

REPORT

for the period 1 June 2019 to 1 September 2020, made by the **Government of Finland**, in accordance with Article 22 of the Constitution of the International Labour Organisation, on the measures taken to give effect to the provisions of the

Maritime Labour Convention, 2006, MLC

ratification of which was registered on 9 January 2013.

Direct Requests 2019

In the following, Finland replies to certain Direct Requests made by the ILO Committee of Experts. The replies to the remaining Requests will be provided in the context of the next report.

1) Regulation 4.3 and the Code. Legislation on health and safety protection and accident prevention. The Committee requested the Government to specify whether and how the legislation implementing Regulation 4.3 and the Code takes into account the relevant international instruments dealing with occupational safety and health protection, particularly with respect to maritime employment, as required by Standard A4.3, paragraph 2(a). In its reply, the Government refers to the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces which also applies to ships. The Committee observes however that this law does not contain any reference to the particularities of the work of seafarers. *The Committee again requests the Government to indicate how effect is given to Standard A4.3, paragraph 2(a), of the Convention.*

Reply: The Occupational Safety and Health Act (738/2002) as well as the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (44/2016) constitute legislation which regulates safety and health at work and its supervision. These Acts apply to all work. The said Acts also apply to the work of seafarers, taking into account also the particular conditions of ships. In addition, maritime labour legislation includes the Government Decree on the Working Environment on Board Ships (289/2017) in which provisions are laid down on the physical attributes of the working environment. Therefore, there is no need to enact other legislation to specifically apply to the health and safety of seafarers.

2) Standard A4.3, paragraph 2(d). Ship's safety committee. The Committee requested the Government to indicate the measures taken to implement this requirement of the Convention. In its reply, the Government refers to the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces. Section 38 of the Act provides that an occupational safety and health committee shall be established at workplaces of at least 20 employees. *Recalling that Standard A4.3, paragraph 2(d), specifies that a safety committee shall be established on board ships on which there are five or more seafarers, the Committee requests the Government to indicate the measures taken or envisaged to implement this requirement of the Convention.*

Reply: Section 42 of the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (44/2006) provides the following with regard to cooperation on occupational safety and health on Finnish ships:

This Act shall apply to cooperation on occupational safety and health on ships subject to the following exceptions:

- 1) all crew members shall be considered employees;
- 2) the owner shall be responsible for the realisation of cooperation;
- 3) on ships with at least five crew members, an occupational safety and health delegate shall be elected and an occupational safety and health committee shall be established.

3) Regulation 5.1.5, paragraph 2. On-board complaint procedures. The Committee requested the Government to explain how it is ensured that any kind of victimization of a seafarer for filing a complaint is prohibited and penalized, as required under Regulation 5.1.5, paragraph 2. In its reply, the Government refers to chapter 47, section 3, of the Criminal Code penalizing discrimination when advertising for a job vacancy or when selecting a candidate for such job. *In the absence of relevant information on the implementation of this provision, the Committee requests the Government to indicate the measures taken or envisaged to prohibit and penalize any kind of victimization of a seafarer for filing a complaint.*

Reply: The following provisions regarding work discrimination are laid down in chapter 47, section 3 of the Criminal Code of Finland: 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 a 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.

Information on new legislative or other measures affecting the application of the Convention

Legislative amendments arising from the 2018 amendments to the Code of the MLC

In April 2020, the Government submitted to Parliament a proposal for the adoption and implementation of the 2018 amendments to the Code of the MLC and for an Act on amending the Seafarers' Employment Contracts Act and for certain other Acts ([HE 42/2020 vp](#)). It was proposed that Parliament adopt the 2018 amendments to the Code of the Maritime Labour Convention of 2006 and the Act to implement their provisions in the field of legislation. In order to implement the amendments to the Code, it was proposed that the Seafarers' Employment Contracts Act be amended so that where a seafarer is held captive as a result of acts of piracy or armed robbery, the employment and the related remuneration of the employee held captive shall continue during the entire period of captivity and until the employee has been released and repatriated or has perished. The provision concerning the status of employees held illegally captive was added to chapter 13 of the Seafarers' Employment Contracts Act as a new section 13b (English translation not yet available).

