

**THE EIGHT PERIODIC REPORT OF THE EUROPEAN
SOCIAL CHARTER AND
THE FIFTH PERIODIC REPORT OF THE ADDITIONAL
PROTOCOL TO THE CHARTER**

**SUBMITTED BY
THE GOVERNMENT OF FINLAND**

REPORT BY THE GOVERNMENT OF FINLAND

For the period from 1 January 1998 to 31 December 2000, in accordance with Article 21 of the European Social Charter and Article 6 of its Additional Protocol, on the measures taken to give effect to the accepted of the European Social Charter and the Additional Protocol, the instruments of approval of which were deposited on 29 April 1991.

In accordance with Article 23 of the Charter, copies of the official report in the English language have been delivered to the Central Organisation of Finnish Trade Unions (SAK), the Finnish Confederation of Salaried Employees (STTK), the Confederation of Unions for Academic Professionals in Finland (AKAVA), the Confederation of Finnish Industry and Employers (TT), the Employers' Confederation of Service Industries (PT) and the Federation of Finnish Enterprises, whose comments will be forwarded to the Secretary General on 15 May 2002 at the latest.

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ARTICLE 2: THE RIGHT TO JUST CONDITIONS OF WORK

Article 2, para. 1: Reasonable daily and weekly working hours

Question A. Statutory provisions applied in respect of the number of daily and weekly working hours and the duration of the daily rest period

The provisions of the Working Hours Act (605/1996) were given account of in the fourth periodic report.

In 1998, a new section 37a on motor vehicle drivers' personal driver's logs was inserted in the Working Hours Act (by Act No 963/1998). According to the new provisions, "employers shall provide motor vehicle drivers in their employment with personal driver's logs for monitoring their daily working hours. Drivers shall keep driver's logs in such a way that they show the starting and ending times of their daily working hours, rest periods and breaks. The entry for each period shall be made in the driver's log as soon as it ends and before the next period begins. A tachograph may be used instead of a driver's log." Furthermore, "motor vehicle drivers are required to make the necessary entries in the driver's log and to keep their driver's log with them when driving". The Act entered into force at the beginning of February 1999.

Furthermore, during the reference period, the provisions in section 9, subsection 3, of the Working Hours Act were amended (by Act No 1168/1998) so that the Bank of Finland may conclude agreements with the union representing its staff, on flexible working hours. This means that the Parliamentary Supervisory Council of the Bank of Finland may decide that the provisions of the Working Hours Act do not apply to such employees of the Bank whose working hours, due to the nature of their work, are not predictable, or who may themselves decide on their working hours. The amendment entered into force at the beginning of 1999.

Question B. Scope of the rules concerning normal working hours and overtime in collective agreements

Apart from legislation, the normal working hours and any exceptions thereto may be decided on by means of collective agreements.

Government agencies may independently decide whether to provide for flexible working hours, and decide on the details of such arrangements, in accordance with section 29 of the instructions on the implementation of the collective agreement concerning government agencies. According to the instructions, the limits on derogations from the normal working hours under the arrangement of flexible working hours shall be determined with due regard to the protection of workers. Public officials and workers may independently decide whether they wish to take advantage of the arrangements. They also bear the first and foremost responsibility for controlling the number of their daily working hours.

Question C. Average working hours for major professional categories

According to a study made by Statistics Finland, the average working hours in different professional categories in 1997-2000 were the following:

	1997	1998	1999	2000
All categories	39.3	38.2	38.1	37.8
Agriculture, game management, forestry and fishing	47.6	47.8	48.8	47.7
Manufacturing	40.2	38.9	38.7	38.6
Construction	41.4	40.0	40.1	40.1
Trade, hotels and restaurants	39.2	37.8	37.5	36.9
Transport	40.8	39.9	40.0	39.2
Finance, insurance and business services	37.9	36.6	36.9	36.3
Public and other services	36.3	35.6	35.3	35.3

The study encompassed all 15 to 74 years old persons with employment, i.e. all salaried employees and self-employed persons.

Question D. Reductions in working hours between 1997 and 2000

No amendments have been made to the legislation.

In collective agreements for 2001 and 2002, it has been agreed that, as of 1 January 2002, the Ascension Day is a public holiday with pay and reduces the yearly number of working hours by the average number of daily working hours. The new arrangement does nevertheless not concern continuous three-shift work nor such forms of continuous work where the yearly working hours are more than eight hours shorter than the yearly working hours normally are in full-time work.

Question E. Measures permitting derogations from legislation regarding daily and weekly working hours and the duration of the daily rest period

No changes since the fourth periodic report.

Question F. Proportion of workers not covered by measures permitting derogations from daily and weekly working hours

No changes since the fourth periodic report.

Committee's questions:

The Committee has requested the Government to comment on a statement of the Finnish Confederation of Salaried Employees, according to which Act No 951/1977 does not apply to persons performing nursing duties in private houses, although it regulates the working hours of domestic employees. The Government notes that, according to section 2, subsection 1, paragraph 9 of the Working Hours Act, the Act does not apply "to work where the working hours have been separately prescribed or which is covered by another act on working hours, under which it has been exempted from working hour restrictions". Such other act could for example be the Act on the Employment of Household Workers (951/1977) which applies to workers who carry out household work in a private home on the basis of an employment contract. According to section 2, subsection 1, paragraph 5 of the Act, it does nevertheless not apply to persons who care for the sick. Thus, neither the Working Hours Act, which is of general application, nor the Act on the Employment of Household Workers, which applies to special cases, regulates the working hours of nurses working in private homes.

The Labour Council has given an opinion (TT 1352-98 (9/98)) on the applicability of the Act on the Employment of Household Workers. The Labour Council observed that its applicability must be determined in the light of the *de facto* duties of the person working in the household and an overall assessment must be made of the case, paying attention to the purpose of the restrictions on the applicability of the Act.

The preparatory work for the Act on the Employment of Household Workers makes a distinction between mere nursing and nursing combined with other household duties, and it is noted that nursing requires specific arrangements of working hours. Considering that, when section 2, subsection 1, paragraph 5 is applied, some home workers may fall outside protection insofar as their working hours are concerned, the said provision must be applied restrictively. Therefore, only such duties as mainly consist of nursing, instead of so-called basic care which may be considered household duties within the meaning of the Act on the Employment of Household Workers, may fall out of its scope.

Should the household work consist of basic care and other traditional household duties, the Act on the Employment of Household Workers is applied, whereas mere nursing is not covered by its provisions. In cases where the worker is not covered by the provisions of the Act, he or she may freely agree on the working hours with his or her employer.

The Labour Council has also given several decisions on the applicability of the Act on the Employment of Household Workers on nurses working in private homes. In the light of those decisions, its applicability is by no means easy to determine. However, the decisions do indicate that mere nursing falls outside of the scopes of both Acts mentioned above, although such situations are rare.

As the Working Hours Act does not apply to the working hours of household workers, the labour protection authorities do not actively monitor their working hours. In cases where household workers have problems with the number of their working hours, and where the employer has e.g. given them too much work with regard to the period of time during which that work should be carried out, the labour protection authorities may mainly, under the Occupational Safety and Health Act, give the employer instructions concerning reasonable working hours or resort to other measures as may be necessary.

The Committee has requested the Government to explain whether national law provides for express, absolute upper limits on the length of daily and weekly working time. The Government informs that, according to section 6 of the Working Hours Act, regular working hours shall not exceed eight hours a day. Section 29, subsection 1 of the Act further provides that employees must be given an uninterrupted rest period of at least 11 hours. Thus, the daily working hours, including extra hours, may not exceed 13 hours.

As regards shift-work within the meaning of section 7 of the Working Hours Act, the daily rest period must be at least 9 hours, in which case the daily working hours may not exceed 15 hours.

In case of an arrangement of flexible working hours, i.e. when the employees may themselves decide when they start and finish work within the set limits, the daily rest period must be at least 7 hours and the daily working hours may not exceed 17 hours. Thus, in a system of flexible working hours, the employees decide on the length of their rest periods without the employer being able to give any orders concerning it.

Under section 32 of the Working Hours Act, an employer may temporarily agree with the staff or their representative on a reduced rest period of seven hours. Neither the Act nor its preparatory work (Government Bill 34/1996) define in more detail what is meant by "temporarily". In practice, the workers' unions and employers' organisations may conclude agreements on such reduced rest periods.

In exceptional situations provided for in section 29, subsection 2 of the Working Hours Act, an employer may reduce the daily rest period to five hours for a maximum of three days. Any derogation from the normal length of rest period must be based on important reasons, such as unpredictable and exceptional situations in which it is not possible to provide the employees with the normal rest period of eleven or nine hours. Before the rest period is reduced, however, any other mandatory provisions restricting the right to reduce the rest period must be observed, including the obligation to provide working time arrangements as well as the requirement of obtaining the consent of the employee to any additional work or extra hours. It must further be remembered that the law defines upper limits on hours of work. In practice, section 29, subsection 2 of the Working Hours Act is only seldom applied. Although there is no detailed information available on the application of the said provision. Under subsection 3 of section 29, employees must be given extra free time in compensation for their shorter daily rest periods as soon as possible, and within one month at the latest.

An employee and representatives of workers referred to in section 10 of the Working Hours Act may agree on up to 80 hours of additional work to be carried out in a calendar year. In any such agreement, however, the provisions of section 19 of the Act, concerning the upper limits on extra hours, must be taken into account. According to subsection 1 of section 19, "the maximum amount

of overtime during a four-month period is 138 hours, though 250 hours must not be exceeded in a calendar year”.

Overtime work does not include preparation and completion work referred to in section 20 of the Working Hours Act, which employees may be required to do up to five hours per week, nor emergency work referred to in section 21 of the Act.

In the preparatory work (Government Bill 34/1996, p. 63) for the Working Hours Act of 1996, it is noted that section 32 corresponds to the provisions of the earlier Working Hours Act. The Labour Council (in its opinion No 1262-90) has interpreted the concept of “temporary” so that if work is regularly done during a normal rest period for example every four or six weeks, such work may no longer be considered temporary.

The Committee wishes to obtain information on the maximum daily and weekly overtime hours agreed upon in collective agreements. It also asks how the provisions of section 20 on working time are applied in practice.

The Government informs that, in the context of monitoring working hours, the labour protection authorities have found no indications of the performance of preparation and completion work referred to in the Working Hours Act to the extent of exceeding the upper limits on overtime hours.

There are great differences in the upper limits on daily and weekly working hours provided for in the various collective agreements. For example, the collective agreement concerning foods industries contains no particular provisions to that effect, but merely provides that overtime work may be done within the limits provided for in the Working Hours Act or determined by the competent authorities. As regards compensation for overtime hours, it has been agreed (section 20 of the agreement) that a raised salary shall be paid for daily overtime hours in accordance with the Working Hours Act, and weekly overtime hours shall be compensated for so that a 50 % raise shall be paid for the first eight hours and a 100 % raise for the following hours.

The collective agreement concerning metal industries is an example of collective agreements in which the freedom of contract has been used to a significant extent. Under section 14 (1) of the agreement, overtime work may be done within the limits provided for in the law. The upper limits on overtime hours are monitored in respect of both the calendar year and periods of four months, unless it has been agreed in a local employment contract that the monitoring period is exclusively the calendar year. Subsection 2 of section 14 concerns the possibility to agree on the working hours at the local level. According to this provision, overtime work means working hours exceeding the regular working hours (eight hours) or the working hours agreed on in accordance with section 13 (2), or longer working hours, performed on the same day. According to section 13 (2), the following matters may be agreed on in a local employment contract: 1) the upper limits on regular daily and weekly working hours, even by way of derogation from the working hours (8 hours 40 minutes) set out in subsection 1; 2) the period of time over which the upper limits on working hours are monitored; 3) the starting hour of a working day or week; 4) the daily rest periods; 5) any changes to the system of working hours.

It is further noted in the afore-mentioned provision concerning local employment contracts that by the various arrangements concerning working hours, the use of machines, equipment and other resources may be significantly enhanced and the wishes of employees as to the working hours may be taken into account. Where necessary, the working hours may be different depending on the time

of the year, the production line, the nature of the work or the personnel group, even in different departments of the same company. An increased use of different arrangements concerning working hours gives possibilities to ensure that the working hours correspond to the needs of both the employer and the employees.

Article 2, para. 2: Public holidays with pay

Committee's questions:

The Committee noted in its previous conclusions that the rate of pay for public holidays was laid down in collective agreements. It sought confirmation that the granting of such holidays to workers had no adverse effects on their remuneration, whether calculated on a daily, weekly or monthly basis. The Committee points out that the public holidays guaranteed by the Charter must be "with pay", which means that the wage paid for those particular days must be at least equal to the normal salary or wage. It asks for clarification of the position in the present report.

Chapter 6 of the Working Hours Act (605/1996) contains provisions on rest periods and Sunday work. As regards Sunday work, section 33 provides that "employees can be required to work on a Sunday or church holiday only when the work concerned is regularly carried out on the said days due to its nature, or when agreed upon in the employment contract, or with the separate consent of the employees. The wage payable for Sunday work performed as part of regular working hours is twice the regular wage. If the work concerned is additional work, overtime or emergency work, a remuneration determined as laid down in sections 22 and 23 must also be paid. This remuneration is calculated on the employee's regular hourly wage. The provisions of section 22 on calculating the increased wages payable for overtime must be observed in calculating the increased wages payable for Sunday work."

Thus, the Finnish law allows Sunday work both when it is necessary because of the nature of the work and when the worker has consented to it. However, the employer may only require the employees to perform such duties on Sundays or church holidays as need to be done regularly on those days because of the nature of the work. A mere exceptional need to perform certain duties on a Sunday is not a reason for Sunday work within the meaning of the Working Hours Act. The employee may give his or her consent to Sunday work already when the employment contract is concluded or later during the employment. The principles concerning Sunday work are also applied to other public or church holidays provided for in the law, including the Independence Day, First of May and certain other holidays. Weekly days off must be guaranteed to the workers even in cases where Sunday work is regularly necessary.

The Government further refers to information given in respect of the Ascension Day under Article 2, para. 1 (question D).

As regards the field of services, collective agreements only regulate public holidays with pay to the extent that their provisions are more favourable to the workers than the provisions of law.

Article 2, para. 3: Annual holidays with pay

Question A. Length of annual holidays and minimum period of employment

The provisions of the Annual Holidays Act (272/1973) concerning holiday compensation, paid to workers in compensation for lost annual holidays, have been amended several times. The purpose of the amendments has been to improve the status of workers in short-term employment.

Section 9 of the Annual Holidays Act contains provisions on holiday compensation to be paid when the employment is continued, section 10 provides for the payment of such compensation when the employment is terminated, and section 10a provides for holiday compensation based on more than one employment relationship.

By Act No 460/1997, which entered into force in April 1998, the provisions of sections 10 and 10a of the Annual Holidays Act were amended so that, as of 1 April 1998, holiday compensation has been paid when the worker has repeatedly worked for the same employer for a total of at least six hours during one calendar month.

In case the employee works on so few days and for such a short period of time during the holiday credit year that the working days do not amount to a full holiday credit month, or only a few of the months during which he or she works are full holiday credit months, his or her right to holiday compensation is determined in accordance with section 9, subsection 1 of the Annual Holidays Act. The holiday compensation is eight and a half per cent of the wages paid or fallen due during the previous holiday credit year, excluding any compensation paid in excess of the regular pay for emergency work and overtime work specified in law or by agreement.

An employee whose employment has lasted for at least one year without interruption by the end of the holiday credit year immediately before the holiday season, is paid holiday compensation amounting to eleven per cent of the afore-mentioned pay. In order to be entitled to holiday compensation, the employee must have worked at least the number of hours determined in section 9 of the Annual Holidays Act, during a holiday credit year.

