

REPORT

to be made no later than 28 February 2015, in accordance with article 19 of the Constitution of the International Labour Organization by the Government of Finland, on the position of national law and practice in regard to matters dealt with in the instruments referred to in the questionnaire.

ARTICLE 19 REPORTS ON THE INSTRUMENTS CONCERNING MIGRANT WORKERS Migration for Employment Convention (Revised), 1949 (No. 97), and the Migration for Employment Recommendation (Revised), 1949 (No. 86) Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and the Migrant Workers Recommendation, 1975 (No. 151)

PART I. Legal and policy framework and cooperation on international labour migration

1. Please indicate the relevant provisions of national laws and regulations on international labour migration and the employment of migrants, indicating:

- *whether they cover immigration or emigration or both;*
- *the categories of migrant workers covered.*

Aliens Act (301/2004, section 3) covers immigration, not emigration. It covers all third country foreigners who apply for a permit for work or other permit including right to work in Finland and EU/EEA citizens.

The Finnish permit system that applies to foreigners' employment consists of several different permit procedures.

The provisions of chapter 5 of the Aliens Act deal with employment. Other resident permits can be issued for long-term employment without consideration of labour market needs to foreigners who work in a specialist field or have earned a degree in Finland or other special groups specified in the Aliens Act. For manual labour, e.g. cleaners and construction workers, a residence permit is issued for an employed person. The residence permit process involves consideration of labour market needs i.e. consideration of availability, which is conducted by the TE Office (office for employment and economic development). Finnish embassies grant visas mostly for seasonal and specialist employment for a maximum of three months.

2. Please indicate:

- *whether a national policy has been adopted on international labour migration and, if so, provide information on the policy;*
- *whether the national policy promotes and guarantees equality of opportunity and treatment between nationals and migrant workers in your country (national equality policy).*

According to section 6 of the Constitution of Finland, everyone is equal before the law. No one shall, without an acceptable reason, be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns his or her person.

The Non-Discrimination Act (yhdenvertaisuuslaki 1325/2014) entered into force on 1 January 2015, and it provides for, inter alia, the duty of authorities and employers to promote equality, the authorities responsible for the enforcement of the act, and the legal protection of individuals who have faced discrimination. The act applies to public and private activities. The act replaces the previous Non-Discrimination Act of 2004.

The act contains a general prohibition of discrimination to the effect that there should be no discrimination on the basis of age, nationality, language, religion, belief, opinion, political activity, trade union activity, family ties, health, disability, sexual orientation or other personal characteristics. Discrimination is prohibited regardless of whether it is based on a fact or assumption about the person or another person.

The main purpose of the reform of the Non-Discrimination Act was that legislation should better meet the constitutional requirement on the equal and extensive prohibition of discrimination. Another objective was to prevent discrimination better than is the case currently and to clarify and unify current concepts and structures.

The National Discrimination Tribunal and the National Equality Tribunal, which previously worked separately, were merged into a single tribunal body. Similarly, the office of the Ombudsman for Minorities was replaced by the office of the Non-Discrimination Ombudsman which now has more extensive powers. The duty of authorities to promote non-discrimination was extended so that the section now also applies to training service providers and employers. The new legislation extends protection against discrimination so that it is the same regardless of the reason for discrimination or in which part of life discrimination takes place. The legislation is enforced by the Non-Discrimination Ombudsman and labour protection authorities, and the Discrimination Tribunal acts as a low-threshold legal body for all types of discrimination, including gender-based discrimination. Employers who regularly employ more than 30 people are obliged to draw up a non-discrimination plan.

The Advisory Board on Ethnic Relations (ETNO): ETNO promotes non-discrimination, inclusion and dialogue between immigrants and the rest of society. It comprises a national advisory board and seven regional advisory boards that issue statements and promote non-discrimination and good ethnic relations in society through various campaigns and discussions.

The national anti-discrimination programme (Kansallinen syrjinnän vastainen ohjelma 2007–2015) organises training for key professional groups such as the police, prosecutors and judges, occupational health and safety inspectors, study guidance counsellors and NGO leaders to increase awareness about anti-discrimination legislation, forms of discrimination, and the need to reduce the threshold for reporting discrimination.

In addition, several campaigns have been implemented to prevent discrimination and hate speech, the major ones being:

- One of the more long-term anti-discrimination campaigns is the "Syrjinnästä vapaa alue" (Discrimination-free zone) which led to hundreds of organisations declaring themselves free of all forms of discrimination.
- The Equality is Priority (Yhdenvertaisuus etusijalle, YES) project: The YES project has been running since 2007 as a one-year programme. The current seventh period will end in late winter 2015. The YES project is implemented by the Ministry of the Interior in cooperation with other ministries and NGO operators. The YES project is aimed at mainstreaming non-discrimination by obtaining and disseminating knowledge about discrimination and the means to reduce it, and by offering local actors concrete tools for increasing diversity.

- The Good Relations project: The international two-year project, which was coordinated by the Ministry of the Interior, was designed to produce and test methods for promoting good relations and non-discrimination at the local level.
- The Ministry of Education and Culture is taking part in the No Hate Speech Movement campaign of the Council of Europe which will run until the end of 2015. The objective of the campaign is to increase young people's awareness about the negative impacts of hate speech and to engage them in promoting human rights and equality, especially in social media. In Finland, the campaign is coordinated by Plan Suomi in cooperation with the Finnish League for Human Rights.

All activities related to the promotion of non-discrimination are suited both to public and private activities and they prohibit discrimination based on nationality, race, gender or religious belief.

- *the elements of the national equality policy and the measures taken to ensure its effective implementation;*
- *the measures taken to combat xenophobia and prejudice against immigrants, and stereotyped perceptions regarding the suitability of migrant workers for certain jobs or their role in society.*

On 13 June 2013, the Finnish government issued a resolution on Finland's migration strategy, which can be read on the website of the Ministry of the Interior at <http://www.intermin.fi/maahanmuutto2020>. The migration strategy lays down long-term principles of Finnish migration policy and includes a comprehensive view of the opportunities and challenges related to migration and mobility. The aim is to maintain controlled immigration in Finland but at the same time recognise that Finland needs work-based immigration in particular.

