



# Challenges in using administrative enforcement measures in local food control



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## ABSTRACT

We surveyed Finnish local food control officials' opinions about the use and challenges of administrative enforcement measures. Responses to the questionnaire were received from a total of 129 food control officials, covering 72.6% of the 62 local food control units in Finland. In the opinion of 42.7% of the respondents, enforcement measures are not used often enough in their unit to ensure food safety. Based on our results, large units have better practical tools such as templates for enforcement decisions and guidelines that facilitate the use of enforcement measures than small units, but uncertain practices and a lack of routine appear to impede the use of the measures in many units. Particular challenges highlighted by the officials were related to laboriousness and slowness of the administrative process and reasoning for using enforcement measures. Moreover, impairment of cooperation with the food business operator as a consequence of using enforcement measures was of concern for many officials. The officials assessed the expertise of the head of the unit more positively in the units in which enforcement measures were used than in the units in which enforcement measures were not used, and participation in trainings was the strongest explanatory factor for the use of enforcement measures among the inspectors. Our results indicate that development of operating procedures and provision of specific training on administrative procedure with a practical approach play a key role in strengthening officials' expertise and confidence in using enforcement measures. Moreover, merging the small units with the large ones may promote uniform practices and better capabilities to use enforcement measures in all units.

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## 1. Introduction

Prevention of foodborne illnesses by verifying food business operators' (FBOs) compliance with food safety regulations requires effective, risk-based and impartial official food control. If the FBOs, despite the advice, guidance and requests of the authorities, do not comply with food safety regulations, authorities shall take effective actions to ensure that food safety violations are corrected (EC No 882/2004; Food Act, 2011). These actions, called administrative enforcement (coercive) measures (hereafter referred to as "enforcement measures"), may include such measures as imposition of sanitation procedures, restriction or prohibition of placing a food on the market, suspension of operation or closure of all or part of the business concerned (EC No 882/2004, Food Act, 2011). Efficient intervention in the case of non-compliance is essential not only for food safety but also for preventing distorted competition

between compliant and non-compliant FBOs (Hampton, 2005).

To ensure that the same legislative requirements are effectively enforced for all FBOs, all food control authorities should have similar principles and prerequisites for using efficient control measures. In some European Union (EU) Member States, the need for more training and guidelines for authorities on enforcement procedures has been recognized (European Commission, 2013; Lepistö & Hänninen, 2011). In the United Kingdom (UK) and in Finland, increased guidance has enhanced the use of enforcement measures (European Commission, 2013). Nevertheless, Finnish food control authorities' actions in cases of FBOs' non-compliances have been assessed as insufficient (FVO, 2014).

Previous studies have indicated that enforcement measures are effective in making FBOs correct their food safety violations (Kettunen, Nevas, & Lundén, 2015). In the UK, several aspects, such as the size, resources and location of the local authority and the relationship between the official and the FBO, have been discussed to affect enforcement practices (Hutter & Amodu, 2009). In Finland, administrative shortcomings in the enforcement process have been

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reported in local food control, probably due to officials' uncertainty concerning administrative procedures (Lepistö & Hänninen, 2011; Lepistö, Nevas, & Hänninen, 2009). Moreover, official veterinarians seem to have poorer expertise in administrative procedures in slaughterhouses showing more severe non-compliances than other slaughterhouses (Luukkanen & Lundén, 2016). Despite relatively little research within this particular area, it seems that the characteristics of the control authority as well as food control officials' perceptions and knowledge may influence the use of enforcement measures, possibly leading to a situation where some authorities use enforcement measures when needed while others do not. This may result in unequal treatment of FBOs and, in the worst case, compromised food safety.

In Finland, enforcement measures can be used at the local level in 62 municipal food and environmental health control units (hereafter "units") consisting of one or more municipalities (Food Act, 2011). The units operate independently within their areas but are regionally guided by six Regional State Administrative Agencies. Nationally, official food control is coordinated and supervised by the Finnish Food Safety Authority Evira (Food Act, 2011). The jurisdiction to make enforcement decisions in the units lies within the municipal authority bodies, which are multimember bodies named by the municipalities within the control unit. The municipal authority bodies may delegate their jurisdiction to make enforcement decisions to the heads or inspecting officials of the units. In urgent cases of severe health hazard, all food control officials have the right to apply certain enforcement measures even if no jurisdiction is delegated within the unit (Food Act, 2011).

