

## REPORT

for the period 1 June 2018 to 31 May 2019 (General Observation 2017), made by the **Government of Finland**, in accordance with article 22 of the Constitution of the International Labour Organisation, on the measures taken to give effect to the provisions of the

### Maritime Labour Convention, 2006, MLC

ratification of which was registered on 9 January 2013.

**A) Any new question or request for information included in a revised version of the report form since your Government's last report;**

Finland refers to Annex I of the ILO's request for statement dated 8 March 2019 in which also the 2006 Maritime Labour Convention is mentioned in the list of reports due to be submitted by Finland in 2019. Finland has submitted its previous report on the application of the Maritime Labour Convention in 2018. The reporting period of this report therefore covers only the period 1 June 2018–31 May 2019.

In the previous report it was mentioned that the Government will initiate a statute drafting project for the implementation of necessary amendments (regarding the Seafarer's Working Hours Act (296/1976), page 4 of the previous report). The project will be started in autumn this year. In addition, the Government has started to make necessary amendments to the DMLC Part I.

**B) Any new legislative or other measures affecting the application of the Convention;**

Legislative amendments made during this reporting period:

The 2016 amendments to the Code of the Maritime Labour Convention (MLC) entered into force in Finland on 8 August 2019. See the [Act on Amendments to the Code of the Maritime Labour Convention \(447/2018\)](#) and the [Government Decree on the Entry into Force of the Act on Amendments to the Code of the Maritime Labour Convention \(1029/2018\)](#) (only in Finnish).

The adoption of the Convention required an amendment to section 8 of the Act on the Working and Living Environment and Catering for Seafarers on Board Ships (395/2012). In accordance with the amendments to the Code of the Maritime Labour Convention, the amendment enables continued validity of the maritime labour certificate in a situation in which a new certificate cannot be issued to the ship immediately and escorted to it. Below is the amended section 8 of the Act on the Working and Living Environment and Catering for Seafarers on Board Ships:

Section 8 (448/2014)

*Inspections and statements related to issuance of a maritime labour certificate*

The occupational safety and health authority gives the Finnish Transport Safety Agency a statement concerning the matters listed in Appendix A5-1 to the Maritime Labour Convention for issuance of a maritime labour certificate in accordance with the Convention.

Before giving the statement referred to in subsection 1, the occupational safety and health authority must carry out such inspections within its competence on board the ship as referred to in the Maritime Labour Convention that are necessary for issuance, continued validity or renewal of an interim maritime labour certificate and a maritime labour certificate. The shipowner must apply for the above-mentioned inspections in writing in good time before the due date of the inspection. The occupational safety and health authority must duly record in the maritime labour certificate an approved interim inspection conducted for keeping a maritime labour certificate valid.

In the event that the occupational safety and health authority states, after a reinspection conducted before the end of the validity of the maritime labour certificate, that the ship continues to meet the requirements set for issuing a maritime labour certificate, but a new certificate cannot be issued immediately or it cannot be delivered to the ship before the end of the validity of the certificate, the occupational safety and health authority may extend the validity of the maritime labour certificate by five months at the most.

The occupational safety and health authority gives a statement to the Finnish Transport Safety Agency for the issuance of a temporary certificate. The statement must be issued without delay. The precondition for issuing the statement is that the shipowner has demonstrated its compliance with the requirements of the Maritime Labour Convention to the occupational safety and health authority and that the occupational safety and health authority has inspected the ship. An inspection on board the ship can be skipped if it is deemed unnecessary.

Sections 57 and 58 of the Act on the Technical Safety and Safe Operation of Ships (1686/2009) lay down provisions regarding the maritime labour certificate and the conditions for certificate issuance.

Further provisions can be given by government decree regarding the initiation of an inspection, the date and conduct of an inspection and the information on an inspection to be recorded in the maritime labour certificate.

In addition, below are the legislative amendments and the changes to the practices of the authorities that were made in the administrative sector of the Ministry of Transport and Communications during the reporting period. Some legislative amendments that entered into force before this reporting period but were missing from the previous report are also mentioned in the replies. The replies have been organised according to the questions in the report form.<sup>1</sup>

## **Part 1. General questions**

### **II. Principal documents**

Please provide, in English, French or Spanish (or the English translation required by Standard A5.1.3, paragraph 12), a copy of the standard Maritime Labour Certificate, including Part I of the Declaration of Maritime Labour Compliance (DMLC) as well as an example or examples of Part II of the DMLC which have been prepared by a shipowner and have been accepted by your country, when certifying a ship or ships. (Specific identifying information regarding the ship or shipowner should be removed from the example or examples.) Additional documentation on other matters will be requested in Part II of this report form.