According to the migration strategy, short-term and longer term migration of skilled labour into Finland must be promoted, particularly by developing forecasts of labour needs and the resources for targeted recruitment abroad. According to the Government Programme, Finland will use a system of determining the availability of labour on the domestic labour market, and the success of this system will be monitored. In the social and health care sector - the largest in terms of its proportion of the labour force - international recruitment and the cooperation required for this must be developed and modelled. An action programme based on the migration strategy was completed in March 2014. The action programme contains concrete, verifiable measures for the implementation of the strategic objectives. The action programme is coordinated by the Ministry of the Interior. Since the focus of the migration strategy is on principles designed to promote the employment of immigrants, the majority of measures are targeted in this area.

3. Please indicate the measures taken to cooperate and to establish systematic contact and exchange information at national, bilateral, regional and multilateral levels, including information on bilateral or multilateral agreements concerning labour migration. Please provide copies of the relevant agreements.

As a member state, Finland is involved in EU cooperation on the freedom of movement of workers, and Finland is also bound by EU provisions on free movement, including the associated regulation 2014/54/EU. Free movement also applies to all EEA countries. In addition, Finland is bound by EU directives on immigration and conventions on third-country relationships. There is also Nordic labour market cooperation to eliminate obstacles to the free movement of workers. The Nordic Convention on Social Security complements EU provisions on migration with regard to social security.

The Ministry of Employment and the Economy, as the national coordination office of the European Employment Services (*Eures*) provides information and acts actively in the area of international recruitment cooperation within the EU/EEA countries. The information on Finnish working life for foreign workers is gathered on the website of Work in Finland: <http://www.workinfinland.fi>

On 3 December 2014, the labour protection service of the Regional State Administrative Agency for Southern Finland and the labour protection authorities of Estonia signed a cooperation agreement, which entered into force at the beginning of 2015. The agreement is between the two authorities. The purpose of the cooperation is to enhance the monitoring of companies that send employees from Estonia to Finland. The labour protection inspectors of Southern Finland report to the Estonian labour protection authority, if they observe negligent behaviour by Estonian companies with regard to occupational health and safety or terms of employment. Accidents involving employees sent from Estonia are also reported. Further, as part of the cooperation, Estonian labour protection inspectors take part in some labour protection inspections in Southern Finland in expert capacity.

PART II. Protection of migrant workers

4. Please provide information, including on relevant provisions of national laws and regulations, on measures taken to:

- *ensure respect for the basic human rights of all migrant workers, irrespective of their migration status;*
- *prohibit direct and indirect discrimination against migrant workers;*
- *ensure that migrant workers and members of their family who are in a regular situation in the territory enjoy opportunity and treatment equal to that accorded to nationals in respect of:*
 - *employment and occupation*
 - *conditions of work*
 - *trade union rights*
 - *accommodation (housing)*
 - *social security*
 - *legal proceedings*

All forms of discrimination are prohibited in working life. Prohibition of discrimination is provided for by several different acts.

In addition to the Non-Discrimination Act described in question 2, the Employment Contracts Act (55/2001) requires equal treatment of all employees. EU provisions on the free movement and migration of workers also require equal treatment of all EU citizens and equal treatment of all third-country citizens, for example in relation to terms of employment, with certain exceptions on international connecting factor rules and posted workers.

Statutes on labour protection apply equally to all employees, including foreign nationals. Same applies to regulations on non-discrimination. The requirement on equal treatment of all employees is particularly evident in the Non-Discrimination Act, which is enforced by labour protection authorities with regard to employment relationships, public-service employment relationships, internships/work placements, and other comparable workplace activities.

Similarly, Finland's national legislation does not contain any specific statutes regarding the right of migrant workers to social security. The law is the same for everyone.

In Finland, social security is primarily based on the place of residence. A person must have a permanent residence in Finland in order to be entitled to social security. The requirements on permanent residence are determined in the Act on the Application of Residence-Based Social Security Legislation (1573/1993).

Social security legislation applies to persons permanently resident in Finland who have their actual place of residence and home in Finland and who principally reside here on a continuous basis.

It is also possible to become entitled to social security in Finland through employment. The person must be employed or self-employed uninterruptedly for at least four months before he or she can obtain entitlement to social security, which will then apply from the employment or self-employment start date.

A person working in Finland is entitled to pension insurance and occupational accident and illness insurance.

Persons who move within the EU (and the EEA countries Norway, Iceland, Liechtenstein and Switzerland) are covered by the rules on the free movement of workers and the Regulation (883/2004) on the coordination of social security systems. The general principle of the regulation on the coordination of social security systems is that a person is insured in one country at a time. This country is usually the country in which the person works.

In Finland, there is subsidised rental housing as well as privately funded rental housing. The selection criteria for residents in subsidised housing are laid down in law, and they are: the applicant household's housing need, income and assets. Priority must be given to homeless people and other applicant households with an urgent housing need and lowest income and assets. Eligible residents for subsidised rental housing include Finnish citizens and EU citizens as well as other persons (e.g. persons moving from third countries) who have been granted a residence permit for at least one year as meant by the Aliens Act. It is therefore usually not possible to provide subsidised housing to persons who are resident in Finland for a short period only. Further, equal treatment as required by the Constitution of Finland and the Non-Discrimination Act must be observed when selecting residents of subsidised housing. Discrimination based on personal characteristics, such as ethnic or national origin, nationality or language, is prohibited.

