

REPORT**Article 22 of the Constitution of the ILO**

Report for the period 1 June 2011 to 31 May 2016, made by the **Government of Finland**

on the

Workers with Family Responsibilities convention, 1981, No. 156

(ratification registered on 9 February 1983)

Observation 2012

Articles 3 and 4(b) of the Convention. National policy and leave entitlements. The Committee asks the Government to provide information on the progress of any legislative amendments with regard to the parental leave system. It also asks the Government to clarify whether the family leave campaign is continuing, and to provide information on the impact of such activities, including statistical information on the extent to which men take family leave. Please also provide information on other measures taken to promote an equitable sharing of family responsibilities between men and women, as well as a copy of the interim report on gender equality, due in 2016.

During the period 1 June 2011 to 31 May 2016 there have been several legislative amendments with regard to the family benefit system and social security. These amendments provide families more possibilities to combine family and working life and allows father to stay longer at home with the child.

The primary goal is still to have fathers utilise their family leave more. In connection with this, changes were made to paternity leave and payment of paternity allowance on 1 January 2013.

The legislative amendment concerning paternity leave entered into force on 21 December 2012. The amendment concerned the length of paternity leave which is now 54 weekdays (meaning Monday-Saturday days). Also the period during which the leave can be taken lengthened meaning that paternity leave can now be taken until the child is 2 years old or, in the case of adoption, before 2 years have passed since the date of placement.

The daddy month was removed. According to the new law, the father can receive paternity allowance for a maximum of 54 working days, i.e. for around nine weeks. Of these 54 days, fathers can choose to stay at home for 1 to 18 weekdays at the same time as the child's mother while she is paid maternity or parental allowance. The father can have the rest of his paternity leave after the parental allowance period has ended. Paternity leave can be taken more flexibly than before, as previously the 1-18 working days had to be taken before the parental allowance period ended. Now the whole leave can be taken in one go after the parental allowance period. The paternity allowance periods can be taken until the child turns two. In 2015, according to the statistics of the National Social Insurance Institution, 65,485 fathers received parental allowance, which is 11 % more than in 2014. In 2015, there was an increase especially in the number of fathers who received the paternity allowance after the parental allowance period. In 2015, they numbered 27,492 while the previous year the number was 19,299. In addition, the share of all parental allowance days that were paid to fathers increased from 8.3 % to 9.7 %. Thus, mothers are still the primary users of parental leave.

The increase in fathers who applied for the paternity allowance was affected by the legislative amendment in 2013. Since paternity leave can be taken later than before, a larger number of fathers are able to receive benefits during the same calendar year. In 2015, parental allowances were paid to parents of children born in 2015, 2014 and 2013. Fathers also took even more parental allowance days. Fathers of children born in 2013 were compensated for around 36 parental allowance days, whereas the fathers of children born in 2012 were on parental leave for around 33 and the fathers of children born in 2011 for 32 days. *Please see ANNEX II for more statistical information on the extent to which men take family leave.*

To provide more possibilities to combine family and working life there has been a legislative amendment with regard to the flexible care allowance (entry into force on 13 December 2013). The flexible care allowance is a new allowance which can be paid to the parents of child under 3 years of age. A father or mother who participates in the care of a child under 3 years of age and works no more than 30 hours per week on average may be entitled to a flexible care allowance from Kela.

To distribute parental leaves between mother and father there has been a legislative amendment with regard to earning holiday days during parental leave. After the amendment (entry into force on 18 March 2016) mother earns holiday days only for six months during parental leave. As the mother no longer earns holiday days for whole parental leave the father may more often take a part of parental leave and the mother goes back to work earlier. Also the compensation to employers paid by Kela diminished at the same time. Now the employer can be compensated for holiday costs up to six months holiday costs of employee who is on parental leave.

To support mothers' employers, there is also discussion about a new kind of benefit for mother's employer. The benefit would be 2 500 euros and it would be paid by Kela to mother's employer in case the mother takes a maternity leave. The aim of this new compensation is to raise women's situation in labour market.

There are also other plans which may occur in near future. From August 2016 the right to community day care will be provided depending on the parent's situation. All children have the right to day care maximum of 20 hours per week. The children of parents who are working, is entrepreneur or studies have right to day care more than 20 hours per week. If the family or the child has a special need for extended day care the community has right to extend the day care in this kind of cases. This amendment will be laid because of Finland's economic situation. Earlier all children has right to full time day care and all communities will not diminish the right to day care.

Initiated by the Ministry of Social Affairs and Health, the Work and Family Life programme was active during 2013–2015 with the goal of increasing the awareness of family life as a resource for working life and to promote the integration of work and family in every career stage. The programme was coordinated by the Finnish Institute of Occupational Health. In addition, one of the current Government term's key projects includes the programme to address child and family services, which includes implementing family-friendly operation models in workplaces. The goal is to promote the utilisation of parental leave by fathers.