*See annex 1 (excluding Part I of the DMLC as well as an example of Part II of the DMLC).*

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<sup>1</sup> Unfortunately, an up-to-date translation in English is not available for all of the provisions listed below.

#### **IV. Competent authority and consultations**

Please identify the competent authority or authorities having power to issue and enforce regulations, orders or other instructions in respect of subject matter covered by the Convention.

*(Article II, paragraph 1(a))*

*The competent authority to issue more detailed provisions on the procedures related to the issuance of maritime labour certificates and interim maritime labour certificates is, since January 1<sup>st</sup>, 2019, Finnish Transport and Communications Agency (former Finnish Transport Safety Agency). See Act on the Technical Safety and Safe Operation of Ships (N:o 1686/2009, as amended), Sections 57 and 58.*

#### **Part II. Specific information**

##### **Title 1. Minimum requirements for seafarers to work on a ship**

##### **Regulation 1.3 – Training and qualifications**

Do all seafarers have to be trained, certified or otherwise qualified for the duties they are to carry out on board ship? *(Regulation 1.3, paragraph 1; see also paragraph 4)*

*Yes. See Act on Transport Services (N:o 320/2017, as amended) Part II, Chapter 10, Section 98 (former Part II, Chapter 10, Section 3) and Government Decree on the Manning of Ships and Certification of Seafarers (N:o 508/2018), Section 4.*

Are all seafarers required to successfully complete training for personal safety on board ship? *(Regulation 1.3, paragraph 2)*

*Yes. See Government Decree on the Manning of Ships and Certification of Seafarers (N:o 508/2018, as amended), Section 19.*

Is training and certification in accordance with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), as amended, accepted? *(Regulation 1.3, paragraph 3)*

*Yes.*

##### **Title 2. Conditions of employment**

##### **Regulation 2.7 – Manning levels**

Do the safe manning levels which are determined or approved by the competent authority avoid or minimize excessive hours of work and ensure sufficient rest for seafarers to assure the safety and security of the ship and its personnel in all operating conditions and considering the particular nature and conditions of a voyage?

*(Regulation 2.7; Standard A2.7, paragraphs 1 and 2; see guidance in Guideline B2.7)*

*Yes. See Act on Ships' Crews and the Safety Management of Ships (1687/2009, as amended), Sections 5, 6, 6 a, 7, 9, 11; Government Decree on the Manning of Ships and Certification of Seafarers (N:o 508/2018, as amended), Sections 4,5, 6 and 7.*

How do the safe manning levels take into account the requirements under Regulation 3.2 and Standard A3.2 concerning food and catering?  
(Standard A2.7, paragraph 3)

*See Government Decree on the Manning of Ships and Certification of Seafarers (N:o 508/2018, as amended), Section 9.*

How are complaints or disputes about determinations on the safe manning levels on a ship investigated and settled (see guidance in Guideline B2.7)

*See Act on Ships' Crews and the Safety Management of Ships (1687/2009, as amended), Sections 6, 11, 41 and 42; Government Decree on the Manning of Ships and Certification of Seafarers (N:o 508/2018, as amended), Section 6.*

**Additional information** concerning implementation of Regulation 2.7, indicating any cases of substantial equivalence.

*Finnish Transport and Communications Agency receives statements from the labour organisations which are taken into account when issuing the MSMD.*

### **Title 3. Accommodation, recreational facilities, food and catering**

#### **Regulation 3.2 – Food and catering**

Are ships' cooks required to have completed a training course approved or recognized by the competent authority?  
(Standard A3.2, paragraphs 2(c), 3 and 4)

*Yes. See Government Decree on the Manning of Ships and Certification of Seafarers (N:o 508/2018, as amended), Section 9 and Sections 52–54. Main elements of the training are, according to the Regulation of the Finnish National Board of Education (Vocational Qualification in Hotel, Restaurant and Catering Services, N:o 44/011/2014, as amended):*

- Study programme/Specialisation in Cookery, Cook:*
- 2.4.1 Preparation of lunch dishes and 2.4.2 Preparation of dishes*
- 2.1.1 Working in accommodation and food preparation services*
- 2.5.12 Ship Catering Services*

*and according to the Regulation of the Finnish National Board of Education (Vocational Qualification in Seafaring, N:o OPH-2540-2017, as amended):*

- 2.3 Emergency and Safety Activities including:*
- Basic Training (A-VI/1)*
- Survival Crafts and Rescue Boats (A-VI/2-1)*

*-Designated Security Duties (A-VI/6-2)*

Have dispensations been issued to permit a non-fully qualified cook to serve as ship's cook pursuant to Standard A3.2, paragraph 6?

