

**ELEVENTH PERIODIC REPORT  
ON THE IMPLEMENTATION OF  
THE REVISED EUROPEAN SOCIAL CHARTER**

**SUBMITTED BY THE GOVERNMENT OF FINLAND**

**OCTOBER 2015**

## **ELEVENTH PERIODIC REPORT ON THE IMPLEMENTATION OF THE REVISED EUROPEAN SOCIAL CHARTER**

for the period 1 January 2011 to 31 December 2014, made by the Government of Finland in accordance with Article C of the Revised European Social Charter and Article 21 of the European Social Charter, on the measures taken to give effect to Articles 1, 9, 10, 15, 18, 20, 24 and 25, as well as the information required by the European Committee of Social Rights concerning Article 28 of the Revised European Social Charter (Finnish Treaty Series 78–80/2002), the instrument of acceptance of which was deposited on 21 June 2002.

In accordance with Article C of the Revised European Social Charter and Article 23 of the European Social Charter, copies of this official report in the English language have been communicated to the Central Organisation of Finnish Trade Unions (SAK); the Finnish Confederation of Salaried Employees (STTK); the Confederation of Unions for Academic Professionals in Finland (AKAVA); the Confederation of Finnish Industries (EK); and the Federation of Finnish Enterprises (FFE).

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## **ARTICLE 1: THE RIGHT TO WORK**

### **Article 1 para. 1: Policy of full employment**

#### *Question 1*

##### *A new Act on Public Employment and Business Service*

A new Act on Public Employment and Business Service (916/2012) entered into force at the beginning of 2013. At the same time, the following acts were repealed: the Act on Public Employment Service (1295/2002), the Act on Services to Develop Competence in Small and Medium-sized Enterprises (971/2004) and the Act on an Information System for the Labour Administration's Customer Service (1058/2002). The objective was a distinct act containing provisions on the arrangement of public employment and business services offered by the Employment and Economic Development Offices ("TE Offices") and Centres for Economic Development, Transport and the Environment ("ELY Centres") and the organisation of these services. The central content of the new Act consists of defining the objective and content of the services. Provisions on public employment and business services were reformed also in terms of content with a distinct service selection as the objective. Provisions concerning discretionary benefits related to services and expert assessments and the appeal process were reformed.

The age limits (17 and 65 years) contained in the definition of an unemployed job seeker in the previous act and requirements concerning work capacity and being available to the labour market are no longer included in the definition of an unemployed job seeker.

Public employment services include labour exchange services, information and guidance, skills development, business start-up and development services. Certain public employment and business services are no longer specifically defined as services of vocational rehabilitation. All of the services included in the service selection are also available to customers whose disability or illness makes it more difficult for them to find employment. Even though vocational rehabilitation and services associated with it are not specifically defined in the Act, public employment and business services are offered for the purpose of vocational rehabilitation to customers whose disability or illness makes it more difficult for them to find employment.

The information and advisory services are available to everyone without restrictions. Employment exchange is the most central type of service for job seekers and employers. The new legislation defines the content of employment services more clearly as concerns the publication and distribution of information about vacancies, the identification of job seekers suitable to fill the vacancies and presenting them to the employer as well as the seeking and the offering of suitable positions for the job seeker.

Competence development services include vocational guidance and career planning, coaching, work try-outs, education and training and wage subsidy, and they are available to all individual customers. In every case, the purpose of job seeking and career coaching is to support customers in finding a job or vocational education. The content of the services can be varied depending on the target group. The opportunity to use work coaching was expanded to all individual customers.

The purpose of a work try-out is to investigate the vocational choice and career options of an individual customer, or to support his/her return to the labour market. A work try-out always takes place at a place of work. Work try-outs are not intended to be used as a means for recently graduated or other individuals with a vocational qualification to gain work experience, but efforts to gain employment are supported primarily via personal employment services, job seeking coaching and wage subsidy granted as recruitment aid. Training try-outs are intended to clarify a person's options regarding vocational choice or career planning.

Vocational education and training (incl. training targeted to individuals planning entrepreneurial activities and joint purchase training) and integration training can be provided in the form of labour market training. The service, offered previously as guidance or preparatory training, is now provided as job seeking coaching or career coaching. Basic education for adults may be provided as labour market training if not having completed basic education is an obstacle for completing vocational training.

Provisions on the prerequisites for granting wage subsidy to an employer for the purpose of hiring an unemployed job seeker and on the amount and duration of the wage subsidy were clarified. The opportunities of companies to receive wage subsidy for a fixed-term employment relationship were increased, for example by enabling companies to employ young people on a temporary basis after shorter periods of unemployment than before. Employers' opportunities to transfer the individual hired with the help of wage subsidy to duties arranged by another party (so-called user enterprise) were expanded. The change enabled, for example that an employer that has hired a young person or an immigrant with the help of wage subsidy is able to transfer the person for whom the subsidy is paid to carry out work for another employer. Provisions on wage subsidy granted due to a disability or illness were clarified, and an effort was made to highlight the fact that a wage subsidy may also be permanent in nature. Part-time bonus paid to individuals transferring from full-time work to part-time work was abolished due to its minor significance from the perspective of labour policy.

The new Act contains provisions on services promoting the development of entrepreneurial activities that consist of training and expert services aimed at companies. In addition to the ELY Centres, also the TE Offices may provide business development services to companies.

The new Act is closely associated with the new service network and service model of TE Offices. The renewed service model of the TE Offices is based on three lines of service: employment and enterprise services, competence development services as well as supported employment services. Customers are directed to these service lines based on their estimated need for the services. All services included in the service selection are available in each of the service lines.

## ***Question 2***

### ***Youth guarantee***

While the Social Guarantee has been in effect in the employment administration since 2005, the revised version renamed as the Youth Guarantee entered into force on 1 January 2013.

In accordance with the Youth Guarantee, all young people either under 25 or under 30 year and recently graduated will be offered a job, a traineeship, on-the-job training, a study place, or a period in a workshop or rehabilitation within three months of becoming unemployed. The Youth Guarantee consists of various elements: a guarantee of employment, one of education or training, a Skills programme for young adults, a youth workshop and an outreach programme for youth work.

Information on the educational guarantee is provided in connection with Article 10, paragraph 1.

The Government also supports on-the-job training for young people under 25 of age by developing apprenticeship training and other flexible models of combining education and work. The target group is young people under 25 who do not have a qualification after comprehensive school. The measures include: a preliminary period in the apprenticeship training, performing parts of a qualification, flexible combinations of the apprenticeship training and institution based training and training of on-the job trainers at the workplaces will be trained.

Wage subsidy for young people called *Sanssi card* was launched as an experiment in the spring 2010 and established as a permanent practice from the beginning of 2013. The TE Offices may issue a Sanssi card to all young people under 30 registered as unemployed job seekers, which communicates to the employer that it is possible to receive wage subsidy for the purpose of employing the young person. A wage subsidy may be granted to a business, association, foundation, municipality or other employer, but not to a government agency or public body.

### *Experiment to alleviate structural unemployment in municipalities*

An experiment to alleviate structural unemployment in municipalities is carried out between 1 September 2012 and 31 December 2015. The objective of the experiment is to locate new models based on local partnerships for integrating individuals into the job market for the purpose of alleviating structural unemployment. The experiment does not alter the basic division of labour between the Government and local authorities in the arrangement of other services promoting employment. During the experiment, the Government is responsible for the funding of public employment services and local authorities for the funding of services within its area of responsibility. Primary focus in the selection of the long-term unemployed is placed on those who have received an unemployment benefit for at least 500 days on the grounds of unemployment and who, in addition to employment services, also require services for improving their prerequisites for finding employment, the arrangement of which is the responsibility of municipalities.

### *Question 3*

The Government refers to the information given in the Employment Bulletin 2014<sup>1</sup> drafted by the Ministry of Employment and the Economy.

### *Answers to the Committee's conclusions*

The Government refers to the information given in respect of Questions 1-2 above.

## **Article 1 para. 2: The right of the worker to earn a living in an occupation freely entered upon**

### *Questions 1 to 3*

In respect of these questions, the Government refers to information given in connection with Article 24, as well as to its Answers to the Committee's conclusions, below.

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<sup>1</sup> [https://www.tem.fi/files/41933/TKAT\\_Dec\\_2014.pdf](https://www.tem.fi/files/41933/TKAT_Dec_2014.pdf)

## *Answers to the Committee's conclusions*

### *Prison work*

According to the Imprisonment Act (767/2005), a prisoner is obliged to participate in work, training or other activity (known as the 'duty to participate'). According to Chapter 8, Section 1, the purpose and content of activities arranged or approved by the prison is to promote the placement of the prisoner in society by strengthening the readiness of the prisoner to lead a life without crime, by maintaining and improving the occupational skills and know-how of the prisoner as well as his or her working ability and functional ability, and by supporting the intoxicant-free way of life of the prisoner.

The activities include work, training or other activities promoting the readiness of the prisoner. Activities are carried out in accordance with an individual sentence plan covering the entire term of imprisonment. The work carried out by prisoners should correspond to the work commonly performed in society. The starting point is that work must be arranged and supervised by a public authority, the Criminal Sanctions Agency and other authorities. The work performed during the term of sentence is work maintaining the working skills of the prisoner and promoting his or her employment (occupational work) or rehabilitative work improving the working ability and readiness of the prisoner (rehabilitative work).

In the arrangement of occupational work, the technical development in the field in question shall be followed and up-to-date work approaches and methods shall be used. In addition, in the arrangement of rehabilitative work, methods commonly used in vocational rehabilitation shall be observed.

In open prisons, the work performed may also be commissioned by a public authority other than the Criminal Sanctions Agency. Certain types of work, such as packing and assembly, may also be undertaken at the prison, where a private company has sub-contracted for such work. This work must also be carried out under the supervision of the prison authorities.

A prisoner may be allowed to work outside the prison under certain conditions as specifically provided by law and may be employed by a private company. According to Chapter 8, Section 6, a prisoner may be permitted to work or to participate in work training outside the prison during the actual working hours (civilian work).

The wages and other work-related terms of civilian work may not materially derogate from the terms generally complied with in the work in question. The civilian work shall be ordinary economic activity with regard to financial and social factors relating to the work place and the employer.

A prisoner may also be given permission to carry out work on his or her own account, provided that such work is acceptable and suitable for being carried out in prison. Working in such cases is always based on the prisoner's consent.

In practice much of prisoner's work is related to domestic care, real estate maintenance or construction work at prisons and or production work. The products are sold to the State and municipal institutions, to the business sector, or directly to private consumers by prison shops. Some products, such as cell furniture and prisoner clothing, are made for prison use.

According to Chapter 9, Section 6 concerning vocational work, current wages shall be paid in open institutions and an activity allowance shall be paid in a closed prison. For all other activities (participating in rehabilitative work, training or other activity arranged or approved by the prison) in closed and open prisons an activity allowance is paid for prisoners. The activity allowance is paid in three categories in accordance with the demands, regularity of participation and duration of the work, training or other activity as well as in accordance with the personal performance of the prisoner. An expense allowance shall be paid to a prisoner who is exempted from the duty to participate. An expense allowance shall be paid for working or activity hours for which no wages or activity allowance is paid.

Chapter 9, Section 7 includes provisions on withdrawals to be made from the wages. According to this Section tax deductions and distraints are executed in accordance with the relevant legislation. In an open prison the prisoners shall also pay out of the wages a compensation for food and maintenance cost to the prison. This is not the case in a closed prison nor as regards activity allowance. Therefore the amount of expense allowance is smaller than the amount of wage.

In open prisons the working hours in vocational work are based on general legislation. In other activities the working hours are 8 hours daily but never more than 35 hours in a week.

For rehabilitative work, the prisoners are paid an activity allowance of 0.70–1.20 euros per hour. The wage paid for vocational work carried out in an open prison is 3.70–7.30 euros per hour.

Working prisoners are not affiliated to the social security system in Finland.

#### *Coercion in connection with domestic work*

The Act on the Employment of Household Workers (951/1997) was repealed on 1 January 2015 as part of the revision of Finnish legislation in order to be able to ratify the ILO Domestic Workers' Convention No. 189. As a consequence, the general labour legislation now covers the domestic workers. Also the normal criminal sanctions on infringement of the labour legislation cover also the domestic workers.

According to Section 9 of the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (44/2006), a workplace inspection may be carried out in premises within the sphere of domiciliary peace if there is a reasonable cause to suspect that the work performed on the premises or the working conditions cause danger to an employee's life or obvious harm or hazards to an employee's health and enforcement actions otherwise cannot be satisfactorily carried out. Detailed information on the allocation of workplace inspections in premises within the sphere of domiciliary peace is not available, nor on the extent of such inspections. According to the Government authorities responsible for supervision of occupational safety, workplace inspections within the sphere of domiciliary peace have mainly been carried out in the following fields: agriculture, farm relief work, berry farms, driving and rest time, different types of domestic services and personal assistants. Through these inspection measures, the Government has strived to review issues regarding employment, immigration and working conditions.

As regards the Committee's question on whether penal law effectively protects domestic workers, the Government refers to information given in connection with Article 18, paragraph 3.

Concerning the protection of domestic workers recruited in another country, the Finnish terms of employment apply to work performed in Finland. According to Chapter 2, Section 4 of the Employment Contracts Act (55/2001)<sup>2</sup> the employer has the obligation to inform the worker on the conditions and terms applicable to the work contract.

According to Section 73 of the Aliens Act (301/2004) an employer shall attach to an application for a residence permit for an employed person:

*"1) written information on principal terms of work referred to in Chapter 2, Section 4 of the Employment Contracts Act;*

*2) an assurance that the terms comply with the provisions in force and the relevant collective agreement or, if a collective agreement is not applied, that the terms correspond to those applied to employees in the labour market doing similar work; and*

*3) upon request by an employment office, a statement confirming that the employer has met and will meet his or her obligations as an employer."*

Residence permit for an employed person is usually granted for the professional field that the job in question belongs to. A person may change jobs freely if the permit is valid and the new job is in the same professional field. If a new job is in another professional field, a person must apply and be granted a new permit before he or she may start working.

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<sup>2</sup> <http://www.finlex.fi/fi/laki/kaannokset/2001/en20010055.pdf>

### *Privacy at work*

Privacy at work is protected by a special Act on the Protection of Privacy in Working Life (759/2004). The Act lays down provisions on such matters as the processing of personal data, the processing of information on drug use, camera surveillance in the workplace, and retrieving email messages that belong to the employer.

There are also general provisions on data protection contained in the Personal Data Act (523/1999) and the Act on the Protection of Privacy in Electronic Communications (516/2004) which apply in professional life, in addition to those contained in this special law. The authorities overseeing compliance with the Act on the Protection of Privacy in Working Life are the Occupational Safety and Health (OSH) authorities and the office of the Data Protection Ombudsman.

An employer may process only personal data which is directly necessary as regards an employee's employment relationship, relating to the management of the rights and obligations of the parties to the employment relationship or the benefits provided to employees by the employer or which are due to the special nature of the work. No exception may be made to the data having to be necessary even with the employee's consent and this requirement of necessity shall be implemented alongside the other more detailed provisions of the Act. In connection with the planning of data collecting, an employer must define the necessity for examining the data in such a way that it is evident for what purpose the personal data is collected. This kind of assessment must always be performed individually in each case.

For practical reasons, it is impossible to list all of the personal data which an employer is entitled to process. Situations in working life vary according to sector or task. An employer may require an employee's personal data for a variety of reasons such as for the authorities when dealing with taxation and social security payments, for the management of the personnel administration and development of the organisation, for customers etc. As regards personal data concerning the collecting of which some other act lays down separately, an employer no longer needs to consider the necessity of collecting the data.

Data which is necessary as regards managing an employer's and employee's rights and obligations include, for example, data relating to the performance of tasks, selection of an employee, working conditions and compliance with the regulations in collective agreements. Data relating to the benefits provided by an employer can relate, for example, to swimming pool tickets and discounts provided by an employer and to the use of these.

Data based on the special nature of work can relate, *inter alia*, to the family circumstances of an employee who is to be transferred to assignments abroad whenever the employer is responsible for the education of the children.

In recruitment situations, the employer has to assess the necessity for data with regard to the job which the person has applied for. This mainly means data showing the applicant's competence and suitability and also a statement on the job applicant concerning his or her suitability health-wise for the job.

For a violation relating to the processing of personal data contrary to the Act on Data Protection in Working Life (759/2004)<sup>3</sup>, an employer or its representative is sentenced on the same penal scale and for the same offence as for corresponding violations of the Personal Data Act, *i.e.*, for a personal data offence (Chapter 38, Section 9 of the Criminal Code), to either a fine or imprisonment for a maximum of one year. The act should violate the protection of the employee's privacy or cause the employee other damage or fundamental inconvenience. The act requires intent or gross negligence when processing the personal data of the employee in a manner contrary to its purpose or when violating the necessity requirement of the data.

The Act on Checking the Criminal Background of Persons Working with Children (504/2002)<sup>4</sup> is an attempt to reduce the risk of children being sexually exploited, becoming victims of violence, or being tempted into using drugs. The procedure of checking criminal background applies when someone is recruited for a job which gives an opportunity to close interaction with children. A private person can obtain a criminal record extract concerning themselves from the Legal Register Centre provided that he or she is to be selected to work with children.

*Requirement to accept the offer of a job or training or otherwise lose unemployment benefit*

If an unemployed person refuses a job offer without a good cause, his entitlement to unemployment benefit is usually lost for a period of 60 days. If the job would not have lasted for longer than two weeks, the unemployment benefit will be lost for a period of 30 days. A jobseeker can lose entitlement to unemployment benefit by refusing to accept a job offer if the job offered can be considered suitable for him/her considering his or her working ability, and the salary paid complies with the collective agreement in question, or, if no collective agreement is valid, the pay is considered normal and reasonable in the locality concerned, for the job in question. Moreover, the job must be one which is not affected by a strike, lock-out or boycott.

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<sup>3</sup> [http://www.tem.fi/files/20365/Data\\_protection\\_in\\_working\\_life.pdf](http://www.tem.fi/files/20365/Data_protection_in_working_life.pdf)

<sup>4</sup> [http://www.tem.fi/files/36811/TEMesite\\_Lasten\\_kanssa\\_tyoskentelevien\\_rikostausta\\_EN.pdf](http://www.tem.fi/files/36811/TEMesite_Lasten_kanssa_tyoskentelevien_rikostausta_EN.pdf)

A jobseeker has a good cause to refuse a job offer if he or she has not had enough time for arranging child care or commuting or if the work is contrary to his/her religious beliefs or conscience. The same right applies if the work involves duties that are clearly indecent or unethical, or involve the imminent threat of violence, harassment posing harm or a danger to the employee's health, or other inappropriate treatment. Job offers may also be refused if the salary and any agreed unemployment benefit, minus the costs incurred by accepting a job, are smaller than the unemployment benefit paid while unemployed.

In addition, the unemployed can under certain conditions refuse a long distance job offer both inside the commuting area (80 km from home) and outside the commuting area as well as a job offer outside Finland. The same applies in case the work does not correspond with the skills of the unemployed person. The protection of the skills lasts only for three months after the registration as an unemployed jobseeker.

Also refusal, without a good cause, of services offered by the TE Office, such as training, usually results in loss of unemployment benefit for a period of 60 days. The applicant may appeal the unemployment benefit decisions to the Unemployment Appeal Board and further to the Insurance Court.

