

MIGRATION, HUMAN TRAFFICKING & FORCED LABOUR: HOW TO AVOID RISKS AND INCREASE TRANSPARENCY IN LABOUR SUPPLY CHAINS

FIBS
Better business



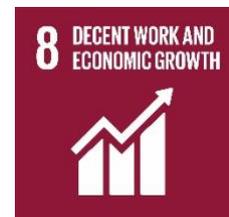
International Organization for Migration (IOM)
The UN Migration Agency

There are an estimated 244 million international migrants in the world today. Migrant workers constitute a large majority (150.3 million) of the world's international migrants. Most migrant workers live in high-income countries and are engaged in services (71.1%), followed by manufacturing and construction (17.8%) and agriculture (11.1%).¹

Migrant workers who lack information and skills, including language skills, may be at risk of different forms of exploitation. In 2016, 25 million people were estimated to be in forced labour. Almost one in every four victims of forced labour were exploited outside their country of residence. Many factories in Asia rely heavily on migrant workers, at the same time as Asia and the Pacific region has the highest share of victims of forced labour. In many cases, the products made by and the services provided by victims of forced labour end up in seemingly legitimate commercial channels.²

There is an increasing interest in enhancing responsibility of the supply chains among customers, businesses and investors. There are tools to support companies act in a responsible manner, avoiding violating human rights and protecting the rights of migrant workers.

These issues are connected to the Sustainable Development Goals (SDGs), in particular to Target 8.8, which calls to protect labour rights and promote safe and secure working environments for all workers, including migrant workers and 8.7, which calls for effective measures to end forced labour, modern slavery, and human trafficking, as well as child labour in all its forms.



In this information package gathered by IOM and FIBS you will find the following:

- Key terms
- Why is this relevant to my company?
- Key legislation
- Main soft law regulations
- Facts and figures about migrants and their families in working life and society
- Vulnerability and exploitation of migrant workers
- Tools and good examples to promote the rights of migrant workers and their families
- Tips for further reading

TUETTU ULKOMINISTERIÖN
KEHITYSYHTEISTYÖVAROIN

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¹ IOM 2017: World Migration Report 2018

² IOM 2017, ILO, Walk Free Foundation and IOM 2017: 'Global estimates of modern slavery: Forced labour and forced marriage'

Key terms

Debt bondage

Being forced to work to repay a debt and not being able to leave, or being forced to work and not being able to leave because of a debt. Recruitment fees and agency charges can become the debt that binds. In most cases of debt bondage, the initial debt grows at a rate that is unable to be met with the level of compensation the worker may be getting.

Ethical recruitment

Definitions of “ethical”, “fair” or “responsible” recruitment are rooted in existing international standards and conventions. In particular, the International Labour Organization (ILO)) [C181-Private Employment Agencies Convention, 1997](#) establishes clear protections for jobseekers, notably respect for the fundamental principles and rights at work and prohibition of fee charging. This Convention has been elaborated further in ILO’s [General Principles and Operational Guidelines for Fair Recruitment](#), with additional emphasis placed on promoting transparency and fairness for the benefit of both workers and employers.

Forced labour

All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered herself/himself voluntarily. (ILO Forced Labour Convention, 1930 (No. 29)). The coercion (criterion of “menace of penalty”) may take place during the worker’s recruitment process to force him or her to accept the job or, once the person is working, to force him or her to do tasks that were not part of what was agreed to at the time of recruitment or to prevent him or her from leaving the job.

Human Trafficking

"The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation" (Art. 3(a), UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention against Transnational Organized Crime, 2000). Trafficking in persons can take place within the borders of one state or may have a transnational character.

Irregular migration

Movement that takes place outside the regulatory norms of the country of origin/transit/destination. There is no clear or universally accepted definition of irregular migration. From the perspective of destination countries, it is entry, stay or work in a country without the necessary authorization or documents required under immigration regulations. From the perspective of the country of origin, the irregularity is for example seen in cases in which a person crosses an international boundary without a valid passport or travel document or does not fulfil the administrative requirements for leaving the country. There is, however, a tendency to restrict the use of the term "illegal migration" to cases of smuggling of migrants and trafficking in persons.

