense

cooperation between public authorities and social partners to jointly enhance the capacities of inspectors and to improve the enforcement of labour standards takes place.

The co-enforcement actions studied have achieved promising outcomes in terms of improvement of health and safety compliance and regulations (Asturias, Poland, ITF), in terms of targeted and efficient inspections of bogus self-employment (Asturias) and underpayment (Austria, ITF), in terms of setting minimum labour standards (Poland, ITF) and in terms of better informing employers and workers about rights, standards, and obligations concerning OSH, wages, and other working conditions.

Next project steps

In a next step, SPLIN assesses the transferability of research outcomes through an action research approach to other sectors and countries in a range of stakeholder workshops at national and EU-level. In this sense, SPLIN disseminates research findings and workshop outcomes to a wider audience and will formulate policy recommendations for future and strategic cooperation between labour inspectorates and social partners.

Consortium

FORBA (AT) is project leader of SPLIN. Research partners are Notus (ESP), University of Jyväskylä (FI) and the Institute for Public Affairs (PL).

The research is conducted in close cooperation with the associated partners, the Construction Workers' Holiday and Severance Payment Fund (BUAK, AT), BUDOWLANI trade union (PL) and Fundacion Laboral de la Construcción des Principado de Asturias (flc, ESP).

For country and sector reports as well as more information about SPLIN, please visit the project website www.splin.forba.at