- *ensure that migrants admitted on a permanent basis and members of their family maintain the right of residence in the case of incapacity for work;*
- *ensure that migrant workers in regular status are not regarded as being in an irregular situation by virtue of the mere loss of employment and that this does not entail the automatic withdrawal of their authorization of residence or work permit.*

A permanent residence permit in Finland is cancelled when the foreign national permanently moves out of the country or when he or she has resided in another country uninterruptedly for two years on a permanent basis. A permanent residence permit can be cancelled if, at the time of the residence permit application, false information was knowingly given about the applicant's identity or other matters which had a bearing on the decision, or if information that may have prevented the granting of the residence permit was withheld. A foreigner's inability to work is not a valid ground for cancelling the permanent residence permit of said person or his or her family members.

According to Article 8 of Convention no. 143, member states shall ensure that the loss of employment shall not in itself imply the withdrawal of a migrant worker's authorisation of residence. The migrant worker shall not be regarded as in an illegal situation by the mere fact of the loss of his employment. In Finland, a temporary residence can be cancelled if the conditions, on which the permit was originally granted, no longer exist. Cancellation is not automatic; the individual's circumstances are taken into account in the case review.

5. *Please indicate:*

- *the categories of migrant workers who are excluded from the coverage of equal treatment or non-discrimination provisions and the reasons for such exclusions;*
- *any limitations on the free choice of employment of migrant workers as regards the change of employers, industries, occupations or residence. Please indicate whether migrant workers are subject to any restriction with regard to geographical mobility.*

According to the Aliens Act (section 74), a workers' residence permit entitles the holder to work in one or several professional fields. For special reasons, a workers' residence permit may be restricted to work for a certain employer. This is the case usually when the worker does not live in Finland or is posted in Finland for a very short period.

6. Please indicate whether steps have been taken in your country to regularize migrant workers in an irregular situation and, if so, please elaborate.

Section 52d of the Aliens Act deals with the issuance of residence permits to third-country citizens who have resided and worked in the country illegally. A third-country citizen who has worked in Finland illegally is issued with a temporary residence permit if he or she has resided in the country illegally while working there and 1) was a minor at the time when the work took place or the work involved conditions which indicate specific exploitation; 2) his or her residence in Finland is justified on account of a pre-trial investigation or court proceedings; 3) he or she is prepared to cooperate with the authorities so that the suspected employers can be caught; and 4) he or she no longer has any ties with the possible criminal suspects. Issuing the residence permit is not conditional on the alien having secure means of support.

Section 52a of the Aliens Act deals with the granting of residence permits to victims of human trafficking. A victim of trafficking in human beings staying in Finland is issued with a temporary residence permit if: 1) the residence of the victim of trafficking in human beings is justified on account of the pre-trial investigation or court proceedings concerning trafficking in human beings; 2) the victim of trafficking in human beings is prepared to cooperate with the authorities so that those suspected of trafficking in human beings can be caught; and 3) the victim of trafficking in human beings no longer has any ties with those suspected of trafficking in human beings. If the victim of human trafficking is in a particularly vulnerable position, the residence permit may be issued on a continuous basis regardless of whether the victim's residence in Finland is justified on account of pre-trial investigation or court proceedings concerning the trafficking in human beings or whether the victim is prepared to cooperate with the authorities. Issuing the residence permit is not conditional on the alien having secure means of support.

In autumn 2014, the Ministry of Social Affairs and Health commissioned a draft bill on the provision of health care services to aliens residing in Finland illegally. The report is based on the report of the National Institute for Health and Welfare on the provision of health care services to paperless individuals in Finland (THL 11/2014), which was published in 2014. The draft bill drawn up by the author of the report proposes that local authorities provide health care services to paperless individuals more extensively than is the case at present. The central government would compensate local authorities for the costs of health care service provision.

The aim is to more effectively secure sufficient health care services to third-country citizens who do not have or who cannot be issued long-term residence permits. The act would apply to persons who reside in Finland on other than temporary basis and who are not entitled, by virtue of other legislation, European Union law or a social security convention that is binding on Finland, to other than urgent health care as provided by the Health Care Act.

In addition to urgent hospital care, persons residing in Finland illegally would be entitled to health care services that are deemed essential by a competent professional, such as health care services related to

pregnancy and birth and health care for long-term illnesses. Minors would have access to all necessary health care services on the same grounds as minors who are domiciled in a Finnish municipality.

The government proposal to the Parliament on the bill on local authorities' duty to provide certain health care services to certain foreign nationals and on the bill on the amendment of the Act on Cross-Border Health Care was submitted to the Parliament on 18 December 2014. The matter is currently under review in Parliament.

7. Please provide information on measures, including on relevant provisions of national laws or regulations, that seek to ensure that migrant workers who leave the country of employment enjoy, irrespective of their migration status, equality of treatment for themselves and their family in respect of rights arising out of past employment such as remuneration, social security and other benefits.

Please see the answers to questions 4 and 8.

8. Please indicate:

- *whether the process of recruitment and placement of migrants for employment is regulated and, if so, in what way;*

According to the Act on the Integration of Immigrants and Reception of Asylum Seekers (493/1999), immigrants arriving in Finland shall be provided with information, advisory services and guidance on the appropriate basic services and specific integration services regardless of the person's reason for coming into Finland. The act provides for initial guidance and advisory services which are aimed at ensuring that immigrants receive the necessary support for their integration and that of their families immediately after their arrival in the country, at which point the need for information and support is the greatest. The first stage of advisory services is a written, multilingual basic information booklet about the Finnish society and the available integration support services, which is given to all arriving immigrants. In addition, authorities have the duty to provide advice about the services for which they are responsible and, if necessary, refer immigrants to other authorities and to individual initial assessment services. Advice about NGOs and other recreational activities is also important.

In addition, an individual integration plan, which is designed to support the immigrant in finding employment and education opportunities as well as other forms of societal inclusion, is drawn up for immigrants who are unemployed jobseekers, who receive income support or who are deemed in the initial assessment to be in need of income support. The plan is based on the initial assessment, which is conducted by the local authority or office for employment and economic development in cooperation with the immigrant, and which involves a review of the immigrant's background, skills and personal integration objectives and agreement on the necessary integration measures such as integration training for immigrants.