In the latest collective agreements concerning local authorities (excluding teachers), the provisions concerning annual holidays were changed with effect as of 1 April 1999. According to the new collective agreements, annual holidays shall be earned on the basis of the number of working days. This has nevertheless not changed the *de facto* length of annual holidays. Under the main rule, there are five working days a week, and in case a worker spends a full week on holidays, five days shall be deducted from the total number of holidays he or she is entitled to.

The maximum length of annual holidays is 38 working days (7 and 3/5 weeks in a year). Where the employment relationship has lasted one year during the holiday credit year, the full length of annual holidays is 28 days (5 and 3/5 weeks). In employment relationships of less than one year, the length of annual holidays is 2 to 20 days depending on the number of holiday credit months. The annual holidays of part-time workers is determined in accordance with the same principles.

In the collective agreements concerning local authorities, the right to annual holidays is considered to be part of the protection of employees. Therefore the employer or the worker may not replace annual holidays with a financial compensation. In case the employment relationship all in all has

lasted less than 16 days, a holiday compensation shall be paid to the worker. In such a short employment relationship it is not possible, nor necessary for the protection of employees, to give the worker days off from work. The holiday compensation to be paid corresponds to the financial value of the holidays earned.

Question B. Effect of incapacity for work through illness or injury on the entitlement to annual holidays

No changes since the fourth periodic report.

Question C. Possibility for workers to renounce their annual holidays

No changes since the fourth periodic report.

Question D. Customary practice where legislation or collective agreements do not apply

No changes since the fourth periodic report.

Question E. Proportion of workers not covered by legislation or collective agreements

The Government refers to information given in reply to question A, concerning the emergence of a right to holiday compensation.

Committee's question:

The Committee wishes to know in particular how many seasonal workers there are in Finland. The Committee points out that the possibility for employees to waive the right to annual leave, even of their own free will, is incompatible with the Charter. It requests practical information concerning exceptions made under the provisions of section 22 of the Annual Holidays Act.

According to information received from the Labour Council, there has been once case in 1990-1996, which involved the question of granting exceptions to annual holidays under section 22 of the Annual Holidays Act. In 1997-2000, no requests for exceptions have been made to the Labour Council.

There are seasonal workers in golf clubs, in respect of whom the possibility under section 4, subsection 2 of the Act to postpone annual holidays until after the holiday season is applied. There are in total 200 workers concerned, who are permanently employed by golf clubs. Another normal practice applied to workers in golf clubs is that they keep one week of their annual holidays during the summer and leave the remaining holidays until after the golf season.

The Government further refers to information Report made by the Government of Finland on the measures taken to give effect to the provisions of the ILO Convention No 132, for the period 1 July 1994 to 31 May 2000 (*Annex I*).

Article 2, para. 4: Additional holidays or reduced working hours for workers in dangerous or unhealthy occupations

Questions A and B.

The Government refers to the information given in reply to question A under paragraph 1 above.

Question C. Proportion of workers not covered by legislation or collective agreements

No changes since the fourth periodic report.

Committee's question:

The Committee notes that, according to comments made by the Finnish Confederation of Salaried workers (STTK), the Radiation Act and its implementing decree providing for extra annual leave for staff exposed to X-rays in hospitals and dispensaries have been annulled. As a result, medical staff exposed to such radiation are no longer entitled to additional annual holiday. The Committee requests that the present report comment on this information.

The fourth periodic report submitted to the Council of Europe in 1998, insofar as the implementation of Article 2, para. 4 was concerned, contained information according to which the right of workers exposed to radiation to additional paid holidays was removed by Act No 490/1997 which entered into force on 1 April 1998. Thereafter, provisions on such additional paid holidays were included in collective agreements until 15 January 2000. After that date, no additional holidays have been provided for in collective agreements either.

On 23 October 2000, STTK ry and Tehy ry, trade unions representing the afore-mentioned workers, lodged a collective complaint against Finland (10/2000 KS ENET 004-144). According to the complaint, Finland had violated Article 2, para. 4 of the European Social Charter due to the fact that hospital staff exposed to radiation in their work were no longer entitled to additional paid holidays.

The Government submitted its observations on the merits of the complaint on 30 March 2001, and additional observations on 21 June 2001. The Government observed on both occasions that no workers in Finland were allowed to be exposed to ionising radiation to such an extent as would be harmful for their health. The maximum dose of radiation to which workers may be allowed to be exposed is 20 mSv/ year, and the maximum dose for the population at large is 1 mSv/ year. By new equipment and work arrangements, it has been possible to reduce the risk of exposure to radiation to such a level that for the majority of workers exposed to radiation (90 %), the radiation dose remains below 0.5 mSv/ year. Thus, the first and foremost aim is to prevent and eliminate risks of exposure to radiation to the extent possible. Safety measures of general application are given priority over measures concerning individual workers. Dangerous conditions must be changed so as to make them less dangerous. In all safety measures, the most recent technological achievements must be taken into account. These principles concerning the improvement of working conditions are included in section 9c (1001/1999) of the Occupational Safety and Health Act.

On 13 December 2001, a Government Bill (HE 229/2001) was submitted to Parliament for the approval of the revised European Social Charter. Article 2, para. 4 has been amended in the revised Charter.

On 21 February 2002, the Committee of Ministers adopted a Resolution on the afore-mentioned collective complaint made against Finland. In the Resolution, the Committee referred to the report submitted to it by the European Committee of Social Rights on 17 October 2001, in which Finland was found not to be in conformity with Article 2, para. 4 of the Charter.

According to the Resolution, "the Committee of Ministers:

1. takes note that the primary concern of the Finnish Government is to eliminate risks created by working with ionising radiation, that in Finland workers in the health sector are exposed to doses of radiation well below the maximum limits stipulated by national legislation and required by international standards and that the Finnish Government undertakes to continue taking measures to eliminate risks, especially in the health sector; and
2. takes note of the impending ratification by Finland of the Revised Social Charter, including the revised Article 2, para. 4, which puts the emphasis on the elimination of risks rather than on additional paid holidays or reduced working hours."

Thus, the Committee of Ministers did not give a recommendation as proposed by the Committee of Social Rights but, instead, adopted a Resolution. Under the monitoring system of the Charter, this means that the Committee of Ministers did not impose any obligation on the Government to take measures.

Article 2, para. 5: Weekly rest period

Questions A to C

No changes since the fourth periodic report.

Committee's conclusions

The Committee invites the Finnish authorities to state, with regard to exceptions to the weekly rest period, whether a full-time worker who opts for extra pay may work for more than twelve consecutive days without having two full days off.

The main rule concerning the weekly rest period is included in section 31, subsection 1 of the Working Hours Act. According to this provision, "working hours must be organized to allow employees at least 35 hours of uninterrupted free time each week... The weekly free time can be arranged so that it averages 35 hours within a 14-day period. Weekly free time must, however, be at least 24 hours." Thus, in case the weekly rest period, in accordance with the said arrangement, is placed at the end/ beginning of each 14-day period, the worker may work on a maximum of 11 consecutive days, being at the same time entitled to the daily rest period provided for in the Act. This is the case when the worker is entitled to a rest period of approx. 35 hours every 14 days, and the first 24 hours of the rest period are technically placed at the beginning of the 14-day period and the remaining hours at the end of the period. This kind of an arrangement further requires that the

employer gives the worker an extra rest period of 11 hours, either attached to the rest period of 35 hours or at some other time during the second week of the 14-day period. The Government notes that the worker is at the same time entitled to a daily rest period on each working day, in accordance with section 29 of the Working Hours Act. Given all this, a worker may not work for more than twelve consecutive days without having two full days off.

In accordance with section 32, subsection 1 of the Working Hours Act, a worker may temporarily, and subject to strict conditions provided in the law, work during the weekly rest period. In such a case, the interrupted weekly free time shall be compensated for, in the first place with free time at another convenient moment or, on the worker's consent, with additional pay. The Government underlines that these provisions are only applied in exceptional situations.

The Committee further requests details concerning the right of workers not covered by the Working Hours Act to a weekly rest period.

According to section 2 of the Working Hours Act, the Act does not apply "to work which must be considered management of an undertaking, corporation or foundation or an independent part thereof by virtue of the relevant duties and of the employee's position otherwise, or independent work directly comparable to such management". Nor is it applied to workers covered by the provisions of the Act on the Employment of Household Workers (951/1977), the Seamen's Working Hours Act (296/1976), the Act on Working Hours on Vessels in Domestic Traffic (248/1982) and the Act (218/1970) and Decree (301/1970) on the Working Hours of the Staff of the Defence Forces. There are also certain other categories of workers who fall outside the scope of the Working Hours Act, in respect of whom the applicable provisions are included in collective agreements.

When the Working Hours Act was enacted, the provisions of Directive 103/94/EC on the application of the Directive and permitted derogations, which entered into force on 23 November 1996, were taken into account.

The Committee asks whether part-time workers are entitled to a weekly rest period on the same conditions as full-time workers.

Under section 31, subsection 3 of the Working Hours Act, derogation from the main rule concerning the weekly rest period is possible if the regular working hours are no more than three hours per day. Derogation is also possible in respect of farming and in urgent sowing and harvesting work. Due to this, those part-time workers who regularly work for no more than three hours per day are not covered by the provisions of subsection 1 of section 31 concerning the uninterrupted rest period of 35 hours.

Subsection 2 of section 31 provides for a weekly rest period of employees in continuous shift work. In such work, the employer may also arrange the weekly rest period so that the average rest period is 35 hours within a maximum of twelve weeks. Even then, however, the weekly free time must be at least 24 hours. With the consent of the employee concerned, this procedure may also be applied when technical conditions or the organization of work so require.

ARTICLE 3: THE RIGHT TO SAFE AND HEALTHY WORKING CONDITIONS

Article 3, paras. 1 and 2: Safety and health regulations and measures of supervision

Finland is not bound by paragraphs 1 and 2 of Article 3.

Article 3, para. 3: Consultations with employers' and workers' organisations on measures intended to improve industrial safety and health

On 12 February 1997, a collective agreement was concluded in the municipal sector, concerning safe and healthy working conditions. This agreement is a collective agreement for the protection of workers within the meaning of the Act on the Supervision of Labour Protection and Appeal Procedure in Matters concerning Labour Protection. The agreement applies to all municipalities and joint municipal boards as well as to officials and workers employed by them.

Committee's questions:

The Committee asks whether the Government¹ (*valtioneuvosto*) selects the members of the Occupational Safety and Health Committee freely, or from a list drawn up by labour and management organisations. The Government informs that, under the Act on the Occupational Safety and Health Administration (16/1993), the members of the Occupational Safety and Health Committee, which is designated by the Government for a period of three years, shall include persons representing the most important trade unions and other interest groups that are relevant for the development of safe working conditions. Under the Decree on the Occupational Safety and Health Committee (199/1993), the Committee shall consist of a president, a vice-president and a maximum of three other members, for whom personal deputies shall also be designated. Although the members of the Committee are designated by the Government, the normal procedure is that the Government requests the most important organisations to name candidates for members and deputies.

The Committee wishes to know if the transposition of Community Directive 89/391 on the implementation of measures to encourage improvements in the safety and health of workers at work has led to any changes in arrangements for the consultation of professional organisations in this field.

A new section 10a was added to the Act on the Supervision of Labour Protection and Appeal Procedure in Matters concerning Labour Protection (131/1973), which entered into force on 1 January 2000. This provision contains an obligation based on the Community Directive, under which the labour protection ombudsman at each workplace shall be provided with appropriate training. The training relating to the protection of workers was earlier based on provisions of collective agreements. The obligation to provide training encompasses the deputy ombudsmen. The need for training of a deputy ombudsman depends on the extent to which he or she shall perform the duties of the labour protection ombudsman when the latter is prevented from performing them. Where appropriate, the training of the labour protection ombudsman and deputy ombudsmen is

¹ Previously referred to as "the Council of State".

covered by the principles set out in section 11, subsections 2 and 3 of the Act, concerning the duties of the labour protection ombudsman. Under those provisions, the ombudsman shall not neglect his or her duties arising from the employment contract, the employer shall not refuse to discharge the ombudsman from his or her duties for a reasonable period of time, and the ombudsman is entitled to a compensation for loss of income and a compensation for performing duties, where necessary, outside the normal working hours.

“Appropriate training” means training to be provided for labour protection ombudsmen under national collective agreements. Where the number of workers to be represented is small, and neither the nature of work nor working conditions are particularly difficult, the training may be provided at the workplace in question. In any case, the training shall be provided in the most appropriate manner with regard to the workplace in question, so that the local conditions may be best taken into account.

Under subsection 2 of section 11, the training shall be planned in cooperation with the workers or their representatives. This provision corresponds to section 9, subsection 5 of the Occupational Safety and Health Act (299/1958). The planning of training includes, among other things, the assessment of the need for training, supply of training, and timing of the training. According to subsection 3 of section 10a, the training shall be given during the normal working hours, unless otherwise agreed between the parties. Participation in training must not create costs on the labour protection ombudsman and deputy ombudsmen.

The Occupational Safety and Health Act was amended with effect as of 1 January 2000. The most relevant amendments aim at preventing dangerous working conditions in accordance with the general principles set out in the Community Directive. Furthermore, an objective of improving working conditions was inserted in the Act. This objective is based on both the Community Directive and the Treaty establishing the European Community. Through the amendment of the Act, certain provisions concerning the regulation of working conditions were also made more precise, so as to comply with the Directive.

Section 9b of the Act concerns the need to ensure that the work and equipment correspond to the physical and mental capacities of the workers. The provision was amended so that it now clearly sets out an obligation to alleviate the burden created by continuous hard work and to reduce health hazards.

A new section 9c clearly sets out the principles to be followed by the employer in order to fulfil the obligations referred to in section 9 and the obligation provided for in section 9b. Under these principles, 1) the aim is to prevent and eliminate risks before their emergence; 2) safety measures of general application are given priority over measures concerning individual workers; 3) dangerous conditions must be changed so as to make them less dangerous; and 4) in all safety measures, the most recent technological achievements must be taken into account. This list is not exhaustive, and nor are the principles in a priority order. The need to take the most recent technological achievements into account does not only entail a need to change technical qualities of machines and equipment but also a need to rearrange work and production so that recent research findings concerning ergonomic, psychological or sociological factors are taken into account. Section 17, subsection 1 of the Act was also amended. It now provides that priority shall be given to the replacement of dangerous and toxic substances with harmless or less dangerous substances, over protection measures concerning individual workers.

Provisions concerning the employer's obligation to designate certain workers that are responsible for fire-fighting and evacuation measures, and first-aid, based on the Community Directive, were added to a new subsection 2 of section 23 and to subsection 2 of section 36, respectively.

So as to comply with paragraph 2 of Article 10 of the Directive, subsection 3 of section 34 of the Act was supplemented with an obligation for the employer to ensure that any external company having work performed on the premises of the first-mentioned employer is informed of any measures relating to fire-fighting, first aid and evacuation, as well as of the persons responsible for them. It is a duty of the said company to ensure that this information is further communicated to the workers employed by it and that these workers are aware of them.

ARTICLE 4: THE RIGHT TO A FAIR REMUNERATION

Article 4, para. 1: The right of workers to a remuneration and a decent standard of living

Finland is not bound by paragraph 1 of Article 4.

Article 4, para. 2: Increased rate of remuneration for overtime work

Question A. Measures applied as regards overtime pay, the method used to calculate the increased rates of remuneration and the categories of work and workers to which they apply

No amendments have been made to the legislation. The Government refers to information given in reply to question A under Article 2, paragraph 1.

Question B. Special cases for which exceptions are made

No changes since the fourth periodic report.

Committee's question:

The Committee asks for a reply to the question as to how many workers are excluded from the protection afforded by the Working Hours Act because they belong to the groups covered by section 2 and wishes to receive some examples of the kind of work this provision aims to exclude from the scope of the Act.

