

*THE TENTH PERIODIC REPORT OF THE EUROPEAN  
SOCIAL CHARTER  
and  
THE SIXTH PERIODIC REPORT OF THE ADDITIONAL  
PROTOCOL TO THE EUROPEAN SOCIAL CHARTER*

*SUBMITTED BY THE GOVERNMENT OF FINLAND*

*MARCH 2004*

## **REPORT BY THE GOVERNMENT OF FINLAND**

for the period from 1 January 1999 to 31 July 2002, 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 provisions of the European Social Charter and the Additional Protocol, the instruments of approval of which were deposited on 29 April 1991.

The revised European Social Charter (1996) has entered into force, in respect of Finland, on 1 August 2002.

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 5 March 2004 at the latest.

## TABLE OF CONTENTS

<i>EUROPEAN SOCIAL CHARTER</i> .....	4
ARTICLE 7 - THE RIGHT OF CHILDREN AND YOUNG PERSONS TO PROTECTION .....	4
Article 7, para 1: Minimum age of admission to employment .....	4
Article 7, para 2: Dangerous or unhealthy work.....	6
Article 7, para 3: Safeguarding the full benefit of compulsory education.....	7
Article 7, para 4: Limited working hours of young persons under sixteen years of age .....	8
Article 7, para 5: Fair remuneration for young workers and apprentices .....	11
Article 7, para 7: Annual holiday with pay of young persons under eighteen.....	15
Article 7, para 8: Prohibition of night work for young persons under eighteen .....	15
Article 7, para 10: Special protection against physical and moral dangers .....	17
ARTICLE 8 - THE RIGHT OF EMPLOYED WOMEN TO PROTECTION.....	18
Article 8, para 2: Illegality of dismissal during maternity leave.....	18
ARTICLE 11 - THE RIGHT TO PROTECTION OF HEALTH .....	21
General aspects .....	21
Article 11, para 1: Removing the causes of ill health.....	28
Article 11, para 2: Advisory and educational facilities.....	29
Article 11, para 3: Prevention of diseases.....	33
ARTICLE 14 - THE RIGHT TO BENEFIT FROM SOCIAL WELFARE SERVICES .....	39
Article 14, para 1: Provision or promotion of social welfare services.....	39
Article 14, para 2: public participation .....	40
ARTICLE 17 - THE RIGHT OF MOTHERS AND CHILDREN TO SOCIAL AND ECONOMIC PROTECTION .....	42
ARTICLE 18 - THE RIGHT TO ENGAGE IN A GAINFUL OCCUPATION IN THE TERRITORY OF THE OTHER CONTRACTING PARTIES .....	48
Article 18, para 1: Applying existing regulations in a spirit of liberality .....	48
Article 18, para 2: Simplifying of formalities and reduction of charges .....	49
Article 18, para 3: Liberalising regulations .....	52
Article 18, para 4: The right of nationals to leave the country .....	54
<i>ADDITIONAL PROTOCOL</i> .....	55
ARTICLE 1 - RIGHT TO EQUAL OPPORTUNITIES AND EQUAL TREATMENT IN MATTERS OF EMPLOYMENT AND OCCUPATION WITHOUT DISCRIMINATION ON THE GROUNDS OF SEX.....	55
ARTICLE 4 - RIGHT OF ELDERLY PERSONS TO SOCIAL PROTECTION.....	57
Article 4, para 1: Measures intended to allow elderly persons to remain full members of society for as long as possible .....	57
Article 4, para 2: Measures intended to allow persons to choose their lifestyle freely and to lead independent lives in their familiar surroundings for as long as they wish and are able to .....	60
Article 4, para 3: Guarantees of appropriate support to elderly persons living in institutions, while respecting privacy, and of participation in decisions concerning living conditions in the institution .....	62
APPENDICES .....	66

## ***EUROPEAN SOCIAL CHARTER***

### **ARTICLE 7 - THE RIGHT OF CHILDREN AND YOUNG PERSONS TO PROTECTION**

#### **Article 7, para 1: Minimum age of admission to employment**

##### *A. Legislation concerning the issue and B. Exceptions to the minimum age*

In respect of this Article, reference is made to the reports on the implementation of ILO Conventions No 138 and No 182 submitted to the ILO in 2002 (Appendices 1 and 2).

In Finland, young employees, i.e. those under 18 years of age, are covered by the Act (998/1993, Appendix 3) and the Decree (508/1986) on the Protection of Young Workers. Other statutes applied are the Decision of the Ministry of Labour on Suitable Light Work for Young People (1431/1993) and the Decree of the Ministry of Social Affairs and Health on a List of Examples of Work Considered Dangerous to Young Workers (128/2002).

Employment relations with young persons are further governed by general labour legislation, unless the Act or the Decree on the Protection of Young Workers expressly provide for exceptions from the general provisions. The most important legislation includes the Employment Contracts Act (55/2001), the Working Hours Act (605/1996), the Annual Holidays Act (272/1973), the Collective Agreements Act (436/1946), the Act on Co-operation within Undertakings (725/1978) and the legislation on occupational safety.

According to section 2, paragraph 1 of the Act on the Protection of Young Workers, a person has to have reached the age of 15 and completed his/her compulsory education before he/she can be employed.

According to section 2, paragraph 2 (754/1998), a person subject to compulsory education who has reached the age of 14 or will reach that age in the course of the calendar year in question may work for a maximum of half of his/her school holidays, and also during schoolwork temporarily or otherwise short-term, provided that the work is light and does not harm the person's health and development or hamper his/her school attendance. Occupational safety and health authorities may grant derogations from this provision, if they are necessary for the vocational education of the young person concerned. Section 2, paragraph 3 provides for temporary work of a person under 14 years of age as an assistant in artistic, cultural or similar performances. Such work is subject to a permit issued by occupational safety and health authorities and to the condition that the work does not impair the young person's safety, development or schoolwork.

Apprenticeship training refers to training arranged mainly at workplace on the basis of a contract concluded between a student aged 15 years or over and an employer. The provisions on this training are laid down in the Vocational Education and Training Act (630/1998). With certain exceptions, apprenticeship contracts are governed by the Em-

ployment Contracts Act. Further, an apprentice is covered by the provisions on the working hours, annual holidays, occupational safety and other protection of employees.

The Decision of the Ministry of Labour on Suitable Light Work for Young People (1431/1993) contains a list of examples of light work referred to in section 19, paragraph 2 of the Act on the Protection of Young Workers. Young persons who have reached the age of 14 or will reach that age during the calendar year in question may be employed for such work.

Light work refers to work which does not harm the young person's health, development or school attendance considering the environment, conditions and requirements of the work and the responsibility and mental stress involved in it.

Light work cannot contain prohibited work referred to in section 2 of the Decree on the Protection of Young Workers or dangerous work referred to in its section 3.

*The Committee has requested information on the extent to which children under 13 years, i.e. the minimum age for light work, actually perform work. It also asks what measures are taken by the authorities to counter this phenomenon (Conclusions XV-2, p. 3).*

According to the Act on the Protection of Young Workers (998/1993), the Section for Exceptional Permits of the Occupational Safety Board at a regional Occupational Safety and Health Inspectorate may, by granting an exceptional permit, allow a person under 14 years of age to work temporarily as a performer or assistant in artistic and cultural performances and at similar events. In 2002 and 2003, exceptional permits were granted by virtue of this provision as follows:

**Table 1.**

<b>Exceptional permits to children under 13 years of age</b>				
OSH Inspectorate	Year 2002		Year 2003	
	Permits, number	Persons, number	Permits, number	Persons, number
Uusimaa	77	480	98	575
Häme	8	31	13	230
Turku and Pori				
Vaasa				106
Central Finland				
North Karelia	2	16	1	2
Kuopio	2	4	1	2
South-East Finland	7	14	7	18
Lapland	1	7	1	8
Oulu				
Total	97	552	121	941

The permits were granted for different temporary theatre performances, children's TV programmes, film-making and assistant tasks.

*C. Measures taken to combat illegal child labour and to implement in practice the relevant legislation and regulations*

According to Finnish legislation, children's and young persons' work is controlled and supervised like any other work. The occupational safety and health authorities supervise the implementation of the legislation on children's and young persons' work through normal occupational safety supervision. According to section 18 of the Act on the Protection of Young Workers, an employer who violates any provisions of the Act intentionally or through negligence, shall be sentenced to fine for violation of provisions on the protection of young workers, unless the act is punishable as a work safety offence or a working hours offence defined in chapter 47 of the Penal Code.

**Article 7, para 2: Dangerous or unhealthy work**

*A. Higher minimum age requirement for admission to certain occupations*

According to section 3 of the Decree on the Protection of Young Workers, a person under 16 of age must not be employed for a work where this person or, through his/her work, any other person may be exposed to a particular risk of accident or harm to health. The list of examples of dangerous work is adopted by the Ministry of Social Affairs and Health, which is responsible for occupational safety and its supervision. The list is revised every fifth year.

*B. Occupations for which a higher minimum age is prescribed*

According to section 4 of the Decree on the Protection of Young Workers, a young worker aged 16 or over may perform work referred to in the list of examples of dangerous work adopted by the Ministry of Social Affairs and Health or comparable work, if it has been ensured, by means of protective technology or otherwise, that the devices or materials intended for the use of the young worker or his/her working conditions do not cause a particular risk of accident or harm to health, considering his/her personal circumstances. When assessing possible risks of harm to health, the employer must consult occupational health service staff. Before having such work performed, the employer must report on the intended work to the occupational safety and health authorities supervising the workplace.

According to section 6 of the Decree, occupational safety and health authorities may, on conditions to be laid down separately, grant derogations from the provisions of the Decree in respect of a young worker aged 15 or over, provided that it is necessary for this worker's vocational development and that his/her work is being supervised to ensure his/her safety.

*C. Measures to implement in practice the relevant legislation and regulations*

Reference is made to the answer concerning Article 7 paragraph 1 (C).

### **Article 7, para 3: Safeguarding the full benefit of compulsory education**

#### *A. The age at which education ceases to be compulsory*

Children who live permanently in Finland are subject to compulsory education. The obligation to attend school begins when the child reaches the age of 7, and it expires when the child has finished comprehensive school or when 10 years have passed since the obligation began.

#### *B. The statutory maximum duration of work performed by children still subject to compulsory education*

The restrictions on working hours for children subject to compulsory education did not change during the reference period. According to section 4, paragraph 2 of the Act on the Protection of Young Workers, a child aged 15 years or over who is still subject to compulsory education may work for a maximum of 7 hours on off-school days and for a maximum of 2 hours on school days, and the combined length of a school day and the working hours on the school day must not exceed 8 hours. The maximum of weekly working hours is 12 hours.

For a child under 15 years who is subject to compulsory education, the maximum working hours during school holidays are set at 7 hours per day and 35 hours per week.

The time used for theoretical training of a person in apprenticeship training must not exceed 8 hours per day and 40 hours per week.

*The Committee of Social Rights has requested information on the nature and extent of early morning work performed by children under and over the age of 15 years and on the supervision to ensure that the children benefit fully from compulsory education (Conclusions XV-2, p. 5).*

Authorities have granted exceptional permits for night work referred to in the Act on the Protection of Young Workers (998/1993) for instance for early delivery of newspapers, but only for school holidays or weekends. For weekends, such permits are granted on the condition that newspapers are not delivered on Monday mornings. The estimated number of such exceptional permits is rather small. For example, within the Occupational Safety and Health Inspectorate of North Finland, which is one of the eight OSH Inspectorates of the country, only 2–4 exceptional permits for night work by young workers have been applied for every year.

The supervisory authorities report that the delivery of advertisements and free newspapers is the only paid work done by children subject to compulsory education outside their holidays that these authorities have discovered during supervision or otherwise. To some extent, such work is also done by children under 15 years. The work is done on weekdays after school and on Saturdays, which are free, and it takes a maximum of 2–2.5 hours at a time. Therefore, it is not necessary to supervise that the work does not

hamper school attendance and that the maximum permissible working hours are not exceeded.

*C. Measures to implement in practice the relevant legislation and regulations*

Reference is made to the answer concerning Article 7, paragraph 1 (C).

**Article 7, para 4: Limited working hours of young persons under sixteen years of age**

*A. Provisions concerning the restrictions on working hours*

According to section 4 of the Act on the Protection of Young Workers (754/1998), the maximum permissible number of regular working hours for a person aged 15 years or over is the same as for a worker aged 18 or over in the same work.

According to section 5 of the Act, which concerns overtime work and emergency work, a person aged 15 or over may work overtime for a maximum of 80 hours per calendar year in addition to his/her regular daily working hours or other regular working hours. Moreover, a consent of the employee is required.

According to section 5, paragraph 2, a person under 15 years must not do overtime work or emergency work. A person aged 15 years or over may do emergency work on the conditions laid down in section 21 of the Working Hours Act only when no person aged 18 or over is available for this emergency work.

According to section 6 of the Act, the maximum working hours of a young worker must not exceed 9 hours per day and 48 hours per week.

Section 8, paragraph 3 of the Act prescribes that a young worker whose daily working hours exceed 4 hours 30 minutes has to be given, during the work, at least one rest period of a minimum of 30 minutes, during which the worker is entitled to leave the workplace. If any provision of the collective agreement applicable at the workplace concerned prescribes a daily rest period by way of derogation from the Working Hours Act, this provision is applicable also to young workers.

As to working hours for apprentices under 18 years of age, and as to children under or over 15 years subject to compulsory education, reference is made to the answer concerning Article 7, paragraph 1 (A) and paragraph 2 (B).

Examinations based on vocational basic training contain a minimum of 20 credits of on-the-job training. On-the-job training consists of objective-oriented, guided studies in authentic working conditions. On-the-job training may be arranged in one or more periods during the training and considering, for instance, the student's age. The provisions on on-the-job training are contained in the Vocational Education and Training Act (630/1998) and the Vocational Education and Training Decree (811/1998).

According to section 16 of the Act, on-the-job training, which is arranged in connection with practical tasks at workplaces, is based on a written agreement between the provider

of training and the employer concerned. The details to be included in the agreement are prescribed by a decree. According to its section 5, the conditions for concluding an agreement are that the workplace selected for on-the-job training carries out production and provides services to a sufficient extent to make on-the-job training possible, and that it has the necessary equipment and a staff with sufficient skills, education, training and working experience for bearing responsibility for the training.

As a rule, on-the-job training is arranged without a formal employment contract between the student and the employer, but also an employment contract may be concluded by separate agreement. In training organised at a workplace in connection with practical tasks, the employer is responsible for the student's occupational safety, as stipulated in respect of employees, also when the student has no employment relation with the employer.

The legislation on vocational training does not prescribe any minimum age for starting studies. However, rather few students are under 16 years of age.

Persons in on-the-job training who have an employment relation in the public or private sector are covered by the provisions of the Working Hours Act and the Act on the Protection of Young Workers.

On-the-job training is mostly arranged without an employment relation. In such cases, the working hours provisions of the Working Hours Act and the Act on the Protection of Young Workers are not applied to the training. The Act on Occupational Safety and Health is not only applicable to work performed under an employment relation but also to training of pupils and students for work (for instance during on-the-job training), also when they have no employment relation with the employer. The workplace for which a pupil or student works during his/her on-the-job training is responsible for his/her occupational safety during the work in the same way as an employer. The Act on Occupational Safety and Health prescribes a general duty of employers to exercise proper care. An employer is obligated to care for an employee's, also a student's, safety and health at work. Among other things, the employer must take account of the employee's personal circumstances, such as his/her skills, working experience and age.

If on-the-job training is arranged without an employment contract, the on-the-job training agreement to be concluded between the provider of the training and the employer must pay particular attention to the time used for the training. Because the training is part of studies, the objectives of the studies must be used as the prime criteria when agreement is being made on the time used for the training. The main rule is that the time used for on-the-job training of students without employment contracts must not exceed the times defined in the Working Hours Act and the Act on the Protection of Young Workers. Exception to this rule may be made only on educational grounds.

The extent of a basic vocational examination is defined as credits. A credit refers to the average work contribution of 40 hours by a student, including on-the-job training, to achieve the objectives of the studies (section 2 of the Vocational Education and Training Decree).

The provisions on apprenticeship training are laid down in the Vocational Education and Training Act (630/98). Also the Employment Contracts Act (436/1970; 55/2001) is applicable to apprenticeship training. The Act on the Protection of Young Workers lays down provisions on working hours for young workers under 18 years of age. According

to section 4 of the Act, the maximum permissible number of regular working hours for a person aged 15 or over is the same as that of the regular working hours for workers aged 18 or over in the same work.

In apprenticeship training, the hours used for theoretical training of the student and his/her working hours, added together, must not exceed 8 hours per day or 40 hours per week. For an employee subject to compulsory education, the maximum permissible number of daily working hours during school terms is 7 hours on off-school days and two hours on school days. However, the length of the school day and the working hours added together must not exceed 8 hours, and the weekly working hours must not exceed 12 hours.