Labour migration

Movement of persons from one State to another, or within their own country of residence, for the purpose of employment. Labour migration is addressed by most States in their migration laws. In addition, some States take an active role in regulating outward labour migration and seeking opportunities for their nationals abroad.

Migrant

IOM defines a migrant as any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of (1) the person's legal status; (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are; or (4) what the length of the stay is.

Migrant worker

Any person who is, will be or has been engaged in work or other a remunerated activity in a state of which she or he is not a national (Article 2(1) of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families).

Modern slavery

This term is sometimes used to cover a set of specific legal concepts including forced labour, debt bondage, forced marriage, other slavery and slavery like practices, and human trafficking. Although modern slavery is not defined in law, it is used as an umbrella term that focuses attention on commonalities across these legal concepts. Essentially, it refers to situations of exploitation that a person cannot refuse or leave because of threats, violence, coercion, deception, and/or abuse of power.

Remittances

Monies earned or acquired by non-nationals that are transferred back to their country of origin.

Sources:

IOM, Key Migration Terms: <https://www.iom.int/key-migration-terms>

ILO, Walk Free Foundation and IOM 2017: 'Global estimates of modern slavery: Forced labour and forced marriage'

Why is this relevant to my company?

First and foremost, addressing forced labour, human trafficking and unethical recruitment is necessary in order to respect human rights of people touched by your business.

Companies are under increased scrutiny from consumers, media, civil society, investors and governments. There are a number of risks for companies associated with human rights violations in the supply chains including:

- Government fines, prosecution
- Damage to reputation
- Non-compliance with client codes of conduct
- Possible links to criminal networks
- Skills mismatches and poor retention of workers
- Occupational health and safety issues

Certain factors can make companies more vulnerable to experiencing abuse in their operations or supply chains:

- Labour intensive business practises
- Presence of migrant workers
- Reliance on recruitment agencies
- Complex supply chains involving multiple countries
- Inconsistency and gaps in legislation
- International pressure to lower production costs

There are tools to support companies to act in a responsible and ethical manner. Acting ethically is not only the “right thing to do”, it is also good for business. It helps to:

- Build and protect company brand and industry reputation
- Meet expectations of customers and international buyers
- Better match workers to jobs
- Avoid civil and criminal litigation
- Boost workplace productivity and minimize business risk. Including stoppages in production

Key legislation

All international labour standards, unless otherwise stated, as a principle are applicable to migrant workers. There are also international regulations specifically concerning migrant workers.

Finland has ratified a number of treaties protecting workers' rights and the human rights of all persons under its jurisdiction. When it comes to protecting workers' right in the supply chains of Finnish companies, the regulation is weaker. Migrant workers are mainly protected by the applicable laws in the country they work in.

To what degree a Finnish company is responsible for the rights of migrant workers in their supply chain is dependent on the connection between the company and the entities in the supply chain. Finnish legislation usually does not hold a company responsible for the realization or violations of the rights of workers working for another company, for example a sub-contractor in their supply chain. There is no legally binding general obligation under international law for companies to make sure actors in their supply chains respect human rights. However, such clauses can be included in contracts with suppliers, and based on soft-law norms (non-binding international norms), there is a strong moral obligation for companies to act in a responsible manner with due diligence, including monitoring that no human rights violations occur in their supply chains.³

International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)

- Obliges States to:
 - Warrant the human rights of migrant workers and their family members without discrimination
 - Ensure undocumented migrants access to basic human rights
- Finland has not signed or ratified the convention
- Migrant-receiving States have not ratified the Convention. It is mainly signed by countries of origin of migrants (such as Mexico and the Philippines)

ILO Private Employment Agencies Convention, 1997 (No. 181)

- The convention obligates member states to
 - Regulate the conduct of private employment agencies, e.g. forbid private employment agencies to charge fees or costs to employees
 - Protects employees' rights and gives protection from abuses when using private employment agencies.
- In force in Finland and 31 other countries (not e.g. Turkey, China, Bangladesh)

The eight fundamental rights conventions of the ILO identified in the 1998 ILO Declaration on Fundamental Principles and Rights at Work

- Obliges States to protect the rights of workers
- Affects how companies are allowed to function
- The Fundamental Rights Conventions cover:
 - Abolition of Forced Labour
 - Elimination of Child Labour
 - Trade Union Rights
 - Equality and Non-discrimination in Employment and Occupation
- All of the Fundamental Rights Conventions are in force in Finland.

