



# Effectiveness of enforcement measures in local food control in Finland



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## ARTICLE INFO

### Article history:

Received 17 August 2014

Received in revised form

26 February 2015

Accepted 3 March 2015

Available online 11 March 2015

### Keywords:

Enforcement measures

Food control

Non-compliance

Effectiveness

## ABSTRACT

Enforcement measures are an administrative tool used by food control authorities for making food business operators (FBOs) comply with food safety regulations. This study evaluates the effectiveness and uniformity of the use of enforcement measures in local food control units in Finland. The study investigates whether and how rapidly the use enforcement measures leads to compliance with food safety regulations and whether the enforcement processes and their durations vary according to the seriousness of non-compliance. Enforcement decisions were requested from 29 (34%) local food control units, ten of which had used no enforcement measures during the study period. A total of 188 enforcement cases from 19 control units were analysed. The food safety violations were categorized into critical and non-critical, based on their likeliness to directly contribute to food contamination or foodborne outbreaks.

The use of enforcement measures led to verified compliance in 87.2% of the violations. However, enforcement measures were used recurrently in 15.7% of the violations, due to repeated violations. The duration of the enforcement processes ranged from one day up to several years. The duration of the enforcement process was significantly shorter in critical violations than in non-critical violations (Mann–Whitney U,  $p < 0.001$ ).

Enforcement measures appear to be an effective way of ensuring that FBOs correct their food safety violations, although the enforcement processes were rather long in some cases and required recurrent enforcement. However, several control units had not used enforcement measures, which may be due to dissimilarities in food control actions. Use of enforcement measures should be uniform among food control authorities and equal for FBOs.

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## 1. Introduction

The aim of official food control is to assure food safety at all stages of the food chain. Although the main responsibility of food safety lies with food business operators (FBOs), food control authorities will verify operator compliance with food laws (European Communities, 2002, 2004; FDA, 2011). The authority can force the FBO to comply with food legislation by using administrative enforcement measures, also called coercive measures or formal enforcement actions, if the primary control measures, which are advisement and negotiation, fail to induce the FBO to correct their food safety violations. Examples of enforcement measures available for food control authorities are the imposition of sanitation procedures, restriction or prohibition of foodstuffs, ordering the recall, withdrawal and/or destruction of food or the suspension or

withdrawal of the establishment's approval (European Communities, 2004; Food Act, 2011). When deciding which action to take, the competent authority should consider the nature of the non-compliance and the FBO's past record regarding non-compliance (European Communities, 2004).

Inspection, advice and education of FBOs have proved to be effective ways in reducing the risk of foodborne outbreaks (Reske, Jenkins, Fernandez, VanAmber, & Hedberg, 2007). However, it has also been shown that inspections alone may not be effective at promoting major improvement in food premises with recurrent violations (Phillips, Elledge, Basara, Lynch, & Boatright, 2006). Competent food control authorities should have appropriate and effective enforcement tools and practices to ensure the correction of food safety violations in the case of an emerging health hazard or recurrent non-compliance.

Only a few studies have explored the use of enforcement measures in food control. According to the studies by Jokela, Vehmas, and Lundén (2009), Lepistö, Nevas, and Hänninen (2009) and Lepistö and Hänninen (2011), the use of enforcement measures is

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rather infrequent, possibly due to uncertainty concerning the practices of applying enforcement measures and the guarded perceptions of food control officials towards enforcement measures. Although most food control officials perceive that the use of enforcement measures strengthens food control actions and improves food safety, many find advisement and negotiation sufficient for obtaining compliance. Procedures for implementing enforcement measures are additionally perceived as heavy, demanding and time-consuming (Jokela et al., 2009; Lepistö & Hänninen, 2011). The use of enforcement measures is often a consequence of FBOs having committed multiple, serious non-compliances, indicating that authorities use enforcement measures especially when a health hazard is obvious or likely to occur (Lundén, 2013).

It is currently unknown whether the use of enforcement measures is an effective way to achieve compliance. Varying practices of the use of enforcement measures may influence public health and the constitutional principle of equal FBO treatment as official food control should be efficient, uniform and based on legislation. This study hence aims to evaluate the effectiveness and uniformity of enforcement measures by investigating the durations and outcomes of enforcement processes in local food control units.