*The Committee of Social Rights has asked anew what percentage of young workers aged between fifteen and sixteen years are covered by collective agreements providing for less than forty working hours a week, what exact working hours are provided for in the agreement for these young workers, and what percentage of them works in practice more than forty hours per week (Conclusions XV-2, p. 5-6).*

Reference is made to the information given above. Further, it is stated that in Finland rather few children under the age of 16 work for wages, for most of them are subject to compulsory education. A study made by the Labour Institute for Economic Research found that also most young people aged 16–18 are students and only a small percentage of them work for wages, mostly in summer jobs.

#### *B. The scope of the provisions*

The Act on the Protection of Young Workers is applicable only to employees who have an employment relation in the public or private sector. Further, the safety and health provisions of the Act are applicable in work outside employment relations, where the Act on Occupational Safety and Health (738/2002) is applied. The Act does not cover work performed in the capacity of a family member and an independent entrepreneur.

The Finnish legislation restricts the opportunity of legally incompetent persons for other work than work under employment relations in the public and private sectors. Although a person aged 15 or over is entitled, as an employee, to conclude an employment contract and give notice of its termination independently, section 23 of the Guardianship Act (442/1999) prescribes that, because a person under 18 years is, in principle, legally incompetent, he/she is not entitled to dispose of his/her property or conclude contracts or other legal acts, unless otherwise prescribed by law. He/she may, however, conclude legal acts which are customary and of minor significance considering the circumstances.

#### *C. Measures to implement in practice the relevant legislation and regulations*

In apprenticeship training, the statutory obligations are taken into account in an apprenticeship contract which is concluded between the employer and the student and confirmed by the provider of apprenticeship training. The latter is responsible for supervising compliance with the relevant legislation.

In other respects, reference is made to the answer concerning Article 7, paragraph 1 (C).

*D. Do the measures apply to all categories of people at work?*

Statistics cover only young workers with employment relations.

The working hours provisions of the Act on the Protection of Young Workers apply to all apprentices under 18 years of age.

### **Article 7, para 5: Fair remuneration for young workers and apprentices**

*A. General rules applying to the wages of young workers*

The Employment Contracts Act does not contain any provisions on minimum wages. Instead, they are agreed on by collective agreements. The wages of employees are primarily determined on the basis of their employment contracts. According to chapter 2, section 7 of the Employment Contracts Act which entered into force in 2001, the employer shall observe at least the provisions of a national collective agreement considered representative in the sector in question (*generally applicable collective agreement*) on the terms and working conditions of the employment relationship that concern the work the employee performs or nearest comparable work. Any term of an employment contract that is in conflict with an equivalent term in the generally applicable collective agreement is void, and the equivalent provision in the generally applicable collective agreement shall be observed instead.

Also apprenticeship training is subject to employment contracts legislation and its provisions on remuneration, for an apprenticeship contract is a fixed-term employment contract.

Chapter 2, section 10 of the Employment Contracts Act prescribes that if neither a collective agreement binding under the Collective Agreements Act nor a generally applicable collective agreement is applicable to an employment relationship, and the employer and the employee have not agreed on the remuneration to be paid for the work, the employee shall be paid a reasonable normal remuneration for the work performed.

In apprenticeship training, the provider of training confirms the apprenticeship contract and is ultimately responsible for compliance with the remuneration provisions of the Employment Contracts Act.

Chapter 10 of the Employment Contracts Act concerns invalidity and unreasonable terms of an employment contract. Section 2 of the chapter applies to cases where it would be contrary to good practice or otherwise unreasonable to apply a term or condition in an employment contract. Such a term or condition may be adjusted or ignored.

*B. Statistical information on the level of income of young workers*

Statistics on (gross) wages of young workers are appended (Appendix 4). No statistics on net wages are compiled in Finland. No statistical data is available on the minimum wages of apprentices.

*The Committee of Social Rights has requested clarification of wages agreed between non-organised employers and apprentices (Conclusions XV-2, p. 6-7).*

As to this question, reference is made to the answer concerning section A. Further, it is stated that apprentices, with a few exceptions, are covered by the Employment Contracts Act.

*The Committee has also requested information on the lowest wages (net value) fixed by collective agreement, statute or otherwise, calculated after deduction of any taxes and social security contributions both for workers under 18 years of age and adult workers (Conclusions XV-2, p. 7).*

On the basis of the Committee's comment on comparing the lowest wages, it is stated that Finland has no statutory system of minimum wages. Wages are determined by collective agreements with different durations and terms and conditions. At present, there are approximately 150–200 generally applicable collective agreements. In all, there are approximately 800–900 collective agreements.

The collective agreements determine the broad outlines of wages. Consequently, they usually carry a set of minimum wages at different job-complexity levels and educational levels. The complexity levels of various jobs are stipulated by negotiations between employees and employers. Accordingly, the level of minimum wages differs across sectors. In addition, there may be some grading by age and experience of employees. In particular, minimum wages stipulated by collective agreements tend to be lower for young employees.

The following extract from the wages schedule for 2003–2004 of the collective agreement for construction industries shows an example of wages determined by a collective agreement. In this schedule, the different categories are based on the employees' skills.

	<u>Wage category</u>	<u>Personal hourly wages</u>	
		1.2.2003	1.3.2003
I	6.60 €	6.87 €	7.07 €
II	7.58	7.88	8.11
III	8.18	8.62	8.91

The tasks of employees in category I do not require practical experience from the construction sector. This category covers persons in vocational training in the sector who also work beside their studies. Category II includes employees with tasks requiring a general knowledge of construction work. Employees in category III are experienced in

performing varying tasks in the sector, including technically simple installation of construction elements.

The study described below, carried out in February 2004, covers seven sectors with the lowest wage levels. All these sectors have concluded generally applicable collective agreements. The wages represent the wage level of municipalities in the first cost of living category (47 municipalities with a medium cost of living). Here, 'a young person' refers to a person aged 15–17 without a vocational education or training, who is usually paid, varying by sector, 70–95 % of the basic wages of skilled adult workers performing similar work.

The calculation of net wages includes taxes and tax-like charges as follows:

- municipal tax 18 %
- parish tax 1.25 %
- sickness insurance contribution 1.25 %
- employment pension insurance contribution 4.6 %
- unemployment insurance contribution 0.25 %
- state tax calculated by the tax percentage calculator of the National Board of Taxes.

The assumed number of monthly working hours is 161 hours.

Because of the tax deductions made ex officio by tax authorities (for instance, earnings deduction and basic deduction), the final amount of tax does not correspond with the combined percentages of taxes and contributions. The wage calculations are based on the basic wages, without adding any possible supplements based on circumstances or working hours, or holiday compensation. In the tax percentage calculation, the holiday compensation has been assessed as equivalent to a half month's wage. The calculations have been made by using the tax percentage calculator of the National Board of Taxes.

**Table 2**

Sector	lowest gross young €month	lowest net young €month	lowest gross adult €month	lowest net adult €month
Cleaning	838.81	697.47	1048.11	855.78
Rural industries	858.13	713.54	1009.47	829.28
Hairdressing	882.28	733.62	1259.02	990.22
Copying and printing	933.80	771.79	1098.00	885.54
Accommodation and catering	1011.08	830.60	1243.00	977.62
Carpentry	1011.08	830.60	1078.70	880.76
Food industries	1080.31	876.67	1205.89	954.46
Commerce	1080.31	876.67	1270.29	999.08

In practice, wages may vary

- downwards, if the agreed number of working hours is smaller than that of the normal regular working hours stipulated by a collective agreement
- upwards, through the influence of any supplements and any additional benefits stipulated by a collective agreement.

Also in taxation, additional variables (additional income and deductions) may often change the amount of net earnings.

Reporting on net wages in Finland would require a nation-wide survey, and the surveyees should know with certainty that they are paid the lowest tariff wages and then report these wages. Thereafter, any taxes and other circumstances affecting their taxation, such as additional income and debts, should be taken into account

According to the Labour Institute for Economic Research, persons under 18 years of age are seldom employed in Finland, because nearly 90 % of this age group are studying. For instance in 1999, the percentages of students and employees were as follows:

	<u>students</u>	<u>employees</u>
16 y.	87 %	0.7 %
17 y.	88 %	4.5 %
18 y.	88 %	2.8 %

In 1993, 1996 and 1999, the breakdown of working months of persons under 18 years was as follows

	<u>16 y.</u>	<u>17 y.</u>	<u>18 y.</u>
1993	0.4	0.6	1.4
1996	0.8	1.0	1.9
1999	1.3	1.5	2.6

The last mentioned figures are based on information about the work of 350 000 persons.

Further, reference is made to the informal meeting between the Committee of Social Rights and Nordic labour law experts in April 2003. The meeting concluded that the Nordic system based on collective agreements complies with the requirements of the Charter, although it differs from the systems of other countries. Because of the differences, it is not possible to answer the Committee's questions concerning the minimum wage system in more detail.

The Commission for Local Authority Employers in Finland points out that the municipal sector has no statistics on the wage level of trainees in employment relations. Trainees in the municipal sector are usually 18 years old or older, so that they are no longer covered by conventions on the protection of children and young persons.

The provisions of the collective agreement concerning local authorities on minimum wages also apply to trainees or persons with a comparable status after their employment relation has lasted for three months. The wages for an employee aged 17 or over for the first three months, and all wages of an employee under 17 years are agreed freely in an employment contract.

As from 1 March 2003, the monthly minimum wage with fringe benefits payable to an employee aged 17 or over, and fully capable of work, for regular working hours in full-time work is EUR 1128.42 according to the collective agreement concerning local authorities and EUR 1134.56 according to the collective agreement for technical employees.

The minimum wage payable to a summer employee is 50 % of the task-specific wage payable for similar work according to the relevant collective agreement or the collective agreement for technical employees. A summer employee refers to a school pupil, student or other young person without a vocational examination or vocational skills in the sector who is employed as a summer employee for a fixed term during the holiday season from 2 May to 30 September. The provision is intended to improve the opportunities of employers to provide summer jobs. It does not apply to students employed to substitute for holders of offices or employees in their own vocational sector.

In other respects, the terms and conditions of employment for trainees and summer employees are the same as for adult employees, except for the restrictions on working hours laid down in the Working Hours Act.

**Article 7, para 7: Annual holiday with pay of young persons under eighteen**

*A. and B. The minimum duration of annual holiday with pay*

*C. and D. The scope of the provisions*

The relevant legislation did not change during the reference period. The Annual Holidays Act (272/1973) is applicable to all employees irrespective of age. According to this Act, an employee is entitled to a minimum annual holiday of 4 weeks per year provided that his/her employment relation entitling to annual holiday has lasted the entire year. In the government sector, the rules on annual holidays are stipulated by the collective agreement concerning government agencies, and in the municipal sector by collective agreements concerning local authorities.

*E. Measures taken to implement in practice the relevant legislation and regulations*

Reference is made to the answer concerning Article 7 paragraph 1 (C).

**Article 7, para 8: Prohibition of night work for young persons under eighteen**

*A. The contents of the prohibition*

*B. and C. The types of night work which a person under 18 years of age is permitted to perform either generally or with a special permission*

*D. Night work prohibited under all circumstances*

*E. The scope of the prohibition on night work*

The legislation on night work by young employees did not change during the reference period. According to section 26, paragraph 1 of the Working Hours Act, any work performed between 11 p.m. and 6 a.m. is considered night work.

According to section 7 of the Act on the Protection of Young Workers, the working hours of a person aged 15 years or over must be timed between 6 a.m. and 10 p.m. If the person concerned is aged 15 or over and performs work approved or supervised by public authorities and required for his/her vocational training, the work may be done in two shifts and last until 12 p.m..

The working hours of a person under 15 years of age must be timed between 8 a.m. and 8 p.m. For weighty reasons related to work arrangements, the working hours may, however, be timed between 6 a.m. and 8 p.m..

The working hours of a young employee performing household work in the employer's home may, on the employee's consent, be timed to last until 11 p.m., if warranted by particular circumstances.

*F. Measures taken to implement in practice the relevant legislation and regulations*

Reference is made to the answer concerning Article 7 paragraph 1 (C).

*The Committee of Social Rights has repeated its request for information on the number of offences recorded or sanctions issued in respect of night work of young persons.*

Permits for night work have typically been granted for students at vocational institutions who perform on-the-job training or work in summer jobs related to their future education. Further, such permits have been granted for instance for early delivery of newspapers, warehouse work, manufacturing and packaging work in food industries and nursing. The number of night work permits granted to young employees in 2002 and 2003 is shown in the table below.

**Table 3.**

<b>Night work permits to young employees</b>				
OSH Inspectorate	Year 2002		Year 2003	
	Permits, number	Persons, number	Permits, number	Persons, number
Uusimaa	2	60	3	85
Häme	12	23	7	19
Turku and Pori				
Vaasa			2	2
Central Finland				
North Karelia				
Kuopio			3	4
South-East Finland	8	50	10	59
Lapland	1	2	2	2
Oulu				
Total	23	135	27	171

There is nothing new to report on the extent of possible night work of young employees without permits.

**Article 7, para 10: Special protection against physical and moral dangers**

*A. Work which is considered, either directly or indirectly, to be dangerous to the health or morals of young persons*

*B. Measures to protect young people exposed to physical or moral dangers at work*

*C. Summary of the measures taken in order to protect young people outside work*

Reference is made to the previous reports.

*D. Measures taken to protect children and young persons against all forms of violence, exploitation or ill-treatment*

*E. The bodies responsible for supervising the implementation of the provisions; their work and working methods*

*The Committee has wished to receive information on the supervisory system to prevent distribution, manufacture and importation of child pornography and purchase of sexual services from a young person, as well as on the national action plan for the prevention of commercial sexual abuse in Finland.*

Chapter 17, section 18 of the Penal Code (563/1998) provides for penalties for distributing child pornography, and chapter 20, section 8 of the Code for purchasing of sexual services from a person under 18 years of age.

There is no specific mechanism for controlling violations of the prohibitions laid down in the aforementioned provisions, but they are controlled in the same manner as violations of other prohibitions of the Penal Code. Any offence may be reported to the police, who conducts a pre-trial investigation of the case. According to section 2, paragraph 1 of the Criminal Investigations Act (449/1987), the police is obligated to conduct a pre-trial investigation, if there is reason to suspect an offence on the basis of a report to the police or on other grounds. After completion of the pre-trial investigation, the case must, according to section 43, paragraph 1 of the Act, be referred to a prosecutor for consideration of charges. According to section 6 of the Criminal Procedure Act (689/1997), the prosecutor must bring charges, if there is probable evidence supporting the guilt of the suspect. Criminal cases are investigated at local courts of first instance.

A Finnish national action plan on measures against commercial sexual abuse of children was completed on 31 December 1999. It was drawn up by a working group established by the Ministry of Social Affairs and Health on 7 January 1999. The tasks of the working group were 1) to assess Finland's priorities in the prevention of commercial sexual abuse of children, 2) to examine means of preventing such abuse, and 3) to prepare an action plan to prevent such abuse.

The action plan proposed, inter alia, drafting of legislation to ensure that the background of job seekers seeking work with children is investigated. This proposal was implemented by passing, on 14 June 2002, an Act on Checking the Criminal Background of Persons Working with Children (504/2002). According to section 1 of the Act, the purpose of the Act is to protect the personal integrity of minors and promote their personal security. The Act contains provisions on the procedure for obtaining the criminal record of persons appointed to work with minors.

Further, the action plan proposed development of methods to investigate suspected sexual abuse of children. The proposal was implemented by publishing in 2003 a handbook on the investigation of sexual abuse of and assault on children (*Lapsen seksuaalisen hyväksikäytön ja pahoinpitelyn selvittäminen*)<sup>1</sup>. Among other things, the handbook describes the roles of different authorities (social welfare and health care, child welfare and police authorities) in investigating assaults on or sexual abuse of children. The handbook also describes the position of a child victim in legal proceedings where punishment of the offender is demanded.

The action plan further proposed examination of how a child can be heard during legal proceedings without detriment to him/her. On 16 May 2003, the Finnish Parliament passed an act (360/2003) which includes in the Code of Judicial Procedure detailed provisions on procedures for hearing children under 15 years of age in order to provide evidence. According to the new provisions, reports given by children under 15 years may be used as evidence in court, if they have been recorded in picture and sound.

## **ARTICLE 8 - THE RIGHT OF EMPLOYED WOMEN TO PROTECTION**

### **Article 8, para 2: Illegality of dismissal during maternity leave**

#### *A. What arrangements exist to give effect to this provision*

According to chapter 7, section 9 of the Employment Contracts Act which entered into force in June 2001, an employer must not terminate an employment contract on the basis of the employee's pregnancy or because the employee is exercising his/her right to family leave. If the employer terminates the employment contract of a pregnant employee or an employee on family leave, the termination shall be deemed to have taken place on the basis of the employee's pregnancy or family leave unless the employer can prove there was some other reason. The employer shall be entitled to terminate the employment contract of an employee on maternity, special maternity, paternity, parental or child care leave on financial or production-related grounds only if its operations cease completely.

