EUROPEAN SOCIAL CHARTER

(CM/27868 - 22.24)

SEVENTH PERIODIC REPORT OF THE GOVERNMENT OF FINLAND

For the period of 1 January 1999 to 31 July 2001 in accordance with Article 21 of the European Social Charter, on the measures taken to give effect to the accepted hard core provisions (Articles 1, 5, 6, 12, 13, 16 and 19) of the European Social Charter, the instrument of approval of which was deposited on 29 April 1991.

In accordance with Article 23 of the Charter, copies of the official report in the English language have been communicated to the Central Organisation of Finnish Trade Unions (SAK), the Finnish Confederation of Salaried Employees (STTK), the Confederation of Unions for Academic Professions in Finland (AKAVA), the Confederation of Finnish Industry and Employers (TT) and the Employers' Confederation of Service Industries (PT), whose comments will be forwarded to the Secretary General on 28 September 2001 at the latest.

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ARTICLE 1

THE RIGHT TO WORK

Article 1, para. 1: Level of employment

Apart from the information given below, the Government refers to the Report on the implementation of the ILO Convention No 122 (2000) and to Finland's National Action Plan for Employment (Appendices 1 and 2).

Question A. Policy followed in attempting to reach and maintain full employment

Measures taken to achieve as high and stable a level of employment as possible

Prime Minister Paavo Lipponen's second Government programme sets as objectives a stable economic growth and improvement of the employment situation. For this purpose the Government aims at carrying out reforms that would render the markets for goods, capital and labour more effective. Reforms of taxation and social benefits aim at increasing private initiatives and employment.

The employment situation has already improved due to the reduced rates of taxes relating to the use of labour and the reforms taxation and social benefits which were introduced during the term of office of the previous Government. According to a study made, incentives introduced in 1996 – 1998 increased the supply of labour at the level national economy by approx. 30,000 man-years.

The taxes on income were reduced by some FIM 2.4 milliard in 2000, of which the share of taxes on earned income was FIM 1.7 milliard. The tax reductions included in the 2001 budget will be targeted in particular at persons with small income. In December 2000, a centralised income policy agreement was concluded for 2001-2002, providing for raises to be made on salaries during that period of time. The Government also made a commitment to submit a proposal to Parliament for tax reductions in 2002. The said tax reductions, for which the Government proposal is to be submitted to Parliament in late 2001, would not only concern taxes on income but also entail an increased earned income allowance that may be deducted from municipal taxes on earned income. The reductions would favour persons with small income. Furthermore, as a result of the decisions made in 2000, there will be an average raise of 0.5 % in the level of social insurance contributions in 2001. As a consequence, the tax rates on earned income should be approx. 4 % lower in 2002 than they were in 1999 in respect of persons with small income, and approx. 3 % lower in respect of persons with high income.

The budget proposal for 2001 provided for structural measures that would improve the possibilities of long-term unemployed to find work. For the purpose of supporting employment, the right of unemployed persons participating in labour market training to get compensation for the costs of meals and accommodation was extended, and the beneficiaries of labour market subsidies were given a right to discretionary financial assistance for travel costs in case they find work outside of the labour district of their place of residence. Funds have also been reserved for the purpose of carrying out studies of long-term unemployment and for the purpose of assessing the conditions for pension and possibilities of rehabilitation. Specific rehabilitative programmes will be introduced for those unemployed persons who have most difficulties in finding work.

The overall aim of the Finnish Labour Administration, in accordance with the Government programme, is to achieve a level of employment of nearly 70 % by the year 2003. A further aim is to reduce unemployment in an attempt to get as close to full employment as possible.

The Labour Administration aims at 1) ensuring the supply of labour and supporting the demand for labour; 2) developing the working life with a view to increase the professional skills and well-being of workers; 3) increasing incentives at work and preventing exclusion from the labour market; and 4) preventing discrimination and racism and enhancing good ethnic relations in society.

Trend in total employment policy expenditure

In 2000 the State spent approx. FIM 16 milliard on so-called passive benefits paid under employment policy, and approx. FIM 6.6 milliard on so-called active benefits. The employment policy expenditure has been constantly decreasing in the past five years.

Active policy measures

In 2000, approximately 88,200 persons were covered by wage-based employment subsidies, labour market training for adults, labour market subsidies, European Social Fund (ESF) projects relating to Objective 3, job alternation leaves, national employment-based investments or employment-based investments of the European Regional Development Fund (ERDF) (see Table 1 below). The corresponding figure in 1999 was 102,500 persons.

Table 1. Average level of measures of labour market policy in the years 1999 and 2000

Measures	1999 Average number of persons	2000 Average number of persons
Wage-based subsidised employment*	35,800	26,900
Combined subsidy*	9,350	12,200
Labour market training for adults*	27,850	24,050
Practical training with the support of labour market subsidies*	10,100	9,300
ESF projects relating to Objective 3	13,700	9,350
Job alternation leaves	4,600	5,400
National employment-based investments	750**	700**
Employment-based investments of ERDF	300**	300**
IN TOTAL	102,500	88,200

*excluding ESF projects
** estimated figure
Source: Ministry of Labour, Employment service statistics

In addition there were approx. 3,000 persons, mainly other than unemployed, covered by ESF projects relating to Objective 4, employment-promoting project subsidies and ESF projects relating to Objectives 2, 5b and 6. In total, there were 211,300 new beneficiaries of labour market measures in 2000 (see Table 2 below).

Table 2. New beneficiaries of labour market measures in 1991 – 2000 (including ESF projects)

Year	Subsidised employment	Labour market training	Subsidised practical training	Job alternation leaves	In total
1991	106,500	51,900	-	-	158,400
1992	130,600	73,000	-	-	203,600
1993	141,300	70,000	-	-	211,300
1994	169,800	81,700	14,500	-	266,000
1995	141,300	93,100	21,100	-	255,500
1996	129,000	118,500	34,100	4,200	285,800
1997	121,500	134,300	36,100	6,000	297,900
1998	105,700	111,100	38,100	7,000	261,900
1999	88,900	119,200	38,100	8,400	254,600
2000	78,400	88,600	34,600	9,700	211,300

Source: Ministry of Labour, Employment service statistics

Target regions. Measures of labour market policy have contributed to the adjustment of regional differences in unemployment rates. In 2000, approx. 3 % of the labour force benefited from such measures in southern Finland, whereas the corresponding figure was 7 to 8 % in Lapland and Kainuu. In the same year, approx. 11 % of the labour force in Kainuu were either unemployed jobseekers or beneficiaries of labour market measures (including persons entitled to unemployment pension), and the corresponding figure in southern Finland was 30 to 32 %.

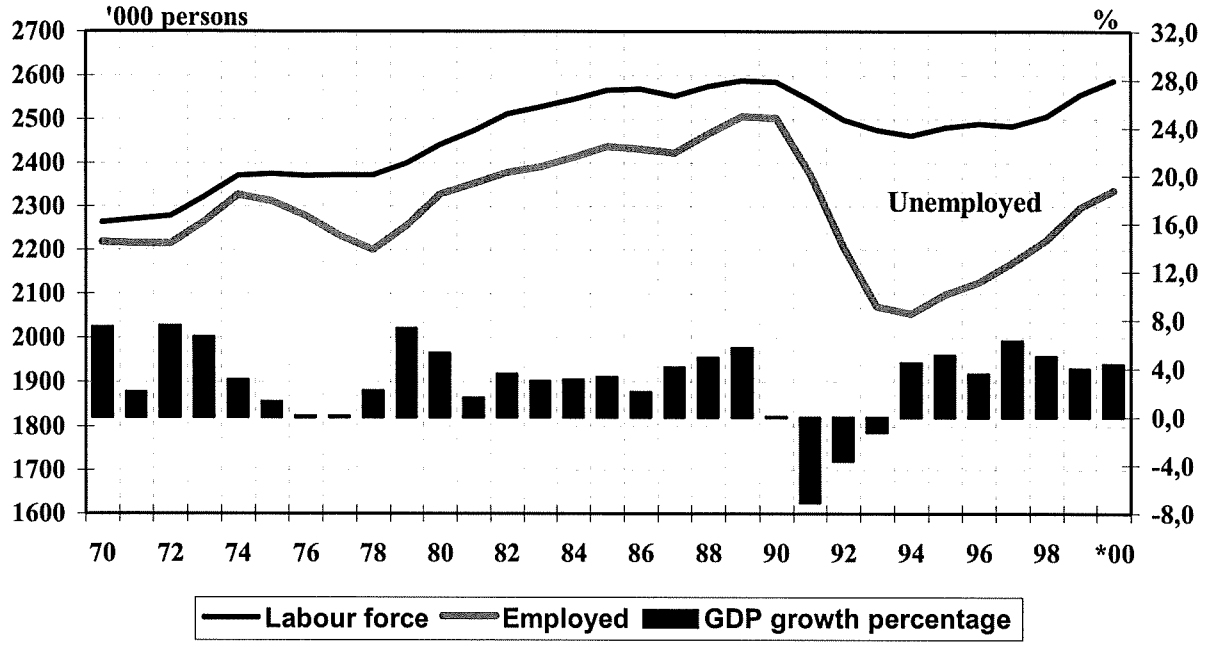
Beneficiaries. Approximately 20 % of the labour market measures were targeted at the long-term unemployed, i.e. at persons who had been unemployed at least for a year without interruptions, and 4.6 % at immigrants. Of the labour market training, 17.3 % was targeted at the long-term unemployed and 13.5 % at immigrants. Measures were also taken in respect of other groups of persons who have it especially difficult to find work, such as persons whose capability for work has reduced and ageing persons.

Question B. Trends in employment

Demand for labour

In 2000, the labour force in Finland consisted of approx. 2,335,000 persons, of whom 2,016,000 were salaried workers and 319,000 were private enterprisers or their family members. When compared with the year 1999, the labour force increased by nearly 40,000 persons (1.7 %). Despite the rapid economic growth, the increase of the labour force was slower than in 1999 when it increased by 74,000 persons (3.3 %). Of the net increase of the labour force, 30,000 persons were full-time workers and 9,000 part-time workers. The demand for labour force increased in the entire country but approx. 85 % of the new jobs emerged in the Provinces of Southern and Western Finland.

Figure 1. Labour force, employed persons, the unemployed and the change of the GDP in the years 1970 - 2000



Source: Statistics Finland: Labour Force Survey and OECD

The employment rate (of persons between 16 and 64 years of age) increased from 66 % (1999) to 66.9 % in 2000.

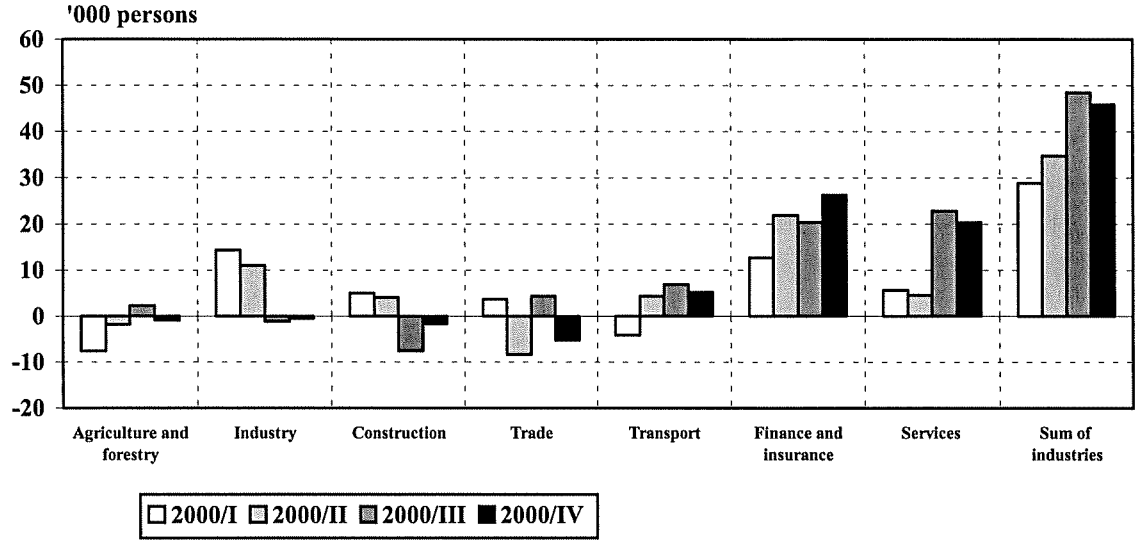
The increase of the employment rate between 1999 and 2000 was the fastest in the district of the Employment and Economic Development Centre of Ostrobothnia. In Southern Finland the increase was the same as the average increase in the entire country (+ 0.9 %). There was only a modest increase in Lapland but Kainuu was the only area where the employment rate decreased.

The development of the employment situation in 2000 was characterised by the incompatibility between the qualifications of unemployed job-seekers and unfilled vacancies. On the one hand, due to the continuing strong growth of information technology, large numbers of vacancies emerged in the sectors of electronics and electro-technical industries and other sectors of high technology where the recruitment of new employees was also difficult. On the other hand, the number of unemployed persons who actually found employment in these expanding sectors of industry was even smaller than before. Thus the unemployment only decreased to some extent, and a considerable part of the new employees were recruited by means other than with the help of employment agencies. There was mainly demand for workers with specific professional skills. Apart from the lack of skilled workers in the field of technology, there were also problems in the availability of labour within certain other professions with a lower education in 2000.

In 2000, most vacancies emerged in the private sector where the number of employees increased by 37,000 persons from 1999. In the public sector the corresponding increase was 2,000. Thus, the total number of salaried workers increased by 41,000, whereas the number of private enterprisers decreased by 2,000.

As regards specific industries, the employment situation improved most in the fields of finance and insurance and trade, where the number of jobs increased by 20,000. As regards the field of services, the increase was 13,000, whereas it was 5,000 in the field of industry and 3,000 in the field of transport. In the fields of trade and construction the number of jobs remained nearly the same but the number of jobs in the field of agriculture decreased by 2,000.

Figure 2: Changes in the number of employed persons by industry in 2000 compared to the corresponding quarters of the previous year



Source: Statistics Finland: Labour Force Survey

On the average, some 286,000 persons had part-time jobs (either permanent or temporary) in 2000, which is 12.3 % of the working population. In 1999 the corresponding figure was 277,000 (12.1 %). A significant factor which has contributed to the increased number of part-time jobs is the increased use of part-time pension in the past few years. The possibility of workers to take advantage of part-time pension has been made easier by dropping the age limit temporarily down to 56 years of age (instead of the normal 58 years).

The number of persons with temporary employment contracts was approx. 332,000 in 2000, which is 16.5 % of the working population. The number of employees with temporary employment contracts was approximately the same as in 1999 but the share of such employees of the entire working population decreased from the earlier 17 %. The number of temporary positions includes the summer jobs of pupils and students. As regards employment relationships which had continued less than one year, the share of temporary positions was 52.3 % and that of permanent ones 47.7 %. The share of permanent positions has clearly increased, as the corresponding figures were 54.2 % and 45.8 % in 1999.