Free-of-charge employment service

According to chapter 1, section 6 of the Act on Public Employment and Business Service (916/2012), public employment and business services provided for individual clients are free of charge. Further, chapter 12, section 7 prohibits charges for employment exchange by providers of private employment services and specifies services and activities, which are deemed to fall within the scope of the prohibition of charges for employment exchange. According to the provision, providers of private employment services must not charge fees from individual clients for distribution of information and giving advice on vacant jobs and jobseeking or registration as a jobseeker. No charge may be collected from a temporary agency worker who, after the termination of an assignment, transfers to the employment of a user enterprise.

Sanctions for violating the prohibition against charges are laid down in chapter 47, section 6, of the Criminal Code (39/1889). According to the section, a person who in violation of the employment agency services payment prohibition provided in chapter 12, section 5, subsection 1 of the Public Employment and Entrepreneur Agency Act (916/2012) charges a fee from individual customers shall be sentenced for violation of a payment prohibition in employment agency services to a fine or to imprisonment for at most one year.

According to the Act on Public Employment and Business Service, public employment services (offices for employment and economic development) are provided free of charge to employers.

The licensing and regulation of private employment services

Temporary work agency and employment exchange are not licensed activities in Finland. The licensing of these activities was abolished in 1994. In addition to the prohibition of charges, private employment services are subject to the provisions on equality and the prohibition on supplying under-age labour force for work for which employing under-age labour force is prohibited as specified in chapter 12, section 4 of the Act on Public Employment and Business Service. The section also provides for the right of the Ministry of Employment and the Economy to gain information on private employment services from corporations providing private employment services or representing them. The processing of information on a tripartite basis and the publication of information are governed by a Government decree.

The prohibitions of discrimination provided for by the Non-Discrimination Act and the Act on Equality between Women and Men (609/1986) also apply to private employment service providers. The requirement on equal treatment as provided by the Act on Public Employment Service is also designed to help ensure equal treatment of employees and applicants in private employment services.

The Young Workers' Act (998/1993) also applies to private employment agencies that hire agency workers. The prohibition on supplying under-age labour force for work for which employing under-age labour force is prohibited, as provided for in the Act on Public Employment and Business Service, also reinforces this requirement.

Labour protection authorities monitor the compliance of private employment service providers with employment terms and conditions and the prohibitions of discrimination laid down in the Non-Discrimination Act with regard to their employees. The monitoring applies to all prohibited forms of discrimination. The Non-Discrimination Ombudsman and the National Discrimination and Equality Tribunal monitor discrimination based on ethnic origin that takes place outside of working life and the Ombudsman for Equality monitors gender discrimination.

- *the type of migration information and assistance services available to migrant workers during the different stages of the migration process, indicating whether they are provided free of charge;*
- *the measures taken against the provision of misleading information regarding immigration and emigration.*

Please see the previous answer.

In addition The Ministry of Employment and the Economy, as the national coordination office of the European Employment Services (*Eures*), provides information and acts actively in the area of international recruitment cooperation within the EU/EEA countries. The information on Finnish working life for foreign workers is gathered on the website of Work in Finland: <http://www.workinfinland.fi>. The information is also available on the Eures portal, maintained by the Commission at eures.europa.eu.

The website of the Finnish Immigration Service (http://www.migri.fi/tyoskentely_suomessa) offers extensive information about work-based residence permit applications.

In addition, the ALPO project, which operated under the Ministry of Employment and the Economy for a five-year period which ended on 31 December 2014, developed low-threshold native-language advisory and guidance services for immigrants and formulated recommendations for the further development of advisory and guidance services for the early stage of the immigration process.

Part III. Enforcement

Enforcement

9. a) Please provide information and indicate the manner in which the provisions of the relevant laws and regulations, and policies and agreements concerning labour migration and the rights of migrant workers, irrespective of their migration status, are effectively monitored and enforced.

(b) Please indicate whether, in the event of a dispute, migrant workers, including those whose situation cannot be regularized, can present their case to a competent body, either directly or through a representative.

The legal consequences of a violation of the prohibition of gender discrimination in an employment relationship are determined by the Non-Discrimination Act and the Act on Equality between Women and Men. The Non-Discrimination Act provides for prohibited reasons of discrimination, the ban on countermeasures, and the allocation of burden of proof. The Act on Equality between Women and Men contains, in addition to the prohibition of gender discrimination, provisions on the obligation to promote equality, forms of discrimination, the allocation of burden of proof, and the legal consequences of discrimination. Legislation on non-discrimination in employment is enforced by various authorities in accordance with their remits.

Labour protection authorities monitor compliance with general provisions on labour protection with regard to all employed persons. In addition to regular labour protection inspectors, the labour protection authorities also have inspectors who specialise in foreign labour force and non-discrimination.

The purpose of labour protection enforcement is, inter alia, to ensure that all employees enjoy the same terms of the labour market with regard to the terms of employment as well as other types of treatment. With regard to foreign workers, the primary objective of inspections is to assess how well the employer fulfils its statutory obligations related to the use of foreign labour force. Section 86(4) of the Aliens Act (301/2004) provides for the labour protection authorities' duty to supervise compliance with the obligations provided in sections 86a and 86b of the Aliens Act (verification of a foreign worker's residence permit, the submission of certain information to the Ministry of Employment and the Economy and to local workplace representatives and the filing of information about foreign workers and the grounds for their right to work in Finland; in some cases where the employer is a foreigner, the obligations fall on the main contractor or main operator acting in Finland).

The labour protection authority also supervises the compliance of employers of foreign employees with the terms of pay and other minimum requirements of universally binding collective agreements. Attention is also paid to possible discrimination. In addition, according to section 86(2) of the Aliens Act, if occupational health and safety authorities have reasonable grounds to suspect that a work permit offence referred to in Chapter 37, section 6a of the Penal Code (39/1899), violation of the Aliens Act referred to in section 185 of this act, or employer's violation of the Aliens Act referred to in section 186 has been committed, they shall report the matter to the police.