#### *B. The sanctions provided for dismissals in breach of this provision*

Chapter 12, section 2 of the Act contains provisions on liability for compensation for groundless termination of an employment contract. According to that section, an em-

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<sup>1</sup> Handbook No 55 of the National Research and Development Centre for Welfare and Health, edited by Sirpa Taskinen.

ployer is liable to pay compensation for groundless termination of an employment contract. The exclusive compensation payable is equivalent to the pay due for a minimum of three months and a maximum of 24 months. In determining the amount of compensation, account is taken – depending on the reason for terminating the employment relationship – of the estimated time without employment and estimated loss of earnings, the remaining period of a fixed-term employment contract, the duration of the employment relationship, the employee's age and chances of finding employment corresponding to his/her vocation or education and training, the employer's procedure in terminating the contract, any motive for termination originating in the employee, the general circumstances of the employee and the employer, and other comparable matters.

According to section 11 of the Act on Equality between Men and Women (609/1986), an employer is obliged to pay compensation to an employee if it has restricted the duration or extension of the employment relation of this employee on the basis of pregnancy, childbirth or other reason related to sex. Further, an employer must not give an employee notice or terminate an employment relationship or otherwise cause it to terminate for reasons related to the employee's sex (section 8).

#### *C. Reinstatement and amounts of compensation*

The Finnish legislation does not contain any provisions on an obligation of employers to reinstate illegally dismissed employees.

#### *D. Protection of women on fixed-term contracts*

The aforementioned legislation is applicable to all employees irrespective of whether they are employed for a fixed term or until further notice.

*The Committee has also inquired about the reinstatement of employment relations after illegal dismissals.*

The Employment Contracts Act contains a provision on the obligation of an employer to reinstate an employee whose employment relationship has been terminated *for financial or production-related reasons or for reasons arising from reorganization of the employer's operations, i.e. on collective grounds*, if the employer needs employees within nine months of termination of the employment relationship for the same or similar work that the employee had been doing. In such cases it is not considered that there is a conflict between the employer and the employee which prevents well-functioning cooperation.

Pregnancy is an individual ground. The Employment Contracts Act does not contain any provision obligating an employer to reinstate an employee dismissed on illegal individual grounds. The previous Employment Contract Act (320/1970), repealed on 1 June 2001, contained a provision according to which a court could order an employer to pay less compensation if it re-employed a dismissed employee. In most dismissals on individual grounds, the relation between the employer and the employee was so bad that the provision was seldom applied in practice. Employers preferred paying higher compensations to re-employing employees. The provision became a dead letter and was abolished when the Act was revised.

Although the protection of pregnant women and women on maternity leave against dismissal is important in Finland, it is not considered appropriate to introduce provisions obligating an employer to reinstate employees dismissed on illegal individual grounds. There is no reason to intensify the protection of pregnant women in relation to other general protection against dismissal more than has already been done in Finnish legislation. Compared with other illegal grounds for dismissal, pregnancy does not have a special status warranting reinstatement arrangements which would conflict with the system based on employment contracts legislation.

The Committee has stated that the provision concerned is intended both to safeguard the financial security of dismissed employees and to guarantee their jobs. A statutory obligation to reinstate an employee does not, however, guarantee the employee's job. Statutory protection against dismissal can be violated, and so can also statutory reinstatement obligations. Guaranteeing dismissed employees' jobs, as the Committee suggests, would ultimately mean an obligation implemented through compulsory enforcement measures. In that case, an employee's right to work would have to be safeguarded by means of execution, with executive assistance by the police. It is clear that work is impossible in such circumstances and that a system permitting a "lifelong marriage" between an employer and an employee would be inappropriate to both the employer and the employee.

According to chapter 12, section 2 of the Employment Contracts Act, the compensation payable for groundless termination of an employment contract must be equivalent to the pay due for a minimum of three months and a maximum of 24 months. The Committee has earlier stated that the provision on a maximum compensation equivalent to the pay for 39 weeks is insufficient. In fact, the maximum compensation prescribed by the Finnish legislation is equivalent to the pay for 104 weeks. The freedom of determining the amount of compensation permits consideration of all circumstances affecting the situation, when compensation payable to illegally dismissed pregnant employees or employees on maternity leave is being determined.

In its conclusions, the Committee refers to a decision of the Kajaani District Court on discrimination at work (20 December 1996, R 96/550). It must be noted, however, that rulings of Finnish courts of first instance are not regarded as precedents, nor can they serve as a basis for generalising conclusions on attitudes towards such cases.

**The Confederation of Finnish Industry and Employers (TT)** considers that a requirement of reinstatement contrary to the other party's will conflicts with the foundations of Finnish labour law and general contract law. An employment relation is an emphatically personal continuous obligation. Because it restricts personal freedom, an employment contract cannot contain a compulsory obligation of a specific performance but a liability for damages in case of violation of the contract.

The Confederation also states that the decision of the Kajaani District Court mentioned by the Committee is an individual decision of a court of first instance, and cannot serve as a basis for conclusions about the sufficiency of compensation, even if it was considered that article 8, paragraph 2 of the Charter permits such conclusions. Further, in the Confederation's view, the fact that neither party appealed against the decision proves that the compensation scale is sufficient.

**The Employers' Confederation of Service Industries (PT)** considers that article 8, paragraph 2 of the Charter does not require or mean that an illegally dismissed em-

ployee must be reinstated. According to the Confederation, the right of determining sanctions for illegal dismissals cannot be derived from the text of the Charter. Instead, the type and extent of such sanctions remain in purely national competence. Moreover, the Confederation refers to the 15<sup>th</sup> report of the Governmental Committee of the European Social Charter, submitted on 13 December 2001. In this report (p. 44) the European Trade Union Confederation (ETUC) states that article 8, paragraph 2 does not require compulsory reinstatement due to an illegal dismissal, although such a sanction due to illegal dismissals should be provided for. In the Confederation's view, this proves that also the employee party regards the Committee's conclusion as incorrect.

**The Finnish Confederation of Salaried Employees (SAK)** considers that the employment security of pregnant women and women on maternity leave should be constructed along the guidelines defined by the Committee of Social Rights. The applicable sanctions should compensate sufficiently for the damage caused to the employee, and they should also warn the employer. A qualified compensation system should be created for such situations.

## **ARTICLE 11 - THE RIGHT TO PROTECTION OF HEALTH**

### **General aspects**

#### *A. Main forms of ill-health*

The most common causes of death in Finland during the reference period were diseases of the circulatory system, which according to information from the year 2001 caused annually 42.7 % of all deaths, and tumours, which caused 21.9 % of all deaths. Diseases of the respiratory system caused 7.9 % and accidents and violence 7.8 % of all deaths.

The five most common causes of death among working age men (15–64 years) in 2001 were coronary heart disease (age standardized mortality/100 000 = 68.8); alcohol (49.3); accidents (48.9); suicides (45.5) and lung cancer (20.1). The five most common causes of death of working age women in 2001 were breast cancer (17.4); alcohol (13.2); suicides (12.3); accidents (12.1) and coronary heart diseases (11.2). Among young working age men (15–34 years), suicide was the most common cause of death, followed by diseases, traffic accidents and alcohol. The most common causes of death among young working age women were diseases, suicides, traffic accidents, other accidents and alcohol.

#### *B. Access to health care and availability of health services*

The basic structure of the Finnish health care system remained unchanged during the reference period. The system is based on public health care available to all. The public health care system is supplemented by private health services and a comprehensive statutory system of occupational health services.

### The national health care project

On 13 September 2001, the Government set up a national project to safeguard the future of health care services. The project assessed the current and threatening problems of the service system and drew up a plan and an implementation programme to eliminate these problems. The target of the project was to safeguard the availability, quality and sufficiency of health care based on the needs of the population all over the country, irrespective of financial standing. The project had a management group and invited an investigator and an expert group. The management group of the project submitted a memorandum on safeguarding the future of health care services on 9 April 2002 (Appendix 5).

As a result of the project, the Government adopted, on 11 April 2002, a decision in principle on securing the future of health care (Appendix 6). Its objective is to develop health services in cooperation between the municipalities and the state, taking account of activities in the private sector and the third sector. The decision in principle contains the following six groups of measures for the years 2002–2007:

- 1) Well-functioning primary health care and preventive work
- 2) Secured access to care
- 3) Secured availability of staff and know-how
- 4) A reform of activities and structures
- 5) Strengthened financing of health care
- 6) Implementation of the proposals made by the project.

The national health care project contains a number of financing elements, which have been taken into account in the state budgets for the years 2003 and 2004. For the years ahead, they will be taken into account in the drafting of budgetary spending limits. Since 2003, the Government has increased its grants to municipalities for social welfare and health care.

#### Secured access to care

The key target of the decision in principle is to guarantee that all patients who need care obtain medically appropriate care within a reasonable time, irrespective of their financial standing or place of residence. Access to a primary examination by a primary health care professional, usually a doctor, would be guaranteed within three days of contacting the service concerned. Access to an out-patient examination in specialized health care would be arranged within three weeks of writing a referral, and access to medically justifiable care would be arranged within a reasonable time determined by a national recommendation on health care or determined otherwise on the basis of evidence, usually within a maximum delay of three months, and at the latest after six months. If the patient's municipality of residence or a municipal federation cannot produce the necessary care within the prescribed time, they must acquire it from other service providers, without changing the client charges.

The decision in principle required that the Ministry of Social Affairs and Health prepare, jointly with the Association of Finnish Local and Regional Authorities, national instructions on the provision of non-urgent care and queue management by the end of 2003. In July 2002, the Ministry set up a working group to draft such instructions, and in January 2004, the working group submitted a memorandum<sup>2</sup>. To ensure access to

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<sup>2</sup> Working group memorandums of the Ministry of Social Affairs and Health 2003:33.

health care, the Ministry is currently drafting a government proposal to amend the Primary Health Care Act, the Act on Specialized Medical Care and the Act on the Status and Rights of Patients. The proposal will be submitted to Parliament in April 2004.

*The Committee has inquired whether measures are being or will be taken to ensure that pharmaceutical products are not too expensive for the less well-off (Conclusions XV-2, p. 14).*

In Finland, sickness insurance covers medicines sold only on a doctor's prescription for the treatment of an illness and partly also self-care medicines prescribed by a doctor. The system of reimbursement for medicines covers all people residing in Finland, and the level of reimbursements is equal for all, irrespective of age, financial standing or place of residence. If necessary, also other systems may compensate for medicine expenses, for instance through income support or different care allowances. Further, the following factors can be mentioned as particular circumstances affecting the availability and price of medicines:

1) *High medicine expenses.* An additional reimbursement for high medicine expenses exceeding an annual excess limit may be applied for from the Social Insurance Institution of Finland. In 2002, the excess limit (the so-called ceiling on medicine expenses) was EUR 594.02. Expenses exceeding this annual excess limit are reimbursed in full. To be paid out, an additional reimbursement must exceed EUR 16.82 (in 2002) per calendar year. The reimbursable expenses include only one person's purchases of medicines already deducted by sickness insurance reimbursements.

2) *Generic substitution.* According to certain amendments (80-81/2003) to the Sickness Insurance Act and the Medicines Act which entered into force in April 2003, pharmacies may replace a medicinal product ordered by a doctor with a similar but less expensive product. Pharmacies are obliged to substitute a less expensive medicinal product for a prescription-only medicine, if such a less expensive product is mentioned in the list of substitutable medicinal products published by the National Agency for Medicines. The client may refuse such substitution. The doctor ordering the medicine may refuse substitution, if this is justifiable on medicinal or treatment grounds.

3) *The Pharmaceuticals Pricing Board.* Since the EEA Agreement entered into force at the beginning of 1994, reasonable wholesale price has not prevented the granting of marketing authorisation for pharmaceuticals. With a marketing authorisation, a pharmaceutical product may be marketed without a wholesale price being accepted by authorities. However, part of the purchase price of a medicine is reimbursed under the Sickness Insurance Act only if the Pharmaceuticals Pricing Board under the Ministry of Social Affairs and Health has fixed a reasonable wholesale price to serve as the basis for reimbursement.

"Reasonable wholesale price" refers to the maximum price at which the product may be sold to pharmacies and hospitals. The retail price of a pharmaceutical product, on which the reimbursement is based, is made up of the reasonable wholesale price, the pharmacy's profit margin at the rate prescribed by the Government in a schedule of medicine prices, and VAT. Applications for acceptance of reasonable wholesale prices usually concern prescription-only medicines but also certain self-care products eligible for reimbursement on the basis of the Sickness Insurance Act when prescribed by a doctor.

These self-care-products are determined specifically by the Ministry of Social Affairs and Health. The application must detail the accepted price of the medicine and the grounds for reimbursement in other EEA countries, and it must state whether the medicine is sold under other brand names and at what price. The Pharmaceuticals Pricing Board also processes applications for wholesale price increases in respect of medicines eligible for reimbursement.

*The Committee has wished to know whether waiting lists are available for access to medical services and how these lists are managed (Conclusions VX-2, p. 14).*

The supplementary budget for 2002 allocated EUR 25 million for the elimination of queues for examination and treatment. Provisions on the granting, payment and use of government grants are laid down in the government decree (576/2002) of 4 July 2002, which entered into force on 15 July 2002. These grants were allocated on the basis of the number of inhabitants in the region of each hospital district at the end of 2001. However, their amounts were adjusted by the 2000 needs index for specialized health care. The grants must be used by the end of 2003. Instructions on the provision of non-urgent care and queue management are being prepared as reported above.

#### Mental health services for children and young persons

An amendment of the Mental Health Decree (1282/2000) entered into force in 2001. Section 6 a of the Decree lays down the maximum delays of access to examination and treatment in cases where a child or young person has obtained from a doctor a referral to assessment of his/her need for specialized psychiatric health care or where, as a result of such assessment, he/she is considered to need such care. The assessment of the patient's need for care must be started within three weeks from the date when the hospital or other specialized health care unit or a corresponding unit receives the referral. The prescribed delay is the maximum delay. If the child or young person needs urgent care, the referral must be examined more urgently, even immediately, if necessary. If it is assessed that the child or young person needs care, the care must begin within three months of the assessment. However, the date of access to care must be determined on the basis of required urgency, and if necessary, the care must begin immediately. The amendment of the Decree is also intended to improve the exchange of information necessary for care when a patient moves from one care unit to another, and to increase regional cooperation.

#### Oral health care

Services of oral health care were revised and the access to care was extended in 2001–2002. In the first phase of extension in 2001, the municipalities were obligated to arrange dental care for patients born in 1946 and thereafter. During 2002, the obligation was extended to concern the whole population. At the same time, the category of persons entitled to reimbursement for dental care expenses from sickness insurance was expanded. The Sickness Insurance Act was amended by extending the reimbursement for dental care expenses to all patients, irrespective of age, as from 1 December 2002.

**Table 4.**

Oral health care patients treated at health centres:

<i>Treated patients by age group</i>	<i>2001</i>	<i>2002</i>	<i>Change 2001–2002</i>
born in 1946 or thereafter	1 487 779	1 593 427	105 648
- of these, patients aged 0-17	924 865 (0-18-y.)	883 581	- 41 284
- of these, others treated on the basis of their age	562 914	709 846	146 932
The remaining population	304 959	221 575	- 83 384
Total	1 792 738	1 815 002	22 264

### *C. Organisation of public health services*

#### **a. private or public screening clinics**

The provision of private health services has increased by an average of 2 % per year. In 2002, the private health service providers numbered almost 2 970. The private service providers, i.e. organisations and enterprises, produce approximately one fifth of all social and health services. The largest individual sector is physiotherapy, followed by doctor's practices and occupational health services. Most private health service providers operate in Southern Finland.

In addition to publicly provided preventive health care and screenings, many private health care units and different organisations provide similar services. These include, for instance, the prostitute counselling centre run by the Deaconess Institute and the HIV screenings carried out by the Organisation for Sexual Equality SETA.

#### **b. regular health examinations**

Screenings of cervical cancer and breast cancer are arranged regularly in Finland. Activities of child health clinics and school health care are reported later below. Further, medical examinations in connection with military call-ups cover, at national level, all males of the age group concerned and also female volunteers. Pre-employment medical examinations and later medical examinations are arranged as part of statutory occupational health services. There is also a comprehensive health care system for students.

**c. number of health care institutions**

The following figures are from 2003. There are no significant changes since 2001 and 2002.

