
Sub-Contractors' Perception of Contracting: The Case of Crime

Sub-Contractors' Perception of Contracting

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Abstract

Purpose – Reports from the Norwegian police indicate that actors in the architecture, engineering and construction industry face severe competition from criminal actors. Sub-contractors working within the law struggle to be competitive compared to dubious sub-contractors. This study aims to examine (1) what the sub-contractors' perceptions of current contracting practices are, (2) what problems they face and (3) what countermeasures can be used to improve the situation.

Design/Methodology/Approach – The research was carried out on the basis of a qualitative approach. A literature review and a document study of reports from the sub-contractors, public agencies and other relevant organisations were conducted. In addition, in-depth interviews were conducted with the management of eight sub-contractors in the Norwegian architecture, engineering and construction industry.

Findings – There is a significant difference in the perception of the reality between contractors' management and the blue-collar workers. Management among the contractors maintain that their control systems work; however, the result from this study shows that it is easy for the sub-contractors to take advantage of loopholes or avoid the countermeasures.

Research Limitations/Implications – This paper is limited to Norway and use only the paint industry as a case study.

Practical Implications – This study shows that sub-contractors constitute an important source of information in the effort to prevent dubious sub-contractors as they are the actors who experience the greatest pressure and competition from them. Therefore, contractors should include the sub-contractors in the process of developing measures to prevent this misconduct.

Originality/Value – A very little research has been carried out within this field of study in Norway.

Keywords Crime, AEC-industry, Sub-contractors, Ethics, Supply Chain Management, Project Management



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1. Introduction

The Norwegian labour market is mainly characterised by satisfactory working condition. Still, work-related crime is a challenge (Eggen *et al.*, 2017). The phenomenon of work-related crime is complex and includes several kinds of dubious activities. Some places in Norway, markets of low prices caused by work-related crime have arisen and the architecture, engineering and construction (AEC) industry is particularly exposed (Gulliksen *et al.*, 2014). This leads reduced credibility for the AEC industry. To counteract this, BNL started the project “Seriositet i byggenæringen” (seriousness in the AEC industry) to reduce the number of suspicious actors (Slettebøe *et al.*, 2003).

The project “Operasjon Svartmaling”, executed by the Norwegian police between 2012 and 2015, unveiled the severity of the situation of work-related crime in the AEC industry. Two of the biggest contractors in Norway said that it was a wake-up call when they were brought in for questioning (Aga, 2018):

“It was clear to us that, despite good routines to prevent work-related crime, we were exposed for a risk neither we nor the rest of the industry understood the scope of”.

So, criminal actors get a competitive advantage through criminal behaviour and the AEC industry is not fully aware of the extent of this problem. Therefore, this paper addresses

- (1) What are the sub-contractors’ perception of current contracting practices?
- (2) What problems do they face?
- (3) What countermeasures can be used to improve the situation?

The paper concentrates on work-related crime and dubious sub-contractors working with painting on projects with professional clients in Norway. The research does not include projects in the non-professional market. The paint industry was chosen because of the involvement in “Operasjon Svartmaling”.

2. Methodology

A scoping literature review, a document study of reports from sub-contractors and other relevant organisations and in-depth interviews were conducted.

This paper was initiated by a scoping literature review based on the prescriptions of Arksey & O’Malley (2005). The main topics of the literature review were the current state of the AEC industry, concerning work-related crime, and control system of sub-contractors in Norway. The result from this literature review and the document study were used to develop a semi-structured interview guide with open-ended questions, as prescribed by Yin (2013).

The companies that were interviewed varied in 1) size and 2) their use of own blue-collar workers/hired painters for each project. The interview guide was sent in advance to eight interviewees from the management of sub-contractors in the Norwegian AEC industry. To find interviewees, the national association of painters (MLF) was used as a basis, and the interviewees were asked to suggest other interviewees who could be relevant, as recommended by Rowley (2012). The interview was carried out at the interviewees’ workplace and lasted for approximately 90 minutes. Transcripts of the recorded interview

were sent to the interviewees for approval. The anonymised data was analysed according to Creswell (2003). Table 1 shows an overview of the interviewees.

3. Theoretical framework

The AEC industry involves different actors, nationalities, timeframes and advanced technical solutions. Kripes (2014) maintains that work-related crime in Norway is complex, unclear and fragmented. This leads to a large scope of action for actors who want to exploit the system. The risk of getting caught appears low because there is no obvious victim and few have self-interest in reporting it (Eggen *et al.*, 2017). Actors can make large profits, while the cost for society is hardly calculable. The current sentencing doesn't discourage dubious actors (Gulliksen *et al.*, 2014).