### **Article 1 para. 3: Free placement of services**

#### ***Question 1***

##### *Public employment services*

From the beginning of 2013, the services provided by the TE Offices have been known as employment and economic development services ("TE services"). The services are defined in the new Act on Public Employment and Business Services (916/2012) which entered into force on 1 January 2013. The service model is based on three service lines, and the services are organised according to the service needs of customers. The employment and economic development services focus on supporting the rapid employment of job seekers, improving the availability of competent workforce and securing the operating conditions of businesses. The renewed service model provides the opportunity to take better account of customer needs in the planning and acquisition of services. By strengthening enterprise-orientation, comprehensive services for enterprise and employer customers will be ensured, and the employment of job seekers in the open labour market supported.

From the beginning of 2013, a total of 15 TE Offices with the necessary number of service points have been responsible for the provision of the services. Customers are served by a renewing network of employment and economic development services that includes regional Employment and Economic Development Offices with their service points, joint service points, regional business services and other service cooperation implemented with stakeholders.

Opportunities to use the services expand as online services are reformed and developed. The *mol.fi* -online service has been renewed in its entirety and is now found at *te-palvelut.fi*. Several matters concerning the provision of information that previously required a visit to the office can now be dealt with online or by calling the telephone service. When a customer needs expert help to clarify their situation and opportunities, personal service at the TE Office remains an option. A multichannel service is continuously under development. In addition to enabling efficient use of the services, the objective of the multichannel service is to steer customer flows so that the expert resources of the Employment and Economic Development Offices can be directed in a purposeful manner to service situations where customers require personal expert service.

The Customer Service Centre of the Employment and Economic Development Administration ("TE Customer Service Centre") was established at the beginning of 2012 based on Section 25 of the Decree on Business, Transport, and Environment Centres (906/2012), according to which the Business, Transport, and Environment centres and the TE Offices share a common Customer Service Centre of the Employment and Economic Development Administration in the ELY Centre of South Savo. The TE Customer Service Centre produces services of the administrative sector of the Ministry of Employment and the Economy for both individual and corporate clients. The Customer Service Centre is a unit that is separate from the areas of responsibility and other units.

The TE Customer Service Centre gives advice, information, and guidance concerning public employment and corporate services via telephone, e-mail and other electronic means of communication. The services to customers are offered through the *Enterprise Finland* and *Job line* -telephone services. The Job line gives customers information and advice on matters such as training as well as guidance for the use of online services. The Job Line also gives advice on further dealings with an Employment and Economic Development Office or other experts.

## ***Question 2***

### ***Private employment agencies***

Cooperation between public and private employment services is being increased in line with the Ministry of Employment and the Economy ("MEE") policies. National cooperation with employment service partners is based on cooperation agreements, determining a common purpose, goals and benefits and backing the start-up of regional or local pilots.

The objective of the MEE partnership programme is to enhance the customer focus and performance of employment and business services. The cooperation strengthens the functioning of the labour market and promotes the availability of labour for employers and swift employment for jobseekers.

The MEE and Private Employment Agencies Association HPL signed a cooperation agreement on 26 February 2015, aiming at improving the effectiveness of employment services and finding more jobseekers jobs through temporary agency work. Through the cooperation, several pilots will be started up for e.g. the long-term unemployed and young jobseekers. The intention is to develop an operating model based on them, enabling the improved utilisation of temporary agency work in the future. The TE Offices of Uusimaa and Pirkanmaa actively direct unemployed jobseekers into temporary agency work, and a contracting pilot has been started up at these TE Offices, aiming at identifying new ways of preventing prolonged unemployment and decreasing long-term unemployment. The pilot experiments on contracting a service, whose price is determined by its effectiveness. An expansion of the activities will be considered based on experience from the pilots.

As private employment services develop as an industry, especially as regards electronic employment services, the MEE will re-evaluate the cooperation opportunities, roles and tasks between public and private employment services. Cooperation between public and private employment services is dictated by the principles of good governance and, in particular, the equality requirement (Section 6 of the Administrative Procedure Act, 434/2003). Private actors can fully participate in the activities of the MEE. The MEE collaborates with major, certified private recruiting services involved in a broad range of industries. The main criteria of the cooperation are advanced development levels of the agencies' digital employment services and electronic services.

Employment services, job seeking and recruiting is also going digital. Jobs and jobseekers increasingly meet online and in social media. The MEE has started up cooperation negotiations with private recruiting agencies (*Oikotie*, *Monsteri* and *Duunitori.fi*). A pilot has been launched with the TE Office of Uusimaa and Oikotie in May 2015, actively guiding highly educated unemployed jobseekers to use the digital expert profile service of Oikotie.

## *Answers to the Committee's conclusions*

### *Non-military service*

Since 2013 the length of military service under Military Service Act (1438/2007) has been 165, 255 or 347 days depending on the training given in service. According to the Defense Command the average length of military service in 2014 was 256 days among the conscripts who have completed military service.

The duration of non-military service has been as long as the longest period of service in military service since the Non-Military Service Act (1466/2007) came into force on 2008. Therefore the period prescribed for non-military service has been 347 days since 2013.

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

In respect of this paragraph, the Government also refers to information given in connection with Article 15, paragraph 2.

### *Question 1*

The Act on Financially-Supported Development of Professional Skills (1136/2013) came into force on 1 January 2014. Enterprises may make a tax deduction for up to three training days a year for each employee in order to improve skills. The objective is to promote the skills development of the workers to meet the needs of the changing requirements of the working life. It also aims at decreasing early exit pathways of older workers.

In order to get the tax deduction or the training reimbursement, the employer is required to draw up a training plan. The plan must include the principles on how to maintain the employability of those who are under the risk of incapacity, or capacities of older workers. It must also include an assessment of the professional capacity of the whole personnel and of the employer's needs. The employer is also obliged to discuss the development of their professional skills with their employees.

## *Question 2*

### *Education and training policies*

As part of the framework agreement by the central labour market organisations of Finland to ensure competitiveness and employment concluded in autumn 2011, the organisations agreed that in order to adapt to the changing situations, and to improve the productivity of labour and to extend work careers, the opportunities of workers to update their professional skills and develop their competence will be improved.

In the beginning of 2013, a change was introduced in labour market training with the aforementioned new Act on Employment and Business Service. Labour market training now includes vocational labour market training and integration training for immigrants. From the beginning of 2013, preparatory labour market training was replaced by training services that include career coaching, job-seeking coaching and work coaching.

When the TE Office together with one or several companies participates in the acquisition and planning of training the labour administration covers a part of the costs. The need for training must be based on labour policy: improving the availability of workforce, promoting the operational preconditions of the employee, lengthening the careers, securing employment and preventing unemployment. This *joint purchase education*<sup>5</sup> has been used to successfully prevent and shorten the unemployment of, for example, individuals dismissed in change security situations, to promote rapid employment to jobs similar to the old one or to new tasks, to increase or renew the job-seeking skills, job market preparedness and professional competence of individuals to be dismissed and to improve their preparedness for possible further training.

From the beginning of 2010, it has been possible for job seekers to conduct self-motivated studies under certain conditions without the need to forfeit their employment benefit. The objective of self-motivated studies by job seekers supported by an employment benefit is to improve adults' professional skills and their opportunity to gain or retain employment and to ensure the availability of competent workforce. The emphasis is on short-term training that helps the person gain employment within a short period of time.

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<sup>5</sup> <https://www.yrityssuomi.fi/en/yhteishankintakoulutus>

## **ARTICLE 9: THE RIGHT TO VOCATIONAL GUIDANCE**

### ***Question 1***

Provisions on student guidance to be given as part of vocational upper secondary education are laid down in the Act on Vocational Education (630/1998). The upper secondary vocational qualification includes at least 1.5 credits worth of student guidance. The Act was amended with a new Act (787/2014) which came into effect on 1 August 2015, also in reference to counselling. The guidelines for vocational qualifications stipulate that the education provider is to prepare a personal study plan based on the student's individual aptitude. This is to be updated throughout the training period in order to ensure individual freedom of choice.

Section 8 of the Act on Vocational Adult Education (631/1998) stipulates that the education provider is to ensure that due consideration is given to the personalisation of applying for and completing training, and for acquiring the professional skills required for competence-based qualifications and related preparatory training. According to Section 1 of the Regulation (43/011/2006) issued by the National Board of Education under said Section 8, the education provider shall see to it that those wishing to complete a competence-based qualification receive guidance and counselling that are planned and provided in a customer-oriented manner, as well as other forms of support and services to be agreed upon on a mutual basis.

If the upper secondary, further or specialist vocational qualification is to be completed in the form of a competence-based qualification, the new Government Decree on the Personalisation in Adult Education (794/2015) must also be complied with. In accordance with Section 8a of the Act on Vocational Adult Education (631/1998, amended by Act 788/2014), the education provider is to ensure that due consideration is given to the personalisation of applying for and completing training, and for acquiring the professional skills required for competence tests and related preparatory training, as well as the guidance related to these. Personalisation means that the skills previously acquired and subsequently demonstrated by the student are duly recognised. This is to be taken into account in the determination of the amount and content of the theoretical training to be given and the amount of compensation to be paid to the employer.

The Ministry of Education and Culture and the Ministry of Social Affairs and Health prepared the new Act on Pupil and Student Welfare (1287/2013). The aim was to have one harmonious Act to cover all the pupil and student welfare provisions that were previously scattered across the legislation. The purpose of the Act is to secure the equal availability and quality of student welfare services to all pupils and students. Other aims are to extend the psychologist and curator services to cover students in secondary education, to make the services more systematic and preventive, and to make them support the comprehensive well-being of students. The Act came into effect on 1 August 2014.

## *Question 2*

The Ministry of Education and Culture and the Ministry of Employment and the Economy have promoted guidance in vocational adult education. The ministries were involved in the ESF (European Social Fund) development programme “*Suitability and demand-based approach to adult education by a national development programme on information, guidance and counselling services*” that was launched in 2007 and that is steered by the joint steering and cooperation group for lifelong learning, which the ministries re-appointed in 2011. One of the duties of the steering group was to promote information, counselling and guidance services at the national, regional and local levels (including the implementation of the social guarantee), as well as to improve cooperation between different branches of government and operators. The key results of the development programme that ended in 2014 concerned the establishment of regional networks, the development of local guidance services through lifelong learning steering groups, strategic guidance work, the preparation of initial analyses and the analysing of needs, as well as various trainings. At its most active stage, the programme included 51 projects in Finland.<sup>6</sup>

Actions taken in 2014 included preparing the content related to education, professional skills and lifelong learning in the national ESF activities in the branch of government the Ministry of Education and Culture is responsible for. The preparation was part of the *Sustainable growth and jobs 2014-2020* – Finland's structural funds programme. The transitional periods in education and working life are a special area of interest, because improving their efficiency can make careers longer, both at the beginning and in the middle. This work is related to, for instance, information, guidance and counselling services, the organisation of teaching, study processes as well as activities that seek to improve motivation and the ability to study and promote employment.

The aim of the *Learners' Online Services* -project is to develop the electronic services intended for learners and education providers. Learners' Online Services groups together existing education information services and those services that need updating, and they will cover new services and the information systems that support their implementation. The name of the online service is *Opintopolku.fi*. These electronic services will be created in 2011–2015. The services include a comprehensive selection of services by education and teaching providers. Service users include applicants, students, educational institutions, enterprises and public administration. The services will be built in stages, and they will be implemented as projects. The National Board of Education and the Ministry of Education and Culture are responsible for developing the Learners' Online Services, together with a variety of stakeholders.

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<sup>6</sup> <http://www.opinovi.fi/english/>

The Suitable Counselling scheme will primarily focus on enhancing the “*Ohjaamo*” and “*Opintopolku.fi*” services by developing multi-sectoral information, guidance and counselling services and procedures. In addition to this, the Ministry of Education and Culture, the Ministry of Employment and the Economy and the Ministry of Social Affairs and Health have co-operated in order to prepare content within the *Youth Guarantee* -programme, a scheme that crosses administrative boundaries with the aim of producing a national, multi-sectoral service model (*Ohjaamo*) and a national online counselling service. The online counselling service will cooperate closely with the *Opintopolku.fi* service that is part of the *SADe Action Programme on e-Services and e-Democracy*<sup>7</sup>.

*A programme for enhancing the pass-through rate of vocational education* was implemented in 2011–2014, the aim of which was to develop measures that reduce the number of students suspending their studies. Education providers formed large networks within the programme and built tools that can be used at a national scope to support learning and ensure that the students complete their training. The programme included 23 extensive network projects that involved 55 large-scale education providers across the country.

The National Board of Education and the Ministry of Education and Culture prepared the criteria for good student guidance and counselling in basic education, general upper secondary education and vocational training in accordance with *the Education and Research 2011–2016 development plan*. The aim is to secure equal, continuous and high-quality counselling at all school levels. The criteria are of recommendatory nature, and they were introduced on 1 August 2014.

With the reform of employment and business services, which took effect at the beginning of 2013, psychologists of the Employment and Business Administration were placed *on three different service lines*. The guidance services are concentrated primarily on the skill-development service line and that of supported employment. General training counselling is produced primarily in *the training line* telephone service of the TE customer service centre. Part of the additional resources acquired through the Youth Guarantee was targeted at the national telephone service *Job line*. The service in question was piloted in the ESF NUOVE project (2008-2010). The career line service is implemented in the customer service centres of the employment and business administration in cooperation with the *training line* telephone service.

In April 2013, an *Evaluation study of the TE office guidance services* was completed. Its mission was to produce an evaluation tool for following up on the quality and effectiveness of guidance services.

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<sup>7</sup> Available in English at: [https://www.kuntarakenne.fi/kao-wiki/Esite\\_englanti\\_20130626.pdf](https://www.kuntarakenne.fi/kao-wiki/Esite_englanti_20130626.pdf)

The evaluation tool in question (*TUTKA*) piloted in three TE offices and officials had quite positive experiences of its use. The evaluation tool has been used in all TE offices since the beginning of 2014.

In the summer of 2013 the aforementioned *www.mol.fi* -online service was changed to the new *te-palvelut.fi* -service. At the same time, the text of the online service was modified so that it became more directional; the users are encouraged to primarily find their own solutions to their questions, while the presentation of the TE offices' services is secondary. To support the users, various tasks were included in the online service, some of which were piloted in 2013. Another aim is to update the *AVO programme*, which was drawn up in 1999 to help in vocational selection and to link it closer to the *Ammattinetti* -online service, which is also being developed through measures including a move to ISCO classification.

### *Lifelong Guidance and Cooperation Group*

The national Lifelong Guidance and Cooperation Group was set up in 2011. It is jointly coordinated by the Ministry of Employment and the Economy and the Ministry of Education and Culture. The group had a mandate extending from 1 September 2011 to 31 January 2015.

The tasks of the Lifelong Guidance and Cooperation Group are to:

- 1) *promote development work of national, regional and local information, counselling and guidance services, including the implementation of the Social Guarantee*
- 2) *to reinforce collaboration among administrative sectors and different players*
- 3) *to function as the steering group for the "Aptness and demand-orientation in the information, counselling and guidance services of adult education" national development programme of Mainland Finland's ESF priority 3 programme for 2007-2013.*

The development programme includes three extensive sub-programmes:

- 1) *Development of electronic services especially in counselling activities for the improvement of the appropriateness and orderliness of adult education.*
- 2) *The development of the guidance and advice methods, strengthening of the skills of guidance, counselling and teaching staff and their recognition and appreciation of adult students' skills.*
- 3) *The evaluation and study of advisory work.*

The working group preparing the social guarantee for young people insisted that the Centres for Economic Development, Transport and the Environment ("ELY Centres") should convene regional networks for the coordination of advisory and counselling services. The ELY Centres have appointed people to be in charge of information, guidance and advisory services.

The ELY Centres are responsible for the establishment of regional cooperation groups for lifelong guidance, with representation from the following: The ELY Centres, the Employment and Economic Development Offices (“TE Offices”), the State Regional Administrative Agencies and other possible entities. The goal of the regional lifelong guidance groups is to promote the accessibility and quality of guidance services in the area. To achieve the goal, the ELY Centres are jointly drawing up plans of action for regional guidance and cooperation groups in which stands need to be taken on matters such as the roles of different players in the field of guidance, the creation and operation of a network linked with cooperation, guidance skills and their development in the network and the participation in the development of multichannel information and guidance services.

### *Training that guides and prepares participants for professional basic vocational education*

In 2010, the Act on Vocational Education was amended by the Act (639/1998) and training that guides and prepares participants for professional basic vocational education was established on the basis of Section 3, sub-section 2 of this Act. The related training experiment had begun in 2006. The goal of the training is to reinforce a person's readiness to study and to encourage people to seek out vocational training. The training is directed at those who have completed their comprehensive education and who do not want to go directly into or who are not selected for secondary education aimed at a degree. If necessary, it is also possible for students, who have dropped out of vocational education or upper secondary school, to take part in the training.

### *Question 3*

According to the *Opettajat Suomessa 2013, Koulutuksen seurantaraportti* (“Teachers in Finland 2013, Follow-up Report on Education”) 2014:8 publication by the National Board of Education, there were 242 full-time student counsellors in vocational upper secondary education. 222 (91,7%) of them were formally qualified for the task. The teachers of other subjects also provide guidance in vocational education alongside their other duties. The amount of guidance varies between education providers and fields of study.

## **ARTICLE 10: THE RIGHT TO VOCATIONAL TRAINING**

### **Article 10 para. 1: Provision or promotion of technical and vocational training**

#### *Questions 1 and 2*

The Ministry of Education and Culture launched the *Competence Programme for Young Adults* in 2013. This programme is part of the Youth Guarantee scheme. The fixed-term programme is targeted at young adults aged 20 to 29 who do not have an upper secondary qualification. The programme period is 2013–2016. The students are given a new chance to attain an upper secondary vocational qualification (as of 2014), further vocational qualification or specialist vocational qualification, or modules of these. The budget of the Competence Programme was 27 million euros in 2013 and 52 million euros per year in 2014–2015. Part of the funds budgeted for 2016 (52 million euros in total) were rolled forward to support the completion of training in progress: 10 million euros to 2017 and 5 million euros to 2018.

Around 60 education providers have implemented the Programme as institutional education and apprenticeship training for the last 2.5 years. The Programme has reached its target of 4,000 new students per year. The Competence Programme has also met its qualitative targets. Slightly less than 40 % of the students who started in the programme had been unemployed, and slightly less than 40 % were not in education, employment or training (NEET), while the share of the employed in the target group was over 60 %. Thus, the Programme reaches the most disadvantaged young adults who have no education. The share of men among the students within the Programme has grown to over 50 %, while their share in the target group is around 60 %. The share of foreign language-speakers has grown to almost 18 % among the students within the programme, while their share in the target group is about 25 %. The share of foreign language-speakers among students within the Programme is likely to grow in 2016, following the notable growth in the number of asylum seekers.

The personalisation of education and the qualifications is an integral element of the competence-based qualification system. In order to be successful, the Competence Programme for Young Adults must make education more appealing to young adults, and personalise instruction for those who have previously suspended their studies. The most important effect of the Programme was the lesson learned by the educational institutions—the institutions changed or are about to change their operations in order to reach a new target group and help them pass the demonstrations of skills. The aim is to use the lessons learned within the Programme in the reform of vocational education.