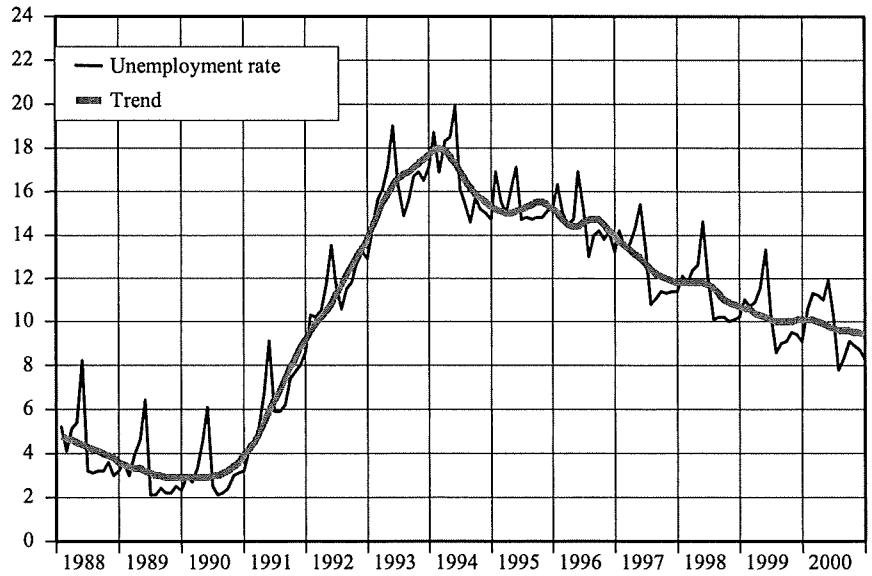
Supply of labour

In 2000, the labour force consisted of approx. 2,588,000 persons, increasing by 31,000 from that of 1999. The increase was clearly smaller than in 1999 when the supply of labour increased by approx. 50,000 persons. The share of men was 52 % and that of women 48 % in 2000. The supply of labour increased both in the group of persons under 25 years of age (+ 3 %) and in the group of persons between 50 and 64 years of age (+ 6.7 %), but reduced in the group of persons between 25 and 49 years of age (- 1.1 %). Of the entire population at a working age (15 to 64 years), 74.2 % were part of the labour force. This figure is 0.5 % higher than in 1999. The supply of labour increased mostly in those regions where the growth of the information technology has been rapid, such as Southern Finland, South-Western Finland, Tampere Region and Ostrobothnia. The net increase in the number of persons moving into these areas partly contributed to the general increase of the supply of labour.

Development of unemployment

According to a study made by Statistics Finland, the number of unemployed persons was 253,000 in 2000, that is 8,000 less than in 1999 (- 2.9 %). Despite the stronger economic growth, the decrease in the unemployment rate was weaker than in 1999 when the corresponding decrease was 24,000 persons (- 8.6 %). The average unemployment rate was 9.8 % in 2000, whereas it was 10.2 % in 1999 (see Figure 3 below). Furthermore, there were approx. 113,000 unemployed persons who do not show in the statistics, and whose share of the labour force is 4.4 %.

Figure 3. Unemployment rate in Finland, %



Source: Statistics Finland, Labour Force Survey

According to the employment service statistics maintained by the Ministry of Labour, approx. 321,100 unemployed job-seekers were registered with an employment agency in 2000, which is

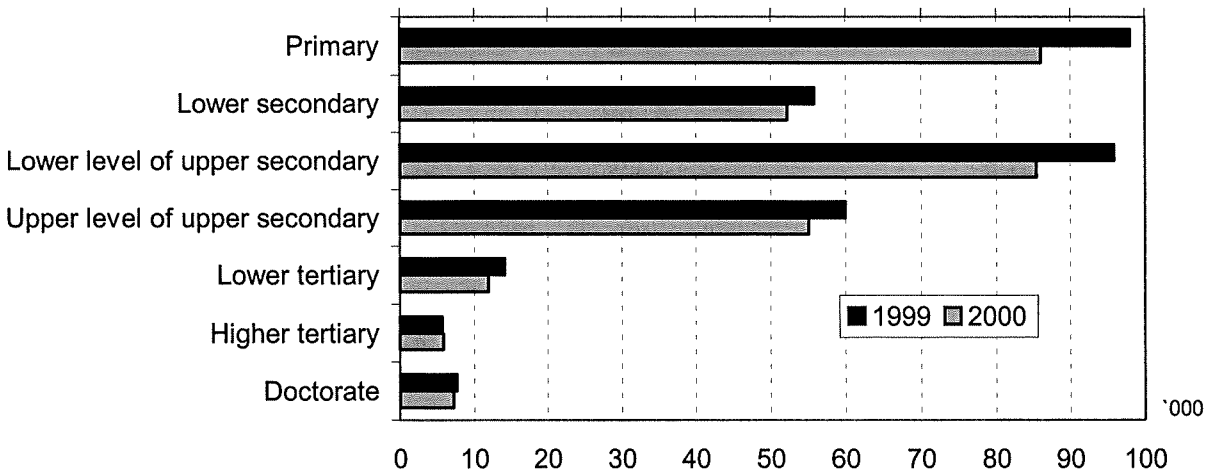
27,000 less than in 1999 (- 7.8 %). The corresponding decrease was 24,000 persons in 1999, which means that the unemployment rate decreased slightly faster in 2000.

The unemployment rate decreased in the districts of all Employment and Economic Development Centres. The decrease was strongest in Southern Finland (- 12 %) where the share of unemployed job-seekers from the labour force was 7.9 %. In the districts of other Employment and Economic Development Centres the number of unemployed job-seekers decreased by 5 to 9 %, with the exception of Kainuu where the decrease only amounted to 1.5 % and where the share of unemployed job-seekers from the entire labour force was 21.1 %. Also Lapland and Nothern Carelia have high unemployment rates. In general, the northern and eastern parts of the country suffer most from unemployment.

Structure of unemployment

Unemployment by the level of education. Persons with a low level of education suffer most from unemployment. As is shown by Figure 4, the majority of unemployed job-seekers have either primary or lower secondary, or lower level of upper secondary education. These groups contained nearly 227,000 unemployed job-seekers in 2000 and their share of all the unemployed (excluding lay-offs) was 73.4 %. The corresponding figure in December 1999 was nearly 250,000 persons but their share of all the unemployed was slightly smaller, i.e. 72.9 %. Thus the number of unemployed job-seekers within these groups of persons decreased by some 23,000. Between December 1999 and December 2000, the number of unemployed job-seekers (excl. lay-offs) decreased by 33,700. When taken by region, there were most unemployed persons with only primary school education in Southern Savo, Northern Carelia and Satakunta. Most of the unemployed persons with university education reside in the southern parts of the country and in university towns.

Figure 4. Unemployed jobseekers (excl. lay-offs) by education in December 1999 and 2000

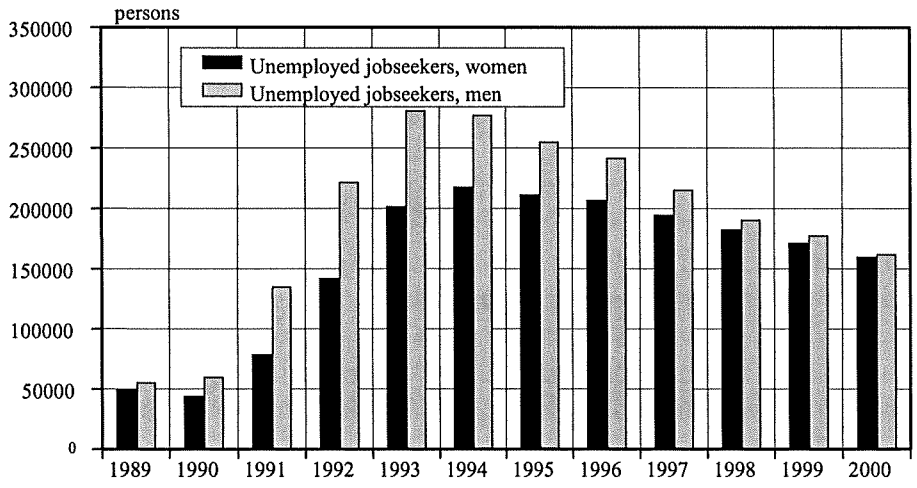


Source: Ministry of Labour, Employment service statistics

Unemployment by sex. The rapid growth of industrial production, services and construction in the second half of the 1990's, after the economic recession, has reduced the unemployment of men more than that of women. At the same time, however, the differences in the structure of unemployment between women and men have diminished. In 2000, there were 159,000 women and 162,000 men seeking jobs. According to the study made by Statistics Finland, the average number of unemployed women was 131,000 and that of unemployed men was 122,000. Considering, however, that the total supply of female labour force is smaller than that of men, it may be considered that the relative unemployment rate of women is clearly higher (10.6 %) than that of men (9.1 %).

The unemployment of women has to a significant extent been affected by the continuously weak development of employment in the public sector and certain other female-dominated fields of services. The position of women on the labour market has further been weakened by the increase of atypical employment contracts in these sectors, contributing e.g. to increased seasonal unemployment of women in the municipal administration.

Figure 5: Unemployed jobseekers by sex in the years 1989-2000



Source: Ministry of Labour, Employment service statistics

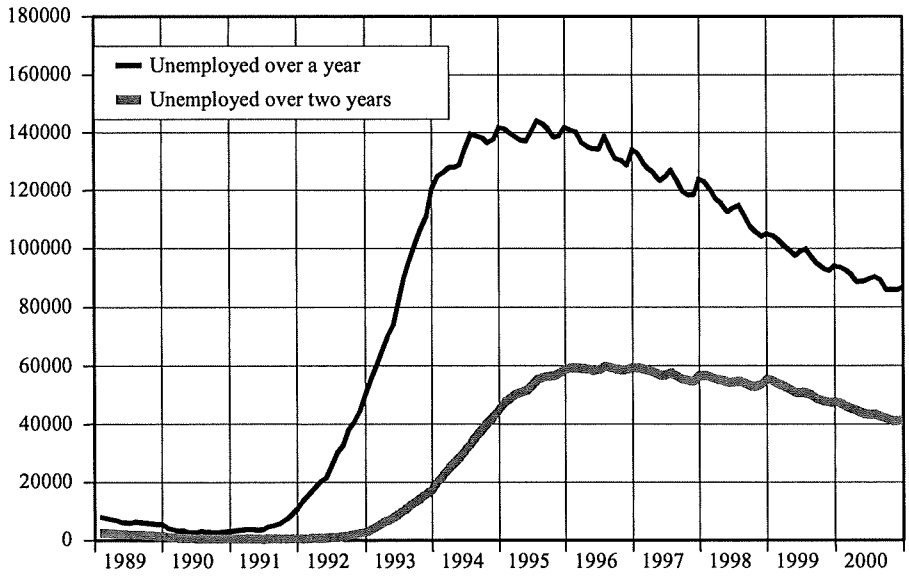
Long-term unemployment. The average number of long-term unemployed persons, i.e. those who had been uninterruptedly out of work for over a year, was 89,000 in 2000. The number had decreased by 9,000 persons (-9 %) from 1999. Of all the long-term unemployed, 43,500 persons had been uninterruptedly out of work for at least two years. Their number decreased by 7,100 from 1999 (Figure 6). The decrease in the number of long-term unemployed was most visible in this group, which is mainly a consequence of the increase in the number of those persons who had been employed with the support of combined subsidies.

The group of the long-term unemployed does not consist of the same persons each year, but the turnover within this group is relatively high. According to employment service statistics, the long-term unemployment ended in respect of 83,000 persons in 2000. However, at the same time 77,000 new long-term unemployed persons were registered. In 1999, the long-term unemployment ended

in respect of approx. 90,000 persons, whereas 80,000 new long-term unemployed persons were registered.

As regards unemployment lasting more than a year and consisting of several periods of unemployment, i.e. recurrent unemployment, the decrease was nearly as rapid as that of uninterrupted long-term unemployment. In 2000, the average number of persons registered as long-term or recurrently unemployed, i.e. the number of those persons who had, during the latest 16 months, been repeatedly or uninterruptedly out of work for more than one year, was 141,300. The number was approx. 12,000 less (-18 %) than in 1999.

Figure 6. Long-term unemployment job seekers in the years 1989-2000, monthly data



Source: Ministry of Labour, Employment service statistics

Unemployment among the ageing population. The development of the employment situation during the strong economic growth has been the weakest among the ageing population. In 2000, the decrease in the unemployment of ageing persons was still relatively weak. The average number of unemployed job-seekers of at least 50 years of age, registered with employment agencies, was 102,500, i.e. 3,000 less than in the previous year (Figure 7). The number of such unemployed ageing persons has only decreased by 8,300 (-7.5 %) since 1997 when their number was at its highest. The number of all unemployed job-seekers has decreased by 87,800 (-21.5 %) during the same period of time. However, the rapid economic growth has not increased such a demand for labour as would reduce the unemployment of the ageing population. (Table 3 illustrates the unemployment in relation to the measures taken by age group.)

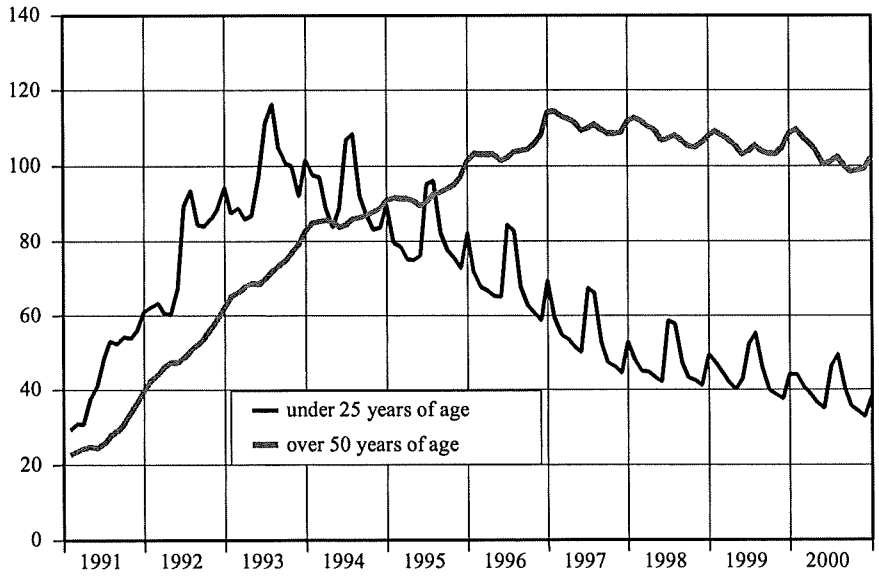
The unemployment of the ageing population has developed to various degrees in different regions. In 2000, the unemployment of persons over 50 years of age decreased most in Southern Finland (-7 %) and Häme (-5 %) where the unemployment rates of this age group were the highest. In the regional districts Northern Carelia and Kainuu the unemployment of ageing persons increased to some extent.

Unemployment among young people. On the one hand, according to the study made by Statistics Finland, the average number of young (between 15 and 24 years of age) unemployed persons was 71,000 in 2000, which is 2,000 persons less than in 1999. The unemployment rate of young people was 21.4 %. It decreased from the previous year merely by 0.1 %. The decrease in youth unemployment was weaker than in 1999 when it decreased by 2 %.