**Table 5.**

<i>Maintained by hospital districts:</i>		
University hospitals		5
Central hospitals (including the Åland Islands)		16
Other municipal hospitals		33
<b>TOTAL</b>		<b>54</b>
<i>Maintained by government authorities:</i>		
Government mental hospitals		2
Hospitals of the Finnish Defence Forces (incl. health centres with wards 16)		30
Hospitals and sick rooms of the Frontier Guard		4
Hospitals under the Criminal Sanctions Agency		3
<b>TOTAL</b>		<b>39</b>
<i>Private hospitals</i>		42
non-profit hospitals		21
<i>Health centres</i>	<i>with wards</i>	<i>all</i>
Municipal federations	70	70
Municipal health centres	169	208
Private health centres	1	1
<b>TOTAL</b>	<b>240</b>	<b>279</b>
<b>IN ALL</b>	<b>375</b>	<b>414</b>

*In 2001, the numbers of visits for health care and medical treatment per 1 000 inhabitants were as follows:*

**Table 6.**

Primary health care:	
<i>Visits for health care and treatment, total</i>	4 820
<i>Visits to mother and baby clinics</i>	179
<i>Visits to child health clinics</i>	256
<i>Visits to school and student health services</i>	374
<i>Visits to occupational health services</i>	199
<i>Home nursing visits</i>	671
<i>Visits for dental health care</i>	946
<i>Periods of ward treatment</i>	52
<i>Bed-days</i>	1 442
Specialized health care:	
<i>Visits for out-patient care</i>	1 230
<i>Periods of ward treatment</i>	175
<i>Bed-days</i>	1 194
Private health care:	
<i>Visits to doctors covered by sickness insurance</i>	685

**d. number of health care professionals**

Health care professionals on 31 December 2001:

**Table 7.**

	<i>Number (all)</i>	<i>/ 1 000 (all)</i>	<i>Number (working age)</i>	<i>/ 1 000 (working age)</i>
Doctors	19 257	3.71	17 325	3.34
Dentists	6 086	1.17	4 985	0.96
Midwives	5 762	0.81	4 204	0.77
Nurses	78 166	12.15	63 099	11.54

**e. number of pharmacies**

The Finnish system of pharmacies covers the whole country. The number of pharmacies is 0.15 /1 000 inhabitants. In 2002, the pharmacies in Finland totalled 797, which is broken down as follows:

**Table 8.**

Private pharmacies	595
University pharmacies	2 (University pharmacies in Kuopio and Helsinki)
Private branch pharmacies	184
Branch pharmacies of the Helsinki University Pharmacy	16

**f. the percentage of health care expenses of the Finnish GNP** was 7.0 % in 2001.

**Article 11, para 1: Removing the causes of ill health***A. Infant and perinatal mortality and life expectancy at birth*

In 2001, the life expectancy for Finnish women was 81.5 years and for Finnish men 74.6 years.

In Finland, the rate of infant mortality continues to be one of the lowest in the world, and it shows a declining trend. In 2001, 3.2 children of one thousand born alive died before the age of 1 year, while the corresponding figures in 1999 and 2000 were 3.7 and 3.6. In 2001, the rate of perinatal mortality (stillborn after a pregnancy of at least 28 weeks) was 4.3 /1 000 (1999: 4.4 and 2000: 4.4). The rate of first week mortality in 2001 was 1.7 /1 000 (1999: 2.1 and 2000: 1.7), and the rate of neonatal mortality in 2001 was 2.2 /1 000 (1999: 2.7 and 2000: 2.4).

In 2001, there were 3 maternal deaths, which means 5.3 deaths per 100 000 children born alive. During the last 20 years, an average of 3 maternal deaths have occurred per 100 000 children born alive.

*B. Special measures to protect the health of mothers, children and the aged*

To supplement the previous reports, the following is reported on the activities of child health clinics. Moreover, reference is made to the answer concerning Article 11 paragraph 2 (A).

The system of child health clinics maintained by municipalities is an important part of welfare services intended for families with children. On 1 December 2002, the Ministry of Social Affairs and Health set up a working group to develop the activities of child health clinics at national level, so that they will better meet the needs of children and

families, and to prepare recommendations and a handbook on the development of these clinics.

To develop the activities of child health clinics, the working group proposed the following important reforms:

1. The cooperation between different actors working for families with children in municipalities should be promoted by concentrating all services in family service centres or networks.
2. The know-how of family work should be improved by arranging supplementary training for the existing staff of child health clinics or by employing family workers at these clinics. It is also important to provide more municipal home-help to families with children.
3. A planning and monitoring group for the welfare and services of families with children should be established in order to improve municipal and regional coordination. This group should submit regular reports to municipal decision-making bodies. The child health clinics and all work for families with children should be integrated into the child policy programmes of municipalities.
4. The management of the clinics and the deliberate steering of their development should be strengthened by nominating clearly the representatives of medicine and nursing responsible for the activities of the clinics, and by enhancing their operational conditions and mutual cooperation.
5. Sufficient resources and know-how of the clinics' staff should be ensured.
6. The interests of children must be taken into account in all activities and decisions.
7. The role of both parents and their opportunities for full participation should be strengthened. Child health clinics should operate in manners that promote participation and inclusion, i.e. in dialogue and cooperation partnership. They should increase their house calls.
8. Early intervention and early aid should be ensured. The task of child health clinics is to identify – by means of individual information and results of more comprehensive longitudinal studies – children who need additional support and their families, and to provide intensified support to them or to refer them to examination or care.

## **Article 11, para 2: Advisory and educational facilities**

### *A. Advisory and screening services*

#### **a. for schools**

In October 1999, the Government adopted a target and action plan for social welfare and health care<sup>3</sup>, which is a statutory planning document related to the government grant system for social welfare and health care. In this first target and action plan, the Government defined its development targets for social welfare and health care, issued recommendations for necessary measures and determined the implementing actors for 2000–2003. The plan was intended to steer, at a general level, an appropriate implementation of municipal social welfare and health care, and it focused particularly on developing the system of social and health services.

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<sup>3</sup> Publications of the Ministry of Social Affairs and Health 1999:16.

As to school health care, the action plan recommends that municipalities should ensure sufficient resources for school health care and pupil welfare. According to the action plan, experts of school health care and pupil welfare must aim at promoting the welfare of children and young persons in all activities of school communities. During the compulsory education of children, the school health care service continues the monitoring of children's health and welfare initiated by mother and child health clinics. Regular health examinations and screenings for the entire age group form the kernel of school health care and make it possible to meet every pupil and his/her family. Within the limits of available resources, school health care should also contain house calls. Health examinations and screenings serve as a basis for a comprehensive assessment of each pupil's physical and mental health and for identifying possible illnesses and threats to the pupil's health and welfare. A health examination is also an occasion for health education and preventive mental health work. Health examinations must be geared towards identifying the risk groups which need to be monitored more closely. These groups are:

- sick and disabled pupils
- pupils who are not sufficiently supported by their families
- pupils from foreign cultures
- pupils with learning difficulties
- pupils who behave in a disorderly manner.

The health examinations must be conducted at the same class levels throughout the country. They are divided in four groups:

1. *Comprehensive health examinations.* There are three such examinations during the years of comprehensive school, conducted by both a doctor and a school nurse. These examinations are assessments of welfare and health arranged at certain age levels pursuant to the national health examination programme. Comprehensive health examinations contain a number of stages and in most cases several meetings. They consist of screenings and an interview with each child, a health examination conducted by a doctor and interviews with the parents and teachers. Comprehensive health examinations are arranged when pupils start school – in the 1<sup>st</sup>–2<sup>nd</sup> class (ages 7–8) –, when puberty begins – in the 5<sup>th</sup>–6<sup>th</sup> class (ages 11–12) – and when pupils prepare for upper secondary education or working life in the 8<sup>th</sup> class (age approx. 14).

2. *Health meetings between a school nurse and pupils* in the years between the comprehensive health examinations. All pupils have regular health meetings with a school nurse pursuant to the school health action plan. Such regular meetings are arranged at least once in the lower school classes and once in the upper classes between the comprehensive health examinations. A health meeting may also contain screenings. Use of standardised questionnaires (depression screen, alcohol questionnaire) to support the discussions is recommended, especially for pupils in upper classes.

3. *Screenings to identify certain illnesses or problems*, every year or pursuant to an agreed plan. Screenings are regular examinations of the entire age group (approx. 60 000 persons) in order to identify latent illnesses, health risk factors and problems. A risk may either be mental or physical or relate to unhealthy lifestyles. The screening methods of school health care for the different class levels are as follows:

**Table 9.**

Measurement of height and weight/growth curves	Yearly
A clinical assessment of posture and build	Yearly
Assessment of puberty development	Yearly
Screening for scoliosis (scoliometer, forward-bending test)	Classes 5–6 and 7–8 (ages 11–12 and 13–14)
Sight test (E chart)	Classes 1 and 7–8 (ages 7 and 13–14)
Colour sight (Isihara tests)	Classes 7–8 (ages 13–14)
Hearing test (audiometer)	Classes 1 and 7–8 (ages 7 and 13–14)
Blood-pressure measurement	comprehensive health examination

<i>Interviews and questionnaires:</i>	
Depression screen (BDI)	Classes 7–8 (ages 13–14)
Alcohol questionnaire (AUDIT)	Classes 8 and 9 (ages 14 and 15)
Drug abuse questionnaire	Classes 8 and 9 (ages 14 and 15)
Risk family identification	comprehensive health examination

Learning difficulties, bullying at school and the mental atmosphere of classes are assessed at all meetings with children and young people, but especially at comprehensive health examinations and health meetings. Interviews concerning smoking are conducted yearly, beginning from the last primary school classes.

The Primary Health Care Act (66/1972) obligates municipalities to arrange, free of charge, any special health examinations which are necessary to establish school pupils' state of health (section 2 of the Primary Health Care Decree). Such examinations include examinations by specialists in visual and aural diseases and, further, laboratory, x-ray and other necessary examinations ordered by these specialists. According to the Act and the Decree, school pupils are, if necessary, also entitled to examination by a psychologist and a psychiatrist free of charge. Learning difficulties and disorderly behaviour are examined by neuropsychological methods.

4. *Targeted health examinations for risk groups*, when necessary. In addition to examinations for the entire age group, targeted examinations are arranged for certain risk groups in order to prepare for the pupils individual plans on health examinations and monitoring, in most cases jointly with the pupil welfare services in schools or specialized health care services. Such risk groups consist of children with disabilities or chronic physical illnesses, children whose families cannot support them sufficiently, children from foreign cultures and children with learning difficulties or social problems.

#### **b. for other groups**

As to other groups, reference is made to the answer given under section C, paragraph b (Regular health examinations) in chapter "General aspects" .

*The Committee of Social Rights has wished to know whether specific measures, including teacher training, are being carried out in the education sector in an effort to curb the problems of suicides and smoking among young people (Conclusions XV-2, p. 15).*

During the project carried out in 1992–1996 to prevent suicides, the number of young suicidees declined and has continued to decline since then. The project identified a number of factors which must be ensured in order to prevent suicides: good care of those who have attempted suicide, identification and treatment of depression, intervention in problematic use of alcohol, psychological support as part of treatment of somatic illnesses, support in life crises, prevention of exclusion of young men, and development of the Finnish educational and cultural climate.

Since the year 2000, because of deficiencies noticed in psychiatric services for children and young people, the Government has granted special government grants for these services. The special grants are intended to compensate for costs incurred by municipalities and municipal federations in supporting the psychological development of children and young people, preventing disorders and securing psychiatric services. The grants have made it possible to establish many hundreds of temporary or permanent offices in public health care and to carry out psychiatric development projects. For the year 2002, the Government granted EUR 3 160 000. For 2004, it granted EUR 7 000 000 for costs incurred by municipal federations in hospital districts in psychiatric treatment and rehabilitation of children and young persons.

More information on mental health services to children and young people is given above under section B in chapter "General aspects".

### *B. Further health education*

In May 2001 the Government adopted a decision in principle on a national health programme entitled "Health 2015", which defines the line of the Finnish health policies for the next 15 years and continues the national "Health for All by 2000" programme. The programme has been prepared by the Advisory Board for Public Health set up by the Government, and it is based on the "Health for All" programme of the World Health Organization WHO, revised in 1998.<sup>4</sup>

"Health 2015" is a cooperation programme aimed at supporting and promoting health in all sectors of society. The programme sets eight targets concerning public health, of which targets 1–5 concern certain age groups and targets 6–8 concern everyone:

1. Child well-being and health will increase, and symptoms and diseases caused by insecurity will decrease appreciably.
2. Smoking by young people will decrease, to less than 15 % among those aged 16–18; health problems associated with alcohol and drug abuse among the young will be dealt with appropriately and will not exceed the level of the early 90s.
3. Accidental and violent deaths among young adult men will be cut by a third from the level of the late 90s.

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<sup>4</sup> Publications of the Ministry of Social Affairs and Health 2001:6eng.

4. Working and functional capacity among people of working age and workplace conditions will improve, helping people to cope longer in working life; retirement will be about three years later than in 2000. In 2000, this figure was 8.1 years for people aged 50 or over.
5. The average functional capacity among people over 75 will continue to improve, as it has done for the last 20 years.
6. Finns can expect to remain healthy for an average of two years longer than in 2000. In 2000, the expectancy of healthy life for a person aged 15 or over was approximately 40.5 years.
7. Finns' satisfaction with health service availability and functioning, and subjective healthiness and experiences of environment impacts on personal health will remain at least at the present level.
8. In implementing these targets, another aim will be to reduce inequality and increase the welfare and relative status of the population groups in the weakest position. The objective will then be to reduce differences in mortality between the genders, groups with different educational backgrounds, and different vocational groupings by a fifth.

Moreover, the programme contains 36 lines of action, which concern challenges and policies related to the environment of citizens' everyday life and different actors in society. The Advisory Board for Public Health coordinates the implementation and follow-up of the programme jointly with the Ministry of Social Affairs and Health. The Advisory Board and its divisions monitor and assess the achievement of targets and the results of measures taken. The achievement of targets is assessed in connection with the Social and Health Report to be submitted every fourth year.

### **Article 11, para 3: Prevention of diseases**

#### *A. Measures taken to prevent epidemic, endemic and other diseases*

Since 1998, low-threshold health counselling centres for injection drug abusers have been established in approximately 20 localities in Finland. Beside providing counselling and referring drug abusers to treatment, these centres exchange used syringes and needles for sterile ones and carry out vaccinations and testing. The centres were established to prevent the spreading of an HIV epidemic which broke out among injection drug abusers in 1998, and that target was achieved.

In 1999 the Contagious Diseases Act (1986/583) was amended so that, according to section 23 a of the Act, the senior doctor of each hospital district is obliged to keep a regional register of generally hazardous and notifiable contagious diseases on the basis of notifications of such diseases, and the National Public Health Institute must keep a national register of these diseases. Further, the National Public Health Institute may keep a separate register of carriers of microbes that are particularly resistant to medicines.

*The Committee has requested information on the policy regarding hepatitis vaccinations (Conclusions VX-2, p. 20).*

Vaccination against hepatitis B is included in a general vaccination programme, where vaccinations are voluntary and cost-free to persons of certain risk groups. These groups include newborn children of hepatitis B positive mothers, family members and partners of hepatitis B positive persons and other persons belonging to other risk groups, such as injection drug abusers and sex workers. Further, in occupational health services, hepatitis B vaccinations are offered to employees in high-risk vocations.

### *B. General measures in the public health field*

Local environmental health programmes were finalized in 2003, as part of the implementation of the national environmental health programme. The Gene Technology Act (377/1995) was revised in 2003, and the control of the use of gene technology was partly entrusted to various administrative agencies. The Act aims at promoting safe uses and developments of gene technology in an ethically acceptable way and preventing and avoiding damage that the use of genetically modified organisms may cause to human health, animals, property and the environment.

#### **a. air pollution, water pollution, soil pollution**

##### *Air protection*

Air protection is regulated by the Environmental Protection Act (86/2000) of 2000 and the decrees issued by virtue of it. The Ministry of the Environment is responsible for the supreme direction and control of air protection. The Ministry of Social Affairs and Health and the National Public Health Institute are official expert agencies consulted, for instance, in the drafting of decrees concerning air quality. By international standards, the Finnish guide values for healthy air quality have been stringent, but the ongoing revision of the limit values applied by the European Union has continually narrowed the difference between Finland and the other EU member states. The main responsibility for monitoring of air quality lies with the local environmental authorities.

##### *Prevention of water pollution*

The Finnish pollution control legislation was revised in 2000 by passing the Environmental Protection Act and by updating and harmonizing the existing legislation and permit procedures. The use of water resources and areas is regulated by the Water Act (264/1961). According to the Act, measures and structures that have an effect on water systems or groundwater resources are usually subject to a permit. The Water Act is now being revised (2004). The EU Water Framework Directive of the year 2000 lays down guidelines for water management policies for many years to come. The Act aims at achieving a good surface water status by 2015.

The Bathing Water Quality Directive of 1976 sets binding standards for bathing waters to protect bathers against health risks and to preserve the environment from pollution. Proposals for its revision are currently under consideration by the member states.

The Water Services Act (119/2001) sees water services more as basic services that need to be made available for everyone. Municipal water supply and sewerage development plans are being prepared for every municipality by 2004.

The third national water protection programme, approved by the Government in 1998, sets targets up to the year 2005. The long-term goal of the programme is to avert the adverse effects of human activities on the Baltic Sea and the inland surface waters. The main objective of the programme is to reduce the eutrophication of waters. Areas with poor water quality in Finland have decreased considerably.

In 2002, Finland published a programme for the protection of the Baltic Sea, the main aim of which is to reduce eutrophying discharges from Finland and the adjacent regions. This will have a beneficial effect on the state of Finland's coastal waters.