The interim report on the implementation of the Governmental Report on Gender Equality requested by the Committee will not be finished until autumn 2016, at which time the Government will present it to the parliamentary Employment and Equality Committee.

In 2017, the Ministry of Social Affairs and Health will implement the “Visible Fathers” campaign that is funded by the EU to encourage fathers to take family leave and to increase awareness of the family leave possibilities for fathers and the meaning of fatherhood.

*Articles 7 and 8. Return to work following family leave and protection from dismissal. **The Committee asks the Government to provide information on the practical application and effects of the provisions concerned with the ability of workers returning from family leave to remain integrated in the labour force. In this regard, the Committee again asks the Government to continue to provide information on any relevant court decisions.***

Application of the Employment Contracts Act’s provision on returning to work
<http://www.finlex.fi/en/laki/kaannokset/2001/20010055>

The status of pregnant employees, those on family leave and those planning to take their family leave is secured by the Employment Contracts Act (55/2001) in two ways. Those who are pregnant and taking family leave are under enhanced employment security. According to Chapter 7, Section 9 of the Employment Contracts Act, 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 family leave. Another element that secures the use of family leaves is the right to return to work. According to Chapter 4, Section 9, at the end of their family leave, the employee is entitled to return primarily to their former duties. The Act on Equality between Women and Men (609/1986), hereinafter referred to as the Act on Equality, prohibits treating someone differently for reasons of pregnancy or childbirth or on the basis of parenthood or family responsibilities as a form of direct discrimination.

Chapter 4 of the Employment Contracts Act lays down provisions on maternity, special maternity, paternity and parental leave as well as partial child-care leave, absences for compelling family reasons, and agreement-based absences for taking care of a family member or a close relation. The length and timing of maternity, paternity and parental leaves are laid down in the Employment Contracts Act pursuant to the benefit periods specified in the Sickness Insurance Act (1224/2004).

According to Chapter 4, Section 9 of the Employment Contracts Act, at the end of their family leave, the employee is entitled first and foremost to return to their former duties. The provision on the right to return to work is applied to all those employees who, at the end of their family leave, have a valid employment relationship regardless of whether the employment is permanent or fixed-term. When the employee returns to work after their family leave, their employment terms must remain at least the same, i.e. as if they had never been on family leave. The employee returning from their family leave may not be placed in a weaker position than other employees when they return to their previous work. The person on family leave has the right to those working condition improvements that they would have received if they had not taken family leave, and the family leave cannot affect their future employee status.

The employee’s permanent employment relationship stays valid throughout their family leave. Depending on the length of their employment relationship, their benefits also accrue during their family leave. For example, the family leave is included in the length of the employment that determines the length of their period of notice. However, employment terms that are accrued according to the actual work done do not accrue during family leave. The accrual of the benefits laid down in the Annual Holidays Act (162/2005) during the leave depends on the nature of the leave, as maternity, special maternity, paternity and parental leave days are mostly comparable to

working days, whereas child-care leave does not accrue any annual holidays. Please see more about the amendments on Annual Holidays Act in page 2 and Section I.

The employer has a special responsibility in ensuring that the returning right of the employee on family leave is realised. At the end of a maternity or other family leave such as paternity or parental leave as well as childcare leave, the employee is entitled to return first and foremost to their former duties. An employee returning from partial childcare leave has the right to return to their previous working time.

The employees' right to return refers to the employer's duty to provide a tiered order of the work on offer according to the quality of the work. As a rule, the employee is first and foremost entitled to return to their former duties under their employer. However, this is not always possible. According to the Employment Contracts Act, if the return to their former duties is not possible, the employee must be offered work under a contract of employment that corresponds to his or her former job, and if this is not possible either, some other contracted employment must be offered.

The purpose of the provision is to ensure that the employee's terms of employment remain at least the same with the exception of general changes in employment relationships during the family leave. Thus the employer does not have the right to offer whatever work the employer wishes in place of the previous work, and the work that is offered must correspond to the employee's employment contract and previous duties. The equivalence of the work must be assessed according to the quality of the work as well as the demands that it presents, for example on the basis of the employee's required experience and education.

According to the preliminary work on the provision of the Employment Contracts Act, the employer must also assess the equivalence of the employee's previous work tasks and the other work tasks possibly available, and, on the other hand, the equivalence of the new tasks in comparison with the old tasks that were agreed-upon in the employee's employment contract. When assessing equivalences between these, the criteria may include not only the employee's experience and education, but also the employer's responsibility for contributing to the improvement of working prerequisites by, for example, arranging the guidance and training necessary for accepting the work.