On the other hand, according to the employment services statistics of the Ministry of Labour, the average number of young unemployed job-seekers registered with employment agencies in 2000 was 39,300 (see also Table 3). The number of young unemployed persons decreased from 1999 by nearly 5 000 persons (-11.1 %), which was slightly more than in 1999. The differences between the youth unemployment figures based on the employment service statistics and those given by Statistics Finland are due to differences in definitions. Unlike in the employment service statistics, the study carried out by Statistics Finland also covers such full-time pupils and students as are classified unemployed.

The decrease in the unemployment of young persons (Figure 7) is mainly a consequence of the fact that in the late 1990's, the growth of information technology has had a strong contributory effect on the youth employment situation. The new information technology has created new jobs which are especially suitable for young people. Furthermore, the opinion according to which young people are better capable than the older employees of understanding and adapting to the requirements of the new jobs created by the so-called new economy has been fairly widespread on the labour market.

Figure 7. Unemployment by age in the years 1991-2000, monthly data



Source: Ministry of Labour, Employment service statistics

The unemployment among young people decreased most in the region of Uusimaa where the decrease amounted to 20 %. In Northern Ostrobothnia, which suffers from the most severe unemployment of young people and where the share of persons under 25 years of age of all the unem-

ployed was as high as 16.4 %, the number of unemployed young persons nevertheless decreased by over 10 %. The unemployment of young people decreased least in the region of Kainuu where the decrease was only about 2 %.

Table 3. Unemployed jobseekers registered with employment agencies (excl. lay-offs) and persons employed with wage-based subsidies by age at the end of December 2000

Age	Unemployed jobseekers	Average duration of unemployment (weeks)	Long-term unemployed	Share (%) of long-term unemployed of the total number of unemployed	Persons employed with wage-based subsidies*	Persons in labour market training**	Share (%) of the age group of the total number of unemployed
< 20	10,313	11	90	1	4,512	695	3.3
20-24	27,953	15	1,380	5	7,727	3,405	9.1
25-29	28,526	24	3,461	12	4,872	3,310	9.2
30-34	32,152	31	5,483	17	5,444	3,729	10.4
35-39	34,604	35	7,006	20	5,750	3,862	11.2
40-44	35,234	40	8,155	23	5,778	3,717	11.4
45-49	37,593	46	9,853	26	5,779	3,264	12.2
50-54	39,992	52	11,948	30	5,966	2,595	13.0
55-59	50,724	107	30,609	60	3,096	694	16.4
60-64	11,624	117	7,320	63	194	55	3.8
> 64	103	141	82	80	0	1	0.0
In total	308,818	50	85,387	28	49,118	25,327	100.0

*Including subsidised practical training
** Excluding students registered as a group (for training to be given during lay-offs).
Source: Employment exchange statistics maintained by the Ministry of Labour

Question C. Trend in the number and the nature of vacant jobs

There were a total of 302,000 vacancies in 2000, whereas the corresponding figure in 1999 was 264,600. A large majority of the new jobs emerged in Southern Finland, and in the rapidly expanding sectors of electronics and electro-technical industries.

Committee's conclusions

The Committee has noted that in spite of the diversity of temporary measures and assistance schemes, in some cases these measures have had a relatively limited impact and have not achieved the objectives set for reducing the number of unemployed in each category. The Government observes that, in the light of statistics, approx. one third of the persons who have benefited from labour market measures have found employment on the open labour market within a short period of time (3 months). However, the problem is that these persons seldom find a stable job. It is quite usual that unemployed persons who have been benefited from labour market measures and found

employment, later need such measures again. In the past ten years, approx. two and half million labour market measures of various kinds have been applied. It is obvious that part of these measures often concern the same persons. It is unfortunate that active labour market policy has not been able to ensure permanent employment.

The Committee has also asked to be informed of the impact of the Act on the Integration of Immigrants and Reception of Asylum Seekers (493/1999) on employability. The Government notes that the unemployment of immigrants has decreased. In 2000, there were approx. 22,000 foreign jobseekers of whom 13,100 were registered as unemployed. The corresponding figures in 1999 were 21,800 and 13,900. In accordance with the said Act, immigrants have also increasingly benefited from active labour market measures.

A committee has been set up for the purpose of monitoring the implementation of the Act on the Integration of Immigrants and Reception of Asylum Seekers. The committee shall assess the impact of the measures taken by virtue of the Act, on the integration of immigrants into Finnish society. The committee will complete its work by 31 January 2001.

Article 1, para. 2: Right of the worker to earn his living in an occupation freely entered upon

Apart from the information given below, the Government refers to the Reports on the implementation of the ILO Conventions Nos. 29, 98, 105 and 111, given in 1999 and 2000 (Appendices 3 – 6).

Elimination of all forms of discrimination in employment

Question A. Legislative or other measures taken to ensure the elimination of all forms of discrimination in employment and to promote effectively equal opportunities in seeking employment and in taking up an occupation

The legislative provisions concerning the principle of equality and prohibition of discrimination play an important role in the system of protection of fundamental rights in Finland. According to section 6 of the Finnish Constitution (731/1999), "everyone is equal before the law". Furthermore, "no one shall, without an acceptable reason, be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns his or her person." However, the list of prohibited grounds for different treatment provided in the Constitution is not exhaustive.

The Employment Contracts Act (320/1970) contained a general provision on the prohibition of discrimination and requirement of equal treatment. Under section 17(3) of the Act, the employer shall treat all the workers equally, without discrimination on account of origin, religion, age, political or trade union activity or other comparable reason. This requirement also concerns recruitment (paragraph 4 of section 17). The general prohibition of discrimination is supplemented by other more specific provisions, such as section 37(2) and (5) concerning dismissal, section 43(3) concerning termination of employment, and section 52 concerning the freedom of association.

Apart from the earlier provisions, the new Employment Contracts Act (55/2001) contains even more detailed provisions on the prohibition of discrimination and requirement of equal treatment.

The Seamen's Act (423/1978), the State Civil Servants Act (750/1994) and the Act on the Security of Employment of Municipal Office-Holders (484/1996) also contain specific provisions on the

prohibition of discrimination. Discrimination on account of sex is prohibited in the Act on Equality between Women and Men (609/1986).

Chapter 11, section 9 of the Finnish Penal Code contains a general provision prohibiting discrimination. The provision concerns discrimination that takes place in the victim's trade or profession, service of the general public, exercise of official authority or other public function or in the arrangement of a public amusement or meeting, without a justified reason. 1) Refusal of service in accordance with the generally applicable conditions; 2) refusal of entry to or removal from public amusement or meeting; and 3) placement of someone in an unequal or an essentially inferior position, are considered discrimination within the meaning of the Penal Code where they take place because of the person's race, national or ethnic origin, colour, language, sex, age, family ties, sexual preference, state of health, religion, political opinion, political or professional activity or another comparable reason. Persons guilty of discrimination shall be sentenced to a fine or to imprisonment for at most six months.

In case the act of discrimination fulfils the elements of discrimination in employment, it shall be punished under a special provision contained in Chapter 47, section 3 of the Penal Code. Under the said provision, an employer, or a representative thereof, may be found guilty of discrimination if he or she without an important and justifiable reason puts a job-seeker or an employee in an inferior position when announcing vacancies or recruiting employees, or during employment, because of 1) race, national or ethnic origin, colour, language, sex, age, relations, sexual preference or health; or because of 2) religion, political opinion, political or professional activity or a comparable reason. This provision of the Penal Code also applies to measures violating the prohibition of discrimination and the principle of equal treatment provided for in section 17(3) and (4) of the Employment Contracts Act (320/1970). The applicable penalties for discrimination in employment are the same as for the offence of discrimination.

Furthermore, Finland is bound by the provisions of the relevant legislative acts of the European Communities which were strengthened by the entry into force of the Treaty of Amsterdam. According to existing Article 13 of the Treaty establishing the European Community, "the Council... may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation", within the limits of its powers. The implementation of the provisions of Council Directives - Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of race or ethnic origin, and Council Directive 2000/78/EC of 27 November 2000 establishing general framework for equal treatment in employment and occupation - requires amendments to the existing labour legislation in Finland.

The Advisory Board for Ethnic Relations, which was set up under the auspices of the Ministry of Labour for a three-year period in 1998, is a forum for the promotion of interaction between the Finnish authorities, social partners and non-governmental organizations and ethnic minorities. The members of the Advisory Board include representatives of immigrants and ethnic minorities, Ministries, the Association of Finnish Local and Regional Authorities and the most significant trade unions.

The Advisory Board is a consultative body which drafts proposals for measures and submits opinions on questions relating to immigration policy and ethnic relations. The Advisory Board shall seek to find compromises for differing views and aim at promoting good governance by its proposals and opinions, as well as taking advantage of the expertise provided by the immigrants and ethnic minorities.

Of the different working methods of the Advisory Board, the preparation and planning taking place in its subordinate divisions is of great significance. In 2000 the Board consisted of seven divisions.

The Advisory Board for Ethnic Relations, in its current form, has only operated for a short time, and has therefore not been able to fully participate in the preparation of projects concerning immigrants and ethnic minorities.

The Government has submitted a Bill (HE 25/2001) to Parliament for the amendment of the Act on the Integration of Immigrants and Reception of Asylum Seekers. The Government suggests, *inter alia*, that the integration programmes to be drafted by the municipal authorities in cooperation with other local bodies should include provisions on the promotion of ethnic equality and good ethnic relations.

Question B. Methods adopted

a) Co-operation of employers' and workers' organisations and other appropriate bodies

The above-mentioned Directives 2000/43/EC and 2000/78/EC place the Member States under an obligation to promote social dialogue.

b) Educational efforts

Workers may, irrespective of nationality, use the services of the labour administration and benefit from other labour policy measures in the same way as other citizens. There were 9,867 foreign nationals in 2000 and 9,590 in 1999, participating in labour market training. After the entry into force of the Act on the Integration of Immigrants and Reception of Asylum Seekers (493/1999), the possibilities of immigrants to benefit from labour policy measures and integrate into working life have increased.

Persons whose capability for work has reduced may also use the services and benefit from various measures, as well as enter the working life, in the same way as other citizens. Discrimination on account of disability is prohibited in the Finnish Constitution, the Penal Code and the Employment Contracts Act. The Government of Finland is also preparing the national implementation of Council Directive 2000/78/EC establishing general framework for equal treatment in employment and occupation. The directive prohibits e.g. discrimination on the basis of disability in employment and occupation.

A majority of jobseekers with reduced capability for work, in total more than 36,000, were placed on the open labour market without active measures to that effect. The number of persons entering labour market training in 2000 was somewhat smaller than in 1999. A total of 16,000 persons with reduced capability for work were placed in employment with the support of wage-based subsidies and other labour market measures, of which 12,000 were new cases.

Table 4: Jobseekers with reduced capability for work and active labour market measures in 2000 (in 1999)

Jobseekers with reduced capability for work	83,015 (80,071)
- of whom unemployed (total number/ year)	68,692 (66,575)
Placement on the open labour market without	36,381 (32,237)

active measures	
Entered labour market training (incl. ESF)	8,248 (9,335)
Entered other training	1,329 (1,436)
Employment with the support of wage-based subsidies and other labour market measures	12,386 (12,152)
Active measures in total	58,344 (55,157)

Ethnic equality in employment – training. In 2000 – 2001 the Ministry of Labour arranged five seminars the purpose of which was to create a network of contact persons for the promotion of ethnic equality, and to increase the knowledge of the contact persons in questions concerning ethnic relations. Approximately 30 persons representing the labour administration, municipalities, occupational safety authorities and organisations participated in the training. The training aimed at increasing the capability of the participants to identify and intervene in cases of discrimination in their own workplaces. The issues addressed included e.g. the participants' own prejudices and those of other persons they worked with, discrimination from a legal point of view, multiculturalism in working life and conciliation practices.

Materials and web pages were produced as a result of the above-mentioned training, information and copies of which will be disseminated in the autumn of 2001. The aim is that the contact persons will be able to update their skills each year in further seminars. The network may also provide local training, and it serves as a consultative body for the purposes of two planned EU projects.

The Ministry of Labour has published a brochure giving account of the regulations concerning the prohibition of discrimination in employment. The purpose of the brochure is to provide an overview of the most relevant legislative provisions and regulations, in order to ensure an equal treatment of jobseekers and workers and to protect them at work.

Question C. Guarantees which prevent discrimination

See information given in respect of Question A.

The Government further observes that the above-mentioned Directives will be implemented in co-operation between the social partners.

Prohibition of forced labour

Questions D to F

No changes since the previous periodic report.

Question G

The Government refers to the report on the implementation of ILO Convention No 29, given in 2000 (Appendix 3).

Committee's conclusions

The Committee has requested more details on the effects of *the part-time pay supplement scheme* and on any measures taken to achieve a more balanced gender participation. The Government notes that no precise data has been collected concerning persons using the part-time pay supplement scheme. The Ministry of Labour maintains statistics on job-seekers in general as well as on labour market measures taken for their employment, such as the part-time pay supplement. There is very little information on persons who have shifted from full-time to part-time work under the part-time pay supplement scheme as they are not job-seekers, and no specific measures have therefore been taken in respect of them. It may nevertheless be concluded from the statistics concerning the persons substituting for those who have shifted to part-time work that the scheme has mostly been resorted to in the municipal sector – in the fields of social welfare and health care, services and education. No studies have been made of the purposes for which the scheme has been used.

There were 9,483 persons in 1999, and 6,382 persons in 2000, who shifted from full-time to part-time work under the part-time pay supplement scheme. Of these persons, 91 % were women, and in most cases middle-aged women. In 2000, 22 % of the women who resorted to the scheme were 35 to 39 years, 23 % were 40 to 44 years and 21 % were 45 to 49 years old. Persons over 60 years of age and those under 20 years of age were least active in using the scheme. As regards men, the age distribution was to a large extent similar. Considering that the part-time pay supplement scheme is a voluntary arrangement, it has not been found necessary to try and affect the gender distribution of the persons using the scheme.

The persons who have been employed to substitute for those who have shifted from full-time to part-time work have usually been young and have been unemployed for a short time only, and would have probably found employment even without the scheme. In order to increase the effectiveness of the scheme as a labour policy measure, the Ministry of Labour set an objective at the beginning of 2000 to create jobs in particular for ageing and long-term unemployed persons. The conditions for the use of the part-time pay supplement scheme were amended so that the persons recruited to substitute for those shifting to part-time work should in the first place be persons over 55 years of age, or persons who have been registered as unemployed job-seekers for at least five months in the past six months' period. A further aim of the part-time pay supplement scheme is to enhance the well-being of workers and thereby postpone their retirement. According to feedback received from employment agencies, the interest in the scheme has not reduced but there have been problems in finding suitable substitute workers fulfilling the conditions for the use of the scheme.

The Committee has wished to be informed of the results of the Programme of Action relating to racism and ethnic discrimination. On 22 March 2001 the Government passed a Resolution concerning an Action Plan to combat Ethnic Discrimination and Racism (see Appendix 7). Under the original schedule, the Action Plan was planned to be published in 2000. The measures relating to the Action Plan focus on the local level but there are also certain measures to be taken at the national and regional levels. The Action Plan was made for the years 2001 – 2003.

On 1 January 2000, the Ministry of Labour and the Finnish League for Human Rights agreed for the first time on a project called "Monitoring of Racism and Ethnic Discrimination". The agreement was renewed at the beginning of 2001.

