

National Labour Law Profile: Republic of Finland¹

Constitution

The [Finnish Constitution \(731/1999\)](#) was adopted on 17 July 1999 and entered into force on 1 March 2000. The new Act replaced the 1919 Constitution Act, the 1928 Parliamentary Act, and two other statutes, which were formerly regarded as constitutional enactments. The rules on basic rights and the main parliamentary, governmental and judicial functions are now codified under a single statute.

According to the Constitution, Finland is not organised as a Federal State. However, the Province of Åland (comprising a group of islands between Finland and Sweden) enjoys extensive self-government.

The new Constitution has strengthened the position of the Parliament in relation to the Government and to the President of the Republic. As a result, the Prime Minister is elected by the Parliament. The candidate is nominated by the President upon negotiations held among the parliamentary groups, but if the nominee cannot win a majority vote, the Parliament may finally elect another person who receives the most votes. Within the four-year term of the Parliament, the mandate of the Prime Minister lasts as long as he or she, or the whole Government, enjoys the confidence of the Parliament. The President is elected by the people for a term of six years. He or she may be re-elected for one consecutive term.

The Parliament is a unicameral body consisting of two hundred Representatives. The legislative power is vested on the Parliament and the President of the Republic. Although legislative motions can be submitted by the Representatives, too, in practice nearly all important proposals are initiated in the Parliament as Government Bills. Upon adoption of an Act in the Parliament, the President confirms the Act, but exceptionally may use a suspensive veto right (for the details of the legislative procedure, see [the Ministry of Justice website](#), and Chapter 3 of the Constitution).

As regards the impact of international law in national law, Finland follows the dualistic model. Thus, obligations based on international treaties are transformed into domestic law by means of a Parliamentary Act, or, as the case may be, a Decree issued by the President (Sec. 94 and 95 of the Constitution). In legal and administrative proceedings it is not unusual that the interpretation of statutory provisions is influenced by international treaties and especially EU law.

As Finland has joined the European Union it is bound by European Community Law, namely the so-called *primary legislation* made up of the Treaties establishing the European Communities, and by *secondary legislation* based on the Treaties, which implies a variety of procedures defined in different articles thereof. Secondary legislation includes regulations and Directives. Not less important is European Case

¹ Contributed by Jorma Oskari Saloheimo. LL.D. 1988 (Jur. Dr.), Vice President, the Labour Court in Finland, Lecturer of Labour Law, University of Helsinki. Author of several books and other publications on labour law in general, equal treatment, occupational health and safety, workers' participation and EC labour law. Address: Jorma Saloheimo, Labour Court, P. O. Box 165, FI-00141 Helsinki, Finland, email: jorma.saloheimo@om.fi

Law, made up of judgements by the European Court of Justice and the European Court of First Instance, which are binding on national courts.

The Finnish administration of justice follows roughly the division between private law and public law. Jurisdiction in civil, commercial and criminal matters is exercised by the regular courts, a system consisting of the District Courts, the Courts of Appeal, and the Supreme Court. Administrative cases, including tax appeals, are tried by the regional Administrative Courts and, in the final instance, by the Supreme Administrative Court. In addition to the regular court system, a number of specialized courts have been established, the Labour Court being perhaps the most important of them.

The Official languages of the country are Finnish (spoken by about 93.4 per cent of the population), and Swedish (spoken by about 5.9 per cent of the population). In this respect it should be recalled that until the early 19th Century, Finland was ruled by Sweden, which explains that Civil Law in Finland is to a large extent influenced by Swedish Law. Also, there are some minorities speaking Russian and arctic languages.

Chapter 2 of the Constitution provides for the protection of basic rights and liberties, including fundamental labour rights. Under Sec. 18, the right under law to acquire one's living through work or trade of his own choice is protected. The promotion of employment and everyone's right to work, as well as the protection of the labour force are duties imposed on the public authorities. Everyone has the right not to be dismissed from work without lawful reasons. The freedom to organise in trade unions (as a positive and a negative right) is regulated in Sec. 13 in connection with the right to arrange and participate in demonstrations. These provisions are also considered to contain at least a basic guarantee for the right to strike. The main function of the constitutional rights discussed here is to imply tasks for the public authorities. However, the provision on job security has, in legal proceedings, been treated as an enforceable right for the individual. The same applies to the rules of Sec. 6, concerning equality and ban on discrimination, which are also considered to have a horizontal effect between private parties.

Labour regulation

The structure and role of the Finnish labour regulation reflects many of the central features of the so called Nordic model of industrial relations. Thus, the Finnish labour market is characterised by a high level of organisation on both the employee and the employer side, and an important role played by collective bargaining in labour regulation. The basis of the regulation lies, however, in comprehensive and detailed labour legislation which is complemented by collective agreements. It is common for statutory rules to allow derogation by means of collective agreements, usually concluded between national federations of employers and employees. The impact of collective negotiations has evolved mainly after the II World War. Since Finland's affiliation to the EEA Agreement in 1994 and joining the EC the following year, European integration has had a harmonising influence on the regulation as a whole.