The expansion of EU and EEA in 2004 and 2007 led to an increase in work-related crime (Bjørnstad *et al.*, 2016). Norway is especially attractive for foreign workers as the average wages are high (Alsos & Eldring, 2008). In addition, foreign workers are more likely to get injured on the workplace than natives (Arbeidstilsynet, 2017).

In addition to breaking the law, there are some actors who operate in the grey zone of the law. In the Norwegian AEC industry, there are examples of both illegal and unethical behaviour, but there is a lack of academic literature about this topic (Lohne *et al.*, 2017). The dubious sub-contractors get a competitive advantage as a consequence of this. In this study, a dubious sub-contractor is defined as an actor who tries to achieve a competitive advantage by using illegal or unethical means.

Work-related crime is basically motivated by economic profit (NTAES, 2017). There are a variety of work-related crimes. A socio-economic study from 2017 divide work-related crime into three different categories (Eggen *et al.*, 2017): tax fraud, social insurance fraud and violation of wages and working conditions. Studies by Kjesbu *et al.* (2017) and Engebo *et al.* (2016) show that counterfeit materials also pose a large threat to the industry.

The government, project owners and the contractors have implemented various control systems. Among the statutory regulations, Construction Client Regulations (Byggherreforskriften), Internal Control Regulation (Internkontrollforskriften) and Working Environmental Act (Arbeidsmiljøloven) form the basis. A study regarding a large contractor in Norway shows that the control systems function to their purpose (Husa *et al.*, 2017). To sum up the findings from the theory, statutory regulations and control systems exist, but they are not sufficient to stop dubious actors from profiting from work-related crime.

This paper defines dubious sub-contractors as sub-contractors who get a competitive advantage by working on illegal or unethical terms. A serious actor is the opposite of a dubious sub-contractor.

Information Interviewee	Position	Size of the company	Location	Experience	Chosen because
1	CEO	Medium	Oslo	25 years	MLF
2	Master painter	Small	Oslo	30 years	MLF
3	CEO	Small	Drammen	35 years	Recommended by interviewee
4	Section manager	Large	Drammen	25 years	MLF
5	CEO	Medium	Oslo	15 years	MLF
6	Section manager	Large	Oslo	20 years	Recommended by interviewee
7	CEO	Large	Oslo	20 years	Recommended by interviewee
8	CEO	Medium	Trondheim	40 years	MLF

Table 1.
Overview of the Interviewees

4. Results and discussion

4.1 What are the sub-contractors’ perceptions of the current contracting practices?

The interviewees were aware of crime in the industry. They all agreed that the situation a few years ago was really bad, and some pointed out that they were close to quitting because of this: “For 3-4 years ago, it was nearly impossible to earn money on large construction projects, and we almost wanted to quit”.

Regarding the perception of the current situation, the answers varied. The majority agreed that there are positive tendencies and that the terms are better than in several years: “Some of the contractors have experienced the value of using serious actors on the construction site”.

Some went as far as saying they now were competing on equal terms, while two of the interviewees told that the industry still has problems.

Eggen *et al.* (2017) and Kripos (2014) agree that even though the situation looks brighter, there are still challenges in the industry. All the interviewees confirmed that migration can continue and that dubious actors profit from work-related crime. All the interviewees had, however, a positive view on the future. This depends on endeavours from officials, project owners, contractors and sub-contractors. In Table 2, the results from the interviewees regarding the current situation are summarised.

4.2. What problems do they face?

During the interviews, five main problems stood out. These main problems were

- Warning
- Recruitment
- Probability of getting caught
- Consequences
- Number of tiers in the supply chain

The next two questions are sorted by these problems.

Warning. Some actors do not report dubious sub-contractors because they do not want to spend the necessary resources. The interviewees felt it was useless to warn the government

Interviewee	Previous situation	Current situation	Prediction	Non-professional market	Price
1	Crisis	Equal terms	Positive	Bad	Gets better
2	Bad	Still bad	It will be better	Bad	Too low
3	Bad	Positive tendency	Optimist	Crisis	Difficult to compete
4	Bad	Almost equal terms	Hoping it will be better	Bad	Too low
5	Bad	Better, but still not good	Depends on hard work	Bad	Too low
6	Lack of control	Positive tendency	Will be better with hard work	Bad	Too low
7	Bad	Positive tendency	Positive	Bad	Difficult to compete
8	Bad	Positive tendency	Optimist	Still a problem	Gets better

Table 2.
Summary of the
Current Situation

as it did not result in responses: "I've contacted the Norwegian Labour Inspection Authority multiple times, and as far as I know, they have not visited one construction site".