If the employer implements any organisational changes during the family leave, excluding agreement-based absences for taking care of a family member or a close relation, the employer must take into account that the employee on family leave has the right to return to the reorganised tasks. During any reorganisation procedures, the employer must take into account the benefits of the employee on family leave and offer such work to the employee returning from their family leave that is as close to their previous tasks as possible. During an extended family leave, the employee's professional skills might deteriorate e.g. due to developments in the field. In such cases, the employer is obligated to provide training for the employee returning from their family leave.

If there is no work available that corresponds with the employee's previous work and employment contract, the employer must offer some other work that corresponds with the employee's employment contract. The scope of the obligation to offer work is based on how extensively the employee's work tasks are defined in the employment contract.

Due to the right to return, the employer may not hire new employees for the same or similar tasks that the person on family leave has performed. The employer must safeguard the right to return of the employee on family leave and utilise substitutes or fixed-term employees in their tasks in the

case that the labour is required during the employee's family leave. However, when compared to substitutes, the employee on family leave retains their right to return to their previous work.

It is not always possible to offer an employee who returns from their family leave their previous work or any other work that corresponds with their employment contract. In such cases, the Employment Contracts Act's general provisions on terminating employment contracts and lay-offs as well as the provisions on the related training and relocation obligations are utilised when assessing the employer's right to terminate or lay off the employee. If no work that corresponds with the employment contract is available, before laying off the employee or terminating the employee's employment contract, the employer must assess whether the employee could be provided with other work or training that is required by the grounds for lay-offs or terminations in the Employment Contracts Act.

The employment terms must remain similar in such cases where the employer can, according to the tiered order of work that is available, offer the employee their previous or similar tasks.

Court cases

Ruling no. 2765 by the Helsinki Court of Appeal on 22 October 2009 concerned a case in which it considered whether the employer had had a weighty and acceptable reason for not taking the person returning from family leave back to work or laying them off, and whether they had committed employment discrimination by doing so. The ruling states that the employee returning from family leave has the primary right for returning to their work in place of the employee that had acted as their substitute. The employee on family leave was placed in a less favourable position due to their gender and use of family leave.

According to Labour Court ruling TT:2013-150, the company had knowingly breached the collective agreement when it did not offer the employee returning from family leave similar work to their previous sales assistant tasks in accordance with their employment contract. The collective agreement that was applied to the employment relationship defined the return to work after family leave has ended similarly to the provision in Chapter 4, Section 9 of the Employment Contracts Act: the employee is in the first place entitled to return to their former duties after their family leave. If this is not possible, the employee must be offered work under a contract of employment that corresponds with his or her former job, and if this is not possible either, some other contracted employment must be offered. The Labour Court stated that the provision in question is a special provision in relation to Section 3(6) of the Employment Contracts Act that lays down the provisions on transferring an employee to another employee task. In this case, the parties disagreed on whether the provision in Section 3(6) of the Employment Contracts Act is applicable when returning from family leave.

As the primary grounds for the action, the plaintiff referred to the fact that A had the right to return to their previous work as a sales assistant when their family leave ended. According to the defendants, A's work had ceased to be an independent task after they had left for family leave. The Labour Court assessed that A could not return after their family leave ended to their previous work, as due to a reduction in the amount work, the work in question had ceased to exist. The fact that the ending of the work task had not been subject to a co-operation negotiations procedure could not be used as the sole basis for deducing that A's work task still existed. Witness testimony showed that the department's workload had decreased and the operations had become more efficient due to the new order processing system, which meant that their work could be distributed to the other

members of the team. It was on this basis that the Labour Court dismissed the plaintiff's primary grounds for the action.

The plaintiff's secondary grounds for the action referred to the fact that the employer should have offered A work as a sales assistant that corresponded with their previous work and in accordance with their employment contract. After returning from family leave, A worked first as a switchboard operator and then as an accounts payable manager. The parties disagreed on whether the tasks of a switchboard operator or accounts payable manager corresponded with A's previous work according to the employment contract. The Labour Court stated that A had signed an employment contract for working as a sales secretary and that they had in fact done the tasks of a sales secretary/sales assistant for eight years until they left for maternity leave. Prior to returning from family leave, A had not done the tasks of a switchboard operator or accounts payable manager. The Labour Court saw that the tasks of a switchboard operator and the assistive tasks in accounts payable management do not correspond with A's previous work according to their employment contract.

At the time A returned to work, the company had hired two other persons, B and X, as sales assistants in another department, whose work tasks corresponded with A's previous work tasks as a sales assistant. The parties disagreed on whether the employer should have offered these sales assistant tasks to A. The Labour Court saw that, in the autumn of 2011, the employer should not have employed B to the substitute sales assistant position beginning on 2 January 2012, and that the job should have been offered to A who was returning from family leave, since the employer already knew in May 2011 that A would return to work in January 2012.

Principle of distributed burden of proof

In cases of discrimination referred to in the Act on Equality, Section 9 lays down the provisions on the principle of distributed burden of proof. If a person considers that they have been a victim of discrimination under the provisions of this Act and presents a matter referred to in this Act to a court of law or to a competent authority and the facts give cause to believe that the matter is one of gender discrimination, the defendant must prove that there has been no violation of the equality between women and men but that the action was for an acceptable reason and not due to gender.