The Government is not aware of the number of workers who fall outside the scope of the Working Hours Act as a result of application of section 2. This issue was nevertheless addressed in a study carried out by the Ministry of Labour and the University of Helsinki, concerning the application of the Working Hours Act to private sector employees in high positions, and state and municipal officials and workers of a comparable rank (Publications of Labour Administration, no 262). One aim with the study was to find out whether the reform of the national legislation concerning working hours had in practice led to a situation where an increasing part of workers remained outside the scope of the Working Hours Act (605/1996), and thus weakened the legal protection of workers insofar as working hours were concerned. The study was nation-wide and focused on the

interpretation of section 2, subsection 1, paragraph 1 of the Act. One finding of the study was that there were no significant deficiencies in the regulation of the working hours of the afore-mentioned groups of employees and officials.

The Committee has requested information on the right to overtime pay for family day carers and domestic employees.

The Government notes that persons referred to in section 1 of the Family Day Carers Act (312/1992), who have entered into a contract with a municipality or joint municipal board concerning the provision of family day care, are not formally employed by the said municipality or joint municipal board within the meaning of subsection 3 of section 1. Thus, the family day carers referred to in the Act are not covered by the provisions on overtime pay in the Working Hours Act. The Act on the Employment of Household Workers (951/1977) contains provisions on working hours, remuneration and overtime pay. According to section 4 of the Act, "regular working hours shall not exceed 9 hours a day or a total of 90 hours over two weeks". Section 13 further provides for remuneration to be paid for overtime and emergency work. "The remuneration payable on overtime and emergency work carried out in addition to the regular daily working hours laid down in section 4 shall be the regular wage plus 50 per cent on the two first hours and the regular wage plus 100 per cent on the following hours. The remuneration payable on other overtime and emergency work carried out outside regular working hours shall be the regular wage plus 50 per cent. In cases where exceptions to the provisions of section 4 have been made by collective agreement, the collective agreement concerned must state how the higher wage payable for overtime referred to in subsection 1 is calculated."

The Committee notes that derogations from sections 22 to 25 of the Working Hours Act can be made in national collective agreements, and wishes to obtain information on what is stipulated in such agreements as regards overtime pay and, in particular, whether there are agreements that do not provide for an increased rate of remuneration for overtime work.

The Government informs that, in general, collective agreements afford at least the same level of protection as provisions of law. However, the freedom of contract has made it possible to occasionally agree on terms which are less favourable than the applicable legislative provisions but, in turn, in respect of some other matters collective agreements have contained terms that are more favourable to the workers.

Article 4, para. 3: Equal pay for women and men

In this respect the Government refers to the Report made by the Government of Finland on the measures taken to give effect to the provisions of the ILO Convention No 100, for the period 1 June 1998 to 31 May 2000. (*Annex 2*)

Committee's questions:

The Committee notes that no figures were supplied in the fourth periodic report on average male and female earnings in Finland during the reference period. The Government informs that in 1999, the average female earnings in full-time work were FIM 10,500/ month and the average male

earnings a little less than FIM 13,000 (*source: Statistics Finland, 2001*). These figures cover those persons who have so-called normal weekly working hours and salaries.

The Committee further notes that the Finnish authorities have not answered its question about the reinstatement of workers dismissed for claiming equal pay, and insists on a full explanation in the present report.

The Government observes that, in Finland, any workers enjoy strong protection against dismissal, and in the public sector this protection is even stronger. When the employment contract has been concluded for an indefinite period of time, it may only be denounced by the employer on special grounds. Under the general legislation concerning employment contracts both in the private and public sector, an employer may not dismiss a worker for a personal reason unless this reason is particularly important. The law lists several grounds which may under no circumstances be considered acceptable grounds for dismissal. For example the fact that the worker has invoked his or her right under the Act on Equality between Men and Women to obtain the same pay for the same or equal work, is not a legal ground for dismissal.

In case a worker has been dismissed on illegal grounds, however, he or she may submit the dispute concerning his or her dismissal to a court of law and claim for compensation under the law. In the public sector, the employer may also be placed under an obligation to reinstate a dismissed public official if the court finds that the dismissal has been illegal. (Such decisions have been made e.g. in cases of city mayors or doctors employed by municipalities winning disputes concerning dismissals.)

Under the Act on Equality between Men and Women, dismissal of a worker who has claimed for a raised salary on the ground he or she has been discriminated because of his or her sex, may be considered retaliation. Such measures are prohibited under the Act. A worker facing retaliation may submit the case to a court of law and claim for compensation under the Act on Equality between Men and Women, and possibly under other legislation as well. The Equality Act does not as such contain provisions on the employer's obligation to reinstate the worker.

The Committee has also wished to receive information on the female award referred to in the fourth periodic report, and particularly on the level of funding reserved for that purpose. The Government informs that in the collective incomes policy agreement for the years 1998 and 1999, additional funds for removing wage gaps were agreed on. The amount was determined in respect of each sector as follows: the proportion of women of all salaried employees was multiplied by 0.6. Thereafter, the proportion of those salaried employees in the sector in question who earned less than FIM 55/ hour or less than FIM 9,300/ month, of all salaried employees, multiplied by 0.2, was added to the result. For the purpose of determining the amount, the labour market organisations used the last three months in 1996, or a comparable statistical period, as a reference period. The funds were used for purposes agreed on with trade unions. In case no particular agreement on the use of the funds was made, it was used for the purpose of paying general raises based on a determined percentage.

When agreements on the use of the additional funds were made, attention was paid to the grounds on which it was to be allocated. The purpose of these funds was to raise the wage level of such women whose wages did not correspond to the difficulty of their work and the qualifications required for performing such work. Central organisations were informed of the agreement, and all trade unions were urged to enter into negotiations in their respective sectors.

The raises made with the support of the additional funds (in the incomes policy agreements in 1998 and 2001) in the various sectors have varied between 0.1 % and 0.8 %, the pharmacists, workers of hotels and restaurants, cleaners and health care and social workers having been given the highest raises. The raises have been affected by the general wage level and proportions of women and men in the sector in question. The average raises given in the sector of services in both incomes policy agreements have been 0.5 %.

Article 4, para. 4: Reasonable notice of termination of employment

Finland is not bound by paragraph 4 of Article 4.

Article 4, para. 5: Limitation of deductions from wages

According to section 26, subsection 1 of the Employment Contracts Act (320/1970) that was in force during the reference period, the employer had no right of set-off in respect of the workers' salaries insofar as the salaries were protected by law against seizure. Any contract concluded to the contrary was null and void. There is a corresponding provision in Chapter 2, section 17, subsection 1 of the new Employment Contracts Act, thus constituting an exception to the employer's general right of set-off.

The Execution Act (of 3 December 1895) contains provisions on a protected amount that may not be deducted from the worker's pay. Under the main rule, one third of the salary may be subject to distraint (Chapter 4, section 6, subsections 1, 2 and 4 of the Execution Act). Also holiday compensations, payments in kind, royalties and various types of rewards are considered salaried income within the meaning of Chapter 4, section 6b, subsection 1 of the Act. The amount to be deducted is based on net income (Chapter 4, section 6b, subsection 2). However, a certain amount of salaried income is protected against seizure, for the purpose of ensuring the debtor's and his or her family's living. When the protected amount is determined, the number of dependents (debtor's spouse and natural or adopted children under the age of 18) is taken into account (Chapter 4, section 6, subsection 3 of the Act). A spouse or children who have income of their own shall not be taken into account for the purpose of determining the protected amount.

According to section 6, subsection 3 in Chapter 4 of the Execution Act, detailed provisions on the protected amount shall be given by Government Decree. According to section 1 of the still existing Decree (1073/2001), which was applied in the reference period, a debtor was considered to need for his or her own living 107 FIM/ day and for each of his or her dependents 39 FIM/ day, until the following pay day, which is protected against seizure.

The Government provides examples on the calculation of the protected amount in *Annex 3* to the present report.

Illness, unemployment or a comparable reason may in some cases, upon application, be taken into account when the amount protected against seizure is determined (Chapter 4, section 6a, subsection 1 of the Execution Act). When a worker's income has been subject to full distraint without interruptions for a year, the debtor has the right to be released, upon application, from the liability of payment for 1 to 3 months. It is further required that:

- 1) the debtor only has little money left after seizure, in excess of the protected amount, or
- 2) the debtor's necessary costs of living are high, or
- 3) there is some other important reason for the interruption of distraint, such as a need to pay the dentist's fees or to purchase household equipment, which the debtor is unable to do because of the seizures of his or her income (Chapter 4, section 6a, subsections 2 and 3 of the Execution Act).

According to section 21 of the collective agreement concerning local authorities, the employer may not use the right of set-off in respect of a public official's or worker's salary insofar as it is protected against seizure under the Employment Contracts Act (Chapter 4, section 6 of the Execution Act). Holiday pay and holiday compensation may be subject to distraint in whole. The employer loses the right of set-off in case it has not been used within five years from the end of the calendar year during which the claim has arisen.

Section 21 of the collective agreement further provides that, in cases where the public official or worker has taken a day off upon his or her own request, or has had a day off for a personal reason, and he or she has not worked in the missing hours on another occasion, the pay for each hour during which the worker has been absent shall be deducted from the monthly pay.

According to section 22 of the collective agreement, in cases where a public official has been removed from office under provisions of the Local Authorities Act or the Act on the conditions of work of municipal office-holders, he or she shall be deprived of his or her income for the period of time he is removed from office. Should the reason for removal from office be a suspected offence, for which the sentence is no more than an admonition, the seized income shall be refunded to him or her.

The afore-mentioned provisions shall also be applied where the official is under arrest for the purposes of interrogations or is under detention pending trial. In such cases removal from office is usually not necessary because the performance of official duties has already been interrupted.

ARTICLE 9: THE RIGHT TO VOCATIONAL GUIDANCE

Question A. Description of the service – its functions, organisation and operation

The Government refers to the second periodic report of Finland.

In 1999, an amendment was made to the Employment Services Act (1005/1993) and to the Employment Services Decree (1251/1993), extending the supply of vocational information services and guidance to cover all educational levels.

Answers to specific questions

a) Is the access to services free of charge?

Basic school education, vocational education leading to a diploma, and upper secondary school education are free of charge.

b) Is the vocational guidance carried out in the public or private sectors?

Educational services may be provided by municipalities, joint municipal boards, foundations or private bodies. Vocational guidance is an integral part of the education, and the costs of such guidance are included in the overall costs of education. (See also the answer given to question A(b) under Article 10, para. 1.)

c) Measures taken to supply all persons with adequate information on the choice of employment

It is a duty of the Ministry of Labour to produce, compile and transmit information on vocational and labour market services as well as on educational and training possibilities, for the purpose of supporting the vocational and educational choices of the users of those services and developing vocational guidance services in general.

The employment agencies have special information services providing information on different professional fields and professions, educational facilities at all levels of education (covering the entire country and including up-to-date information on the structure of educational programmes, application procedures and requirements for admission), as well as on the financing of education. Apart from information, citizens have access to cost-free personal guidance and counselling without need to reserve an appointment beforehand.

Comprehensive school and upper secondary school education includes vocational guidance. The schools provide such guidance in cooperation with employment agencies, vocational schools, universities and employers.

Apart from the normal vocational guidance, vocational colleges and polytechnics also provide career planning and recruitment services which are arranged in cooperation with employment agencies and employers. The purpose of career planning and recruitment services is to enhance the access of students to working life.

d) Measures taken to ensure a close link between vocational guidance and training on the one hand and employment on the other

The career planning and recruitment services provided by vocational colleges and polytechnics are being developed by means of various projects. Such projects aim at finding good practices to be applied by all providers of education. Attention has been paid in particular to cooperation among providers of education, employers and employment agencies. The reform of in-service training facilities has improved the contacts between educational institutions and employers, and has thus contributed to a better access for students to working life (see also the answer given on page 35 to the additional question presented by the Committee under Article 10, para. 1).

e) Measures in hand for improving the services

The Ministry of Labour has introduced continuous projects for the development of services in the past ten years. These projects have not only aimed at improving labour services as such but also at developing the organisation of services, working units and management systems as a whole. There have also been individual and small-scale projects at the regional and local levels. Since 2000, the Finnish labour administration has applied its own versions of the EFQM Excellence model (European Foundation for Quality Management) for every organisational level.

For the purpose of developing cooperation between the Ministry of Education and the Ministry of Labour, a working group was set up in the spring of 2000 to examine the vocational guidance and employment services. The working group is to coordinate cooperation among various sectors of administration in order to enhance the access of young persons to education and working life.

f) Details of special measures to assist disabled persons

The provision of services to disabled persons is often a long-term process of various individual measures which aim at finding out their needs for vocational rehabilitation and their possibilities for or obstacles to access to work, with the help of different experiments and analyses where appropriate.

Apart from being entitled to vocational guidance, it is possible for disabled persons seeking work to get at the same time vocational rehabilitation services provided by persons trained for that purpose. These services aim at supporting the access of disabled persons to work and their possibilities to stay at work, as well as at enhancing cooperation in this respect.

The aim with job experiments is to improve the assessment of the capacity for work of disabled job-seekers and other users of vocational guidance services, on the basis of experiences obtained at work. An agreement on job experiment may be concluded for a maximum of six months, in cooperation with the service-user and the employer. Upon application, the service-user may be granted financial assistance for covering any additional costs and travel expenses and, where necessary, the service-user may be paid a daily allowance during the job experiment.

The purpose of training experiments is to support the implementation of the service-user's training plans and his or her access to training, and to contribute to the assessment of his or her capability and suitability for the planned training. Before starting with the training, the service-user gets information on the requirements relating to the training and his or her own suitability for the training. The experiment may be arranged at a vocational college and it may not last longer than ten days. The employment agency in question pays the expenses incurred upon the vocational college arranging the experiment as well as the costs of meals and accommodation and the travel costs of the service-user. Where necessary, the participant may be paid a daily allowance during the experiment.

Job experiments and training experiments may also be combined, and such combined experiments aim at establishing whether the service-user is suitable for a given profession. The experiment may be arranged at a vocational college, and the employment authorities agree with the college on the nature and duration of the experiment as well as on the daily fees to be paid. The experiment may consist of various duties, lectures, discussions with teachers and different exercises measuring the service-user's suitability for the training. A combined experiment may not last longer than 40 days. The employment agency in question pays the expenses incurred upon the vocational college arranging the experiment as well as the costs of meals and accommodation and the travel costs of the service-user. Where necessary, the participant may be paid a daily allowance during the experiment.

As a part of rehabilitation services, an overall analysis may be made of the service-user's health, capacity for work and other activities, needs and possibilities for rehabilitation. The analysis consists of examinations made by a doctor, a psychologist and a social expert, lasting five to ten days. The employment agency pays the costs incurred upon the institution responsible for the examinations and opinions, as well as the travel costs, meals and accommodation of the service-user and of a possible person accompanying him or her and, where necessary, a daily allowance is paid to the service-user.

Question B. Measures taken in the field of vocational guidance to promote occupational and social advancement

The services provided by the labour administration "to promote occupational advancement" encompass all those services which relate to vocational guidance and career planning, vocational rehabilitation, provision of information on training and professions and vocational training.

As regards vocational guidance and career planning services, there are mainly two kinds of objectives. Firstly, people are helped to find a suitable place in the working life in accordance with their individual needs and capabilities, and to work on their own careers. Secondly, the needs and possibilities in the labour market are monitored with a view to ensuring that all industries have the competent workers they need. The services focus on the individual wishes, strengths and interests of the service-user, but also have a wider objective to increase human resources in the labour market.

The most important method in vocational guidance is the provision of individual interviews which may be added by the afore-mentioned support measures, i.e. job and training experiments and profound analyses of the service-user's health and capacity for work. In the field of vocational guidance, the use of such measures does not require that the service-user be disabled, but they may also be applied to service-users who otherwise have an inadequate training or work experience. However, in respect of other employment services, such support measures may only be provided to disabled persons.