The Finnish League for Human Rights monitors racist incidents and compiles and analyses data produced by the relevant international and national bodies. The League provides training, information and advice to public authorities, non-governmental organisations and the media, and produces each year a "Report on the appearance of racism and ethnic discrimination in Finland". The report

concerning the year 2000 is available on the web site of the League at http://www.ihmisoikeusliitto.fi.

Furthermore, the Finnish League for Human Rights cooperates with the European Monitoring Centre on Racism and Xenophobia (EUMC) and serves as the National Focal Point in Finland.

The Committee has asked that precise details on the practice applied by the Finnish Seamen's Union, in respect of the use of foreign workers aboard Finnish ships, be included in the report. The Central Organisation of Finnish Trade Unions (SAK) has provided the Government with information on the reasons behind this practice. The Finnish Seamen's Union does recognise the principle of free movement of labour both between the Member States of the European Union and between the territories of Contracting Parties to the European Social Charter. However, in the opinion of the Union, restriction of the use of cheap labour aboard Finnish ships by means respecting the principle of non-discrimination is not contrary to the provisions of the Charter. An example of such restrictions is the requirement of language skills which is of great relevance for the safety aboard. Considering that the working language aboard Finnish ships is usually Finnish or Swedish, the requirement of knowledge of these languages *de facto* restricts the possibilities of foreign nationals to find employment aboard Finnish ships.

The Finnish Seamen's Union also suspects that the Act on the List of Merchant Vessels in International Trade (1707/1991) makes it more difficult to harmonise conditions of work and to ensure the application of uniform conditions of work within the area of the Baltic Sea, including Finnish ships. An employment contract applied to employment aboard a ship falling within the scope of application of the said Act may even be concluded by a foreign trade union, and a dispute concerning the employment of a person covered by such a contract may be submitted to a national court of the state in which the trade union is registered. Such an employment contract may deviate from the otherwise mandatory provisions of the Finnish labour legislation, to the detriment of the worker. The Finnish Seamen's Union observes that the above-mentioned Act makes it possible to continue with a practice of discrimination based on nationality as restricts the right of foreigners to organise and the right of Finnish seamen to collective bargaining.

According to information given to the Government, the collective agreement concluded between the Finnish Seamen's Union and the Finnish Ship-owners' Association does nevertheless not contain provisions on the nationality of seamen working aboard Finnish ships. Nor does it provide for a different treatment of nationals of EU Member States and those of other states. Although the Finnish Seamen's Union does not recognise the use of cheap labour, and aims at the application of uniform conditions of work aboard all ships using Finnish harbours, the Union has no competence to decide on the crew of ships. The applicable provisions concerning the crew of ships and their competence are included in Decree No. 250/1984 and decisions 1019/1999 and 1257/1997of the Ministry of Transport and Communications.

The Committee has also reminded the Government that information on the application (or non-application) of the Emergencies Act (1081/1991) must be provided for each reference period. The Government informs the Committee of that the said Act has not been applied during the reference period.

Article 1, para. 3: Free employment services

Question A. Operation of free employment services

In accordance with the Employment Services Act (1005/1993), the state shall be responsible for the provision and development of employment services for the purposes of supporting the improvement of the professional skills of individual persons and their employment and ensuring the availability of labour to employers. The employment services referred to in the Act include manpower services, vocational guidance, vocational training for adults, educational and professional information services and vocational rehabilitation services.

Public employment services

In 2000, there were 849,300 job-seekers using the services of employment agencies, of whom about half were looking for work because of termination of temporary employment. The number of job-seekers reduced by 41,700 persons from that of 1999. Of the job-seekers, 628,600 were registered as unemployed and 61,600 were on unemployment pension. The corresponding figures in 1999 were 667,500 and 59,100. In 2000, unemployment ended for a total of 921,900 job-seekers ended for various reasons.

An average of 24,100 new vacancies were registered with the employment agencies each month in 2000. During the reference year, a total of 302,000 vacancies were announced, of which about one fourth were in the public sector. The number of vacancies increased by 37,400 from the number in 1999. Of the positions available, 39 % were considered permanent, i.e. the employment had lasted for at least one year, and 25 % of the positions were for 3 to 11.9 months and 36 % for less than 3 months. Some 280,800 vacancies were filled, and in 53 % of the cases the position was given to a job-seeker registered with an employment agency. The vacancies were filled by the planned date in 96 % of the cases (excl. jobs with bonus salaries). This share was one per cent higher than in 1999.

Services provided to job-seekers

Interviews. The employment agencies arrange interviews of job-seekers (initial interview and periodic interviews), for the purpose of establishing the objectives, professional skills, special skills and employment and training opportunities of the jobseeker, as well as for the purpose of agreeing on contacts between the job-seeker and the employment agency. The interviews also aim at assessing the job-seeking skills of the person in question and any other skills that need to be improved, and adjusting or changing the job-seeking plan where necessary.

Job-seeking plans. Each unemployed job-seeker has the right to an individual job-seeking plan and also has a duty to participate in its drafting. There are four criteria applied to the plans. The plan should contain 1) information on the jobseeker's own objectives and plans, 2) a summary of the professional skills of the jobseeker, 3) information on the jobseekers job-seeking skills and activity in the search for work, and 4) information on at least one concrete further measure agreed on. These criteria help the employment agencies to adjust the services provided to the customer and make the job-seeking plans more concrete and clearer.

Vocational guidance. The job-seeker is provided with vocational guidance, including information on the labour market and employment situation within the labour district in question. The job-seeker obtains information on the recruitment practices of employers, and is able to define his or her own professional skills and strengths. The jobseeker is given advice on how to draft job applications and training for job interviews, for the purpose of increasing his or her self-confidence in independent job-seeking.

Compensation for travel costs. Under the Employment Services Act, an unemployed job-seeker, or a job-seeker who is about to become unemployed, may be granted compensation for the travel costs for a journey made for the purpose of visiting the future workplace, concluding an employment contract or beginning the work at the new workplace.

Services provided to employers

National project for the development of services provided to employers. Services are provided to employers in accordance with their individual needs. Solutions are offered upon an assignment given by employers even in cases where they need services other than manpower services. In such a case different alternatives relating to the recruitment of workers and training of existing staff are discussed with the employer. The employer is provided with both basic services free of charge and special services subject to a charge.

Services subject to a charge: manpower planning and temporary provision of manpower. Charges are imposed on services relating to manpower planning and temporary provision of manpower. The purpose of these special services subject to a charge is to supplement the basic services, in accordance with the individual needs of the employers. The marketing of services for which fees are charged is carried out in cooperation with subcontracting (partner) agencies. In 2000, a project was launched for the regularisation of special services, and rules were adopted for the cooperation with partner agencies. There are 34 employment agencies providing manpower planning services.

Private employment and manpower services. In 2000, the Ministry of Labour for the first time carried out a study concerning private manpower services. The questionnaires sent out to the private agencies providing such services concerned the year 1999, and a total of 152 private agencies providing manpower services completed and returned the questionnaire. In the light of the replies, it may be estimated that approx. 14,200 employers had hired temporary staff through the agencies, and the number of such temporary workers was approx. 31,200. However, the study does not provide an adequate basis for making definitive conclusions, but other studies made have shown that the hiring of temporary staff has increased in the past few years.

Development of services provided to employers and job-seekers

Internet and online services. An Internet strategy prepared by the Labour Administration in 2000 makes individual online services possible. As of December 2000, job-seekers have been able to verify their personal data with a user code and a password provided by the employment agency or with a new type of electronic ID card, and to transmit their CV directly to the database of the employment agencies or even submit it online to the employers. The employers have been able to announce their vacancies online for some time already.

The telephone service of the employment agencies received approx. 90,900 calls in 2000. Most callers wished to be informed of vacancies.

Development of individual employment services. An EU financed project called "Incentive Measures", for the purpose of developing individual employment services, was launched in 2000. The project will be completed by 31 August 2001. The purpose of the project has been to develop e.g. online services and to provide a wider range of methods for the provision of services to employers and job-seekers, such as assessment of skills and analysis of needs for services.

EURES. The international employment services of the employment agencies cover the states of the European Economic Area. These services are mainly provided through the European Employment Services (EURES) maintained by the Commission of the European Communities. In Finland these services are provided by all the largest employment agencies which have a total of eighteen EURES advisers trained by the European Commission. There are no accurate data available on the number of persons employed through EURES services because only part of those persons have been registered as job-seekers with employment agencies.

A project initiated by the Ministry of Labour in 1999, for cross-border employment services between Finland and Sweden at the Torniojoki region, was implemented in 2000. The system of services was created in cooperation with the Swedish labour administration, assisted by the local labour authorities.

Question B. Organisation of public employment services

The Labour Administration aims at reorganising the existing 175 employment agencies and 108 other local offices providing employment services. The purpose is to create a more functional regional system in which the number of employment agencies would correspond to the number of persons working in reality within each labour district. An amendment made to the Unemployment Benefits Act (1324/1999), which entered into force at the beginning of 2000, is a significant contribution to the availability of labour. According to the amendment, the Ministry of Labour shall confirm each year, on the basis of preparations made by employment committees, the boundaries of the labour districts of municipalities. A labour district consists of the municipality of residence and those municipalities in which the residents of the given municipality most often work or in which working would be possible within the same time and on the same costs. The amendment aims at creating more consistent labour districts and increasing the mobility of workers within their own labour district. In most cases the new labour districts are larger than earlier.

Question C. Co-ordination of public and private free employment services

Since Finland ratified the ILO Private Employment Agencies Convention No 181 in 1999, a new section 1 a (418/1999) was added to the Employment Services Act (1005/1993), extending the scope of application of certain provisions of the Act to private employment agencies.

Furthermore, a new paragraph (418/1999) was added to section 2 of the Act, relating to cooperation between the Labour Administration and trade unions. According to the new provision, the Labour Administration shall monitor the development of private employment services and request at regular intervals the service-providers, or an association representing them, to submit information concerning such services. The obligation to provide information on private employment services is based on a Decree (130/1999) which entered into force on 1 January 2000.

According to the Employment Services Act, a job-seeker shall not be liable to pay for the employment services which directly aim at finding him or her work. The provision of employment services for seamen is prohibited if it is subject to a charge. These prohibitions also concern the providers of private employment services.

Question D. Participation of representatives of employers and workers in the organization and operation of employment services

The Government refers to information given in the fifth periodic report.

Question E. Legislative and administrative guarantees to ensure that employment services are available to all

The Government refers to information given concerning questions A and B above, as well as to the previous periodic reports.

Committee's conclusions

The Committee has asked to be informed of the findings of the studies of the revision of the employment services. One aim of the reform of the employment services was to make job-seeking more efficient. For this purpose, periodic interviews of unemployed job-seekers, a practice of drafting job-seeking plans and extensive job-seeking training were introduced. The reform further aims at activating the use of labour market subsidies by introducing a new form of subsidies, i.e. the combined subsidy. Most persons who have benefited from the reform are middle-aged job-seekers with a lower level of upper secondary education or unemployed persons entitled to basic allowance or labour market subsidies.

According to studies made, the reform has apparently not had any great influence on the opinions of job-seekers concerning the quality of services provided by the Labour Administration. However, persons for whom an individual job-seeking plan had been made and those who had participated in job-seeking training felt that the plans and training had improved the services, whereas the periodic interviews were not considered to have a similar effect.

The materials produced in the course of the studies also make it possible to assess the activity of unemployed job-seekers. Both the individual job-seeking plans and participation in job-seeking training would seem to increase activity in job-seeking. However, in case their activity is assessed on the basis of the direct contacts they have had with employers, it would seem that there is still a lot to be improved.

The studies addressed separately the impact of group training on employment and its quality, health and capability to seek employment. Although these studies showed that group training was considered the best part of the reform of employment services, it did not significantly increase the employment or reduce the unemployment of persons who participated in the training, within a six-month period.

In the light of statistics, group training nevertheless had significant short-term effects on the job-seeking capabilities of participants and on their preparedness to face setbacks, as well as long-term effects on such preparedness. Persons who had been unemployed for a long time benefited most from group training, and it was in particular within this group of persons that mental symptoms disappeared and a general feeling of capability increased. Although the statistics showed no significant long-term effects of the training on employment, the directors of employment agencies and the instructors strongly believed that the group training would have a beneficial effect on employment in the long term.

The studies further gave account of the experiences of employers with regard to the usefulness of the reform. In the light of findings made, the reform has made the services provided to job-seekers more systematic and consistent, improved the availability of information on job-seekers and improved online services. The capability of employment agencies to respond to the needs of employ-

ers to recruit new personnel and fill vacancies as well as their possibilities to react to the lack of personnel with specific professional skills have improved.

In the light of the experiences of employment agencies, the reform has helped them take local and regional views better into account, has made the service system more flexible and has further strengthened the role of the job-seekers and employers in the process. As regards individual parts of the reform, the employment agencies considered the group training to be the most useful part of it.

Article 1, para. 4: Provision or promotion of appropriate vocational guidance, training and rehabilitation

Finland has accepted Articles 9, 10 and 15 and thus it is not necessary to describe the vocational guidance, training and vocational rehabilitation services here.

ARTICLE 5

THE RIGHT TO ORGANISE

The Government refers to a report submitted to the International Labour Organization in 2000, concerning the implementation of Convention No 87 (Appendix 8).

Question A. Restrictions concerning the right to organise

a) Under the Finnish law, everyone shall have the right to organise. In this respect the Government refers to information given in the earlier periodic reports.

Section 10 of the Finnish Associations Act (503/1989) concerns the members of an association. According to this provision, private individuals, corporate bodies or foundations may be members of an association. The membership of an association may only be restricted where the purpose of the association is to affect governmental issues, so that only Finnish citizens and foreigners with a municipality of residence in Finland, as well as corporate bodies or their associate bodies that have only such citizens or foreigners as members, may be members of the association in question. As regards the membership of management boards or other administrative bodies of private companies, there is no nationality requirement, and thus also workers coming from other States Parties to the Charter may be elected. The same applies to representation under the Act on Co-determination within Undertakings (725/1978), the Act on Personnel Funds (814/1989) and the Act on Personnel Representation in the Administration of Undertakings (725/1990).

b) to d) The national legislation has not changed during the reference period, and the Government refers to information given in the earlier periodic reports.

Question B. The Right to join or not to join a trade union

a) and b) Section 13 of the Finnish Constitution (731/1999) provides for the freedom of assembly and freedom of association. According to the provisions of section 13, everyone has the right to arrange meetings and demonstrations without a permit, as well as the right to participate in them. Furthermore, everyone has the freedom of association, entailing the right to form an association

without a permit, to be a member or not to be a member of an association and to participate in the activities of an association. The provisions also protect the freedom to form trade unions and to organise in order to protect other interests. More detailed provisions on the exercise of the freedom of assembly and the freedom of association are laid down by an Act.

Furthermore, section 52 of the earlier Employment Contracts Act (320/1970) provided for the freedom of association. The employer and the worker must not prevent each other, and the worker must not prevent other workers, from belonging to or joining an association or participating in the activities of the association. An agreement prohibiting membership an association or participation in its activities is null and void. In case there are at least ten workers in an undertaking, the employer must allow them as well as their trade unions to use appropriate premises of the undertaking for meetings and activities necessary for the administration of the affairs of the trade union free of charge, during lunch and other breaks, provided that this does not prevent the undertaking from performing its normal functions. These provisions are also included in Chapter 13, section 1 of the new Employment Contracts Act (55/2001) which entered into force in June 2001, with the exception that a certain number of workers is no longer a condition for the right to use the premises of the undertaking.