The basic regulation of *individual labour relations* has in Finland traditionally been codified in a statute called the Employment Contracts Act. The first Act bearing this name was passed 1922 and was replaced by the 1970 Act, which in turn has recently

been repealed by the 2000 Statute (Act 55/2000, in force as from 1 July 2001). The Employment Contracts Act provides for the definition of the employment contract, the ways of concluding and ending the contract, as well as the rules on job protection and a number of basic rights and duties of the parties regarding e.g. equal treatment, transfer of undertakings, family leaves, payment of wages, and the determination of minimum terms of employment through generally applicable collective agreements or collective agreements which are to be observed by employers hiring out their workers. Aspects of the individual labour relationship are regulated in separate statutes such as the Labour Safety Act (1958), the Annual Holidays Act (1973), The Hours of Work Act (1996), The Study Leave Act (1979), and the Act on Equality between Men and Women (1986).

The *collective regulation* of terms and conditions of employment takes place within the framework of the Collective Agreements Act (1946) which defines the competence of parties to collective agreements and the legal effects of such agreements. During a period not covered by an agreement the state may intervene in labour disputes of interest by virtue of the Mediation in Labour Disputes Act (1962). Worker participation at the enterprise level is based on the Co-operation Within Undertakings Act (1978), the Act on the Representation of the Personnel in the Administration of Enterprises (1990), and the Act on Personnel Funds (1989).

The *sources of labour law* can be presented in a rough hierarchical order as follows:

- 1) Mandatory rules of law;
- 2) Norms in a collective agreement which has been declared as generally applicable;
- 3) Norms in a collective agreement which is binding by virtue of the Collective Agreements Act;
- 4) Semi-mandatory statutory provisions from which deviations can be made through a collective agreement;
- 5) Shop rules adopted in a co-operation procedure between the employer and the representatives of the employees;
- 6) Clauses in individual employment contracts;
- 7) Optional rules of law and provisions of collective agreements, i.e. norms which allow derogation based on individual contracts;
- 8) Customary law and established practice; and
- 9) Employer's orders.

A source mentioned in the list may, despite its hierarchical status, usually be set aside by an agreement made in favour of the employee. Directly effective EC law may also set aside conflicting national provisions.

Case law, especially the jurisprudence of the Supreme Court and the Labour Court, has an important role in clarifying the interpretation of the rules of labour law, and is thus commonly observed by other courts. The regular courts may also ask the Labour Court for an advisory opinion in a case in which the application of a collective agreement is involved. This usually takes place when the claim is based on a generally binding collective agreement, a situation where the jurisdiction is vested in the regular court. As regards the interpretation of statutory labour law, a special tripartite body, the Labour Council, has been established to give advisory opinions to other courts and authorities at their request. The practice of the EC Court is also observed in the national courts.

Contract of Employment

Permanent and fixed-term contracts of employment

Under the Employment Contracts Act, an employment contract is presumed to have been made for an indefinite period unless it is expressly concluded for a specified period for a valid reason. If such a reason is lacking but the contract has nevertheless been made for a specified period at the employer's initiative, or if contracts for a specified period are without a valid reason made one after another, the contract is also deemed to have been made for an indefinite period (Chapter 1 Sec. 3). A contract concluded for a period longer than five years may be terminated by both parties after the fifth year as if it had been made for an indefinite period. Shorter fixed-term contracts come to an end automatically at the expiry of the contract period. The period must be specified in terms of objective criteria, such as a given day or the completion of a given project.

The new Act no longer specifies the valid reasons required for concluding a contract for a fixed term. In this respect, the Government Bill (157/2000 pp. 60) makes reference to reasons stated in the 1970 Act. Thus, a fixed-term contract may be made to replace temporarily another employee, to complete a particular job etc. In this respect, flexible consideration of varying situations in everyday working life is emphasised in the Bill. In 2000, the share of male fixed-term workers was 11 per cent of all workers in Finland, while the corresponding share of female fixed-term workers was 18 per cent.

Special contracts of employment

The Employment Contracts Act is applicable to several groups of workers engaged under both regular and atypical employment contracts. Thus, part-time workers, fixed-term workers, home workers and workers of temporary employment firms are all covered by the definition of employment contract given in Chapter 1 Sec. 1 of the Act. It is another matter that the Employment Contracts Act as well as a number of other statutes contain some specific provisions regulating the terms of employment of these workers. Seafarers, household employees and apprentices are subject to somewhat more differing regulation. The status of civil servants and certain other workers employed by municipalities and other public law units is distinguished from employment contract and subjected to the rules of public law.

Temporary agency work

There are only a few statutory rules regulating the operation of private temporary work agencies. Such firms need not be licensed, but only reported to the labour inspectorate. In addition, a TEA must give the labour inspection and manpower authorities regular information of its activities. The user firms are equally subject to only few restrictions as regards the use of external workers supplied by a TEA. Utilization of outside manpower is, however, a matter which must be handled in negotiations under the Cooperation Within Undertakings Act. There are also collective agreements according to which the use of outside manpower should be limited for the levelling of work peaks or for special and temporary tasks which cannot be performed by the undertaking's own staff.

The employment contract between a TEA and its worker is usually made on a fixed-term basis for each assignment. According to a new rule adopted in Sec. 9, Chapter 2 of the Employment Contracts Act, workers hired to work for another employer under its authority enjoy certain basic protection even if their own employer, such as a TEA, is not bound by any collective agreement. In this case the minimum terms of employment to be observed are normally those determined in the collective agreement applicable to the user undertaking. The health and safety at work of temporary workers is protected under a Government Decree issued in 1997 to implement EC Directive 91/383.