The Ministry of Education and Culture received 20 million euros of additional funding for 2014–2015 for a programme called *Strengthening the Competence Base of Adults*, which is intended for adults aged 30–50 without an upper secondary qualification. The administrative structure of the programme is similar to the Competence Programme for Young Adults, and the parties to the programme, the educational institutions that receive funding, are practically the same. The Ministry of Education and Culture monitors this programme, and some of the lessons learned in the Competence Programme for Young Adults can be adapted to the older target group, either directly or after small modifications.

The Ministry of Education and Culture has received further funding from the Erasmus+ EU programme for the monitoring and supporting of both of these programmes.

### **Article 10 para. 2: Provision or promotion of systems of apprenticeship**

In this connection the Government refers also to information given in connection with Article 1, paragraph 1.

### ***Questions 1 and 2***

#### *The Youth Guarantee and the educational guarantee*

The Youth Guarantee, and the education guarantee related to it, came into effect on 1 January 2013. The Youth Guarantee and the education guarantee are implemented in vocational training in the following ways.

Vocational upper secondary education has been restructured, taking into account the diminishing age groups of young people and the changes in labour force needs. However, one of the key criteria in the allocation and geographic division of education is the achievement of the Youth Guarantee, and 13 million euros of the allowance budgeted for the implementation of the Youth Guarantee was spent on securing sufficient student intake.

In addition to this, an additional allowance of 8 million euros was allocated to the implementation of educational models that combine a work-based learning approach and different forms of arranging education in the budget for vocational training. The aim of providing more versatile approaches to on-the-job training through cooperation between education providers and workplaces and building flexible study paths is to make young people remain as users of educational services and help them complete their training.

The new admission criteria for vocational upper secondary education and electronic application services were taken to use in a joint application procedure in the autumn 2013 which concerned training that started in January 2014. Those who have completed their basic education and who do not have a secondary qualification and a place of study can now be selected first in the student admission process to upper secondary education; the reform gave them a separate admission path where they no longer have to compete with adults and graduated students holding another qualification. The new student admission criteria for vocational training and the electronic application services that were introduced in the joint application procedure in the autumn 2013 improved the opportunities to be admitted of those covered by the Youth Guarantee.

The educational guarantee for all comprehensive school graduates that secures every basic school graduate a place in a general upper secondary education, general vocational education, an apprenticeship, a workshop or vocational rehabilitation place, or a place in some other form of study. The aim is to provide all young people realistic opportunities to pursue and complete a post-basic qualification and find employment. It also includes renewed criteria for student selection to vocational education, renewed e-application services for the joint application process, increased training compensation in apprenticeship training and renewed preparatory training for vocational education. The Educational Guarantee is supplemented with *the Skills Programme for young adults*, aimed at providing people without an upper secondary level qualification the opportunity to complete a vocational qualification. The programme is in force between 2013–2016.

Information on the on-the-job training is provided in connection with Article 1, paragraph 2 above.

### *Apprenticeship training*

Apprenticeship training is governed by the Act on Vocational Education (630/1998), the Act on Vocational Adult Education (631/1998) and the Decree on Vocational Education (811/1998). According to Section 17 of the Act on Vocational Training (630/1998), apprenticeship is a form of training mostly provided at the workplace based on a fixed-term written contract between the apprentice and the employer known as the apprenticeship contract. Additionally, the law requires that the employer and the training provider entitled under law to provide such training have agreed on the organisation of the training in a manner prescribed in a decree.

Provisions on upper secondary, further and specialist vocational qualifications are laid down in Decrees of the Ministry of Education and Culture (Section 12b(4) of Act 787/2014 amending Act 630/1998, Section 12b(2) of the Act 788/2014 amending the Act 631/1998).

Under Section 6 of the Decree on Vocational Education, the apprenticeship contract must be accompanied by the apprentice's personal study plan indicating: *"1) the qualification to be completed, the criteria for the curriculum or a competence test to be followed in the training, and the scope of the qualification; 2) main work duties; 3) theoretical education included in the training; 4) the phasing of theoretical studies over the training period; 5) responsible instructors; and 6) other circumstances relevant to the provision of training."*

The apprentice's previous training and work history must be taken into account and duly credited in the personal study plan. The plan is to be prepared jointly by the apprentice, the employer and training provider, and it must be finalised to the extent that it can be attached to the apprenticeship contract upon signing.

If the upper secondary, further or specialist vocational qualification is to be completed in the form of a competence-based qualification, the Government Decree on the Personalisation in Adult Education (794/2015) must also be complied with. In accordance with Section 8a of the Act on Vocational Adult Education (631/1998, amended by Act 788/2014), the education provider is to ensure that due consideration is given to the personalisation of applying for and completing training, and for acquiring the professional skills required for competence tests and related preparatory training, as well as the guidance related to these. Personalisation means that the skills previously acquired and subsequently demonstrated by the student are duly recognised. This is to be taken into account in the determination of the amount and content of the theoretical training to be given and the amount of compensation to be paid to the employer.

Provisions on the compensation payable for training are set out in Section 6(4) of the Decree on Vocational Education (811/1998). Under the said Section, compensation is payable to the employer for the provision of on-the-job training according to the estimated cost of such training incurred by the employer. When the costs are estimated, due consideration is to be given to the field of study, the qualification to be attained, the apprentice's work history and the current phase of the studies. The training provider and employer are to agree on the amount of compensation payable for each individual apprenticeship contract before signing, with due regard to the instructions issued by the competent ministry under Section 46 of the Act on Vocational Education.

According to Section 7 of the Act on Vocational Education, the training provider is responsible for the supervision of the apprenticeship training and the control of contracts. While Section 10 permits the purchase of training services, the apprenticeship training provider is not allowed to assign its official responsibility and duties to a third party. Provisions on the licences to provide training granted to training providers who manage apprenticeship training and monitor the contracts are laid down in the Act on Vocational Education and the Act on Vocational Adult Education. In accordance with Sections 8 and 9 of the Act on Vocational Education and Sections 4 and 5 of the Act on Vocational Adult Education, the licence to provide training may be granted to a local authority, municipal federation, registered association, foundation or state enterprise.

Provisions on the funding system for apprenticeship training are set out in the Act on the Funding of Educational and Cultural Services (1705/2009) and the Decree on the Funding of Educational and Cultural Services (1766/2009). Vocational further education that is organised as apprenticeship training is fully state-funded. Around 65 million euros are allocated to vocational further education that is organised as apprenticeship training in the budget proposal for 2016.

The share of apprentices among all vocational students in education that leads to a qualification or the completion of a module is 18 %. Around 92 % of the apprentices are between 20 and 54 of age. Apprenticeship training contributes to lifelong learning by giving an opportunity to attain a new professional qualification or to update or re-direct one's competencies alongside work.

The Ministry of Education and Culture launched an action programme to renew on-the-job training and apprenticeship training among young people in 2014 as part of its activities to promote the youth guarantee. The aim of the action programme is to make apprenticeship training more popular among young people, to create educational models that combine institutional and apprenticeship training, and to find models that combine training and work that are targeted at young people in a flexible manner. The measures are tailored for under 25 year-olds who have no upper secondary qualification.

### ***Question 3***

#### **Apprentices and completed qualifications in 2010–2014**

<b>Year</b>	<b>New students</b>	<b>Students</b>	<b>Completed qualifications</b>
2010	21,674	59,702	17,796
2011	21,977	56,876	17,263
2012	20,911	55,554	16,235
2013	18,228	51,466	17,359
2014	20,171	49,856	17,116

### **Vocational apprenticeship training by qualification type in 2014**

	Upper secondary vocational qualification	Further vocational qualification	Specialist vocational qualification
New students	7,246	6,291	6,634
Students	20,161	14,776	14,919
Qualifications	7,752	5,002	4,362

### **Article 10 para. 3: Provision or promotion of training facilities for adult workers and special facilities for the re-training of adult workers**

#### ***Question 1***

Under the Act on Public Employment and Business Service (916/2012), which took effect at the beginning of 2013, the previous labour coaching was replaced for the most part by new coaching services. Under the new Act, vocational training, as well as integration education for immigrants can be implemented as employment training. In addition, those who are above the age of compulsory education can be given the possibility to complete their comprehensive school as a part of employment training.

#### ***Question 2***

##### *Career coaching and work coaching*

The TE Offices offer individual customer career coaching as a way of clarifying options for choosing a profession or career, applying for vocational training and developing readiness for working life. In work coaching, an individual customer is helped in getting work and in training that takes place at the workplace. Career coaching is intended for individual customers who need a TE Office's additional services for information, advice and guidance in their career planning. The service targets those who lack professional training, individual customers who are unsure of their choice of profession, who are changing careers, who are returning to work, or who are considering entrepreneurship. If necessary, career coaching can be acquired to complete the TE Offices' own guidance services. Career coaching can also include brief visits to workplaces, in order to become acquainted with tasks at work. If necessary, a brief stint at a workplace can be added to the service. The duration of career coaching is a maximum of 40 days in a year, and it is governed by decree.

The possibility of utilizing work coaching was expanded under the new legislation to apply to all individual customers who require support in stepping over the employment threshold. The goal is to support and guide individual customers in seeking a job or applying for training at a workplace while employed (wage-supported apprenticeship *TOPPIS*) and to support staying at work at the beginning of employment. The duration of career coaching is a maximum of 50 hours in a year, and it is governed by decree.

### *Work try-out*

In order to clarify the rules for work without employment and to elucidate the goals of the services, employment coaching, traineeships and work try-outs at workplaces were merged and a work try-out was created. Work try-out is used as a way of ascertaining the options for choices of profession or career options for young people and others who lack vocational training, for those needing to change their field or profession because of structural change, personal health, or other reasons, as well as for those considering starting up a business. It also supports a return to the labour market on the part of those who have been outside the job market for a long time because of an extended period of unemployment or some other reason. The main methods of promoting employment among those who have recently graduated from a university or completed some other professional education are employment exchange, job application coaching, and pay support. With the reform, the maximum duration of work try-outs in the same municipality was extended from 6 months to 12 months, of which a maximum of 6 months would involve the same job, however. The change makes it possible to combine a period of on-the-job training with other work try-outs in the municipality while supporting the realisation of the young people's social guarantee.

### ***Question 3***

In 2012, approximately 69,700 people started employment training, and about 221.6 million euros was spent on the training. An average of 19,351 people studied independently with the help of unemployment benefits in 2012.

### ***Answers to the Committee's conclusions***

#### *Short-term leave for training required by the employer*

The Government notes that the Study Leave Act (273/1979) does not apply in situations, where the employer requires the employee to take part to a training programme. In this case the employee has the right to attend training during normal working hours and get normal wages during the training.

#### **Article 10 para. 4: Provision or promotion of special measures for the retraining and reintegration of the long-term unemployed**

The Government refers to its seventh periodic report in this respect. The relevant legislation and practice have remained unchanged.

#### **Article 10 para. 5: Encouragement of full utilisation of the facilities**

##### *Questions 1 to 3*

In respect of these questions the Government refers to its seventh periodic report in this respect. The relevant legislation and practice have remained unchanged.

##### *Answers to the Committee's conclusions*

###### *Foreigners' participation in vocational training and right to financial support*

Foreigners lawfully residing in Finland with a permanent residence permit are entitled to student financial aid with the same criteria as Finnish citizens.

In accordance with Section 1, sub-section 3(1) of the Act on Financial Aid for Students (65/1994), a foreigner residing permanently in Finland on grounds other than studying may be granted student financial aid if he/she has a continuous (A) or permanent (P) residence permit or an EU residence permit for third-country nationals with long-term EU resident status (P-EU). In addition to this, the beneficiary must meet the other criteria laid down in the said Act, be an EU citizen or a comparable person, within the meaning of the Aliens Act (301/2004), or their family member, whose right of residence has been registered as laid down in Chapter 10 of the Aliens Act or who has been issued a residence card; or he/she must be a Nordic citizen who has registered their residence in accordance with Section 157 of the Aliens Act, in the manner agreed between the Nordic Countries on population registration.

The right to student financial aid in Finland of nationals of other states is granted on the same grounds as the permanent residence permit. In conclusion, nationals of other States Parties lawfully resident in Finland are treated equally with respect to financial assistance.

The Government further notes that the clause "irrespective of the form of residence permit" referred to in the General Comments of the Committee is not correct if the grounds for the residence permit change, even if the person originally entered the country with the purpose of studying.

## **ARTICLE 15: THE RIGHT OF PERSONS WITH DISABILITIES TO INDEPENDENCE, SOCIAL INTEGRATION AND PARTICIPATION IN THE LIFE OF THE COMMUNITY**

### **Article 15 para. 1: Measures to provide persons with disabilities with guidance, education and vocational training**

#### *Question 1*

With regard to the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol, the Government wishes to update the information previously given to the Committee as follows: On 3 March 2015 the Finnish Parliament approved the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol, and the President of the Republic decided on their ratification on 10 April 2015. Upon acceptance of the Convention and its Optional Protocol, the Parliament required that the domestic legislation shall meet the requirements set out in Article 14 of the Convention before the ratification is finalized, *i.e.*, before the depositing of the ratification instrument.

A Government Bill (HE 96/2015) on modifications to the Act on Intellectual Disabilities (519/1977) includes provisions on strengthening the right to self-determination and independent management in everyday life, but also authorises restrictions on the right to self-determination. A wide *lege artis* consultation of authorities and stakeholders, including non-State actors, was carried out and the Government Bill was finalised on the basis of this feedback. The amendments are proposed to enter into force on 1 March 2016. At the same time, a wider, more comprehensive legislative review of other aspects related to self-determination in the context of social and health services is being planned.

Persons with disabilities partially use services offered also to other citizens. Disability may not necessitate the use of specific disability services. For instance, clients entitled to services provided pursuant to the Act on Services and Assistance for the Disabled (380/1987) may furthermore use one service or several services provided on the basis of the act. The use of services provided pursuant to the said act has however increased in total. This is for instance due to the aging of the population, as well as the secondary nature of the Act on Special Care of Mentally Disabled Persons (519/1977). Information on the services and economic support measures provided under Act on Services and Assistance for the Disabled are available in the information service administered by the National Institute for Health and Welfare (*SOTKANet*).<sup>8</sup>

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<sup>8</sup> <https://www.sotkanet.fi/sotkanet/en/index>.

### *Pre-primary and basic education*

According to the Basic Education Act (628/1998) education shall be provided according to the pupil's age and capabilities and so as to foster healthy growth and development in the pupil. This provision creates the foundation for all planning and implementation of education and related arrangements and supportive measures. There is no streaming in Finnish schools, but children are supported individually so that they can successfully complete their basic education. Amendments to the National Core Curricula for pre-primary and basic education valid from 1 January 2011 include a new systematic way of organizing support. The focus is on earliest possible support in order to prevent the emergence and growth of problems. Support for growth, learning and school attendance is shaped into three categories: general support, intensified support and special support. Everyone is entitled to general support. It is a natural part of everyday teaching and the learning process. Intensified and special supports are based on careful assessment and long-span planning in multi-professional teams and on individual learning plans for pupils. If general support is not enough, pedagogical assessment shall be done and a plan for the intensified support handled in the pupil welfare group of the school. Following this a learning plan is drawn up for the pupil. If intensified support is not enough, new and more extensive pedagogical statements on the pupil shall be done. The education provider collects information from teachers and the school's welfare group. Based on this information, the education provider makes an official decision concerning special support. Following this decision, an individual education plan shall be drawn for the pupil.

### *Vocational education*

The Act on the Amendment of the Vocational Education Act (246/2015) entered into force on 1 August 2015. The Act on Vocational Education (630/1998) was made clearer, particularly in relation to special education and the special arrangements for studying. With the amendment, provisions on preparatory training for vocational upper secondary education and preparatory training for work and independent living were added to the Act. In addition to this, provisions on training to improve study skills were added to the Act on Vocational Adult Education (361/1998).

Under Section 19a of the Act on Vocational Education, instruction to students who need long-term or regular support because of a learning disability, retarded development, illness or other such reason is to be provided in the form of special education. Special education refers to systematic pedagogic support that is based on the student's personal objectives and skills, and special arrangements for teaching and studying. The purpose of special education is to enable the students to meet the professional skills requirements and learning objectives specified in the core curriculum or qualification requirements.

However, in special education exceptions can be made to the qualification requirements by adjusting the professional skills requirements, learning objectives and skills assessment as deemed necessary from the perspective of the student's personal objectives and skills. The National Board of Education may specify the professional skills requirements and learning objectives that may not be deviated from in the qualification requirements under the adjustment referred to in sub-section 2.

Under Section 20 of said Act, the education provider makes the decisions on the arrangement of a student's instruction as special education and on the adjustment referred to in Section 19a. The education provider shall prepare a plan on individual teaching arrangements for the student, to account for the provision of special education, and the plan must be updated as necessary. More detailed provisions on the preparation and content of the plan are laid down in Section 8 of the Government Decree 811/1998, which states that the plan on individual teaching arrangements must include the following:

- 1) *information on the qualification or education in question;*
- 2) *the decision on the arrangement of the instruction as special education, if the education is not provided on the basis of the special education task, as referred to in Section 20 sub-section 2 of the Act on Vocational Education;*
- 3) *the grounds on which the instruction is provided as special education, as laid down in Section 19a sub-section 1 of said Act;*
- 4) *the education completion period, as referred to in Section 31 of said Act;*
- 5) *the decision to adjust the professional skills requirements, learning objectives or skills assessment of the modules;*
- 6) *the student's personal study plan, indicating the adjustments made to the professional skills requirements, learning objectives or skills assessment of the qualification or a module thereof, along with a description of the pedagogic support related to the organisation of special education and to the special arrangements for teaching and studying;*
- 7) *description of how the social assistance for studying, as referred to in Section 38 sub-section 1 of said Act, is provided through or in relation to teaching; and*
- 8) *description of other personal services and support the student receives.*
- 9) *The student or his/her guardian or legal representative must be heard before making the aforementioned decisions and confirming the plan on individual teaching arrangements.*

Under Section 9 of the Act, the Ministry of Education and Culture may order that an education provider's special educational task is to assume responsibility for the organisation of special education, preparatory training for work and independent living, as well as the development, guidance and support services related to special education.

In addition to this, Section 21 of the Act specifies further the provision on special teaching arrangements. The provision can be applied, for instance, to disabled students who do not need special education but other teaching arrangements in order to complete their studies and qualifications. In accordance with the provision, exceptions may be made to the professional skills requirements, learning objectives and skills assessment laid down in the core curriculum or qualification requirements in cases other than the special education referred to in Section 19a, providing that the professional skills requirements or learning objectives specified in the core curriculum or qualification requirements are partly unreasonable for the student, considering the circumstances or the student's previous skill or that the exception is justified for reasons related to the student's health. The aim of using special arrangements for studying is to allow the student to complete his/her studies or qualification, even if the student cannot meet certain elements of the professional skills requirements or learning objectives specified in the core curriculum or qualification requirements for reasons referred to in sub-section 1. Exceptions may be made to the professional skills requirements and learning objectives only to the extent necessary in view of the reasons referred to in sub-section 1. The education provider makes the decision concerning the special arrangements for studying. The student and his/her guardian or legal representative must be heard before making the decision, unless the special arrangements for studying are based on the student's proposal.

The National Board of Education may order in the core curriculum or qualification requirements that certain elements of the professional skills requirements and learning objectives may not be deviated from by applying the special arrangements for studying referred to in this said Section.