Question C. Types of information available in the vocational guidance services and the means employed to disseminate this information

The Ministry of Education and the Ministry of Labour are the main producers of vocational guidance services in Finland. Information on different professional fields and professions is

disseminated by the labour administration which also maintains a comprehensive database of vacancies and of the supply of labour market training. The information provided by the employment agencies covers all kinds of job and training opportunities in Finland as well as certain opportunities abroad.

There are three types of information material used by the labour authorities:

- printed guides concerning different professional fields and professions;
- videos presenting different professional fields and professions;
- descriptions of professional fields and professions on the Internet.

Job registers and information on the supply of labour market training are available on the labour administration's Internet pages. The school authorities also issue publications and provide information on the Internet, concerning educational possibilities.

Free copies of guides produced by the labour administration are distributed to schools (comprehensive schools, upper secondary schools, and relevant vocational schools) as well as to public libraries and garrisons.

- Videos produced by the labour administration are distributed to employment agencies where it is possible to watch them. They may also be borrowed from employment agencies and from the Finnish employers' central organization's publication office.
- The websites may be used free of charge.

Question D.

a) the total amount of expenditure devoted to vocational guidance services during 1.1.1997 – 31.12.2000

Table 1 below presents the costs of vocational guidance services provided in 1997 – 2000. The personnel costs are based on the total amount of remunerations paid to the labour administration staff. The share of vocational guidance of the personnel costs is calculated on the basis of the number of hours used for the provision of those services (*in the table: share of the use of time*). The personnel costs include any personnel-related costs, including the costs of computers and other equipment as well as of working premises.

Other costs of vocational guidance include the costs of tests provided for service-users, and of research and job and training experiments, as well as the costs caused by cooperation among various institutions and authorities,. The costs per service-user have been calculated by dividing the total costs of vocational guidance services by the number of persons using those services, including both those who have completed an individual counselling process that year and occasional users of services.

The costs of vocational guidance services are included in the overall costs of education (see information given in reply to question A (b) under Article 10, para. 1.).

Table 1. Costs of vocational guidance in 1997-2000 (FIM)

	Costs of personnel	Other costs	Total costs	Share of the use of time	Costs/ service-user
1997	10 212 405	3 254 731	13 467 136	10.4 %	178
1998	10 563 804	4 168 241	14 732 045	9.5 %	180
1999	11 382 860	3 744 926	15 127 785	9.6 %	183
2000	10 506 631	3 978 837	14 485 469	8.7 %	187

b) the number of specialised staff of the vocational guidance services and their qualifications

The required qualification for psychologists providing vocational guidance and career planning services and services related to vocational rehabilitation is a master's level university degree in psychology. There are a total of 270 psychologists providing such services (situation on 31 December 2001).

No corresponding requirements concerning qualifications exist for providers of educational and vocational information services or employment services. Most of this staff do, however, have a degree from a polytechnic or university. An in-service training program is also organised for educational advisers, special needs consultants and job club trainers.

A teacher providing vocational guidance must have the qualifications that are normally required from such teachers (usually a university degree, experience, teacher's training), and the teacher must have completed separate vocational guidance studies. As of the beginning of 1999, the extent of those studies was increased from 20 credits to 35 credits.

c) Number of persons benefiting from vocational guidance (by age, sex and educational background)

Information on users of vocational guidance services is registered in the data system of the labour administration. The background information to be registered include age, gender, nationality, general school education and vocational education, profession, eventual disabilities or health-based restrictions.

Table 2

Age	Sex	Number of customers	Share of all customers (%)	Basic education (%)	Secondary education (%)	Higher education (%)
15 to 19	Women	5404	65.9	78.0	21.5	0.0
22.6 %		6199	68.6	79.6	20.3	0.0
23.4 %	Men	2789	34.1	90.2	8.8	0.0
		2821	31.2	90.7	9.3	0.0
20 to 24	Women	3925	63.7	25.2	70.2	4.3

17.0 %		4504	63.7	24.0	72.5	3.5
18.2 %	Men	2234	36.3	38.7	59.5	1.0
		2563	36.3	39.2	60.2	0.6
25 to 35	Women	5901	66.6	21.1	60.1	18.0
24.4 %		6295	66.5	21.7	64.2	14.1
24.5 %	Men	2960	33.4	32.6	59.2	7.2
		3160	33.5	31.2	62.6	6.2
35 to 44	Women	5546	68.6	21.7	61.2	16.2
22.3 %		5704	68.8	23.4	64.8	11.8
21.4 %	Men	2536	31.4	30.0	59.0	9.9
		2579	31.1	29.5	62.6	7.9
45 to 54	Women	3077	66.7	37.8	48.0	12.8
12.7 %		2941	66.1	38.9	51.8	9.2
11.5 %	Men	1539	33.3	41.6	46.3	10.9
		1510	33.9	42.3	50.4	7.4
55 to 64	Women	264	66.5	50.4	36.4	11.7
1.1 %		289	67.8	55.7	39.8	4.5
1.1 %	Men	133	33.5	61.6	30.9	7.6
		137	32.2	62.0	34.3	3.6
	In total	36313	(in 2000)	40.7	49.6	8.9
		<i>39066</i>	<i>(in 1999)</i>	<i>41.5</i>	<i>51.9</i>	<i>6.6</i>

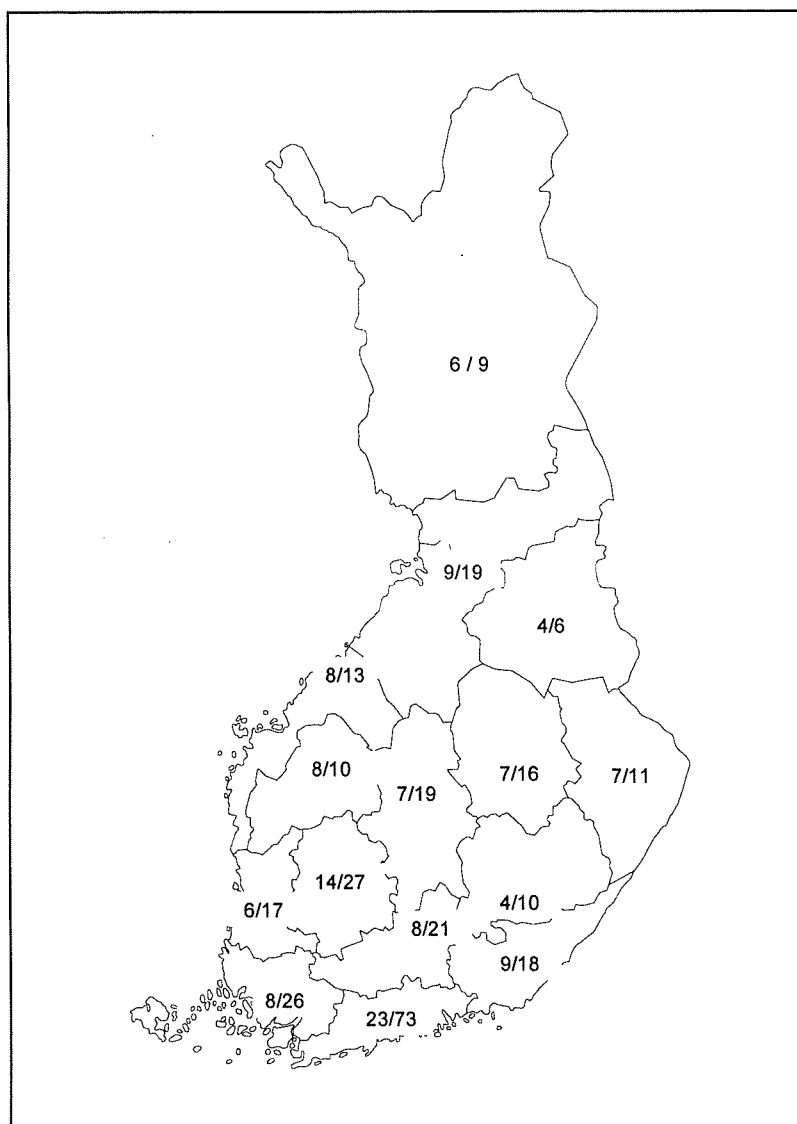
Table 2 above provides information on the age, sex and educational background of users of vocational guidance services in 1999 (in italics) and in 2000. There is no corresponding information available for the years 1997 and 1998. The figures include those service-users who completed an individual counselling process that year (7,000 to 8,000 service-users).

d) the geographical and institutional distribution of vocational guidance services

Vocational guidance services are provided by a total of 130 employment agencies within 15 employment districts. The smallest employment agencies are not able to provide regular services but the services are provided so that a psychologist from a larger employment agency in the district holds additional receptions in the smaller ones at regular intervals.

One aim with electronic services (vocational guidance services on the Internet; distance services with the help of video conference equipment) is to increase equality among service-users in different parts of the country.

The map of Finland below shows the numbers of employment agencies providing vocational guidance services in relation to the number of psychologists available in them, in respect of each employment district, as they were on 31 December 2001. It must be noted, however, that part of the vacancies of psychologists may remain unfilled for a considerable period of time in case there are no competent applicants (in particular in northern Finland).



Question E. Is the equality of access to vocational guidance ensured for all those interested, including nationals of the other Contracting Parties to the Charter lawfully resident or working regularly in your territory, and disabled persons?

Vocational guidance and career planning services provided by employment agencies are available to all citizens notwithstanding their background.

Those foreign citizens who, under international agreements on free movement of labour by which Finland is bound, have the right to enter the Finnish territory in order to seek and accept employment without a work permit, and who are working in Finland, are entitled to vocational guidance services in the same way as Finnish citizens. Other foreign citizens, even if they have not obtained Finnish nationality, have the same right to services as Finnish citizens in case they have full access to work on the basis of a residence or work permit. Foreigners who are entitled to get certain type of work only may be entitled to vocational guidance services on the same conditions as Finnish citizens in case their residence and work permits authorise continuous stay in the country.

Committee's questions:

a) Distribution of vocational guidance services

In reply to the Committee's question, the Government informs that the nationwide objective, according to which there should be at least one psychologist per 25,000 persons, providing vocational guidance services, has been achieved. (The population of Finland is 5.2 million, and the total number of psychologists providing vocational guidance services is 295, which means that there is one psychologist per less than 18,000 persons.)

The Finnish Ministry of Labour has analysed the regional distribution of persons at working age (15 to 64 year-old persons) with regard to the number of psychologists working within the regions in question. In the light of that analysis, it would seem that the regions which lack resources more than average are Lapland, which suffers from people moving away to the south, and Uusimaa in the southernmost Finland which, benefiting from people moving to the region, is growing rapidly.

b) Expenditure, and the number of staff and persons assisted

The Committee wishes to get an explanation as to why the budget from public funds devoted to vocational guidance almost halved during the reference period, from FIM 120 million to FIM 63 million. The Government notes that it is difficult to provide exact figures on the costs of vocational guidance services and it is possible that different criteria have been used in different cases when the costs have been calculated. The Government is not aware of the criteria used in respect of the said figures. It may be assumed, however, that the criteria in respect of the two figures are not entirely identical, and therefore the figures are not comparable as such.

c) Equal treatment for nationals of the other Contracting Parties

The Committee asks whether any conditions are imposed on Cypriot, Maltese or Turkish nationals legally residing or regularly working in Finland for access to vocational guidance services. In this respect the Government refers to information given in reply to question E above, and notes that no specific conditions differing from those are imposed on persons with the said nationalities.

ARTICLE 10; THE RIGHT TO VOCATIONAL TRAINING

Article 10, para. 1: Promotion of technical and vocational training

Question A. Account of services designed to provide vocational training

a. Legislation

The applicable provisions on vocational education are contained in the Vocational Education and Training Act (630/1998) and the Adult Vocational Education Act (631/1998). Both Acts entered

into force at the beginning of 1999. Education provided by polytechnics is regulated by the Polytechnics Act (255/1995). The provisions concerning the financing of vocational education are contained in the Act on the Financing of Education and Cultural Activities (635/1998).

The Finnish system of vocational education was subject to profound changes in the 1990's. Since 2000, the system has consisted of basic vocational training and advanced and specialised vocational training. The polytechnics are part of the system of vocational education. Considering that the reform has been made so recently, there still are students covered by the old system.

The basic vocational education is mainly provided by educational institutions but such education may also be obtained through apprenticeships which have become increasingly popular. It is also possible to obtain preparatory training for any vocational education through apprenticeship.

Since 2001, the structure of basic vocational education has been divided into 120 credits (lasting three years).

Apart from the normal way of obtaining the basic vocational education in educational institutions which admit their students at the same time, such education may also be obtained by means of examinations designed for the demonstration of professional skills. The last-mentioned method is designed in particular for adults who already have prior vocational education or work experience, on the basis of which they may take the examinations, but there is also training preparing for those examinations available.

The prior system of basic and higher vocational education is gradually ended. The last students under that system were admitted in 1998.

At the end of 2000, there were 220 entities providing basic vocational education, including the State. Among the providers of education, there were 66 joint municipal boards, 48 municipalities and 105 private institutions. Most of the students, nearly 90 %, studied in educational institutions maintained by municipalities or joint municipal boards. The State maintained five institutions providing specialised vocational education and a Sámi training centre, as well as a Maritime Safety Training Centre.

Under the new legislation, the municipalities and other providers of basic vocational education decide, within the limits set by the Ministry of Education, on the establishment of educational institutions and on the nature of the education and training provided by those institutions. Subject to an authorisation, the providers of basic vocational education may also provide for the aforementioned examinations or apprenticeships leading to a diploma or preparing for vocational education. In 2000, there were a total of 277 institutions providing vocational education.

Additional vocational education may be obtained by means of advanced and specialised vocational education and through other forms of further professional training. Advanced and specialised vocational qualifications are obtained by taking special examinations to that effect. These examinations give qualifications for more demanding duties than basic vocational education. The other forms of professional training include continuing education, designed for the needs of working life, which is provided by both vocational colleges and universities.

Additional vocational education is provided by some 300 institutions, including universities, polytechnics, vocational adult training centres, specialised and other vocational institutions and open colleges.

Apart from the educational institutions subject to guidance by the Ministry of Education, also other authorities provide vocational education to some extent. Part of such vocational education is financed by the Ministry of Labour, the Ministry of the Interior (police training) and the Ministry of Defence (training for the staff of the defence forces).

The polytechnics all grant Bachelor-level degrees, consisting of 160 credits (= 4 years of full-time studies) in natural sciences, technology and culture, and 140 credits (= 3.5 years) in economics and business and administration studies, and studies in the fields of tourism, catering and institutional management, and health care and social services. The degree in music studies, however, consists of as many as 180 credits (= 4.5 years).

The polytechnics also provide further education for adults, i.e. extensive specialised studies in certain vocational fields. Such studies are available to persons who already have prior vocational qualifications or a university degree, or otherwise adequate preparedness for the studies in question.

There are in total 29 polytechnics in Finland. These include both public and private institutions. Seven of them are maintained by municipalities, eleven by joint municipal boards, eight by companies and three by foundations. In addition there is a Police College (which is a polytechnic maintained by the Ministry of the Interior), and one polytechnic on the Åland Islands.

b. Financing

The responsibility for the financing of education and of school buildings is distributed among government and local authorities and other providers of education. Apart from providing financing themselves, local providers of education are entitled to state subsidies for covering the costs of establishment and maintenance of educational institutions. The criteria applied to public financing are the same irrespective of the structure of ownership of the educational institution.

State subsidies for the operation of schools are granted as fixed amount depending on the number of students, hours used for the provision of education or other calculable unit, which are established for each year. State subsidies cover approx. 57 % of the costs of operation of schools. The most important criterion determining the amount of state subsidy is the number of students participating in the education. The contribution of the municipality in which the school is located to the financing of its operation is determined on the basis of the share of that municipality in the total costs of education per capita in the entire country. The educational institution may itself decide on how to use the subsidies.

As regards additional vocational education, a separate allocation for that purpose is reserved in the State budget each year. This allocation is based on an arrangement in which the State Provincial Offices are buyers of educational services and public educational institutions are suppliers of those services.