Wastewater treatment in urban areas, which account for 80 % of the Finnish population, is of a high standard in international terms: 95 % of the organic matter, 93 % of the phosphorus, and 44 % of the nitrogen contained in all urban wastewater are removed. All urban and industrial wastewater is treated, mainly by biochemical means. In addition to the continuously improved efficiency of municipal wastewater treatment plants, new regulations have been adopted and technologies suitable especially for rural areas are being developed. In summer 2003, the Finnish Parliament passed new legislation which set minimum standards for the treatment of wastewater from households outside sewerage networks.

#### *Prevention of soil pollution*

The Environmental Protection Act which entered into force 2000 clarified the regulation of soil pollution. Earlier, cleaning of soil was regulated by the Waste Act. The Environmental Protection Act currently in force prohibits pollution of soil and groundwater (sections 7 and 8). It also defines responsibilities for cleaning and treatment, duties to apply for permits and to notify certain activities, and a duty to report on polluted areas.

For the restoration of polluted soil, an environmental permit or a notification referred to in the Environmental Protection Act is required. In administrative praxis, the notification procedure has clearly become the primary procedure. Treatment plants and disposal sites for polluted soils are always subject to an environmental permit. An industrial plant cannot be granted an environmental permit, if its activities, considering the conditions of such a permit, cause pollution or a risk of pollution of soil or groundwater.

In the planning and implementation of projects to treat polluted soil and to restore polluted areas, it may also be necessary to take account of several other statutes. Among others, the Land Use and Building Act (132/1999) requires that impact assessments be made in connection with planning, if any possibly soil-polluting activities have been pursued earlier in the planning area.

The Ministry of the Environment is currently drafting a government decree on the assessment of the level of contamination and the need for treatment of soil. To facilitate assessment, the decree will lay down three-stage target and guide values, which will replace the currently applicable, partly obsolete guide and limit values set in memorandum 5/1994 of the Ministry of the Environment.

The Finnish inventory of possibly polluted soils was updated in 1998–1999. At present, there are approximately 20 000 possibly polluted sites in Finland. Urgent cases, which should be investigated and, if necessary, restored within the next five years, number 3350. It is estimated that the investigation and restoration of polluted areas will require at least EUR 400–700 million. The share of the Government and municipalities is some EUR 125–220 million.

#### **b. radioactive contamination**

The Finnish Radiation and Nuclear Safety Authority monitors radiation in Finland. In certain areas, the percentages of radon in indoor air are high due to natural radon entering houses from the soil. The local health care authorities are responsible for monitoring the radon content of indoor air.

#### **c. noise pollution**

With the revision of the Finnish environmental protection legislation in 2000, noise abatement became part of the integrated prevention of environmental pollution. Thus, noise abatement is subject to the general principles of the Environmental Protection Act, and environmental noise is subject to the permit procedure prescribed by the Act. A working group set up by the Ministry of the Environment has drawn up an action plan to develop noise abatement at national level. This action plan will form the basis for noise abatement activities by different actors. At the end of 2004, the Government will make a decision in principle concerning noise targets and related activities on the basis of proposals submitted to it.

#### **d. food hygiene inspection**

The Finnish food legislation was completely revised in 1994 and 1995. The safety and hygiene of food is regulated by the Food Act (361/1995). There are also provisions on food in the Health Protection Act (763/1994) and in the Act on Food Hygiene of Foodstuffs of Animal Origin (1195/1996). New legislation was proposed in 2003. The safety and hygiene of food is controlled mainly by the municipalities, whose control personnel numbers about 800 persons. The revised legislation also introduced self-monitoring, which means that the producers or sellers themselves have to control the safety and hygiene of the foodstuffs they produce or sell.

#### **e. minimum housing standards**

In 2003, the Ministry of Social Affairs and Health revised its guide for microbiological, chemical and physical conditions of residential and other facilities used by the public. This guide gives instructions to health care authorities, especially as regards controlling the quality of indoor air.

#### **f. smoking, alcohol and drug abuse; sexually transmitted diseases**

In 1999–2002, government appropriations for health promotion were allocated for the prevention and reduction of smoking, for the prevention of intoxicants abuse and harmful effects caused by intoxicants, and for other health promotion. In 2002, these appropriations amounted to EUR 7 145 000 and were distributed nearly equally between the three aforementioned purposes. The appropriations were used for supporting experi-

ment, development and research projects of municipalities and organisations, and for development work of institutions and authorities in the social and health administration.

In addition to the aforementioned appropriations, the organisations obtained funds from Finland's Slot Machine Association and from government grants to municipalities. In 2002, the support paid to organisations totalled approximately EUR 15 million.

Beside by tobacco and intoxicants legislation, the activities are regulated by a national alcohol programme and a national drug policy action plan, both of which aim primarily at promoting intensive and efficient cooperation between different actors and focussing on preventive work. Further, the different forms of care are developed. Children, young people and socially excluded people are particular target groups. Development of local activities is one priority. Efforts have been made to strengthen the contribution of health care to the prevention of harmful effects caused by intoxicants. Another priority in the prevention of drug abuse has been the prevention of drug abuse related contagious diseases.

According to the decision in principle by the Government, the national programme supporting health and non-smoking of young people aims at reducing smoking among people aged 16–18 so that less than 15 % of them will be smoking in 2015. As part of the programme, the authorities are running an extensive non-smoking campaign of several years targeted to and tailored for young people. Another objective is to reduce the use of intoxicants among young people.

Measures to reduce smoking are regulated comprehensively by the Act on Measures to Reduce Tobacco Smoking (1976/693). Containing provisions on, inter alia, the advertising and sale of tobacco products, the Act prohibits both direct and indirect advertising and other sales promotion of tobacco products. The Act prohibits, inter alia, selling and delivering tobacco products to persons under 18 years of age, importing and selling oral snuff, and smoking on all indoor premises with the exception of homes, hotel rooms and rooms intended for smoking. Further, it classifies ambient tobacco smoke as a carcinogen and contains provisions to protect employees against involuntary exposure to tobacco smoke on any work premises in order to prevent the risk of cancer. The Act also lays down maximum limits for the amounts of tar, nicotine and carbon monoxide in tobacco products and rules governing mandatory warnings to be attached to retail packages of tobacco products.

A new school subject of health has been introduced in Finland. Health lessons are taught during several years, according to the pupils' level of development, and they contain information about, for instance, the effects of tobacco and intoxicants and the prevention of sexually transmitted diseases. The objectives of the health syllabus have been defined at national level. The teaching starts gradually at all school levels during 2004.

*The Committee has expressed its concern about smoking among young Finns, especially girls (Conclusions XV-2, p. 20).*

The Government reports the following measures aimed at reducing smoking among young people.

An amendment of the Act on Measures to Reduce Tobacco Smoking is being drafted in order to make retail sale of tobacco products subject to licence. The amendment aims, inter alia, at ensuring a more efficient implementation of the prohibitions against selling tobacco products (to persons under 18 years of age) and oral snuff. The amendment will probably be passed and enter into force during 2004.

The programme to support non-smoking among young people is being evaluated and updated, and training to intensify its implementation is going on.

In 2003, an extensive non-smoking campaign targeted to and tailored for young people was launched for several years. Studies have shown that the current message of the campaign has reached young people very well. The campaign includes questionnaires and interviews about young people's attitudes towards smoking.

Smoking among young people has shown a declining trend in the last two years. In 2003, 23 % of the boys and 25 % of the girls aged 14–18 smoked, while the corresponding percentages in 2001 were 25 % (boys) and 26 % (girls).<sup>5</sup>

*The Committee has requested information on how compliance with anti-smoking legislation is actually monitored (Conclusions XV-2, p. 20).*

The implementation of and compliance with the legislation are monitored by means of information about consumption of tobacco products, smoking among the population, exposure of the population to ambient tobacco smoke, epidemiology of tobacco-related diseases, punishment statistics, test purchases to test compliance with sales prohibitions, yearly sampling measurements of amounts of tobacco smoke in indoor air at workplaces and in restaurants, and questionnaires to employees concerning exposure to tobacco smoke.

The Ministry of Social Affairs and Health monitors continuously the media to study its attitudes towards the implementation of the Act on Measures to Reduce Tobacco Smoking and different measures to reduce smoking. In 2003 the Ministry conducted a poll to study public attitudes towards the provisions and implementation of the Act and other measures to reduce smoking. At the same time, the Ministry studied public views on the needs for developing national policies to reduce smoking.

*The Committee has requested information on the scope of the asbestos ban, on measures taken to restrict the asbestos level in housing blocks and on the specific obligations incumbent on companies to dispose of asbestos waste (Conclusions XV-2, p. 18).*

Since 1 January 1994, the use of asbestos, with some minor exceptions, has been prohibited by a government decision on the prohibition of manufacturing, import, sales and use of asbestos and asbestos products (852/1992; 1133/1993). Thus, exposure to asbestos is possible mainly only in demolition and renovation of buildings. The statutes prohibiting the use of asbestos have been revised in line with EU Directives 1999/77/EC and 2003/18/EC. For existing buildings, the Ministry of Social Affairs and Health has issued instructions on healthy dwelling by virtue of section 32 of the Health Protection Act (763/94). According to the instructions, the content of asbestos fibres in indoor air

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<sup>5</sup> See [www.stat.fi/](http://www.stat.fi/), tobacco statistics.

must be smaller than 0.01 fibres/cm<sup>3</sup>. A new decree on the indoor climate and air conditioning of new buildings entered into force on 1 October 2003. The decree lays down the maximum values for contents of contaminants applicable in the planning of indoor air quality. For asbestos the maximum content is 0 fibres/cm<sup>3</sup>, so that asbestos must not be used in new buildings.

## **ARTICLE 14 - THE RIGHT TO BENEFIT FROM SOCIAL WELFARE SERVICES**

### **Article 14, para 1: Provision or promotion of social welfare services**

In Finland, municipalities are responsible for arranging social welfare. At the beginning of 2001, an Act on the Status and Rights of Social Welfare Clients (812/2000) entered into force. The Act contains the central judicial principles regarding a client's social welfare participation, treatment and legal protection.

The Ministry of Social Affairs and Health has published a handbook on the Act on the Status and Rights of Social Welfare Clients<sup>6</sup> to support social welfare clients and the social welfare arranged by authorities and private actors. A report assessing the effects of the Act and the achievement of its objectives at the early stage was published in 2003<sup>7</sup>.

*The Committee has requested more details on the role of the National Research and Development Centre for Welfare and Health etc. (Conclusions XV-2, p. 21).*

The National Research and Development Centre for Welfare and Health (STAKES) is an expert agency under the Ministry of Social Affairs and Health, and its tasks are defined in a related decree (1120/1992). According to section 1 of the decree, the tasks of STAKES are to develop social and health services, staff and work in the social and health sector, social conditions and the living environment, and to promote labour force planning, health and social security. The tasks of STAKES do not include supervision, control or regulation of private or public social and health services. Instead, according to section 8 of the Act on the Supervision of Private Social Services (603/1996, as amended by Acts 623/1999 and 817/2000), private activities are supervised by the Ministry of Social Affairs and Health, the State Provincial Office concerned and the municipality where the services are provided.

According to the Decree on the National Research and Development Centre for Welfare and Health, STAKES shall:

- 1) monitor and assess developments in the social and health sector in Finland and abroad;
- 2) conduct examinations necessary for developing and supporting the sector;
- 3) maintain a network of experts in the social and health sector;
- 4) maintain contacts with domestic and foreign institutions in the social and health sector;

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<sup>6</sup> STM, Handbooks 2001:11.

<sup>7</sup> The National Research and Development Centre for Welfare and Health and the Finnish Federation for Social Welfare and Health, FinSoc Evaluation Reports 1/2003.

- 5) distribute information concerning the sector both nationally and internationally;
- 6) produce and publish material concerning the social and health sector;
- 7) produce official statistics and statistical surveys concerning the social and health sector;
- 8) carry out and finance research in the sector;
- 9) provide expert services to municipalities, municipal federations and joint municipal boards to develop the social and health sector;
- 10) promote the methods of and other conditions for development work in the sector;
- 11) assess and develop technologies used in the sector,
- 12) provide and coordinate supplementary training for the sector;
- 13) submit initiatives and opinions concerning the sector; and
- 14) carry out any other task prescribed or stipulated for it.

The Ministry of Social Affairs and Health and STAKES conclude every year a performance agreement steering the activities of STAKES, and they monitor the achievement of its performance targets. The Government's Target and Action Plan for Social Welfare and Health Care for 2004–2007, which is a statutory planning document for the municipal sector, assigns some further responsibilities to STAKES, but not a supervisory role. Instead, the most important actors representing the Government are the State Provincial Offices.

At the general national level STAKES, however, assists the Ministry of Social Affairs and Health to assess and develop social and health services.

#### **Article 14, para 2: public participation**

*The Committee has asked for relevant information in order to assess whether the use of private service providers has any effect on the access of all categories of the population to social services.*

As a statistics authority, the National Research and Development Centre for Welfare and Health has published a report on the production of private services in social welfare and health care (Yksityinen palvelutuotanto sosiaali- ja terveydenhuollossa).<sup>8</sup> According to the report, the total costs of social welfare services in Finland in 2000 amounted to EUR 4.56 billion, of which the private services accounted for 22 %. The private providers of services are divided into organisations in the social sector (17.0 % of the total costs of services) and enterprises (4.9 % of the total costs). Moreover, parishes arrange day care and play activities for children. Public service providers (the state and the municipalities) accounted for 78.2 % of the total costs.

Municipalities were the largest client group of private service providers; in the year 2000 their purchases accounted for some 10 % of all operating costs of social welfare. In 1993, purchased services accounted for some 5 % of the costs. When a municipality purchases services produced by a private actor, they must meet the standard required of corresponding municipal services.

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<sup>8</sup> Sari Kauppinen - Tapani Niskanen. Reports of the National Research and Development Centre for Welfare and Health 274/2003.

In 2000, the staff employed for public and private social welfare services numbered 151 200, of which the private sector accounted for 21 %.

The private production of services improves the access of all population groups to social welfare services. Services produced by non-governmental organisations in the social sector are important especially to certain small groups of service users (for instance the disabled, children and young people). The production of services by enterprises, in turn, is based on their assessments of the market situation. Most entrepreneurs have an educational or vocational background associated with social welfare or health care. These enterprises are usually very small.

The provision of private services does not influence municipalities' statutory responsibility for arranging sufficient social and health services for all their inhabitants. A municipality can fulfil this responsibility by providing services of its own, by producing services jointly with another municipality or by purchasing services from a public or private service provider.

The proportion of private service production is largest in the activities of mother-and-child homes and shelters for battered family members (mother-and-child homes are nearly entirely maintained by organisations) and in foster care for children and young people (more than 90 % of the service volume). Organisations and enterprises produce 40 % of all institutional care for children and young people.

Private service providers account for approximately one fourth of all home-help services for aged people.

12 % of all children cared for at day care centres are cared for at private centres.

It is assessed that the share of privately produced services in housing service provision (combining housing and services) for aged people is slightly more than 50 %. As to intoxicant abusers, their share is nearly two thirds, as to mentally handicapped people slightly less than one third, and as to people with mental problems nearly 90 %. These services are mainly produced by enterprises.

Further, private service providers account for 12 % of all care at homes for the elderly and for 14 % of all institutional care for mentally handicapped people.

In proportion to the population, there are most service points maintained by organisations and enterprises in Eastern Finland, which is an area with a rather sparse population and a low income, and further in Central Finland and in the province of Uusimaa in Southern Finland, which is the wealthiest area of the country. Elsewhere in Southern Finland and in the sparsely populated Northern Finland there are less private services available than the national average.

## ARTICLE 17 - THE RIGHT OF MOTHERS AND CHILDREN TO SOCIAL AND ECONOMIC PROTECTION

### *A. Measures taken to protect mothers and children*

Expectant mothers residing permanently in Finland who have undergone a medical examination before the end of the fourth month of pregnancy are entitled to a maternity grant. Mothers can choose between a maternity package containing child care items and a cash benefit. The value of the maternity package at market price is approximately two and a half fold compared to the grant in cash, and it is chosen by more than three fourths of all mothers. Maternity grants are tax-free income. In 2001, the amount of maternity grant was raised to EUR 140, i.e. by approximately EUR 12.

The table below shows recipients of maternity grant in 1999–2002:

**Table 10. Maternity grants 1999–2002**

<b>Year</b>	<b>Recipients of maternity grant, total</b>	<b>Maternity package option, %</b>	<b>Cash benefit option, %</b>
1999	56 770	77.1	22.9
2000	55 228	78.5	21.5
2001	54 390	78.0	22.0
2002	55 107	76.5	23.5

Also the provisions on paternity allowance were made more flexible during the reference period. A father who has resided in Finland for at least 180 days before the calculated date of birth of his child is entitled to paternity allowance, if he participates in the care of his child without being at work at the same time. To be eligible for paternity allowance, the father must live in the same household as the child's mother, married or cohabiting with her. When participating in the care of his child, the father may receive paternity allowance for a maximum of 18 working days. After an amendment of legislation, paternity leave may be taken any time during the maternity allowance or parent's allowance period, but in a maximum of four parts.