Further provisions on the adjustments and the assessment of students needed in special education and special arrangements for studying are also laid down in the Government Decree. The national core curricula and qualification requirements are the same for all students, and they specify the learning objectives and professional skills requirements of the qualification or training. The provisions on special education and special arrangements for studying guarantee equal opportunities in education, professional skills and working life to all students.

### *Preparatory training*

Provisions on preparatory training for vocational upper secondary education and preparatory training for work and independent living were added to the Act on Vocational Education. The new training programmes were launched on 1 August 2015. The preparatory training and guidance that were in effect before 1 August 2015 (preparatory training and guidance for vocational upper secondary education, preparatory training for vocational upper secondary education for immigrants, preparatory and rehabilitative instruction and guidance for disabled students and course on home economics) will end on 31 December 2015. The course on home economics, however, ended on 31 July 2015.

Preparatory training for vocational upper secondary education is training that does not lead to a qualification. It is intended primarily for young persons who have completed their basic education and who need support with their study skills and guidance and help with their education and career choices. Another important target group are young persons and adults who for one reason or another are not undergoing education and have not found their place in the educational system. The aim of the training is to equip students with the skills they need in order to apply for vocational upper secondary education and to improve the students' prerequisites for completing the vocational upper secondary qualification. The aim of the training is to take the different development needs of students into account (students with poor study skills, students who have second thoughts about their career choices, immigrants, students who need special support, etc.). The preparatory training for vocational upper secondary education comprises 60 competence points, and the maximum duration of the training is one school year. Preparatory training for work and independent living is independent training intended for persons who are unable to move on to education that leads to a qualification after their preparatory training because of an illness or a disability. The purpose of this new training is to provide students with instruction and guidance that meets their personal objectives and skills. The training is always provided in the form of special education. Training providers must have a licence to provide special education as their special educational task, issued by the Ministry of Education and Culture. The scope of the training is 60 competence points and the duration of the training varies between students, but the maximum duration is three years.

Most of the students who need special education study at vocational educational institutions in the same groups with other students. The twelve education providers who were assigned the task to provide special education may organise preparatory training for vocational upper secondary education, preparatory training for work and independent living and preparatory training/guidance for vocational upper secondary education that leads to a qualification. Special educational institutions provide training in several municipalities, cooperating with other vocational educational institutions in the area and targeting the education they provide as needed. This ensures that the network of education providers is sufficient enough to secure the availability and appropriate content of special education. The task of special educational institutions is to provide education for the most severely disabled.

Under Section 38 of the Act on Vocational Adult Education, a student with special needs has the right to receive assistant services, other student welfare services and special aids to support his/her studying. There are separate provisions to govern other services and support that is to be organised for disabled students. In addition to the provisions laid down in Section 37, students who are given special education, as referred to in Section 20, can receive textbooks and other equipment, weekly travels to and from home if the student lives in accommodation outside home, board and lodging at a student dorm or other such accommodation unit, and personal work equipment free of charge.

The Ministry of Education and Culture makes the funding decisions concerning the education providers. The amount of financing, which also includes the funding to be provided by the municipality, is based on the number of students and unit prices. All decisions regarding the use and allocation of the financing granted for the training will be made by the providers of vocational education. Financing is based on performance (such as the number of students) and equivalent unit prices.

The unit prices applicable to vocational upper secondary education are based on the average unit prices determined by the Government on an annual basis. The unit prices are calculated and determined specifically to each individual field of study. The unit price is raised by 47% in special education, and the unit price factor used in preparatory training for vocational upper secondary education is 0.80. For those education providers whose licence imposes a special educational task in special education, the unit price is the price determined per student for each field of vocational education multiplied by 1.31. Financing for preparatory training for vocational upper secondary education and preparatory training for work and independent living is based on the average unit price specified under Section 23 of the Act on the Funding of Educational and Cultural Services (1705/2009) multiplied by 1.65. With regard to students with severe disabilities, the unit price payable to education providers in accordance with sub-sections 2 and 3 is the average unit price for vocational training determined under Section 23 of the said Act multiplied by 1.12. If a classroom assistant is required for a student in order to ensure due provision of instruction, the unit price for such students is the average unit price multiplied by 2.72.

As of 1 January 2009, state-owned vocational special educational institutions were transferred to the same system of providers of vocational special education as other such institutions. The transfer was connected to the objective to promote vocational education as a whole and accelerate the establishment of a provider network. The increase in the volume of special education and a growing need for a range of services and support has posed new challenges to activities and finances. As a result of the transfer, it was possible to create sufficiently strong and functional education provider organisations necessary for securing the standard of quality and availability of special education including long-term financing.

#### *Training to improve the study skills of adults*

Provisions on training to improve study skills were added to the Act on Vocational Education. These provisions came into effect on 1 August 2015. Preparatory training for a competence-based qualification may include studies, the objective of which is to enable the student to complete the competence test or a module of it and to participate in the preparatory training for a competence-based qualification in cases where the student does not have the necessary study skills. The maximum duration of full-time training to improve study skills is six months.

All decisions on the organisation and content of training to improve study skills are made by the education provider. The training that improves study skills is intended for adults who already have a qualification and for immigrants in particular. Training to improve study skills is included in the preparatory training for competence-based qualifications.

### *Higher education*

The Universities Act (558/2009) has been amended several times during the reporting period and a new Polytechnic Act (932/2014) which repealed the previous Polytechnic Act (351/2003) took effect on 1 January 2015. Higher education tuition leading to a higher education degree is free of charge to all students. According to the said Acts, factors relating to the health and functional capacity of an applicant may not preclude admission. Open university/polytechnic education is open to all regardless of age, educational background etc. It is included in the funding models of universities and polytechnics according to which state funding is allocated, maximum students fee is 15 euros per study credit.

Professional post-experience specialisation studies are a new type of education form in higher education since beginning of 2015. From 2017 these studies will be included in the funding models of universities and polytechnics according to which state funding is allocated, until that it is funded by discretionary government grants. Maximum student fee is 120 euros per study credit.

### *Financial assistance for vocational training*

Under the Act on Financial Aid for Students (65/1994), a student financial aid consists of a study grant (max. 250.28 euros per month) and housing supplement of 201 euros per month paid from public funds as well as Government guarantee for study loan (max. 400 euros per month, during studies abroad 700 euros per month). Conditions for financial aid are full-time studies, progress in studies and need for support. The amount of the aid depends on the type of school, age and marital status of the student, and the mode of accommodation. The student financial aid is means-tested to the degree that the applicant's personal income and in some cases the income of the parents are considered.

The overall financial aid for students in vocational education is at most 851.88 euros per month. Students with a child or children are eligible for a general housing benefit instead of the housing supplement. Average study grant is 162 euros per month. A full-time student can earn on average 987 euros per month in addition to the student aid without any of the other financial resources being reduced.

In some cases, those entitled to receive student financial aid are also simultaneously eligible for certain benefits based on specific criteria, such as maternity allowances, paternity allowances, parental allowances, and child care allowance. Parents' income may reduce or raise the amount of study grant only if a student is under 20 years of age.

According to the Act on School Transport Subsidy for Students in Upper Secondary School and Vocational Training (48/1997) a full-time student, who is studying for a basic vocational degree or attending preparatory education for basic vocational education can also get compensation for the cost of daily travel to and from school, provided that the one-way trip from home to school is at least 10 kilometers and the travel costs exceed 54 euros per month (with certain exceptions). Average subsidy is 173 euros per month.

Following a reform which took effect on 1 August 2014 index adjustments to student maintenance grants came into force, the government guarantee for student loans was raised by 100 euros and the income ceilings for parents of 18-19-year-old students in upper secondary level education living independently was increased by 30 %. Students pay no interest payments while studying. Also index-linking of the income ceilings for interest assistance came into force at the same time. It is further proposed in the Government Bill (40/2015) to increase the said income ceilings by another 13 % from 1 January 2016.

## ***Question 2***

### *National Disability Policy Programme*

The implementation of the national Disability Policy Programme<sup>9</sup> is monitored by the National Council on Disability (“*VANE*”) and the National Institute for Health and Welfare, of which the latter is in charge of practical monitoring measures. Two monitoring reports have been published by the National Institute for Health and Welfare.<sup>10</sup> According to the latter, the implementation of 82 % of the 122 measures outlined in the programme is either under way or these measures have been fully implemented. The programme’s mandate period will end at the end of 2015, pursuant to which a concluding report will be compiled by the National Institute. The programme defines concrete disability policy measures to be adopted during its mandate period and thereafter under the United Nations Convention on the Rights of Persons with Disabilities.

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<sup>9</sup> With an English summary on page 9 and onwards:

<http://www.julkari.fi/bitstream/handle/10024/112497/URN%3aNBN%3afi-fe201504225692.pdf?sequence=1>

<sup>10</sup> Available in Finnish with an English abstract: <http://urn.fi/URN:ISBN:978-952-245-955-8> and <http://urn.fi/URN:ISBN:978-952-302-288-1>.

## *eHandbook on Disability Services*

The National Institute for Health and Welfare has produced an eHandbook on Disability Services, a guide for professionals and decision-makers working with disability services at the municipal level. The eHandbook is updated regularly to provide information on legislative amendments, court decisions on disability services, as well as with disability research and events. The Ministry of Social Affairs and Health represents the Government in the editorial board.<sup>11</sup> The National Institute also coordinates a learning network on disability issues (*Innokylä*, “InnoVillage”).<sup>12</sup>

## *Valteri network*

*Valteri* is a national centre for learning and consulting with six units in different parts of Finland. The *Valteri* network supplements the municipal learning and school attendance support services. The forms, content and practical implementations of support services vary according to needs for support at various stages of support. Services may target the needs of individual children or young people, or the needs of an entire working community, municipality or region. They can include, for example consultation visits and counselling for day-care centres and schools, support periods for pupils, evaluation and rehabilitation services for individual children and young people and workplace counselling and in-service training for professional personnel. In addition, *Valteri* Centres produce materials for the planning and implementation of support services. The *Valteri* network has special expertise in support needs related to autism spectrum disorders, neuropsychiatric disorders, language and communication, hearing, vision, mobility and motoric functions, and neurological illnesses or other chronic illnesses as well as multiple needs.

## *Youth guarantee*

A range of measures was taken to promote youth guarantee and the education guarantee related to it, in accordance with the Government Programme. The aim of the youth guarantee is to provide every young person who completes their basic education with a place of study at a general upper secondary school, vocational institution, in apprenticeship training, workshop, rehabilitation or by other means. Applicants who have completed their basic education and have no secondary qualification or a place of study have been given priority in the student admissions to upper secondary education.

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<sup>11</sup> <https://www.thl.fi/fi/web/vammaispalvelujen-kasikirja>.

<sup>12</sup> <https://www.innokyla.fi/web/verkosto432232>.

There have been enough study places available, for example, in the application process in spring 2015 due to a smaller age group and a sufficient number of study places both in preparatory training and training that leads to a qualification. New preparatory training has an important role in the achievement of the education guarantee.

By increasing the number of study places of vocational special education providers, it was possible to strengthen the capabilities and service capacity of special educational institutions and respond to the training needs of people with the most severe disabilities in the various regions more effectively. Additionally, six vocational education providers, mainly operating outside the area of vocational special educational institutions, were granted a special task to provide special education for the most severely disabled.

#### *Specima - supplementary studies programme*

As of 2009, the Ministry of Education and Culture has granted special funding for the training of immigrant teaching, guidance and counselling staff in the form of the *Specima* supplementary studies programme. The funding has enabled the provision of preparatory training or training leading to a professional competence and supplementary training for immigrant teaching, guidance and counselling staff in early childhood education, basic education, general upper secondary education, and vocational upper secondary and further education. A total of 32 projects were completed in 2011–2014, involving a total of 880 persons. The annual funding granted by the Ministry of Education and Culture to the *Specima* supplementary training is 1,5 million euros.

#### *Higher education*

In the field of higher education, the representative organizations of persons with disabilities are either members of the bodies involved in high education policy making and/or preparatory legislative work, or consulted during the processes, whenever their rights are concerned.

Finnish higher education institutions and higher education related organizations working under the Ministry of Education and Culture are required to include accessibility and equity plans/policies in their strategies. For example, the said institutions are expected to involve the whole higher education community into their strategy process, including groups with special needs.

The Ministry of Education and Culture has given financial support for a network of access specialists of higher education institutions (ESOK). At the moment, the network is based on the voluntary funding of the said institutions. Network aims at developing a platform where representatives of Finnish higher education institutions and students as well as stakeholders, including organizations representing persons with disabilities, may work together in order to develop studying and working conditions of student and staff with special needs, as well as their possibilities for participating in decision making at higher education institution level. The network has e.g. produced recommendations concerning student admission and material for students, higher education institutions and stakeholders and produced a hand-book on accessibility of digital learning environments.

### *Question 3*

Certain statistics on disability are available in Finnish and Swedish on the Internet page of the National Institute for Health and Welfare.<sup>13</sup> Based on announcements on social welfare services provided by the municipalities, the Institute provides data on institutional and housing services provided to persons with disability. The pages also contain information by municipality on the clients' age structure, as well as on the need and reasons for seeking care.

The Social Insurance Institution publishes annual statistics on benefits paid by it to persons with disabilities.<sup>14</sup> According to the latest statistics available, the total number of recipients of disability benefits in August 2015 was 308,596 persons (out of which 34,547 received disability allowance for those under 16 years of age). These statistics cover disability allowance paid for persons under 16 years, disability allowance for persons aged 16 or over, care allowance for pensioners and dietary grant, as well as interpreting services for the disabled.

Municipalities are responsible for arranging social and health services, including services for the disabled, as required by their population and as stipulated by legislation. In this regard the Government refers to its previous periodic report and notes that at the end of 2014, there were a total of 320 municipalities responsible for providing social and health care services to their residents, including services for the disabled. These services are funded by state aid paid to local governments, municipal tax revenues and service charges. Services for the disabled are usually free of charge.

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<sup>13</sup> <https://www.thl.fi/fi/tilastot/tilastot-aiheittain/vammaisuus>; <https://www.thl.fi/sv/web/thlfi-sv/statistik/statistik-efter-amne/funktionsnedsattning>.

<sup>14</sup> [http://www.kela.fi/tilastotietokanta-kelasto\\_sisallysluettelo#Vammaistuet](http://www.kela.fi/tilastotietokanta-kelasto_sisallysluettelo#Vammaistuet);  
[http://www.kela.fi/web/sv/statistikdatabasen-kelasto\\_innehall#Handikappförmåner](http://www.kela.fi/web/sv/statistikdatabasen-kelasto_innehall#Handikappförmåner).

Most of the students with special needs in vocational upper secondary education (around 75%) study at vocational upper secondary educational institutions. Slightly less than 25% of the students study at special educational institutions whose task is to provide special education for the most severely disabled.

The intake of students with special needs has increased steadily in vocational upper secondary education. The table below shows the number of students in 2011–2014, illustrating that the number has grown by 1,992 students during the period. The number of students with special needs has grown mainly at vocational educational institutions where the students study in the same groups with other students. The number of students of education providers with a special educational task to provide special education (six vocational special educational institutions and six providers with limited licence to provide special education) has remained almost unchanged in 2011–2014. However, the number of students with special needs in preparatory training and guidance has decreased by 420 students in the period. This is caused by the lowering of student numbers in 2013, which affects the allocation of study places in preparatory training and guidance by education providers.

*Special education and preparatory training in vocational upper secondary education in 2011–2014*

	Number of students			
	2011	2012	2013	2014
<b>Special education in vocational upper secondary education</b>				
Vocational education providers	16,782	17,369	18,108	18,701
Vocational special education providers	4,209	4,255	4,261	4,278
Providers with limited licence to provide special education *)	273	280	292	277
Special education in vocational upper secondary education, total	21,264	21,904	22,661	23,256
<b>Preparatory training **)</b>				
Preparatory and rehabilitative training and guidance for the disabled	2,906	2,840	2,780	2,704
Preparatory training and guidance for vocational upper secondary education	1,555	1,534	1,404	1,309
Preparatory training for vocational upper secondary education for immigrants	1,586	1,598	1,714	1,750
Course in home economics	494	429	379	357
Preparatory training, total	6,540	6,400	6,277	6,120

Source: Statistics on central government transfers 2011, 2012, 2013 and 2014.

\*\*\*) \*\*\*)

\*) Other students with special needs at institutions with limited licence to provide special education are included in the number of Vocational education providers (Training at vocational special educational institutions is intended for students with the most severe disabilities, also in the case of limited licences).

\*\*) The number of students with special needs in vocational upper secondary education includes students with special needs in preparatory training.

\*\*\*) Due to the smaller age groups, the number of students in vocational upper secondary education in 2014–2016 was reduced in summer 2013. The smaller number of students is also reflected in the number of students in preparatory training, as allocated by the education providers. However, the total number of students with special needs in vocational upper secondary education has grown steadily.

Total amount of financial aid expenditure devoted to vocational training 2014:

- Study grants and housing supplement: 271 million euros.
- Government guarantees for study loans for banks devoted to students in vocational training: 10 million euros.
- School transport subsidy: 51 million euros.
- Yearly 135,347 is receiving study grant, 45,000 takes guarantee for study loan and 48,000 is receiving school transport subsidy.

### *Answers to the Committee's conclusions*

#### *Implementation and monitoring*

In this connection the Government refers to the information previously given to the Committee. The Government further observes that Section 11 of Personal Data Act (523/1999)<sup>15</sup> sets out a general prohibition to process sensitive data. Pursuant to the Act, personal data are deemed to be sensitive, if they for instance relate to or are intended to relate to “the state of health, illness or handicap of a person” or “the social welfare needs of a person or the benefits, support or other social welfare assistance received by the person”. This prohibition applies to data on all vulnerable groups. It follows that the situation with regard to the availability of data on persons with disabilities is accurately described in the previous Conclusions.

Due to the above legislative principle, Finland does not process information on the overall number of persons with disabilities. As mentioned in the said Conclusions, information however exists on the numbers of users of disability services and benefits. Statistics Finland collects statistics from municipalities and federations of municipalities on measures and spending. These statistics are published by Statistics Finland, as well as the National Institute for Health and Welfare's *SOTKANet* service (where they are available in Finnish, Swedish and English).

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<sup>15</sup> <http://www.finlex.fi/fi/laki/kaannokset/1999/en19990523.pdf>

In addition, the Institute collects supplementary information every three years on municipal activities undertaken for example with regard to persons with disabilities. Finally, private social service providers required to obtain permission for their activities from a Regional State Administrative Agency, or to announce their activities to the municipality, provide certain information on the services they provide.

The Government further notes that no systematic, comprehensive or regularly gathered data is available with regard to the extent or type of disabilities of higher education applicants or students since due to above legislative principle the higher education institutions are not allowed to gather the information. Nevertheless, several organizations of persons with disabilities gather data based on survey and registers they are entitled to hold.

The Government further notes that the Finnish Matriculation Examination Board, however, collects statistics and provides instructions on special education at a national level as follows.

If the performance of a candidate has been low due to a particularly weighty reason, the Matriculation Examination Board may take this into account in the assessment (Section 8 of the Act on the Organisation of the Matriculation Examination, 672/2005). If the candidate has a disability, dyslexia or dysgraphia, he/she may receive special examination arrangements. This applies also to candidates who are unable to take the examination in the same way as other candidates because of an illness or a comparable reason. The Matriculation Examination Board makes the decision on the use of special arrangements on the basis of an application filed by the candidate or his/her guardian (Section 6 of the Government Decree on the Matriculation Examination, 915/2005).