Table 3. Public financing in 2000 for vocational colleges and polytechnics controlled by the Ministry of Education

Basic vocational education	2,897,420,000 FIM
Additional vocational education	500,773,000 FIM
Polytechnics	1,458,898,000 FIM
State grants for students	2,000,223,000 FIM

The costs of vocational education in 2000 included the costs of basic vocational education for adults, of education provided by vocational colleges and polytechnics, and of education provided by temporary polytechnics. They also included the costs of apprenticeships in their entirety.

Table 4. Subsidies used for training provided for adults by the labour authorities in 1997-2000;

million FIM

	1997	1998	1999	2000
Services bought	1074.0	928.0	920.0	857.0
Social benefits	1158.0	947.0	626.0	558.0

c. No changes since the fourth periodic report.

d. No changes since the fourth periodic report.

e. Table 5. Access to training provided by the labour authorities

	1997	1998	1999	2000
Applications	256 494	226 896	229 585	210 705
Accepted applicants	182 754	159 079	160 988	138 581
Students starting their studies	134 325	111 117	119 208	89 059

In 1997 the Study Leave Act (273/1979) was amended (by Act No 58/1997) so that workers are now entitled to five days off to be used for studying if they have been working for the same employer for at least three months, be it without interruptions or during different periods of time. In respect of short-term employment, the amendment entered into force on 1 February 1997. The Study Leave Act was further amended in 1999 (by Act No 35/1999) so that an employer bound by a collective agreement may apply provisions of that collective agreement, derogating from the provisions of the Study Leave Act, even if they are less favourable for the workers. This amendment entered into force at the beginning of 1999.

Question B. Arrangements for vocational training by type of vocational training and number of starting places

The Government has set an objective to provide a possibility for all persons finishing comprehensive school to continue their studies either at an upper secondary school or at an institution providing vocational education. Approx. 45 % of persons finishing comprehensive school or upper secondary school enter basic vocational education.

The following figures cover education provided by institutions controlled by the Ministry of Education, with the exception of apprenticeships which are dealt with in the context of information given under Article 10, para. 2.

In 2000, there were approx. 55,100 new students starting in educational institutions providing basic vocational education. The total number of students in such education was approx. 116,800. The corresponding figures in polytechnics were approx. 33,000 and 114,100. In addition there were approx. 5,400 students carrying out specialised studies in polytechnics. The numbers of students in polytechnics have increased as the temporary institutions have obtained a permanent status.

Table 6. Students in educational institutions in 2000

	Basic vocational education	Additional vocational education leading to a diploma 1)	Vocational colleges and higher vocational education	Polytechnics	Specialised studies in polytechnics
Natural sciences	6831	1567	332	3958	284
Technology and transport	45007	3796	2337	36495	954
Economics and business administration	20064	5740	1282	33755	865
Tourism, catering and institutional management	17434	2189	565	6099	244
Social welfare and health	18592	1512	1285	25039	2488
Culture	7293	973	1346	7123	319
Sports and recreation	1603	234	328	1683	204
In total	116823	16011	7474	114152	5358

1) Number of full-time students in 2000. In addition there were 10,657 students participating in other additional vocational education.

Table 7. Persons completing training provided by the labour authorities in 2000 (by sex and vocational field)

Vocational field	Total number of persons	%	Men	%	Women	%
Technology, natural sciences and comparable	2778	3.5	1632	4.4	1146	2.8
Social welfare and health	3941	5.0	294	0.8	3647	8.8
Administrative and office	14197	18.1	5278	14.3	8919	21.4
Commercial	2928	3.7	799	2.2	2129	5.1
Agriculture, forestry and fisheries	1093	1.4	857	2.3	236	0.6
Transport	896	1.1	796	2.2	100	0.2
Construction and mining	3496	4.5	3302	9.0	194	0.5
Industry	12652	16.1	9736	26.4	2916	7.0
Services	3645	4.6	991	2.7	2654	6.4
Other	32860	41.9	13155	35.7	19705	47.3
In total	78486	100.0	36840	100.0	41646	100.0

The shares of men and women of the persons who have completed training provided by the labour authorities mostly correspond to the shares of men and women of unemployed job-seekers.

Table 8. Persons starting training provided by the labour authorities in 2000 (by age and educational background)

LEVEL OF EDUCATION:	AGE:											OLDER IN THAN 64	% TOTAL
	15-19	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64			
1 PRIMARY	47	124	153	257	562	1879	2544	2466	768	45	1	8846	13.6
2 LOWER SECONDARY	1235	2590	2005	2276	1906	1184	765	579	191	17	0	12748	19.6
1-2 IN TOTAL	1282	2714	2158	2533	2468	3063	3309	3045	959	62	1	21594	33.1
3 LOWER LEVEL OF UPPER SECONDARY	599	2852	2553	2942	3333	2800	2179	1634	389	20	0	19301	29.6
4 UPPER LEVEL OF UPPER SECONDARY	423	2880	2123	2306	2280	1945	1656	1234	334	17	0	15198	23.3
MATRICULATION EXAM	174	770	407	446	393	333	285	166	61	5	0	3040	4.7
5 POLYTECHNICS	8	143	450	544	536	465	412	318	89	8	0	2973	4.6
6 LOWER UNIVERSITY LEVEL	1	118	282	254	234	181	205	141	60	6	0	1482	2.3
7 UPPER UNIVERSITY LEVEL	0	26	251	338	377	321	235	212	70	10	0	1840	2.8
8 POST-GRADUATE	0	0	12	19	25	25	20	14	12	4	0	131	0.2
9 UNKNOWN	80	268	278	377	423	394	406	274	111	28	4	2643	4.1
IN TOTAL	2393	9001	8107	9313	9676	9194	8422	6872	2024	155	5	65162	100.0

When compared with the year 1996, for example, the age distribution has changed in that the relative share of young persons has decreased, whereas the shares of 30 to 49 year-old persons and of 50-year-old or older persons have increased. The educational background of persons starting training provided by the labour authorities corresponds to the general educational background of job-seekers.

Question C. Measures taken to link vocational guidance and training with employment

The link between vocational guidance and training and employment is ensured by extensive assessments made beforehand at the regional and national levels. Regional assessments are made by Employment and Economic Development Centres in cooperation with local employment agencies. Information is gathered among others by interviews of employers in the region. Information concerning the entire country is compiled in an Internet database (TEPPO) containing links to information provided by authorities, research institutions, Statistics Finland and various organisations, concerning training and employment needs.

Training provided for adults by the labour authorities focuses on fields where the economic and technological development has been particularly rapid. The aim is that the supply of training would meet, to the extent possible, the needs for training and human resources in a given region. A further emphasis is on fields which are particularly important for the development of the region in question.

The aim is to ensure that the nature of the training corresponds to the real needs of the labour market so that the employers find the obtained professional skills useful. It has proved useful for students to undergo on-the-job training, as a part of the training provided by the labour authorities, which clearly improves their possibilities to find employment after the training period.

Training is also provided in cooperation with employers so that the employers contribute to the financing of up to 30 to 60 % of the costs of the training. In such cases an agreement is concluded with an employer, under which the employer agrees to provide employment to all or most of the persons who have completed the training. Such training may be carried out in the context of recruitment of workers, transferring workers to different duties, or development of the professional skills of workers. These forms of training may have a set objective of preventing dismissals and lay-offs, in which case even persons who already work for the employers in question may attend the training.

Question D. Methods adopted for providing access to higher education

The Government has set an objective to strengthen the possibilities of persons who have obtained basic vocational education, to have access to higher education, so that approx. one third of new students in polytechnics would have prior vocational education.

According to statistical data compiled by Statistics Finland, 17 % (5,466) of new students in polytechnics in 1999 had prior vocational education (either basic, advanced or specialised vocational education or comparable vocational education) before starting at a polytechnic. The share

of students with both upper secondary school education and vocational school education, starting at a polytechnic, was 8 % (2,760). The total number of new students in polytechnics was 33,082.

Question E. Equal access to vocational training opportunities

In the 1995 reform of the provisions on fundamental rights in the Finnish Constitution, cultural rights were given the status of fundamental rights. At the same time, the nationality requirement related to the enjoyment of fundamental rights was given up. Foreign citizens (and stateless persons) are now protected by the Constitution insofar as fundamental rights are concerned (subject to certain restrictions which are provided for in section 14, subsection 1, and section 9, subsection 3, of the Constitution).

Under section 16 of the Constitution, everyone has the right to basic education without charge. Section 16 also guarantees the availability of education other than basic education, not as a subjective right but as an obligation for the Government to provide for other forms of education. According to this provision, "the public authorities shall, as provided in more detail by an Act, guarantee for everyone equal opportunity to receive other educational services in accordance with their ability and special needs, as well as the opportunity to develop themselves without being prevented by economic hardship".

The Finnish school legislation has undergone an overall reform which entered into force on 1 January 1999. In this context, attention was paid in particular to the need to guarantee by legislative means equal access to education and educational services. The obligation to attend school was also extended in 1999 to concern foreign citizens residing permanently in Finland, subject to certain exceptions. The educational system is in principle open to foreign students residing legally in the country (i.e. those possessing the required residence permits). In the admission of students, the same criteria must be applied to all persons. In the assessment of equality in this respect, attention must be paid to the provisions in section 6 of the Finnish Constitution, according to which "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".

All interested adults, including both unemployed persons and persons with employment, have the possibility to apply for labour market training. As regards persons who are not Finnish nationals, the Government refers to the information given in reply to question E under Article 9.

Committee's questions:

The Committee has requested the Government to provide details concerning the implementation of on-the-job training.

In the context of the reform of the system of vocational education, the system of on-the-job training was also changed, which is one of the most important reforms carried out in respect of basic

vocational education in the past few years. The purpose of on-the-job training is to improve cooperation between educational institutions and employers, and to enhance the access of students to employment and the availability of skilled workers for employers.

On-the-job training, equivalent to a minimum of 20 credits, is part of vocational training and the student's performance is subject to guidance and assessment. The aim is that the student learns part of his or her professional skills at the workplace, as defined in the guidelines concerning the school curriculum. The educational institution concludes a written agreement with the employer on the provision of on-the-job training. The details on which the educational institution and the employer must agree are provided by Decree. These details include the duties of the parties, the provision of guidance and assessment of the student's performance, a possible compensation for the costs incurred upon the employer, as well as the objectives, structure, duration and timing of the training.

On-the-job training is usually arranged so that the student does not have a formal employment relationship with the employer, although an arrangement to the contrary is also possible. The educational institution is entitled to state subsidies in respect of the student even during the on-the-job training. However, the educational institution and the employer may agree on a compensation to be paid to the employer during that period of time. The student is also entitled to the normal social benefits during on-the-job training, including supported meals, study grant and compensation for travel costs. In case the on-the-job training is arranged so that the student is in a formal employment relationship, his or her remuneration may have a reducing effect on the study grant and the compensation for travel costs.

The special examinations for the demonstration of professional skills referred to above are also based on the idea of cooperation between educational institutions and employers. The employers contribute to a significant extent to the development and implementation of those examinations.

The needs of employers are also an important factor to be taken into account in the development of the various forms of education at polytechnics. Any polytechnic education contains a period of on-the-job training equivalent to 20 to 50 credits (90 credits in the training of midwives), during which the student gets familiar with the requirements and duties relating to the vocational field in question. Part of the students carry out the on-the-job training abroad. The state provides support for polytechnics in their efforts to find suitable workplaces for the purpose of arranging the on-the-job training. The polytechnic education includes a written research paper in which the student analyses a particular issue relating to the vocational field in question. These research papers are increasingly prepared in cooperation with employers. In certain vocational fields, such as technology and transport, more than 90 % of the research papers are written with a view to responding to the needs of the employers. Research papers commissioned by companies may for example relate to various projects carried out by the companies, or to the development of the company's operation or personnel management.

The polytechnics underline the importance of the link between education and working life in the development of professional skills. Thus R&D projects serving the needs of working life and regional development are increasingly part of studies. In the future, efforts will be made to create an effective link between R&D and polytechnic education so that the results of R&D projects may also

be used to develop education.

The Committee has requested the Government to submit observations on comments given by the Central Organisation of Finnish Trade Unions (SAK), concerning budgetary cuts affecting the educational administration.

The Government observes that, in the context of a general need to reduce government spending in 1993 – 1995, budgetary cuts were also made on state subsidies meant for the financing of education. The state subsidies to be paid to educational institutions were reduced in accordance with a determined percentage, and at the same time the contributions of municipalities to their financing were reduced. The statutory financial contributions of municipalities to the operation of educational institutions, based on the number of students, were removed in 1997, and replaced by contributions based on the number of persons residing in the municipality. In 1996 – 1998, no further cuts were made on the state subsidies paid to the educational institutions but cuts were made on the share of municipalities, affecting the financial situation of municipalities.

In 2002, the budgetary cuts made on state subsidies were no longer applied. As of 2002, the amount of state subsidies is determined on the basis of the real costs of education, in those cases where the subsidies depend on the costs. At the beginning of 2001, the amount of state subsidies was raised by 5 % from the level at which they were in 2000, in addition to the raise based on the cost-of-living index. However, the financial contributions of municipalities, which were increased in 1996 – 1998, have remained unchanged.

The Committee has wished to be kept informed of the results of the polytechnic reform. In this respect the Government refers to information given in reply to question A under Article 10, para. 1.

The Committee also asks how many students gain entry into university education on the strength of a vocational training diploma. The Government informs that, according to Statistics Finland, 0.5 % (100) of new university students in 1999 had a prior diploma from basic vocational education, advanced or specialised vocational education or comparable vocational education. The share of students with both upper secondary school education and vocational education diplomas was 3 % (635). The total number of new university students was 19,196.

Article 10, para. 2: Promotion of apprenticeship

Question A. Apprenticeship - legal framework functions and organisation

The status of apprenticeship under the law, as a form of training, changed in 1999. In the context of the reform of vocational training, the apprenticeship training was officially made a form of vocational education in the same way as education provided by vocational colleges or polytechnics. The legislative amendment made it possible for all providers of vocational education, who have been authorised to provide such education, to also arrange it in the form of apprenticeship. Apart from public educational institutions, also private providers of vocational education may now arrange apprenticeship training. The new legislation affords providers of education considerable freedom with regard to the planning and organisation of education and to the allocation of resources.

Any diploma in basic, advanced and specialised vocational education, provided by vocational colleges, may be obtained through apprenticeship training. The provider of this training may decide on the duration of apprenticeship but the Ministry of Education decides on the yearly number of students to be taken in within the limits of the State budget. Apprenticeship training is available to both young persons and adults. This ensures equal access to apprenticeship training for all young persons, in particular with regard to basic vocational education.

Apprenticeship training is subject to public funding. Subsidies are paid on the basis of the number of participants, and the educational institution providing for apprenticeship training may decide on how to use them for the planning and organisation of the training. Apart from public institutions, also private institutions providing apprenticeship training are entitled to State funding. The Ministry of Education monitors the costs of apprenticeship training and their distribution among the various vocational fields. In addition, the Ministry arranges inspections at the educational institutions providing such training.

In 2000, public funding for apprenticeship training leading to a basic vocational education diploma amounted to FIM 28,775 per student. In respect of additional vocational training leading to a diploma, given in the form of apprenticeship, the State contribution was approx. FIM 18,000 per student, and in respect of other forms of vocational education it was FIM 13,000 per student.

When an employer concludes a contract with an unemployed job-seeker offered by an employment agency, on apprenticeship training in accordance with the Apprenticeship Act, the employment agency may grant an employment subsidy to the employer for the duration of the contract (Employment Decree 1363/1997). In 2000, this subsidy varied between FIM 2485 and 4578 in a month.

In 1998, a new form of combined employment subsidy was introduced, which may be granted to an employer that concludes a contract on apprenticeship with a job-seeker who has been unemployed for more than 500 days and who is entitled to labour market allowance. In such a case, the employer shall be paid both the employment subsidy and the amount of the labour market allowance of the person to be employed, in compensation for the payment of his or her remunerations. The combined subsidy could amount to a maximum of FIM 5,238/ month, and it could be granted for a maximum of twelve months.