Although the use of family leave is unevenly distributed between men and women, the use of paternity leave has finally gradually increased. Every year, approximately 50 000 new maternity allowance periods begin, and maternity allowance is paid to approximately 97 000 mothers every calendar year. Paternity allowance is paid to more than 42 000 fathers every year. Some two thirds of all fathers use their paternity leave. In 1999–2002, fathers used an approximate average of 13 working days for paternity leave, and one third of all fathers used the entire paternity leave.

The table below shows the payment of paternity allowances in 1999–2002:

**Table 11. Paternity allowances paid in 1999–2002**

Year	Fathers	Days/father
1999	40 864	12.6
2000	42 252	12.7
2001	42 930	13.0
2002	43 902	13.9

Moreover, at the end of 2002, the Finnish Parliament passed a comprehensive family leave package, which entered into force at the beginning of 2003. The reform is reported in more detail in the next periodic report.

*B. Women not covered by any social security scheme during the period of confinement*

All women residing in Finland are covered by the social insurance system.

*C. Protection of single mothers*

No legislative measures to protect especially single mothers were taken during the reference period.

*F. Protection of orphans and homeless children*

Municipal child welfare authorities are responsible for taking care of a child and arranging foster care for him/her, if the child has been orphaned or if his/her parents cannot take care of him/her for other reasons. In practice, this usually means that the child is taken into care. The provisions on child welfare did not undergo major amendments in this respect during the reference period. In 1999, the National Research and Development Centre for Welfare and Health published a handbook on taking children into care<sup>9</sup> for child welfare employees.

Homeless children may be placed both in child welfare institutions and in foster families. Also institutions aim at providing as home-like circumstances as possible.

*G. Measures taken to protect children against physical and moral dangers, ill-treatment, unacceptable physical punishment, violence and sexual abuse*

Child welfare legislation obligates the municipal social welfare authorities to intervene in cases brought to their knowledge where a child's health and development are at risk

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<sup>9</sup> "Huostaanotto. Lastensuojelun asiantuntijaryhmän suositus huostaanotto prosessin laatua ohjaaviksi yleisiksi periaatteiksi". The National Research and Development Centre for Welfare and Health, Handbook 33.

because of, for instance, physical or sexual assault. If necessary, the authorities may take the child into care and arrange foster care for him/her.

The prevention of sexual abuse of and assault on children has been intensified. A five-year project to prevent family violence, which was completed in 2002, is followed up by a new project. The National Research and Development Centre for Welfare and Health has published a handbook on identifying sexual abuse of children<sup>10</sup>. A national action plan for measures against commercial sexual abuse of children ("Lasten kaupallisen seksuaalisen hyväksikäytön vastaiset toimet") was prepared in 2000. An Act on Checking the Criminal Background of Persons Working with Children (504/2002) entered into force at the beginning of 2003. The Act aims at preventing employment of persons who have been guilty of violent, sexual and drug offences for work with children.

Municipalities are responsible for arranging mental health services and other services for children victims of the treatments mentioned in the question. Families can also consult private service providers. In the state budget for the year 2000, an appropriation of FIM 70 million (approx. EUR 11.8 million) was allocated as government grants to municipalities and municipal federations to compensate for costs incurred in supporting the mental development of children and young people, preventing disorders and securing psychiatric care. In 2001, the corresponding government grants amounted to FIM 45 million (approx. EUR 7.6 million), of which FIM 5 million were reserved for purposes serving national needs. The government grants for 2002 totalled EUR 3 160 000.

*The Committee has wished to receive information on children in public care (Conclusions XV-2, p. 23).*

A list of Finnish child welfare units by province is appended (Appendix 7). A concession of a child welfare institution may be granted even to relatively small units with a few children, even to units called for instance foster homes. The decisive criterion is whether the foster care activities are comparable to self-employment. The terminology used in practice varies to some extent, and therefore the statistics do not contain precise information about the sizes of different units. To obtain this information, a questionnaire should be addressed to each province.

Municipalities are responsible for that their own institutions operate in an appropriate manner. A complaint about any deficiencies and grievances noticed in the activities may be made to the municipality in question, the relevant State Provincial Office or the Parliamentary Ombudsman. Also the Chancellor of Justice of the Government may consider complaints about possible illegalities of municipal child welfare services.

The supervision of private child welfare institutions is the responsibility of those municipalities where these institutions are located, the municipalities which place children at these institutions and especially the State Provincial Offices, which grant concessions to child welfare institutions. If deficiencies are noticed in an institution's activities, any person may submit a complaint about the activities to the relevant State Provincial Office, which is obliged to consider the matter. A complaint can also be submitted to the Parliamentary Ombudsman.

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<sup>10</sup> "Lapsen seksuaalisen hyväksikäytön ja pahoinpitelyn selvittäminen. Asiantuntijaryhmän suositukset sosiaali- ja terveydenhuollon henkilöstölle". The National Research and Development Centre for Welfare and Health, Handbook 55, 2003.

The supervisory task of the State Provincial Offices prescribed by the Act on the Supervision of Private Social Services was explained in more detail in the sixth periodic report by Finland.

In 2002, a total of 54 458 children and young persons were supported by non-institutional care. In all 14 187 children and young persons had been placed outside their homes. (Here, 'a child' refers to a person under 18 years of age and 'a young person' to a person under 21 years.) Of all placed persons, 7 829 had been taken into care, 1 441 of them involuntarily. The rest were placed in order to support their non-institutional care. In 2002, 3 955 new placements were made, 1 293 of them in connection with taking children and young persons into care. Of all persons taken into care or placed in order to support their non-institutional care, 6 037 were placed in foster care and 8 150 in institutional and other care.

*The Committee of Social Rights has wished to know whether there is a time-limit on the amount of time spent in custody pending trial and how many young offenders have been remanded in custody pending trial (Conclusions XV-2, p. 25).*

In a report submitted on 23 February 2004, the Working Group on Custody Pending Trial reported, among other things, the number of arrested or detained minors. According to the report, there were 671 arrested and 56 detained persons aged 15–17 in 2001.

The legislation does not contain any specific provisions on arrest or imprisonment of persons under the age of 18. According to the general provisions of the Coercive Measures Act (450/1987), an arrest may last a maximum of 3 days (chapter 1, section 13). The legislation does not prescribe any maximum time for the detention of a person, but the authorities are obliged to reconsider every two weeks whether the prerequisites for detention continue to exist (chapter 1, section 24). It is usually possible to keep a person detained only if he/she is suspected of a serious offence (chapter 1, sections 3, 8 and 26). Persons under 15 years of age must not be arrested or detained. A person under 15 years suspected of a criminal act may be questioned, and therefore he/she may be brought to the questioning session and apprehended for its duration, but after the questioning he/she must be released.

*The Committee has also wished to receive information on alternative measures applicable to young offenders (Conclusions XV-2, p. 25).*

Minors who have committed offences may be subjected to 1) child welfare measures, 2) punishments and child welfare measures or 3) only punishments. The Child Welfare Act (683/1983) lays down provisions on child welfare measures. In respect of punishments, the most central act is the Penal Code, but also other acts, for instance the Juvenile Punishment Experiment Act (1058/1996), contains penal provisions.

According to the Finnish penal system, a court may sentence an offender to a fine, to juvenile punishment or to prison. By virtue of special provisions, prosecutors may waive the prosecution (chapter 1, section 7, paragraph 2 of the Criminal Procedure Act) or sentence (chapter 3, section 5, paragraph 4 of the Code of Judicial Procedure) of persons under 18 years of age. According to chapter 3, section 2 of the Penal Code in force

during the reference period, an offender aged 15–17 had to be sentenced to imprisonment for a minimum of one and for a maximum of twelve years, if the offence could have been punishable by imprisonment for life. If the punishment prescribed by law was imprisonment for a certain period or fine, the young offender had to be sentenced to a maximum of three fourths of the most severe punishment prescribed by law, but at least to the minimum punishment prescribed for that offence by law. This provision of the Penal Code was later repealed by Act 515/2003. A corresponding provision is now laid down in chapter 6, section 8 of the Penal Code.

A sentence of imprisonment may be conditional or unconditional. By international standards, it is extremely rare in Finland to sentence offenders under 18 years of age to unconditional imprisonment. In such cases of serious offences, often against life and health, the imprisonment is usually longer than 8 months, and therefore unconditional sentences of imprisonment can be replaced by community service in only 30–40 % of the cases. According to a provision (515/2003) of the Penal Code which entered into force on 1 January 2004, unconditional imprisonment must not be imposed for an offence committed by a person under 18 years of age, unless there are weighty reasons to do so (chapter 6, section 9, paragraph 2 of the Penal Code).

In some cases offenders aged 15–17 years may be sentenced to juvenile punishment prescribed by the Juvenile Punishment Experiment Act. In the Finnish penal system, juvenile punishment has equal status with conditional imprisonment. A long conditional imprisonment (over one year) may be supplemented with community service prescribed by the Community Service Act (1055/1996). Community service is an alternative to unconditional imprisonment.

An offender may be sentenced to community service, if the duration of his/her unconditional imprisonment is a maximum of eight months. The preconditions for a sentence of community service are that the offender has given his/her consent to community service and that he/she can be presumed to be able to do community service.

A minor offender can be sentenced to juvenile punishment in the districts of seven Finnish courts of first instance. The Juvenile Punishment Experiment Act (1058/1996) entered into force on 1 February 1997. The experiment was initially intended to last three years, until the end of 1999, but it was continued first until the end of 2001 and again until end 2004.

In 2001, 993 of all sentences for offences committed by persons under 18 years of age were conditional sentences of imprisonment. Conditional sentences to young offenders are very seldom enforced. In the last few years, less than 30 sentences have been enforced. In 2001, the courts of first instance in the experimental area for juvenile punishment imposed such a punishment to a total of 40 young offenders. In 2001, 69 unconditional sentences of imprisonment and 34 sentences of community service were passed to offenders under 18.

*The Committee also wishes to receive up to date information on the length of custodial sentences imposed on minors as well as on the number of minors sentenced to prison (Conclusions XV-2, pp. 25-26).*

According to a report of the Juvenile Delinquency Committee (KM 2003:2), there were 124 offenders under 18 years of age sentenced to unconditional imprisonment in 1999,

98 in 2000 and 103 in 2001. The Committee reports the following durations of unconditional imprisonments imposed in 2001: 32 imprisonments of less than 59 days; 11 of 60–89 days; 16 of 3–5 months; 12 of 6–8 months; 7 of 9–11 months and 25 of more than one year.

On 1 October 1989, 17 sentenced prisoners aged 15–17 were in prison. Since then, the number declined, being only 8 on 1 June 2002.

In 2001, the average duration of unconditional imprisonments imposed on offenders under 18 years of age was approximately 11.2 months.

*The Committee has requested further information on the proposed youth penalty (Conclusions XV-2, p. 26).*

According to section 2 of the Juvenile Punishment Experiment Act, juvenile punishment consists of youth service and supervision. Youth service orders range from a minimum of ten hours to a maximum of sixty hours. Youth service consists of regular unpaid work carried out under supervision as well as tasks that promote social adjustment and that are carried out under supervision. The period of supervision ranges from four months to one year and begins from the adoption of an enforcement plan. The Probation Service is responsible for the enforcement of the punishment.

According to section 3 of the Juvenile Punishment Experiment Act, a juvenile punishment may be imposed for an offence committed by a person under 18 years of age, if a fine would be an insufficient punishment and a juvenile punishment must be considered justifiable in order to prevent new offences and to promote the offender's coping in society.

The Ministry of Justice is working on two projects related to juvenile punishment. One of them is intended to consolidate the position of juvenile punishment in the Finnish system of criminal sanctions. At the same time, the option of imposing juvenile punishments would be extended to the whole country. The reform should enter into force on 1 January 2005.

The other project aims at, inter alia, expanding the scope of application of juvenile punishment and developing the content of the Act concerned. This project is being prepared by a working group set up by the Ministry of Justice on 7 October 2003. The project is based on the Government Programme of Prime Minister Matti Vanhanen's Government, according to which the system of juvenile sanctions needs to be developed. The sanctions system will be developed so as to encourage young persons to live permanently without committing offences. A government proposal to this effect should be submitted in spring 2005.

## **ARTICLE 18 - THE RIGHT TO ENGAGE IN A GAINFUL OCCUPATION IN THE TERRITORY OF THE OTHER CONTRACTING PARTIES**

### **Article 18, para 1: Applying existing regulations in a spirit of liberality**

During the reference period, the provisions on the employment of foreigners and the obligations of employers in recruiting foreigners were contained in the old Aliens Act (378/1991) and the Aliens Decree (142/1994). Section 1 of the Aliens Act provided that, in applying the Act, aliens' rights should not be curtailed more than was necessary.

In April 2004, the Finnish Parliament passed a new Aliens Act (301/2004), which entered into force on 1 May 2004. The new Act changes the national work permit policy and discretion on residence permits so that the labour market point of view will be taken into account more than before. The Act also aims at speeding up work permit procedures and making them more flexible.

As to citizens of the new Member States of the enlarged European Union, Finland applies a provision on a two years' transitional period. During that period, these citizens need a work permit for gainful employment in Finland. After two years, Finland will reconsider whether it is necessary to extend the transitional period.

#### *A. Application of regulations to wage-earners and other persons*

Since there have been no changes during the reference period, reference is made to the previous reports.

#### *B. Work permits*

In 2000, in all 6 812 applications for work and residence permits were submitted and approximately 6 520 permits were granted.

In 2003, employment offices issued in all 26 229 statements concerning work permits, and 24 181 of these were favourable. A favourable work permit statement is the employment office's opinion on the labour market prerequisites of the work permit application. A favourable work permit statement does not mean that a work permit has been issued. Despite a favourable statement, an alien may give up applying for a residence permit and a work permit, or the application may be refused on grounds not related to work.

#### *C. Grounds for possible restrictions of the right of nationals of other states to engage in a gainful occupation*

Finland does not apply quotas in respect of vocations, fields of activity or nationalities. As a rule, work permits are granted on the basis of labour market needs.

An alien who intends to engage in gainful employment in Finland must have a work permit, unless he/she has been released from the work permit obligation in accordance

with section 25 of the Aliens Act (378/1991) or unless he/she works in a profession, vocation, post or duty for which, according to the Aliens Decree, no work permit is required. According to the Aliens Act, the persons released from the work permit obligation include, among others, holders of permanent residence permits and their spouses. According to section 18 of the Aliens Decree, a work permit is not required of an alien who, for instance, is self-employed or performs duties relating to bilateral or multilateral cooperation between countries.

*The Committee has requested information on the number of work permits requested, granted, refused and renewed for nationals of each Contracting Party to the Charter not a member of the EU or party to the EEA Agreement (Conclusions XV-2, p.27).*

**Table 12. Work permits granted by the Directorate of Immigration and statements issued to missions abroad concerning residence permits based on work permits 1 January 1999–31 July 2002**

Nationality	Negative	Positive	Lapsed	Declaratory decision	Total
Bulgarian	4	139			143
Cyprian		3			3
Maltese		1			1
Polish	8	401		4	333
Slovenian		3			3
Swiss		50			50
Czech	3	60	1		64
Turkish	88	248	9		345
Hungarian	4	256			260
Estonian	117	4286	36	5	4444
In all	223	5339	31	9	5646

## **Article 18, para 2: Simplifying of formalities and reduction of charges**

### *A. Formalities*

According to section 18 b, paragraph 3 of the Aliens Act, the provisions of the European Social Charter shall govern the family members of citizens of the States that have acceded to the Charter.

According to the Aliens Act currently in force, a residence permit on the basis of a family tie can be applied for abroad by an alien (applicant) who has not yet obtained a residence permit, or alternatively, the application may be lodged by a family member of the applicant already residing legally in Finland. With regard to issues referred to in the provision concerned, an alien who has obtained a residence permit for the purpose of moving into Finland, even if he/she does not yet live in Finland, is deemed comparable to a person residing in Finland, unless there are special grounds against this comparison. Thus, a foreign employee's family member may apply for a residence permit on the basis of a family tie at the same time as the employee before entering Finland. An

alien's family member may be granted a residence permit on the additional condition that he/she has guaranteed means of support.

A work permit is connected with a fixed-term residence permit in force. According to the Aliens Act, a fixed-term residence permit may be granted, if the applicant is eligible for a work permit. For a work permit to be granted, an employment office must normally issue a favourable statement. A mission cannot grant a work permit if it has not obtained an employment office's statement or if, on the basis of such a statement, there is an obstacle for granting a permit. The police and the Directorate of Immigration must request a statement of an employment office before granting a work permit, unless the Ministry of Labour decides otherwise.

As a rule, a work permit is granted for a minimum period of one year. Further, according to the Aliens Act, a work permit is granted for a specified field of activity, but it may be restricted by conditions concerning the employer, the territorial validity of the permit or the line of work.