The Matriculation Examination Board keeps statistics of the number of students who have received special arrangements on the basis of dyslexia, illness or disability at a given examination, and of the kinds of arrangements granted. The candidates need to apply for special arrangements on the basis of dyslexia or chronic illness/disability only once, which means that the board has no statistics or figures that would indicate the number of students using special arrangements at a given examination. The Board also has statistics of the number of cases processed by the Dyslexia Board and by the Medical Statement and Recommendation Board at a given time. Thus, these boards discuss all cases of dyslexia statements, medical statements or other recommendations issued by candidates to the Matriculation Examination Board for consideration in the assessment (if the candidate's score is close enough to a higher grade, the candidate's grade may be raised).

The Dyslexia Board of the Matriculation Examination Board processed about 5,800 cases, the Medical Certificate Board 2,050 cases and the Foreign Language Board 2,030 cases in 2014. The boards, such as the Dyslexia Board, process the case of each candidate separately every time, which means the application of one candidate can be processed both in spring and in autumn.

The number of students with special needs grew in the years 2005–2010. The growing amount of special education was affected by statistical and rehabilitative factors, improved diagnostics, new information generated by research in special pedagogy, and amendments to the legislation on teaching. Students' needs for learning support services are organised in accordance with the Basic Education Act.

#### *Profession Start - project on students with special needs*

New preparatory training for vocational upper secondary education came into effect on 1 August 2015. The training grouped together preparatory training and guidance for vocational upper secondary education (“Profession Start”), preparatory and rehabilitative training and guidance for the disabled (“Preparatory 1”), preparatory training for vocational upper secondary education for immigrants and the course in home economics. The training meets the needs of different students in an individual and flexible way. It was not intended that “profession start” be a form of special education. It was intended for students with various support and guidance needs who need training to improve their study skills and support with their career choices before moving on to vocational education that leads to a qualification. The new training programme still meets all of these needs, but this time the training is targeted at a larger group of students, following the so-called inclusion principle.

#### *Development policies for vocational special education*

The Ministry of Education and Culture defined the development policies for vocational special education in 2011. The Ministry used the policy definitions in the drafting of *the Education and Research Development Plan 2011–2016*. The development of special education has been closely linked to the development of vocational education and training in general, which has helped make vocational education and training more accessible, in accordance with the inclusion principle. Key areas of development in the policy definitions include supporting individual study paths in vocational education and training (including adult education and apprenticeship training), supporting cooperation with working life and promoting employment, developing the service network, and improving the special education skills of teaching and other educational staff. The policy definitions of vocational special education were not published separately.

### *Special education in general upper secondary education*

There are no national statistics available on special education in general upper secondary education. In general upper secondary education, special education is special pedagogical support provided by a special needs teacher. The teacher may help the student with technical study skills or habits. Sometimes a special needs teacher may also act as a consultant in problems related to specific subjects, but a special needs teacher is not the same as a remedial teacher. Furthermore, special needs teachers can help students who have learning difficulties, such as dyslexia. The teachers carry out dyslexia tests and give statements for the matriculation examination, among other things. In conclusion, it could be said that the definition of special education is narrower in general upper secondary education than in basic education.

### *New legislation and the three-level support model related to it decreased the number of students with special needs in 2010–2015*

The Basic Education Act was subject to large-scale amendments in 2010. The three-level support model was created in that year (general, intensified and special support). Only students who are entitled to special support are covered by so-called special education.

The aim of the amendments to the Basic Education Act (Act on the Amendment of the Basic Education Act, 642/2010) was to enable students in pre-primary and basic education to receive support for learning and school early enough and flexibly in connection to teaching, to make the support more systematic, and to make the support measures and cooperation between professionals more effective. Another aim was to renew the support provision process and make it more transparent. Mainstream Policy means that the teaching of students with special needs should, where possible, be integrated with general teaching. The teaching providers make the final decisions.

The Ministry of Education and Culture investigated the issue in 2014 (*Supporting learning and well-being. Report on the implementation of three-step support*)<sup>16</sup>. The report was based on extensive research and analyses and handed over to the Education and Culture Committee of the Government in February 2014. The report reveals that municipalities have made progress in accordance with the aims of the amended Basic Education Act. There are notable differences in the implementation of the three-level support model between municipalities. The number of students who receive special support has started to decline, while the number of students who receive intensified support has increased.

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<sup>16</sup> Publications of the Ministry of Education and Culture 2014:2

According to Statistics Finland, the percentage of students who received special support decreased from 8 % to about 7.3 % after the legislative amendment in 2010 (autumn 2014). In autumn 2014, 40,500 students or 7.5 % of all students in basic education received intensified support. This is 4.2 percentage points more than in autumn 2011. The percentage of students who received intensified support has grown every year since the legislative amendment in 2010 which shows that the aims related to early support, systematic approach and transparency have had an impact.

## **Article 15 para. 2: Promotion of employment of persons with disabilities**

### ***Question 1***

In respect of this paragraph the Government also refers to information given in connection with Article 1, paragraph 1.

The new Act on Public Employment and Business Service (916/2012)<sup>17</sup> which entered into force on 1 January 2013 repealed the Act on the Public Employment Service (1295/2002). Restrictions concerning the work ability of employees and their availability to the labour market have been removed from the said Act, which improves the opportunities of individuals with partial work ability receiving disability pension and rehabilitation subsidy to receive TE services. With the reform, the concept “reduced working capacity” was removed from the legislation. The Act reformed the range of services and removed the definitions of a person entitled to vocational rehabilitation and vocational rehabilitation services. According to the new Act, all services are available to all customers. The guidelines issued by the Ministry of Employment and the Economy clarifying the Act define that these services can be offered for the purpose of vocational rehabilitation in cases when a disability or an illness that has been properly diagnosed by a physician hinders the customer's possibility to find employment, retain a job or advance in the job. This way only those services that are offered because of a disability or an illness are considered to be vocational rehabilitation. Services can be offered to a person with a disability or an illness also for other reasons (for example duration of unemployment or lack of skills).

The Act takes a disability or an illness into consideration in the regulations concerning wage subsidy and subsidy for arranging working conditions. As to the wage subsidy, Chapter 7, Section 1 of the Act defines that a requirement for granting a wage subsidy should be that the productivity of a person to be employed on the subsidy is estimated to be lower in the task offered because of deficiencies in competence and vocational skills, duration of unemployment, disability or illness, or another reason.

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<sup>17</sup> <http://www.finlex.fi/en/laki/kaannokset/2012/20120916>

According to Chapter 7, Section 5 of the Act the wage subsidy is granted to an employer engaged in business activities in accordance with the Commission Regulation (No. 800/2008) declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty, if the person employed through the subsidy has for example a disability or an illness which makes employment difficult.

The provisions on wage subsidy were specified as to the target group with an amendment (1366/2014) which entered into force on 1 January 2015 in such a way that granting the subsidy on the basis of a disability or an illness requires that the disability or illness substantially and permanently or in a permanent manner lowers the productivity in the task offered (Chapter 7, Section 6). It should be noted that wage subsidy can be granted to an employer who contracts a person with partial working capacity, also due to duration of unemployment, when the disability or illness do not lower the productivity in the task offered. As to the subsidy for arranging work conditions, the target group is in Chapter 10, Section 3 defined in such a way that the employment and economic development office may grant a subsidy for arranging working conditions to an employer if a disability or illness of a person hired for work or employed at work requires the acquisition of tools or modifications to be carried out at the workplace, and the costs incurred by the employer from acquisition or modification are considered significant with regard to the employer's financial situation.

A definition for a person with a reduced working capacity has been expanded in vocational rehabilitation services organised by the Social Insurance Institution ("SII"). The SII's conditions for granting vocational rehabilitation have been amended by an Act amending Sections 6 and 7 of the Act on the Social Insurance Institution of Finland's Rehabilitation Services and Rehabilitation Allowances (973/2013) that entered into force on 1 January 2014. The new conditions for granting are less severe, enabling earlier beginning of the rehabilitation and taking the person's overall situation better into account. Earlier a person was deemed to have a reduced working capacity if they had an illness, problem or disability that likely causes a threat of work disability. Since the threat of work disability condition was not able to ensure the vocational rehabilitation especially for the young people, there was a need to modify the conditions. The amendment also included the diminution of the ability to study to be one of the reasons to begin the vocational rehabilitation by the Social Insurance Institution. Accordingly, a person's ability to study is examined in the stages of study progression, study qualification and study completion. When evaluating partial disability, in addition to an illness or disability, also the person's overall situation is taken into consideration as defined in the said amendment. The following amendment has been made to the Section 6 of the said Act:

*"When evaluating the substantial diminution of the ability to work or study and of the capability to earn a living, the overall situation of the insured person is taken into consideration."*

In addition to an illness, defect or injury, also other factors have an effect on the insured person's ability to work or study and capability to earn a living. These include the insured person's physical, psychological and social functional capacity, life situation, economic and social conditions, accommodation, formal training, previous activities, age and other similar factors. The evaluation also takes into consideration the insured person's ability to acquire earnings by means of available work that the employee can reasonably be expected to do.

The public employment and business services are based on principles of normalisation and inclusion that emphasise the right of all the people with disabilities to public services open to all, instead of being placed in their own, separate service systems. Also the premise of different "special services" is their subsidiarity compared to general services. For example, according to Section 7, sub-section 1 of the Disability Services Act (380/1987), a municipality must ensure that the general services of the municipality are also suitable for people with disabilities, and, according to the Section 27d, sub-section 2 of the Social Welfare Act (710/1982), activities supporting the access of people with disabilities to employment are organized for persons who are in need of supportive measures in addition to the services and measures of the labour administration in order to find employment on the open labour market.

As to employment services, the principles of inclusion and normalisation have been implemented in Finland in such a way that the same services are available to everyone, but the content of the services can be tailored and that way the customer's special needs for support for employment can be taken into consideration. The subsidy for arranging working conditions is the only Employment and Economic Development Office ("TE Office") subsidy meant solely for those with partial working ability.

A reference provision to the Act on Public Employment and Business Service was removed from the Section 6 of Act on the Social Insurance Institution of Finland's Rehabilitation Services and Rehabilitation Allowances (566/2005). With this removal, the Social Security Institute has the primary responsibility to arrange vocational rehabilitation relative to the employment services.

The Act on Multi-sectoral Joint Services Promoting Employment (1369/2014) will enter fully into force on 1 January 2016, and it will promote for example the streaming of the unemployed with reduced working capacity to vocational rehabilitation and employment services. This is a statutory and national cooperation model, where the TE Office, municipality and Social Security Institute together evaluate the service needs of a long-term unemployed customer, plan the appropriate service sets together with the customer and are responsible for the progress of the employment process.

The Nordic Convention on Social Security (55/2014) which entered into force on 1 May 2014 requires the Nordic countries to cooperate in cross-border vocational rehabilitation. The Nordic countries have made bilateral administrative agreements on organising rehabilitation and on practical operating methods in situations, where a person works in one Nordic country and lives

in another. The purpose of these agreements is to facilitate the management of rehabilitation matters when the people have used their right to freedom of movement. Finland has made agreements with Sweden, Norway, Iceland and Denmark.

#### *Legislative amendments to benefits*

The validity of a fixed-term law (738/2009) Promoting the Return to Work of Persons on Disability Pension was extended from 2014 until the end of 2016. The legislation is intended to stay in force even from the beginning of 2017 onwards.

Access to vocational rehabilitation granted by the SII was facilitated in 2014 so that in addition to illness or injury, other factors affecting a person's life are presently taken into account when assessing their right to rehabilitation. This amendment has improved in particular the inactive young people's access to vocational rehabilitation.

In 2014, the Health Insurance Act (1224/2004) was amended by extending the duration of the partial sickness allowance from 72 days to 120 days.

#### *Anti-discrimination legislation*

In this connection the Government also refers to information given in connection with Article 20.

The provisions on non-discrimination have been reformed by the new Non-Discrimination Act (1325/2014). As a result of the reform, as of 1 January 2015, the Non-Discrimination Ombudsman (previously the Ombudsman for Minorities) is empowered to consider a broader range of discrimination issues. The new Act obliges e.g. to promote the equality of persons with disabilities. The new Act expands the scope of protection against discrimination. The Act will be applied to all public and private activities, excluding private life, family life and practice of religion. The protection covers also discrimination based on health and disability. The obligation to promote equality is expanded to concern not only public authorities, but also education providers, educational institutes and employers. These are required to draw up a plan to promote equality. The obligation to draw up an equality plan concerns employers who have a regular staff of at least 30 employees.

Public authorities, education providers and employers must, where necessary, make reasonable accommodations to ensure that employees with disabilities have equal access to services, work or education and training. Persons with disabilities must also have equal access to goods and services. The disability of a person must be taken into account in provision of services, for example, by arranging accessible passage for those who need it whenever possible. Employers were already under the former legislation obliged to make reasonable accommodations, but for providers of goods and services, such as hotels, restaurants and retailers, this is a new obligation.

Up to now, the possibilities for a discriminated person to get advice or legal aid have been different depending on the discrimination ground. There have also been differences in the supervision of compliance with non-discrimination legislation depending on the ground of discrimination.

The former Ombudsman for Minorities supervised compliance with the prohibition of discrimination on basis of ethnic origin. The new Non-Discrimination Ombudsman supervises compliance with the new Non-Discrimination Act with regard to all grounds of discrimination. Compliance with the provisions on equality in working life in individual cases will continue to be supervised by the occupational safety authorities. However, also the Non-Discrimination Ombudsman has duties and powers relating to equality in working life.

The National Discrimination Tribunal and the Equality Board were merged to create a new body. The mandate of the new Tribunal covers all discrimination grounds. The Tribunal may issue prohibition or obligation decisions and, by virtue of the Non-Discrimination Act, confirm a conciliation settlement between parties. To reinforce its prohibition or obligation decision, the Tribunal may also impose a conditional fine. The board does not supervise compliance with the Non-Discrimination Act in issues relating to working life.

## ***Question 2***

### *Survey on social welfare services*

In 2014, the Ministry of Social Affairs and Health surveyed the organisation and effectiveness of the above services by means of a questionnaire sent to municipalities. The results showed that social welfare services were used as means of maintaining a person's capacity for work and functional capacity and to provide meaningful daily activity for the persons with disabilities outside the open labour market.<sup>18</sup>

### *Programme to promote the employment of persons with partial work capacity 2013-2015*

In 2013, the Government initiated a programme to promote the employment of persons with partial work capacity ("OSKU"). It is currently one of the key projects in the Government Programme. The programme is meant for developing working solutions together with practical level actors for finding employment for those with partial work capacity and helping them remain employed, reducing prejudices concerning partial work capacity, producing information to support legislation and implementing a comprehensive electronic service. The programme is developing new approaches in cooperation with work places and the rest of the cooperation network. A research project producing information on for example economic impacts is implemented alongside the programme.

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<sup>18</sup> Reports and memorandums of the Ministry of Social Affairs and Health 2014:32

The implementation of the programme began at the start of 2014 with a pilot aiming to develop the operating concept and an operating model based on a work capacity coordinator in different organisations and to identify challenges associated with the use and combining of different methods and services and to find solutions to these challenges. Twelve organisations from different parts of Finland have been selected as targets for the pilot, and they have hired a work ability coordinator who is an expert in the range of tools offered by the system, and has received training for this task. Measures within the responsibility of TE administration focus on areas such as the development of the service structure and development of cooperation between employment and economic development administration and other actors, monitoring the functionality of TE services and developing their content with an eye on the needs of the target group and creating job opportunities. Realisation of the implementation plan prepared at the Ministry of Employment and the Economy in March 2014 was scheduled for 2014 and 2015.

As part of the project, the relevant social welfare services will be reformed in order to arrange for better employment opportunities for disabled persons who are willing and able to work. The project is furthermore focused on training professionals from different branches of administration to support clients with a partial work capacity to find employment, to increase entrepreneurship amongst the disabled and to find better solutions to combine wages and social benefits. Almost 260,500 persons received disability pension in 2011 and approximately ten per cent of them had retired on grounds of partial work ability. The OSKU-concept is aimed at ensuring a seamless service chain in helping people with partial work ability to continue working or to find employment. An electronic information portal on the services and benefits has been launched in connection with the programme. Two working groups have been involved in the programme: one charged with preparing the concept and other with identifying the legislative amendment needs for the promotion of employment among persons with partial working capacity.<sup>19</sup>

*Instructions for steering the unemployed with partial working capacity to rehabilitation and TE services*

As a result of the recommendations of the final report on partial working capacity<sup>20</sup>, the Social Security Institute and the Ministry of Employment and the Economy have been developing shared instructions for steering the unemployed with partial working capacity to rehabilitation and TE services. The intention is to take these instructions into use during the autumn 2015.

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<sup>19</sup>[http://stm.fi/toimintakonsepti?p\\_p\\_id=56\\_INSTANCE\\_7SjjYVdYeJHp&p\\_p\\_lifecycle=0&p\\_p\\_state=normal&p\\_p\\_mode=view&p\\_p\\_col\\_id=column-2&p\\_p\\_col\\_count=3&\\_56\\_INSTANCE\\_7SjjYVdYeJHp\\_languageId=en\\_US](http://stm.fi/toimintakonsepti?p_p_id=56_INSTANCE_7SjjYVdYeJHp&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-2&p_p_col_count=3&_56_INSTANCE_7SjjYVdYeJHp_languageId=en_US).

<sup>20</sup> Reports and Memorandums of the Ministry of Social Affairs and Health 2013:37

The purpose of the instructions is to clarify the service contents and conditions for receiving the services for both operators. In Social Security Institution and TE Office cooperation a progression model created based on the customer's service needs is emphasised. In this model, the customer also participates in advancing the rehabilitation and TE services.

***Question 3***

The number of people receiving Social Insurance Institution's vocational rehabilitation between 2011-2014. When offering employment and business services for the purpose of vocational rehabilitation, customers can come from all the different diagnosis groups. The main diagnosis groups are diseases of the musculoskeletal system and the connective tissue, and mental and behavioural disorders.