The distribution of the burden of proof refers to a two-part procedure, creating the presumption of discrimination and its invalidation. If the employee considers the employer's actions discriminatory, they must present reasonable grounds as to how the employer has treated them differently for discriminatory reasons. The employee must show that the employer has based their decision on a matter that directly or indirectly leads to them treating employees differently for discriminatory or inappropriate reasons. The defendant can invalidate the causality between the different treatment and discrimination basis or invoke the exceptions laid down in the Act on Equality (Section 9 and Section 8(1)(1)), or in a case related to parenthood or family care obligations, the defendant can also show that the procedure had an acceptable goal and that the methods for its realisation were justified and necessary.

Ruling no. 726 by the Vaasa Court of Appeal on 17 June 2011 concerned a case where it considered the existence of the grounds for termination and compensation according to the Act on Equality: was the termination caused according to the defendant's claim that there had been a fundamental and permanent reduction in the work due to the reorganisation of work, or due to the plaintiff notifying in their capacity as an employee that they would be taking their family leave, i.e. an inappropriate reason that was related to the plaintiff as a person. According to the provisions on the burden of proof, the employer should have presented evidence that would have proved that the basis

for the termination had been appropriate and that the reason for the employee's termination was in no way related to their family leave. Based on the evaluation of the evidence, the Court of Appeal upheld the District Court's ruling and reasons: various factors supported the notion that it was a question of gender-based discrimination and that the termination was based on parenthood and family care obligations, not a lack of experience.

On the basis of the Act on Equality, the minimum compensation is EUR 3470 in 2016. In cases concerning employee recruitment, the compensation payable shall not exceed EUR 16,210 for an employee in regard to whom the employer is able to show that they would not have been chosen for the job even if the choice would have been made on non-discriminatory grounds. When the amount of compensation is being determined, the nature and the extent and duration of the discrimination shall be taken into account, as well as any financial penalty imposed or ordered for payment based on an offence against the person arising from the same action by virtue of other legislation. Payment of compensation does not prevent the injured party from further claiming compensation for financial loss under the Tort Liability Act (412/1974) or any other legislation. (Sections 11 and 12 of the Act on Equality).

Between 2008–2011, different District Courts handled 100 civil action cases based on the Act on Equality. In those cases where the action was found for the plaintiff, the distribution of the compensations has been between EUR 3000–15000, with the average compensation amounting to a little under EUR 8000. Of the matters that were based on the application of the Act on Equality, 14 cases were based on pregnancy-related discrimination. Of these, 6 cases were dismissed, four were approved wholly and one in part, and three cases were settled. In addition, one case was about discrimination on the basis of family leave.

If an employee's employment relationship ends in connection with their return from family leave on the basis that their work has been distributed to others, the termination may be in violation of the Employment Contracts Act. According to Chapter 12, Section 2 of the Employment Contracts Act, the compensation for the unjustified termination of the employment relationship is equivalent the pay due for 3–24 months. In addition to compensation, the employee can claim damages for possible financial injury under the Tort Liability Act.

Direct Request 2012

Other members of the family. The Committee notes with *interest* the Government's indication that section 7a of the Employment Contract Act, which entered into force on 1 April 2011, enables a person to be absent from work in order to take care of a family member or other close relative in ascending and descending generations. It also notes that the Government's report on gender equality 2011 refers to the importance of extending family leave entitlements for taking care of family members other than dependent children. *The Committee asks the Government to provide information on the practical application of section 7a of the Employment Contract Act, including statistical information on the number of men and women who have requested leave and who have been granted such leave in order to take care of members of the family other than dependent children.*

Chapter 4, Section 7a of the Employment Contracts Act lays down the provisions on absences for taking care of a family member or someone close to the employee. According to the Section, if the employee's absence is necessary for taking care of a family member or another person close to the

employee, the employer must seek to organise their work in such a manner that the employee is able to take temporary leave from work. The absence is meant to be used for example in family care situations. In the provision, a close relation can also be a sibling, cousin, domestic partner or friend, for example. The employer must actively work to ensure that the employee's temporary leave from work is possible. The employer should assess the different options for arranging the work and, if the leave is not possible, present the justifications for why the leave cannot be arranged.

The employer and employee must agree on the length of the absence and other arrangements. The absence is always based on an agreement and the provision does not contain any special requirements for agreeing on the procedure. The suggestion usually comes from the employee. The employer and employee must agree on the discontinuation of the agreed absence. If the return to work cannot be agreed on, the employee can, for a justified reason, discontinue the absence by informing the employer of this, no later than one month before the intended return to work.

More detailed statistics are unfortunately not available.