Although the TEA business has been growing in recent years, the share of supplied labour in Finland is still less than 0.3 per cent of the whole workforce.

Probation

An employment contract may be agreed to start with a trial period of not more than four months, or in some cases, six months (1:4 Employment Contracts Act). If the contract is made for a fixed term shorter than eight months, only half of the contract term may consist of a trial period. To be entitled to invoke a stipulation on a trial period coming from a collective agreement, the employer must individually inform the employee of the stipulation upon concluding the contract. During the trial period, either of the parties may terminate the contract with immediate effect. If the measure is taken by the employer, however, it may not be based on unfair grounds.

Suspension of the contract of employment

The most important situations where the execution of the contract of employment is suspended are the following:

Industrial action, whether legal or not legal, means that employees who are on strike or who are comprised by a lock-out do not work and will not receive their wages for the time of the action either. Their contracts are not, however, automatically brought to an end due to the action. The workers involved do not have a right to draw unemployment benefits, but their loss of income may partly be compensated by strike assistance paid by their union.

In case of non-availability of work the employee's right to pay depends on the cause of the situation. Under Chap. 2 Sec. 12 of the Employment Contracts Act, if the hindrance of work is due to circumstances for which the employer is responsible (lack of raw materials, bad organisation of work etc.), an employee who is at the disposal of the employer shall continue

to receive his wages, unless otherwise agreed. If the impediment does not lie within the control of the employer or the employee (e.g. fire), an employee whose work is thus prevented is entitled to wages for a maximum period of 14 days. If, however, such an impediment is caused by industrial action taken by other workers, and the action has no connection with promoting the interests of the employee in question, the period of remuneration is limited to 7 days. Following this period the employee is entitled to unemployment benefit from public funds.

The employer may have a right to lay off his employee for a fixed period or until further notice. The grounds and procedure for this measure are regulated in the fairly detailed provisions of Chapter 5 of the Employment Act. Grounds for lay-off must be production-related, or connected to the financial or economic situation of the employer. During lay-off no work is done and no wages are paid while the employment relationship prevails in all other respects. A lay-off may also take the form of a reduction of the regular working hours of the employees in question. Unemployment benefit is available for the time of the lay-off.

Finally, the employee's work may be suspended for the time of leaves granted for illness, maternity, studies etc. These will be discussed later.

Termination of the contract of employment

Termination of the contract of employment by means of notice is regulated in Chapter 7 of the Employment Contracts Act. The formulations are partly new but the provisions mainly reflect the status of case law developed in the application of the 1970 Act and introduce only a few changes with the improvement of job security as their goal. Further rules, related to rescinding the contract, are to be found in Chapter 8, while the termination procedure is governed by Chapter 9 of the new Act. Provisions on terms of notice and some other general issues regarding termination are given in Chapter 6.

In addition to the rules on general job protection, to be discussed below in more detail, the Employment Contracts Act contains provisions which guarantee special protection to certain groups of employees, such as employee representatives, pregnant women or employees using their right to family leaves. On the other hand, the termination has been made easier for some circumstances, such as the death or bankruptcy of the employer or a court-directed business reorganisation procedure.

Termination at the initiative of the employer

The contract may be terminated by notice issued by the employer on grounds relating either to lack of work (*collective termination*) or to reasons connected with the individual employee (*individual termination*). In both cases, the termination is subject to the general condition, laid down in Sec. 1 of Chapter 7, that the reason must be objective and weighty. The substance of this condition may vary from case to case, but in any event the ground for the termination must not be discriminatory or in conflict with the employer's loyalty duty.

The grounds for *individual termination* are specified in Sec. 2 in which two types of reasons are described: serious violation or omission of the employee's essential duties, and incapacity to work resulting from a change of conditions that belongs to the risks of the employee (e.g. imprisonment). Save the most serious cases of misconduct, the employee must be provided with a warning and an opportunity to change his behaviour prior to the termination. The employer must also ascertain whether or not the employee can be relocated in other work in the undertaking or

within a group of undertakings controlled by the employer. Sec. 2 further lists grounds which in no event can be considered to justify a termination, such as the employee's illness which has not caused permanent disability to work, participation in an organized industrial action, or the employee's political or religious opinions.

Under Sec. 3, a *collective termination* is justified if work has reduced for economic or production-related reasons or reasons connected with the reorganization of the firm's activities, and the reduction is both substantial and permanent. The employer's relocation duty applies to collective dismissals as well. Examples of unjustified grounds for dismissal are given also in Sec. 3. The situations envisaged here mainly relate to presumed cases of concealed individual terminations, such as reorganization of work which in fact has not resulted in a reduction of the work tasks. If the employer within nine months after a collective termination needs manpower for similar work, such work shall in the first place be offered to former employees seeking work through the local Manpower Office.

Severance pay

An employee who has reached the age of 45 and has been dismissed on valid collective grounds is entitled, if re-employment is considered difficult, to severance payment from a public fund. The decisive condition is that the applicant has lost his or her job for economic or production-related reasons, i.e. for reasons not connected with the employee's person or behaviour. The overall payment consists of a basic amount of ca. 670 EURO and other amounts relating to the employee's age, wage, weekly hours of work, and years in working life. In a typical case the severance payment would be 1,500 EURO in all.