When public financing for apprenticeship training is provided, the focus is on supporting the basic vocational education of those unemployed persons who are under the threat of social exclusion. Such unemployed persons include the long-term unemployed, the immigrants, the disabled, the persons with a poor educational level and the 50-year-old or older persons.

In order to be entitled to a subsidy for the provision of apprenticeship training, the employer must fulfil all the conditions set out in the Employment Decree. The employment agency in question shall examine whether the employer fulfils the conditions and control that the conditions for the payment of the subsidy are complied with. The educational institution providing for apprenticeship training shall be responsible for the conclusion of the contract, the preparation of a personal schedule for the person taken into apprenticeship training, the arrangement of theoretical training, the provision of information on social benefits and compensations, ensuring the suitability of the employer for apprenticeship training, and the arrangement of an examination by which the student may later demonstrate his or her professional competence, as well as for any other administrative issues.

A distinction must be made between on-the-job training and apprenticeship training. Persons attending on-the-job training are trainees who do not have a formal employment relationship, and the purpose of on-the-job training is to develop the persons' preparedness to enter the labour market and to provide them with a possibility to get familiar with working life. In case a job-seeker is entitled to unemployment benefits, an employment subsidy may be granted for a maximum of 10 months of on-the-job training. In case the job-seeker is entitled to labour market allowance, however, the employment agency may provide financing for the on-the-job training of the job-seeker for a maximum of twelve months (and on special grounds for 18 months), in order to provide him or her with a possibility to get familiar with working life and to increase his or her possibility for access to employment and his or her professional skills (Labour Market Allowance Act 1542/1993).

The employment agency in question is responsible for examining whether the conditions for training are fulfilled in respect of both on-the-job training and apprenticeship training, and concludes the necessary contracts on training.

Question B. The number of young persons benefiting from training systems

Table 9. Number of participants in apprenticeship training between 1 January 1997 and 31 December 2000.

Year	Average number of students			
	In total	Basic vocational education		Additional vocational education
		All	Young persons	All
1997	22,509	17,656	4,688	4,853
1998	26,655	22,318	5,527	4,337
1999	27,059	10,959	2,871	14,305
2000	27,371	13,743	3,690	13,628

The above figures include apprenticeship training financed by the European Social Fund.

In 1997 – 1998, the figures concerning basic vocational education included also education preparing for a vocational education diploma. Since 1999, such preparatory education has been part of additional vocational education.

At the end of the reference period, the share of students under the age of 25 of all students in basic vocational education was approx. 31 %. The share of young persons since the beginning of the period had thus increased by some 3 %. Considering that apprenticeship training is based on contracts concluded between the employers and the students, the number of young students in particular is dependent on the interest of employers in apprenticeship training. Thus, efforts have been made to increase the awareness of and thereby the interest in apprenticeship training among

employers with the help of public information campaigns.

Table 10. Number of students by age, participating in apprenticeship training financed with employment subsidies in 1998-2000.

Apprenticeship training financed with employment subsidies; number of new students								
	1997		1998		1999		2000	
		%		%		%		%
<i>Contract with local authorities</i>	1 669	100.1	1 398	100.0	1 078	100.0	1 091	100.0
< 25 years	712	42.7	552	39.5	440	41.0	388	35.6
25-39 years	679	40.7	618	44.2	454	42.0	490	44.9
40-49 years	234	14.0	190	13.6	148	14.0	175	16.0
50-54 years	43	2.6	37	2.6	36	3.0	36	3.3
>55 years	1	0.1	1	0.1	0	0.0	2	0.2
<i>Contract with a private employer</i>	9 038	100.0	8 633	100.0	5 550	100.0	4 691	100.0
< 25 years	5 586	61.8	4 854	56.2	3 355	60.4	2 633	56.1
25-39 years	2 890	32.0	3 065	35.5	1 782	32.1	1 638	34.9
40-49 years	485	5.4	604	7.0	348	6.3	336	7.2
50-54 years	76	0.8	97	1.1	60	1.1	69	1.5
>55 years	1	0.0	13	0.2	5	0.1	15	0.3

The age distribution in respect of apprenticeship contracts concluded with local authorities differs from that in respect of contracts concluded with private employers. In 2000, employment subsidies were paid in the public sector mainly for the employment of 25 to 39 years old job-seekers, whereas in the private sector the subsidies were mainly paid for the employment of persons under 25 years of age.

In 1995 – 1999, financing provided by the European Social Fund for apprenticeship training (under Objectives 3 and 6) focused on job-seekers under the age of 25. The impact of ESF financing can still be seen in the age distribution of employment subsidies in respect of the year 2000.

On-the-job training with the support of labour market allowances has clearly focused on young persons, as 80 to 90 % of the persons attending on-the-job training have been under the age of 25. In the reference period, the yearly number of job-seekers starting on-the-job training varied between 33,000 and 36,000. Of persons participating in on-the-job training with the support of labour market allowances, 4 to 8 % have been long-term unemployed. The share of disabled persons has remained below 1 %. (Each person is only included in one figure.) The numbers of persons attending on-the-job training with the support of employment subsidies have been considerably smaller, as the yearly number of job-seekers starting training has varied between 3,000 and 5,000.

Question C. The division of vocational training between various types of vocational activity

According to statistical data provided by Statistics Finland, there were 21,400 persons starting apprenticeship training in 2000. These persons represented different vocational fields as indicated in the following table:

Table 11.

<i>Vocational field</i>	<i>Number of new students</i>	<i>Share of all students</i>
Natural sciences	716	3 %
Technology and transport	6684	31 %
Commercial	7387	35 %
Tourism, catering and institutional management	1576	7 %
Social welfare and health	4094	19 %
Culture	407	2 %
Humanities and pedagogics	473	2 %
Other	63	
In total	21400	100 %

Information on training provided in cooperation with employers is given in reply to question C under Article 10, para. 1 above. The share of such training of all adult training provided by the labour authorities was 5.1 % in 1997, and its share has constantly increased. Such training is covered by the provisions of the Act (763/1990) and the Decree (912/1990) on Labour Market Training and by regulations and instructions issued under them. The Ministry of Labour has issued separate instructions concerning on-the-job training provided in cooperation with the employers (O 7/99 TM).

The labour authorities also provide training for persons wishing to start up private business activities. Introductory training lasts 2 to 3 three weeks, and its purpose is to present private business as an alternative to salaried work as well as the requirements relating to such activity. Further training is provided for persons who seriously consider starting up business activities or who already have done so, lasting a few months.

Apart from training provided directly for those who wish to start up business activities, information on such a possibility is also included in other vocational education, where appropriate. Furthermore, such training is also provided by regional Employment and Economic Development Centres operating under the supervision of the Ministry of Trade and Industry, and the National Board of Education has developed a specific diploma for self-employed persons.

Projects for the promotion of self-employment have also been implemented under ESF programmes (in particular Objective 3 programme), which consist of both training and subsequent guidance services relating to the starting phase of business activities. Apart from the labour administration,

e.g. Jobs and Society (centres providing services for self-employed persons) and regional authorities subordinate to the Ministry of Trade and Industry have been involved in such projects.

Table 12. Labour market training for self-employed persons in 1997-2000:

Year	Number of students	
	starting training	completing training
1997	12 100	11 000
1998	8 200	7 100
1999	7 287	5 558
2000	5 590	4 204

Labour market training relating to private business activities is addressed in particular at the unemployed and such persons under the threat of losing their jobs, who plan to start up business activities or who have already done so. Persons taken into the training are required to have a business idea and to be suitable for such training. The training is arranged so that it serves the purpose of starting up business activities. Also the possibility for cooperative business activities is taken into account in the training.

The above-mentioned training is often closely linked to the right to employment subsidy granted for the purpose of business activities. Unemployed job-seekers who start up business activities may apply for an employment subsidy which is paid to secure those persons' living, for a maximum of ten months. To be entitled to the employment subsidy, the applicant must either have experience from private business activities or the necessary training for it. Training may also be arranged during the period of time for which the employment subsidy is paid, and thus provide the unemployed person planning to start up business with the support he or she may need.

Question D. Private apprenticeship schemes and public funds

The Government refers to the information given in reply to question A.

Question E. Application of measures to all categories of young boys and girls

With regard to the allocation of labour market benefits among different categories of persons, the Government refers to information given in reply to question A. In the assessment carried out in the context of ESF Objective 3 programme, it has been found out that, when recruiting people for apprenticeship training, employers prefer active young persons who have only been unemployed for a short time.

Question F. Equality of access to apprenticeship to nationals of other Contracting Parties

The Government refers to information given in reply to question E under Article 10, para. 1.

Foreign citizens are entitled to employment subsidies in the same way as Finnish citizens provided that they are either nationals of States Parties to the Agreement on European Economic Area, who have been working in Finland, or reside in Finland with a permanent residence permit or residence permit entitling long-term residence in Finland, and have thus an unrestricted right to work.

Committee's questions:

The Committee has wished to receive further information on the development of the apprenticeship system. The Government informs that at the end of the reference period, some 9 % of vocational training was arranged through apprenticeship contracts. The Government further aims to increase additional vocational training in general and to ensure the availability of apprenticeship training for young persons, and to extend the latter form of training to adults. In 1999, a project for the development of quality standards for apprenticeship training was introduced, with a view to help providers of training improve the supply of training and assess the suitability of employers for the arrangement of apprenticeship training.

The Committee asks in particular whether apprenticeship places are available to all interested applicants and it also wishes to know whether any specific measures are taken to encourage employers to provide apprenticeship places. The Government refers to answers given in reply to questions A and B under Article 10, para. 2.

The Government further notes that, in order to be eligible for apprenticeship training, the person in question must be at least 15 years old. A contract on apprenticeship may be concluded if the employer and the educational institution have agreed on it as required by the law. The employer must fulfil certain criteria set for the appropriateness and adequacy of the training. The employer is formally approved when the contract is concluded. An assessment is made of the costs that may be considered to incur upon the employer for the provision of training at the workplace, and a compensation is paid to the employer accordingly. The vocational field, the diploma to be obtained and the student's prior experience and progress he or she has made in his or her studies all affect the assessment of costs. The educational institution and the employer in question agree on the payment of compensation before the conclusion of a contract on apprenticeship. With the support of funding reserved for the purpose of arranging apprenticeship training, the educational institution shall provide for the remunerations of administrative staff supervising the training, the payment of compensations for employers, the payment of costs of theoretical training and examinations, and the payment of social benefits to the students.

The Committee has requested the Government to comment on the cases of misuse of public funding pointed out by the Central Organisation of Finnish Trade Unions (SAK). The Government notes that individual cases of misuse do not mean that the management of the system of apprenticeship training would be inadequate. Apprenticeship is a form of vocational education controlled by public authorities, and municipalities are the main providers of such education. When a contract on apprenticeship is concluded, the educational institution shall ensure that the rights and duties of the parties to the contract are observed. In order for the apprenticeship to become effective, the employer and the educational institution shall conclude a contract for the arrangement of the training. The student participating in apprenticeship training is entitled to protection under the law and to certain social benefits during the training period.

Article 10, para. 3: Vocational training and retraining of adult workers

The legislative framework for the vocational training and retraining of adult workers has been given account of in previous periodic reports. In the present report, information on the link between vocational training of adult workers and employment is given in reply to question C under Article 10, para. 1.

A new recommendation concerning the training of municipal office holders, insofar as labour market training of adults is concerned, entered into force on 1 February 2000. According to this recommendation, any specific legislative provisions concerning the continuing education of professionals are taken into account in their training. It is underlined in the recommendation that the purpose of continuing education is to maintain and increase the professional skills of office holders and workers. Thus, continuing education is closely linked with work and development of professional skills. The needs of the municipality in question are a determining factor in the assessment of need for continuing education of municipal office holders. In addition, the legislative provisions on the duty of professionals to maintain and develop their own skills and on the duty of employers to provide the workers with a possibility to continuing education.

Question A. Facilities provided for the training and retraining of adult workers

There are three types of training of adults in Finland – self-motivated training, labour market training and staff training – which are financed in different ways. Self-motivated training is mainly financed by the education authorities, labour market training is financed by the labour authorities and staff training is financed by the employer.

Self-motivated training of adult workers is the most important way to improve workers' professional and social skills. Adults may participate in training leading to a diploma at all levels of education. Educational institutions and universities also provide further and continuing education that is designed to supplement and update the workers' skills so as to meet the present-day requirements. Self-motivated training is available to all adults irrespective of their status in the labour market. There are various forms of study leave arrangements for working adults, which are meant to enhance their possibilities to participate in training, as well as systems of financial support. As regards the unemployed, the main type of training is labour market training during which the unemployed person is entitled to the normal unemployment benefits.

Self-motivated training may further be divided into professional training and basic education. Both types of self-motivated studies may be carried out either with or without a view to obtaining a diploma. Self-motivated professional training is closely linked with working life, and employers are consulted when such training is planned. Vocational diplomas designed for adults may be obtained through examinations for the demonstration of professional skills (see information given under Article 10, para. 3).

The network of educational institutions providing labour market training for adults covers most parts of the country and most vocational fields and levels. There are more than thousand educational institutions subject to public control in Finland, providing training which is meant particularly for

adults. About half of these institutions provide basic education and the others are vocational colleges, polytechnics and universities.

Table 13. Numbers of educational institutions providing training of adults

Upper secondary schools for adults	54
Schools of music	89
Open colleges	274
Folk high schools	91
Educational centres	11
Sports institutes	14
Summer universities	20
Vocational colleges	382*
Centres for vocational training of adults	45
National institutions for specialised vocational training	8
Institutions for specialised vocational training	54
Polytechnics	29
Universities	20
In total	1091

*Includes all local branches of the vocational colleges; the number of providers of education is 218.

The preparedness of adults to use information technology has been increased in the context of an information strategy for education and research for the years 2000 to 2004, prepared by the Ministry of Education. This strategy includes a project for the improvement of skills needed in modern information society, in particular among the working and ageing population. The project is supported by an extensive network of cooperation, including institutions providing training of adults as well as the Finnish Broadcasting Corporation. The project consists e.g. of an attempt to activate civil society, a programme supporting the learning and teaching of basic skills needed in information society, an experiment with vouchers provided by employment agencies for unemployed persons for the purpose of paying their studies, and cooperation with local authorities and public libraries. The aim is that at least half of those persons who do not have the basic skills needed in information society would obtain them before the end of the project, and that all such persons are offered an opportunity to learn those skills.

Question B. Division of arrangements for vocational training between the various types of vocational activity

Insofar as self-motivated vocational training of adults is concerned, the numbers of starting places are the largest in the fields of social welfare and health, economics and business administration, and technology and transport.

Table 14. Starting places in basic vocational education for adults in 1998 – 2000

	Natural sciences	Technology and transport	Economics and business administration	Tourism, catering and institutional management	Social welfare and health	Culture	Sports and recreation
1998	619	1578	992	561	1679	262	65
1999	599	600	1143	502	1790	353	130
2000	786	1069	1226	719	1978	424	117

In additional vocational training, the numbers of starting places are the largest in the fields of economics and business administration, and technology and transport.

Table 15. Starting places in additional vocational education in 1998 - 2000

	Natural sciences	Technology and transport	Economics and business administration	Tourism, catering and institutional management	Social welfare and health	Culture	Humanities and pedagogics
1998	1053	2422	1642	1456	2005	272	109
1999	1583	3570	4038	2042	1504	825	186
2000	1567	3796	5740	2189	1512	973	234

In polytechnics, the starting places for adults are also the largest in the fields of technology and transport, social welfare and health, and economics and business administration, in the same way as in vocational colleges.