Social Security. The Committee notes the Government's indication that, since March 2011, the minimum amount of parental allowance was raised from €22.04 to €22.13 per day, and child home care allowance increased from €314.28 to €315.54 per month; while employers are entitled to the daily allowances for the period they pay salary, in 2009 for mothers the daily allowance was paid to the employer in 11.5 per cent of days and for fathers in 9.3 per cent of days; and a system was created in 2007 whereby employers are compensated for costs incurred due to parental leave funded by a social insurance scheme, in 2010 €61.6 million was paid as compensation for annual leave earned during family leave. In this connection, the Committee notes the observations by the KT that the compensation system for costs incurred by employers due to parenthood should be improved. In its reply, the Government refers to the possibility of reform proposed by the parental leave working group with a view to increasing society's share of funding, and distributing the costs more evenly between employers of male- and female-dominated industries. ***The Committee asks the Government to continue to provide information on the measures taken to compensate employers for costs incurred, as well as any proposals made during the parental leave working group in this regard.***

Equalising the cost of parenthood in female and male-dominated sectors has been assessed by the parental leave working group that presented its report in 2011. The working group outlined alternative ways of replacing direct costs to employers than what is done currently: Currently, during the first 56 working days of maternity leave, the payment is equal to 90 per cent of annual earnings. After this initial period of leave, the benefit is paid at 70 per cent of annual earnings. The working group felt that there is a possibility for lengthening the duration of the 90 per cent compensation level from 56 working days to 72 working days, which is the length of the paid maternity leave in most collective bargaining agreements. On the other hand, the working group discussed the possibility of increasing the maternity leave compensation level from 90 per cent to 100 per cent of annual earnings for the first 56 working days. Thirdly, the working group assessed the possibilities of developing the equalisation of wage costs to employers caused by the care of a temporarily sick child. None of these reforms have been implemented.

According to the Government resolution on the Government Action Plan for Gender Equality 2016–2019 (4 May 2016), the intention is to promote equal treatment and employment of women by equalising the costs of family leaves to employers with a one-time payment of EUR 2,500.

The support would be paid with certain preconditions to employers who pay wages during the maternity allowance period on the basis of a collective bargaining agreement or employment contract.

Flexible work arrangements. The Committee notes the Government's indication that there are a number of flexible working hour arrangements, including part-time work, flexitime, telecommuting, part-time pensions, the working hour bank system and the distribution of work. ***The Committee asks the Government to provide information on the impact of these arrangements on the possibility for workers to reconcile work and family responsibilities, including the statistical information on the number of men and women using these arrangements.***

In part-time work, the employee's working time is shorter than the regular working time of a similar full-time employee. Chapter 4, Section 4 of the Employment Contracts Act lays down the provisions on the right of the parents of small children to partial childcare leave that enables part-time work.

Partial childcare means leave means childcare leave that is done by shortening daily or weekly working times. Partial childcare leave facilitates integrating family and working life by enabling shorter working times due to childcare. Partial childcare leave requires an agreement between the employer and the employee, and they can agree upon the details, such as the way working time is shortened, the times when the daily or weekly shortened times begin and end, and the duration of the partial childcare leave arrangement, as they see fit. The employee does not have the subjective right to shorten their working times on the basis of the provisions concerning partial childcare leave.

The prerequisite for the partial childcare leave is fulfilling the employment period requirement. According to Chapter 4, Section 4 of the Employment Contracts Act, an employee, who has been employed by the same employer for a total period of at least six months during the previous 12 months, is entitled to take partial childcare leave in order to care of his or her child, or some other child living permanently in the employee's household, up to the end of the second year during which the child attends basic education. If the child is covered by the extended compulsory school attendance referred to in the Basic Education Act, partial childcare leave is available until the end of the child's third school year. The parent of a disabled child or a child with a long-term illness in need of particular care and support may be granted partial childcare leave until the time the child turns 18.

The employment period requirement that is the prerequisite for the partial childcare leave does not require that the employee has been working immediately before the partial childcare leave begins, and the employee also has the right to full-time family leave, such as parental leave, or childcare leave, partial childcare leave as a continuation, if their employment relationship with the same employer has been valid for a minimum of 6 months during the last 12 months during one or several periods.

Both parents or guardians of the child may take partial childcare leave during the same calendar period, but not at the same time. It is therefore possible that the parents can utilise their partial parental leave in a way that during the same calendar period, one of the parents takes care of the child during the morning and one during the afternoon, or the parents take care of the child on different days or weeks. The parent or guardian who lives in the same household as the child has the right to partial parental leave regardless of whether the other parent works outside the home.