*No.*

Are ships' cooks required to be aged at least 18?  
(Standard A3.2, paragraph 8)

*Yes. See Government Decree on the Manning of Ships and Certification of Seafarers (N:o 508/2018, as amended), Sections 52–54.*

## **Title 5. Compliance and enforcement**

### **Regulation 5.1 – Flag State responsibilities**

#### **Regulation 5.1.3 – Maritime labour certificate and declaration of maritime labour compliance**

The cases in which a maritime labour certificate is required; the maximum period of issue; the scope of the prior inspection; the requirement for an intermediate inspection; the provisions for renewal of the certificate. (*Regulation 5.1.3; Standard A5.1.3, paragraphs 1–4*)

*See Act on the Technical Safety and Safe Operation of Ships (1686/2009, as amended), Sections 57, 58 and 59; Regulation of the Finnish Transport Safety Agency (Surveys of ships, N:o TRAFI/218533/03.04.01.00/2018, Chapter 10 (Maritime labour certificates and their validity)) and Act on the Working and Living Environment and Catering for Seafarers on Board Ships (395/2012, as amended), Section 8 (also on p. 1 – 2 of the report)*

The cases in which a maritime labour certificate may be issued on an interim basis (*Standard A5.1.3, paragraphs 5(a)–(c)*); the maximum period of issue of interim certificates, if issued; the scope of the prior inspection required if interim certificates are issued. (*Standard A5.1.3, paragraphs 5–8*)

*Interim certificate may be issued for a maximum of 6 months (Act on the Technical Safety and Safe Operation of Ships (1686/2009, as amended), Section 58). Regarding prior inspection, see Act on the Working and Living Environment and Catering for Seafarers on Board Ships (395/2012, as amended), Section 8 (also on p. 1 – 2 of the report).*

The circumstances in which a maritime labour certificate ceases to be valid. (*Standard A5.1.3, paragraphs 14 and 15; see guidance in Guideline B5.1.3, paragraph 6*)

*See Act on the Technical Safety and Safe Operation of Ships (1686/2009, as amended), Section 59.*

The circumstances in which a maritime labour certificate must be withdrawn. (*Standard A5.1.3, paragraphs 16 and 17*)

*See Act on the Technical Safety and Safe Operation of Ships (1686/2009, as amended), Section 57.*

**Documentation:** If available in your country, please provide, in English, a copy of the national interim maritime labour certificate.

*See annex 2.*

## **Regulation 5.2 – Port State responsibilities**

### **Regulation 5.2.1 – Inspections in port**

Please identify, and outline the content of, the legal provisions or principles under which compensation must be paid for any loss or damage for a ship being unduly detained or delayed and, where applicable, please provide examples in which shipowners have been awarded compensation. (*Standard A5.2.1, paragraph 8*)

*Implementing legislation: Ship Safety Control Act (370/1995, as amended), Sections 18, 19 and 22 (section 18 amended in the reporting period).*

*Thus far, there have not been cases where compensation has been awarded.*

**C) The questions in the report form on the practical application of the Convention (for example, statistics, results of inspections, judicial or administrative decisions) and on the communication of copies of the report to the representative organizations of employers and workers and on any observations received from these organizations;**

**A copy of this report has been sent to the following labour market organizations:**

1. The Confederation of Finnish Industries (EK)
2. The Central Organization of Finnish Trade Unions (SAK)
3. The Finnish Confederation of Salaried Employees (STTK)
4. The Confederation of Unions for Academic Professionals in Finland (Akava)
5. The Commission for Local Authority Employers (KT)
6. The State Employer's Office (VTML)
7. The Federation of Finnish Enterprises (SY)
8. Finnish Shipowners' Association
9. Finnish Seamen's Union
10. Finnish Ships' Officers' Association
11. Finnish Engineers' Association
12. Finnish Port Operators Association
13. Finnish Passenger Ferry Association (Suomen Matkustajalaivayhdistys ry)

**Statements of the labour market organisations:**

*Statement of the Finnish Seafarers' Union SFU:*

Only one year has passed since the end of the previous reporting period for the Maritime Labour Convention. During the year, the Finnish Seafarers' Union has participated in the discussions concerning the need for supplementary actions and rectifications required by the comments included in the request for report by the ILO in 2018 and other deficiencies that have been observed. An example of this is the addition to the Seafarers' Employment Contracts Act of a specific provision concerning the obligation to provide the employee with instructions for the appeal procedure when the employment agreement is concluded.

We are not aware of any such new case law that would directly or indirectly concern the application of the provisions of the Maritime Labour Convention.

As a result of a mistake that has occurred in the multi-stage legislative preparation related to the Act on Transport Services, provisions on the right of seafarers to apply to Traficom for an dispensation/rectification concerning fitness for service at sea are currently in force in both the Act on Transport Services and the Act on Medical Fitness Examinations of Seafarers. This regrettable overlap is on the agenda of the Advisory Board on Seamen's Affairs.