## 2. Material and methods

### 2.1. Acquiring enforcement measure cases from local food control units

The data consist of documents concerning the use of administrative enforcement measures applied by Finnish municipal food control authorities from January 2008 to September 2011 (Lundén, 2013) and enforcement decisions concerning the rejection of animal origin foodstuffs supplied from other EU Member States at the first destination in Finland (first destination rejects). Inspection reports related to the enforcement cases and documents concerning appeals by FBOs were additionally analysed. Enforcement decisions were requested from 29 local food control units, representing 34.1% of the local food control units in Finland in 2011. A total of 188 enforcement cases from 19 control units were analysed. Data concerning the number of food premises and human resources in the control units were collected from a report by the Finnish Food Safety Authority Evira (Evira, 2011). Enforcement measures available for local Finnish food control authorities are defined in the amended Food Act 23/2006 (Food Act, 2011).

### 2.2. Analysis of the cases

The following facts were examined for each enforcement case: enforcement measure outcomes (compliance - no compliance); non-compliance persistence before the use of enforcement measures (pre-enforcement process); duration of the enforcement process; types of enforcement measures used; and recurrent use of enforcement measures due to repeated violations. Pre-enforcement and enforcement processes were counted in days; the former ranging from the date the authority detects the violation to the date an official hearing concerning the use of enforcement measures is held; and the latter ranging from the date of the official hearing to the date compliance is verified by authorities. Recurrent use of enforcement measures was defined as a situation where authorities were forced to recurrently use enforcement measures due to persistent violations by the same FBO.

To analyse enforcement process duration depending on the type of the violation, each case was analysed according to each violation mentioned in the case. Each enforcement case may have included one or several violations. The number of analysed enforcement

process durations based on the violations is therefore higher than the number of the enforcement cases. The case was defined as missing if process duration was uncountable due to lacking information.

The violations were categorized into critical and non-critical, to compare enforcement process duration based on seriousness (Table 1). Critical violations were designated as those more likely to directly contribute to food contamination or foodborne outbreaks (Evira, 2012; FDA, 2013; Jones, Pavlin, LaFleur, Ingram, & Schaffner, 2004; Reske et al., 2007).

Statistical analysis of the data was carried out using SPSS Statistics v. 20.0 (SPSS IBM, USA). The Mann–Whitney U test was conducted to analyse differences within pre-enforcement and enforcement process durations in the critical and non-critical violations. The correlation between the number of enforcement cases and the number of food premises and labour resources of the food control unit was analysed using Spearman's rho. A confidence level of 95% was applied in evaluating the results of statistical analysis.

## 3. Results

The use of enforcement measures led to verified compliance in a total of 87.2% of the violations (Table 2). The violations were completely corrected in most of these cases (68.2%), while some violations were only mainly corrected but accepted as adequate by the authority (9.8%).

The pre-enforcement processes ranged from the date of violation detection to over five years (Table 1). The duration of the enforcement processes also ranged from one day to nearly three years, and in 9.2% (43/469) of the violations the enforcement process took more than one year. The durations of the pre-enforcement process and enforcement processes were significantly shorter in critical violations than in non-critical violations (Mann–Whitney U,  $p < 0.001$ ;  $p < 0.001$ , respectively).

Authorities began the enforcement process most rapidly with violations concerning traceability, food quality and safety and temperature control (Table 1). Further, the average duration of the enforcement process was shortest in violations concerning the cleanliness of equipments or surfaces in contact with food, traceability and temperature control. Contrastingly, the most long-lasting violations prior to the use of enforcement measures were related to the general cleanliness of the premises, the self-checking system, and the general maintenance of the premises. The enforcement process instead lasted the longest in the violations concerning the general maintenance of premises, infrastructure of the premises, and the hygiene of food storage or display (Table 1).

The authority had requested the operator to correct the detected violations before using enforcement measures in 65.2% (353/541) of the violations. A preceding request to correct violations had been issued for a vast majority of non-critical violations (230/305; 75.4%). A preceding request to correct violations had been given in 52.1% (123/236) of the critical violations. The use of immediate enforcement measures without a preceding request for violation correction was highest in violations concerning food quality and safety (32/46; 69.6%), unclear traceability (43/67; 64.2%) and temperature control (16/38; 42.1%).

Nearly half of all violations (248/541; 45.8%) included more than one enforcement measure: e.g. a certain foodstuff was first prohibited and later a decision was given of the disposal of that foodstuff. Orders were the most common enforcement measure used, and they were used in 76.5% (414/541) of all violations (Fig. 1). The authority had reinforced an order or prohibition by imposing a threat of a penalty payment or suspension in 7.8% (42/541) of the violations. A penalty payment or suspension threat was used proportionally more often in non-critical (30/305; 9.8%) than in critical

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