<b>Date</b>	<b>The legal basis for the rehabilitation</b>	<b>Recipients</b>
2014	Vocational rehabilitation of persons with reduced working capacity	15178
2013	Vocational rehabilitation of persons with reduced working capacity	13385
2012	Vocational rehabilitation of persons with reduced working capacity	13441
2011	Vocational rehabilitation of persons with reduced working capacity	13389

*Disabled jobseekers by diagnosis group*

	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
CERTAIN INFECTIOUS AND PARASITIC DISEASES	219	227	218	197
NEOPLASMS	940	896	820	799
ENDOCRINE, NUTRITIONAL AND METABOLIC DISEASES	2694	2609	2498	2338
DISEASES OF THE BLOOD AND BLOOD-FORMING ORGANS AND CERTAIN DISORDERS INVOLVING THE IMMUNE MECHANISM	442	393	361	310
MENTAL AND BEHAVIOURAL DISORDERS <sup>1</sup>	22117	22742	22752	22537
DISEASES OF THE NERVOUS SYSTEM, THE EYE AND ADNEXA AND THE EAR AND MASTOID PROCESS <sup>2</sup>	7911	7828	7777	7546
DISEASES OF THE CIRCULATORY SYSTEM	3285	3074	2863	2587
DISEASES OF THE RESPIRATORY SYSTEM	8240	7741	7339	7178
DISEASES OF THE DIGESTIVE SYSTEM	974	966	948	907
DISEASES OF THE GENITOURINARY SYSTEM	258	267	269	240
DISEASES OF THE SKIN AND SUBCUTANEOUS TISSUE	5251	5018	4905	4807
DISEASES OF THE MUSCULOSKELETAL SYSTEM AND CONNECTIVE TISSUE	33925	33260	32434	31033
CONGENITAL MALFORMATIONS, DEFORMATIONS AND CHROMOSOMAL ABNORMALITIES	708	733	749	787
OTHER DIAGNOSIS	2097	1989	1853	1769
INJURY, POISONING AND CERTAIN OTHER CONSEQUENCES OF EXTERNAL CAUSES	3967	4017	3984	3955
<b>Total</b>	<b>93028</b>	<b>91760</b>	<b>89770</b>	<b>86990</b>

***Disabled jobseekers in the public employment service and the active labour market measures arranged by the labour administration***

	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Number of disabled jobseekers	91433	93030	91761	89772	86992
Of these, no. unemployed	43390	44690	45947	46957	46282
Job placements on the open labour market	39962	40651	36449	31304	24881
New labour market trainings	6255	5928	5140	3082	2893
New other trainings	1813	2091	1916	929	842
Placements in subsidised employment	6563	6072	5137	3441	3089

***Answers to the Committee's conclusions***

In this connection the Government also refers to the information given in connection with Questions 1-3 above.

***Employment of persons with disabilities***

With regard to the kind of support provided to work oriented job-seekers with disabilities, the Government observes that according to Social Welfare Act (710/1982), municipalities are responsible for organising rehabilitative work for people with disabilities and activities to support their access to employment. Activities supporting the access of people with disabilities to employment mean specific rehabilitation and other supportive measures promoting the placement of these persons to work on the open labour market. The activities can also be arranged as work in contractual employment relationship, previously called sheltered work.

Activities supporting the access of people with disabilities to employment are organised for persons who, due to disability, illness or other reason, need specific supportive measures to get employment on the open labour market, and for whom the public employment and business services are not effective enough. In 2013, a total of 1,809 persons received these services.<sup>21</sup>

Rehabilitative work for persons with disabilities within the meaning of the Social Welfare Act means maintaining functional capacity with supportive activities without contracting on an employment relationship (as referred to in the Employment Contracts Act (55/2001)<sup>22</sup> between the person participating in rehabilitative work and the organisers of the work. Rehabilitative work is organised for persons who due to their disability are not able to take part in activities supporting the access of people with disabilities to employment as defined by Social Welfare Act and whose income is mainly based on benefits granted on the basis of illness or incapacity for work. A person participating in rehabilitative work does not have an employment relationship as defined by the Employment Contracts Act with the organiser of the activity or the service provider.

The Act on Special Care for People with Intellectual Disabilities (519/1977) lays down provisions on specific social welfare services for persons with learning disabilities. The Act provides that special care includes, for example, necessary guidance, rehabilitation and functional training, arranging rehabilitative work and housing, corresponding activities that help the person to adapt to society, as well as individual treatment and care. When possible, also job coaching and other stimulating activities should be arranged for persons in need of special care.

The numbers of customers in rehabilitative work for persons with learning disabilities are compiled together with rehabilitative work carried out under the Social Welfare Act. In 2013, a total of 9594 persons received these rehabilitative work services.<sup>23</sup>

The numbers of customers in job coaching are not compiled, but job coaching is often provided as part of guidance for rehabilitative work. It is estimated that about 400 persons with learning disabilities are working in supported employment on the open market.

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<sup>21</sup> Finnish National Institute for Health and Welfare THL, statistics and indicator database *Sotkanet*

<sup>22</sup> <http://www.finlex.fi/fi/laki/kaannokset/2001/en20010055.pdf>

<sup>23</sup> Finnish National Institute for Health and Welfare THL, statistics and indicator database *Sotkanet*

As concerns the rehabilitative work activities arranged pursuant to an individual activation plan, also mentioned in the Committee's conclusions, the Government observes that these activities are mostly not used by persons with disabilities. The reason for this is that the criterion for admission is labour market subsidy or social assistance received on the grounds of long-term unemployment. The rehabilitative work activities therefore concern persons with mental health problems or with intellectual disabilities of a less severe nature etc., who do not receive specific benefits aimed at compensating incapacity to work.

### *The pension system*

The statutory pension security consists of the earnings-related pension system and the national pension scheme, supplemented by the Act on Guarantee Pensions that took effect on 1 March 2011. Earnings-related pension is intended to secure upon retirement a reasonable retention of the level of earnings achieved during the employment. The purpose of the national pension scheme is to secure a minimum income for a pensioner whose earnings-related pension remained small due to a short career or a low level of earnings or who is not entitled to receive earnings-related pension. The purpose of the guarantee pension is to provide residents of Finland with a minimum pension by paying them a guarantee pension in a situation where their other pension is not sufficient enough to secure a reasonable livelihood. The maximum amount of the guarantee pension is 746.57 euros per month in 2015.

Guarantee pension is an independent benefit and does not affect the applicability of the general criteria for the national pension scheme or the earnings-related pension scheme. This means that a person may with certain conditions simultaneously receive national pension and earnings-related pension, or national pension, earnings-related pension and guarantee pension. If the person receives guarantee pension, the maximum amount of the overall pension income is 746.57 euros per month. In 2014, however, the overall average pension of a pensioner was 1,420 euros per month.

### *Entitlement to disability pension*

In the national pension scheme, disability pension may be granted to persons aged between 16 and 64 years. However, disability pension is not granted before the rehabilitation possibilities have been investigated. Permanently blind persons and persons who are unable to move are in any case always considered disabled to work. In the earnings-related pension scheme, disability pension may be granted to persons aged between 18 and 62. At the age of 63, disability pension is replaced by old-age pension. The criteria for disability for work are largely identical in both pension schemes.

Disability pension may be granted to a person who has an illness, handicap or injury that reduces their working ability, when the incapacity for work may be assumed to last for at least a year. Besides medical factors, the pension-recipient's earning-capacity by means of such available work that they can be expected to manage reasonably well in the light of their education, earlier activity, age, place of residence and other comparable factors, is taken into account.

#### *Partial, temporary and special disability pensions*

Earnings-related disability pension may be paid in full or as a partial pension. A full disability pension is paid if the person's work ability is reduced by at least three-fifths. A partial disability pension is paid if the work ability is reduced by less than three-fifths but at least by two-fifths. The estimation is conducted by the pension institution. The amount of the partial disability pension is half of the full pension.

In both pension schemes, disability pension can be granted for a specified period or until further notice. A temporary disability pension (called "cash rehabilitation benefit" or "rehabilitation subsidy") is paid to a person who is disabled for work but whose handicap or illness is expected to improve through treatment or rehabilitation. Thus, a temporary disability pension always requires a treatment or rehabilitation plan. A disability pension, whether temporary or indefinite, may be discontinued if the work ability of the beneficiary improves. In addition to the disability assessment required for new periods of temporary pensions, there is no automatic retesting of the disability status. A recipient is always entitled to have their pension matter re-examined on grounds of new clarification presented in the matter.

#### *Income maintenance during rehabilitation*

The purpose of rehabilitation is to help to maintain and improve the client's functional status and work capacity. Various organisations offer rehabilitation services, either independently or in partnership with an outside service provider. Clients undergoing rehabilitation measures may also be eligible for income maintenance benefits. Rehabilitation services are offered by a wide variety of organisations. Distinguishing rehabilitation from other activities can be difficult as it in many ways overlaps with activities undertaken as part of health care, social services, education and under the labour administration. When different services are provided within an integrated framework, it is nearly impossible to separate rehabilitation from other services.

The providers of earnings-related pension have the primary responsibility for the provision of rehabilitation services to those recipients who are or could potentially be economically active. The Social Insurance Institution of Finland (SII) has a statutory responsibility to provide its clients with access to rehabilitation services and to ensure their income security during rehabilitation. However, SII's rehabilitation mandate is secondary to the provision of rehabilitation services under the Acts on Accident Insurance, Motor Insurance, Military Injuries and Military Accidents.

### *Rehabilitation allowance*

Rehabilitation allowances, paid by the SII, and the earnings-related pension scheme, are the primary benefit systems providing income maintenance during rehabilitation. When the need for rehabilitation is based on accidents and diseases covered by Acts on Industrial Accident Insurance, Motor Insurance, Military Injuries or Military Accidents, income maintenance is regulated in these Acts.

Under the earnings-related pension scheme, rehabilitation allowance is paid to an insured person who is working but is threatened to be incapacitated for work due to an illness and for whom the pension provider arranges vocational rehabilitation. The amount of the rehabilitation allowance is equal to the full disability pension increased by 33 %. Rehabilitation allowance may be granted as a partial benefit amounting to a half of the full allowance when the insured person earns more than half of the stabilised earnings during rehabilitation. Discretionary rehabilitation assistance may furthermore be granted in the amount of the disability pension for periods between rehabilitation periods.

The SII provides income maintenance during rehabilitation for the rest of working-aged population who are not within the scope of applicability of the above laws. A cash benefit called "rehabilitation allowance" is paid for the duration of rehabilitation that requires absence from the recipient's regular work. The rehabilitation allowance is paid in connection with rehabilitation services arranged by the SII, or by the primary health care, social services or occupational health care sector. The following benefits are available: rehabilitation allowance proper, means-tested rehabilitation assistance that is payable during the post-rehabilitation period, and the means-tested maintenance allowance. The rehabilitation must be aimed at helping the rehabilitation client enter, re-enter or remain in employment. If the client receives sickness allowance when rehabilitation is initiated and the payments of rehabilitation allowance are initiated, the payment of the sickness allowance ends.

In the majority of cases, the rate of the rehabilitation allowance provided by the SII is determined in the same way as the for the sickness allowance. Rehabilitation allowance during vocational rehabilitation is equal to 75 % of the earned income as defined in the Health Insurance Act.

This applies to all income categories and differs from the graduated scale approach used to determine the amount of the sickness allowance. Rehabilitation allowance is thus at least the amount of sickness allowance, and during vocational rehabilitation it is higher than the sickness allowance. Maintenance allowance may moreover be granted to defray some of the additional cost of participating in rehabilitation and to ensure participation in rehabilitative treatment.

Young people between 16 and 19 years of age are eligible for a rehabilitation allowance if their ability to work or possibility to choose a profession is impeded by their condition so that they need an intensified work ability evaluation or rehabilitation. Eligibility for the allowance requires that the young person has had a personal training and rehabilitation plan drawn up for them together with, for instance, their local health care centre. The aim of the regulation is to guarantee that a young person receives vocational rehabilitation and support for studying and employment. The rehabilitation allowance for young people is payable at a fixed rate.

Rehabilitation allowances are financed by contributions paid by employers and employees. The costs of minimum payments of rehabilitation allowances are financed by the state.

### *Disability allowances*

Disability allowances (child disability allowance, disability allowance, pensioners' care allowance), granted by the SII, are aimed at improving the quality of life of disabled persons despite their disability or illness. The aim is to promote their equal opportunities in comparison to other citizens. Disability allowances are linked together by a so-called life span ideology, in which the functional abilities of a disabled person or person with an illness are taken into account and improved throughout their life cycle.

The purpose of the disability allowance is to make it easier for disabled persons of a working age who are not pension recipients to manage their daily lives and to cope with work and studies. Persons between 16 and 64 years of age, whose functional ability has been reduced on account of an illness or injury for a period of at least 12 months, are entitled to the said allowance. Eligibility is not dependent on income or asset-based tests. The allowance is intended to provide a compensation for the handicap, need of assistance, as well as to cover the special expenses caused by the illness or injury. It is graded in three payment categories. Disability allowances are fully financed by the State and are non-taxable income.

### *Statutory accident insurance system*

Statutory accident insurance provides coverage for employees and farmers in case of work accidents or occupational disease. Work accident means an accident due to an unexpected, sudden external event which causes injury or illness to an employee while he or she is working, in circumstances related to his/her work or in his/her work place, when going on errands for his/her employer or while protecting or trying to protect property or his/her employer or while saving or trying to save human lives in the course of his/her work. Occupational disease means a disease which is probably primarily due to physical, chemical or biological factors associated with work done during a period of employment. Not only the accidents occurring at the place of work, but also commuting accidents are compensated.

According to the statutory accident insurance, the right to receive compensation for a work accident is based on performance of work for another person, *i.e.*, on an employment relationship or a post. A self-employed person has no obligation to take out an employment accident insurance, but he/she has the possibility of taking out the same cover voluntarily. The benefits of the statutory accident insurance system are: compensation for medical care, daily allowance, employment accident pension (including survivors' pension), inconvenience allowance, invalid rehabilitation care and funeral benefit. Compensation for accident injuries takes priority over other forms of statutory compensation and pensions. This means that the injured worker is first paid the compensation he/she is entitled to on the basis of statutory accident insurance in full and the benefits of other social insurance is paid if he/she is entitled to them. An employee is entitled to compensation even when the employer fails to take out the insurance.

The amount of the daily allowance is, for the first four weeks, the same as the wage the employer is paying during the time of sickness. After four weeks the amount is 1/360 of the annual earnings of the insured person. Daily allowance is paid for a maximum of one year after the accident or the occupational disease occurred. After one year the indemnity is paid as an employment accident pension. The accident pension for a totally disabled person is 85 % of the annual earnings (70 % after the age of 65). In the event of partial disability, a proportionate amount of full accident pension corresponding to the reduction in working capacity is paid.

According to the Employment Accident Insurance Act (608/1948), the employers are obliged to pay the insurance premiums. The employees do not pay anything in this social insurance. The calculation basis for insurance premiums must be such that the premiums are in reasonable proportion to the costs arising from the insurance, taking into account the risk of accident and occupational disease involved in the employment concerned. The statutory accident insurance system is operated by private insurance companies. The State Treasury Office is responsible for the accident insurance coverage of government employees.

### *Sheltered employment*

With regard to trade union activities in sheltered employment, the Government notes that Employment Contracts Act applies to work undertaken in sheltered employment facilities pursuant to an employment contract. In practice these are activities undertaken pursuant to Social Welfare Act in support of employment of persons with disabilities. Sheltered employment facilities and such facilities turned into social enterprises moreover have a collective agreement in force for the period between 1 May 2014 and 31 December 2017.<sup>24</sup>

### **Article 15 para. 3: Full social integration and participation in the life of the community**

#### ***Question 1***

According to Section 2 of a new Act on the Promotion of Sports and Physical Activity (390/2015), which entered into force on 1 May 2015, the objective of the Act is to promote:

- the opportunities of various demographic groups to engage in physical activity;
- the wellbeing and health of the population;
- the maintenance and improvement of the capacity for physical activity;
- the growth and development of children and young people;
- civic action in the field of physical activity including club activities;
- top-level sports;
- integrity and ethical principles in the context of physical activity and top-level sports; and
- greater equality in sports and physical activity.
- The efforts to achieve these objectives are based on the principles of equality, non-discrimination, social inclusion, multiculturalism, healthy lifestyles, respect for the environment and sustainable development.

According to Section 10 of the Act concerning eligibility for state aid of organisations promoting sports and physical activity:

*"Approval for eligibility may be granted by the Ministry of Education and Culture to a registered sports association whose activities are in compliance with the objective specified in Section 2. When assessing eligibility for state aid, due consideration shall be given to the type, extent and social impact of the activities that the association is engaged in, and the ways in which the association promotes equality and non-discrimination."*

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<sup>24</sup> Available in Finnish at: [http://www.jhl.fi/files/attachments/edunvalvonta/yksityiset\\_alat/tyokesk\\_tes\\_14-17.pdf](http://www.jhl.fi/files/attachments/edunvalvonta/yksityiset_alat/tyokesk_tes_14-17.pdf).

Compared to the former Act on Sport and Physical Activity (1054/1998), the objectives to greater equality and equal opportunities, non-discrimination and social inclusion are now more strongly stated and binding on central and local government; the government administrative bodies and the sport organisations having public funding by the state. The objectives of the Act are comprehensive and are to be considered in every measure in sport policy and action.

## ***Question 2***

### *The Finnish Design for All (DfA) Network*

During the reporting period, the work of the Finnish Design for All (DfA) Network has continued as described in the previous periodic reports.

### *The Finnish Paralympic Committee and the Finnish Sports Association for Persons with Disabilities*

The Ministry of Education and Culture continues supporting the Finnish Paralympic Committee and the Finnish Sports Association for Persons with Disabilities (VAU) (which is a non-governmental umbrella sports organization for persons with disabilities in Finland) as well as research on adapted physical activity, equal accessibility to sport facilities and other activities to enhance integration and inclusion.

## ***Question 3***

### *Interpretation services*

At the end of 2014, in total 5,539 persons were entitled to the interpretation services under the legislation on the right of persons with disabilities to interpretation services.

### *Housing*

There are approximately 40,000 persons with intellectual disabilities in Finland. At the end of 2010, about 1,790 of them were in long-term care in institutions for people with intellectual disabilities. 1,330 persons with intellectual disabilities were in long-term institutional care at the end of 2013. As noted in the seventh periodic report, the Government adopted on 21 January 2010 a resolution on a *Programme for Organising Housing and Related Services for Persons with Intellectual Disabilities*.<sup>25</sup>

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<sup>25</sup> Further information on the Programme in English: [http://www.ym.fi/en-US/Housing/Programmes\\_and\\_strategies/The\\_housing\\_programme\\_for\\_people\\_with\\_intellectual\\_and\\_developmental\\_disabilities\\_20102015](http://www.ym.fi/en-US/Housing/Programmes_and_strategies/The_housing_programme_for_people_with_intellectual_and_developmental_disabilities_20102015).

The intention was to produce housing designed for 3,600 persons with intellectual disabilities during the programme's mandate period between 2010 and 2015, by the support of the Housing Finance and Development Centre of Finland (ARA) and Finland's Slot Machine Association (RAY). By the end of 2014, a total of 2,637 apartments had been finalised, renovated or acquired under the programme through support granted by ARA and RAY.

In 2012, a further resolution was adopted on securing individual housing and services for persons with intellectual disabilities. The purpose of the resolution is to define the next steps for the programme for organising housing and related services for persons with intellectual disabilities, as well as to outline measures for a gradual abolition of the institution-based housing system, and to develop services necessary to support housing. The programme's goal is to ensure that no one lives in an institution after the year 2020. This requires that municipalities are able to provide individual services to replace institutional care. The central principles also include increasing awareness of the fundamental and human rights of persons with disabilities and cooperation between different administrative sectors. Through this resolution, the Government intends to continue the structural reform of the services for persons with intellectual disabilities and to develop services that enable people with the most severe disabilities to live in local communities.

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

### **Article 18 para. 1: Application of existing regulations in a spirit of liberality**

#### ***Question 1***

According to the Aliens Act (301/2004), the Finnish Immigration Service issues the first residence permit. The general rule is that an application for the first residence permit must be made abroad before the applicant arrives in Finland. The applicant may submit his/her residence permit application to the Finnish embassy in his/her home country or another country where he/she legally resides. Sections 72 to 81 (amended by Act 1218/2013) of the Act cover basic requirements to obtain an employee's or a self-employed worker's residence permit.