Table 16. Starting places reserved for adults in polytechnics in 1998 – 2000

	Natural sciences	Technology and transport	Economics and business administration	Tourism, catering and institutional management	Social welfare and health	Culture	Sports and recreation
1998	266	1393	1725	236	1742	222	62
1999	368	1951	2122	409	1773	318	119
2000	371	1851	2197	488	1729	456	284

Question D. Approximate number of adult workers who have participated in training or retraining measures

The Committee has requested figures on the overall number of participants in adult vocational training, broken down according to employment status and sex.

The Government informs that approx. 54 % of persons at working age participate in adult vocational training each year. (This includes all types of adult training - self-motivated training, labour market training and staff training - and both training leading to a diploma and training which does not lead to a diploma.) In 1980, somewhat less than a million persons participated in adult training. Most participants (about 60 %) were women.

Table 17. Number of (18 to 64 years old) persons participating in adult training in 1980, 1990, 1995 and 2000

	1980		1990		1995		2000	
	number	%	number	%	number	%	number	%
Men	400,000	27	700,000	43	700,000	43	799,000	49
Women	540,000	37	830,000	52	850,000	53	955,000	59
In total	940,000	32	1,530,000	47	1,550,000	48	1,754,000	54

In 2000, most of the persons (some 1.2 million) participating in adult training attended work-related or profession-specific training.

The Committee has noted that the proportion of accepted applicants has declined steadily since 1993, and asks what measures the Government is taking to provide more training places. The Government is aware of the fact that the number of accepted applicants has decreased in relation to the number of applications. The reason for this has been the economic recession of the 1990's, because of which the number of unemployed was at its highest between 1994 and 1997. Thereafter the number of unemployed job-seekers has decreased, and at the same time the funds reserved for labour market measures, including labour market training of adults, have been reduced. While the number of training places available has correspondingly decreased, also the numbers of applications and applicants and of persons starting training have decreased. There have been changes in the proportional shares. In 1997, the share of accepted ones of all applicants was 73.5 %, and in 2000 the corresponding figure was 64.3 %. This development has partly been affected by the fact that the labour market training of adults has increasingly focused on long-term training (more than 6 months) leading to a diploma or on parts of such training, instead of short-term (1 to 4 months) courses.

The Committee asks whether nationals of the other Contracting Parties legally residing or regularly working in Finland have access to the various training programmes under the same conditions as Finnish nationals. In this respect, the Government refers to information given in reply to question E under Article 9 and question E under Article 10, para. 1.

Article 10, para. 4: Measures to encourage full use of vocational training

Question A. Fees or charges imposed in respect of vocational training

The rights of students to free education, supported meals and other social benefits have mainly remained the same as to their extent and nature. Education is free of charge irrespective of the student's nationality. Furthermore, in respect of basic school education and basic vocational education, the students are entitled to a daily meal free of charge. The reform of school legislation extended the free education and supported meals to concern, as of 1 January 1999, full-time students attending basic vocational education meant for adults. As regards additional vocational education, the meals may be subject to a reasonable charge. In certain boarding schools, the students are entitled to more than one supported meal per day. Accommodation provided by the educational institution in a residential hall is free of charge for the student. Foreign students are able to get accommodation in a residential hall.

Furthermore, the State pays financial assistance to student canteens at universities, which makes it possible to keep the prices low. The State has also financially supported the construction of premises which the student canteens may rent for a price which is lower than the normal level of rents for comparable premises.

State subsidies are also paid for the purpose of covering the travel costs of students in vocational colleges and upper secondary schools.

Question B. Financial assistance in vocational training

The Government refers to the information given in the fourth periodic report and provides the following additional information.

According to section 1 of the Study Grants Act, state grant may be given for the purpose of carrying out studies in Finland, both to a Finnish national and to a person who has resided in Finland for purposes other than studying for at least two years, and his or her residence may be considered permanent. Citizens of a State which has concluded a specific agreement with a Member State of the European Union or with the EU and its Member States, are assimilated with Finnish citizens in case the studies to be pursued are closely linked with the work the person in question is doing in Finland or in case the person in question has become unemployed without his or her own fault while working in Finland. The spouse and children of such workers may also be given study grants.

Study grants may be given to persons other than Finnish citizens on the basis of a residence which has lasted less than two years if the person in question is a refugee within the meaning of the Convention relating to the Status of Refugees (1951), an asylum-seeker who has been given a residence permit because of need for protection, or for humanitarian reasons, a family member of a refugee or asylum-seeker, a person who may for reasons of his origin be considered to have special ties with Finland, or a person who has moved to Finland before attaining the age of 18 and whose parents or adoptive parents reside permanently in Finland.

A foreign citizen who arrives in Finland for the purpose of studying is not entitled to study grants. This rule is the principle applied within the European Union, as enshrined in Regulation 1612/1968 (EEC) of the Council of 15 October 1968 on freedom of movement for workers within the Community. Thus, nor is a person coming from another Member State of the European Union, for the purpose of studying, entitled to study grants. As far as the Government is aware of, the said Regulation is applied by all Member States of the European Union.

The Finnish legislation providing the grounds on which study grants may be given corresponds to the laws in force in other States Parties to the European Social Charter and in EU Member States, as well as in States Parties to the Agreement on European Economic Area. Under the EEA Agreement and the Treaty on European Union, study grants are to be regulated at the national level. According to the rules applied within the EU, a student moving from a Member State to another to study in that other Member State shall be covered by the study grant system of his or her home country. The student's home country is considered his or her country of permanent residence. Residence in another Member State may, however, be considered permanent if the student has resided there for a certain period of time before starting his or her studies. The period of time required by the Member States varies. Apart from Finland, also the other Nordic Countries require two years' residence, whereas certain other states require five years' residence. Part of the Member States do not afford study grants for foreign students at all. An exception may be made where the EU rules require that a worker or his or her family member be given a study grant. The exceptions applied in Finland are given account above. Several countries have also issued provisions under which a foreign citizen has access to study grants on the basis of a shorter period of time.

Finland has interpreted Article 10, para. 4 as meaning that the Contracting Parties are under an obligation to provide for a study grant system. However, the Contracting Parties may decide on the details and structure of such a system. Finland finds it justified to apply a system where study grants are given to persons residing permanently in the country, which practice is applied by several other countries as well. A person arriving in Finland for the sole purpose of studying must not be considered to have a right to study grants.

Finland further finds it justified that the student is covered by the study grant system of his or her home country. It would be appropriate that the Committee of Experts adopt a recommendation as to the grounds on which a person may be considered to have a permanent residence in a State Party to the European Social Charter.

Question C. The time spent in training and working time

No changes since the fourth periodic report.

Question D. Supervision and evaluation of efficiency of apprenticeship and training

The applicable provisions concerning apprenticeship training are included in the Vocational Education and Training Act (630/1998) (for details, see information given under Article 10, para. 2). The personal study schedule made for a student, which is always attached to the contract on apprenticeship, plays an important role in the assessment of the efficiency of apprenticeship training. It is a document prepared in cooperation between the student, the employer and the educational institution in question, specifying the duties which are relevant for the student's diploma, the theoretical training to supplement the practical training taking place at the workplace and the period of time during which the apprenticeship training takes place. The schedule further indicates the persons in charge of the training and other necessary details for the purpose of arranging the studies, such as personal guidance and assessment, possible compensation to be paid to the employer, arrangements for and date of examinations, and any credits given for the student's prior training and experience.

The provider of apprenticeship training issues a certificate over completed training. The provider is thus responsible for ensuring the achievement of the objectives set for the training so that the student obtains his or her diploma. As regards training preparing for examinations for the demonstration of professional skills, the responsibility for the arrangement and supervision of examinations and for the issue of certificates is vested in specific examination boards, consisting of representatives of employers, workers and teachers, as a minimum, and subject to certain conditions, they may also have independent professionals as members.

Question E. Applicability of sub-paragraphs (a), (b) and (c) of article 10 para 4

No changes since the fourth periodic report.

The Government further refers to the Report made by the Government of Finland on the measures taken to give effect to the provisions of the ILO Convention No 142, for the period 1 July 1998 to 31 May 2000 (*Annex 4*).

ARTICLE 15: THE RIGHT OF PHYSICALLY OR MENTALLY DISABLED PERSONS TO VOCATIONAL TRAINING, REHABILITATION AND SOCIAL RESETTLEMENT

Article 15, para. 1: The right of people with disabilities to vocational training

Question A. Criteria applied to grant disabled status

There are differences in the definitions of a disabled person in different legislative provisions, depending on the sector of administration and the form of rehabilitation. For the purposes of the Act on Services and Support Measures for Disabled Persons, a disabled person means a person who has long-term difficulties to cope with every-day duties because of an injury or illness.

In the legislation concerning vocational rehabilitation, a disabled person usually means a person whose capacity for work and possibilities to make a living have reduced because of an illness, disability or injury. In vocational rehabilitation provided by the labour administration, section 10 of the Employment Services Decree is applied. According to this provision, a disabled person means a person whose possibilities to find suitable work, maintain his or her job or to progress in work have considerably weakened because of an injury, illness or disability which has been diagnosed in an appropriate manner. According to section 2 of the Act concerning vocational rehabilitation provided by the National Pension Institution, a disabled person means a person whose capacity for work and possibilities to make a living have reduced to a significant extent because of an illness, disability or injury.

Question B. Measures to give effect to Article 15

The Committee has requested a comprehensive description of the vocational training facilities available for people with disabilities. The Government refers to information given in reply to question A under Article 15, para. 2, and question C under Article 15, para. 1.

Question C. Training institutions for physically or mentally disabled persons

The education of students needing particular educational or guidance services because of a disability, illness, retarded development, emotional disorder or a comparable reason, is given in the form of special education. An individual study schedule shall be prepared for each disabled student. The objective of basic vocational education of disabled persons is to contribute to the overall rehabilitation of the student, in cooperation with the providers of general rehabilitation services.

Any providers of vocational education may also arrange specialised vocational education. There are also specialised vocational institutions which only provide specialised vocational training. In 2000, there were 218 providers of basic vocational education, and twelve specialised vocational institutions. The total number of students in specialised vocational institutions was approx. 9,500 in the autumn of 2000, studying for a basic vocational diploma. The education is adapted so that the student may, as far as possible, achieve the same qualifications as in any other vocational education.

Any specialised vocational institutions and, subject to authorisation, also other vocational colleges may provide preparatory and rehabilitative education and guidance for disabled persons. The total number of students in such education was approx. 1,100 in the autumn of 2000.

Preparatory and rehabilitative education and guidance may be given to two types of students. Firstly, they may be provided for students who aim at continuing with basic vocational education and who have the preparedness for vocational education. In such cases the preparatory and rehabilitative education consists of 20 to 40 credits, and on special grounds it may amount to 80 credits. Another target group are the students with most serious disabilities, whose capability for learning or life situation does not make it possible to go through vocational education. In such cases the preparatory and rehabilitative education consists of 40 to 120 credits. The purpose of this form of education is to prepare the disabled students for work and independent life.

The Committee has wished to obtain information on the training in rehabilitation matters on offer to all those involved in the vocational rehabilitation process, and a specification of further training and/ or retraining possibilities open to the specialist staff concerned. The Government informs that teachers providing rehabilitative vocational education need to have the usual qualifications required from teachers in vocational education - usually a university degree and, with regard to the teaching of vocational subjects, three years' experience of the field concerned. In addition, the teacher must have completed pedagogic studies amounting to 35 credits. Apart from these normal requirements, the teachers providing rehabilitative vocational education must have completed special teacher's training, which may be carried out either as separate studies or in the context of a university degree in pedagogic studies. The structure of special teacher's training carried out as separate studies was increased in 1999 from 20 credits to 35 credits. Such training is provided by teacher training colleges.

In cases where rehabilitative vocational education is provided in the context of normal vocational education, and not in a specific group meant for disabled persons, the teacher does not necessarily need to have completed special teacher's training. Indeed, one of the focuses of continuing training of teachers has been to provide training in the teaching of students with special needs.

The Committee has requested further information on the adequacy of vocational training facilities in relation to the needs of disabled persons. The Government informs that under a plan for the development of education and research, adopted by the Government for the years 1999 – 2004, the aim is that all persons leaving comprehensive school have a possibility to continue with their education – either in upper secondary school or in an establishment providing vocational education. The Government further notes that the adequacy of training is ensured. The purpose of special education is to ensure that everyone has access to vocational education, thus supporting employment possibilities. (See also information given in reply to question C under Article 15, para. 1.)

The Committee has also wished to be informed whether nationals of Contracting Parties not members of the European Union or parties to the Agreement on the European Economic Area are granted equal treatment as regards access to training and to vocational rehabilitation. The Government refers to information given in reply to question E under Article 9.

Article 15, para. 2: The right of people with disabilities to employment

Questions relating to the equal treatment of disabled job-seekers have been addressed for example in a separate report prepared by the Ministry of Labour in 1998. Furthermore, the National Action Plan for Employment (2000), contains a plan to make amendments to the legislation, as necessary for the enhancement of the employment of disabled persons and for the removal of obstacles thereto. The new legislative provisions, concerning the employment of disabled persons and including reformed provisions on the system of sheltered employment, entered into force on 1 April 2002.

Question A. Measures taken to ensure the placing of disabled persons in employment

Under the Finnish legislation, there are different bodies responsible for the provision of measures to ensure the rehabilitation and placing of disabled persons in employment.

1. Measures taken by the National Pension Institution

Under the legislation concerning the National Pension Institution (Kela), the Institution bears a special responsibility for the arrangement of the necessary vocational or preparatory training for disabled persons, in case it has not been provided for under any other legislation. This obligation includes responsibility for supporting the disabled in their business or professional activities and for providing the disabled with the equipment they need in their work or studies. A disabled person has a statutory right to the afore-mentioned rehabilitative measures. In 2000, there were some 16,000 persons participating in vocational rehabilitation provided by the National Pension Institution, which was 4 % more than in 1997. A large part of those persons had a physical disability or illness, and one fifth of them had mental health problems.

In 2000, there were nearly 7,000 persons participating in rehabilitative activities arranged at workplaces, which is 20 % more than in 1997. The purpose of these activities is in particular to maintain and improve capacity for work by means of various arrangements, training and individual rehabilitation programmes provided for the worker at the workplace. The legislation concerning the National Pension Institution was amended as of 1 August 1999 so that 16 to 17 year-old persons with serious disabilities were ensured the right to vocational rehabilitation with the support of a raised allowance (FIM 2,100/ month). In 2000, such an allowance was paid to 746 young persons, most of whom had mental disabilities. The spending on disability pensions paid for 16 to 17 year-old persons reduced by about 50 %, when compared with the year 1997.

2. Measures covered by the accident and traffic insurance scheme

Rehabilitation provided under the accident and traffic insurance scheme is a statutory right for a person who has an injury caused by an accident at work, a work-related illness or an injury caused by a traffic accident. The rehabilitation for which compensation may be paid includes both vocational rehabilitation and rehabilitation for maintaining and improving functional capabilities. The nature of such rehabilitation is defined in more detail in the applicable legislation. The planning of rehabilitation under that legislation is mainly vested in the Insurance Rehabilitation Association which has its office in Helsinki. The vocational rehabilitation for which compensation may be paid is mainly arranged at workplaces. In 2000, there were 2,066 persons covered by vocational rehabilitation. Of those participants who completed a vocational rehabilitation programme, 52 % were employed in 1998, 59 % in 1999 and 63 % in 2000. The high percentage of persons employed is partly explained by the fact that, especially in cases of accidents which have taken place at work, the persons participating in rehabilitation have been actively involved in working life and are motivated to return to work.

3. Measures taken by the labour administration

The purpose of vocational rehabilitation provided by the labour administration is to enhance the possibilities of disabled persons using employment services to carry out vocational planning, find employment and stay in employment. A disabled person means a person whose possibilities to find suitable work, maintain his or her job or to progress in work have considerably weakened because of an injury, illness or disability which has been diagnosed in an appropriate manner. The need for rehabilitation of persons using employment services is determined on the basis of injuries or illnesses indicated in a medical statement. Physical disabilities or illnesses (39 %), illnesses of respiratory organs (14 %), mental disorders (14 %) and skin infections (8 %) were the most important reasons for disability for work in 2000.