Notice

The *terms of notice* range from 14 days in employment relationships that have continued for one year at the most, to six months in employment relationships which have lasted more than 12 years. These rules of Sec. 3 Chapter 6 of the Employment Contracts Act can be departed from by agreement.

Under Sec. 4, Chapter 9 of the Employment Contracts Act, notice can be delivered electronically, but only if delivery in person is not possible. The preparatory works of the provision reveal that the security of this method had been under consideration. According to Government Bill N:o 157/2000, electronic delivery is explained as referring to the use of telefax, e-mail or other reliable electronic method. Burden of proof would lie with the party who maintains that delivery has taken place.

In the most serious cases of individual nature a notice period need not be observed. This is the case when the employer rescinds the contract with immediate effect on grounds laid down in Sec. 1 Chapter 8 of the Act. A rescission is permissible for an especially weighty reason constituted by the employee's serious violation or omission. Also contracts made for a fixed term can be thus terminated before the end of the contract period. The right to rescind must normally be exercised within 14 days after the employer has learned about the cause.

The procedural rules on termination require that the employee shall be accorded an opportunity to be heard about the reasons for an intended rescission or an individual termination. In cases of collective termination, the reasons and alternatives for the projected measure shall in good time be presented to the employees in question or to their representative. Where the Cooperation Within Undertakings Act is applicable, the matter must be submitted to negotiations under that Act. Further rules on the details of the termination procedure are given in Chapter 9 of the Employment Contracts Act and in collective agreements.

Remedies in case of unjustified dismissal

The effect of a termination is that the employment relationship ceases even when the termination is not justified. Neither can the relationship be reinstated without the consent of both parties. Instead, an employee who is illegally dismissed from work is entitled to compensation under the provisions of Chapter 12 of the Employment Contracts Act. The compensation sum may amount to 24 month's wages and is determined on the basis of a number of criteria, such as loss of earnings suffered by the employee, unemployment benefits awarded to compensate such loss, duration of the employment relationship, and degree of guilt found on the side of the employer.

Termination at the initiative of the employee

An employee may terminate an employment contract, concluded for an indefinite period, by giving notice to his employer. The notice period to be followed is 14 days or one month, depending on whether the employment relationship has lasted for five years or a longer time. No grounds are required for such termination. But if the employee intends to rescind the contract with immediate effect, he must be able to present an especially weighty reason for doing so. Also in other respects the employee must follow the provisions which correspond to those which the employer must observe when rescinding the contract (Chapter 8 of the Employment Contracts Act).

According to Sec. 2 Chapter 12 of the Employment Contracts Act, if the contract is rescinded by the employee on grounds relating to the employer's wilful or negligent action envisaged in Sec. 1, Chapter 8, the employee is entitled to compensation as if the contract had been unjustly terminated by the employer.

A specific provision on constructive dismissal in connection with a transfer of undertaking is included in Sec. 6, Chapter 7 of the Act. In line with Art. 4(2) of the Transfer of Undertakings Directive, the employer is deemed liable if the employment contract is terminated due to a substantial change in working conditions to the detriment of the employee.

Hours of work

The Hours of Work Act was passed in 1996 to implement the EC Working Time Directive (93/104/EC). The new Act also replaced a number of previous statutes regulating working time in different branches. The sphere of application of the Hours of Work Act is general, and only seafarers and household workers, as well as workers

employed in road transport and bakeries, are still subject to a separate working time regulation.

Under the Hours of Work Act, working time includes the time actually worked and the time the employee is obliged to be at the work-site at the disposal of the employer. The maximum normal working time is eight hours a day and 40 hours a week. The weekly limit may, however, be exceeded by means of a schedule, laid down by the employer in advance, providing for working hours not exceeding 40 a week on average over a period of 52 weeks. The Act further provides for a number of alternative ways of arranging the normal working time within certain limits. This is possible in branches, enumerated in Sec. 7 of the Act, where periodic work is allowed, and generally if the arrangement is agreed upon individually or, as the case may be, through a nation-wide collective agreement. Working time arrangements based on collective agreements which in turn permit local deviations are quite common. Night work, shift work, Sunday work as well rest periods are subject to rules and conditions which in the main follow the regulation in the Working Time Directive.

Overtime work presupposes the employee's individual consent, given for every separate occasion or for a certain shorter period. Overtime is allowed up to 138 hours within a period of four months, and up to 250 hours during a calendar year. The yearly maximum can be exceeded with at most 80 hours on the basis of a local agreement. Emergency work, necessitated by an accident or some other unforeseen circumstance, can be done for a period of two weeks at most regardless of any other limits set by law or agreement. Overtime work and emergency work in excess of the normal daily hours of work shall be paid with time and a half for the first two hours and with double time for any extra hours. If merely the normal weekly hours of work are exceeded, the hours so worked shall be paid with time and a half. The compensation just explained may be replaced with corresponding paid free time, if so agreed.

Paid leave

Under the Annual Holidays Act, 1973, employees earn their holiday in much the same way as they earn their wage. Every employee is entitled to a paid vacation of usually two and a half weekdays (Saturdays but not Sundays included) for each month of service. Every calendar month with at least 14 days or, in some cases, 35 hours worked is counted. For this purpose, also days of absence due to sickness, lay-offs etc. are regarded as working days.