As regards residence permits issued for working in Finland, there are several different types of them: the residence permit for an employed person, the regular residence permit (other residence permit for gainful employment) and the residence permit for a self-employed person. The right to employment may also be linked to a visa or visa exemption. The permit type applicable to each situation is determined by the nature of the employment in question. For instance, in sectors that require seasonal workers, such as berry farms, people are allowed to work for a maximum of three months with a visa or on a visa-exempt basis if they are citizens of a visa-exempt country. A regular residence permit without applying the labour policy practice of determining the availability of home market labour, *i.e.*, a local labour market test, is issued to specialists and other special groups listed in the Act.

A residence permit for an employed person requiring the determination of the availability of labour is issued for e.g. manual labour, cleaners, agricultural and construction workers, among others. It should also be noted that most of the residence permit categories in Finland include the right to work, in which case the person concerned is not required to apply for a separate residence permit for an employed person ("work permit"). In this connection, the Government also notes that nationals of the member states of the European Union (EU) as well as of the European Economic Area (EEA) are not required to have a residence permit for an employed person.

The EU Single Permit Directive<sup>26</sup> has been implemented in Finland. The legislative changes entered into force on 1 January 2014. The aim of the Directive is to simplify the application of an employment-based residence permit and the associated right to work by granting both in the same, single application procedure. In Finland, the process was in accordance with the Directive in this regard even before its implementation. In the administrative sector of the Ministry of the Interior, however, a key change concerned the processing time of applications for employment-based residence permits: the authorities must now make a decision on applications submitted by third-country nationals within four months of application.

The legislative changes concerning the implementation of the EU Blue Card Directive<sup>27</sup> entered into force on 1 January 2012. Immigrants coming from third countries can be granted a so-called EU Blue Card. In order to issue this kind of a residence permit it is required for the applicant to have at least one year of employment in an area of employment where high skills are required and that he/she is paid a higher than average wage. In addition, it is required that the terms and conditions of employment are based on the relevant provisions and collective agreements of the employment. There are no major changes by the Directive compared to the current situation, as the immigration of highly skilled persons has already been facilitated in Finland.

The legislative changes on implementation of the EU Employer Sanction Directive<sup>28</sup> came also into force on 1 August 2012. The Employment Contracts Act (55/2001) was amended with a special financial sanction for employers who have employed an illegally resident third-country national. The financial sanction may range from 1,000 euros to 30,000 euros. The financial sanction is imposed by the Finnish Immigration Service and enforced by the Legal Register Centre. The Aliens Act was amended with provisions with regard to granting a reflection period and a residence permit, in a manner similar to victims of trafficking in human beings, to illegally employed third-country nationals who have been subjected to particularly exploitative working conditions, or who are minor.

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<sup>26</sup> Directive 2011/98/EC of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing a Member State

<sup>27</sup> Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment

<sup>28</sup> Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals

## ***Question 2***

On 13 June 2013 the Government adopted the Government Resolution on the Future of Migration 2020 Strategy. In the strategy, migration policy is linked to other national policies: labour, social and health care, education and language policies. In order to implement the strategy effectively, an action program was adopted in March 2014.

The action program for the strategy emphasises the significance of forecasting future labour demand. According to the action program, foresight data must be produced on labour demand and supply as well as the need for foreign labour in all strategic sectors. Foresight data must be produced regularly and made publicly available on the Internet. The Employment and Economic Development Offices publish an occupational barometer three times per year to assess labour demand and supply, as well as the balance between the two in different occupations and in the different regions of Finland.

According to the strategy, the Government aims at flexibility in administration and more effective procedures. The migration administration and its permit procedures must be flexible and clear. All permit applications must be processed without delay and within a reasonable period of time. Regarding Schengen visas, Finland will press for a streamlining of the permit procedures laid down in EU legislation. Further development of the residence permit process will be examined, looking at, for example, the scope for using alternative ways of submitting residence permit applications. The residence permit system must be brought more closely in line with the need to promote labour migration into Finland and to enhance the appeal of moving to Finland.

## ***Question 3***

In 2014, the Finnish Immigration Service issued a total of 5,829 decisions on first residence permit applications on the grounds of employment, of which 5,062 (87 %) were positive and 767 (13 %) negative.

In 2013, 4,938 employment-based residence permit applications were issued. 83 % of the decisions were positive and 987 (17 %) were negative. 3,456 of the employment-based decisions required an interim decision, of which 2,600 (69 %) were positive.

In 2012, a total of 4,990 employment-based residence permit applications were issued, accounting for 80 % of all employment-based residence permit decisions. 1,192 (20 %) decisions were negative. 3,826 of the employment-based decisions required an interim decision, of which 2,831 (74 %) were positive.

In 2011, a total of 5,278 employment-based residence permit applications were issued, accounting for 85 % of all employment-based residence permit decisions. 918 decisions were negative. 3,891 of the employment-based decisions required an interim decision, of which 3,029 (78 %) were positive.

During the time 1 November 2011 – 30 June 2014, most of the first residence permit applications on the grounds of employment were granted to Ukrainian, Russian, Philippine, Vietnamese, Thai, Chinese and Croatian applicants.

During the time 1 November 2011 – 30 June 2014, most of the first residence permit applications on the grounds of special expertise were granted to Indian, American, Russian, Chinese and Japanese applicants.

During the time 1 November 2011 – 30 June 2014, most of the first residence permit applications on the grounds of other employment (e.g. interns, researchers, athletes and trainers) were granted to American, Russian, Chinese and Japanese applicants.

As regards residence permits for self-employed persons, in 2013, 65 applications were granted and 44 applications rejected, corresponding to the refusal rate of 40 %. In the period 1 November 2011 – 30 June 2014, the number of granted applications was 44 and the number of rejected applications 16, corresponding to the refusal rate of 27 %. There are no specific statistics available on negative decisions according to nationality, but only according to the grounds for the application.

### ***Answers to the Committee's conclusions***

#### *The most common reasons for the refusal to grant residence permits to self-employed workers*

A residence permit for an employed person is connected with labour market testing: when the availability of labour force is assessed, the employer must establish if there is available labour force in Finland or within the EU/EEA for the work in question within a reasonable time as prescribed by Section 73(1) of the Aliens Act.

The most common reasons for the refusal to grant residence permits to self-employed workers were that the economic activity was not considered to be profitable and / or that it could not offer subsistence to the applicant. Some applications were rejected because of the intention to evade the provisions of the Aliens Act.

*The number of work permits granted to applicants from non-EEA States, as well as on work permit refusal rate with respect to applicants from such States*

In 2014, a total of 7,483 applications for worker's residence permits were submitted (of which 4,610 were first applications and 3,173 applications for extension). Out of these, 1,173 applications (15, 7 %) were rejected on labour market and work contract -related grounds. Work contract related reasons refer to situations where the Finnish labour legislation or the applicable collective agreement would not have been respected as required by Finnish law. Some 5 to 10 % of the positive decisions above were rejected for reasons of public security or because of the intention to evade the provisions of the Aliens Act.

## **Article 18 para. 2: Simplification of formalities and reduction of charges payable by foreign workers or their employers**

### *Questions 1 to 3*

In respect of these questions the Government refers to its previous reports.

### *Answers to the Committee's conclusions*

#### *Chancery dues and other charges*

The Government notes that there have been no intentions to further reduce fees for the processing of applications, which are decided yearly based on the Act on Criteria for Charges Payable to the State (150/1992). According to the said Act, the fees collected to the state for goods or services produced should, in general, correspond to the total cost for producing them. The fees cannot, however, be higher than the actual costs. In 2015 the fees are:

- first residence permit for an employed person: 500 euros (450 euros if the application was submitted electronically)
- renewal of the residence permit for an employed person: 159 euros

In 2014, the fee for the first residence permit for an employed person was 540 euros (450 euros if applied electronically), 500 euros in 2013, 440 euros in 2012 and 400 euros in 2011. The fee for the renewal of the residence permit for an employed person was 158 euros in 2014, 156 euros in 2013, 145 euros in 2012 and 120 euros in 2011.

### **Article 18 para. 3: Liberalisation of regulations**

#### ***Questions 1 to 3***

In respect of these questions the Government refers to its previous reports as well as the statistics and the grounds for rejections above, and wishes to submit the following information.

#### *Consequences of job loss*

The possibility to seek for another job after losing the employment is widely used by administrative practice. The extension of the residence permit, however, is not possible on the ground of employment if there is no employment relationship.

#### ***Answers to the Committee's conclusions***

##### *Access to the national labour market*

The Finnish system for processing residence permit applications does not allow statistics specifying the grounds for rejections and thus, there are no official statistics on the grounds for the negative decisions available. The grounds for a negative decision are usually an interim decision made by the Employment and Economic Development Office. Availability of suitable workers in the labour market usually constitutes at least one of the grounds when a rejection is made on labour market related grounds. Among the negative decisions are also those decisions, regarding which the Employment and Economic Development Office has made a positive interim decision, but the Finnish Immigration Service has made a negative decision based on Section 26 of the Aliens Act, according to which:

*“A residence permit may be refused if the alien is considered a danger to public order, security or health or to Finland’s international relations, or if the entry and transit of the person shall be restrained pursuant to a binding obligation of international law or a treaty of the European Union.”*

*“A residence permit may be refused if there are reasonable grounds to suspect that the alien intends to evade the provisions on entry into or residence in the country.”*

## *Recognition of professional qualifications*

Finland will renew the legislation concerning the recognition of professional qualifications in accordance with the EU directive on Professional Qualifications (2013/55/EU).

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

#### ***Questions 1 to 3***

In respect of these questions, the Government refers to its previous periodic reports and wishes to also submit the following.

Citizens of Finland may be prevented from leaving the country in the following situations: detention, apprehension, a travel ban and seizure of a passport in connection with the imposition of a travel ban. Accordingly, Section 9 of the Finnish Constitution (731/1999) provides that everyone has the right to leave the country. Limitations on this right may be provided by law, if they are necessary for the purpose of safeguarding legal proceedings or for the enforcement of penalties or for the fulfilment of the duty of national defence.

Provisions on these limitations are set out in the Coercive Measures Act (806/2011) and the Bankruptcy Act (120/2004). Additional provisions on the impediments to the issuance of a passport are set out in the Passport Act (671/2006).

Section 15 of the Passport Act includes a provision on impediments to the issuance of a passport:

*“A passport may be denied to a person:*

- *when there is probable cause to suspect the person for having committed an offence carrying a minimum sentence of one year’s imprisonment in respect of which the pre-trial investigations or considerations of charges are still pending or for which charges are brought or a warrant for arrest is issued;*
- *who has been given an unconditional prison sentence not yet served;*
- *who is 28 years of age and liable to complete military service up until the end of the year when he turns 30, unless he is able to show that the liability to serve does not constitute an impediment to the issuance of the passport.”*

No passport shall be issued to a person in respect of whom an injunction to leave the country referred to in Chapter 4, Sections 8 or 9 of the Bankruptcy Act have been imposed. Chapter 5, Section 3 of the Coercive Measures Act includes provisions on the issuance of a passport to a person in respect of whom a travel ban has been imposed.

Section 16 of the Passport Act includes provisions on the consideration of the impediments and limitations to the issuance of a passport. When the issuance of a passport to a person referred to in Section 15(1) is considered, due account shall be taken of the importance of travel in terms of his/her family relations, state of health, income, occupation and other such circumstances. Additionally, when the issuance of a passport is considered, an assessment shall be made whether there is reason to believe that the person concerned intends to leave to country in order to avoid pre-trial investigation, punishment or its enforcement.

Grounds for cancellation of a passport are listed in Section 21:

*“A passport will be cancelled if:*

- *the passport holder loses or renounces his or her Finnish citizenship;*
- *the passport holder asks for his or her passport to be cancelled;*
- *the passport holder reports that his or her passport has been lost or stolen;*
- *the guardian of a minor (or social services) withdraws his or her consent to the minor in question having a passport;*
- *social services ask that the passport of a minor who has been taken into care be cancelled; or*
- *the passport must be destroyed under the Lost Property Act (778/1988).*

*A passport can also be cancelled if:*

- *it contains an error;*
- *it has been damaged or altered or contains any unauthorised markings;*
- *circumstances that would probably have led to the application being rejected come to light after the passport was issued (when cancellation is considered on this ground, circumstances referred to in Section 16 shall be taken into account);*
- *it is used by someone other than the passport holder;*
- *the Population Register Centre has revoked the associated certificate; or*
- *the passport holder is believed to have perished in a natural disaster, other major accident or as a victim of a crime.”*

Finnish citizens can also use their identity card as a travel document within the EU and some other European countries. The provisions regarding refusal and cancellation in the Identity Card Act (829/1999) differ to some extent from those of the Passport Act. The Identity Card Act is currently being reviewed.

### *"Home delivery"*

In order to make the passport issuance process more flexible the Passport Act has been amended in 2013 and 2014. In 2013 provisions on a so called "home delivery" process were added to the legislation. In December 2014 the provisions on electronic application of the passport came into force. The majority of the centrally personalized passports are now delivered from the passport manufacturer to the passport holder. Online service for passports means that it is possible to apply for a passport online. The applicant must visit the police station personally for identification and completion of the application. In some cases it is possible to renew the passport online without visiting the police station.

## **ARTICLE 20: THE RIGHT TO EQUAL OPPORTUNITIES AND EQUAL TREATMENT IN MATTERS OF EMPLOYMENT AND OCCUPATION WITHOUT DISCRIMINATION ON THE GROUNDS OF SEX**

### ***Question 1***

The Act on Equality between Women and Men (609/1986, the so-called Equality Act) was amended by Act 1329/2014 in connection with the enactment of the new Non-Discrimination Act (1325/2014). The amendment entered into force on 1 January 2015.

Provisions on gender equality plans at work were specified to make them more effective in the promotion of equality between women and men in working life. The employer is responsible for undertaking pay surveys. The contents of a pay survey included in every plan are now defined in more detail in the Equality Act, which in its amended form includes a separate paragraph on them. Also personnel participation in drawing up a gender equality plan was strengthened so that the plan must be prepared in cooperation with the shop steward, elected representative, occupational safety and health delegate or other personnel representative. Personnel representatives must get sufficient opportunities to participate in the drafting of the plan and influence it. The Act also includes an obligation to communicate the equality plan and the included pay survey to personnel and to inform them of any updates. In the future, a gender equality plan at work can be drafted at least every other year.

Gender equality planning in educational institutions was extended to institutions providing basic education. The purpose of gender equality plans is to ensure that schools engage in systematic equality efforts. The new plans must be drafted by 1 January 2017.

The provisions on the supervision of the Equality Act were likewise revised. The Act on the Ombudsman for Equality and the Equality Tribunal was repealed. Instead, separate Acts were laid down on the Ombudsman for Equality (1328/2014) and the National Non-Discrimination and Equality Tribunal (1327/2014). The provisions on the independent status of the Ombudsman for Equality were reinforced by including the provisions in the Act on the Ombudsman for Equality. The Ombudsman for Equality was also given the powers to appoint public servants to his or her office and to adopt its rules of procedure. According to the new Act, the Ombudsman for Equality shall submit to the Government annual reports on his or her operations and once every four years report to the Parliament on the attainment of gender equality. The earlier two boards, Discrimination Board and Equality Tribunal, were combined to form the new Non-Discrimination and Equality Tribunal. Since 1 January 2015, the Ombudsman for Equality and the new National Non-Discrimination and Equality Tribunal are operating in the branch of government of the Ministry of Justice.

Equality Act now includes prohibitions of discrimination based on gender identity and gender expression, as well as provisions on prevention of such discrimination. The amendment ensures that the prohibition of discrimination against members of sexual minorities, for example against persons with transgender identity, is implemented as the Constitution requires. The prohibition of discrimination was also clarified by stipulating that discrimination is prohibited regardless of whether it is based on a reason concerning the victim of discrimination or another individual (so called discrimination by association) and regardless of whether it is based on fact or assumption.

## ***Question 2***

### *Action Plans for Gender Equality*

One of the objectives of the Equality Report, adopted in 2010, was to decrease segregation both in education and work. Equality Report policies have been implemented mainly through measures in *the Government Action Plan for Gender Equality (2012-2015)*<sup>29</sup>. One of the measures was to decrease segregation through development activities, focusing particularly on e.g. employment services. As part of the *Valtava* -development programme, the Ministry of Employment and the Economy published a study on the gender perspective into the employment office's services in December 2014. The intention is to utilise the results of the study in the development of the Ministry's employment services. In addition, a communication campaign on open-minded career choices was carried out in the *Valtava* -development programme in the autumn 2014. The purpose of the campaign was to provoke discussion on gender stereotypes in career and occupation choices. One of the measures of the Action Plan for Gender Equality of the Ministry of Education and Culture was to include gender equality in the reform of the core curricula of basic education. Various perspectives of the promotion of gender equality are included in several areas of the core curricula, e.g. the tasks of basic education and principles for the development of operating culture and working methods.

The previous Government Action Plan for Gender Equality (2008-2011) included measures to decrease segregation both in education and the labour market. For example, unemployed women were trained for occupations in the technology industry in the *Valtava* -development programme with the support of EU structural funds. Their employment in the technology industry and the shift of male-dominated companies into employing both genders were supported by customised education and training for selected jobs. In addition, men were trained into nursing in the development programme.

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<sup>29</sup> <http://www.julkari.fi/bitstream/handle/10024/111853/URN%3aNBN%3afi-fe201504225186.pdf?sequence=1>

The promotion of female entrepreneurship has been a development area in the administrative sector of the Ministry of Employment and the Economy. For example, the Centre for Economic Development, Transport and the Environment (“ELY Centre”) of Central Finland managed a project in 2010-2012 to develop a service concept in support of wellbeing at work and business success among female entrepreneurs as well as a cooperation network for female entrepreneurs.

### *Equal Pay*

As mentioned in previous periodic reports, the Government and the social partners have since 2006 been carrying out an *Equal Pay Programme* in order to bridge the gender pay gap. The objective has been to reduce the average gender pay gap to no more than 15 % throughout the labour market. The pay gap decreased from about 20 % to 17 %, which means that some development took place but the over-all goal was not reached. In the most recent years the gap has not become smaller.

An overall evaluation of the Equal Pay Programme was conducted by an external evaluator in spring 2014. According to the evaluation, the most effective measures for reducing the gender pay gap relate to wages and wage formation (remuneration and contract policies, pay systems and pay surveys at workplaces), to dismantling the traditional distribution of duties between men and women, as well as to reconciling work and family. The narrowing of the pay gap has slowed down due to the weakened economic situation and smaller increases in salary compared to previous years.

The collective agreements for the private sector in force in 2010 did not include separate equal pay supplements. Equal pay supplements were in use in the municipal sector in 2010-2011, and also the State used equal pay supplements. The collective agreements concluded following the framework agreement of 2011 and the *Pact for Employment and Growth of 2013* of 30 August 2013 did however not include separate equal pay supplements. The agreements were centralised solutions. The framework agreement included qualitative entries on equal treatment, for example regarding family leaves and pay surveys. Pay systems have been strongly developed since 2000. In 2013, more than 40 % of private sector wage earners reported that their pay system was based on job evaluation. The corresponding numbers were 47 % in the municipal sector and more than 90 % in central government. The highest number for central government results from pay system changes that were carried out extensively and systematically.