There are separate provisions on the application of Finnish legislation to workers sent overseas whose regular workplace is in a country other than Finland. The Posted Workers Act applies to work carried out under an employment contract. The worker's nationality is not relevant to the application of this act. Compliance with this act is also supervised by labour protection authorities.

Chapter 47 of the Criminal Code prescribes work discrimination and extortionate work discrimination as punishable acts.

According to chapter 47, section 3 of the Criminal Code, "An employer, or a representative thereof, who when advertising for a vacancy or selecting an employee, or during employment without an important and justifiable reason puts an applicant for a job or an employee in an inferior position

1) because of race, national or ethnic origin, nationality, colour, language, sex, age, family status, sexual preference, inheritance, disability or state of health, or

2) because of religion, political opinion, political or industrial activity or a comparable circumstance, shall be sentenced for *work discrimination* to a fine or to imprisonment for at most six months."

According to chapter 47, section 3a of the Criminal Code, "If in the work discrimination an applicant for a job or an employee is placed in a considerably inferior position through the use of the job applicant's or the employee's economic or other distress, dependent position, lack of understanding, thoughtlessness or ignorance, the perpetrator shall, unless a more severe penalty is provided for the act elsewhere in the law, be sentenced for *extortionate work discrimination* to a fine or to imprisonment for at most two years."

Chapter 47, section 5 of the Criminal Code prescribes the violation of the right to organise as a punishable act. According to the provision, "An employer, a representative thereof or an employee who prevents

1) an employee from establishing a lawful industrial or political association or using his or her right to join or belong to it or to participate in its activities, or

2) the employees or their industrial organisations from appointing or electing an employee representative, trustee, work safety trustee or personnel representative in group co-operation

shall be sentenced for *violation of the right to organise* to a fine."

10. Please provide information on the procedures of expulsion and any costs for expulsion attributed to the migrant workers whose situation cannot be regularized.

If the Finnish Immigration Service does not grant an applicant asylum or residence permit and decides that the applicant be expelled from the country, the applicant will be notified about the decision by the police. The expulsion order is enforced by the police.

The applicant can appeal the decision to the Administrative Court of Helsinki. The ruling can be further appealed to the Supreme Administrative Court (KHO), if the KHO grants leave for appeal. Favourable decisions can also be appealed: for example, an applicant who has been granted a residence permit on the grounds of secondary protection or humanitarian protection can appeal the denial of asylum.

See also the answer to question 4.

Statistics

11. Please provide any available statistical information, disaggregated by sex, nationality and migration status, if available, on labour migration flows (both regular and irregular migration) and on the employment of migrant workers.

Internationally comparable statistics on the labour market situation of migrant workers can be derived from the Labour Force Survey (LFS). For example, in 2013 in Finland the employment rate for 15-64 years old foreign nationals was 58,7 % while for Finnish nationals it was 69,2 %. The unemployment rate for foreigners was 16,3 % while for the Finns it was 7,9 % (15-74 years old). Long-term unemployment was slightly less frequent among foreigners (20,5 %) than among the Finns (25,6 %).

In 2013 in Finland, of the foreign national employees 26,1 % were on temporary contract while only 15 % of the Finnish national employees (15-64 years old). Of foreign national employed, 26,5 % worked part-time, which is about the same as among nationals (25,6 %).

The statistics are available through Eurostat database (<http://ec.europa.eu/eurostat/data/database>) or directly from Statistics Finland (tyovoimatutkimus@stat.fi) .

- **Employed** persons and **employment rate** by sex age and nationality or country of birth (lfsa_egan; lfsa_ergan; lfsa_ergacob)
- **Self-employment** by sex age and nationality or country of birth (lfs_egan; lfs_egacob)
- **Temporary employees** as percentage of the total number of employees, by sex, age and nationality or country of birth (lfsa_etpgan; lfsa_etpgacob)
- **Part-time employment** as percentage of the total employment, by sex, age and nationality or country of birth (lfsa_eppgan; lfsa_eppgacob)
- **Unemployed** persons and **unemployment rates** by sex, age and nationality or country of birth (lfsa_ugan; lfsa_ugcob; lfsa_ugan; lfsa_ugcob)
- **Long-term unemployment** (12 months or more) as percentage of the total unemployment by sex, age and nationality or country of birth (lfsa_upgan; lfsa_upgacob)
- **Inactive population** by sex, age and nationality (lfsa_igan)

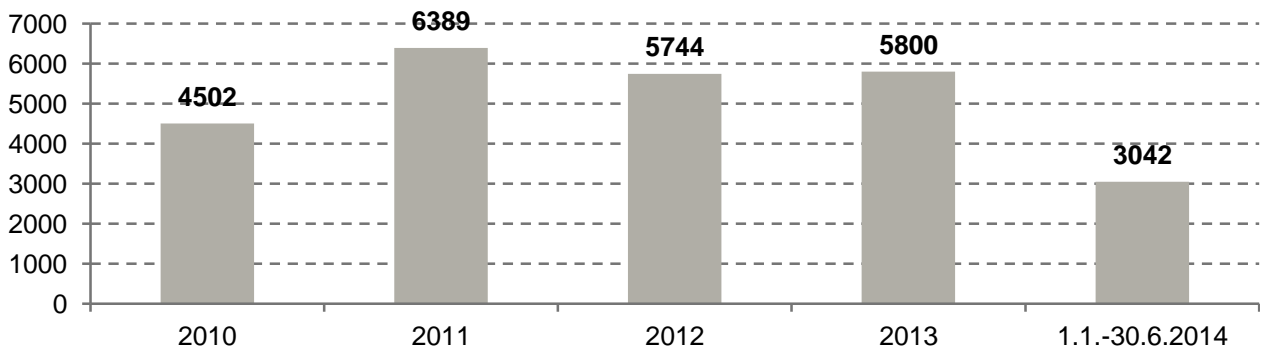
As LFS is a sample survey, estimates can be provided only on reasonable size groups. In Finland the number of foreigners and foreign born population is still rather low. Hence, for number of employed foreigners cannot be reported, for example, both according to different nationality groups and occupational categories.