As regards state civil servants, the State Employer's Office has informed that there are 1,570 civil servants representing the state as an employer who have no right to participate in a strike and whose right to participate in the activities of their trade union is restricted. The number of such state civil servants has remained unchanged.

Insofar as the right to organise is concerned, the State Employer's Office refers to a decision (No 4398 KHO:1999) made by the Supreme Administrative Court in 1999, in a case concerning the right of a non-unionised civil servant to require his employer to adjust a decision concerning his remuneration. The case involved the right of a civil servant not to belong to a trade union, and his right to legal remedies in respect of the interpretation of a collective agreement despite not belonging to the trade union in question. According to the Supreme Administrative Court, a civil servant who considers that the authority for whom he works has failed to pay the financial benefits to which he would have been entitled, has the right to make a request for rectification referred to in section 52(1) of the State Civil Servants Act (750/1994) and further appeal against the decision concerning his request to an administrative court, even where the decision-making requires interpretation of a collective agreement, in case the civil servant is not able to submit the matter to the Labour Court because of reasons referred to in section 13 of the Labour Courts Act (646/1974).

The Commission for Local Authority Employers refers to a later decision of the Supreme Administrative Court (No 365 KHO: 2000), in which the Court reiterated the principle enshrined in the above-mentioned decision. This later decision, which concerned the right of a municipal office-holder to lodge an appeal against a decision concerning his request for a full salary during a lay-off, thus means that the principle also applies to the municipal sector.

Question C. Representativity criteria of trade unions

a) As regards the representativity criteria, no changes have taken place during the reference period. Employers' and workers' unions have the right to collective bargaining irrespective of their size. The representativity criteria have relevance when the generally binding nature of a collective agreement is assessed. According to section 17(1) of the Employment Contracts Act, the employer shall comply at least with such terms of remuneration and other conditions as have been provided

for in a collective agreement of universal application, concerning the professional field in question or comparable work. The minimum level of terms of remuneration and other conditions is defined in accordance with the substantive provisions of a collective agreement of universal application, if such an agreement exists. The new Employment Contracts Act (55/2001), which entered into force in June 2001, redefines and supplements the representativity criteria. The provisions of the new Act will be given account of in the following periodic report.

b) and c) No changes since the previous periodic report.

Question D. Circumstances and conditions regarding access to workplace

In this respect, the Government refers to information given concerning question B (a and b).

Question E. Protection against reprisals on grounds of trade union activities

In this respect, the Government refers to information given concerning Article 1, paragraph 2, question A.

The provisions of Chapter 47, section 5 of the Finnish Penal Code, concerning violations of the right of workers to organise, have been given account of earlier.

Committee's conclusions

As regards the Committee's comments concerning section 35(2) of the Municipality Act, the Commission for Local Authority Employers has observed that the said provision restricting the eligibility of a chairman of the management board of a trade union or of a comparable body, as well as of chief shop stewards participating in the actual negotiations on collective agreements, to a municipal board, is not in conflict with the right to organise. Section 35(2) does not restrict the right of employees to form associations protecting their interests or to join such associations. The members of workers' unions in general are eligible to a municipal board, and nor does the membership remove their eligibility. Section 13 of the Finnish Constitution (731/1999) protects the freedom of association of everyone, and the scope of application of the constitutional provisions meets the requirements of the provisions of the European Social Charter. Furthermore, under section 121(1) of the Finnish Constitution, the administration of Finnish municipalities is based on the self-government of their residents. According to paragraph 2 of section 121, provisions on the general principles governing municipal administration and the duties of the municipalities are laid down by an Act.

In the opinion of the Commission for Local Authority Employers, the Committee's interpretation falls outside the scope of Article 5 when it takes a position on the way in which the administration of an employer is arranged. The Commission also observes that Article 6 of the European Social Charter does not require that workers be given the right to be represented in the executive bodies of an employer, for the purposes of enhancing the negotiations between the workers and the employer.

Committee's conclusions

The Committee has noted that a requirement for shop stewards to be Finnish citizens is still in force in the hotel and catering sector and for pharmaceutical staff of chemist's shops, and concludes that the situation is not in conformity with Article 5. The Government informs that, in connection with the collective bargaining round held in the spring of 2000, an agreement has been reached with the

trade unions in these sectors on that neither Finnish nationality nor the nationality of an EU Member State is any longer a requirement for shop stewards. Nor do the collective agreements concluded between The Central Organisation of Finnish Trade Unions (SAK) and the Confederation of Finnish Industry and Employers (TT) require the nationality of an EU Member State. Thus, the Government concludes that, due to that agreement, the current situation is in conformity with Article 5.

The Committee has also asked whether there are any other official bodies in which labour and management participate, and if so, whether equal treatment is ensured within these bodies. The Government informs that, with the exception of the Personnel Funds Act (814/1989), the Act on Personnel Representation in the Administration of Undertakings (725/1990) and the Act on Co-determination within Undertakings (725/1978), the labour legislation contains no provisions on such official bodies. The Act on the Supervision of Labour Protection and Appeal Procedure in Matters Concerning Labour Protection (131/1973), however, contains a provision on a labour protection committee. Under the Act, such a committee shall be established for the purposes of joint labour protection, and shall consist of representatives of the employer, employees and managers.

According to information provided by the State Employer's Office, the bodies referred to in the Act on Co-determination within Undertakings (725/1978) and the Personnel Funds Act (814/1989) are the only official bodies in state government in which state personnel participate. There is no nationality requirement applied to the membership in those bodies.

ARTICLE 6

THE RIGHT TO BARGAIN COLLECTIVELY

Article 6, para. 1: Joint consultation between workers and employers

Committee's conclusions

In the general income policy agreement concluded for the years 2001 – 2002, the central organisations of trade unions reaffirm the principle of continuous joint consultations procedure applied to negotiations held between them. This concerns policies on pensions, unemployment benefits, development of the system of collective bargaining and agreements, and education and questions of equality. The central organisations of trade unions recommend that their member unions also adopt the practice of continuous joint consultations.

Article 6, para. 2: Promotion of machinery for voluntary negotiations between employers or employers' organisations and workers' organisations

Question A. Description of the existing collective bargaining machinery

No changes since the previous periodic report. An estimated number of collective agreements concluded each year may be obtained from the Ministry of Social Affairs and Health, where necessary.

The Confederation of Finnish Industry and Employers (TT) and the Employers' Confederation of Service Industries (PT) observe that some collective agreements make it possible to derogate from certain provisions of the collective agreement by a local agreement concluded in the workplace.

However, such an agreement must be concluded by means of negotiations carried out in accordance with the collective agreement of universal application.

The Commission for Local Authority Employers (KT) notes that the conclusion of collective agreements in the municipal sector is regulated by two Acts (670/1970 and 669/1970). The duties, administration and role of the Commission for Local Authority Employers, as an authority responsible for collective bargaining and conclusion of collective agreements on behalf of the local authorities, are provided for in the Act (261/1987).

According to the central agreement concerning the municipal sector, the central trade unions or their registered member organisations may conclude collective agreements concerning the local level, i.e. municipalities and associations of municipalities, derogating from the provisions of a collective agreement of universal application, with the exception of certain provisions. These mandatory provisions, from which derogation by local agreements is not allowed, include those concerning the minimum remuneration, average number of regular working hours, duration of annual leave and sickness and maternity benefits.

The so-called peace obligation and the allowed forms of collective action of municipal office-holders are provided for in Chapter 3 of the Municipal Collective Agreements Act (669/1970), which provisions are to a large extent similar with those of the State Civil Servants' Collective Agreements Act.

The State Employer's Office observes that there are 56 governmental offices responsible for collective bargaining on behalf of the State, having as their duties the negotiations on more detailed agreements in respect of the office in question. At present there are such office-specific agreements in respect of 33 governmental offices. The applicable collective agreements have been amended accordingly.

Agreements concerning a new remuneration system have been concluded in a total of 19 governmental offices so far. In order to further enhance the conclusion of such agreements, the Ministry of Finance has set as an objective for the year 2002 that the personnel of all governmental offices will be covered by the new remuneration system by the end of that year.

The protocol of signature to a collective agreement on the adjustment of conditions of work of state civil servants provides for an understanding on the need to improve the competitiveness of the remuneration of civil servants by means of specific measures in addition to the raises agreed on in the collective agreement. The relevant decisions concerning the remuneration policy will not be made until the representatives of the personnel of governmental offices have been consulted.

Question B. Obligation of the employers or their representatives to bargain with workers' organisations collectively

No changes since the previous periodic report.

Question C. Possibilities of the State to intervene in the process of free collective bargaining

No changes since the previous periodic report.

Article 6, para. 3: Promotion of the establishment and use of appropriate machinery for conciliation and voluntary arbitration

Questions A to C. Description of the machinery for the settlement of disputes

The Government refers to the attached "Questionnaire for comparative study of the regulation of industrial conflict in the European Union and Norway" and to the Finnish reply to the said questionnaire, "Regulation of industrial conflict in Finland" (Appendices 9 and 10).

Article 6, para. 4: Right of workers and employers to collective action

Questions A to D.

The Government refers to the fifth periodic report.

Question E. Effect of strikes or lockouts on the continuation of the employment contract and any other consequences

The Confederation of Finnish Industry and Employers (TT) and the Employers' Confederation of Service Industries (PT) wish to draw attention to Chapter 7, section 2(2)(2) of the new Employment Contracts Act (55/2001) under which participation in unlawful collective action may not constitute a ground for dismissal in case the collective action has been initiated by the workers' union of which the worker is a member.

Question F. Statistics on strikes and lockouts

The Government refers to information given concerning paragraph 3, questions A to C.

Committee's conclusions

As regards the Committee's request for details concerning forms of collective action other than strike, the State Employer's Office refers to the Government's fifth periodic report and wishes that the Committee reformulate its question. The same applies to the Committee's question concerning the right of civil servants to take collective action.

The State Employer's Office nevertheless observes that the prohibition imposed on civil servants in respect of taking collective action other than strike, concerning the existing employment relationships, as well as the prohibition imposed on the employer in respect of taking measures other than lockout, are based on the provisions of section 8(1) (764/1986) of the State Civil Servants' Collective Agreements Act (664/1970). The said provisions define both a strike and a lockout. It follows from the definition of a strike that a strike which is not based on a decision made by the civil servants' association in question is a prohibited form of collective action.

In case the collective action does not concern existing employment relationships, the provisions of the State Civil Servants' Collective Agreements Act do not impose restrictions on the nature of the collective action. In the light of the preparatory work of the Act, such forms of action may include prohibiting the members of a union of civil servants from applying for a vacancy or advising them not to perform duties other than those which belong to the job in question on the basis of the em-

ployment relationship and applicable provisions concerning the duties of the civil servant in question.

During the period of validity of a collective agreement, no collective action may be taken against matters regulated by the collective agreement in question (so-called relative peace obligation). This only concerns those civil servants' unions which are bound by the collective agreement (i.e. unions which have concluded the agreement and those which have acceded to it afterwards, including their member organisations) and the civil servants who are members of these unions or were their members during the period of validity of the agreement. Thus the peace obligation based on an existing collective agreement also concerns individual civil servants. Only such collective agreements as concern specific questions do not entail a general peace obligation. The question of what kind of collective agreements may be considered as concerning specific questions is a matter to be decided, as a last resort, by the Labour Court or on the basis of earlier decisions made by the Labour Court in respect of individual collective agreements.

Decisions concerning the use of a lockout in respect of State civil servants shall be made by the State Employer's Office and in respect of workers other than civil servants, working for the state, by the governmental office in question.

The Committee has also asked to be informed of any case law pertaining to the right to initiate collective action by non-unionised workers. The Government observes that the rights and duties of workers are based on the applicable labour legislation and the provisions of the existing collective agreement and contract of employment applied to the employment relationship in question.

The freedom of association in Finland is protected by the law, and this freedom also entails a right not to organise. However, in case of a strike, duties covered by the strike would mostly remain unperformed, due to the fact that a large majority of workers belong to a trade union in Finland. The owners of an undertaking the workers of which are on strike may perform any of the duties of the striking workers, if they wish to do so. Workers belonging to another trade union or non-unionised workers often participate in the strike if it concerns their work. However, no non-unionised worker or worker belonging to another trade union may be compelled to participate in the strike. A worker who is a member of the trade union, not participating in the strike, may be excluded from the union upon a decision made by the union.

The employer may also assign duties to non-unionised workers or workers belonging to a non-striking union during a strike. The employer may also decide not to arrange for the duties to be performed by other workers at all, and order a lockout, for example.

Under the Unemployment Benefits Act, un unemployed job-seeker does not loose his right to unemployment benefits in case he refuses to accept work covered by a strike. Nor is a state civil servant, according to the State Civil Servants' Collective Agreements Act, under an obligation to perform the duties assigned to him because of a lawful strike. These legislative provisions thus establish a principle according to which a worker usually has the right to refuse duties covered by a strike, without any harmful consequences. However, some problems might arise as the Employment Contracts Act does not contain provisions concerning situations where the employer orders a worker not participating in a strike to carry out duties of workers who are on strike. This problem has been addressed in a judgment given by the Helsinki Court of Appeal in a case concerning the conclusion of an employment contract in a situation where a strike had already begun. The Court of Appeal reasoned as follows:

For the reason that the person in question not belonging to the trade union, the members of which were on a lawful strike, had concluded the employment contract aware of the strike and had later refused to perform duties covered by the strike, it was considered that he had intentionally failed to perform his duties, and because he had continued to neglect his duties despite a warning, the employer had a right to terminate the contract of employment.

As regards solidarity or sympathy strikes, the Government refers to information given concerning Article 6, para. 3, questions A to C.

ARTICLE 12

THE RIGHT TO SOCIAL SECURITY

Article 12, para. 1: System of social security

No significant changes have taken place in the Finnish system of social security in 1999 and 2000. The Government has been implementing its programme which aims, *inter alia*, at increasing employment opportunities and the attractiveness of working life, encouraging persons at working age to enter the labour market, and preventing social exclusion. Special attention has been paid to the development of the structures of social security, in order to ensure a lasting and stable financing of the system.

Changes in the national sickness insurance scheme

The Sickness Insurance Act (364/1963) was amended as of the beginning of 1999 so that compensation may be paid under the sickness insurance scheme for necessary and expensive medicines in an individual case when the insured person presents a specific medical report proving the necessity of the medicine in question. Such medicines include e.g. interferon beta used for the treatment of multiple sclerosis and dornase alfa used for the treatment of cystic fibrosis.

Changes in the national pension insurance scheme

The National Pension Act (347/1956) was amended as of 1 August 1999 so that the disability pension paid because of incapacity for work may be suspended if the person entitled to it goes back to work. The suspension is only possible where no such change has taken place in the beneficiary's state of health on the basis of which the pension could be terminated. Another condition is that the person in question obtains a reasonable income from his or her work, as required by the National Pension Act. In order to ensure that working is more profitable than the enjoyment of pension, a specific disability allowance is paid for the period of time during which the pension is suspended. The pension may be suspended for 6 to 24 months.