*The Committee has inquired under which conditions a work permit may be granted to a foreigner already staying in Finland (Conclusions XV-2, p. 28).*

The main principle of the Aliens Act is that residence and work permits must be applied for before entering Finland. An alien who has entered the country without a work permit may be granted a permit if he/she has not been obliged to acquire a work permit earlier or if it would be clearly unreasonable to refuse a work permit. In such cases, discretion is usually exercised in relation to the preconditions for issuing a residence permit by virtue of section 20 of the Aliens Act. The applicant cannot start working before obtaining a work permit. The permit is granted by the same authority which grants the applicant a residence permit. Abroad, employees' residence permits are granted by Finnish missions, and to aliens residing in Finland they are granted by the Directorate of Immigration or the local police. In practice, aliens resident in Finland usually apply for work permits together with residence permits, and they mainly contact the local police authorities. The provisions of the Aliens Act in force prescribe that work permits are granted by the local police, and by doing so, these provisions implement the so-called one-window-principle, i.e. that all services are available from one authority. This has contributed to simplifying the formalities of applying for a work permit.

*The Committee has also asked whether the administrative formalities for extension of a work permit are the same as on applying for the original permit, or whether they are simpler (Conclusions XV-2, p. 29).*

In principle, the administrative procedure for applying for extension of a work permit is the same as for the original work permit, but less consideration of employment policy aspects related to the nature of the permit may be needed.

*The Committee has requested information on the average length of time that elapses between an application being submitted and a work permit being granted (Conclusions XV-2, p. 29).*

The time needed for obtaining a work permit varies between some two weeks and two months, depending on the case and the evidence needed.

*B. Chancery dues or other charges payable by foreign workers or their employers*

The main rule is that a foreign employee residing in Finland must have both a work permit and a residence permit. A first work permit granted in Finland costs EUR 134 and an extended work permit EUR 40. A first residence permit costs EUR 134 and an extended residence permit EUR 101.

*The Committee has requested an explanation of why charges are made for work and residence permits at the application stage. It also requests an explanation of why charges can be reduced for nationals of Contracting Parties to the Charter (Conclusions XV.2, p. 29).*

The charges for permits are based on the costs incurred by the authorities in processing the applications for permits.

Nationals of the member states of the European Union and the European Economic Area and Swiss nationals may stay and work in Finland without a residence permit in three months. Nationals of these states who are seeking work may stay in Finland without a residence permit for a reasonable time even after the prescribed maximum period of three months, if they continue to seek work and have realistic chances to be employed. If such a person is employed for more than three months, he/she must apply for a residence permit card. The charge for a residence permit card must not be higher than that for a card granted to a Finnish national. EU/EEA nationals and Swiss nationals do not need work permits. Nationals of Denmark, Iceland, Norway and Sweden do not need any permits to reside and work in Finland. As for other Contracting Parties to the Charter there are no exceptions to charges.

*C. Measures taken to abolish formalities and reduce charges*

The Ministry for Foreign Affairs harmonised its visa processing fees with the relevant Schengen provisions in 2004. At the same time, the Ministry revised the charges for residence and work permits. The states participating in Schengen cooperation have agreed about a procedure by which they, by imposing higher charges, try to steer applicants to apply for visas in their home countries before entering another Schengen country. Therefore, other authorities must impose double visa processing fees compared to those of the Ministry for Foreign Affairs. To apply a similar procedure and to steer the demand for residence and work permits in the same direction, the Ministry of the Interior has harmonised the fees collected by the Directorate of Immigration for decisions on residence permits and work permits with those of the Ministry for Foreign Affairs.

The fact that foreigners have been steered to apply for residence and work permits in their home countries before entering Finland has been significant to the applicants' legal

safety, because the Aliens Decree prescribes that the first residence and work permits must, as a rule, be applied for at a Finnish mission in the alien's permanent country of residence. According to the Aliens Act, a foreigner entering Finland without a residence or work permit may be granted a permit in Finland only in exceptional cases, for instance when it would be clearly unreasonable to refuse a permit.

### **Article 18, para 3: Liberalising regulations**

#### *A. Possibilities of a foreign worker to change his place of occupation, to change his occupation or to claim the renewal of the work permit*

If a foreign worker has not had a work permit previously, he/she may not start working until he/she has been granted a permit. When applying for a new work permit, a foreigner may continue to work on the conditions set for the previous permit, if the permit applied for allows the work concerned and the application has been filed before the expiry of the previous work permit.

According to the Aliens Act, a work permit is, as a rule, granted for a specified field of activity and for a minimum period of one year. However, the Act also permits restrictions on both the scope and the period of validity of the permit. According to the Aliens Decree, a work permit may be granted for a specific work site or employer and for less than one year for instance in the case of a temporary project or a work for which, according to a decision by the Ministry of Labour, a work permit is granted for a fixed term and a sector-specific work permit cannot be granted. At present, no such decision by the Ministry of Labour is in force.

*The Committee has requested on what grounds the employment authorities can issue a negative opinion on the granting of a work permit, whether an appeal can be made against a negative opinion, and under what circumstances a work permit can be granted subject to the above-mentioned restrictions (Conclusions XV-2, p.30).*

A work permit may be granted if manpower is not available from the labour market within a reasonable time. Another condition is that the employment concerned complies with the legislation in force and any other conditions set for it.

No appeal can be made against a negative statement of employment authorities.

According to Regulation M 2/99 TM of the Ministry of Labour, the authorities granting a residence permit may, in certain cases, grant a work permit without restrictions, without requesting a statement of the employment authorities. This is possible, for instance, when a Finnish citizen's family member or a family member of a foreigner residing in Finland for a permanent purpose applies for a work permit.

*The Committee has requested information concerning the issuance of work permits for self-employed foreigners (Conclusions XV-2, p. 30).*

A self-employed person needs a residence permit, which is granted if he/she meets the criteria laid down in the Aliens Act. In the case of a person who does not reside within the European Economic Area, also a permit granted by the National Board of Patents and Registration is required for self-employment.

*B. Loosing or giving up the job during the validity of the work permit*

If an employee loses his/her job during the validity of his/her work permit, he/she may seek a new job and, if necessary, use the same labour services as Finnish citizens. A holder of a sector-specific work permit may work in the sector specified in the permit, irrespective of employer. An employee who has obtained a work permit for a certain employer may apply for renewal of the permit within the framework of his/her residence permit. He/she may continue to work on the conditions set by the previous work permit, if the permit applied for allows the work concerned and the application has been filed before the expiry of the previous permit.

Work permits may be granted for a certain employer or for less than one year only in exceptional cases. This rule has improved the position of foreign employees in the Finnish labour market on the whole, and it has also permitted them to change jobs and use the services provided by the labour administration.

*The Committee has requested an explanation of the situation of foreign workers whose residence permits expire shortly after they lose their jobs. The Committee particularly wishes to know whether a residence permit can be extended, and whether it can be extended pending a court ruling (Conclusions XV-2, pp.30-31).*

The validity of a residence permit cannot be extended only on the grounds that the permit holder is seeking work. If the person has stayed in Finland for a long time, there usually exist other grounds on which the residence permit may be extended. A person whose appeal concerning a residence permit issue is pending may stay in Finland although his/her residence permit has expired.

*C. Steps taken to apply this provision*

Recruitment of foreign employees is not regulated by other special provisions than those concerning the granting of work permits. According to section 26 of the Aliens Act, the immigration authorities must, as a rule, request a statement of the employment authorities before granting a work permit. The employment authorities examine the eligibility of the applicant and the employer or client and the fulfilment of certain employment policy criteria for granting a work permit. At the same time they examine whether the wage conditions and other terms and conditions of employment comply with the relevant collective agreements or, if the field of activity concerned has no collective agreement, the practice applicable to Finnish employees.

**Article 18, para 4: The right of nationals to leave the country**

*The Committee requests an explanation on the extent to which the authorities exercise, in practice, the right to refuse a passport on the grounds that the person concerned must perform military service (Conclusions XV-2, p. 31).*

A conscript may not be granted a passport whose validity exceeds the year in which he reaches the age of 28, unless he proves that the obligation of military service does not constitute disqualification for a passport with a longer validity. He can prove his absence of disqualification by presenting a military passport, a certificate of non-military service or a call-up certificate stating that he is exempt from military service entirely or during peacetime. (Thus, for instance a 20 years old applicant who cannot prove absence of disqualification will be granted a passport for only some eight years.) An applicant aged 28–30 must always prove his absence of disqualification by presenting one of the aforementioned documents. In this respect, the passport authority has no discretionary power, for the rules are unconditional.

## ***ADDITIONAL PROTOCOL***

### **ARTICLE 1 - RIGHT TO EQUAL OPPORTUNITIES AND EQUAL TREATMENT IN MATTERS OF EMPLOYMENT AND OCCUPATION WITHOUT DISCRIMINATION ON THE GROUNDS OF SEX**

#### *A. Provisions against direct and indirect discrimination on the grounds of sex*

At the beginning of 2000, a new Constitution (731/1999) entered into force in Finland. According to section 6, paragraph 2 of the Constitution, 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/her person. Prohibited grounds for discrimination are not listed exhaustively. Further, the Penal Code contains, besides a general penal provision concerning discrimination, a specific provision on discrimination at work (chapter 47, section 3).

#### *B. Case law*

Case KKO:2001:9, judgment on 19 January 2001, on the application of the provisions of the Act on Equality between Men and Women to the election of an assistant vicar of an Evangelic-Lutheran parish.

L brought action against the Hyvinkää Parish, because it had elected K as the first assistant vicar of the Parish, although the Cathedral Chapter assessed in its opinion on the skills and qualifications of the candidates for the post that L was the most qualified candidate. In this opinion, K was placed fifth, i.e. last. L requested the Ombudsman for Equality to issue an opinion on whether, in filling the post, L had been discriminated in the manner prohibited by the Act on Equality between Men and Women. In the requested opinion, the Ombudsman for Equality considered that the Act was applicable to the case and concluded that L had to be considered more qualified for the post than K. Therefore, there was a presumption of discrimination referred to in the Act. L demanded that the Parish be obligated to pay L compensation referred to in the Act on Equality between Men and Women.

In the District Court's view, the opinions of the Ombudsman for Equality and the Cathedral Chapter showed that L was more qualified for the post than K and that there was a presumption of discrimination referred to in the Act. The District Court ordered the Parish to pay L compensation amounting to FIM 40 000 with interest.

The Court of Appeal did not amend the judgment. Also the Supreme Court considered that the provisions of the Act on Equality between Men and Women were applicable to the election of an assistant vicar. Because the Parish was unable to prove that there were weighty or acceptable grounds, based on the nature of the work or task concerned, for its procedure, or that its procedure was due to acceptable reasons other than

gender, the Parish was ordered to pay L compensation referred to in the Act on Equality between Men and Women.

*C. Protection of employees against possible retaliation measures by the employer*

Compliance with the Act on Equality between Men and Women (609/1986) is supervised by the Ombudsman for Equality and the Equality Board. If necessary, occupational safety and health authorities participate in the investigation and processing of gender discrimination cases involving discrimination at work.

According to section 8, paragraph 2, subparagraph 5 of the Act on Equality between Men and Women, an employer's acts are considered to constitute prohibited discrimination, if the employer weakens the terms and conditions of an employment relation after the employer has referred to statutory rights or obligations.

*D. Promotion of equality and the machinery for its implementation*

Chapter 4 of the Employment Contracts Act (55/2001) which entered into force in 2001 contains provisions on family leaves. These provisions correspond to the provisions in chapter 2 a of the previous Employment Contracts Act (320/1970), those of the Council Directive implementing the framework agreement on parental leaves between social partners at European level, and the requirements of the Council Directive on protection of pregnant women at work, adopted in 1992.

During the Structural Fund period 2000–2006 Finland implements the EQUAL Community initiative programme to promote the position of women and projects related to female entrepreneurship. The aim is to bridge the gender gap, inter alia by encouraging the two genders to make non-traditional choices and promoting desegregation.

An article entitled "Women (and Men) in the Finnish Labour Market", dealing among other things with the unemployment rate among women and men in 1999–2002, is appended (Appendix 8).

The unemployment rate of both women and men in Finland declined in 1999–2002. In 1999, the unemployment rate of women (10.7 %) was approximately one per cent higher than that of men (9.8 %). In 2001, the unemployment rate of men started to rise slowly, whereas that of women continued to decline. As a result, the unemployment rates of both men and women were exactly the same (9.1 %) in 2002.

The wage differences between women and men remained unchanged during the reference period. Both in 1999 and in 2002, the average monthly earnings of women amounted to approximately 82 % of those of men.

Further, reference is made to the reports on the implementation of ILO Conventions No 100 and No 111 submitted in 2003 (Appendices 9 and 10).

*The Committee of Social Rights has requested information on the possibility of reinstatement for an employee who is dismissed following a claim for equal treatment (Conclusions XV-2, p. 32).*

Reference is made to the answer concerning Article 18, paragraph 2 of the Social Charter, from which it appears that Finnish legislation does not allow reinstatement of an illegally dismissed person. In Finland it is not possible to reclaim one's work in such cases by referring, for instance, to provisions of the Act on Equality between Men and Women. On the basis of this Act, an employee may be entitled to compensation for gender discrimination. In some cases, an employee may claim compensation by virtue of other acts.

An employer must not apply any gender discriminatory provisions which it may find in employment contracts or collective agreements. Such provisions are void by virtue of the Act on Equality between Men and Women and also of other acts.

The amount of compensation was raised last in 2002 so that the minimum amount is currently EUR 2 820 and the maximum amount EUR 9 380. In some cases, the maximum compensation may be doubled.

*The Committee of Social Rights has wished to receive updated information on the number of women in senior positions in the private sector (Conclusions VX-2, p. 34).*

In 2003, 26 000 female employees in the private sector were in senior positions. This was approximately 25 % of all wage earners in the sector concerned.

## **ARTICLE 4 - RIGHT OF ELDERLY PERSONS TO SOCIAL PROTECTION**

### **Article 4, para 1: Measures intended to allow elderly persons to remain full members of society for as long as possible**

#### *A. Measures of social protection and social services*

During the reference period, the structural change in the Finnish elderly services which had gone on throughout the 1990s continued, although at a slower pace. At the end of the reference period, 8 % of the population over 75 years of age were in long-term institutional care and 5 % lived in different service flats. The rest lived at home, either independently or assisted by services.

Public services are based on statutory rights of people residing in Finland to social security. According to section 19 of the Constitution, those who cannot obtain the means necessary for a life of dignity have the right to receive indispensable subsistence and care. This right is safeguarded by means of income security benefits, on the one hand, and social and health services, on the other. According to the Constitution, the public authorities shall guarantee for everyone adequate social, health and medical services and promote the health of the population.

Responsibility for organising public services lies with the municipalities. They are obligated to organise elderly services to a sufficient extent and in a manner which meets the needs of their inhabitants. Because there is no detailed definition of the extent of elderly services, the municipalities may use their discretionary power in this respect. In all cases, however, the municipalities must allocate resources for organising elderly services. These resources should guarantee for the inhabitants equal basic services irrespective of their place of residence and social position. (Social Welfare Act 710/1982; Primary Health Care Act 66/1972; Act on Specialized Medical Care 1062/1989; Act on Planning and Government Grants for Social Welfare and Health Care 733/1992)

A municipality may take account of individual and municipality-specific circumstances of the service clients when deciding how to allocate elderly services. The services are either home-help and other non-institutional services or institutional services. The most important social services used by elderly people are home-help services, day centres, housing services, support of informal care, some services for the disabled and residential care. The most important services of long-term health care are home nursing and nursing in health centre wards, whereas rather few elderly people are currently in long-term specialized care.

A municipality may arrange services by producing them by itself. Further, the municipality may be member of a municipal federation arranging such services, or it may purchase services from another municipality or municipal federation, the state, or another provider of public services. The municipality may also purchase services from commercial entrepreneurs and non-profit entities.

#### *B. Measures taken to ensure adequate resources of elderly people*

Finland has a comprehensive pension security system consisting of employment and national pensions. These public services are intended to guarantee adequate and high-quality services for all who need them, irrespective of their place of residence and financial standing. The client charges for social and health care are regulated by legislation.

In 1999–2002, the pensions did not undergo any major changes. In 2004–2010, however, the employment pension legislation will be revised substantially. Among other things, the eligibility conditions for invalidity pension and retirement pension will be revised in order to encourage people to stay longer in working life. These changes will be reported in more detail in the next periodic reports.

During the reference period, the legislation underwent the following revisions:

In 1999, the Finnish Parliament passed an act according to which an invalidity pension based on the National Pension Act may be 'suspended' for 6–24 months. In 2002, this period was prolonged to the maximum of 5 years. The minimum age for individual early invalidity pensions of employees born after 1943 was raised from 58 to 60 years. The so-called 'future period requirement' (the estimated period from the onset of disability for work until eligibility for retirement pension) was abolished as an eligibility criterion for unemployment pension. Further, unemployment pensions are now determined without including in them a 'future period contribution'. Since the beginning of 2002, national pensions have again been granted with child supplements.