All employment services provided by the labour administration are available to the disabled. The Employment Services Act was amended as of 1 January 1998 so that an unemployed job-seeker is entitled to an individual job-seeking plan to be prepared and signed with the employment agency. The job-seeking plan includes an assessment of the customer's needs for services and an agreement on measures to be taken for the enhancement of employment.

Separate provisions have been enacted by virtue of the Employment Services Act on the responsibility of the labour administration to provide vocational rehabilitation services for disabled persons within the limits of the State budget. Such services include:

- vocational guidance and related examinations of health and capacity for work, as well as training and work experiments both at workplaces and vocational colleges;
- advice on access to employment and training, examinations of capacity for work, and training and work experiments;
- labour market training for adults;
- measures to support employment, in particular work experiments and rearrangement of working conditions.

In order to prevent exclusion from the labour market, unemployed persons with disabilities may be employed with the support of financial assistance to be paid to the employers. Such support measures were taken in more than 12,000 cases in 2000. The financial incentives by the labour administration also include assistance paid directly to the disabled person, in order to support that person's access to vocational rehabilitation and employment. Such financial assistance may be paid to the disabled person for the purpose of starting business activities, financing a part-time supplement or work experiment, or compensating for the costs of rearrangement of working conditions.

4. Measures taken under the employment pension scheme

In 2000, there were 4,617 persons entitled to vocational rehabilitation for which compensation was paid under the employment pension schemes, most of whom had previously been actively involved in working life. The numbers of workers participating in vocational rehabilitation in the private and public sectors increased by 73 % since 1997. A typical person participating in vocational rehabilitation was a middle-aged person suffering from a physical disability, who was paid financial assistance to help him or her adopt a new profession. The significance of training arranged at workplaces has increased, and training still is the most usual form of vocational rehabilitation. Of the persons who completed in 2000 a vocational rehabilitation programme arranged under the employment pension scheme, 43 % returned to work. The Government aims at reforming the legislation concerning vocational rehabilitation provided under the employment pension schemes so that it would become a statutory right for those workers who are under the threat of losing their capacity for work.

5. Other measures

The support paid by the National Pension Institution for individual disabled persons may also be considered a financial incentive, encouraging disabled persons to participate in training and entering working life instead of retiring. In 2000, there were nearly 12,000 persons entitled to the various forms of such support, some of whom were in employment and some of whom were students.

In the National Action Plan for Employment in 1998, new forms of financial incentives were introduced for the purpose of supporting disabled job-seekers and other persons covered by rehabilitative measures. New legislative provisions concerning those incentives entered into force on 1 August 1999. A disabled person may, upon returning to work, maintain his or her right to disability pension based on section 22, subsection 1 of the National Pensions Act (347/1956), for a maximum of two years while working. During that period of time, the disabled person is paid a specific financial incentive in addition to the remuneration paid by the employer (in 1999, the

incentive amounted to nearly 2,000 FIM/ month). The access of disabled persons to apprenticeship training was improved with rehabilitation allowance paid by the National Pension Institution.

New forms of services have also been developed in Finland with the support of the European Social Fund. Such new services include so-called "employment pathways" based on cooperation with local employers, supported employment, job-seeking programmes, meeting premises for persons needing rehabilitation because of mental health problems and so-called "social firms". In 2001, the Government undertook to examine the possibility to further develop such social firms. In order to enhance the use of supported employment with the help of individual guidance, a service standard has been created for the relevant employment agencies. Furthermore, a programme for the continuing university education of experts of supported employment has been implemented.

With the support of the European Social Fund, a system of so-called Fountain Houses has been developed for mental health patients. This form of activity has been extended to 11 cities. In the context of activities provided by these Houses, training programmes may also be arranged at workplaces.

For the purpose of developing the system of sheltered employment, the Government undertook to prepare new legislation in 2000, which entered into force on 1 April 2002. In the context of this reform, the period of time during which the right to disability pension may temporarily be maintained while the disabled person attempts to return to work, was extended from two to five years. However, financial assistance may only be paid for a maximum of two years for the purpose of supporting that attempt. At the same time, a clear limit on income was set for work in the context of which the disability pension is suspended.

Question B . Number of disabled persons who found paid employment during the reference period

In this respect, the Government refers to information given in reply to question A above and to the following table which concerns the placement of disabled job-seekers in employment and rehabilitation in 1997 – 2000.

Table 8. Placement of disabled job-seekers in employment and rehabilitation

	1997	1998	1999	2000
Disabled job-seekers	70 573	74 730	80 071	83 015
in total, of whom				
- unemployed	59 571	62 503	66 575	68 692
- placed in the open labour market	25 161	27 772	32 237	36 381
- started labour market training	9 207	9 214	9 335	8 248
- started other type of training	1 612	1 501	1 436	1 329
- employed by the State, municipalities or companies, with employment subsidies	11 516	11 074	10 696	11 139
- placed in employment with various support measures (subsidy paid for the purpose of starting business activities, part-time supplement, work experiments, support for rearrangement of working conditions)	1 643	1 878	1 395	1 357

- new placements in sheltered employment	39	28	61	43
Other support measures preparing for work and training				
- work experiments at workplaces	3 567	3 952	4 982	6 054
- on-the-job training with the support of labour market allowance	1 163	1 387	1 535	1 809
Active measures in total	53 908	56 806	61 677	66 360

In 2000, the share of disabled job-seekers was approx. 13 % of all unemployed persons. An improved employment situation in the past few years has enhanced in particular the employment of young disabled persons and of those with professional skills, in the open labour market. An increasing part, more than 36,000 persons, of disabled job-seekers (in total 83,000) was placed in the open job market in 2000 (either due to their own activeness, through employment agencies, or with the help of employment and rehabilitation counselling or training). More than 9,500 disabled persons started labour market training or other vocational training. In 2000, there were more than 16,000 disabled persons employed with the support of employment subsidies paid to the employers and other support measures taken by the labour administration. In 2000, an average of 6,000 disabled job-seekers in a month were placed in employment with the help of active support measures taken by the labour administration, which was nearly 14 % of all unemployed job-seekers subject to such support measures.

In 2000, approx. 57 % of disabled job-seekers were more than 45 years old, and for their employment financial incentives, such as employment subsidies and measures preparing them for employment, are of particular significance. In order to improve the status of ageing persons in the labour market, the Government decided in 1997 to introduce a five-year programme applied as of 1998. As part of this programme, the preparation of a national report on the needs for services of ageing long-term unemployed persons, was initiated in cooperation with the National Pension Institution and local social welfare and health authorities.

At the end of 1999, there were approx. 2,600 persons in sheltered employment provided by the local authorities. Of these persons, some 70 % were in full-time employment. Sheltered employment is available for example to persons with mental health problems, persons who have problems with intoxicants and disabled persons. As regards the disabled, in particular, there are also rehabilitating workshops in which the work is not performed under an employment contract. There were approx. 6,000 persons in such workshops provided by local authorities at the end of 1999.

Committee's questions:

The Committee has requested the Government to comment on the number of unemployed disabled persons in Finland. In 1996, there were in total 54,800 unemployed disabled persons registered with the Finnish unemployment agencies, in respect of whom measures were taken as follows. A total of 19,194 unemployed disabled persons were placed in employment without active support measures, 7,388 persons started labour market training and 1,345 started other type of vocational training. In addition, approx. 1,100 disabled persons found employment through other support measures. The Government notes that in 1996, unemployment ended in respect of 49,299 disabled persons, of whom more than two thirds found employment or started training.

The Committee wishes to know what guarantees disabled persons enjoy in the event of unlawful dismissal and what protection is afforded to people who become disabled as a result of an industrial accident or an occupational disease, as well as employers' obligations in that sphere (resettlement requirements).

The Government informs that the right of disabled persons to equal treatment is protected by the prohibition of discrimination in the Finnish Constitution (731/1999). Under section 6 of the Constitution, no one shall be treated differently from other persons on the ground of nationality or disability, for example.

Chapter 7, section 2, subsection 2 of the Employment Contracts Act (55/2001) provides the prohibited grounds for the termination of an employment contract. Under paragraph 1 of subsection 2, illness, disability or accident affecting the employee, unless working capacity is substantially reduced thereby for such a long term as to render it unreasonable to require that the employer continue the contractual relationship. Thus, not even a serious illness gives a right for the employer to terminate the employment contract, as long as the worker is able to perform his or her duties. The worker's capacity for work depends on a number of factors, including physical and mental capabilities and other personal qualities, such as personality, as well as knowledge and skills based on training and work experience. Thus, health problems are only one factor affecting the capacity for work.

It is further required that the reduced capacity for work is of such long duration that there no longer are possibilities for continuing the employment contract. Section 37, subsection 2, paragraph 1 of the repealed Employment Contracts Act (320/1970) required that the significantly reduced capacity for work caused by an illness was of a permanent nature. Under the case law, however, a permanent nature was not required but a long duration of the reduced capacity for work was sufficient. In the assessment of permanency, the duration of the illness before dismissal and a medical assessment of its future duration and of the worker's possibility for recovery and rehabilitation were taken into account. In the case law, incapacity for work lasting nearly a year has been considered permanent incapacity. The changed wording in the new Employment Contracts Act is not intended to change the established case law in this respect.

When considering the possibility of terminating an employment contract because of a worker's illness, the employer must assess the worker's capability to perform his or her duties despite the illness. On the one hand, attention must be paid to the nature of the illness and to the assessment of its future development. On the other hand, an assessment must also be made as to the worker's possibility to continue with his or her own duties or in other possible duties, in the light of his or her education and training, knowledge, professional skills and experience. The possibility to terminate the employment contract further depends on the general working conditions, the possibility to adjust the worker's duties or working conditions in accordance with his or her capacity for work and the possibilities of the employer to rearrange the worker's duties or offer him or her other type of work.

The employer must always, before terminating an employment contract for a reason relating to the worker in question, hear the worker on the reasons for which the employer intends to terminate the contract. While doing so, the employer must also consider whether the dismissal could be avoided by transferring the worker to such other duties as would not create problems for him or her, considering his or her professional skills and experience. The obligation to consider other duties exists where the worker no longer is able to perform his or her duties because of changes in his or her capacity for work. In such cases the employer must consider the possibility of offering the

worker some other duties, in the light of an assessment of the worker's capacity for performing those other duties.

An employer who has terminated an employment contract in violation of the law may be ordered to pay compensation for the worker. Such a compensation shall consist of at least three months' and at most 24 months' salary. In the determination of the amount of compensation, the factors to be taken into account include the estimated duration of unemployment as a result of the termination of the employment contract, the duration of the employment contract, the worker's age and his or her possibility to find employment corresponding to his or her profession or education, the worker's conduct in the context of terminating the contract, any reason given by the worker for the termination of the contract, the working conditions in general, and other comparable factors.

The Finnish Penal Code contains a provision prohibiting discrimination at work (Chapter 47, section 3; Act 39/1998). According to section 3 of Chapter 47:

"An employer, or a representative thereof, who when advertising for a vacancy or selecting an employee, or during employment without an important and justifiable reason puts a job seeker or an employee in an inferior position

a) because of race, national or ethnic origin, colour, language, sex, age, relations, sexual preference or state of health; or

b) because of religion, political opinion, political or industrial activity or a comparable circumstance,

shall be sentenced for work discrimination to a fine or to imprisonment for at most six months."

The provision covers various situations relating to employment, including the announcement of vacancies and recruitment, as well as the termination of employment. The purpose of the provision is to ensure equal treatment of job-seekers and workers, supplementing the protection provided by the legislation concerning employment in general. For the purposes of application of the aforementioned provisions of law, state of health is understood as including disabilities.

The Committee reminds the Government of its question as to whether Cypriot, Maltese and Turkish nationals lawfully residing or regularly working in Finland are guaranteed equal treatment. The Government refers to the above information concerning the prohibition of discrimination at work and to information given in reply to question E under Article 9. There are no special provisions applied exclusively to Cypriot, Maltese or Turkish nationals.

ADDITIONAL PROTOCOL THE FIFTH PERIODIC REPORT

ARTICLE 2: THE RIGHT TO INFORMATION AND CONSULTATION

The Act on Co-operation within Undertakings (725/1978)² was amended by Act No 906/1996, clarifying the provisions concerning the workers' right to information and consultation and reducing the periods of time to be reserved for consultations. As a result of the amendment, the matters covered by the co-operation procedure now include the programme of action for labour protection and any measures to promote the attainment of equality between women and men. The amendment entered into force at the beginning of 1997.

A further amendment was made by Act No 723/1997. According to a new subsection 4 of section 6b, staff plans and training plans shall strive to take the particular needs of aging wage-earners and salaried employees into account. This amendment, which entered into force on 1 July 1997, is one of the measures taken in order to improve the employment situation of ageing workers.

The provisions of the Act on Personnel Representation in the Administration of Undertakings, concerning transfer of business and merger or demerger of companies, have been supplemented with effect as of September 1997 so that now the provisions of the Act on Co-operation within Undertakings also apply to a demerger of company in the same way as to a merger of companies or a transfer of business.

The collective agreement concerning co-operation within undertakings has been amended during the reference period by adding thereto a new subsection 2 in section 5, concerning the obligation to inform the other party in writing of matters covered by the co-operation procedure if joint consultations are not necessary. Furthermore, the agreement has been supplemented by a new section 7, concerning hired workers, according to which the local authorities shall inform the representatives of the staff members, whose duties are involved, of any intended contract on hiring workers from outside. In 2000, an objective of achieving a continuous consultation procedure was explicitly written down in the collective agreement. Furthermore, during the reference period, a new agreement was concluded on labour protection and working conditions in respect of the local authorities.

² Revised translation of the name of the Act. Previously referred to as the "Act on Codetermination within Undertakings".

ARTICLE 3: THE RIGHT TO TAKE PART IN THE DETERMINATION AND IMPROVEMENT OF THE WORKING CONDITIONS AND THE WORKING ENVIRONMENT

The Committee has requested information on how employees participate in the supervision of compliance with health and safety regulations, and regulations concerning working hours, for example.

The Government informs that Chapter 2 of the Act on the Supervision of Labour Protection and Appeal Procedure in Matters concerning Labour Protection (131/1973) contains provisions on the obligation of co-operation between the employer and employees. According to section 8 of the Act, the employer and the employees shall act in co-operation in matters relating to the protection of workers. Chapter 2 further contains provisions on the bodies responsible for ensuring this (director, ombudsman and committee). According to section 12 of the Act, an undertaking employing regularly at least 20 persons shall set up, for a two-year period at a time, a labour protection committee consisting of representatives of the employer, the employees and the executives, for the purpose of enhancing safe and healthy working conditions. The advisory board for labour protection, including representatives of trade unions, shall discuss important legislative, development, planning and follow-up projects as well as guidelines and objectives concerning the protection of workers and the allocation of resources to such protection, among other things. Although the personnel groups represented in the advisory board do not directly supervise the implementation of the legislative provisions, they may strive to affect it in practice.

Labour protection authorities monitor compliance with the provisions concerning the protection of workers. At workplaces, it is done by ombudsmen and staff representatives designated for that purpose. They, as well as individual workers, may inform labour protection authorities of any defects observed and thus initiate an official procedure for the consideration of the matter.

Annexes:

- Annex 1: Report made by the Government of Finland on the measures taken to give effect to the provisions of the ILO Convention No 132
- Annex 2: Report made by the Government of Finland on the measures taken to give effect to the provisions of the ILO Convention No 100
- Annex 3: Table. Protected amounts of income
- Annex 4: Report made by the Government of Finland on the measures taken to give effect to the provisions of the ILO Convention No 142

Attached Acts of Parliament:

- Act on Co-operation within Undertakings (725/1978)
- Act on Personnel Representation in the Administration of Undertakings (725/1990)