They felt that some of the agencies control the serious actors because of convenience. One interviewee had seen statistics from a public agency showing an increase in closed construction sites because of warnings from sub-contractors. The others had not seen these statistics.

Recruitment. The recruitment to the paint industry is close to non-existent. The profession has a low social standing, and few youths want to become painters. The education opportunities are too few, and it is difficult for youths to get an education within paint. [BNL et al. \(2017\)](#) have set requirements for the use of apprentices on projects, but painters have limited access to apprentices. Others do not prioritise apprentices because it is expensive and time consuming: "The short-term profitability overrules the long-term line of thought".

Lack of recruitment in Norway results in migration of hard-working labourers. Many come from countries with different cultural and social norms. Furthermore, they are not familiar with Norwegian HSE regulations and foreign workers are more likely to be injured at the workplace ([Arbeidstilsynet, 2017](#)).

Probability of getting caught. [Eggen et al. \(2017\)](#) show that the probability for dubious sub-contractors of getting caught is low. The interview results match with this report. Some contractors do not care if the sub-contractors are dubious as long as the jobs get done at a low price. Dubious sub-contractors seem to always be one step ahead of controlling agencies. It is easy to get access to a construction site. For example, if the Labour Inspection Authority arrived for an unexpected control, the sub-contractors who did not want to be inspected were able to immediately leave the construction site without consequences.

"Dubious sub-contractors are being contracted even today, so how can you say that the countermeasures work?"

Some control systems, such as StartBANK, provide a false sense of security. The interviewees state that false identity cards are easy to get hold of, and a [Kripos \(2014\)](#) predicts an increase in false identities. The contractors use the control systems as a disclaimer of liability, but the effect of these are perceived to be varied.

Consequences. The interviewees all maintain that the sanctions are too mild. The most common consequence if getting caught is being thrown out of the specific project – while they can continue to work for another contractor. The current sentencing does not discourage the dubious actors ([Gulliksen et al., 2014](#)). The interviewees stated that if only the workers on lowest echelons of the supply chain (e.g. blue-collar workers) get caught, the dubious activity will inevitably start up again.

Number of tiers in the supply chain. Most interviewees maintain that if the number of tiers in the supply chain is too high, the sub-contractors will get squeezed. Each tier will earn a profit, which means less money to blue-collar workers. One interviewee also pointed out that the possibility for the contractor to identify dubious sub-contractors is reduced with the number of tiers.

According to the interviewees, it is too easy to start up a new company. Everyone with a paint brush and some paint can start a paint business. A general impression is that dubious actors start shell companies to commit fraudulent activities. A report from the Norwegian Labour Inspection Authority (2015) claims that dubious actors bankrupt shell companies frequently after emptying them for cash. Cash is essential for dubious actors because of low traceability ([NTAES, 2017](#)). The answers from the interviews match this.

Table 3 summarises the five main problems from the interviews.

Main problems	Problems
Warning	People who warn aren't heard People don't warn
Recruitment	The education opportunities are too few Too few apprentices No follow-up on the use of apprentices in projects Few incentives for using apprentices Bad reputation
Probability of getting caught	Small risk of trying to trick the system Lack of control on construction sites The controls are too shallow The control systems aren't working as intended The contractors don't have control on the people who work on construction sites
Consequences	Low consequences Difficult to find dubious sub-contractors guilty The men behind get away
Number of tiers in the supply chain	Hard to keep track of the many tiers Use of many tiers drives the prize down for the blue-collar workers Cash makes it easier for dubious sub-contractors Too easy for dubious sub-contractors to start a new company

Table 3.
Summary of the Five
Main Problems

4.3. What countermeasures can be used to improve the situation?

The countermeasures are suggested by the interviewees.

Warning. People who warn need a response to the warning, either as a feedback or as subsequent inspection by authorities on the construction site. The sub-contractors also need to increase the number of warnings because if the number of warning gets high enough, it will be difficult for the authorities to neglect.

“It gets to a point where you don't bother to warn. When we have done it, nothing has happened and then we lose the motivation to warn”.