In 2014, as part of LFS, an ad hoc module (AHM) on the labour market situation of immigrants and their descendants was conducted. This study will provide more information on over-qualification, labour market obstacles and language skills of migrants.

During the same year in Finland, an additional survey (N=5 400) on the *work and well-being of persons with foreign origin* (UTH) was conducted. The study has partly the same questions but a larger sample of immigrants than the regular Finnish LFS which allows more in depth analyses. Furthermore, the study will provide information on health and well-being of immigrants, including perceived discrimination at work and unequal treatment from the part of authorities. In addition, estimates on the reason for migration (work/study/family/asylum) will be provided, which currently is not available in the register sources in Finland.

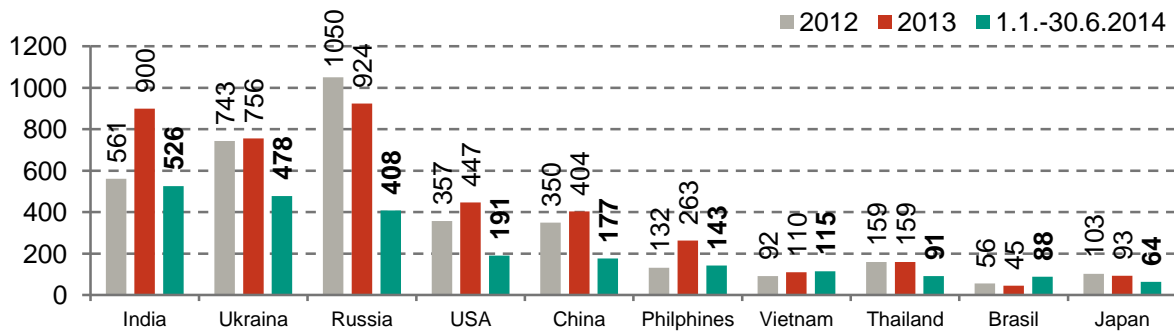
The results of both the UTH and AMH –studies will be available during the autumn 2015.

Work-based applications initiated in the periods 2009-2012 and 1 January-30 June 2014



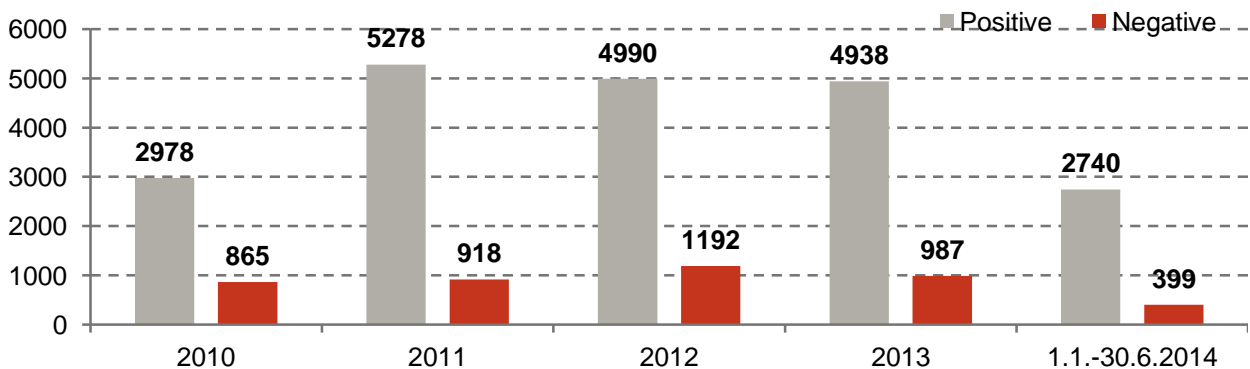
Source: the website of the Finnish Immigration Service:
http://www.migri.fi/download/54704_mamu_tilastokatsaus_tammi-kesa_2014_VALMIS.pdf?40cbe4beb7fed188

**Initiated work-based applications
 10 largest groups in the period 1 January–30 June 2014 and the same groups in 2012 and 2013**

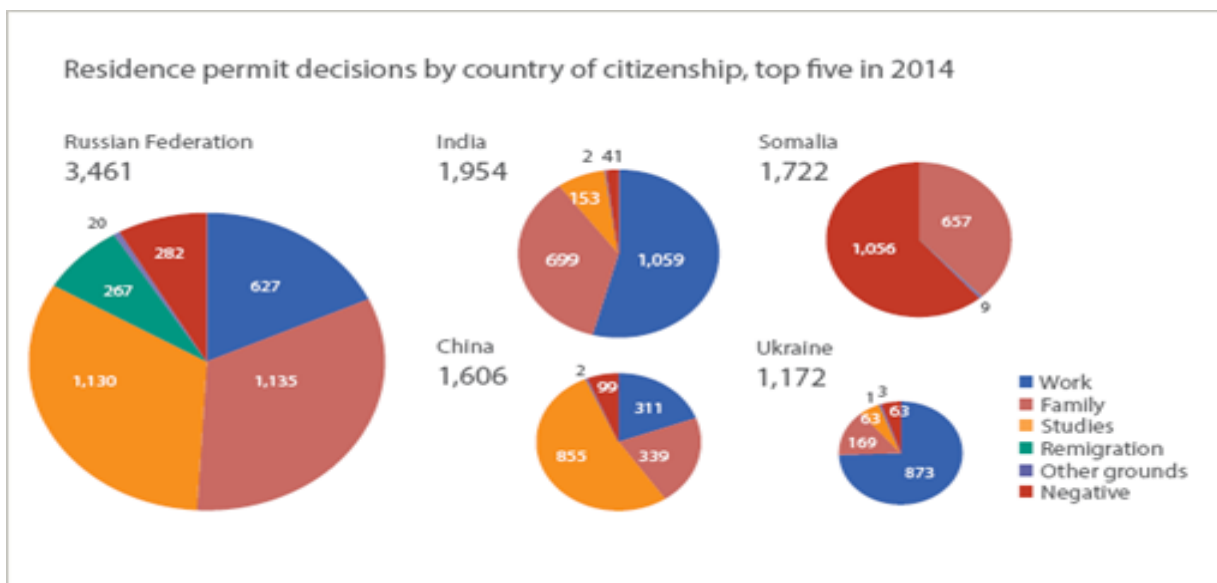


Source: the website of the Finnish Immigration Service:
http://www.migri.fi/download/54704_mamu_tilastokatsaus_tammi-kesa_2014_VALMIS.pdf?40cbe4beb7fed188