Changes in the employment pension insurance scheme

The age limit for early retirement was raised from 58 to 60 on 1 January 2000. The new age limit does nevertheless not concern persons born before 1944. The age limit for part-time retirement was reduced to 56 in 1999, and will remain the same temporarily until the end of 2002. The aim with part-time retirement is to ensure that ageing workers remain in working life until the statutory age of retirement.

As of 1 January 2000, presumed future income has no longer been taken into account in the amount of unemployment pension, which makes it easier for unemployed persons to shift from unemployment benefits to unemployment pension. This reform reduces the unemployment pensions granted since the beginning of 2000 by approx. 4 %.

Changes in insurance contributions

The level of insurance contributions has remained rather stable. As of the beginning of 2000, the insurance contributions against the risk of unemployment of workers and sickness of pensioners have been reduced.

Public health care

A limit of FIM 3500 was set for the fees charged from patients within the municipal health care on 1 January 2000. Once the charges exceed this limit, the patient will mainly get the outpatient services without charge. The charges to be taken into account include the charges imposed on outpatients for doctor's services, physiotherapy, long-term treatment, clinic services of hospitals, day surgeries and short-term institutional care, both at health care centres and social welfare institutions. Those patients who have been treated in a hospital or health care centre for more than three weeks will benefit most from the limit set for the charges. There were approx. 50,000 such persons in 2000.

Committee's conclusions

The Committee has asked "what measures are taken to stop employers delaying payment or refusing to pay social contributions". It has also requested "an indication of the extent of non-declared work and the measures taken to counter this form of work", and wished to be informed of "the action taken to avoid part-time work being used as a form of non-declared work".

In Finland part of the social insurance contributions are collected together with tax on income. These contributions include the employer's sickness insurance contribution and national pension insurance contribution. The legislative provisions on the employer's child allowance contribution, which has in practice not been collected since 1985, were repealed at the beginning of 2000. The tax authorities are under an obligation to monitor compliance by employers with the provisions of the Employer's Social Security Contributions Act (366/1963). As a sanction for delayed payment, the employer shall be subject to additional taxes and raised contributions. The tax authorities have estimated that reminders have been given to or sanctions have been imposed on less than 10 % of employers by the tax authorities because of neglected or delayed payment of contributions.

Compliance with the payment obligations under the employment pension scheme is monitored by the Central Pension Security Institute in cooperation with pension insurance companies. The monitoring is systematic and based, *inter alia*, on the comparison of data concerning the payment of taxes on income and on information given by the employers to the Employment Pension Institution. In case of a failure to pay the insurance contribution despite reminders, the arrears shall be subject

to interest and shall be recovered by means of execution. However, the Pension Institution shall bear the responsibility for the statutory pension benefits of the worker irrespective of whether the employer has paid the pension insurance contribution.

There is no information available on the extent of non-declared work. Safety at work is controlled by authorities subordinate to the Ministry of Social Affairs and Health. The purpose of inspections made at workplaces is to investigate the lawfulness of the employment contracts and working conditions. Control is partly carried out in cooperation with other authorities, such as the tax authorities. In many cases the use of non-declared workers is brought to the attention of the occupational safety authorities by individual persons.

Efforts have been made to render the procedure applied to work permits more efficient. A more efficient consideration of applications for work permit should reduce non-declared work insofar as it is caused by the fact that applicants find the procedure too bureaucratic. The status of workers in atypical employment relationships has been improved by a reform which became effective at the beginning of 1998. The reform extended the scope of application of the employment pensions legislation over all persons whose employment earlier fell outside the scope of the Employment Pension Act either because of the short duration of the employment (less than a month) or because of low income. Due to the reform, all employment relationships will contribute to the future pension and all forms of employment are taken into account in the pension scheme, including part-time work.

Article 12, para. 2: Level of the social security system

No significant changes have taken place in the level of the social security system since the previous reference period. Index-based raises were made to benefits both in 1999 and 2000. The disability pensions of persons under 65 years of age and other benefits based on the employment pension index were raised by 2.3 % and the employment pensions of persons over 65 years of age by 1.6 % at the beginning of 1999. At the same time the national pensions and other benefits based on the national pension index were raised by 1.3 %. At the beginning of 2000, the employment pensions of persons under 65 years of age were raised by nearly 1.9 % and of persons over 65 years of age by approx. 1.4 %. The average raise of national pensions and other benefits based on the national pension index was 1.1 %.

The basic unemployment allowance was raised by FIM 1 both in 1999 and 2000. As of the beginning of 2000, the daily allowance is thus FIM 122. The maximum child supplement was also raised by FIM 1, i.e. to FIM 46/ day. The supplement paid for two children remained at FIM 35 and the supplement paid for one child at FIM 24.

Article 12, para. 3: Progressive raise of the system of social security to a higher level

The legislative Acts concerning the financing of unemployment benefits, unemployment insurance fund and guarantee funds entered into force in September 1998 and have been applied to the financing of unemployment benefits as of the beginning of 1999. The new financial legislation provides a more stable basis for the financing of unemployment benefits and related expenses and provides for reserves that can be used in cases of fluctuations in the costs of the unemployment schemes. The central fund of the unemployment funds was replaced by the unemployment insurance fund.

Committee's conclusions

The Committee has requested information on "existing litigation in the area between injured employees and insurance companies". Since the creation of the guarantee funds referred to in the previous report, there have been eleven cases considered before June 2001. These cases concerned delays in the decision-making or the payment of compensation by the insurance company. This reform is considered necessary and useful for the beneficiaries.

Article 12, para. 4: Bilateral and multilateral agreements or other means of international co-operation

Question A. Bilateral and multilateral agreements

During the reference period two new social security agreements entered into force: the Agreement between Finland and Israel on 1 September 1999 and the Agreement between Finland and Latvia on 1 June 2000. In 2000 Finland signed such agreements with Lithuania and Luxembourg. Negotiations on an agreement have been held with Poland. A list of social security agreements entered into by Finland is attached to this Report. (Appendix 11)

Question B. Implementation of principles of equal treatment and of accumulation of insurance employment periods

Principle of equal treatment: A person residing in Finland is covered by the Finnish social security system, on the basis of residence. The application of the legislation on employment pensions and accident insurance requires working in Finland. In case of a person who works in Finland, the employment pension is determined and the person is insured in accordance with the law, irrespective of his or her nationality. The same applies to employment accident insurance.

Principle of accumulation of insurance or employment periods: Under the Finnish legislation the accumulation of insurance or employment periods is not of great relevance. The qualifying periods for social security benefits are short in Finland. For example one month of employment qualifies for the right to employment pension under the Employment Pensions Act (395/1961), which is the main form of pension for most people.

Question C. Length of the prescribed period of residence

Most social security benefits in Finland are based on residence. Of these benefits, maternity, paternity and parents' allowances require residence of a certain period of time, usually at least 180 days, in order to get them. Under the provisions of social security agreements, however, it is possible to compensate for the required period of residence with periods completed under the legislation of the other Contracting Party.

Furthermore, in order for a person to be entitled to the Finnish national pension, it is required that he or she has resided in the country for at least three years if the person is of Finnish nationality, and for at least five years if the person is of foreign nationality. The national pension is the minimum pension meant for persons residing in Finland, and no insurance contributions are collected from the insured persons. Thus it is not necessary to apply the principle of accumulation of periods to the national pension.

Committee's conclusions

In its general observation on Articles 12 para. 4 and 16, the Committee has asked those Contracting Parties in respect of whom a negative conclusion has been adopted, to "enumerate all the family benefits they finance and to state for each one the reasons which, according to them, justify the non-payment for children who reside abroad". The child allowance is such a family benefit in Finland. Under the Child Allowances Act (796/1992), child allowance is paid from public funds for the maintenance of a child under 17 years of age residing in Finland. The benefit is paid for the child, and the employment or unemployment of the parent does not affect its payment. Nor does the child's or the custodians' nationality or the income or property of the child or his or her custodians affect the right to child allowance. No insurance contributions are collected for the purposes of payment of child allowance but it is financed from the tax income of the State. Furthermore, child allowance is exempted from taxation. In certain cases the child allowance may be paid for a child residing abroad. The child is covered by the Finnish social security system despite residence abroad e.g. when his or her custodian works abroad for a Finnish employer.

As regards the application of the principle of equal treatment with regard to child allowance, the Government observes that the purpose of the European Social Charter is not to promote the free movement of workers, but to guarantee the social rights protected by it. Therefore the interpretation and application of Article 12, para. 4 and of EC legislation should not be covered by the same principles, and child allowance should not be considered a benefit to which the worker is entitled irrespective of the country of residence of the child.

The Finnish social security system is to a large extent based on residence and on the universality of benefits. Thus the payment of child allowances only in respect of children residing in Finland is justified. The Government observes that all children residing in Finland, who are nationals of a Contracting Party, have an equal right to the child allowance in the same way as Finnish children. The child allowance is financed with the State's tax income and no contributions are collected for that purpose. In the light of the above comments, the Government considers that the payment of child allowance only in respect of children residing in Finland is in conformity with the provisions of the European Social Charter.

As regards the principle of accumulation of periods, the Finnish authorities have considered that the main purpose of Article 12, para. 4 is to contribute to the creation of a network of social security agreements between the Contracting Parties, in order to guarantee the implementation of social rights as efficiently as possible, even when the protected persons move within the territories of the Contracting Parties.

As regards the specific Contracting Parties mentioned by the Committee (Cyprus, Poland, Malta, Slovakia and Turkey), the situation in respect of Polish nationals will change in the near future. Finland has negotiated on a social security agreement with Poland, and the agreement will most likely be signed by the end of 2001. The agreement contains provisions on the accumulation of periods.

ARTICLE 13

THE RIGHT TO SOCIAL AND MEDICAL ASSISTANCE

Article 13, para. 1: Persons without adequate resources

Question A. Organisation of the current public social and medical assistance schemes

The Government refers to Appendices 12 (Social Welfare in Finland) and 13 (Health Care in Finland) which provide an overview of the organisation of the public social and medical assistance schemes in Finland.

No major amendments have been made to Finnish legislation concerning health care services during the reference period. The most significant amendment is the reorganisation of specialised health care in the districts of Helsinki and Uusimaa. The health care districts of Helsinki and Uusimaa and the Helsinki University Hospital were replaced by a single health care district (the health care district of Helsinki and Uusimaa). The purpose is to further improve the organisation of specialised health care in the area and thus improve the provision and efficiency of services. Approx. 1/4 of the population of Finland resides in this area.

Question B. Types of social and medical assistance

Special attention has been paid to the inadequacy of mental health care services available to children and young persons. A separate appropriation of FIM 70 million was included in the State budget for the year 2000, in order to improve these services. The appropriation was allocated to health care districts for the purpose of financing various development projects which aimed at improving especially the professional skills of the staff and at improving the basic services, so that children and young persons with mental health problems would get the help and care they need as early as possible. Additional funds for mental health care services have also been included in the budget for the year 2001. Furthermore, it is now required that the children and young persons must get to psychiatric hospital care within a certain period of time.

There have been deficiencies in the access to dental care services, as approx. half of the public health care centres have restricted the services on the basis of age. However, in 2000 new legislation was enacted, under which the age-based restrictions shall be removed between 1 April 2001 and 1 December 2002. At the same time the municipalities were allocated more funds for the purpose of arranging the dental care. Furthermore, the possibility to use private dental care services under the sickness insurance scheme will be extended to cover the entire population.

Question C. Means by which the right to assistance is secured

A decision made by a doctor concerning the treatment of a patient may not be appealed against to a court of law. However, a complaint may be made on account of a mistake in treatment to the authorities responsible for supervision in the field of health care, i.e. either to a provincial government or the National Authority for Medico-legal Affairs.

As regards administrative decisions, appeal may be made to an administrative court and in most cases further to the Supreme Administrative Court. For example a decision concerning the right of a patient to a device facilitating the everyday life is such an administrative decision.

Question D. Amount of public funds allocated to social and medical assistance

The Government refers to Appendix 14 which provides an account of the costs of social protection.

Committee's conclusions

Reduction of the basic amount of social assistance and activation of beneficiaries

The Committee has noted that "the reduction in benefit must not be unreasonable or such that it is no longer possible to live with dignity, and may not last more than two months". The Committee has further observed that "social assistance benefits represent the minimum income necessary to live with dignity", and enquired "how a reduction of up to 40 % could be made without frustrating this purpose".

The basic amount of social assistance was raised as of 1 January 1999, due to increased costs of living, so that it was FIM 2047/ month for persons living alone and single parents in municipalities of category I, and FIM 1959 in municipalities of category II. The basic amount was further raised as of 1 January 2000 so that the corresponding figures were FIM 2071/ month and FIM 1981/ month.

According to a follow-up study made by the National Research and Development Centre for Welfare and Health (STAKES) in 2000 (covering 24 municipalities), the basic amount of social assistance was reduced in the first five months of 1999 for approx. 5.6 % of the beneficiaries. In seventeen percent of these cases the basic amount was reduced by 40 %, while in other cases the reductions were smaller. In a majority of cases (76 %) the reduction was 20 %.

Presuming that the results of the study represent the situation in the entire country, some 16,600 beneficiaries were faced by reduction of the basic amount in 1999. Thus, in 12,600 cases the basic amount was reduced by 20 % and in 2,800 cases by 40 %.

The follow-up study did not reveal any situations where the reduction of the basic amount would have violated the beneficiary's constitutional right to means necessary for a life of dignity. This right is also protected by section 10 of the Act on Social Assistance (1412/1997), under which the basic amount of social assistance may only be reduced where it does not endanger the said necessary means of living and where it is not otherwise unreasonable.

According to the Act on Social Assistance, the basic amount of social assistance may be reduced for a maximum of two months at a time, due to a refusal to accept employment or a failure to look for work. However, according to a decision made by the Supreme Administrative Court on 6 March 2000, the basic amount can be reduced by 40 % for another period two months following the first period in case the beneficiary has failed to register with an employment agency as an unemployed person looking for work, despite a request to do so, and where the reduction is not unreasonable and does not endanger the necessary means of living required for a dignified life.

According to section 10 of the Act on Social Assistance, an individual plan shall be made for the beneficiary to encourage independent search for work whenever the basic amount of social assistance is reduced. The above-mentioned follow-up study showed that the reduction of the basic amount has enhanced employment in 30 % of the cases. In the light of these observations, it may be concluded that the reduction of the basic amount has contributed to the activation of approx. 5000 beneficiaries of social assistance.

Right of appeal to the Supreme Administrative Court

An amendment to the legislative provisions concerning appeal to the Supreme Administrative Court entered into force at the beginning of 1999. The new provisions allow appeal against decisions con-

cerning the granting of social assistance and its amount, provided that the Court grants leave to appeal. The purpose of the amendment was to improve the legal protection of persons applying for social assistance and to harmonise the practice of granting social assistance in the different parts of the country.

Decrease in the total spending on social assistance

The Committee has also asked for explanations for the decline in the number of households in receipt of social assistance.