³ Valleala Aija, 2015: *Suomen lainsäädäntö, kansainvälinen liiketoiminta ja ihmisoikeudet*

Directive 2014/95/EU of The European Parliament and of the Council

- Requires large companies to disclose certain information on the way they operate and manage social and environmental challenges.
- Large public-interest companies with more than 500 employees are required to include non-financial statements in their annual reports including:
 - Social responsibility and treatment of employees
 - Respect for human rights. Where relevant and proportionate, also regarding due diligence in its supply and subcontracting chains

The California Transparency in Supply Chains Act (2010)

- Obligates Retail Sellers or Manufacturers doing business in the State of California with annual worldwide gross receipts in excess of \$100,000,000 to
 - Disclose to what extent, if any, they take action against and address the risk of human trafficking and slavery in their supply chain
- An example of a law requiring more transparency in the supply chains of businesses

UK Modern Slavery Act 2015

- Obligates commercial organization supplying goods or services in the UK, with an annual turnover above a certain threshold to
 - Publish an annual slavery and human trafficking statement
 - The statement must confirm the steps taken to ensure that slavery and human trafficking are not taking place in the business or in any supply chain, or declare that no such steps have been taken
- An example of a law requiring more transparency in the supply chains of businesses

Main soft law regulations

Soft law norms have an important role to play in regulating business responsibilities in respect to human rights.

[OECD Guidelines for Multinational Enterprises \(1976, latest revision 2011\)](#)

- Relevant to multinational enterprises operating in or from adhering countries
- Non-binding principles and standards for responsible business conduct in a global context consistent with applicable laws and internationally recognised standards.
- The guidelines have a system for monitoring its implementation (so called National Contact Points, NCPs)
- The Finnish state is committed to promoting the Guidelines. The National Contact Point consists of the Ministry of Economic Affairs and Employment together with the Committee on Corporate Social Responsibility. The Ministry has developed a [guide to the guidelines in Finnish \(2017\)](#)

[UN Guiding Principles on Business and Human Rights \(2011\)](#)

- Relevant to all states and companies
- Based on three pillars:
 - State duty to protect human rights
 - Corporate responsibility to respect human rights and act with due diligence throughout their supply chains
 - Right to access to remedy
- The Guiding Principles seek to provide an authoritative global standard for preventing and addressing the risk of adverse human rights impacts linked to business activity.
- The Guidelines are accessible [in Finnish](#)
- [National implementation plan](#) was approved 17.9.2014

[Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy \(1977, amended in 2000, 2006 and revised in 2017\)](#)

- Relevant to multinational enterprises, governments, and employers' and workers' organizations
- Guides on social policy and inclusive, responsible and sustainable workplace practices, including employment, training, conditions of work and life, and industrial relations as well as general policies.
- Based on ILO conventions and recommendations.

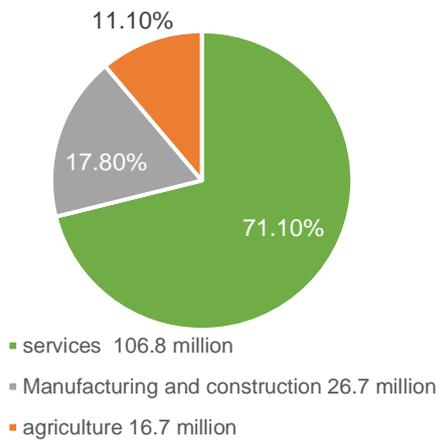
[Relevant soft-law in Finnish can be found at the web site of the Ministry of Economic Affairs and Employment](#)

Facts and figures about migrant workers and their families in working life and society