**Work-based decisions 2010–2013 and 1 January–30 June 2014
 positive and negative**



Source: the website of the Finnish Immigration Service:
http://www.migri.fi/download/54704_mamu_tilastokatsaus_tammi-kesa_2014_VALMIS.pdf?40cbe4beb7fed188



Source: [www.http://www.migri.fi/download/57705_2014_tilastograafit_en.pdf?083243ecec0cd288](http://www.migri.fi/download/57705_2014_tilastograafit_en.pdf?083243ecec0cd288)

12. Please indicate whether and how information is collected and analysed as a means of determining the nature and extent of inequalities and discrimination against migrant workers.

Discrimination in work is monitored in Finland by, inter alia, the following means:

- customer-initiated contact with labour protection authorities, their inspection reports and preliminary investigation notices
- the number of contacts with the Ombudsman for Equality
- suspected work discrimination incidents known by the police
- criminal charges for work discrimination and the associated rulings
- the number of disputes under the Act on Equality between Women and Men brought before courts
- the number of work discrimination cases brought before administrative courts
- survey data, which are: the working conditions survey, the working life barometer and the equality barometer.

According to a recent statistical publication on discrimination in the labour market (Pietiläinen & Keski-Petäjä, 2014), employees with foreign origin earn 90 % (16,38 e/h) of the earnings of those with Finnish background (18,33 e/h). However, after controlling for gender, age, contract type, education, occupation, industry and region, the difference decreases to 5 % (95 % of the earning of employees with Finnish background). The difference is largest in the highly educated and older work force.

According to a survey on Quality of working life (SVT, 2014; Pietiläinen & Keski-Petäjä, 2014), 4 % of the employees have observed unequal treatment at their work place. This result is very close to another survey (Working Life Barometer) according to which 5 % of those employees, who have co-workers of foreign origin, have observed unequal treatment against them (Pietiläinen & Keski-Petäjä, 2014).

The respondents belonging to ethnic minorities report somewhat more discrimination than other respondents (Pietiläinen & Keski-Petäjä, 2014). For example, 20-21 % reported discrimination in the attitudes and appreciation from behalf of the co-workers while among all employees the figures were 14-16 %.

References.

Pietiläinen, M.; Keski-Petäjä, M. (2014). Työsyöjinnän seuranta Suomessa. TEM julkaisu, Työ ja yrittäjyys 53/2014. Saantitapa: http://www.tem.fi/files/41717/TEMjul_53_2014_web_18122014.pdf (9.2.2015)

Suomen virallinen tilasto (SVT) (2014). Työolotutkimus, Työpaikoilla ilmenevä syrjintä . Helsinki: Tilastokeskus. Saantitapa: http://www.stat.fi/til/tyoolot/2013/02/tyoolot_2013_02_2014-05-15_kat_001_fi.html (9.2.2015)

Part IV. Social dialogue

13. Please provide information on the role of and consultations with employers' and workers' organizations concerning:

(a) all general questions related to migration for employment; and

(b) the elaboration and implementation of laws, regulations and other measures relating to labour migration, including those aimed at irregular migration, the irregular employment of migrant workers and related abuses.

According to section 71 of the Aliens Act, the social partners participate in monitoring and assessing practices related to issuing workers' residence permits, and in preparing national and regional policies related to the general requirements for using foreign labour.

According to section 211 of the Aliens Act, there is an Advisory Board for Matters related to Aliens' Employment and Residence Permits to supervise the terms of employment of foreign labour. The advisory board cooperates with the main labour market organizations. The task of the board is to promote cooperation and communication between the authorities in matters pertaining to the supervision of the terms of employment and residence permits of foreign labour, to monitor trends in the supervision of the terms of employment and residence permits of foreign labour and to give opinions on these matters.

14. Please indicate how employers' and workers' organizations are involved in the promotion, understanding, acceptance and realization of the principle of equality of opportunity and treatment of migrant workers and their families.

The social partners are involved, among other bodies, through the Coordination working group for labour migration issues. This body is appointed by the Ministry of Employment and the Economy and it is based on The Future of Migration 2020 action programme.

Part V. Impact of ILO instruments

15. Please indicate whether any modifications have been made to national legislation or practice with a view to giving effect to all or some of the provisions of the two Conventions or of the two Recommendations. Please state also whether it is intended to adopt measures to give further effect to the provisions of the Conventions or of the Recommendations, including ratification.

Nothing new to report.

16. Please identify any obstacles impeding or delaying ratification of the two Conventions. Please indicate any measures taken or envisaged to overcome these obstacles.

Finland's tripartite ILO Advisory Board inquired the prerequisites for the ratification of unratified conventions in 1986, 1995 and 2002.

In its previous report in 1998 on *Convention no. 97* under Article 19 of the ILO Constitution, Finland noted that although it has not ratified the convention, it is committed to partially similar provisions having ratified the European Social Charter in 1991, whose Article 19 is based on said convention.

The ILO Advisory Board found that the Finnish law is, in its main principles, in unison with the Convention. However, the Convention was not recommended for ratification since the majority view of the ILO Advisory Board was that the Convention is in many respects outdated and its ratification would not be appropriate.

The Convention was considered outdated due to the fact that some of its articles raise questions about compatibility with current provisions of Finnish law.

Attention was paid to, inter alia, the term 'migrant worker' in Article 11.