The annual vacation shall normally be given as one continuous period during the holiday period of 2 May through 30 September. However, the part of the vacation that exceeds four weeks may be given as a winter vacation. Within these and certain other limits provided for in the Act, it rests with the employer to determine, upon hearing the opinion of the employee, the time of the vacation. One of the exceptions to this main rule is that the employee has the right to save six days of his summer vacation to be used in later years. In addition to their normal wage which under the Act is payable before the time of the vacation, employees are, according to most collective agreements, entitled to a vacation bonus, usually 50 per cent of the vacation pay.

A tripartite Committee has been set up in the spring of 2001 to prepare a reform of the regulation on annual holidays.

As regards *public holidays*, a special Act has been passed in 1937 to guarantee that employees get their normal pay also on Independence Day, 6 December. Should work be done on Independence Day, it is remunerated as Sunday work. The same applies to work done on a number of Church festivals which have been transferred to Saturdays. Some festival days, such as New Year's Day, Good Friday and May Day, may coincide with usual working days, and for these cases collective agreements generally include provisions according to which employees are entitled to a full week's wage in spite of the holiday.

Maternity leave and maternity protection

The protection of women workers during pregnancy and after childbirth is mainly arranged by means of maternity leave. Additional protection is granted to pregnant workers whose work involves a risk to the health of the worker or the foetus. If the risk cannot be eliminated, the worker should, in the first place, be transferred to other tasks more suitable to her. If this is not possible, the worker may have a right to a special maternity leave, which is designed to workers who are exposed to health risk caused by certain chemical substances, radiation or contagious disease (tobacco smoke being one of the risks recently added to the law).

The right to family leaves is regulated in Chapter 4 of the Employment Contracts Act. Maternity, paternity and parental leave is granted for the period to which the corresponding benefit, governed by the Sickness Insurance Act (1963, as amended), is deemed to relate. Thus, *maternity leave* normally begins 30 weekdays before the calculated date of confinement and lasts 105 weekdays. *Paternity leave* is granted for 6 to 12 weekdays in connection with the confinement and for another 6 days at a later time. Maternity leave is followed by a 158 weekdays' *parental leave*, which can be used by the mother or the father according to their choice. According a reform plan, which has already been agreed upon politically, one month of the parental leave will be reserved for the father only. The benefit payable to the employee amounts to 70 per cent of the previous earnings at most. Under the Employment Contracts Act, the employer has not duty to pay wages for the time of family leaves. However, according to some collective agreements the employee is entitled to full pay for the first two or three months of the maternity leave.

The Employment Contracts Act also provides for a *child care leave* which begins after the parental leave and may last until the child reaches the age of three years. A child care benefit is payable for this period to families which choose not to place their child in municipal day care. Furthermore, the parents of small children have a right to a four days' *temporary child care leave* in case of a sudden illness of the child, as well as a right to shortened working hours until the child goes to school (*partial child care leave*). These leaves are unpaid.

Other leave entitlements

Sick leave

Disability to work due to illness or accident is an exception to the general rule according to which remuneration need only be paid for work actually done. After one month's employment, an employee is entitled to sick pay during the first nine working days after the disability began (Chap. 2 Sec. 11 of the Employment Contracts Act). This is normally the period after which the employee begins to draw daily benefit under the compulsory sickness insurance. If the employment has lasted less than one month, the employee is entitled to one-half of his wages for the disability period. The right to sick pay is subject to the condition that the disability is not caused by the employee himself wilfully or by gross negligence.

Other special leave

Study leave is granted under the Study Leave Act (1979) to employees with at least one year's full-time service with the same employer. The leave may be taken for general, vocational, professional, or trade union education and training. The maximum amount of study leave is two years in the course of five year's service. No wages are paid during the time of the study leave.

Furthermore, it is common that collective agreements provide for trade union courses and other educational leaves. Professional courses arranged by the employer, as well as courses for workers' representatives, generally include compensation for the time off.

Minimum age and protection of young workers

According to the Young Workers' Act (1993), a valid employment contract may be concluded by a person with 15 years of age on condition that he/she is no longer liable to compulsory school attendance. A child who has attained or will during the calendar year attain the age of 14 may be employed in very light work for a short period outside school hours on the consent of the person having care and control of the child. That person has, on the other hand, the competence to rescind the contract of a person under 18 in the interest of the education, development or health of the minor.

Special protective measures, such as training, education and medical examination, must be taken by the employer in connection with the employment of a minor (Sec. 9-11 of the Act). The regular working time of a young person over 15 is the same as that of an adult employee in the same kind of work. As for overtime and emergency work, night work, shift work, and minimum daily rest, more restrictive conditions are prescribed in Sec. 4-8 of the Act. Thus, no more than 80 hours of overtime work per calendar year is permitted (without dispensation) for a young worker, and the working hours may not exceed 9 per day and 48 per week. The minimum daily rest is 12 consecutive hours and the minimum weekly rest is 38 hours, correspondingly. The hours of work shall fall between 6 a.m. and 10 p.m. The work of an employee under 15 is subject to even more far-reaching restrictions as regards working time.