For parents with small children, partial parental leave improves the possibility of integrating the needs of work and family life up until the end of the second year during which the child attends

basic education. An employee can take partial childcare leave when they have fulfilled their employment period requirement. The employee must notify their employer about taking the partial childcare leave at least two months before the intended leave begins. Receiving partial childcare leave requires committing to the same employer for an adequate period of time as well as a timely notification on taking the leave. This means that one cannot take partial childcare leave right after beginning a new employment relationship. In part, the partial childcare leave's employment period requirement increases the predictability and transparency of the labour market, as employers can then predict when people will take partial childcare leave.

The working group for promoting the flexibility of the child home care allowance and the treatment systems for children that was appointed by the Ministry of Social Affairs and Health has assessed how the gradual return to work of individuals receiving the child home care allowance can be promoted by combining early childhood education and care services and financial support. The working group placed special emphasis on evaluating methods for developing the childcare leave, partial childcare leave, partial childcare allowance, child home care allowance as well as the day care payment system. The evaluation also placed special emphasis on the benefit of the child and the entries related to the matter in the Government Programme and the Government's structural policy statement.

Based on the working group's report, the partial childcare allowance paid to the parents of children under the age of 3 was replaced with a new, flexible childcare allowance on 1 January 2014, which increased the benefit amount received by parents who work part-time and have children who are under the age of 3. The objective was to increase the attractiveness of part-time work in relation to the compensation for child home care.

See more about the reform on flexible child care allowance in Section I.

With the help of flexible childcare allowance, the parents of children under the age of 3 taking partial childcare leave could take care of 6.0 % of the age group's children. With the help of partial childcare allowance, the parents of small school-aged children could take care of 6.5 % of first and second graders in 2014.

Partial childcare leave is primarily used by mothers (94 %). The median duration of the leave for taking care of children under the age of 3 has been 8 months during the 2000s. Mothers take partial childcare leave almost always (80 %) after having first been on child home care allowance after their parental leave. The partial childcare leave usually begins when the child is 1.5 years old. Mothers who take partial childcare leave are in a good financial situation and they have a higher education level on average than those mothers who receive child home care allowance. (Source: Aalto Aino-Maija (2013)) [A look into the use of the partial childcare allowance in the 2000s \(in Finnish\)](#). Kela Working Papers 43/2013. Kela, Helsinki.

According to the results published by the National Institute for Health and Welfare family leave research in 2014, one in six mothers are planning on working part-time. However, over a third those taking care of a child under the age of two at home planned to take partial childcare leave regardless of their education level.

In Finland, the Working Hours Act (605/1996) enables versatile and flexible working times including for example the provisions in the Working Hours Act on reduced working hours and flexible working times. The legislation and collective agreements ensure that Finnish workplaces can utilise different flexible working time arrangements that facilitate integrating working life and

family life. Some collective agreements and working time solutions in the workplaces have created the possibility of using a working time bank.

In addition, remote work provides the chance of harmonising work with family life, increased wellbeing at the workplace, having more flexibility when choosing one's housing and place of work, and also improving productivity and the quality of working life. Remote work is based on agreement between the employer and employee, and distance work must always be separately agreed upon.

According to the Ministry of Employment and the Economy's annual working life barometer, remote work means a form of work which is done outside the actual workplace with the agreement of the employer. A majority of wage earners working remotely perform it from home, but remote work can be done elsewhere, like in the employer's different branches, public spaces, hotels, or in public transportation. The use of remote work has increased from almost zero to around a fifth of all wage earners between the years 1990-2013. (Lehto & Sutela, 2014).

According to the working life barometer, in 2015, one in ten wage earners worked remotely at least weekly and five per cent per month. In addition, 11 per cent of wage earners occasionally work remotely. According to statistics, remote work is more common for men than women. In 2015, 11 per cent of men and 11 per cent of women stated that they had worked remotely weekly or daily. Remote work is a more common option among higher-ranking salaried employees, a third of which had worked remotely every month according to the barometer.

More detailed statistics on remote work are available in for example pages 99 and 100 of the barometer. (Figure 78 ja figure 79). The report is available in Finnish at <http://urn.fi/URN:ISBN:978-952-327-098-5>

I LEGISLATION AND REGULATION

- Act amending Chapter 9 Section 7 of the Health Insurance Act (903/2012), entry into force on 1.1.2013.
- Act amending Section 13a of the "laki lasten kotihoidon ja yksityisen hoidon tuesta" (975/2013), entry into force on 1 January 2014
- Act amending Section 7 of the Annual Holidays Act (182/2016), entry into force on 1 April 2016
- Act amending Chapter 14 Section 1 of the Health Insurance Act (184/2016), entry into force on 1 March 2016

Health Insurance Act

Chapter 9 Parenthood allowances

Section 7 (903/2012)

Paternity allowance period (not available in English)

Paternity allowance is paid for a maximum of 54 working days, with the stipulation that the paternity allowance is only paid for a maximum of 18 working days during payment of maternity and parental allowance. The 1 to 18 weekdays of paid paternity leave that may be taken at the same time as the child's mother can be broken up into a maximum of 4 periods. The paternity allowance that is paid outside the maternity and parental allowance period can be broken up into a maximum of two periods. The right to the paternity allowance continues until the child reaches the age of two or two years have passed since the adoption of the child.