The number of beneficiaries and the costs of social assistance have developed in the past few years as follows:

Table 5

Year	Households	Persons	% of the population	Costs million FIM	Change
1997	344,700	593,800	11.5	3,262	+ 5
1998	313,400	534,900	10.4	2,772	- 15
1999	292,000	493,000	9.5	2,578	- 7
2000*	272,000	460,000	8.9	2,536	- 2

*preliminary figures

The decrease in the number of beneficiaries of social assistance in 1998 and 1999 was partly caused by the cuts made on the social assistance in 1998, and partly by the improvements made on other forms of assistance, mainly housing allowance, and by the general improvement of the employment situation. It is not possible to indicate the exact share of each factor. The decrease in 2000 was exclusively caused by the improvement of the employment situation.

In 1999 social assistance was granted on the average for 5.4 months. Of the beneficiary households 44.5 % received assistance for a maximum of three months. There were in total 67,900 households that received long-term assistance, i.e. for at least 10 to 12 months, that is 23.4 % of all the beneficiaries. Long-term dependence on social assistance reduced to some extent in 1998 and 1999 but on the whole the positive development has been slow.

In 1999 preventive social assistance was paid to a total of 10,200 households. The average duration of preventive social assistance was two months. The costs of preventive social assistance in 1999 were some FIM 24.7 million.

In November 2000 the President of the Republic of Finland confirmed an amendment to the Act on Social Assistance, the purpose of which is to ensure that the preventive role of social assistance is emphasised and more attention is paid to the individual needs of persons and families when assistance is granted. It is expected that the number of users of preventive social assistance will increase so that it will be four times as high as it was in 1998. Furthermore, a new provision was added to the Act, according to which the municipal authorities shall consider matters concerning social assistance without delay.

The overall aim with the amendments made to the legislative provisions is to improve the efficiency of the social assistance system as a last-resort guarantee of adequate means of living. The amendments entered into force on 1 April 2001.

Student benefit

The Committee has requested information on the maximum amount of the student benefit, which was FIM 1,540 in 1997. The amount has not been changed for the time being.

Article 13, paras. 2, 3 and 4

No changes since the previous periodic report.

ARTICLE 16

THE RIGHT OF THE FAMILY TO SOCIAL, LEGAL AND ECONOMIC PROTECTION

Question A. Legislation providing for the legal protection of the family

No changes since the previous periodic report.

Question B. Economic measures taken on behalf of the welfare of the family

Tax relief

The provisions concerning the deduction based on domestic work mentioned in the previous periodic report, which had been applied temporarily as of 1997, were given a permanent status as of the beginning of 2001 (sections 127a - 127c of the Income Tax Act), and the scope of application of the provisions was extended to cover the entire country. The deduction may be granted to both spouses in full.

The deduction is granted for ordinary domestic work, care of children or elderly people, medical care, as well as house maintenance or repairs. The maximum deduction is FIM 5,000 (EUR 900)/ year and is granted to the extent that the deductible part of the costs exceeds FIM 500 (EUR 100).

Such health care or medical care services as are not subject to VAT are not considered ordinary care within the meaning of the Income Tax Act. Furthermore, repair or installation of home electronics is not considered ordinary house maintenance or repairs. The deduction is not granted if other forms of support (support for the care of family members, support referred to in the Act on the Child Home Care Allowance and the Private Care Allowance (1128/1996), or support for the employment of domestics) have been granted for the same work. Nor is the deduction granted for house maintenance or repairs where other financial assistance for that purpose has been granted from public funds. However, the employment support meant for persons intending to establish a private business does not prevent the granting of the deduction.

The deduction based on domestic work is in the first place made from the State income taxes, that is from taxes imposed on earned income and investment income, in proportion to the amount of taxes. As regards the tax on earned income, the deduction is made after all the other deductions, but before credit for the deficit in the earned income. To the extent that the deduction exceeds the amount

of State income tax, it shall be made from the municipal tax, sickness insurance contributions and church tax.

Question C. Social and/ or cultural services of particular interest to the family

Families with children may get assistance for child care at home from the municipal authorities (child home care allowance). The family may request municipal services where it has difficulties in dealing with the everyday household chores due to illness, child birth or other comparable reason. The municipal authorities may impose a monthly charge for a continued home care allowance, the amount of which is determined on the basis of the size of the family and the parents' monthly income. A reasonable charge decided by the municipal authorities may be imposed for a temporary home care allowance.

The number of families that have been granted child home care allowances has reduced throughout the 1990's since an increasing part of the municipal home assistance has been devoted to the home care of elderly people. The municipalities have not been able to increase the home care assistance as the demand has increased.

The municipalities are under an obligation to provide the families with children with the necessary family counselling services. These services include professional assistance relating to the upbringing of children and other family matters, as well as social, psychological and medical examinations supporting the child's positive development. The aim is to create the necessary prerequisites for a safe growing environment for children and to increase the capabilities of families and family members to deal with everyday matters, as well as to increase the psycho-social well-being. The family counselling services are free of charge.

Both the number of users of family counselling services and the number of appointments with family counselling clinics have significantly increased in the past few years. In most cases families use the services for reasons relating to children, but almost as often the reason is a family crisis or problems in the mutual relationship of the parents in general.

Questions D to E.

No changes since the previous periodic report.

Question G. Official statistics

The number of families with children has been decreasing. At the end of 2000 there were 612,600 families with children. At the same time the family structures have changed. The number of non-married couples has been constantly increasing, and in 16 % of the families with children the parents were not married at the end of 2000. Also the number of single parents has been increasing, and 19 % of families with children were single-parent families.

The income at the disposal of families with children has increased in the past few years. This is especially due to the reduction of unemployment. However, as regards single-parent families, the development of income has been less favourable. The employment situation of single parents has improved slower than that of other families.

In 2000, some FIM 8.2 billion were paid as child allowances, which was FIM 60 million less than in the previous year. In the past years the costs of child allowances have reduced because the num-

ber of new persons entitled to the benefits has been smaller than the number of persons who no longer are entitled to them. It is expected that the development will continue to be the same in the following years. Child allowances were paid to 587,000 families in respect of a total of 1,064,000 children at the end of 2000. Raised allowances were paid to single-parent families for a total of 157,000 children. A working group set up by the Ministry of Social Affairs and Health has assessed the needs for developing the system of child allowances. The working group submitted its report to the Ministry at the beginning of 2001.

Families with a child under three years of age have a possibility to get the child home care allowance if the child is not in municipal day care. There were 72,500 families entitled to the allowance in respect of a total of 111,500 children at the end of 2000. The average number of children in those families was 1.5. The average amount of the monthly allowance was FIM 2,102/ family.

The private child-care allowance is an alternative to the municipal day care of children, for parents who wish to arrange private care for their children. This form of support was paid in respect of 14,000 children at the end of 2000. The average amount of the allowance was FIM 787/ month while the average costs of private care per child were FIM 2,236/ month.

Committee's conclusions

The Committee has requested information on the steps that have been taken "to ensure the availability of properly trained staff in sufficient number". The number of persons working within children's day care and their training is regulated by the Children's Day Care Decree (239/1973). The Decree defines the number of personnel required for a certain number of children in care. The Decree is binding on all municipalities. Deficiencies in the compliance with the Decree have been noticed e.g. in the case of illness of personnel. For example the Parliamentary Ombudsman has drawn attention to the problems on account of complaints made by individual citizens. The provincial governments, as regional authorities, and the Ministry of Social Affairs and Health at the national level are responsible for monitoring compliance with the provisions of the Decree. In its instructions, the Ministry of Social Affairs and Health has emphasised the need to develop the quality of children's day care services and the regional equality in the provision of services, in compliance with the obligations set out in the Decree. The Ministry is currently collecting information on the present situation of children's day care in all the municipalities (448) of the country, by means of a questionnaire sent out to the municipalities. The questionnaire also covers monitoring of the sufficiency of personnel.

As regards the Committee's negative conclusion, the Government refers to its observations concerning Article 12, para. 4.

ARTICLE 19

THE RIGHT OF MIGRANT WORKERS AND THEIR FAMILIES TO PROTECTION AND ASSISTANCE

Article 19, para. 1 : Adequate and free information services

Question A. Organisation and operation of free services to assist migrant workers

The Act on the Integration of Immigrants and Reception of Asylum Seekers (493/1999) has been in force for approx. one and half years. During the first three years after entering Finland, an immigrant registered as an unemployed jobseeker with an employment agency is covered by the integration services offered by the agency. The aim is that the language proficiency, professional skills and preparedness to enter into working life of the immigrant are improved within the framework of an individual integration plan, with the means available to the labour administration. During the period of time for which the plan is made, the immigrant shall be referred to specific training designed for immigrants if necessary.

The employment agencies and municipal authorities have been provided with joint training and seminars concerning the implementation of the Act on the Integration of Immigrants and Reception of Asylum Seekers. The development of the contents of integration plans has been supported e.g. by providing a description of the integration process and criteria for its quality as well as material for the purposes of monitoring the implementation of the plans. Considering that 65 % of the immigrants covered by integration plans have participated in activating measures and 26 % of them have found work on the general labour market, the employment agencies have efficiently contributed to the achievement of the objectives of the Act.

In 2000 a total of 11,600 integration plans were made by employment agencies for immigrants of whom 5,000 were women and 6,600 men. During the same year, integration support was granted to 5,400 persons and support was terminated in respect of 3,460 persons.

It is required that the municipal integration plans based on the Act on the Integration of Immigrants and Reception of Asylum Seekers are made in cooperation between the municipal authorities and the labour administration, as well as other public authorities. It is further required that non-governmental organisations and different associations are involved in the drafting of integration plans and that social partners, private enterprisers and immigrants residing in the municipality in question are heard.

According to a study made by the Ministry of Labour in November 2000, a municipal integration programme had been adopted by 226 municipalities, and preparations for the adoption of such a programme had been made in 81 municipalities. A total of 237 municipalities had concluded an agreement on adjacent measures related to the integration of immigrants with a regional Employment and Economic Development Centre. The Act on the Integration of Immigrants and Reception of Asylum Seekers has not so far been implemented on the Åland Islands but the issue is being considered by the Government of Åland.

When passing the Act, Parliament required that the Government continue to monitor the achievement of the objectives set out in the new legislation and submit a report to Parliament in the spring of 2002.

Question B. Laws and regulations for action to combat misleading propaganda relating to emigration and immigration

Under section 12 of the Finnish Constitution (731/1999), everyone shall have the freedom of expression. There are no legislative provisions concerning combat against misleading propaganda relating exclusively to immigrants. They have access to the same legal remedies as any persons residing in Finland. Where necessary, however, the labour authorities may intervene in misleading information by correcting the information in public.

Question C. Information available to migrant workers in their own language

Apart from Finnish and Swedish, public information is often provided also in English. Some of the Ministries provide information even in French and German on their web sites. Information on the integration of immigrants is given in Albanian, Arabic, English, Kurdish, Persian, French, Serbo-Croatian, Somali and Russian. Also other brochures providing information on the settlement of immigrants in Finland exist in several languages.

Committee's conclusions

The Committee has wished to receive information on the activities of the Advisory Board for Inter-ethnic Relations and the results it has received. The Government refers to information given concerning Article 1, para. 2, question A.

A copy of the Act on the Integration of Immigrants and Reception of Asylum Seekers is attached to this report (Appendix 15). An English translation of the Act is also available on the web site of the Ministry of Labour, at http://www.mol.fi/migration/act.pdf.

Article 19, para. 2: Measures to facilitate the departure, journey and reception of migrant workers and their families

Question A. Measures to facilitate the departure, journey and reception of migrant workers and their families

There are no special arrangements in this respect.

Question B: Medical and health services

The municipalities are responsible for the provision of medical and health services in Finland. The services are available to all persons residing permanently in Finland on the same conditions.

Committee's conclusions

The Committee has asked that the report indicate whether the authorities have taken specific measures to assist Finnish nationals wishing to emigrate. The Government observes that a Finnish national is free to emigrate without any specific permission given by the authorities to that effect. The grounds on which a passport may be refused are provided in the law, and they have been given account of earlier. The receiving state shall decide on the permits required for entry into that state.

Under the Agreement on the European Economic Area, a Finnish national may freely move to another State Party to the Agreement without a prior permit. Persons planning to emigrate to one of

those States may resort to the EURES employment exchange system created between the States Parties to the Agreement when seeking employment, and get information on the working and other living conditions in other States Parties.

As regards emigration to other states, information and advice may be obtained from associations of Finns residing abroad and Finland Society as well as from specific information services meant for emigrants and persons returning to Finland, working in cooperation with the public authorities. Together with the Ministry of Labour, certain companies and trade unions, Finland Society has created a network of volunteers residing in receiving states of Finnish emigrants, in order to provide support to emigrants in adapting to the new conditions.

Apart from the provision of information and advice, no concrete measures have been taken to facilitate or assist in the departure of emigrants (such as financial assistance, reservation of travel tickets, arrangement of the journey, escorting during the journey), and nor has there been any need for such services. The nature of emigration has changed in the past decades so that it is increasingly caused by the internationalisation of Finnish companies, and emigration is usually not permanent but people move abroad because of studies, internships, career and willingness to get new experiences. Also pensioners move to countries where the climate is more favourable than in Finland (such as Spain).

The rights of Finnish nationals residing abroad and moving between Finland and the new state of residence have been protected by social security agreements given account of earlier.

In 1997, associations of Finns residing abroad established a Finnish Expatriate Parliament which aims at protecting the interests of expatriate Finns in Finland, and makes initiatives and proposals to that effect to the Finnish Government. The above-mentioned Finland Society is responsible for the secretarial services of the Finnish Expatriate Parliament.

Article 19, para. 3: Promotion of co-operation between social services in emigration and immigration countries

No changes since the previous periodic report.

Article 19, para. 4: Treatment of migrant workers not less favourable than that of own nationals

Question A. Laws, regulations and administrative measures

According to section 29(2) of the Finnish Aliens Act (378/1991), "the employer is to provide the employment authorities with an assurance that the alien's remuneration and other terms of employment accord with current collective bargaining agreements. Should the occupation in question not be subject to such an agreement, the employer must ensure that the terms of employment comply with the current general practices for Finnish employees." The provision of erroneous or misleading information e.g. on conditions of work and working conditions is subject to punishment under the provisions of section 64a of the Aliens Act.

Foreign workers are usually covered by the provisions of the Employment Contracts Act, concerning the prohibition on discrimination and equal treatment of workers, as well as by the provisions of

a generally binding collective agreement concerning conditions of work and working conditions. In the same way, insofar as the minimum remuneration of foreign workers is concerned, the provisions of section 10 of Chapter 2 of the new Employment Contracts Act (55/2001), which entered into force at the beginning of June. The occupational safety authorities monitor compliance with the provisions of the Act.

As regards employment contracts of an international character, the applicable law is determined in accordance with the provisions of the Convention on the law applicable to contractual obligations (so-called Rome Convention/ OJ No L 266, p. 1, 1980/10/09), done at Rome on 19 June 1980.

Rome Convention

The Rome Convention applies, *inter alia*, to employment contracts in a situation involving a choice between the laws of different countries. The applicable law shall be determined in accordance with this Convention which was ratified by Finland in 1999. Under the main rule set out in Article 3, "a contract shall be governed by the law chosen by the parties". However, Article 6, paragraph 1 of the Convention contains special provisions concerning individual employment contracts, according to which "a choice of law made by the parties shall not have the result of depriving the employee of the protection afforded to him by the mandatory rules of the law which would be applicable[...] in the absence of choice". Furthermore, in the absence of choice, the law applicable to employment contracts shall be determined in accordance with Article 6, paragraph 2 of the Convention.