In winter 2002, the Ministry of Social Affairs and Health set up a working group on pension strategies to study the right of elderly people to social protection comprehensively and thoroughly, particularly from the viewpoint of pension systems. The group finished its work in summer 2002, after preparing a proposal for a national pensions strategies report to be submitted to the EU, as agreed at the European Council in Laeken on 14 and 15 December 2001. The Laeken European Council agreed about the contents and procedures of applying the so-called open coordination method in the pensions sector. The report deals with the Finnish pension systems and the pension policy decisions made in Finland from the viewpoint of the 11 pension policy targets agreed in Laeken (Appendix 11).

### *C. Provision of information*

The main responsibility for information lies with the municipalities. A quality recommendation on care and services for elderly persons pays attention to the provision of information. Also social and health organisations are active in providing information.

*The Committee has wished to obtain information on the enforcement of action plans concerning elderly people (Conclusions XV-2, p. 36).*

Many measures concerning the Ministry of Social Affairs and Health which were proposed in 1996 by the Committee on Finnish Elderly Policy Targets and Strategies have been implemented through different legislative and development projects. No specific body was set up to implement and monitor these targets and strategies.

*The Committee has also asked for information on the relation of national pensions to the length of residence in Finland (Conclusions XV-2, p. 36-37).*

The Finnish pension cover consists primarily of one or more earnings-related pensions. If they are small in amount, the pension cover is supplemented with a national pension. The different types of national pension are retirement pension, early retirement pension, invalidity pension, individual early invalidity pension and unemployment pension. Further, the national pensions system includes the Survivors' Pension Act.

The right to and the amount of a pension depend on how long the person concerned has resided in Finland. To obtain a full national pension, the person must have resided in Finland in 40 years. If he/she has resided in Finland less than 40 years in the age of 16–65, the retirement pension will be paid in proportion to the period of residence in Finland. The proportion is calculated by multiplying the full amount of national pension by an adjustment factor. The adjustment factor is calculated by dividing the pensioner's period of residence in Finland by 40 years. An invalidity pension, unemployment pension or individual early invalidity pension is not adjusted in accord with the period of the pensioner's residence in Finland, if he/she has resided in Finland for at least 80 % of the time between his/her 16th birthday and the start of the pension.

However, an applicant for pension is not entitled to pension for a period of residence in Finland for which he/she has obtained pension from abroad. An applicant who moves to Finland after reaching the age of 65 may obtain national pension only if he/she has resided in Finland earlier.

The amount of national pension also depends on the classification of the applicant's municipality of residence and his/her family relations.

In reply to the Committee's inquiry (Conclusions XV-2, p. 37), it is stated that the pensionable age (65 years) has remained unchanged throughout the reference period but will be changed in the next few years.

*In its final conclusions, the Committee also requested further information on the residence criterion for access to national pension for those who are not residents of the EU or the EEA. Has the criterion of 5 years been changed to 3 years? (Conclusions XV-2, p. 37).*

As stated in the previous periodic report, Finland has reinforced the principle of equal treatment by concluding bilateral social security agreements which also contain provisions on national pensions. One example of such agreements is the bilateral social security agreement concluded with Lithuania, which entered into force in August 2001 (Appendix 12).

To be entitled to national pension, an applicant must reside in Finland for a prescribed period (qualifying period). A Finnish national is required three years' residence. Also employees from the EU and the EEA member states and their family members, nationals of some countries with which Finland has concluded social security agreements, and refugees and stateless persons are entitled to national pension after three years of residence. An applicant who is a national of a country other than those mentioned above is entitled to pension only if he/she has resided in Finland continuously for at least 5 years after reaching the age of 16 and immediately before the start of the pension.

The aforementioned periods of residence are not required of a young person residing in Finland who becomes invalid in Finland before reaching the age of 21.

**Article 4, para 2: Measures intended to allow persons to choose their lifestyle freely and to lead independent lives in their familiar surroundings for as long as they wish and are able to**

*A. Housing*

See Article 4, paragraph 1, (A)

*The Committee has asked to what extent measures aimed at improving the housing conditions of the aged population have improved the conditions of persons over 65 years of age (Conclusions XV-2, p. 38-39).*

The number of elderly people who live in poor or very poor housing conditions has continued to decline. Statistics are available up to the end of 2000. At that time, 7.4 % of all households of persons aged 65 or over (i.e. where the oldest member of the household is aged 65+) lived in poor housing conditions, whereas in 1995 the corre-

sponding percentage was 9.0 %. This means a decline of more than 6 700 households. At the end of 2000, 9.8 % of all households of persons aged 65 or over lived in very poor housing conditions, whereas in 1995 the percentage was 12.2 %. Thus, there was a decline of more than 10 600 households.

In 1999, 2000 and 2001, renovation grants for housing of elderly and disabled people were granted for more than 14 700 dwellings. Such grants have been given also later, so that the favourable developments can be expected to continue.

### *B. Health care*

In Finland, social and health services are provided by private actors, businesses and organisations. A municipality may purchase services from private providers, commercial firms and non-profit entities. In 2001, the percentage of purchased services of the running costs of municipally organised services was less than 10 % in care at homes for the elderly, approximately 5 % in home-help service and approximately 30 % in other social services for elderly and disabled people (including service housing). The corresponding percentage in primary health care was some 2 %. When purchasing services from a private provider, a municipality must ensure that the operational principles and practices, the personnel and the premises of the service provider meet the standards required of corresponding municipal services.

When organising elderly services by purchasing them from a private service provider, a municipality must collect from the clients the same client charges as for corresponding municipal services.

According to the Act on the Supervision of Private Social Services (603/1996), the supervision of services is the responsibility of the relevant State Provincial Office and the municipality where the services are provided. Before starting activities or essentially changing them, a private provider of round-the-clock social services must have a permit of the State Provincial Office, which inspects the service unit before deciding whether to grant a permit. In respect of activities other than round-the-clock services, a written notification has to be given to the municipality where the services are provided. In addition to the control and supervision by the State Provincial Offices, the general consumer legislation protects clients using private services for the elderly.

Most private social services are sold to municipalities. Few elderly people use social services which are not publicly subsidised at all. In the last few years, however, such use has probably increased to some extent, due to, among other things, a household deduction introduced in taxation.

*The Committee has inquired how old people's needs for home services are assessed in practice (Conclusions XV-2, p. 38).*

Different municipalities and care units use different, both manual and EDP based, gauges to assess elderly persons' functional capacity and to determine their need for services. In 2001, approximately two thirds of all municipalities used such gauges. Most municipalities use in their out-patient care the RAVA index, which is based on traditional methods for measuring functional capacity, memory and mood. For assessment by this index, information is gathered on, among other things, physical capacity,

memory and psychological disorders. The minimum index value is 1.29 and the maximum value 4.02. The larger the value of the client, the stronger is his/her need for care and caring.

An elderly person's functional capacity is assessed when he/she seeks care or services for the first time, when the form of care changes or when any change is noticed in the person's functional capacity. In other cases, an assessment should be made at regular intervals. The assessment is usually made by a worker from the local home-help services or home nursing. It is intended to give the authorities a picture of what the person is able to do independently and where he/she needs help.

**Article 4, para 3: Guarantees of appropriate support to elderly persons living in institutions, while respecting privacy, and of participation in decisions concerning living conditions in the institution**

*A. Assistance granted to elderly persons living in institutions*

Institutional care must contain the care needed by the person concerned and his/her maintenance (housing, food, clothing) and rehabilitation.

*B. Inclusion of elderly persons in society*

Advisory Board for Ageing and Pensioners' Affairs

On 1 January 2000, an Advisory Board for Ageing and Pensioners' Affairs was set up in connection with the Ministry of Social Affairs and Health. It functions as a liaison body between different influencers in matters concerning the elderly and pensioners and promotes the distribution of information on their living conditions, rights and experiences. The Advisory Board works under the Ministry of Social Affairs and Health, and it is set up for 3 years at a time.

The Advisory Board monitors and assesses the future developments of elderly people's and pensioners' income security, services and other living conditions and submits initiatives in these matters. The Board also monitors the discussion on elderly people and pensioners at the European Union level. It issues, on request, opinions on matters under its competence and performs other tasks entrusted to it by the Government or the Ministry of Social Affairs and Health.

Municipal councils of the elderly

A municipal council of the elderly is a cooperation body of elderly people, municipal authorities, elderly and pensioners' organisations and other actors working with elderly people. In 2003, there were such councils in 312 municipalities. The first of them were set up in 1996.

In Finland, councils of the elderly are not statutory, but municipalities may set up such councils voluntarily. In order to improve the opportunity for aged people to influence

matters that are significant to their life and coping, councils of the elderly may make proposals, submit initiatives and issue opinions on such matters.

Councils of the elderly are advisory cooperation bodies without an independent power of decision. They are usually set up by municipal executive boards on municipal councils' initiatives. As a rule, the term of a council of the elderly is two or four years. The number of council members varies between 5 and 18. Councils of the elderly are often chaired by representatives of pensioners' organisations, and their secretaries are often municipal employees. In some municipalities, councils of the elderly are official municipal bodies by virtue of a decision by authorities. Even such councils do not have an independent power of decision.

Municipalities must refer all issues concerning elderly people to their councils of the elderly and request their opinion on these issues. In addition to opinions, councils of the elderly have submitted numerous initiatives and proposals. In many municipalities, the councils have participated in the preparation of an elderly policy strategy. Monitoring of the achievement of targets set in different programmes and strategies is also an important task. Further, councils of the elderly have prepared, among other things, service guides or events calendars for elderly people and stimulated discussion in the media.

*The Committee has requested information on arrangements to supervise the quality and running of institutions and on legal and administrative arrangements to protect the privacy of elderly persons living in institutions (Conclusions XV-2, p. 39).*

The Ministry of Social Affairs and Health is responsible for the overall planning, control and supervision of public services in institutional care. Within the provinces, the planning, control and supervision are the responsibilities of the State Provincial Offices. A State Provincial Office may, under penalty of a fine, order a municipality or a municipal federation to comply with an obligation prescribed by law or by virtue of law. In connection with the government grant reform in 1993, the Government largely abandoned its role as an advance supervisor of municipal services, and the emphasis of supervision was shifted to municipalities.

There are no detailed provisions on the quality of elderly services for which municipalities are responsible. To safeguard the position of the service users and the quality of the services, any personnel providing public services for the elderly is subject to certain educational and skills requirements. Further, in 2001, an Act on the Status and Rights of Social Welfare Clients (812/2000) entered into force. The Act on the Status and Rights of Patients (785/1992) lays down provisions on the status of health care clients.

The Act on the Status and Rights of Social Welfare Clients contains the central judicial principles regarding a client's social welfare participation, treatment and legal protection. The Act aims at promoting closeness to the client, the confidentiality of the client relationship and the client's right to good quality social welfare and good treatment. The Act also regulates questions related to maintenance of confidentiality, obligation to observe secrecy and disclosure of confidential information. The Act concerns the status and rights of the client both in privately organised social welfare and in social welfare organised by authorities.

According to section 4 of the Act on the Status and Rights of Social Welfare Clients, a client is entitled to obtain from the provider of social welfare services high-quality ser-

vices and good treatment without discrimination. The client must be treated without offending his/her human dignity and by respecting his/her conviction and privacy. In the provision of social welfare services, account must be taken of the client's wishes, opinions, interests and individual needs and his/her native language and cultural background.

The Ministry of Social Affairs and Health has prepared a handbook on how to apply the Act on the Status and Rights of Social Welfare Clients. According to the handbook, the client's right referred to in section 4 of the Act contains an instruction to the providers and organisers of social welfare to pay particular attention to the quality of services in all client services. From the clients' point of view it is important to improve the quality of social welfare in different units and to give clients an opportunity to participate in quality development. It is of primary importance to use clients' feedback in quality development. The provision also means that the service quality systems should be developed systematically, by improving their functionality. High-quality services and social welfare may also be promoted by ensuring the sufficiency, skills, training and supervision of the personnel.

The handbook pays attention to the fact that also the circumstances in institutional care must be of sufficient quality to allow treatment with dignity. The providers of institutional care must also pay attention to the sufficiency of vocationally qualified personnel in the institutions. Further, the premises and equipment and the environment of institutional care must help the personnel meet the requirements of high-quality social welfare services. In institutional care, attention must be paid to respecting the privacy of the clients also in practice.

Section 7 of the Act on the Status and Rights of Social Welfare Clients prescribes that, if a client needs repeated or regular services, a plan on the needed services, care, rehabilitation or similar activity must be drawn up for him/her in agreement with him/her.

According to section 8 of the Act on the Status and Rights of Social Welfare Clients, providers of social welfare services must give priority to clients' wishes and opinions and also otherwise respect their right of self-determination. The clients must be given an opportunity to participate in and influence the planning and implementation of services. The same concerns all other measures related to their social welfare. When processing and settling matters concerning clients, providers of social welfare services must give priority to the clients' interests. Some institutions for elderly care have set up inhabitants' councils. No information about their number and tasks is available at national level.

A client may also use the complaint system prescribed by section 23 of the Act to point out any deficiencies which may occur in arrangements of private or municipal social welfare. The client may also lodge an extraordinary appeal on the grounds of an erroneous procedure to the municipal or government authorities supervising the activities – for instance the body responsible for social welfare, the municipal executive board, the State Provincial Office or the Parliamentary Ombudsman – if the client considers that the authority concerned has proceeded erroneously in his/her case. The appeal may be written in free form, and it is not subject to any time limit.

#### The quality recommendation on care and services for elderly persons

In April 2001, the Ministry of Social Affairs and Health issued, jointly with the Association of Finnish Local and Regional Authorities, a quality recommendation on care

and services for elderly persons. The recommendation is aimed at ensuring that as many elderly people as possible could live independently in their own homes and familiar dwelling and social environments. Their living at home should be supported by quickly available, professional social and health services. The care has to be appropriate and respect the client. To achieve this objective, each municipality must have an up-to-date elderly policy strategy, officially adopted by the municipality, which safeguards the social rights of elderly people. The recommendation is particularly aimed at municipal decision-makers and leaders, who are responsible for defining operational lines of elderly policy and for allocation of resources for this purpose.

The recommendation does not pay attention only to elderly policy strategies and the need to ensure sufficient resources but also to development of service structures, sufficiency of personnel and skills and management. It also deals with the quality of premises for institutional care. The recommendation suggests that, both when renovating old institutions and when building new ones, municipalities should aim at constructing homelike premises in order to support clients' functional capacity, privacy and social intercourse. The municipalities should assess the functioning of institutions by paying attention to, inter alia, structures enabling unobstructed movement, care, equipment and the size of units and groups.

The recommendation also deals with the provision of information to inhabitants of municipalities. According to the recommendation, the inhabitants should be annually informed about the level of services of the municipality, its targets, the conditions for access to services and the outcome of monitoring.

In spring 2001, approximately every second municipality had introduced an elderly policy strategy, and many municipalities had decided to launch strategy work. Every fifth municipality had not yet prepared an elderly policy strategy or a plan to draw up such a strategy.

In 2001, the Ministry of Social Affairs and Health started to implement the quality recommendation systematically, jointly with the Association of Finnish Local and Regional Authorities, the National Research and Development Centre for Welfare and Health, the State Provincial Offices and different organisations at a number of training occasions all over the country. Many national projects were launched to enhance services. The recommendation was supported by publishing a guide of good care and services for the elderly, intended especially for social and health care personnel. Moreover, the National Research and Development Centre for Welfare and Health has compiled, for the use of municipalities, key indicators for monitoring and assessing the implementation of elderly policy strategies and developments of services and for comparing the situation with that of other municipalities.

## APPENDICES

**Appendix 1:** Report by the Government of Finland, on the Minimum Age Convention, 1973, No 138

**Appendix 2:** 1<sup>st</sup> report, made by the Government of Finland, on the Worst Forms of Child Labour Convention, 1999, No 182

**Appendix 3:** Act on the Protection of Young Workers 998/1993

**Appendix 4:** The number of full-time employees and their monthly earnings in 2001

**Appendix 5:** Memorandum of the National Project on Safeguarding the Future of Health Care Services. 2002:3eng

**Appendix 6:** Decision in Principle by the Council of State on securing the future of health care. Ministry of Social Affairs and Health. Brochures 2002:6eng

**Appendix 7:** A list of Finnish child welfare units by province

**Appendix 8:** Women (and Men) in the Finnish Labour Market. Finnish contribution to the Background document based on contributions from members of the MISEP network

**Appendix 9:** Report by the Government of Finland, on the Equal Remuneration Convention, 1951, No 100

**Appendix 10:** Report by the Government of Finland on the Discrimination (Employment and Occupation) Convention, 1958, No 111

**Appendix 11:** Finland's National Pension Strategy Report. Working Group Memorandums of the Ministry of Social Affairs and Health 2002:18eng

**Appendix 12:** Agreement between the Republic of Finland and the Republic of Lithuania on Social Security