The paternity allowance is paid based on the maternity and parental allowance period with newly born babies for a maximum of 42 working days so that of those days, a maximum of 24 working days can be based on the birth of the previous child and a maximum of 18 days can be based on the birth of a new child. In this kind of situation, the paternity allowance days that are based on the birth of the previous child must be taken in one period.

Laki lasten kotihoidon ja yksityisen hoidon tuesta (not available in English)

Section 13 a (975/2013) *Flexible care allowance*

A parent or other guardian of a child under the age of three who lives in Finland and participates in the care of the child has the right to receive the flexible care allowance:

- 1) EUR 240 per calendar month, if their average weekly working time is 22.5 hours at most or 60 per cent of the field's usual working time in full-time employment; or
- 2) EUR 160 per calendar month, if their average weekly working time is more than 22.5 hours but 30 hours at most or 80 per cent of the field's usual working time in full-time employment.

Based on the provisions laid down in paragraph 1, the parent or other guardian has the right to flexible care allowance if they work:

- 1) in a contractual or public-service employment relationship;
- 2) as an entrepreneur with the Self-employed person's pension insurance as specified by the Self-Employed Person's Pensions Act;
- 3) as a farmer with the Farmer's pension insurance as specified by Section 10 of the Farmers' Pensions Act;
- 4) as a grant holder with the Farmer's pension insurance as specified by Section 10 of the Farmers' Pensions Act;

Both parents or guardians have the right to receive flexible care allowance during the same calendar month if they are not both simultaneously absent from work due to the care of the child.

Flexible care allowance is not paid to the parent or guardian of a child for the time when:

- 1) they are taking care of the child and receiving child home care allowance;
- 2) they have the right to a maternity, paternity or parental allowance or to partial parental allowance or when the duration of the payment of these benefits continues according to the provisions of the Health Insurance Act;
- 3) they are paid a special maternity allowance.

Annual Holidays Act

Section 7. Period equivalent to time at work

Any period of absence from work for which the employer is by law obliged to pay the employee is considered to be a period equivalent to time at work. Any period, during which an employee is absent from work because of time off granted for the purpose of adjusting working hours to ensure that his or her average weekly working hours do not exceed the statutory maximum, is also considered to be equivalent to time at work. However, of the days off granted to adjust weekly working hours during one particular calendar month, only those days off in excess of four are considered to be equivalent to time at work, unless the leave has been granted as an uninterrupted period of more than six weekdays

During an employment relationship, those working days and working hours when the employee has been unable to work are also considered to be equivalent of days at work:

1) special maternity leave, temporary child-care leave, and absence for compelling family reasons laid down in Chapter 4, Sections 1, 6 and 7 of the Employment Contracts Act (55/2001) respectively, *or a total of at most 156 days of maternity and parental leave and correspondingly 156 days of paternity and parental leave per one childbirth or adoption; (182/2016)*

Health Insurance Act

Chapter 14. Reimbursement of annual holiday expenses

Section 1 (184/2016) Right to reimbursement

The employer is compensated for some expenses arising from annual holidays accumulated by employees during special maternity, maternity, paternity and parental leave. The employer is entitled to reimbursement *if the employer is obliged to pay its employee annual holiday pay* or holiday compensation for the period during which this employee has been paid special maternity, maternity, paternity or parental allowance, while not working.

Notwithstanding the provisions of subsection 1, the employer is also entitled to reimbursement in the event that the employee is on parental leave, while being paid partial parental allowance and working part-time for another employer.

The provisions concerning reimbursement of annual holiday expenses also apply to public service employment relationships.

II

Articles 1, 2 and 3

Nothing new to report.

Article 4

The paternity leave

After the legislative amendment the paternity leave can last up to 54 weekdays or about 9 weeks. Paternity leave can be taken after the birth of child and it must be taken before the child is 2 years old. Up to 18 weekdays or about 3 weeks of that can consist of a period in which both the father and the mother stay at home. The paternity leave can be paid or unpaid. If unpaid, Kela will pay a paternity allowance.

Fathers can choose to stay at home for 1 to 18 weekdays at the same time as the child's mother while she is paid maternity or parental allowance. The rest of the paternity allowance entitlement can be taken after payment of the parental allowance has ended. Fathers can, if they wish, use all of their paternity allowance entitlement after the maternity and parental allowance period.

The paternity leave can be taken in several periods. The 1 to 18 weekdays that may be taken at the same time as the child's mother can be broken up into as many as 4 periods. The paternity leave entitlement following the payment of the parental allowance can be divided into 2 periods. None of the paternity leave entitlement can be transferred to the mother.

