

**Twelfth Meeting of European Labour Court Judges
Budapest, 8 and 9 September 2004**

Do we need labour courts?

Questionnaire

**General Reporter: M. Pierre SARGOS
Président de la chambre sociale de la Cour de cassation,
France**

National Reporter: Jorma Saloheimo, Vice President of the Labour Court, Finland

For questions 1 to 7, please provide *complete information* if you so wish and particularly if you did not attend our meeting in Jerusalem (2000), or only indicate the *important changes produced* in your country since then.

For more details regarding questions 1 to 7, please consult the Finnish report for the meeting in Jerusalem in 2000.

1. Is there a specialised jurisdiction for labour conflicts in your country?

Yes _____x_____

2. If such a jurisdiction exists, what is its competence? Does it have competence for:

Collective labour conflicts? _____x_____

Individual labour conflicts? _____

Any other area of possible competence? If so, please indicate. _____x_____

In addition to disputes arising from collective agreements, the Finnish Labour Court deals with two groups of cases:

- appeals against decisions, made by a special board, concerning the confirmation of the general applicability of collective agreements, and
- appeals against decisions of the Labour Council in matters concerning exceptions from the provisions of certain labour protection provisions.

These administrative appeals were added to the competence of the Labour Court in 2001 and 2004, but they represent only a small share of the total number of cases handled by the Court.

3. **Is this competence exclusive, or can some tribunals (other than labour tribunals) also be accessed?**

Exclusive competence _____X_____

4. **Is it a first instance jurisdiction (as in France, where the conseils des prud'hommes were created in 1806)? What is its composition?**

With the exception of the administrative appeals, mentioned above, the Labour Court is the first instance in matters belonging to its jurisdiction.

The Court sits in two panels, both consisting of a chairman, another neutral member, two members from the employer side and two members from the employee side. Appeals are handled in a special composition with five members, of whom three are neutral and two represent the labour market organisations.

5. **In the case of appeal, is there a labour court also? What is its composition?**
6. **Is there a labour court at the highest level (similar to cassation)? What is its composition?**

There is no regular appeal from the decisions of the Labour Court, which is thus the last instance of court.

7. **What was the reasoning behind the creation of the labour jurisdiction? When did it take place?**

The Finnish Labour Court was founded in 1946 at a time when the mechanism of collective negotiations in the labour market had started to develop rapidly. A special court was deemed necessary due to the fact that general courts of law were thought to be too slow and lack the necessary expertise required in settling disputes arising out of collective agreements. In addition, it was considered significant that a court which was composed of members who represent the employers' as well as the employees' organizations, could gain the confidence of the labour organizations in a different manner than the general courts of law.

8. **What is the dominant opinion of the “working” of the labour jurisdiction? Are there any plans to reform it, and if so please give details.**

The original reasons for the establishment of the Labour Court are, by and large, still valid today. In the last two decades or so there has been a general trend to diminish the number of special courts, but this has not affected the position of the Labour Court. From time to time proposals have been made to bring new groups of cases under the competence of the Labour Court, but with the exception of the appeal cases mentioned before, such efforts have failed.

To date, no serious reform plans concerning the competence, composition or working forms of the Court are under discussion. However, the outcome of the Kellermann case, pending in the European Court of Human Rights, is awaited also in Finland. The decision may have implications in the treatment of cases where a non-organised employer or employee appears as a party.

9. **Particularly in countries where the competence to deal with *individual* labour conflicts is given to the ordinary judge, is there a movement tending to say that it would be more justified that this competence be given to the labour judge?**
10. **Particularly in countries where the competence to deal with *individual* labour conflicts IN APPEAL is given to the ordinary judge, is there a movement tending to say that it would be more justified that this competence be given to the labour judge?**

There are hardly any such movements currently present in Finland. Although some critical voices are expressed because of inconsistency in the way individual labour law disputes are decided in the regular courts of the country, it is well understood that the Labour Court as a single special court could not easily handle such an extra workload.

11. **In the event that labour courts do not exist in your country, is their creation foreseen? If so, in what form?**
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12. **Is there a preliminary procedure of conciliation to be followed before the first instance labour court can be accessed?**

There is no such conciliation organized in Finland.

It is another matter that the procedure in the Labour Court must be preceded by a grievance procedure, if so agreed in the collective agreement in question. This normally entails grievance negotiations at the plant level between the supervisor and the shop steward representing the employees involved. If the dispute is not settled, it must be taken to negotiations conducted at the federation level, and only if the dispute still remains unsettled can it be brought before the Labour Court.

13. **Is there a particular procedure ensuring access to the specialised jurisdiction at any instance (1st or 2nd instance, or cassation)? If so, please explain its particularities or are normal procedures followed?**

There is no such particular procedure in the Labour Court.

14. **Do you have any further comments to add?**

It would be interesting to discuss the Kellermann case (ABB Kurt Kellermann v. Sweden), if the decision of the ECHR is handed down before our meeting in Budapest.