A separate Decree on the Protection of Young Workers (1986, as amended) contains an enumeration of jobs considered unsuitable for persons under 18 or 16. These jobs include work involving risk of exposure to detrimental radiation, work performed alone under risk of violence, work with psychiatric patients etc. However, the competent labour protection authority may grant exceptions from these rules on condition that such an exception is deemed necessary and the young person in question will work under proper surveillance. Exceptions from the rules on minimum age, explained above, may also be granted for cases where a child under 14 is occupied as a performing artist or an assistant in an artistic or cultural performance.

Equality

The prohibition to discriminate on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other such ground is laid down in Sec. 6 of the Constitution. The prohibition is subject to the condition that there is no acceptable reason for different treatment. The Employment Contracts Act, 2:2, repeats the main content of the provision, adding trade union activity to the list of grounds on which discrimination within the employment relationship is forbidden. The discrimination ban must be observed also in hiring new employees. Furthermore, the provision of the Employment Contracts Act imposes on the employer a duty to treat his employees impartially in other respects as well, unless an exception is warranted by justified reasons.

Sex discrimination is regulated specifically in the Equality Act, originating from 1987 but containing several amendments designed mainly to implement the requirements of EC sex discrimination law. In the general clause of the Act (Sec. 7), discrimination is defined as placing women and men in different positions on the basis of gender. Gender-based reasons are further defined to cover any reason relating to pregnancy, childbirth or parenthood, the liability to support one's family, or any other reason directly or indirectly connected with sex. To constitute discrimination, it is sufficient that the persons in question are factually put in different positions on account of sex. The comparators need not represent different sexes (say, in the case of two female job applicants of which only the other has family responsibilities). The Act, which has general applicability, contains further detailed rules on discrimination in working life, specifying the kinds of practices which are considered discriminatory, as well as the permissible forms of positive discrimination (e.g. protection of pregnant women; see Sec. 8-10).

Besides prohibiting sex discrimination, the Act also imposes on the employer *duties to promote equality*. He shall endeavour to have both women and men seeking jobs, try to create equal career opportunities, and adjust the working conditions suitable to both sexes (Sec. 6 and 6 a). One of these positive obligations is the duty to ensure as far as possible that no employee is subjected to *sexual harassment or derangement*. Non-fulfilment of this duty is regarded as a form of prohibited discrimination and may, as in the case of the other forms, render the employer liable to pay to the victim a pecuniary compensation which is normally adjusted between 15,600 - 51,900 FIM (ca. 2,600 - 8,700 EUR). The supervision of the Equality Act is entrusted with the *Equality Ombudsman* and the *Equality Delegation*. A major reform of the Equality Act is under way at the moment.

Pay issues

The amount of pay is not fixed directly by law in Finland. Pay is normally determined in collective agreements or between parties to individual employment contracts. The provisions on pay, included in the Employment Contracts Act, merely regulate the time, place and manner of payment and related issues. However, the Act also provides for the *general applicability of collective agreements* and in this way forms a statutory basis for the regulation of minimum wage and other minimum terms and conditions of employment as well. Within this system, even non-organized employers shall observe the minimum provisions of a collective agreement which has been declared as generally applicable in the field. Should there be no collective agreement applicable to a particular work, and no stipulation on pay in the employment contract either, the Employment Contracts Act provides that “customary and reasonable wage” shall be paid (2:10). Thus far there is no experience of the matter, and the application of the new provision can be expected to have only minor significance in practice. One could assume that the criteria for reasonable wage would be found e.g. in a collective agreement regulating similar type of work. In case of dispute, the matter shall be brought before a regular court to be tried in normal order.

In case the payment of indisputable claims are delayed at the end of the employment, the employee is entitled, on certain conditions, to a wage for six waiting days. In the event of the employer’s bankruptcy or insolvency, the payment of wages is assured by the Government under the Act on Guaranteed Payment of Wages (1998). The guarantee covers the employee’s wages and all other debts arising out of the employment contract but is limited to debts which have not been due for more than three months and do not exceed a certain maximum amount. The employee’s claim can be filed with the local Manpower Office. The guarantee is in the first instance met out of public funds but can then be recovered from the insolvent employer, or, in the last instance, from obligatory unemployment fees collected from all employers.

Trade union regulation

Trade union freedom, comprising also the right not to belong to an association or to resign from one, is guaranteed by the Constitution, the Employment Contract Act, and also the Criminal Code. In addition, most collective agreements include clauses on freedom of association. Employers are equally covered by the rules envisaged, and workers enjoy protection against actions taken by their fellow-employees as well. The regulation in effect prohibits closed shop arrangements.

Trade unions as well as employers’ associations are governed by the general rules of the Associations Act (1989). No specific pattern for trade unions is provided for. A union gains legal personality upon registration which cannot be denied if the formal requirements are fulfilled.

The Finnish labour market is characterized by three dominating central confederations on the worker side. The largest one is the SAK, the Central Organization of Finnish Trade Unions, representing nearly 1,100,000 wage-earners. The member associations of the SAK are 23 federations which are in general formed on an industrial basis. They are fairly independent in their collective bargaining activity which covers

manufacturing, private services, transport, local government, and the state sector. The federations in turn are composed of local unions which may comprise employees of one single large employer, or employees of all workplaces of the industry in the locality.