The Ministry of Social Affairs and Health has invested in research projects on equal pay. These include, for example, pay systems in private service sectors, gender equality plans and pay surveys, promoting women's careers, as well as studying how working life changes have affected the labour market and gender equal pay. An extensive communication campaign on talking about wages was carried out in 2013 and 2014.

### *Question 3*

During the reporting period the share of women in managerial positions has slightly decreased: from 32 % to 30 % between the years 2009 and 2012. The share of female managers has started to decline in all other sectors of working life except in municipalities. In central government, the share of female managers is 42 % (universities included). Besides management, women also work in other supervisor jobs. The share of women in lower-level management positions has gradually grown. In 2013, a total of 41 % of all wage earners had a female supervisor. A total of 69 % of wage earners working for municipalities had a female manager.

Among Finnish listed companies, the share of women in all company boards has increased from the average 17 % in 2010 to 23 % in 2014. On the boards of large listed companies, the share of women was about 30 % in 2014. On the boards of state-owned companies, the share of women has been about 40 % since 2009. This positive development mostly depends on the Government's ownership policy and listed companies' self-regulation. During the last few years, gender equality development has however slowed down in large and medium-sized listed companies. At the moment, there are only two women working as CEOs in listed companies.

### *Answers to the Committee's conclusions*

According to the Equality Act upon suspecting pay discrimination, the wages will be compared between employees working for the same employer. The employer usually means the legal entity who is the other party of the employment relationship. As previously mentioned by the Committee, the comparison has however not been limited to the same work unit or operational unit. Then the effects of different pay levels in different regions need to be taken into account.

Also EU legislation and its interpretation is taken into account when interpreting the Equality Act. According to the so called "single source concept" of the Court of Justice of the European Union, the pay has to have one single source, on which the pay gap depends. The idea behind this is that only the party who is in a position to guarantee equal treatment can be responsible for equal pay.

The municipalities are considered as one employer for the purposes of the Equality Act. As for the State, the matter is not that simple because the decision-making concerning pay and pay systems is decentralised. Pursuant to national courts' case-law, for instance district court judges working for different district courts are considered to work for the same employer.

In connection with the above revision of the non-discrimination legislation, also provisions on gender equality plans at work were specified to make them more effective in the promotion of equality between men and women in working life. The amended Equality Act obliges the employer to draw up a gender equality plan that includes a pay survey. The content of a pay survey included in every plan is defined in more detail by the Equality Act. Pay surveys are applied to compare the pay situation between men and women and they shall be drawn up in cooperation with personnel representatives.

## **ARTICLE 24: THE RIGHT TO PROTECTION IN CASES OF TERMINATION OF EMPLOYMENT**

### ***Questions 1 to 3***

In this connection, the Government refers to information given in connection with Article 1, paragraph 2 above and wishes to submit the following information.

During the reporting period only small changes have been made to the Employment Contracts Act (55/2001) concerning the protection in case of dismissal.

A new provision on absence for taking care of a family member or someone close to the employee was introduced to Section 7a of Chapter 4 of the Act, according to which:

*“If it is necessary for an employee to be absent so that he/she may provide special care for his/her family member or someone else close to him/her, the employer must try to arrange the work so that the employee may be absent from work for a fixed period. The employer and the employee shall agree on the duration of such leave and on other arrangements, taking into consideration the employee’s needs and the employer’s production and service activities. Return to work in the middle of the agreed leave must be agreed on between the employer and the employee. If agreement cannot be reached, the employee may discontinue his/her leave for a justifiable reason by informing the employer of his/her return no later than one month before the date of return to work. Upon request, the employee must present the employer with proof of the grounds for absence and for its discontinuation.”*

As this new leave is based on a contract between the employee and the employer, the special protection concerning an employee who is pregnant or on family leave, does not cover this new type of leave. For this reason sub-section 2, Section 9 of Chapter 7 was slightly modified:

*“The employer shall not terminate an employment contract on the basis of the employee's pregnancy or because the employee is exercising his or her right to the family leave laid down in Chapter 4. On request, the employee must present the employer with proof of pregnancy.”*

*If the employer terminates the employment contract of a pregnant employee or an employee on family leave other than the leave provided for in Chapter 4, Section 7a, 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 the grounds laid down in Section 3 only if its operations cease completely.”*

## *Seafarers' Employment Contracts Act*

When preparing the Finnish ratification of the ILO Maritime Labour Convention, a new Seafarers' Employment Contracts Act (756/2011)<sup>30</sup> was adopted.

Chapter 7 of the Act includes general provisions on the termination of an employment contract. According to Section 2, sub-section 1, regarding the retirement age, an employee's employment relationship is terminated without giving notice and without a notice period at the end of the calendar month during which the employee turns 68 years of age, unless the employer and the employee agree to continue the employment relationship. No major changes have been introduced in Chapter 8 on the right of protection in case of collective dismissals on the grounds for termination of the employment contract by means of notice. Chapter 8, Section 1 includes a general provision on the grounds for termination of an employment contract, according to which the employer shall not terminate an indefinitely valid employment contract without proper and weighty reason.

Concerning termination grounds related to the employee's person, according to Section 2:

*“Serious breach or neglect of obligations arising from the employment contract or the law and having essential impact on the employment relationship as well as such essential changes in the conditions necessary for working related to the employee's person as render the employee no more able to cope with his or her work duties can be considered a proper and weighty reason for termination arising from the employee or related to the employee's person. The employer's and the employee's overall circumstances must be taken into account when assessing the proper and weighty nature of the reason.*

*At least the following cannot be regarded as proper and weighty reasons:*

- 1) illness, disability or accident affecting the employee, unless working capacity is substantially reduced thereby for such a long term as to render it unreasonable to require that the employer continue the contractual relationship;*
- 2) participation of the employee in industrial action arranged by an employee organization or in accordance with the Collective Agreements Act;*
- 3) the employee's political, religious or other opinions or participation in social activity or associations;*
- 4) resort to means of legal protection available to employees.*

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<sup>30</sup> Unofficial translation, with amendments up to and including 921/2012, available in English at: <http://finlex.fi/en/laki/kaannokset/2011/en20110756.pdf>

*Employees who have neglected their duties arising from the employment relationship or committed a breach thereof shall not be given notice, however, before they have been warned and given a chance to amend their conduct.*

*Having heard the employee in the manner referred to in Chapter 10, Section 2, the employer shall, before giving notice, find out whether it is possible to avoid giving notice by placing the employee in other work. What is provided in sub-sections 3 and 4 need not be observed if the reason for giving notice is such a grave breach related to the employment relationship as to render it unreasonable to require that the employer continue the contractual relationship.”*

Section 3 covers financial and production-related grounds for termination:

*“The employer may terminate the employment contract if the work to be offered has diminished substantially and permanently for financial or production-related reasons or for reasons arising from reorganisation of the employer's operations. The employment contract shall not be terminated, however, if the employee can be placed in or trained for other duties as provided in Section 4.*

*At least the following shall not constitute grounds for termination:*

- 1) either before termination or thereafter the employer has employed a new employee for similar duties even though the employer's operating conditions have not changed during the equivalent period; or*
- 2) no actual reduction of work has taken place as a result of work reorganisation.”*

According to Section 4, on the obligation to offer work and provide training:

*“The employees shall primarily be offered work that is equivalent to that defined in their employment contract. If no such work is available, they shall be offered other work equivalent to their training, professional skill or experience.*

*The employer shall provide employees with training required by new work duties that can be deemed feasible and reasonable from the point of view of both contracting parties.*

*If an employer which in fact exercises control in personnel matters in another enterprise or corporate body on the basis of ownership, agreement or some other arrangement cannot offer an employee work as referred to in sub-section 1, it must find out if it is possible to meet the employer's obligation to provide work and training by offering the employee work in other enterprises or corporate bodies under its control.”*

Section 10 includes a new provision on an employee's right to employment leave:

*“Unless otherwise agreed by the employer and the employee after the employer has terminated the employment contract on the grounds provided in Sections 3 and 4 or Section 6, the employee is entitled to fully paid leave in order to participate during his or her period of notice in the preparation of an employment plan as referred to in the Act on Public Employment and Business Service (916/2012), in labour market training or related practical training or on-the-job learning, or to engage in job seeking and attend job interviews on his or her own initiative or at the initiative of the authorities, or to attend re-assignment coaching (921/2012).*

*The duration of employment leave is determined in accordance with the duration of the period of notice as follows:*

*1) a maximum of five working days in total, if the period of notice does not exceed one month;*

*2) a maximum of ten working days in total, if the period of notice is longer than one month but does not exceed four months;*

*3) a maximum of 20 working days in total, if the period of notice is more than four months.*

*Before taking employment leave or part thereof, the employee shall inform the employer regarding the leave and the grounds therefore as early as possible, and shall, upon request, present a reliable account on the grounds for each leave.*

*Taking employment leave shall not substantially inconvenience the employer.”*

Chapter 10 on the procedure for terminating an employment contract also includes some new provisions on the employer's duty to explain the grounds for termination, an employer's obligation to notify the Employment and Economic Development Office and the employer's obligation to provide information on the employment plan and on the change security supplement.

### ***Answers to the Committee's conclusions***

The Government notes that the protection as meant by in Article 24 is safeguarded by Section 21 of the Constitution of Finland, according to which:

*“Everyone has the right to have his or her case dealt with appropriately and without undue delay by a legally competent court of law or other authority, as well as to have a decision pertaining to his or her rights or obligations reviewed by a court of law or other independent organ for the administration of justice.*

*Provisions concerning the publicity of proceedings, the right to be heard, the right to receive a reasoned decision and the right of appeal, as well as the other guarantees of a fair trial and good governance shall be laid down by an Act.”*

### *Anti-discrimination legislation*

The anti-discrimination legislation is based on international human rights agreements, such as the International Covenant on Civil and Political Rights, the European Convention on Human Rights, the European Social Charter and the International Labour Organization (ILO) Convention No. 111. Council Directives on equal treatment irrespective of ethnic origin and equal treatment in employment are the basis of the new Non-Discrimination Act (1325/2014)<sup>31</sup>, which entered into force in January 2015. Under the Constitution everyone is equal before the law. No-one shall, without an acceptable reason, be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns his or her person. Prohibited grounds concerning the individual cover such areas as a person's social standing, financial status, participation in associations, domestic relations, pregnancy, legitimacy of descent, sexual orientation and place of residence.

According to the Non-Discrimination Act, different treatment based on age is not regarded as discrimination when it has an objectively and appropriately founded employment policy (e.g. providing employment to persons under 25 of age or for elderly persons), labour market, vocational training or some other comparable justified objective, or when the different treatment arises from age limits adopted in qualification for retirement or invalidity benefits within the social security system. Positive action of such persons or groups of persons, who are considered to be in need of special protection on account of their age, is not regarded as prohibited discrimination. The aim of special treatment is to prevent or reduce the disadvantages caused by discrimination and to achieve genuine equality in respect of a certain group.

Further prohibitions concerning age-discrimination are included in relevant legislation which applies alongside the provisions of the Non-Discrimination Act. Provisions on gender equality are issued in the Act on Equality between Women and Men (609/1986). Also the Criminal Code (39/1889) prohibits discrimination in trade or profession, service of the general public, exercise of official authority or other public function or in the arrangement of a public amusement or meeting, under penalty of a fine or imprisonment. Discrimination in advertising for job vacancies, in recruitment and during a service relationship is punishable as work discrimination.

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<sup>31</sup> <http://finlex.fi/en/laki/kaannokset/2014/en20141325.pdf>

Chapter 2, Section 2 of the Employment Contracts Act contains a renewed provision on equal treatment and the prohibition of discrimination:

*“The employer must treat employees equally unless there is an acceptable cause for derogation deriving from the duties and position of the employees.*

*Without proper and justified reason less favourable employment terms than those applicable to other employment relationships must not be applied to fixed-term and part-time employment relationships merely because of the duration of the employment contract or working hours.*

*Provisions on equality and the prohibition of discrimination are laid down in the Non-Discrimination Act (1325/2014). Provisions on gender equality and the prohibition on discrimination based on gender are laid down in the Act on Equality between Women and Men (609/1986).”*

According to an employer’s general obligation, the employer must make sure that the employees perform their work also when the operations, the work to be carried out, or the work methods of the enterprise change or develop. In order to maintain and improve the employee’s qualifications, the employer is expected to make sure that also the elderly employees are provided all the guidance necessary in order for them to perform their duties.

Special provisions exist concerning the employment protection for elderly employees. The periods of notice have been linked to the uninterrupted duration of the employment relationship. The elderly employees usually have longer periods of notice. An employer, who has a legal ground to terminate an employment contract on production-related or financial grounds do not have the right to terminate an elderly employee’s employment contract due to his or her age.

When considering the amount of compensation, the following should be taken into account: estimated time without employment and loss of earnings, duration of the employment relationship, the employee’s age and possibility to find work corresponding to his/her profession, or education and training, the employer’s termination procedure and the employee’s and the employer’s circumstances in general, or other comparable factors.

Since 2005 the retirement age has become flexible. The accrued old-age pension will be granted between the ages 63 and 68. The employment contract or the service relationship terminates without a term of notice, at the end of the month, when the employee or the official reaches the age of 68. The employer and the employee can, however, agree that the employment relationship does not terminate, when the employee reaches the retirement age.

### *Civil service relationship*

A civil servant who has been appointed for a fixed term without legal grounds, or who without justifiable reasons has been successively appointed for several fixed terms is entitled to compensation from that Government agency to an amount equal to not less than 6 and not more than 24 months' salary when the service relationship ends because he or she is no longer appointed a civil servant with that Government agency. A claim for compensation is handled as an administrative appeal and shall be submitted to an administrative court within six months from the termination of the civil service relationship.

A fixed-term office-holder who has been selected for a fixed term without legal grounds, or who without justifiable reasons has been successively selected for several fixed terms is entitled to compensation from that Government agency to an amount equal to not less than 6 and not more than 24 months' salary. A claim for compensation shall be submitted to an administrative court within six months from the termination of the civil service relationship.

### *Case-law concerning unlawful dismissal*

The Committee requested information on cases, where the employee has successfully sought compensation under the Tort Liability Act in case of unlawful dismissal.

The Government refers for example to the judgment of 24 October 2010 by the Helsinki Court of Appeal (no. 1370) which became final as the Supreme Court refused the applicant leave to appeal.

In this criminal case, the Helsinki Court of Appeal maintained the judgment of the Helsinki District Court on a case of discriminatory unlawful dismissal. The employer had been found guilty of discrimination at work and sentenced, *inter alia*, to compensate the employee on the basis of the Tort Liability Act the employee's loss of earnings (11,406.27 euros) and mental suffering caused by the discrimination (1,000 euros). The District Court stated in its judgment, *inter alia*, that it is a well-established practice in this kind of cases concerning crimes relating to employment, to condemn compensation on the basis of the Tort Liability Act in spite of claims for compensation for unlawful dismissal on the basis of the Employment Contract Act and the Non-discrimination Act in a separate civil trial.

## **ARTICLE 25: THE RIGHT OF WORKERS TO THE PROTECTION OF THEIR CLAIMS IN THE EVENT OF THE INSOLVENCY OF THEIR EMPLOYER**

### *Questions 1 to 3*

In respect of these Questions, the Government refers to its previous periodic reports.

### *Answers to the Committee's Conclusions*

The purpose of the Pay Security Act (866/1998) is to ensure payment of employees' claims arising from an employment relationship in the event of the employer's insolvency. Concerning the protection period, there is no fixed period of time that limits employee's right to pay security or minimum length of pay security. However, an application for payment of the claim in the form of pay security shall be submitted within three months of its falling due. If the employee continues to work in the employment relationship for an unreasonably long time although the employer has neglected payments of salary and employee must have knowledge about employer's insolvency, pay security may be restricted according to the rules concerning prevention of abuses.

Different ceilings exist for different types of claims. In general, the maximum amount of the pay security for one employee for work done for the same employer is 15,200 euros. However, claims concerning pay on the basis of working time accounts have a specific ceiling, which is equivalent to the employee's six month's salary. There is no general ceiling for the pay security for seamen, with the exception of claims concerning compensation for damages.

The average time between submission of claims and payment of pay security to employees was 71 days in 2014. In case of employer's bankruptcy pay security process usually takes two weeks. In other situations (where no insolvency procedure is going on) the length of the process varies. The usual length is a few months but might be as long as eight to ten months in some parts of the country. The Ministry of Employment and the Economy has taken action to shorten the length of the process.

The Ministry of Employment and the Economy frequently monitors the number of those applications where pay security is limited by a ceiling. In 2014, the amount of this type of decisions was 90. The total amount of negative decisions in 2014 was 6,391.

## **ARTICLE 28: CONSULTATIVE ASSEMBLY**

### *Questions 1 to 3*

In respect of this Article the Government refers to its previous reports, and wishes to submit the following information.

### *Answers to the Committee's conclusions*

The rights and the protection granted to workers' representatives and shop stewards are covered by the Employment Contracts Act (55/2001) as well as collective agreements concerning shop stewards.

Already prior to terminating the employment contract on the grounds referred to in Chapter 7, Section 3 or 7, the employer must at the earliest possible stage explain to the employee to be dismissed the grounds for termination of employment and the alternatives, as well as the employment services available from the Employment and Economic Development Office. If the termination concerns more than one employee, the explanation may be given to a representative of the employees or, if no such representative has been elected, to the employees jointly.

In disputes concerning termination of employment it is consistently considered to be the defendant employer's obligation to prove legality of termination.

Protection against termination in the case of shop stewards and elected representatives is stipulated in Chapter 7, Section 10 of the Employment Contracts Act. The employer shall be entitled to terminate the employment contract of a shop steward elected on the basis of a collective agreement or of an elected representative referred to in Chapter 13, Section 3 of the Employment Contracts Act on the basis of grounds referred to in Section 2 of this chapter only if a majority of the employees whom the shop steward or the elected representative represents agree. The employer shall be entitled to terminate the employment contract of a shop steward or an elected representative on grounds laid down in Sections 3 or 7 or Section 8, sub-section 1, only if the work of the shop steward or the elected representative ceases completely and the employer is unable to arrange work that corresponds to the person's professional skill or is otherwise suitable, or to train the person for some other work in the manner referred to in Section 4.

If the employer has terminated an employment contract contrary to the grounds laid down in the Employment Contracts Act, it must be ordered to pay compensation for unjustified termination of the employment contract. The maximum amount due to be paid to shop stewards elected on the basis of a collective agreement or to elected representatives referred to in Chapter 13, Section 3, is equivalent to the pay due for 30 months. There are no rules on reinstatement of the contract in Employment Contracts Act. Safety delegates have the same protection as other workers' representatives.

According to the Employment Contracts Act the elected representatives retain the status laid down in Section 3 if the enterprise or part thereof keeps its independence following assignment. If an elected representative's term comes to an end as a result of assignment of the enterprise, the representative has the protection against termination laid down in Chapter 7, Section 10, for six months from the end of his/her term.

Collective agreements have regulations on shop stewards protection after the end of their functions. According to these agreements the protection of chief shop stewards lasts typically 6 months after the termination of their function. The protection may also cover employees who are standing as a candidate for election of a shop steward. Facilities granted to workers' representatives are based on collective agreements, in particular on collective agreements on shop stewards. These collective agreements may include, *inter alia*, shop stewards access to premises at work place to perform their duties and paid time off to perform their function as well as access of trade union representatives at the work place.