Specifications based on the currently valid Code of the MLC were also proposed to be made to the Seafarers' Employment Contracts Act, Seamen's Working Hours Act and the Act on Working Hours on Vessels in Domestic Traffic. Underlying the latter two amendments were the observations of the ILO Committee of Experts made in the context of the MLC reporting procedure concerning derogations from the scope of application of the Seamen's Working Hours Act and deviations from the working hour and rest period requirements. Going forward, under the amendments the chief of the catering department of passenger ships employing more than 15 persons shall be subject to the provisions of the Seamen's Working Hours Act concerning minimum rest periods and deviations

from these, the work and watch schedule, and the working hours register. In addition, the requirements concerning the working time register will apply to the master of ship in international traffic where, besides the master, at least two people work on the ship. These requirements also apply to the chief engineer and first mate.

Deviations from the regulation on minimum rest periods will no longer be permitted in ships in international traffic when a ship performs operations ordered by port authorities or necessary guarding services in ports. However, deviations from the restrictions on maximum weekly overtime work will be permitted for the performance of these tasks. The same applies to ships in domestic traffic when they perform operations ordered by port authorities or other equivalent authority. Moreover, in situations where calls for work disrupt an employee's daily rest period, the employee must be granted a compensatory rest period as soon as possible.

An amendment to the Seafarers' Employment Contracts Act requires an employer to provide an employee, in connection with the drafting of the employment contract, with instructions on how the employee can file a complaint about the employer's activities that violate rules on maritime labour. The provision requires the employer to instruct the employee about the organisation of the complaint procedure on board the ship. The employer must also provide a sufficient framework for addressing the complaint.

The Acts other than those concerning the 2018 amendments to the Code of the MLC entered into force on 1 July 2020. The amendments concerning the 2018 amendments to the Code of the MLC are intended to enter into force in Finland on the same date as their international entry into force (26 December 2020). A Government Decree to bring into force the amendments nationally is scheduled to be issued later in autumn 2020.

Finland delivered its Note verbale concerning the adoption of the 2018 Amendments to the Code of the MLC to the ILO Director-General on 15 June 2020. The ILO confirmed receipt of the Note on 19 June 2020.

The press releases on the submission of the government proposal and the approval of the Acts are available in English on the website of the Ministry of Economic Affairs and Employment:
https://tem.fi/-/tyontekijan-tyosuhte-ja-palkanmaksu-turvataan-aluksen-jouduttua-merirosvouksen-kohteeksi?languageId=en_US

https://tem.fi/fi/-/merityossa-sovellettaviin-tyo-ja-lepoaikasaannoksiin-seka-valitusmenettelyyn-muutoksia?languageId=en_US

Temporary amendments to (employment and) maritime labour legislation and unemployment security legislation owing to the COVID-19 pandemic

On 20 March, the Government decided on first-hand measures to be taken to secure people's livelihood and liquidity of companies in the difficult situation caused by the coronavirus. On 26 March, the Government submitted its proposal to Parliament on amendments to the Employment Contracts Act, the Seafarers' Employment Contracts Act and the Act on Cooperation within Undertakings. At first, the amendments were intended to be in force until 30 June 2020 but were then extended until 31 December 2020. The amendments are based on proposals from the central organisations of the Finnish social partners.

The amendments aim to help businesses adjust to changes in demand for labour caused by the coronavirus epidemic.

As per the temporary amendments, the period of notice before layoff and the duration of cooperation negotiations regarding layoffs have been shortened to five days. In addition, it has become possible for employers to lay off a fixed-term employee and to terminate an employee's contract during the trial period on financial or production-related grounds. On the other hand, the period during which the employer is obligated to re-employ an employee dismissed for financial or production-related reasons has been temporarily extended to nine months. The temporary legislative amendments are the same in respect of landside and seaside employment. The temporary amendments do not apply to the public sector.

Collective agreements may contain provisions on matters such as layoff notice period or duration of negotiations in statutory employer-employee negotiations. If a collective agreement binding on the employer contains such a provision, it is applied instead of the provisions of law.

The temporary amendments to unemployment security legislation are integrally linked to the temporary amendments to employment and maritime labour legislation. More information on these and the aforementioned employment legislation amendments is available in the enclosed table (Annex 1).

Please also consult the following links for additional information:

https://tem.fi/-/lomautusten-ilmoitusaika-ja-yhteistoimintaneuvotteluiden-kesto-aika-lyhenevat-valiaikaises-1?languageId=en_US

<https://tem.fi/en/-/measures-that-have-brought-security-and-flexibility-to-labour-markets-during-coronavirus-epidemic-will-be-extended>

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

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

Statements of the labour market organisations:

The Seamen's Union suggested some minor additions to the report which have been taken into account in the report text.