While the SAK is essentially a confederation of blue-collar employees, white-collar employees are organized in the two other confederations. The Finnish Confederation of Salaried Employees STTK represents over 650,000 employees such as nurses, technical engineers, police officers, and secretaries. The Confederation of Unions for Academic Professionals in Finland (Akava) watches over the interests of 375,000 professional and managerial employees. Especially in Akava the member federations are organized on a professional basis.

In the private sector, *the employers* are organized mainly in two associations. The Confederation of Finnish Industry and Employers (TT) has member federations and associations in the fields of manufacturing, construction, transportation and maintenance, whereas the Employers' Confederation of Service Industries (PT) represents employers, mostly small firms, in trade, banking, insurance, hotels and restaurants etc.

As from 1968, most collective agreements have included clauses on *collection of union dues by check-off*. Upon an authorization, given in writing by the worker, the employer shall deduce union dues from wages and salaries and remit the amounts thus deducted to the trade union in question. The system is generally applied and plays an important part in the stability of the trade unions' economy.

Collective Bargaining and Agreements

Regulation and basic concepts

Collective bargaining is regulated in the Collective Agreements Act, 1946. As a precondition for the application of the Act, three basic characteristics of a collective agreement, relating to its parties, contents and form, are required to be at hand.

Under Sec. 1 of the Act, a collective agreement shall on the employer side be concluded by an employers' association or by an employer, whereas on the employee side a trade union must appear as a party. The agreement may also have more than two signatory parties, e.g. one employee federation and two federations from the employer side. Regarding contents, the agreement must set conditions to be observed in employment contracts or otherwise in employment relations. This widely interpreted definition refers to the so called *normative clauses* of a collective agreement which regulate the terms and conditions of individual employment relationships (pay, working hours etc.). A collective agreement may, in addition, contain *obligatory clauses* which are intended only to have legal effect between the contracting parties, e.g. a commitment to develop new pay systems. Finally, to be legally valid a collective agreement must under Sec. 2 of the Act be concluded in writing.

The structure and the levels of collective bargaining

The collective bargaining mechanism in Finland can roughly be described to consist of three levels:

At the top level, the employees' confederations negotiate *general and framework agreements* with the central employers confederations regulating general wage increase, hours of work, the status of shop stewards, and other matters broadly pertaining to working life. These agreements normally become binding after they have been incorporated in collective agreements concluded by the federations. It is common practice that also the state takes part in such central negotiations which then may result in an *incomes policy agreement* covering social policy and tax solutions etc.

Most of the collectively agreed terms of employment come into being at the level of *nation-wide federations*. Usually there is one leading, comprehensive collective agreement in the industry in question. However, where the organization of the trade union is based on craft, the union negotiates an agreement with the employers' federation in each industry.

Local agreements of various types have gained importance in recent years. An industry-wide agreement may refer certain issues to be solved locally, or allow derogation from its contents by means of local agreements. There are also independent company agreements concluded between an employer and a local or an industry-wide trade union.

Effects of collective agreements

Under Sec. 4 of the Collective Agreements Act, the subjects bound by the agreement are: 1) the parties to the agreement themselves and those who have in writing joined the agreement, and, 2) the associations as well as individual employers and employees which are, directly or through intermediary associations, members of associations which are parties to the agreement.

Employment terms included in the normative clauses of a collective agreement become *automatically and with obligatory effect applicable* within employment relationships covered by the agreement. Moreover, an employer who is bound by the agreement shall observe its terms vis-à-vis his employees who are not themselves bound by the agreement (usually non-organized employees) but who perform work covered by the agreement. The employment terms stipulated in a collective agreement may, however, usually be exceeded by means of individual employment contracts. A compensatory fine is provided for in the Act to give effect to compliance with obligations ensuing from the agreement.

Associations bound by a collective agreement are under a *duty to supervise* that their members do not violate any provisions of the agreement. Finally, a *labour peace obligation* enters into force for the agreement period as a statutory effect of the conclusion of a collective agreement.

Unless the agreement is concluded for a fixed period, it can be terminated by way of notice. According to a common clause the terms of the agreement shall continue to be observed until a new agreement has been concluded or the negotiations have broken down.

Generally applicable collective agreements

The scope of certain collective agreements may be extended so that they have an obligatory effect also on employers not otherwise bound by the agreement. Under Sec. 7 of Chapter 2 of the Employment Contracts Act, the general applicability of collective agreements presupposes that the agreement is nation-wide and can be deemed as representative in the field in question. In the consideration of the said criteria several factors are taken into account, the point of departure being that about one-half of the employees in the field concerned are covered by the agreement already by virtue of the Collective Agreements Act. The procedure for declaring a collective agreement to be generally applicable is regulated in a specific Act (2001), passed in connection with the new Employment Contracts Act. A generally applicable collective agreement will not involve a labour peace obligation, nor any other obligations to the employee side.

Workers' representation in the enterprise

The most important workers' representative in the enterprise is the *shop steward*. Chief stewards and department shop stewards are elected at the workplace by members of the local trade union. The system is based on collective agreements, and the shop steward is considered to represent the local union especially in negotiations concerning the application of the collective agreement. However, the shop steward has certain statutory tasks and rights as well. The Employment Contracts Act has further accorded workers not represented by a shop steward a right to elect a *workers' delegate*. Under the occupational health and safety legislation, all workers of the undertaking have, regardless of union membership, a right to take part in the election of a *labour safety representative* for an office of two years at a time.