In Trondheim, a group called “Uropatroljen” is established. The interviewees' experience of it has been a success. This is a group anyone can contact about suspicious behaviour or when they encounter dubious actors. Uropatroljen checks out and contacts the relevant authorities if necessary. The document received from Uropatroljen shows that they have had a great impact on the number of cases reported.

Recruitment. If the recruitment is to increase, some interviewees mention that the best measure is to establish a group who actively works towards this goal. They need to be present at career days arranged by educational institutions. It was pointed out that for the recruitment work, the educational service must be present. The last couple of years, several institutions offering education in the painter profession have been shut down. The interviewees all maintain the need to reopen these to improve the skills of the young. Some of the interviewees have collaborated with the Norwegian Labour and Welfare Administration (NAV) and recruited people with success.

During the interviews, it was pointed out that some project owners demand that sub-contractors use apprentices on projects. This could work as an incentive for the sub-contractors who want to educate apprentices. The follow-up of the system is not, however, good enough. For this to work, the project owners need to control if the requirement is followed.

Probability of getting caught. A countermeasure suggested in every interview is increased frequency of controls by the Labour Inspection Authority at construction sites.

There is also a perceived need for stricter access control, so that the contractors obtain improved control of who are present at the construction site. A measure suggested was placing a chip in the helmet of every workers automatically registering when the person enters or exits the construction site. This will make it easier to make a system working in real-time, so people using false identities or those registered at different construction sites at the same time, are excluded. A gatekeeper could also be used, but this will only work on the largest projects because of the expenditure. Improved collaboration between the controlling agencies and sub-contractors is vital as the dubious actors adapt to the control systems, and it is reasonable to assume that there are still methods used by these actors which aren't identified by the police (NTAES, 2017).

Consequences. The interviewees called for more severe consequences for the dubious sub-contractors actually caught. In addition to the people getting sanctioned, this may have a discouraging effect on other dubious actors. According to the interviewees, every person involved need to be punished, not only the blue-collar workers. It won't help to arrest the blue-collar workmen if those behind gets away with it and can start again with other workers. Sharing of experience between sub-contractors, contractors, project owners and the authorities may contribute to the men behind getting caught.

Number of tiers in the supply chain. For contractors and project owners to increase control of the dubious activity that may occur in their projects, a proposed measure has been to regulate the number of tiers in the supply chain. BNL *et al.* (2017) recommend that projects in the AEC industry only have a maximum of two tiers of sub-contractors. This is supported by the interviewees. During the interviews, some pointed out that the need for stricter regulation for starting a new painting company. This will make it harder for the dubious actors and may reduce the number of shell companies. To solve this, an authorisation scheme can be implemented. The use of cash in the society is a big problem because it is untraceable. NTAES (2017) points out that cash is an important factor in the criminal activity. According to one interviewee, some of the stores that sell materials had stopped the use of cash and only accepted invoice or bank cards. Such measures were identified as making it harder for the dubious actors.

In Table 4, the result from the interviewees regarding the countermeasures is summarises.

Main problems	Countermeasures
Warning	Response to warnings A warning patrol
Recruitment	Improved education opportunities A group of recruiters Collaboration with NAV Better follow-up for apprentices Raise the reputation
Probability of getting caught	More frequent controls on construction sites More strict access control Collaboration between the government and sub-contractors Control systems in real time
Consequences	More severe consequences Sharing of experience
Number of tiers in the supply chain	Set a limit for the number of tiers in the supply chain More strict regulation for starting a new company Limit the use of cash in the society

Table 4.
Summary of the Countermeasures

5. Conclusion

The research questions addressed in this study have been as follows: what the sub-contractors' perceptions of current contracting practices are, what problems they face and finally what countermeasures need to be used to improve the situation.

This study shows that despite a positive tendency, lot of work remains before the industry is rid of dubious sub-contractors. Dubious sub-contractors get competitive advantages despite the control systems implemented. The five main problems the paint industry face are (1) warning, (2) recruitment, (3) probability of getting caught, (4) consequences and (5) the number of tiers in the supply chain. Within these main problems, there are several sub-problems and countermeasures, as shown in [Tables 3](#) and [4](#).

For all of these problems to be solved, everyone in the industry needs to collaborate. Earlier, the authorities and the contractors have developed individual control systems. However, the sub-contractors constitute an important source of information and should be included when developing countermeasures. The society will benefit from getting rid of dubious actors.

Currently, dubious actors working with painting get competitive advantages as a result of criminal behaviour in the AEC industry, and more research on how the industry should face this is needed. During this research, it was pointed out that especially the non-professional market experienced severe problems.

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