Article 6 requires that in certain matters, a member must apply, without discrimination, to migrant workers treatment no less favourable than that which it applies to its own nationals.

Further, attention was also paid to Article 4, according to which a member must take measures, within its jurisdiction, to facilitate the departure, journey and reception of migrants for employment.

With regard to Article 5, it was noted that no specific medical examinations are in place for migrants for employment.

Part II of *Convention no. 143* contains provisions on social security. According to Article 10 of the Convention, a member undertakes to promote and guarantee equality of opportunity and treatment in respect of, inter alia, social security for persons who as migrant workers or as members of their families are lawfully within its territory. According to Article 12, a member shall formulate a social policy, which enables migrant workers and their families to share in advantages enjoyed by its nationals.

Insofar as Finnish social security legislation specifies permanent residence in Finland as a prerequisite for entitlement to social security, the legislation does not meet the Convention's requirements on ensuring social security for all foreign workers residing in the country unlawfully. According to section 3 of the Act on the Application of Residence-Based Social Security Legislation (1573/1993), residence-based social security legislation does not apply to persons residing in Finland temporarily. Similarly, according to the act on a person's municipality of domicile (201/1994, kotikuntalaki), persons who reside in Finland temporarily are not domiciled in any municipality and therefore are not entitled to social and health care services provided by the local authority to the same degree as persons who reside in Finland permanently.

(17. *If your country is a federal State.)*

18. *Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the ILO.*

The Confederation of Finnish Industries (EK)

The Central Organisation of Finnish Trade Unions (SAK)

The Finnish Confederation of Salaried Employees (STTK)

The Confederation of Unions for Academic Professionals in Finland (AKAVA)

The Local government employers (KT)

The Office for the Government as Employer (VTML)
The Federation of Finnish Enterprises
The Commission for Church Employers

19. Please state whether you have received from the organizations of employers and workers concerned any observations concerning the effect given, or to be given, to the instruments to which the present report relates. If so, please communicate a copy of the observations received together with any comments that you may consider useful.

In its statement, the Confederation of Finnish Industries (EK) notes:

"EK continues to hold the view that ratification of the conventions is not necessary. There is no need for additional provisions in Finland to protect foreign workers or to ensure equal treatment. A significant amount of EU-level legislation safeguarding foreign workers' status has been passed in recent times, including the seasonal workers directive, the intra-corporate transfers (ICT) directive, the blue card directive, and the single permit directive. There have also been reforms of Finland's national legislation, for example as a result of the new Non-Discrimination Act. Our legal system also ensures sufficient legal protections in cases involving abuse of foreign workers.

The level of protection of foreign workers in Finland is high, and the current national residence permit procedure should not be made more complicated.

With regard to the ILO conventions on which statements have been requested, we see problems, inter alia, concerning Finland's residence permit practices and social security. The conventions are also likely to increase costs.

In our view, it is important that Finland not jeopardise its national social security system in international decision-making, whether in the context of the EU or the ILO. "

In their joint statement, the Central Organisation of Finnish Trade Unions (SAK), The Finnish Confederation of Salaried Employees (STTK) and The Confederation of Unions for Academic Professionals in Finland (AKAVA) note:

"The Conventions referred to in the request for statement and the prerequisites for their ratification have been reviewed a number of times by the tripartite branch of ILO conventions and in the Advisory Board. Prerequisites for ratification were reviewed in 1998 for Convention no. 97, and in 1995 and 2002 for Convention no. 143.

In the 1995 report, the identified obstacles to ratification included, with regard to Part I, the need to amend certain provisions of the employment services act (työvoimapalvelulaki) and, with regard to Part II, the negative views of employer parties. In the 2002 report, it was noted that a number of acts and directives relating to the Convention were undergoing reforms, which was seen by the majority as a reason to postpone the decision on ratification.

The acts referred to in the 2002 report have since been subject to a number of amendments. The matters on residence and work permits referred to in Part I were discussed in conjunction with the reform of the new Aliens Act (301/2004) which entered into force on 1 April 2004. The act on public employment services (1295/2002), known as the Act on Public Employment and Business Service as of 2013, has been amended several times, and the latest amendment (Government proposal 277/2014vp) enters into force at the

beginning of this year. With regard to Part II, amendments have also been made to social security provisions, the Act on the Application of Residence-Based Social Security Legislation, and pension legislation.

In the central organisations' view, the legislative amendments required by the Conventions should have been addressed in conjunction with these reforms. The purpose and goal of international conventions is specifically to develop the legislation and practices of their member states, and therefore the need for legislative amendments cannot in any way create an obstacle to ratification.

This is particularly the case in a developed country such as Finland where high-quality legislation can be produced fairly quickly.

With regard to the Conventions, it should also be noted that they are in harmony with the EU's objectives, with a number of directives concerning these matters and with the Non-Discrimination Act which enacts the directives nationally.

The central organisations had assumed that any legislative amendments that would be required in order to ratify the conventions would have been investigated and implemented in conjunction with the reform of the aforementioned acts. It appears that this was not fully the case. However, the situation has changed significantly since 2002 when the decision was made to postpone the ratification. A current review and proposals on the ratification of the Conventions should now be prepared as quickly as possible."

Possible needs for standard-related action and for technical cooperation

20. What suggestions would your country wish to make concerning possible standard-related action pertaining to migrant workers to be taken by the ILO in the area of labour migration?

If the Conventions were to be reformed at some stage, it would be prudent to take into consideration regional conventions on economic integration, such as EU treaties and the provisions on the free movement of workers and migration that have been introduced in the context of said treaties.

21. Has there been any request for policy support or technical cooperation support provided by the ILO to give effect to the instruments in question? If this is the case, what has been the effect of this support? If not, how could the ILO best provide appropriate assistance within its mandate to support country efforts in the area of labour migration and protection of migrant workers' rights?

Nothing to report

22. What are your country's needs for future policy advisory support and technical cooperation to give effect to the objectives of the instruments in question?

Nothing to report