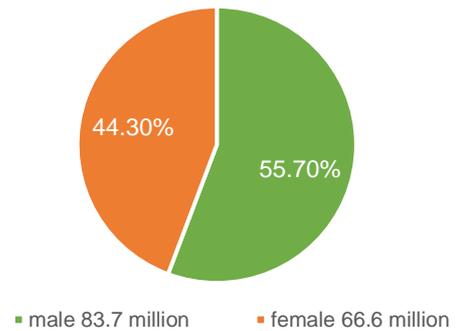
Figures and statistics:⁴

- There are 244 million international migrants globally
- A large majority of all international migrants are migrant workers, 150.3 million globally
- In 2015, worldwide remittance flows (money sent home by migrant workers) are estimated to have exceeded USD601 billion (excluding flows through informal channels). Of that amount, developing countries are estimated to having received about USD441 billion, nearly three times the amount of official development assistance.⁵

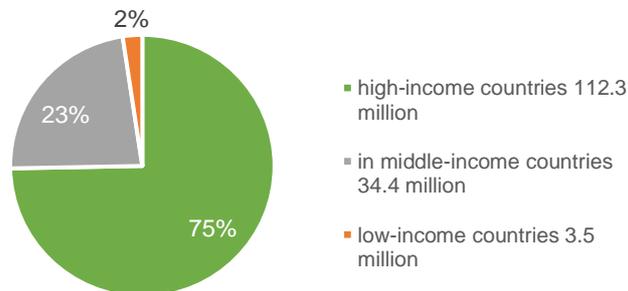
Migrant workers per sector



Migrant workers by sex



Migrant workers by income level of destination countries



⁴ If not otherwise stated, figures on this page based on 2013 numbers, IOM 2017

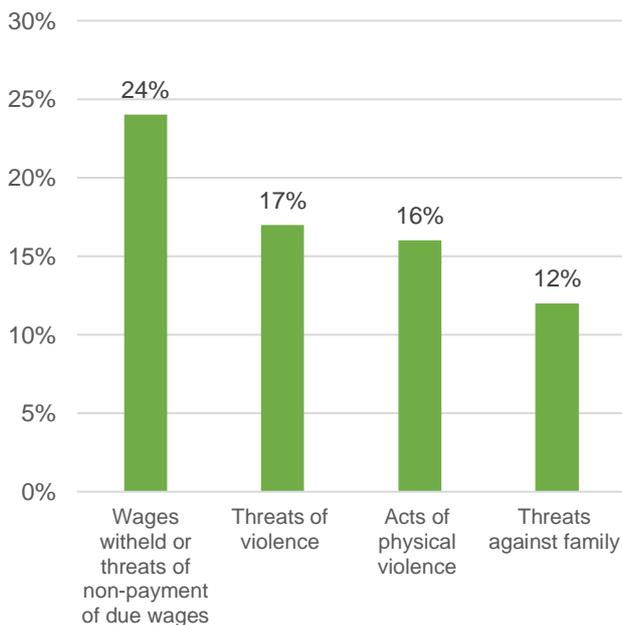
⁵ World Bank 2016: Migration and Remittances Factbook 2016 – Third edition

Forced labour and human trafficking

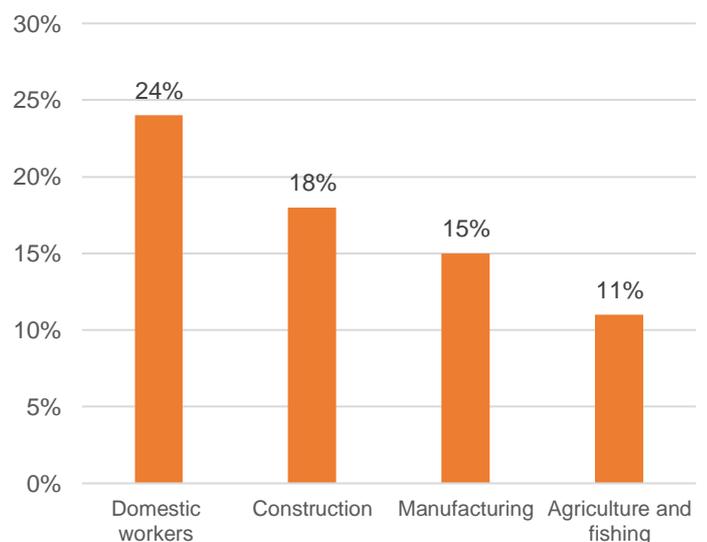
According to 2016 estimates:

- 25 million people were victims of forced labour
- 15 million people were in forced marriage
- Children represented 18 per cent of those subjected to forced labour exploitation
- The prevalence of forced labour was highest in Asia and the Pacific, where four out of every 1,000 people were victims, followed by Europe and Central Asia (3.6 per 1,000), Africa (2.8 per 1,000), the Arab States (2.2 per 1,000) and the Americas (1.3 per 1,000)
- An estimated 16 million people were subject to forced labour in the private economy in 2016.
- More women than men are affected by privately imposed forced labour, with 9.2 million (57.6 per cent) female and 6.8 million (42.4 per cent) male.
- Debt bondage affected half of all victims of forced labour imposed by private actors. This proportion rises above 70 per cent for adults who were forced to work in agriculture, domestic work, or manufacturing.
- Most victims of forced labour suffer from multiple forms of coercion from employers or recruiters as a way of preventing them from being able to leave the situation. ⁶

Forms of coercion faced by victims of forced labour



Share of adults per type of work among victims of forced labour (among cases where type of work was known)



⁶ All figures in the "Forced labour and human trafficking" section from ILO, Walk Free Foundation, IOM 2017

Vulnerability and exploitation of migrant workers

Migrant workers often move along a continuum of exploitation in which they experience a wide range of exploitative situations, which can ultimately result in human trafficking.⁷ Exploitation of migrant workers can be seen as a structural problem within today's labour markets, political as well as economic context. Forced to be extremely flexible and in lack of better options, migrant workers are particularly vulnerable to taking jobs on poor terms in a context of precarious and poor labour practises.⁸

Their vulnerability is fuelled by the widespread misconception that migrants would not be entitled to the full protection of human rights law. In addition, migrant workers might lack language skills, social integration and knowledge about their own rights.⁹

Almost a quarter of the victims of forced labour in 2016, were exploited outside their country of residence.¹⁰ Human trafficking for the purpose of forced labour seem to be on the increase globally.¹¹

The exploitation often starts already at the recruitment stage; many migrant workers:

- Have to pay unreasonable fees for recruitment, travel or accommodation
- Are provided false promises about salaries, working conditions or the work itself

When the working relation is established, migrant workers may find themselves employed under poor working conditions or being paid at wage levels below prevailing standards.¹² In cases of human trafficking and forced labour there is always a feature of coercion;

- Lack of voluntariness in taking the job or accepting the working conditions
- A penalty or a threat of a penalty to make the individual perform his or her tasks or to prevent the individual from leaving the situation

Coercion can take many forms, for example:

- Physical and sexual violence
- Threats against family members
- Withholding of wages
- Retaining identity documents
- Threats of dismissal, and threats of denunciation to authorities".¹³

⁷ Ollus, Natalia 2016: From Forced Flexibility to Forced Labour: The Exploitation of Migrant Workers in Finland, p. 88

⁸ Ollus 2016 p.3, 79

⁹ UNESCO 2005, Information Kit, United Nations Convention on migrants' Rights_ILO, Walk Free Foundation and IOM 2017

¹⁰ ILO, Walk Free Foundation and IOM 2017

¹¹ The Council of the Baltic Sea States Secretariat 2014, Guidelines to prevent abusive recruitment, exploitative employment and trafficking of migrant workers in the Baltic sea region, I brief, 2014, ILO, Walk Free Foundation and IOM 2017

¹² ILO, Walk Free Foundation and IOM 2017

¹³ ILO, Walk Free Foundation and IOM 2017, p.28

Tools and good examples to promote the rights of migrant workers and their families

UN Global Compact

A voluntary initiative based on CEO commitments to implement universal sustainability principles and to take steps to support UN goals. Principles concern human rights, labour and the environment.

Link: <https://www.unglobalcompact.org/> Specifically about supply chains: <http://supply-chain.unglobalcompact.org/>

Interfaith Center on Corporate Responsibility (ICCR): Best Practice Guidance on Ethical Recruitment of Migrant Workers

The guidelines provide analysis and best practices that serves as models for companies looking to implement ethical recruitment policies and contribute driving change at the recruitment agency level.