All workers' representatives, mentioned above, enjoy special job security as well as statutory protection against discrimination. They also have rights pertaining to information in their respective fields, and a right to compensation for loss of earnings. Shop stewards have the most extensive rights, determined in detail in collective agreements.

The organization of *worker participation* is under the Co-operation Within Undertakings Act (1978) arranged on the basis of the workers' representation just explained. Matters subject to the co-operation procedure may be discussed with the individual workers affected, but, if the matter concerns the personnel more generally, it is negotiated with the representatives, normally the shop stewards, of the personnel groups in question. Sec. 6 of the Act contains an extensive list of issues to be handled in the procedure prior to the employer's decision-making. The most important of these issues relate to business reorganizations leading to collective dismissals or a transfer of the undertaking or a part thereof. In these respects the Act has been adjusted to meet the requirements, regarding scope and content of the information and consultation duties, envisaged in the relevant EC Directives.

Strikes and lock outs

Industrial action is permissible within the limits laid down in the Collective Agreements Act and procedure regulated in the Act on Mediation in Labour Disputes (1962).

Under Sec. 8 of the Collective Agreements Act, the *peace obligation* is connected with the conclusion of a collective agreement and remains in force together with the agreement. During this period all those bound by the agreement, except individual employees, are under a duty to refrain from taking industrial actions - meaning strike, lock-out, overtime ban, blockade, mass dismissal etc. - directed against the agreement as a whole or any of its individual stipulations. In addition to this so called *passive peace obligation*, parties bound by the agreement are under an *active* duty to ensure that their members respect industrial peace. In case of a comprehensive collective agreement, there remains little margin for exerting lawful pressure against the opposite party in labour relations. Political actions and genuine sympathetic actions are, however, permissible even during the agreement period.

An employer or an association may, under Sec. 8 of the Collective Agreements Act, be ordered by the Labour Court to pay a compensatory fine for a breach of the peace obligation. According to the Employment Contracts Act, individual employees participating in an industrial action, legal or not legal, are protected against dismissal on condition that the action is decided by a trade union (7:2). Thus, the legal consequences of organized industrial action are confined to the sphere of collective labour law rules only.

The procedural rules of the Act on Mediation in Labour Disputes become applicable when the peace obligation is not in force. Under Sec. 7, any one intending to commence a strike or lock-out has to *give notice* to the opposite party and to the office of the National Conciliation Officers at least 14 days beforehand. The Ministry of Labour may defer the intended labour stoppage for another 14 days, if essential general interest are threatened and extra time for mediation is deemed necessary. Upon receiving the prior notice mentioned above the competent conciliator shall take measures to settle the dispute. Such measures may include presenting a draft settlement to the parties, if negotiations convened by the conciliator have not lead to a solution. No compulsory measures are, however, available to stop the projected labour stoppage or to enforce a settlement the parties are not willing to accept.

Settlement of labour disputes

Individual labour disputes over rights, referring to labour legislation or to employment contracts, are heard and tried by the *regular courts* following the same procedure as applies e.g. to other contractual disputes. Accordingly, the Supreme Court is the last instance in these cases.

The *Labour Court* is a single special court established to deal with disputes connected with collective agreements. The jurisdiction of the Court is reflected in its tripartite composition, consisting of neutral members and members representing employers and employees, all nominated for a three-year period. The competence of the Court covers disputes concerning interpretation of collective agreements, and breaches

against duties ensuing from collective agreements (such as violations of individual agreement clauses or the peace obligation). The parties to lawsuits at the Labour Court are normally the parties to the collective agreement in question. In recent years, approximately 100 suits per year have been brought before the Labour Court.

Legal proceedings at the Labour Court may only be instituted if the dispute has not been settled in a *grievance procedure*, if provided for in the collective agreement. The procedure usually implies that disputes concerning the application of the agreement shall be handled in negotiations which are started at the level of the workplace and, if necessary, continued at the federation level. Remaining disputes can then be taken to the Labour Court which gives a final decision in the case.

Web Links

[List of ILO Convention ratified by Finland](#)

Ministry of Labour: <http://www.mol.fi/english/index.html>

Ministry of Social Affairs and Health (covering e.g. gender equality and safety at work): <http://www.vn.fi/stm/english/index.htm>

The Confederation of Finnish Industry and Employers TT: <http://www.tt.fi/english/>

The Central Organization of Finnish Trade Unions SAK: <http://www.sak.fi/>

The Confederation of Unions for Academic Professionals in Finland: <http://www.akava.fi/html/english/index.html>

The Finnish Confederation of Salaried Employees STTK: <http://www.sttk.fi/english/index.html>

[ILO Conventions ratified by Finland](#)

[Comments of the ILO Supervisory Bodies on Finland](#)

[NATLEX, ILO Database of National Legislation](#)

Bibliography

[Suviranta, Antti Johannes: Labour Law in Finland. 2000, Kluwer Law International.](#)

[Labour Administration in Finland, ILO Department for Government and Labour Law and Administration, Document No. 4, Geneva, 2001](#)