Municipal independence may generate differing practices and approaches in implementation of official food control. Many food safety requirements laid down in the EU and national food safety legislation allow case-dependent interpretation, thus, similar cases may result in different regulatory outcomes. The use of enforcement measures has been shown to vary among the units (Kettunen et al., 2015; Lepistö et al., 2009), and inconsistency has been reported also in other control procedures and inspection practices among the units and inspecting officials (Läikkö-Roto, Mäkelä, Lundén, Heikkilä, & Nevas, 2015).

The aim of this study was to investigate the factors affecting the use of enforcement measures and related challenges in Finnish local food control units. The study was conducted through a survey exploring the current practices and perceptions of local food control officials and heads of control units regarding the use of enforcement measures. The results can be utilized in harmonizing official food control practices and developing enforcement procedures.

## 2. Material and methods

### 2.1. Questionnaire

We developed an electronic questionnaire (E-lomake, Eduix Oy) to explore the factors affecting the use of enforcement measures and to evaluate the perceptions of local food control units concerning the use of enforcement measures in food control. The questionnaire was designated for the heads and the inspecting officers (inspectors) of the local food control units ( $n = 62$ ) in Finland, and it was partly tailored depending on whether the respondent was a head of the unit or an inspector. Prior to conducting the survey, the questionnaire was piloted with a head of one unit and three inspectors from two units. The questionnaire was sent in September 2015, and a reminder was sent three weeks later.

The semi-structured questionnaire included Likert-scale questions and multiple-choice questions. In addition, open-ended

questions allowed respondents to elaborate on their answers to closed questions or to freely state their opinions about the topics of the survey. The questionnaire inquired about background information on the unit (e.g. labour resources designated for food control and the number of food premises in the unit's area), delegation of jurisdiction regarding the use of enforcement measures and availability of internal guidelines and templates for enforcement decisions in the unit. If not indicated on the questionnaire, information about the labour resources of the unit and the number of food premises in the unit's area were collected from units' internet pages in cases where the information was publicly available. Respondents' education and opinions about the quality and adequacy of available training and national guidelines concerning enforcement measures were also requested. Furthermore, respondents were asked to assess the knowledge, skills and consistency of use of enforcement measures by themselves and in their unit.

### 2.2. Quantitative and qualitative analyses of the data

Data analysis was conducted by using quantitative dominant mixed methods, in which the priority is given to quantitative data, but elements of qualitative research are included to broaden and deepen the understanding on the research topic (Johnson, Onwuegbuzie, & Turner, 2007). The units were divided into groups based on the use of enforcement measures within the last three years (hereafter "enforcer units" and "non-enforcer units"), number of labour resources for performing official food control tasks and the education of the head of the unit. Units with labour resources equal to or less than the median of the responding units were categorized as small, and units with labour resources greater than the median were categorized as large. The respondents were categorized based on whether they were the heads of the unit or inspectors. The inspectors were further divided into groups based on whether they had used enforcement measures themselves within the last three years or not (hereafter "enforcer inspectors" and "non-enforcer inspectors").

To compare factors affecting the use of enforcement measures in the units, such as availability of templates and guidelines, each unit was scored based on six factors (Table 1). Each factor gave the unit one point (positive response) or zero points (negative response), and the overall scores for each unit were calculated as a mean of the unit's total points. Units with missing information in more than two factors were excluded from scoring. A sum variable "knowledge" was created to compare the units based on their respondents' perceptions of their knowledge of using enforcement measures with respect to: a) food hygiene and safety, b) food safety legislation, c) administrative processes and d) whether it's clear when to use enforcement measures. The variables included in the sum variable were on a four-point Likert-scale (1 = fully disagree, 2 = somewhat disagree, 3 = somewhat agree, 4 = fully agree).

The statistical analyses of the data were carried out by using SPSS statistical software (IBM SPSS Statistics 22.0, NY, USA). As the variables used in the analyses appeared not to be normally distributed, non-parametric tests were used. The differences between enforcer and non-enforcer and large and small units in labour resources, number of food premises, scoring based on factors affecting the use of enforcement measures and sum variable "knowledge" were analysed with a two-tailed Mann-Whitney  $U$  test. Regional differences among the units in the scoring were analysed with Kruskal-Wallis test and in the use of enforcement measures with Pearson Chi-Square test. Fisher's exact test was used for comparison of groups with categorical variables, and Spearman's rho to examine the correlations between continuous variables. Cronbach's Alpha was used to examine the reliability of the created sum variable. To identify the variables of the units and

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