Link: http://www.iccr.org/sites/default/files/iccrsbestpracticeguidanceethicalrecruitment05.09.17_final.pdf

Institute for Human Rights and Business (IHRB): Dhaka Principles for Migration with Dignity

The Dhaka Principles for Migration with Dignity (the “Dhaka Principles”) are a set of human rights based principles to enhance respect for the rights of migrant workers from the moment of recruitment, during overseas employment, and through to further employment or safe return to home countries. Link:

<https://www.ihrb.org/dhaka-principles/%22>

International Labour Organization (ILO): General Principles and Operational Guidelines for Fair Recruitment

The objective of these non-binding principles and guidelines is to inform the current and future work of the ILO and of other organizations, national legislatures, and the social partners on promoting and ensuring fair recruitment.

Link: http://www.ilo.org/global/topics/fair-recruitment/WCMS_536755/lang--en/index.htm

IRIS

Actor: International Organization for Migration (IOM)

IRIS is a social compliance scheme that is designed to promote ethical international recruitment. It is comprised of an international standard, a voluntary certification scheme for labour recruiters and a compliance and monitoring mechanism. For businesses and migrant workers, IRIS serves as a due diligence tool for the assessment of labour recruiters. Link: <http://iris.iom.int/>

CREST

Actor: International Organization for Migration (IOM)

IOM's Corporate Responsibility in Eliminating Slavery and Trafficking (CREST) programme centres around three pillars of work and is designed to help companies maximize the benefits of migrant labour in their supply chains. 1. Training for the commercial sector on trafficking and slavery ; 2. Pre and/or post orientation training for labour migrants ;3. Supporting supply chain mapping and ethical recruitment

The Leadership Group for Responsible Recruitment (LGRR)

Multi-stakeholder initiative. The Leadership Group for Responsible Recruitment (LGRR) is a collaboration between leading companies and expert organisations to drive positive change in the way that migrant workers are recruited. Together, LGRR's aim is bold: the total eradication of fees being charged to workers to secure employment. Members: The Coca Cola Company, GE, Hewlett Packard Enterprise, HP, IKEA,

Institute for Human Rights and Business (Secretariat), Interfaith Center on Corporate Responsibility (ICCR), IOM, Marks & Spencer, Mars Incorporated, TESCO, Unilever, VERITE, Vinci, and Walmart.
<https://www.ihrb.org/employerpays/leadership-group-for-responsible-recruitment>

Tips for further reading

The European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI)
<http://www.heuni.fi/en/index.html>

International Labour Organization
<http://www.ilo.org/global/topics/labour-migration/lang--en/index.htm>

Special Rapporteur on the human rights of migrants
<http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/SRMigrantsIndex.aspx>

Ministry of Economic Affairs and Employment, Työ- ja elinkeinoministeriö: Yritykset ja ihmisoikeudet.
<http://tem.fi/yritykset-ja-ihmisoikeudet>

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Available at: https://www.alliance87.org/global_estimates_of_modern_slavery-forced_labour_and_forced_marriage.pdf

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Available at: <http://unesdoc.unesco.org/images/0014/001435/143557e.pdf>

World Bank 2016: Migration and Remittances Factbook 2016 – Third edition. World Bank, Washington, D.C.
Available at:
<https://openknowledge.worldbank.org/bitstream/handle/10986/23743/9781464803192.%20pdf?sequence=3&isAllowed=y>

Valleala Aija, 2015: Suomen lainsäädäntö, kansainvälinen liiketoiminta ja ihmisoikeudet. Työ- ja Elinkeinoministeriö.
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FIBS is Finland's leading corporate responsibility network. We help companies in making better business now and in the future: we provide information on new innovative ways to develop business and offer a unique chance to network and share practices with companies from different sectors as well as with other organizations. Our services include seminars, workshops and other events, education and development projects, newsletters and publications.

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International Organization for Migration (IOM) is the leading inter-governmental organization in the field of migration. It works closely with governmental, intergovernmental and non-governmental actors to promote humane and orderly migration for the benefit of all. IOM has 169 member states, a further 8 states holding observer status and offices in over 100 countries. Finland has been an IOM Member State since 1991 and the Country Office opened in 1993. **The IOM Country Office in Finland** is responsible for implementing a wide range of migration-related activities in Finland and Sweden, as well as supervising IOM offices in Denmark and Estonia. The office in Helsinki currently has about 40 staff members.

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