The flexible care allowance

The flexible care allowance can be paid to the father, mother or other provider of a child under 3 years of age (this also applies to adoptive and same-sex parents) who works no more than 30 hours per week on average or no more than 80% of normal full-time hours. It can also be paid to both parents at the same time if they make work arrangements that allow them to look after the child at different times (e.g. one parent on Mondays and the other on Fridays).

The flexible care allowance is payable at two rates depending on the parent's total working time. The family's income does not affect the amount of the allowance. The amount of the flexible care allowance is either 243,28 euros per month if the recipient works no more than 22.5 hours per week or no more than 60% of normal full-time hours or 162,19 euros per month if the recipient works more than 22.5 hours or more than 60% but no more than 80% of normal full-time hours.

Flexible care allowance is payable for one child at a time only. It is taxable income. The working time arrangements must be agreed between the parent and his or her employer. The arrangement whereby the parent works no more than 30 hours per week on average can be continued beyond the child's 3rd birthday. However, the flexible care allowance is not paid once the child has reached age 3. Parents of a child in the 1st or 2nd year of school can be paid a partial care allowance if they work no more than 30 hours for child care reasons.

The purpose of flexible care allowance is to provide parents a possibility to combine work and child care. With possibility of flexible child care more mothers may go back to work earlier instead of staying wholly at home until the child reach age of 3 years.

Article 5-11

Nothing new to report.

III

Nothing new to report.

IV

Information on relevant court decisions is provided in the answer on Observation 2012.

V

Statistics about the use of paternity leave and parental leaves are enclosed to this document (ANNEX I and II).

The use of paternity leave has increased during the last years. The amount of recipients of paternity allowances has increased from 48 380 (year 2006) to 65 000 (year 2015). Year 2013, 74 per cent of the fathers used their paternity leave. The updated data is not yet available as the paternity leave can be taken until the child reach age of 2 years.

Fathers also use more parental leave days than earlier. During the past 10 years the parental leave days taken by fathers has increased from 3.6 % (1995) to 9.7 % (2015).

VI

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

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
8. The Commission for Church Employers

Statements of the labour market organisations

*The Central Organization of Finnish Trade Unions (SAK),
The Confederation of Unions for Professional and Managerial Staff in Finland (Akava) and
The Finnish Confederation of Professionals (STTK):*

After the ratification of the Convention, so far Finland has promoted the equal opportunities and equal treatment of both male and female employees with family care responsibilities.

The prerequisites for the employment of women were significantly improved with the provisions on the subjective right to day care and by extending it to all children under school age in 1996. Finland has also determinedly extended subjective parental leave for fathers, last in 2013 when paternity leave was extended to 54 working days. After the Convention was ratified, the income-based parental allowance has been developed, thus improving the financial status of those parents who go

on family leave. Resources have also been focused on the quality of early childhood education, which is of key importance in ensuring employment possibilities for women. The status of employees returning from their family leave has been improved, even though Finnish legislation does not ensure an adequate amount of protection in its current form.

The current Government has made decisions that jeopardize these positive developments and at worst weaken the participation possibilities of men and women and their equal treatment in the labour market. The Government has limited the subjective right to day care, decided to raise day care costs, and increased the size of early childhood education group sizes. These measures can affect the possibilities and willingness of families to place their children within early childhood education services. In practice, these negative measures will affect the status of women in the labour market, as women in Finland still take 90 % of all family leaves. In addition, the Government has decreased the income-based parental allowance and cut the accrual of annual holiday privileges during family leave.

According to the trade union confederations, instead of weakened benefits, it is important that the choices of families are directed even more strongly with legislation, so that the share of parental leave used by fathers would grow quicker. In addition, there is a need for an active cultural change in the workplace so that the rights of fathers to take care of their children is realised.

It is very unfortunate that the Government has begun implementing actions that will not entirely fulfil the requirements for development and progress mentioned in the Convention. These actions are especially alarming in a situation where there are, for example, 10,000 more unemployed women with higher education degrees than there are men with similar degrees, and when every third woman under the age of 35 with a higher education degree is in a fixed-term employment relationship. The average income of women in Finland is still only 83 % that of men.

The Confederation of Finnish Industries (EK):

The Committee of Experts wants more information from Finland on e.g. how many men utilise family leave, how many men and women utilise flexible working times or work arrangements for integrating work and family life, and how the costs of family leaves are compensated to companies.

The EK notes that Convention no. 156 does not require the equal distribution of family leaves between men and women – but equal opportunities and equal treatment. This is the case in Finland with family leaves, e.g. with parental leaves. The Convention also does not require flexible working time solutions or work arrangements on which the Committee is now asking for evaluations. The costs caused by family leaves and the funding of family leave are also entirely a national matter, to which the Government is now proposing to change.

ANNEXES:

1. Recipients of family benefits (ANNEX)

Statistics

2. Share of fathers who utilise parental allowance days (ANNEX II)

Statistics