Act on Posted Workers

Directive 96/71/EC of the European Parliament and the Council concerning the posting of workers in the framework of the provision of services has been implemented in Finland by the Act on Posted Workers (1146/1999) which entered into force on 16 December 1999.

The Act applies to workers posted to Finland. The existence of an employment relationship is determined on the basis of Finnish law. The Act does not apply to the seagoing personnel of merchant navy undertakings.

A worker is considered a posted worker for the purposes of the Act if:
- The worker normally carries out his or her work in a country other than Finland;
- The employer undertaking is established in a country other than Finland; for the purposes of the Act, it is insignificant whether the employer is established within or outside the EU;
- The posting takes place during an employment relationship and for a limited period;
- The employer provides trans-national services.

The Act is applicable to the following situations:

1. The worker is posted to perform work under the direction and on behalf of the undertaking posting the worker, or employer undertaking, under a contract concluded between the employer and the user of the services operating in Finland
2. The worker is posted to work for an establishment or undertaking owned by the employer's group

3. The worker is hired out to a user undertaking and the employer is a temporary employment undertaking or placement agency.

Regardless of the law applicable to the employment relationship of a worker posted to Finland, employers must comply with certain minimum terms and conditions referred to in the Act, in so far as they are more favourable to the worker than the legal provisions that would otherwise be applied. These minimum terms and conditions of employment include those concerning compensation and higher rates of pay for extra hours under the Working Hours Act (605/1996) and the Work in Bakeries Act (302/1961), compliance with the prescribed work and rest periods under the Working Hours Act, specification of annual holidays, annual holiday pay and holiday compensation under the Annual Holidays Act (272/1973), family leaves, payment of wages during sickness and other circumstances preventing the performance of work and employee housing in the Employment Contracts Act, and minimum rates of pay, and certain other terms and conditions in generally applicable collective agreements.

The provisions of the Occupational Safety Act (299/1958), Occupational Health Care Act (743/1978), and Young Workers' Protection Act (998/1993) must be applied to posted workers, as well as the prohibition on discrimination and the provision on freedom of association in the Employment Contracts Act, and the provisions concerning promotion of equality and the prohibition on discrimination in the Equality Act (609/1986).

In the case of posted workers, employers must draw up a work schedule and other documentation of working hours required under the Working Hours Act, and keep records on annual holidays as required under the Annual Holidays Act.

As a general rule, the minimum terms and conditions under Finnish law become applicable as soon as the worker's posting begins. Threshold periods apply to certain types of work, however. In the case of assembly or first installation of goods carried out by a skilled or specialist worker, where this is an integral part of a contract for the supply of goods and necessary for putting the goods supplied to use, the provisions concerning minimum rates of pay and minimum paid annual holidays do not apply if the period of posting does not exceed eight days. When the threshold period is calculated, other workers posted by the same employer to perform similar work during the past 12 months are also taken into account. The threshold period is not applied to construction work.
Supervising Authorities. Occupational safety and health authorities are responsible for monitoring compliance with the Act on Posted Workers, except for the provisions of the Equality Act. The applicable procedures are governed by the Act on the Supervision of Occupational Safety and Health and Appeal in Occupational Safety and Health Matters (131/1973). Employers are required to provide the occupational safety and health authorities with the information necessary for the said monitoring. If the employer does not have a business location in Finland, customers provided with the services must on request provide the occupational safety and health authorities with sufficient information on the terms and conditions of employment applied to posted workers.

The Equality Ombudsman and Equality Board are responsible for monitoring compliance with the provisions of the Equality Act referred to in the Act on Posted Workers, as well as compliance with the Equality Act in general.

Posting of workers by employers operating in Finland. When Finnish employers post workers to States Parties to the Agreement on the European Economic Area for limited periods, as referred to in the above-mentioned Directive, they must primarily comply with the Finnish terms and conditions of employment. If the employer and worker have agreed on that the law of a country other

than Finland will be applied in accordance with the Convention on the law applicable to contractual obligations, such choice of law does not set aside provisions considered mandatory under Finnish law where this would be to the disadvantage of the worker. If mandatory provisions have been issued pursuant to the Directive in the country where the worker is posted, such provisions must be applied to work performed in that country. However, it is always possible for employers to apply legal provisions more favourable to the worker.

Question B. Equal treatment in access to housing

Section 19 of the Finnish Constitution places the public authorities under an obligation to promote the right of everyone to housing and the opportunity to arrange their own housing. The right protected by the Constitution is not a subjective right and nor have any specific requirements been set for the standard of housing. Thus, everyone shall be responsible for obtaining one's own housing. However, refugees and other persons who have been issued a residence permit on the basis of need for protection are provided with their first housing. Also persons returning from the territory of the former Soviet Union are provided with accommodation already before their arrival in Finland, as far as possible. There are no special housing arrangements in respect of other immigrants.

Committee's conclusions

The Committee has requested information on how "equal treatment is ensured for foreign workers who are not covered by a collective agreement of general application". The Government observes that such foreign workers do not differ from those Finnish nationals who work within fields not covered by collective agreements. Despite the absence of a collective agreement, the employers are under an obligation to pay a reasonable remuneration to the workers. The existing Employment Contracts Act does not contain any explicit provision on a reasonable remuneration but the Act has been interpreted as creating such an obligation, and has been applied accordingly.

The Committee refers to the amendment made to the Employment Contracts Act in 1996 (Act 466/1996, section 17 paragraph 5), according to which the provisions on non-discrimination in section 17 (1) and (2) do not apply "where the employment contract under which a foreign worker is employed in Finland applies to work other than planning, supervision or training, related to acquisition of a piece of machinery, equipment [...] repair or maintenance work, or the transportation of people or goods to or via Finland, when the work in question is temporary and cannot be done using Finnish labour". The Committee considers that "exemptions to the employer's duty of non-discrimination are therefore allowed for contracts of this nature", and asks the Government to provide information on the "reasoning and the scope in practice of this provision".

Section 17 paragraph 5 of the Employment Contracts Act was repealed when the above-mentioned Act on Posted Workers (1146/1999) was enacted. The Act entered into force on 16 December 1999. The provision was in conflict with Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services. Thus the possibility of derogating from the provisions of collective agreements no longer exists.

The study concerning ethnic discrimination on the labour market referred to by the Committee is titled "Immigrants and ethnic minorities in the recruitment of workers and working life", made by Timo Jaakkola. The study, which was published in Finnish, contains a brief summary in English (Appendix 16).

As regards the membership of trade unions and enjoyment of the benefits of collective bargaining, and the Committee's negative conclusion concerning the hotel and catering sectors, the Government refers to information given in respect of Article 5.

Article 19, para. 5: Treatment not less favourable with regard to employment taxes, dues or contributions payable in respect of employed persons

No changes since the previous periodic report.

Article 19, para. 6: Reunion of the family of a foreign worker

Question A. Facilitation of the reunion of the family
No amendments have been made to the relevant legislation during the reference period.

Question B. Family members taken into account

The Act on the Amendment of the Aliens' Act (No. 537/1999) entered into force on 1 May 1999. It contains a definition of a family member taking into account the provisions of the European Social Charter.

Section 18 b of the Aliens' Act reads as follows:

> The following shall be regarded as family members of a person residing in Finland: his spouse as well as an unmarried child of under 18 years of age whose guardian the person residing in Finland is. If the person residing in Finland is a minor child, his guardian shall be deemed a family member.
>
> People who continuously cohabit in a relationship resembling marriage shall be deemed comparable to spouses. A requirement for this comparison shall be that they have cohabited for a minimum of two years, except if they have a common child.
>
> The family members of a citizen of a State belonging to the European Economic Area shall be governed by section 16, paragraph 4. The provisions of the European Social Charter (Finnish Treaty Series 1991/44) shall govern the family members of citizens of the States that have acceded to the Charter

Article 19, paragraph 6 of the European Social Charter must be taken into account when issuing residence permits on the grounds of family reunion. Accordingly, if a migrant worker is a citizen of a Contracting Party, his or her dependent children under the age of 21 years are considered family members.

Question C. Refusal of permission to enter the country by reason of physical or mental health

No amendments have been made to the national legislation during the reference period.

Committee's conclusions

The Committee has noted that "under Section 37(4) of the [Aliens' Act], entry into the state may be denied if the person lacks sufficient means to meet their needs and pay for their return journey". The Committee asks whether this provision may justify a refusal of family reunion. The Government informs that the provision referred to by the Committee has been repealed. The conditions for entry are provided for in section 8 of the Aliens' Act. Under section 8, paragraph 1 (3) of the Act, an alien who enters the country shall, where necessary, present documents which indicate[...] the fact that he has the necessary funds to support himself. As regards family members of the alien, applying for a residence permit, the fulfilment of this condition shall be verified already before the residence permit is granted.

Article 19, para. 7: Treatment not less favourable in respect of legal proceedings

Under section 3, paragraph 1 of the Public Legal Aid Act (1047/1997), legal aid shall be granted to a person who has a municipality of residence in Finland, and to a citizen of a Member State of the European Union or the European Economic Area, who takes up, pursues or seeks employment in Finland, as required by Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community and the Agreement on the European Economic Area. According to section 3, paragraph 2, persons other than those referred to in paragraph 1 may be entitled to public legal aid if his or her case must be considered by a Finnish court of law. In cases other than those considered by a Finnish court, public legal aid may be granted to persons referred to in paragraph 2 on special grounds.

Article 19, para. 8: Protection against expulsion

Question A. Regulations applicable to the expulsion of migrant workers

The amendment (537/1999) to the Aliens' Act (378/1991) entered into force on 1 May 1999. However, the grounds on which a foreigner may be expelled were not amended but specified to the effect that a foreigner, who has resided in the country with a residence permit, may only be deported by means of expulsion.

According to section 40 of the Aliens' Act, "an alien who has lawfully resided in Finland may be deported from Finland if he/she

1) stays in Finland without the required passport or residence permit;
2) renders himself unable to support himself during the course of a short stay in Finland;
3) commits an offence for which the maximum statutory punishment is one year's imprisonment or more severe punishment or repeatedly transgresses against the law;
4) demonstrates by his behaviour that he is a danger to the safety of others; or
5) has engaged in or may on account of his previous activities or otherwise justifiably be assumed to engage in sabotage, espionage or illegal intelligence-gathering activities in Finland or in activities which may endanger Finland's relationship with a foreign state."

A lawfully residing migrant worker may only be expelled on the last three grounds mentioned above. All these grounds are based on the assumption that the alien in question is a threat to national security or offends against public order or morals.

Section 4(1) of the Aliens' Act provides that, "when entering and residing in Finland, an alien must have a valid passport issued by the authorities of his country of origin or habitual residence". According to section 7(4) of the Aliens' Decree, "residence permit and work permit is to be entered in the passport of the alien or in a separate document".

According to section 7(5) of the Aliens' Decree, "in order to maintain his rights an alien who is issued a new passport must ensure that any permits entered in his old passport are entered in his new passport".

According to the Government Bill for the enactment of the Aliens' Act (47/1990), a minor negligence in renewing licences, or the fact that the alien concerned has lost his or her passport and has not been issued a new passport cannot be considered a ground for expulsion. Information on an alien's residence permit and work permit can always be controlled in the register of aliens.

According to section 42(1) of the Aliens' Act, "decisions on deportation from Finland are made by the Directorate of Immigration upon proposals by the police. The Directorate of Immigration may also make a decision on deportation without receiving a police proposal in cases of endangerment of national security of Finland's relations with a foreign state".

According to section 42(2) of the Aliens' Act, "when deportation is being considered, the alien concerned and the Ombudsman for Aliens must always be given an opportunity to be heard". According to section 2 of the Aliens' Act, "aliens are entitled to use assistants and interpreters in the event of an expulsion order".

Whenever the Directorate of Immigration makes a decision which is subject to appeal, the decision must be accompanied by appeal instructions.

Question B. Possibilities of appeal

According to section 57 of the Aliens' Act, "an alien, who is dissatisfied with a decision by the Directorate of Immigration concerning deportation and related prohibition to enter the country may appeal to the Administrative Court against the decision, as laid down in the Administrative Court Procedure Act, for the reason that the decision is against the law".

Section 62 of the Aliens' Act provides that, "if an appeal has been submitted to the Administrative Court, the enforcement is suspended until the case has been decided on. A decision by the Directorate of Immigration concerning deportation from Finland may be enforced before it comes non-appealable if the alien in question, in the presence of two competent witnesses, declares that he agrees to the enforcement of the decision and signs the document to that effect."

Committee's conclusions

The Committee has underlined the fact that expulsion can only be justified under Article 19 para. 8 "where certain elements reveal a real and serious threat" [to national security or offend against public order or morals, and asks "if the decision to expel is an additional sanction or an alternative to incarceration".

A decision on expulsion is usually implemented after the sentence of imprisonment has been served. According to section 40 of the Aliens' Act, "an alien who has stayed in Finland with a resi-

dence permit may be deported if he[...] 3) has committed an offence for which the minimum statutory punishment is one year of imprisonment or a more severe punishment or if he has committed repeated crimes". Offences for which the minimum sentence is one year of imprisonment are considered so reprehensible that they involve a threat to national security or an offence against public order or morals. Also where the foreigner is expelled because of repeated offences, the nature of those offences must be such that they entail one of the above-mentioned risks.

The Committee has asked "if other rules apply with respect to the expulsion of under-age children. It also wishes to be informed of the consequences for the family of a migrant worker who is expelled".

Only a person who fulfils the conditions for expulsion may be expelled. A family member is not expelled as a consequence. However, a minor may in certain cases be necessarily affected by the decision on expulsion. In case the foreigner to be expelled is the only custodian of his or her child, the decision on expulsion usually concerns the child as well. In these cases the best interests of the children are usually not in conflict with those of the custodian.

The Aliens' Act does not provide different grounds for expulsion in respect of different groups of persons. However, according to section 41 of the Act, "all relevant matters and circumstances must be assessed in their entirety, whenever an alien's deportation from Finland is under consideration". These matters and circumstances include at least the length of the foreigner's stay in Finland, family ties and other ties to Finland and, in cases referred to in section 40 (1)(3) of the Act, the nature of the offence or offences. As regards minors, the provisions of section 1c of the Aliens' Act shall also be taken into account. Section 1c reads as follows: "When a decision applying to a child who is under the age of 18 is made under this Act, special attention shall be paid to the interests of the child as well as to matters relating to his development and health". Before a decision is made concerning a child who has attained the age of 12, the child shall be heard in accordance with the provisions of section 15 of the Administrative Procedure Act (598/1982), unless the hearing is clearly unnecessary. The child's opinion shall be taken into account in accordance with his or her age and maturity. Even a younger child may be heard in case he or she is mature enough for the purposes of hearing.

The provisions concerning the entry into the country and residence therein are included in the Aliens' Act. An overall reform of the Aliens' Act is pending in Finland, and the Government Bill should be submitted to Parliament in the course of 2002.

Article 19, para. 9: Permission of the transfer of earnings and savings

No changes since the previous periodic report.

Article 19, para. 10: Extension of the protection and assistance to self-employed migrants

No changes since the previous periodic report.